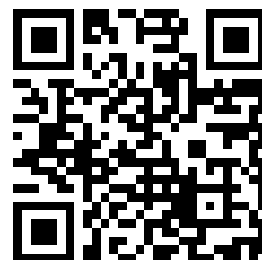

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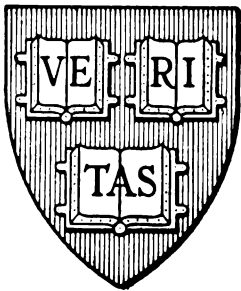


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THE
COMPILED STATUTES

IN FORCE IN THE

DISTRICT OF COLUMBIA,

INCLUDING

THE ACTS OF THE SECOND SESSION OF
THE FIFTIETH CONGRESS,

1887-'89.

COMPILED BY

WILLIAM STONE ABERT, and BENJAMIN G. LOVEJOY.

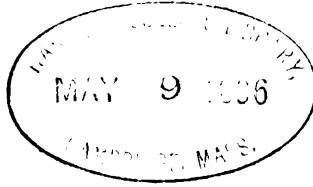
PRINTED AND PUBLISHED UNDER THE AUTHORITY OF AN ACT OF CONGRESS,
AND THE DIRECTION OF THE SUPREME COURT OF THE
DISTRICT OF COLUMBIA.

WASHINGTON:
GOVERNMENT PRINTING OFFICE,
1894.

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Dept. of the Interior.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

IN GENERAL TERM.

Ordered, By the Court this second day of June, 1894, that five thousand copies of the Compilation of the Laws of the District of Columbia recently completed by Wm. S. Abert, Esq., be printed, as directed by the act of Congress of March 2. 1889, ch. 392.

E. F. BINGHAM, C. J.

A true copy.

Test:

[L. s.] JOHN R. YOUNG,
Clerk.

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INTRODUCTION.

This compilation contains the statutes of a general nature in force in the District of Columbia, including the acts of the second session of the Fiftieth Congress, A. D. 1889.

The work was performed under the direction of the supreme court of the District of Columbia and by authority of the act of Congress, approved March 2, 1889, entitled: "An act to secure for the District of Columbia a compilation of the laws of said District and for other purposes."

The law required that "all statutes and parts of statutes in force in said District, including the acts of the second session of the Fiftieth Congress, and relating to all such matters as would properly come within the scope of a civil and criminal code," should be compiled, arranged, and classified with a proper index.

The statutes included in the compilation have been selected from—

I. The British Statutes in force in Maryland at the time of the cession of the territory to the United States for the seat of government, and now in force in this District.

These statutes are contained in Alexander's British Statutes, and also mentioned in Kilty's Report on the British Statutes in force in Maryland, which include statutes from Magna Charta to the 13th of George III, in the year 1773.

This report was made according to the direction of the legislature, by William Kilty, chancellor of Maryland; "of all such English statutes as existed at the time of the first emigration of the people of Maryland, and which by experience have been found applicable to their local and other circumstances; and of such others as have been made in England or Great Britain, and have been introduced, used, and practiced, by the courts of law or equity, and also such parts of the same as may be proper to be introduced and incorporated into the body of the statute law of the State" of Maryland.

II. The statutes of Maryland, beginning with the session of the Maryland assembly, held the 26th day of April, 1704, and ending with the acts passed prior to February 27, 1801. These statutes are contained in Kilty's Laws of Maryland in two volumes, a work which was not paged, but for convenience of reference the marginal notes of the compilation refer to a manuscript paging prepared during the progress of this work.

III. The Revised Statutes of the United States relating to the District of Columbia, published in 1875.

IV. The Revised Statutes of the United States, and the Statutes at Large, in which the District of Columbia is specifically named, or which refer to "courts of the United States;" and also such statutes, civil and criminal, referring to certain territory of the United States and all places or districts of country under the exclusive jurisdiction of the United States, and which are not locally inapplicable.

V. The acts of the legislative assembly of the District from June 2, 1871, through June 26, 1873. In the case of *Welch vs. Cook* (p. 542, vol. 97, U. S. Reports), the Supreme Court of the United States declared that Congress had power to invest the District government with certain legislative authority.

In addition to the work required by the original act, there has been published with the compilation an appendix containing certain historical chapters, which deserved preservation and a place in the same volume with the statutes in force.

Other additional work includes the following :

1. Headnotes to each chapter, briefly describing the subject of each section.
2. Subjective side notes for each section of the text.
3. Marginal references to the text whence each section was selected.
4. Cross-references to other sections of text containing the same or kindred subjects.
5. Judicial citations of the Federal courts and of the court of appeals of Maryland, explaining or construing the text.
6. Footnotes referring to subsequent acts of Congress relating to the District of Columbia, and included in volumes 26 and 27, U. S. Statutes at Large ; also references to the municipal ordinances in force in different portions of the District of Columbia, viz: Washington City, Georgetown, and the levy court, and also the ordinances of the Board of Health.

WILLIAM STONE ABERT,
Commissioner.

JULY 27, 1894.

COMPILED STATUTES.

In force in the District of Columbia, including the acts of the second session of the Fiftieth Congress.

CHAPTER ONE.

ADMINISTRATION.*

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* A valuable guide to administrators, executors, and guardians has been published by William Henry Dennis, esq., entitled *The Probate Law of the District of Columbia*.

- | Sec. | Sec. |
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When additional security may be required of administrators, etc.

Sec. 974, R. S. D. C., p. 114.
20 Feb., 1846, c. 8, s. 3.

9 Stat., 4, 5. 3 MacArthur Rep., 30, in re Ames; MacArthur & M. Rep., 228, Wilson *vs.* Arrick; 14 How. Rep., 400, Ennis *vs.* Smith; 112 U. S. Rep., 83, Wilson *vs.* Arrick.

Removal of administrator by the court.

Sec. 975, R. S. D. C. Ibid. MacArthur & M. Rep., 228, Wilson *vs.* Arrick; Ibid., p. 278; 112 U. S. Rep., 83, Wilson *vs.* Arrick.

Unadministered assets.

Sec. 976, R. S. D. C. Ibid. MacArthur & M.

Rep., 228, Wilson *vs.* Arrick; Ibid., p. 278; 112 U. S. Rep., 83, Wilson *vs.* Arrick; 14 Peters Rep., 33, Kane *vs.* Paul; 14 Howard Rep., 400, Ennis *vs.* Smith; 16 Wallace Rep., 535, Beall *vs.* New Mexico.

How powers of court may be exercised.

Sec. 977, R. S. D. C. Ibid., s. 4.

Summons and notice.

Ibid., s. 3.
Sec. 978, R. S. D. C.

Bond of executors.

How regulated.

Provisos.
Not to exceed double value of estate.

Court may require additional bond, or remove executor in case of waste.

Jan. 17, 1887.

24 Stat., 361; sec. 1.

SECTION 1. In all cases where the court appoints administrators, or takes bond from any executor to a last will and testament, and shall at any time become satisfied that the security is insufficient, by reason of the removal or insolvency of any of the sureties in the bond, or by reason of the penalty of the bond being too small, or from any other cause, it shall be lawful for the court to order and require the administrator or executor to give other or further security.

SEC. 2. The court shall have power to remove any administrator or executor who fails or refuses to comply with such order, and to appoint an administrator in his stead.

SEC. 3. The court shall further have power to order and require any assets or estate of the decedent, which may remain unadministered, to be delivered to the newly-appointed administrator *de bonis non*, and to enforce a compliance with such order by fine and attachment, or any other legal process.

SEC. 4. The powers granted to the court by the preceding sections, may be exercised by the court *ex officio*, or on the application of any one interested.

SEC. 5. In all cases each administrator or executor shall be first summoned to show cause against such orders, or have ten days' notice, in writing, of the intended application.

SEC. 6. That whenever hereafter a testator shall, by last will and testament, request that his executor or executors be not required to give bond for the performance of his or their duty as such executor or executors, then and in such case the bond required of such executor or executors shall be in such penalty as the court may consider sufficient to secure the payment of the debts due by said testator; and said bond shall be conditioned accordingly, and shall be in no other or greater penalty: *Provided, however*, That the penalty of this bond shall not exceed double the value of the estate; and when less than this sum, may be increased, or an additional bond be required, whenever it shall be made to appear to the court that the bond as given is insufficient to secure the payment of the debts of the testator: *And provided further*, That whenever any creditor or distributee or legatee entitled to take under the said will shall make it appear to the court that any executor who has given such bond only as is herein provided for is wasting the assets of the estate, or that the assets in the hands of such executor are in danger of being lost, wasted, or misappropriated, then and in such case the court shall have power to remove said executor or require him to give

additional bond, with security in penalty sufficient to secure the interests of all the creditors and distributees or legatees entitled to take as aforesaid, and conditioned accordingly; and on his failure to give bond or bonds as aforesaid, as required, by the court, within a time named by such court, his letters testamentary shall be revoked forthwith. [See *B. S., D. C., p. 114.*]

SEC. 7. That from and after the passage of this act it shall be lawful for any person or persons to whom letters testamentary or of administration have been or hereafter may be granted by the proper authority, in any of the United States or the Territories thereof, to maintain any suit or action and to prosecute and recover any claim in the District of Columbia, in the same manner as if the letters testamentary or of administration had been granted to such person or persons by the proper authority in the said District; and the letters testamentary or of administration, or a copy thereof, certified under the seal of the authority granting the same, shall be sufficient evidence to prove the granting thereof, and that the person or persons, as the case may be, hath or have administration: *Provided, nevertheless,* That the supreme court of the District of Columbia shall have the power, and such power is hereby given to the said court, upon petition of any one interested, to require from such person or persons the security now required by law, in like case from a resident administrator or executor.

Foreign executors and administrators enabled to sue.

Proviso.

Security.

Feb. 28, 1887.
24 Stat., 431:

sec. 1. 2 Mackey Rep., 368, U. S. *vs.* Wyman: *Ibid.*, 109, U. S. Rep., 654: 14 Peters Rep., 33, Kane *vs.* Paul.

SEC. 8. All exceptions in favor of parties beyond the District of Columbia which may by existing laws be replied or relied on in any action or proceeding brought in the said District are hereby repealed and abrogated: *Provided,* That this section shall not affect the right of parties in actions now pending.

Exceptions in favor of outside parties repealed. Present actions not affected.

Ibid., sec. 2.

9 Mackey Rep., 169, Pickering *vs.* Arrick: 94 U. S. Rep., 778, Hogan *vs.* Kurtz.

LETTERS TESTAMENTARY OR OF ADMINISTRATION.

SEC. 9. When any will or codicil, respecting personal property, shall have been authenticated as aforesaid, or proved as aforesaid before the register of wills, or orphans court, letters testamentary may forthwith be committed to the executor, executrix or executors, named in the said will or codicil; provided the said executor or executrix, or each of the executors, shall execute a bond to the *United States of America* [State of Maryland,] with two good sureties, approved by the said register or orphans court as the case may require, and in such penalty as the said register or court may require, conditioned for the faithful performance of the trust in him or her reposed as executor or executrix, to be lodged and recorded in the said register's office, and subject to be put in suit as hereafter mentioned.²

How and of whom letters testamentary or of administration are to be obtained.

Md. act 179^c.
ch. 101, sub ch. 3,
sec. 1.

2 Kilty, 833;
1 Dorsey, 374.

Thomp. Dig., 18.
1 Brock. Rep.,
181, U. S. *vs.*
Dixon.

44 Md. Rep., 625, Carpenter *vs.* Jones.

SEC. 10. If the executor or executrix, or all the executors named in a will, who shall not have renounced in the manner hereafter directed, shall, in due time, procure an attested copy of the said will, and of the authentication or probat, under the seal of the office where it was authenticated or proved, and shall produce the same to the orphans court, or in its recess to the register of wills, in any county wherein is personal property of the testator or testatrix to be administered, the said will, and the authentication or probat thereof, shall be there recorded; and letters testamentary may be granted to the said executor or executrix, or all the executors, not renouncing, by the said court, or in its recess by the said register, at any time within forty days from the date of the said copy, on his, her or

Thomp. Dig., 18.
Letters to be granted executor within forty days.

Ibid., sec. 2.
2 Kilty, 834.
1 Dorsey, 374,
375.

their executing bond or bonds as aforesaid ; and in case of sickness of, or accident to, or reasonable excuse made in behalf of, any such executor or executrix, the said court, or register, may allow a further time, not exceeding thirty days, for filing such bond, and taking such letters ; but in no case shall letters testamentary be granted in such county after the expiration of such time allowed, or in any other county except that wherein the will was authenticated or proved ; and it shall be the duty of such executor or executrix to transmit to the court where the will was authenticated or proved, a certificate, under seal of the register of wills of the county wherein letters testamentary shall have been granted, to show that such letters have been granted.

Executor failing to give bond within thirty days, letters of administration may be granted *c. t. a.*

Ibid., sec. 3.
2 Kilty, 834.
1 Dorsey, 375.
Thomp. Dig., 19.
34 Md. Rep., 450,
President, etc., vs.
Brown.

SEC. 11. If there be only one executor or executrix named, and he or she shall have been present at the authentication or probat of the will, and shall not, within thirty days thereafter, file a bond as aforesaid, or procure an attested copy under seal as aforesaid, for the purpose of taking letters as aforesaid in another county, letters of administration, with the copy of the will annexed, may be granted by the orphans court of the county wherein was the probat or authentication, to such person as they might be granted to in case of intestacy ; and if the said executor or executrix, so procuring an attested copy, shall not obtain letters testamentary in some other county, within seventy days from the date of the copy, letters of administration may be granted as aforesaid by the orphans court of the county where the will was proved or authenticated ; and it shall not be incumbent on the party applying for or taking such letters of administration, to show that letters testamentary have not been obtained in some other county on the copy aforesaid ; but such letters of administration shall not be granted, if it shall be proved to the court, by affidavit, or certificate under the seal of office, or if they shall have reason to believe, that such letters testamentary have been granted in a county proper for granting them.

Executor not present at probate, to be summoned.

Ibid., sec. 4.
2 Kilty, 834.
1 Dorsey, 375,
376.
Thomp. Dig., 20.
34 Md. Rep., 450,
President, etc., vs.
Brown.

SEC. 12. In case the said sole executor or executrix shall not have been present at the authentication or probat, but shall have been within the *District* [State] a summons may issue against him or her, either at the instance of a person interested, or *ex officio* by the orphans court, or (in their recess) the register of wills of the county wherein the will was authenticated or proved, returnable not less than twenty, nor more than sixty days after date ; and if the summons shall be returned "summoned," and the executor or executrix shall not appear accordingly, or appearing shall not, within twenty days thereafter, file a bond or bonds as aforesaid, or if two such summonses shall be returned "*non est*," and the party shall not appear according to the tenor of the second summons, or appearing shall not, within twenty days thereafter, file a bond as aforesaid, letters of administration may be granted as aforesaid ; provided nevertheless, that in case of sickness of, or accident to, such executor or executrix, or reasonable excuse made in his or her behalf, the court may, at discretion, allow a further time, not exceeding forty days after such return or appearance, for filing such bond.

Executor absent from jurisdiction at time of probate, and failing to qualify in six months.

Ibid., sec. 5.
2 Kilty, 834.
1 Dorsey, 376.
Thomp. Dig., 20.

SEC. 13. If the said sole executor or executrix be out of the *District* [State] at the time of authentication or probat, and shall not, within six months thereafter, return and file a bond as aforesaid, letters of administration may be granted as aforesaid ; but in case the said executor be out of the *District* [State] as aforesaid, and shall return, at any time before the expiration of the said six months, in order to expedite the granting of letters, there may be a summons, and the same proceedings thereon, as if he or she had been in the State at the time of authentication and probat, and upon the said proceedings

Letters of administration may be granted before the expiration of six months; but it shall not be held necessary to proceed by summons as aforesaid, in case the party be as aforesaid out of the District [State] at the time of authentication or probat, and shall return as aforesaid; but letters of administration, after the expiration of the said six months, may be granted, without such proceeding by summons against the executor or executrix so returning.

34 Md. Rep., 450, President, etc., vs. Browne.

SEC. 14. If there shall be more than one executor or executrix, named in a will containing any disposition relative to any personal estate, there may be the same proceedings with respect to each of them, as if he or she were the only executor or executrix named; and any circumstances, under which letters of administration may be granted, on failure of a sole named executor or executrix, shall authorize the granting letters testamentary to one or more of the executors, on the failure of one or more of the rest; and any circumstances under which letters of administration may be granted, on failure of a sole named executor or executrix, shall authorize the granting of such letters of administration on failure of all the executors; and in no case, where there are several executors named in a will, shall letters testamentary be granted to one only, or to any number of them less than the whole, or shall letters of administration be granted until there shall be such proceedings against each of them failing, as would authorize the issuing letters of administration in case of the failure of a sole named executor.*

Where several executors, same rule as where only one.

Ibid., sec. 6.
2 Kilty, 834.
1 Dorsey, 376.
Thomp. Dig., 21.

3 Bos. & Pull., 26, Taynton vs. Hannay; 34 Md. Rep., 450, President, etc., vs. Browne.

SEC. 15. If any executor or executrix named in a will shall file, or transmit to the orphans court of the county wherein the will shall have been authenticated or proved as aforesaid, an attested renunciation in writing of his or her trust, there may be the same proceedings, with respect to granting letters testamentary or of administration, as if the party so renouncing had not been named in the will; provided nevertheless, that any executor or executrix named in a will, shall be entitled, notwithstanding any failure or renunciation as aforesaid, on filing a bond as aforesaid, before letters testamentary or of administration shall actually be committed to another or others as aforesaid, to have letters testamentary granted to him or her, or to be included therein, as the case may require.

Executor renouncing proceedings in case of, may yet act on qualifying before administration granted.

Ibid., sec. 7.
2 Kilty, 835.
1 Dorsey, 376, 377.

Thomp. Dig., 21.
34 Md. Rep., 450, President, etc., vs. Browne.

SEC. 16. In case letters testamentary shall be granted to one or more of the executors named in a will, on failure of the rest, no executor or executrix, not named in the said letters, shall in any manner interfere with the administration, or have any greater interest in the estate of the deceased, than if he or she had not been named in the will as executor or executrix; and if letters of administration, with a copy of the will annexed, shall be granted, no executor or executrix therein named shall in any manner interfere further with the administration, or have any greater interest in the estate aforesaid, than if he or she had not been named as aforesaid; and no executor or executrix named in a will, shall, before letters testamentary shall be granted to him or her, have any power to dispose of any part of the estate of the deceased, or to interfere therewith, further than is necessary to collect and preserve the same; provided nevertheless, that any act of an executor or executrix named in a will, done before obtaining letters testamentary, shall, in case he or she shall afterwards obtain such letters, be as valid and effectual as if the said act had been done after obtaining such letters; and in case of a suit commenced by such executor or executrix, it shall be sufficient to produce the said letters, or a certificate under the seal of

Executors qualified shall not be interfered with by others.

Acts of executors before qualifying, what valid.

Ibid., sec. 8.
2 Kilty, 835.
1 Dorsey, 377.
Thomp. Dig., 22.

*Where bill in equity against two executors is dismissed as to one, such order operates as a dismissal against the other. 1 Appeal Cases D. C. 44, Willard vs. Wood.

the office where they were obtained, that they have been granted to the party at any time before the trial or final hearing on such suit; and in any case whatever where an exhibit of such letters testamentary or of administration would be good or available, a certificate as aforesaid shall also be good and available.

Executors SEC. 17. It shall not be necessary, in any suit at law or equity named in letters brought by or against an executor, executrix or executors, to make the only proper a party of any executor or executrix named in the will, who shall parties. not also be named in the letters testamentary, but the making him,

Ibid., sec. 9.
2 Kilty, 835.
1 Dorsey, 377.
Thomp. Dig., 22.

her or them, a party or parties by mistake, shall not vitiate any proceeding for or against the proper party or parties.

Bond of executor or administrator SEC. 18. Any bond executed by an executor or executrix, or an administrator or administratrix, as hereafter mentioned, shall be recorded in the office of the register of wills where administration is granted; and any person conceiving him or herself interested in the administration of the estate, shall be entitled to and have on demand,

Ibid., sec. 10.
2 Kilty, 835.
1 Dorsey, 377.
378.
Thomp. Dig.,
23.

a copy of such bond, and a certificate from the register under his hand and the seal of his office, upon which copy and certificate an action may be maintained, in the name of the *United States of America* [state], for the use of the party interested, and judgment may be recovered upon such action for the damage actually sustained.

3 Cranch Ct. Rep., 420, U. S. *vs. Queen*; 7 Wallace Rep., 425, *Payne vs. Hook*; 10 Wallace Rep., 583, *Stovall vs. Banks*; 16 Wallace Rep., 535, *Beall vs. New Mexico*; 112 U. S. Rep., 491, *Maryland vs. Baldwin*.

Administrator's, etc., bond not to be sued before a non est inventus, or nulla bona be returned. SEC. 19. That it shall not be lawful for any creditor or creditors to prosecute any such administration or testamentary bond for any debt or damages due from or recovered against any testator or intestate, or their effects, before a non est inventus on a *capias ad respondendum* be returned against the executor or administrator, or a *fieri facias* returned nulla bona by the *marshal* [sheriff] where such executor or administrator live, or where the effects of such deceased

Md. act 1720, ch. 24, sec. 2.
1 Kilty, 167.
1 Dorsey, 55.
Thomp. Dig., 23.
1 Mac Arthur Rep., 499, U. S. *vs. King*; 3 Cranch Ct. Rep., 420, U. S. *vs. Queen*; 4 Cranch Ct. Rep., 593, U. S. *vs. Shaw*; Ibid., p. 592, U. S. *vs. Kennedy*; 8 Md. Rep., 88, *State vs. Jones*;
16 Md. Rep., 531, *Brown vs. Murdock*; 17 Md. Rep., 570, *Slighman vs. Marshall*;
4 Gill & J. Rep., 471, *Dorsey vs. State*.

lies, or such other apparent insolvency, or insufficiency of the person or effects of such executor or administrator, as shall, in the judgment of the * * * court that hears the cause, render such creditors remediless by any other reasonable means, save that of suing such bonds, on pain that such person or persons that shall cause such bonds to be sued, contrary to the true intent and meaning of such act, shall be condemned in full costs of suit, to be adjudged by such * * * court to the defendant or defendants that shall be so sued, against the person or persons that shall cause the same to be sued, and shall award execution thereof as usual in other cases.

General issue pleadable. SEC. 20. That it shall and may be lawful for the defendant or defendants in such suits to give this act and the special matter in evidence, without specially pleading the same, any law, statute, usage or custom to the contrary notwithstanding.

Ibid., sec. 3.
1 Kilty, 167.
1 Dorsey, 56. Thomp. Dig., 23.

Bond of executor or administrator. SEC. 21. The condition of the bond to be passed by any executor or executrix, administrator or administratrix, shall be as follows, or to the following effect: 'The condition of the above obligation is such,

Md. act 1798, ch. 101, sub ch. 3, sec. 11.
2 Kilty, 835.

that if the above bounden — — shall well and truly perform the office of executor or executrix, administrator or administratrix, of — —, late of — —, deceased, according to law, and shall, in all

respects, discharge the duties of him (or her) required by law, as executor or executrix, or administrator or administratrix, aforesaid, without any injury or damage to any person interested in the faithful performance of the said office, then the above obligation shall be void; it is otherwise to be in full force and virtue in law.'

(Clark vs. William: 60 Md. Rep., 239, Handy vs. Collins; 51 Md. Rep., 392, Kirby vs. State; 51 Md. Rep., 352, State vs. Cheston; 38 Md. Rep., 338, State vs. Wilson; 16 Md. Rep., 522, Brown vs. Murdock.

1 Dorsey, 378.
Thomp. Dig., 24.
57 Md. Rep., 240.
Lambrecht vs. State; 6 Gill & John. Rep., 288.

SEC. 22. Every executor or executrix, administrator or administratrix, after filing his or her bond for faithful performance, and before letters shall be committed to him or her, shall be required to take the following oath, or affirmation, as the case may require, to be administered by the register of wills, or orphans court: 'I, ———, do swear (or solemnly, sincerely and truly do affirm and declare,) that I will well and truly administer the goods, chattels, personal estate and credits, of ———, late of ———, deceased, to the best of my knowledge, according to law, and will give a just account of my administration when thereto I shall be lawfully called; so help me God.'

Oath of administrator or executor.

Ibid., sec. 12.
2 Kilty, 835.
1 Dorsey, 378.
Thomp. Dig., 24.

SEC. 23. The following shall be the form of the letters testamentary to be granted to an executor, executrix or executors, under the seal of the orphans court: *District of Columbia, sc. The United States of America* ['Maryland, sc. The state of Maryland,] to all persons to whom these presents shall come, greeting. Know ye, that the last will and testament of ———, of ———, deceased, hath in due form of law been exhibited, proved and recorded, in the office of the register of wills for ——— county, a copy of which is to these presents annexed, and administration of all the goods, chattels and credits, of the deceased, is hereby granted and committed unto ———, the executor, executrix or executors, (or one or more of the executors,) by the said will appointed. Witness A. B. Justice holding the special term of the Supreme Court of the District of Columbia for orphans court business [chief justice of the orphans court of ——— county,] this ——— day of ———. Test, C. D. register of wills [for ——— county.']

Form of letters testamentary.

Ibid., sec. 13.
2 Kilty, 835.
1 Dorsey, 378.
Thomp. Dig., 24.

SEC. 24. In case of delay, on account of the absence from the *District* [state] of an executor, executrix or executors, named in a will, or of a contest relative to the right of administration, or of a contested will or codicil, or of the negligence of any executor or executrix, named in the will, to take out letters testamentary, or the absence or negligence of any person entitled to letters of administration, or on any other account, the orphans court of the county wherein the will was proved or authenticated, or where letters of administration ought to be granted, may, at discretion, issue letters, authorizing the collection and preservation of the goods of the deceased, and the returning an inventory thereof; [and the said letters may, at discretion of the court, be directed to one person only, or to several persons, in case the goods or chattels and personal estate of the deceased shall be supposed to be in different counties.]

Letters authorizing collection.

Ibid., sec. 14.
2 Kilty, 836.
1 Dorsey, 379.
Thomp. Dig., 25.
4 Md. Rep., 444.
Wilson vs. Ireland;
9 Gill. Rep., 91,
Townshend vs. Brooke; 3 Gill. & J. Rep., 20, Wilson vs. Wilson.

SEC. 25. The form of such letters shall be as follows: *District of Columbia, sc. The United States of America* ['Maryland, sc. The state of Maryland,] To all persons to whom these presents shall come, greeting. Know ye, that whereas ———, of ———, deceased, as it is said, had, at his, (or her) decease, personal property within this *District* [state,] the administration whereof cannot immediately be granted, but which, if speedy care be not taken, may be lost, destroyed or diminished; to the end, therefore, that the same may be preserved for those who shall appear to have a legal right or interest therein,

Form of letters of collection.

Ibid., sec. 15.
2 Kilty, 836.
1 Dorsey, 379.
Thomp. Dig., 25.

we do hereby request and authorize — —, of — —, to secure and collect the said property, wheresoever the same be in this *District* [state,] (or in — — county or counties,) whether it be goods, chattels, debts or credits, and to make or cause to be made a true and perfect inventory thereof, and to exhibit the same, with all convenient speed, together with a reasonable account of his collection, into the office of the register of wills for — — county. Witness A. B. *justice* [chief justice of the orphans court for — — county.] Test, C. D. register of wills [for — — county.]

Bond of collector.

Ibid., sec. 16.
2 Kilty, 836.
1 Dorsey, 379.
Thomp. Dig., 26.

SEC. 26. But before letters to collect shall be granted, the party shall give bond, with approved security, to be filed, recorded and sued as aforesaid, in such penalty as the court shall direct, and the condition thereof shall be as follows: 'The condition of the above obligation is such, that if the above bounden — — shall well and honestly discharge the office of collector of the goods, chattels, and personal estate and debts of — —, deceased, in the *District of Columbia* [state of Maryland, or — — county,] and shall make, or cause to be made, a true and perfect inventory or inventories of such of the said goods, chattels, personal estate and debts, as shall come to his or her possession or knowledge, and the same shall in due time return to the register of wills of — — county, and shall also deliver to the person or persons who shall be authorized by the orphans court of the said county to receive them, such of the said goods, chattels, personal estate and debts, as shall come to his or her possession, (except such as shall be allowed for by the said court,) then the above obligation is to be void, or is otherwise to remain in full force and virtue in law.'

Oath of collector.

Ibid., sec. 17.
2 Kilty, 836.
1 Dorsey, 380.
Thomp. Dig., 26.

SEC. 27. And every collector as aforesaid shall be required, on granting the said letters, to take the following oath, or affirmation, as the case may require: 'I — — do swear, or affirm, as the case may be, that I will well and honestly discharge the office of collector of the goods, chattels, personal estate and debts, of — —, deceased, according to the tenor of the letters granted to me by the orphans court of — — county, and agreeably to the directions of law, to the best of my knowledge; so help me God.'

Collectors' powers and compensation.

Ibid., sec. 18.
2 Kilty, 836.
1 Dorsey, 380.
Thomp. Dig., 27.
2 Cranch, Ct. Rep. 582, *Nichols vs. Hodge*: 47 Md. Rep., 555, *Williams vs. Baxley*.

SEC. 28. Every collector so appointed shall have power to collect the goods, chattels, personal estate and debts, according to the tenor of the said letters, and to secure the same at such reasonable and necessary expense as shall be allowed by the court; and the court may authorize him, immediately after appraisement, to sell such as shall be perishable, or not to be preserved, and to account for the same; and for the whole trouble incurred by a collector, the court may allow a commission on the amount of the property and debts actually collected, and afterwards delivered to an executor or administrator, as to the court shall seem just, not exceeding three per cent. or the court may allow a commission on the whole inventory not exceeding two per cent.

Collector can not sue for or release debts.

Ibid., sec. 19. 2 Kilty, 836. Thomp. Dig., 27.

SEC. 29. No collector as aforesaid shall have power to bring suit for debts, or to release the same, or to do any act further than is before mentioned.

Collectors' powers cease on granting letters testamentary; subsequent duties and liabilities of.

SEC. 30. On the granting of letters testamentary or of administration, the power of any such collector, shall cease, and it shall be his duty to deliver, on demand, all the property and money of the deceased in his hands, except as before excepted to the person or persons obtaining such letters; and in case of the collector's evading such demand, or refusing or neglecting to deliver according

to such demand, made at a reasonable time and place, either the court may proceed against him by attachment, and impose a fine not exceeding ten per cent on the amount of property in his hands, unless in the case of the minority of the executor or executrix, then and in such case letters of administration, during the minority of such executor or executrix, shall be granted; the age of eighteen years shall be considered as the age of majority of the purposes of this clause; or his bond may be sued by the executor or administrator.

Ibid., sec. 20.
2 Kilty, 836.
1 Dorsey, 380.
Thomp. Dig., 27.

LETTERS TESTAMENTARY.

SEC. 31. If any person, named as executor or executrix in a will, shall be, at the time when administration ought to be granted, under the age of eighteen years, or of unsound mind, incapable according to law of making a contract, or convict of any crime, rendering him or her infamous, according to law, or if any person, named as an executor, shall not be a citizen of the United States, letters testamentary, or of administration, (as the case may require,) may be granted, in the same manner as if such person had not been named in the will.

To whom letters testamentary may be granted.

Md. act 1798, ch. 101, sub ch. 4, sec. 1.

2 Kilty, 837.
1 Dorsey, 381.
Thomp. Dig., 28.

34 Md. Rep. 450. *Georgetown College vs. Browne*; 5 Har. & J. 110, *Davis vs. Jacquin*.

SEC. 32. No question respecting infamy, citizenship, or competent age, shall be determined by the orphans court, without summoning the persons so named in a will, and alleged to be infamous, alien, or under age, provided he or she be within the *District* [state,] or without giving such notice, by advertisement, or otherwise, as the court shall direct. (in case he or she be out of the *District* [state,]) and hearing, in case the party shall attend agreeable to summons or notice.

Questions as to competency determined after notice to executor.

Ibid., sec. 2.
2 Kilty, 837.
1 Dorsey, 381.
Thomp. Dig., 28.

SEC. 33. A transcript of the record of conviction shall be evidence in the orphans court to prove the party infamous.

Infamy proved by transcript of record.

Ibid., sec. 3. 2 Kilty, 837. 1 Dorsey, 381. Thomp. Dig., 28.

SEC. 34. When any person so named as an executor in a will, shall be alleged to be an alien, or not a citizen of the United States, his citizenship shall not be established otherwise than by a certificate under the seal of the office, or court, where the party became naturalized, or by competent testimony that the said person is a natural born citizen of this *District* [state,] or of some of the United States.

Proof of citizenship of executor.

Ibid., sec. 4.
2 Kilty, 837.
1 Dorsey, 381.
Thomp. Dig., 28.

SEC. 35. Any inquisition of a jury, on a writ issued from chancery, finding the party an idiot, lunatic, or non compos mentis, and confirmed by the chancellor, shall be conclusive evidence of the unsound mind of the party; and if such an inquisition shall not have been had at the time when administration ought to be granted, a writ de lunatico inquirendo may issue by the chancery or orphans court, on the petition to either of the said courts of any person interested; and the finding of the jury, that the party is an idiot, lunatic, or madman, or non compos mentis, thereon returned and confirmed by the chancellor or the orphans court, as the case may be, shall be conclusive against the party; and a certificate from the register in chancery, under seal, stating the substance of the proceedings, shall be evidence in the orphans court, who may thereon proceed as if the party had not been named in the will.

Proceedings on proof of insanity of executor.

Ibid., sec. 5.
2 Kilty, 837.
1 Dorsey, 381.
Thomp. Dig., 29.
Md. act 1785, ch. 72, sec. 6; 2 Kilty, 49; 3 Mackey, Rep. 491, *In re Bryant*; 34 Md., Rep. 450. *Georgetown College vs. Browne*; 28 Md., Rep. 408, *Kearney vs. Turner*.

SEC. 36. When a person named in a will as an executor or executrix shall be alleged to be under the age of eighteen years, it shall be incumbent on the person making the allegation to establish the same by such proof as is usually required in such cases.

Proof of executor being under age of 18.

Ibid., sec. 6.
2 Kilty, 837. 1 Dorsey, 381. 382.

SEC. 37. And in case letters testamentary shall be granted to an executor above eighteen, and under twenty-one years of age, the bond by him executed for faithful performance shall be binding as valid if he were of full age.

Thomp. Dig., 29. Bond of executor over age of 18. Ibid., sec. 7. 2 Kilty, 837. 1 Dorsey, 382. Thomp. Dig., 29.

SEC. 38. No married woman shall be entitled to letters testamentary, but the same, or letters of administration, shall be granted in the same manner as if she had not been named in the will, unless her husband shall, with two sureties, give bond as aforesaid, to be recorded and sued as aforesaid, for her faithful performance; and the bond of any executrix, who is unmarried and above eighteen, given as aforesaid, shall be binding in the same manner as if she were of the full age of twenty-one years.

Husband of executrix may give bond for her. Bond of *femme sole* executrix over 18, valid. Ibid., sec. 8. 2 Kilty, 837. 1 Dorsey, 382. Thomp. Dig., 29. 34 Md. Rep., 450, Georgetown College *vs.* Browne.

LETTERS OF ADMINISTRATION—TO WHOM AND UNDER WHAT CIRCUMSTANCES GRANTED.

SEC. 39. No letters of administration shall be granted to a person infamous as aforesaid, or to an idiot, lunatic or person non compos mentis, or to a person who is not a citizen of the United States, or under eighteen years of age; and any question respecting infamy, soundness of mind, citizenship or age, may be heard and established as if the same respected a person named as an executor.

Disqualifications for administration. Md. act 1798, ch. 101, sub ch. 5, sec. 1. 2 Kilty, 837. 1 Dorsey, 382. Thomp. Dig., 30. 7 Wallace Rep., p. 496, Kelly *vs.* Owen: 55 Md. Rep., p. 284, Pollard *vs.* Mohler.

SEC. 40. Whenever any person hath died intestate, leaving in this *District* [state] goods, chattels, or personal estate, letters of administration may forthwith be granted by the orphans court [of the county] wherein was the party's mansion house or residence; or in case he or she had no mansion or residence within the *District* [state,] letters shall be granted in the county where the party died; and in case the party neither had mansion or residence, nor died within the *District* [state,] letters may be granted in the county wherein lies, or is supposed to lie, a considerable part of the party's personal estate.

When administration may be granted. Ibid., sec. 2. 2 Kilty, 837. 1 Dorsey, 382. Thomp. Dig., 30. 43 Md. Rep., p. 291, Ensor *vs.* Graff.

SEC. 41. It shall be incumbent on any person applying for such letters, to prove such dying intestate to the satisfaction of the court unless the same be notorious; and the court may examine such person, on oath or affirmation, touching the time, place, and manner of the death, and whether or not the party dying left any will; and if such dying intestate be not proved to the satisfaction of the court, no letters of administration shall be granted; no such letters shall be granted until at least twenty days after the death of the supposed intestate, and at least seven days after the application for the same.

Proof of death and intestacy required before granting administration. Ibid., sec. 3. 2 Kilty, 837. 1 Dorsey, 382. Thomp. Dig., 30. 64 Md. Rep., 543, Emmert *vs.* Stouffer.

SEC. 42. If such letters shall be granted, and a will for the disposing of the personal estate of the deceased shall afterwards be proved according to law, and an executor or executrix, or executors, named therein, shall apply for letters testamentary within thirty days thereafter, and shall be capable of the same, and shall execute a bond as aforesaid, letters testamentary shall be accordingly granted, and the same shall be construed as a revocation of the letters of administration; provided nevertheless, that all acts done by any administrator or administratrix according to law, before any actual or implied revocation of the letters of administration, shall be valid and effectual; and provided, that the executor, executrix or executors, so obtaining

Letters testamentary revoke letters of administration. Administration before revocation valid.

letters testamentary, shall thereby be authorized to prosecute any actions at law or equity, commenced by the administrator, administratrix or administrators, and to obtain judgment in his, her or their own names, and likewise to defend any suit, as aforesaid, commenced against the said administrator, administratrix or administrators; and the granting letters testamentary in such case shall not be construed to affect any suit as aforesaid, commenced against the administrator, administratrix or administrators, but the plaintiff or plaintiffs shall be allowed to prosecute the same unto judgment; nor shall the granting such letters testamentary be construed to affect any suit brought by the administrator, administratrix or administrators, but the same shall be prosecuted unto judgment, unless the executor, executrix or executors, shall come into court, and pray that the same be struck off, or discontinued; and the executor, executrix or executors, shall have the benefit of all judgments obtained by the administrator, administratrix or administrators, and shall be bound by all judgments obtained against them, unless the same shall be shewn to have been obtained by fraud, and set aside by the court in which the judgment was rendered, upon such suggestion of fraud, either upon an examination in a summary manner into the fact, or by directing an issue to try the same, or unless the said executor shall shew to the court that there are good grounds to open the judgment, in which case the court shall and they are hereby authorized to open the said judgment for future litigation; and with respect to the allowance of costs, all administrators shall be on the same footing as if letters testamentary had not been granted, and the same rules in making the executor or executors plaintiffs or defendants shall be observed as are directed by the act of one thousand seven hundred and eighty-five, chapter eighty.

Letters testamentary not to effect suits commenced by or against administrator.

Executor benefited or bound by judgments for or against administrator.

Ibid., sec. 4.
2 Kilty, 897.
1 Dorsey, 382.
Thomp. Dig., 30.
66 Md. Rep., 308, Dalrymple vs. Gamble; 64 Md. Rep., 543, Emmert vs. Stouffer.

SEC. 43. And in all cases where letters testamentary shall be granted as aforesaid, it shall be the duty of the administrators to exhibit to the orphans court their accounts, without delay, and to deliver to the executor, on demand, all the goods, chattels and personal estate, in their possession, belonging to the deceased, and on failure, their administration bonds shall be liable to be put in suit by the executors, or the executors may obtain an order for the purpose.

Administrator to deliver estate to executor.

Ibid., sec. 5.
2 Kilty, 838.
1 Dorsey, 383.
Thomp. Dig., 30.

SEC. 44. In case any executor, executrix, administrator or administratrix, shall die before the estate shall be fully administered, letters of administration de bonis non shall be granted to the person entitled agreeably to the rules herein before laid down, and the proceedings shall in all respects be the same as if administration had been originally granted; and in no case shall the executor of an executor be entitled, as executor, to administration de bonis non of the first deceased; and the letters, bond and oath, of an administrator de bonis non shall be in the form herein before directed, except that the words 'not already administrated' shall be added in the proper places.

Administrator de bonis non and incidents.

Ibid., sec. 6.
2 Kilty, 838.
1 Dorsey, 384.
Thomp. Dig., 32.
73 Md. Rep., 232.
Bowie vs. Bowie: 63 Md. Rep., 542.
Wilcoxon vs. Reese; 34 Md.

Rep., 450, Georgetown, etc., vs. Browne; 33 Md. Rep., 448, Smith vs. Doe; 28 Md. Rep., 408, Kearney vs. Turner; 23 Md. Rep., 318, Thomas vs. Knighton; 14 Md. Rep., 388, Scott vs. Fox; 1 Appeal Cases D. C., 32 McKnight; 109 U. S. Rep., 258, U. S. vs. Walker; 112 U. S. Rep., 83, Wilson vs. Arrick.

SEC. 45. If an executor or administrator shall die before administration is completed, letters de bonis non may be granted, at the discretion of the court, with a copy of the will annexed, (if the case require,) giving preference, however, to the person entitled, if he or she shall actually apply for the same; and the form of the letters shall be as herein before directed, except that the words, 'already not administrated,' be added in their proper place; and the authority

When letters de bonis non may be granted.

Md. act 1798, ch. 101, sub ch. 14, sec. 2.
2 Kilty, 850.

1 Dorsey, 407, conferred by such letters shall be to administer all things herein described as assets, not converted into money, and not distributed or delivered, or retained by the former executor or administrator, under the court's direction. (Sec. 976 R. S. D. C.)

Administrators' qualifications and proceedings by the same as executors. SEC. 46. The qualification of an administrator or administratrix shall, in all respects, be the same as those of an executor; and the proceedings, to exclude such as prima facie appear entitled to the administration of the estate of an intestate, shall in all respects be the same as herein before directed for excluding any person named in a will as executor or executrix, provided that it shall not be necessary so to proceed, in case the party be out of the State, or in case of administration to be granted to any, except relations, or to collateral relations, more remote than brothers or sisters of the intestate; and no relations, except a widow, child, grand-child, father, brother, sister or mother, shall be considered as entitled, unless he or she shall apply for the same.

Md. act 1798, ch. 101, sub ch. 5, sec. 7.

2 Kilty, 838.

1 Dorsey, 384.

Thomp. Dig., 33. 73 Md. Rep., 324, *Bowie vs. Bowie*; 71 Md. Rep., 587, *McGuire vs. Rogers*; 55 Md. Rep., 284, *Pollard vs. Mohler*; 66 Md. Rep., 308, *Dalrymple vs. Gamble*; 64 Md. Rep., 360, *Ehlen vs. Ehlen*; 60 Md. Rep., 563, *Rockwell vs. Young*; 3 Md. Rep., 318, *Thomas vs. Knighton*.

Choses in action of intestate wife devolve on husband without letters of administration. SEC. 47. If the intestate be a married woman, it shall not as necessary to be necessary for her husband to take out letters of administration, but all her choses in action shall devolve upon her husband, in the same manner as if he had taken out such letters; provided, that if he shall not, in his life-time, reduce the said choses in action into possession, or obtain judgment thereon, the said choses in action shall devolve on her representative, and administration may be granted accordingly.

The result if judgment or possession be not obtained by him.

Ibid., sec. 8. 2 Kilty, 838. 1 Dorsey, 384. Thomp. Dig., 33. 6 Mackey Rep., 117, *Chadsey vs. Fuller*; 4 Cranch Ct. Rep., 696, *Chew vs. Baker*; 6 Har. & John Rep., 31; 55 Md. Rep., 284, *Pollard vs. Mohler*. 76 Md. Rep., 110, *in re Lee*.

Actions by husband in right of wife, may declare specially. SEC. 48. And hereafter a husband, bringing a personal action to recover in right of his wife, either before or after her death, may declare specially, setting forth, in the usual manner, how the debt or right accrued to his wife, and stating further, that by marriage the debt or right hath on him devolved.

Ibid., sec. 9.

2 Kilty, 838. 1 Dorsey, 384. Thomp. Dig., 33. 38 Md. Rep., 175, *Hubbard vs. Barcus*. 76 Md. Rep., 110., *in re Lee*.

ORDER OF PREFERENCE AS TO PERSONS ENTITLED TO ADMINISTRATION.

To widow or one of the children. SEC. 49. If the intestate leave a widow, and a child or children, administration, at discretion of the court, shall be granted either to the widow or child, or one of the children.

Ibid., sec. 10.

2 Kilty, 838. 1 Dorsey, 384. Thomp. Dig., 34. 73 Md. Rep., 234, *Bowie vs. Bowie*; 64 Md. Rep., 360, *Ehlen vs. Ehlen*; 55 Md. Rep., 284, *Pollard vs. Mohler*; 14 Md. Rep., 106, *Stockdale vs. Conaway*; 11 Md. Rep., 416, *Edelen vs. Edelen*; 8 Md. Rep., 548, *Barrett vs. Miller*; 5 Md. Rep., 324, *Maurer vs. Naill*.

To grandchild.

Ibid., sec. 11.

1 Dorsey, 384.

Thomp. Dig., 34. 64 Md. Rep., 360, *Ehlen vs. Ehlen*; 55 Md. Rep., 284, *Pollard vs. Mohler*. 27 Md. Rep., 391, *Nusz vs. Groves*; 14 Md. Rep., 106, *Stockdale vs. Conaway*; 11 Md. Rep., 416, *Edelen vs. Edelen*; 8 Md. Rep., 548, *Barrett vs. Miller*; 5 Md. Rep., 324, *Maurer vs. Naill*.

To the father.

Ibid., sec. 12.

2 Kilty, 838. 1 Dorsey, 384. Thomp. Dig., 34. 64 Md. Rep., 360, *Ehlen vs. Ehlen*; 55 Md. Rep., 284, *Pollard vs. Mohler*.

SEC. 52. If there be neither widow, nor child, nor grand-child, nor father, brothers and sisters shall be preferred, and next to brothers and sisters, the mother shall be preferred. To brothers and sisters, then mother.

Ibid., sec. 13. 2 Kilty, 838. 1 Dorsey, 385. 55 Md. Rep., 284, Pollard vs. Mohler; 34 Md. Rep., 450, Georgetown College vs. Browne; 9 Gill Rep., 465, Owings vs. Bates.

SEC. 53. If there be neither widow, nor child, nor grand-child, nor father, nor brother, nor sister, nor mother, the next of kin shall be preferred. Then next of kin.

Ibid., sec. 14. 2 Kilty, 838. 1 Dorsey, 385. Thomp. Dig., 34. 55 Md. Rep., 284, Pollard vs. Mohler; 34 Md. Rep., 450, Georgetown vs. Browne; 28 Md. Rep., 408, Kearney vs. Turner.

SEC. 54. Males shall be preferred to females in equal degree of kin. Males preferred.

Ibid., sec. 15. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig., 34. 55 Md. Rep., 284, Pollard vs. Mohler; 28 Md. Rep., 409, Kearney vs. Turner; 19 Md. Rep., 1, Cook vs. Carr.

SEC. 55. Relations of the whole blood shall be preferred to those of the half blood in equal degree, and relations of the half blood shall be preferred to relations of the whole blood in a remoter degree. Whole blood preferred.

Ibid., sec. 16. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig., 34. 55 Md. Rep., 284, Pollard vs. Mohler.

SEC. 56. Relations descending shall be preferred to relations ascending in the collateral line; that is to say, (for example,) a nephew shall be preferred to an uncle. Collateral relations descending preferred.

Ibid., sec. 17. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig., 34. 55 Md. Rep., 284, Pollard vs. Mohler.

SEC. 57. None shall be preferred in the ascending line beyond a father or mother, or in the descending line below a grand-child. Preferences in ascending and descending lines.

Ibid., sec. 18. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig., 34. 55 Md. Rep., 284, Pollard vs. Mohler.

SEC. 58. A female sole shall be preferred to a married woman in equal degree. Femme sole preferred.

Ibid., sec. 19. 2 Kilty, 839. 1 Dorsey, 385. 61 Md. Rep., 250, Griffith vs. Coleman; 55 Md. Rep., 284, Pollard vs. Mohler; 5 Gill Rep., 197, Smith vs. Young.

SEC. 59. Where a female is entitled, administration may be granted to her and her husband, provided he be capable. Female and husband granted administration.

Ibid., sec. 20. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig., 34. 55 Md. Rep., 284, Pollard vs. Mohler.

SEC. 60. Relations on the side of the father shall be preferred to relations on the side of the mother in equal degree. Father's relations preferred.

Ibid., sec. 21. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig., 35. 55 Md. Rep., 284, Pollard vs. Mohler; 28 Md. Rep., 408, Kearney vs. Turner.

SEC. 61. If there be no relations, administration shall be granted to the largest creditor applying for the same. Largest creditor when entitled.

Ibid., sec. 22. 2 Kilty, 839. 1 Dorsey, 385. 66 Md. Rep., 308, Dalrymple vs. Gamble; 55 Md. Rep., 284, Pollard vs. Mohler; 44 Md. Rep., 625, Carpenter vs. Jones.

SEC. 62. If there shall be neither husband nor wife, nor child nor grand-child, nor father nor brother, nor sister nor mother, or if these be incapable or decline, or refuse to appear on proper summons or notice, or if other relations and creditors shall neglect to apply, administration may be granted, at discretion of the court. When granted at court's discretion.

Ibid., sec. 23. 2 Kilty, 839. 1 Dorsey, 385. Thomp. Dig. 35. 66 Md. Rep., 308, Dalrymple vs. Gamble; 60 Md. Rep., 563, Rockwell vs. Young; 55 Md. Rep., 284, Pollard vs. Mohler; 34 Md. Rep., 450, Georgetown vs. Browne; 23 Md. Rep., 318, Thomas vs. Knighton; 6 Gill & J. Rep., 349, Ward vs. Thompson.

Residuary legatees first entitled to letters c. t. a. SEC. 63. If however letters of administration are to be granted, with a copy of the will annexed, and there be a residuary legatee or legatees in such will, he, she, or they shall be preferred to all, except a widow, and it shall be incumbent on the court to proceed, in the manner herein before directed, with respect to executors within the *District* [state,] before administration shall be granted to any other person; and a male residuary legatee shall be preferred to a female. *Gamble*: 34 Md. Rep., 450, *Georgetown vs. Browne*: 34 Md. Rep., 102, *Henning vs. Varner*.

Administration may be granted to two or more. SEC. 64. Administration may be granted to two or more persons, with the consent of the person first entitled, provided that administration, in all cases, shall extend to all personal property of the deceased with the *District* [state,] in order that the affairs of deceased persons be as little complicated as may be, and that persons interested therein may the more easily and readily obtain justice. Md. act 1798, ch. 101, sub ch. 5, sec. 25. 2 Kilty, 838. 1 Dorsey, 385, 386. *Thomp. Dig.*, 35. 51 Md. Rep., 146, *Wright vs. Gilbert*; *ibid.*, p. 392, *Kirby vs. State*; 49 Md. Rep., 314, *Covey vs. Charles*; 6 Gill & J. Rep., 288, *Clark vs. State*.

Proceedings when an entitled person declines administration. SEC. 65. If any person entitled to administration, shall deliver or transmit to the orphans court, a declaration, in writing, that he is willing to decline the trust, the court shall proceed as if such person were not entitled. Md. act 1798, ch. 101, sub ch. 14, sec. 1. 2 Kilty, 850. 1 Dorsey, 407. *Thomp. Dig.*, 35. 68 Md. Rep., 260, *McColgan vs. Kenny*; 44 Md. Rep., 625, *Carpenter vs. Jones*; 23 Md. Rep., 318, *Thomas vs. Knighton*.

RULES CONCERNING INVENTORIES.

Inventory to be returned in every case. SEC. 66. In every case wherein letters testamentary, or of administration, or of collection, are granted, in order that all persons interested in the personal estate may have an opportunity of knowing, as nearly as may be, the amount of the same, an inventory, [in case the estates lies in one county, or can conveniently be collected together, or inventories, in case the property lies in more than one county, or cannot conveniently be collected together,] shall be returned to the office granting the administration. Md. act 1798, ch. 101, sub ch. 6, sec. 1. 2 Kilty, 839. 1 Dorsey, 386. *Thomp. Dig.*, 36. 7 Mackey Rep., 392, *Patten's estate*; 60 Md. Rep., 229, *Handy vs. Collins*; 14 Md. Rep., 388, *Scott vs. Fox*; 5 Peters Rep., 230, *Yeaton vs. Lynn*.

Warrant to be issued to appraisers. SEC. 67. And on granting any letters testamentary, or of administration, or of collection, a warrant or warrants shall issue, under the seal of office, authorizing two persons of discretion, not related to the deceased, nor interested in the administration, to appraise the goods, chattels and personal estate, of the deceased, known to them, or to be shewn by the executor, administrator or collector. Form of the warrant. *The United States of America* [The State of Maryland,] To _____, _____, greeting. This is to authorize you jointly to appraise the goods, chattels and personal estate, of _____, late of _____, deceased, so far as they shall come to your sight and knowledge, each of you having first taken the oath, or affirmation, hereto annexed, a certificate whereof you are to return, annexed to an inventory of the said goods, chattels and personal estate, by you appraised in dollars and cents; and in the said inventory you are to set down, in a column or columns opposite to each article, the value thereof. Witness C. D. Justice [chief justice or judge of the orphans court in _____ county.] Test. E. F. Register, etc.

Another warrant may issue where appraiser fails to act. SEC. 68. And on the death, refusal or neglect to act, of any appraiser, another warrant may forthwith issue in its stead.

Ibid., sec. 3. 2 Kilty, 839. 1 Dorsey, 386. 60 Md. Rep., 229, *Handy vs. Collins*; 14 Md. Rep., 388, *Scott vs. Fox*.

SEC. 69. The appraisers, before they proceed to act, shall take the following oath, or affirmation, as the case may be, annexed to, or endorsed on, the warrant, before any person authorized to administer an oath: 'I, A. B., do swear, or solemnly, sincerely and truly affirm, that I will well and truly, without partiality or prejudice, value and appraise the goods, chattels and personal estate, of _____, deceased, so far as the same shall come to my sight and knowledge, and will, in all respects, perform my duty as appraiser, to the best of my skill and judgment; so help me God.'

Oath of appraisers.
Ibid., sec. 4.
2 Kilty, 839.
1 Dorsey, 386.
60 Md. Rep., 229, Handy vs. Collins; 14 Md. Rep., 388, Scott vs. Fox.

SEC. 70. The appraisers shall proceed as conveniently as may be to the discharge of their duty, and shall set down each article, with the value thereof, in dollars and cents; all the valuations on one side of the paper shall be set down in one column, distinctly, in figures, opposite to their respective article; the contents of each column shall be cast up and set down, and likewise the contents of the whole shall be cast up, and set down under the last column.

Duty of appraisers.
Ibid., sec. 5.
2 Kilty, 839.
1 Dorsey, 386.
Thomp. Dig., 37.
60 Md. Rep., 229, Handy vs. Collins; 14 Md. Rep., 388, Scott vs. Fox.

SEC. 71. When the inventory shall be finished, the appraisers shall certify the same, under their hands and seals, and a certificate of their having taken the oath or affirmation as aforesaid, shall be thereto annexed; and every inventory shall be returned to the proper office within three calendar months from the date of the letters, or within such time from the date of the warrant, in case a second warrant shall have issued, as the case may require, unless further time, on application of the party, shall be granted by the court; and it shall be the duty of any executor, administrator or collector, taking out the warrant, to return the inventory or inventories which shall be delivered to him by the appraisers; and on failure by the executor, administrator or collector, attachment may issue to enforce the return; and on the attachment the court shall have power to fine the party not exceeding thirty dollars.

Inventory returned within three months; penalty for neglect.
Ibid., sec. 6.
2 Kilty, 839, 840.
1 Dorsey, 387.
Thomp. Dig., 37.
7 Mackey Rep., 392, Patten's estate; 60 Md. Rep., 229, Handy vs. Collins; 14 Md. Rep., 388, Scott vs. Fox.

SEC. 72. If there be any of the persons interested in the administration within three miles of the place where the personal estate is to be appraised, it shall be the duty of the executor, administrator or collector, and of the appraisers, to give notice to the said persons, or at least two of them, of the time and place appointed for making the appraisement.

Notice of appraisement to persons interested.
Ibid., sec. 7.
2 Kilty, 840.
1 Dorsey, 387.
60 Md. Rep., 229, Handy vs. Collins; 14 Md. Rep., 388, Scott vs. Fox.

SEC. 73. Every executor, executrix, administrator or administratrix, shall return likewise within the time, and under the pain aforesaid, with an affidavit of the truth annexed, an inventory of the money belonging to the deceased which hath come to his or her hands, and of the debts due to the deceased which hath come to his or her knowledge, specifying the nature of each debt, and setting down such as he or she shall deem separate, distinct and separate from those which he or she shall deem desperate or doubtful.

Inventory of money and debts to be returned.
Ibid., sec. 8.
2 Kilty, 840.
1 Dorsey, 387.
Thomp. Dig., 38.
60 Md. Rep., 229, Handy vs. Collins.

SEC. 74. Every collector likewise shall return, within the time, (unless superseded) and under the form aforesaid, with an affidavit of the truth annexed, an inventory of the money of the deceased, which he or she hath collected, belonging to the deceased, or received in discharge of debts due to the deceased.

Collector's inventory.
Ibid., sec. 9.
2 Kilty, 840.
1 Dorsey, 387.

SEC. 75. Whenever personal property of any kind, or assests not mentioned in an inventory already made out, shall come to the possession or knowledge of an executor, executrix, administrator or administratrix, or collector, an account or inventory of the same shall be returned, appraised by two respectable disinterested sworn appraisers, appointed by any justice of the peace, or judge of any orphans court, within two calendar months from the time of the discovery.

Additional inventory.
Ibid., sec. 10.
2 Kilty, 840.
1 Dorsey, 387.

Collector's inventory may be adopted by executor or administrator.

Ibid., sec. 11.
2 Kilty, 840.
1 Dorsey, 388.

SEC. 76. In case an inventory be returned by a collector, duly appointed, the executor, executrix or executors, or administrator, administratrix or administrators, thereafter administering, shall, within three calendar months after the date of his, her or their letters, either return a new inventory, in place of the collector's inventory, or any acknowledgment in writing, that he, she or they, have received from the collector the articles contained in the first inventory, or consent to be answerable for the same, in the same manner as if the said inventory had been made out after his, her or their administering upon the estate: *provided*, that nothing herein contained shall be construed to render any executor, executrix or executors, administrator, administratrix or administrators, answerable for not making a return of the inventory aforesaid, wherein it shall appear to the court that he, she or they, have been prevented from making such return by the improper detention of the goods of the deceased by the collector aforesaid.

Disposition of growing crops by executor or administrator.

Ibid., sec. 12.
2 Kilty, 840.
1 Dorsey, 388.

SEC. 77. The executor or administrator shall either finish the crop on hand at the death of the deceased, or sell the same, as he shall judge the most convenient; and in case he shall not deem it convenient to finish the crop, the person entitled to the land on the death of the testator or intestate, or his or her guardian or next friend for him or her, in case of infancy of the party, may take the said crop at the appraisement of the appraisers as aforesaid, paying ready money, or giving bond, with good security, approved by the orphans court, or the register of wills of the said court, if the said court be not in session at the time of making such sale, for paying the money within six months; and in case the said party, or his or her guardian for him or her, shall not take the crop at an appraisement, the executor or administrator may sell the same to any other person, for ready money, or on credit as aforesaid; *provided* nevertheless, that he shall not sell it at less than the appraisement, without the approbation of the orphans court [granting the administration,] or an order, prescribing the terms, by the said court, passed as aforesaid.

Letters revoked on failure to return inventory, and others granted.

Ibid., sec. 13.
2 Kilty, 840.
1 Dorsey, 388,
389.

Thomp. Dig., 39.
7 Mackey Rep., 398, Patten's estate; 5 Peters Rep., 230, Yeaton vs. Lynn.

SEC. 78. If an executor or administrator shall not, within three months after date of his letters, exhibit to the orphans court an inventory as aforesaid, a summons returnable within not less than eight or more than thirty days, may, *ex officio*, or on application of a person interested, be issued against such executor or administrator, to shew cause wherefore such inventory hath not been exhibited; and if the summons be duly returned 'summoned,' or upon two citations returned '*non est*,' [by the sheriff of the county wherein the party resided at the time of obtaining his letters, or of the county wherein the letters were obtained, in case the party doth not reside in the state,] and if he doth not appear at the return of the summons, or appearing shall not shew cause satisfactory, the said court may immediately enter on its proceedings, and record, that the said letters be revoked, and may proceed to grant other letters, in the same manner as if such executor had not been named in the will, or as if such administrators were not in existence; and the power of such executor or administrator shall thereupon cease, and he shall be bound to deliver up, on demand, to the person obtaining such letters, all the property of the deceased in his hands, or be liable to be sued by such person on his administration bond, or the court may pass an order for the purpose.

If one executor or administrator return inventory others excluded, result thereof.

SEC. 79. If there be more than one executor or administrator named in the letters, any one or more of them on the neglect of the rest, may return an inventory, and the executor or administrator so neglecting shall not thereafter interfere with the administration, or

have any power over the personal estate of the deceased; but the executor or administrator so returning shall thereafter have the whole administration, unless, within two months after the return, the delinquent or delinquents shall assign to the court some reasonable excuse which it shall deem satisfactory.

Ibid., sec. 14.
2 Kilty, 840.
1 Dorsey, 389.
Thomp. Dig., 40.
7 Mackey Rep.,
393, Patten's es-
tate; 5 Peters Rep., 230, Yeaton vs. Lynn.

SEC. 80. No executor shall be obliged to exhibit any inventory, or account, provided he will give bond, instead of the bond hereinbefore directed, with such security, and in such penalty, as the court shall approve, to the *United States of America* [state of Maryland,] to be recorded and sued as before directed, with condition for paying all just debts of, and claims against, the deceased, and all damages which shall be recovered against him as executor, and also all legacies bequeathed by the will, provided the said executor be residuary legatee, or provided the residuary legatee of full age, shall notify his or her consent to the court; and in case such bond be given by an executor, he shall be answerable for all debts, claims and damages, recovered against him as executor; and if suit be brought against him as executor, the judgment shall be for the whole sum found by the jury, or otherwise ascertained, and execution may issue, and have effect, as if he were sued in his own right; and any legatee shall be entitled to recover the full amount of his legacy, either in a suit upon the said executor's bond, or in a suit in chancery, as is usual in case of legacies, or in an action on the case, in which the giving of such bond shall be considered as an assent to the legacy.

Executor need not exhibit inventory or account if bond to pay debts and legacies be given.
Md. act 1798, ch. 101, sub ch. 14, sec. 6.
2 Kilty, 850.
1 Dorsey, 408.
Thomp. Dig., 41.
6 Gill & J. Rep., 157, State vs. Hammond; 3 Har. & J. Rep., 503, Hamilton vs. State.

SEC. 81. No administrator, entitled to the whole residue after payments of debts of, and claims against, the intestate, shall be obliged to return an inventory or account, provided he will give bond, with such security, and in such penalty, as the court shall approve, conditioned for paying all debts, claims and damages, which shall be recovered against him, as administrator; and in case he shall give such bond, he shall be answerable for all debts, claims and damages aforesaid, and judgment may be given, and execution may issue and have effect, as herein directed with respect to an executor giving a similar bond.

Administrator has similar exemption.
Ibid., sec. 7.
2 Kilty, 850.
1 Dorsey, 408, 409.
Thomp. Dig., 44,
6 Gill & J. Rep., 157, State vs. Hammond; 3 Har. & J. Rep., 503, Hamilton vs. State.

ASSETS.

SEC. 82. Leases for years, estate for the life of another person or persons, except those granted to the deceased and his heirs only, and all goods, wares, merchandise, utensils, furniture, cattle, stock, provisions, tobacco, and every kind of produce, the crop on the land of the deceased by him or her begun, unless where the lands are divided, things annex to the freehold or building, which may be removed without prejudice to the building, clothing, ornaments, and every other species of personal property, (except those things which are denominated heir-looms, and the clothes of a widow, and ornaments and jewels proper for her station, and the clothing of the family.) shall be included in an inventory to be taken and returned as aforesaid, and shall be considered as assets in hands of an executor or administrator.

Assets, what shall be so considered.
Md. act 1798, ch. 101, sub ch. 7, sec. 1.
1 Kilty, 841.
1 Dorsey, 389.
Thomp. Dig., 41.
2 Mackey Rep., 394, U. S. vs. Wyman; ibid., 109, U. S. Rep., 654; 3 Cranch Ct. Rep., 371, Wilson vs.

Rose; 101 U. S. Rep., 645, Kennedy vs. Creswell; 112 U. S. Rep., 83, Wilson vs. Arrick; 6 Gill & J., 191, Evans vs. Iglehart; 60 Md. Rep., 229, Handy vs. Collins; 43 Md. Rep., 336, Devecmon vs. Devecmon; 33 Md. Rep., 11, Alexander vs. Sussan; 20 Md. Rep., 527, Valentine vs. Strong.

SEC. 83. A common warrant for land not executed or located in the life-time of the deceased, shall be assets after his death, in the hands of an executor or administrator, and subject to distribution,

Warrants for land, and debts due deceased shall be assets.

Md. act 1798, ch. 101, sub ch. 14, sec. 3. as well as every debt due to, or just claim of, the deceased; and if a common warrant for land be executed or located as aforesaid, it shall be considered the property of the heirs.

2 Kilty, 850. 1 Dorsey, 408. Thomp. Dig., 42. 1 Cranch Ct. Rep., 496, Dixon vs. Ramsay; 3 Cranch Ct. Rep., 182, Lynn vs. Yeaton; *ibid.*, p. 324, Law vs. Law.

Proceeds of lands sold shall not be accounted personally. SEC. 84. That if the person so deceased will by his testament, or last will, any lands, tenements, or hereditaments, to be sold, that the money thereof coming, nor the profits of the said lands, for any to be taken, shall not be accounted as any of the goods or chattels of the said person so deceased.

21 Henry VIII. ch. 5, sec. 5, A. D. 1529. Alex. Brit. Stat., 283. Kilty's Rep., 230. 1 Cranch Ct. Rep., 496, Dixon vs. Ramsay; 3 Cranch Ct. Rep., 324, Law vs. Law.

Sale of lands by part of executors lawful. SEC. 85. Where divers sundry persons before this time, having other persons seised to their uses of and in lands and other hereditaments to and for the declaration of their wills, have by their last wills and testaments willed and declared such their said lands, tenements, or other hereditaments to be sold by their executors, as well to and for the payments of their debts, performance of their legacies necessary and convenient finding of their wives, virtuous bringing up and advancement of their children to marriage, as also for other charitable deeds to be done and executed by their executors for the health of their souls. (2) And notwithstanding such trust and confidence so by them put in their said executors, it has oft times been seen where such last wills and testaments of such lands, tenements, and other hereditaments have been declared, and in the same divers executors named and made, that after the decease of such testators some of the same executors, willing to accomplish the trust and confidence that they were put in by the said testator, have accepted and taken upon them the charge of the said testament, and have been ready to fulfil and perform all things contained in the same; and the residue of the same executors, uncharitably, contrary to the trust that they were put in, have refused to intermeddle in anywise with the execution of the said will and testament, or with the sale of such lands so willed to be sold by the testator. (3) And forasmuch as a bargain and sale of such lands, tenements, or other hereditaments so willed by any person to be sold by his executors after his decease, after the opinion of divers persons, can in nowise be good or effectual in the law, unless the same bargain and sale be made by the whole number of the executors named to and for the same; (4) by reason whereof, as well the debts of such testators have rested unpaid and unsatisfied, to the great danger and peril of the souls of such testators, and to the great hindrance and many times to the utter undoing of their creditors: (5) As also the legacies and bequest made by the testator to his wife, children, and for other charitable deeds to be done for the wealth of the soul of the same testator that made the same testament, have been also unperformed, as well to the extream misery of the wife and children of the said testator, as also to the let of performance of other charitable deeds for the wealth of the soul of the said testator, to the displeasure of Almighty God. (6) For remedy whereof, be it enacted, ordained, and established by the authority of this present Parliament, That where part of the executors named in any such testament of any such person so making or declaring any such will of any lands, tenements, or other hereditaments to be sold by his executors, after the death of any such testator, do refuse to take upon him or them the administration and charge of the same testament and last will wherein they be so named to be executors, and the residue of the same executors do accept and take upon them the cure and charge of the same testament and last will; that then all bargains and sales of such lands, tenements, or other hereditaments, so willed to be sold by the executors of any

4 Har. & McH. Rep., 485, Digges vs. Jarman; 6 Gill & J. Rep., 420, Guyer vs. Maynard; 10 Gill & J. Rep., 27, State vs. Nichols; 6 Gill Rep., 299, Cornish vs. Wilson; 23 Md. Rep., 273, Smithers vs. Hooper.

such testator, as well heretofore made, as hereafter to be made by him or them, only of the said executors that so doth accept, or that heretofore hath accepted and taken upon him or them any such cure or charge of administration of any such will or testament, shall be as good and as effectual in the law, as if all the residue of the same executors named in the said testament, so refusing the administration of the same testament, had joined with him or them in the making of the bargain and sale of such lands, tenements, or other hereditaments so willed to be sold by the executors of any such testators, which heretofore hath made or declared, or that hereafter shall make or declare any such will, of any such lands, tenements, or other hereditaments after his decease, to be sold by his executors.

SEC. 86. *Provided always*, That this act shall not extend to give power or authority to any executor or executors at any time hereafter to bargain or put to sale any lands, tenements, or hereditaments, by virtue and authority of any will or testament heretofore made, otherwise than they might do by the course of the common law afore the making of this act.

Sale of lands.

*Proviso.**Ibid.*, sec. 2.

ACCOUNTS.

SEC. 87. Every executor or administrator shall, within fifteen calendar months after the date of his or her letters, return to the court which granted them a full account of his or her administration; provided nevertheless, that if the said party shall within four calendar months, after the said date, make oath (or affirmation, at the case may require,) that he or she hath reason to apprehend, and doth apprehend, that the personal estate and assets which are or shall be in his or her hands, will be insufficient to discharge the just debts of and claims against, the deceased, the court may, at discretion, allow a further time, not exceeding eighteen calendar months in the whole, from the said date, for returning the said account.

Accounts to be returned within fifteen or eighteen months.

Md. act 1798, ch. 101, sub ch. 8, sec. 1.

2 Kilty, p. 841.

1 Dorsey, 389.

390.

Thomp. Dig., 43.

64 Md. Rep., 399.

Levering vs. Lev-

ering; 57 Md. Rep., 89, *Biddison vs. Mosely*; 47 Md. Rep., 555, *Baxley's estate*; 41 Md. Rep., 359, *Jones vs. Jones*; 15 Md. Rep., 127, *Dennis vs. Dennis*; 14 Md. Rep., 388, *Scott vs. Fox*; 5 *Peters' Rep.*, 230, *Yeaton vs. Lynn*.

SEC. 88. The orphans court granting the letters shall have power to make allowance to any collector, executor or administrator, for property of the deceased which hath perished, or been lost, without the fault of the party; and no profit shall be made, and no loss shall be sustained by an executor or administrator, in the increase or decrease of the estate under his management; but the executor or administrator shall return an inventory and account for such increase, and may be allowed for such decrease, on the settlement of the final or other account.

Increase or decrease of estate allowed for in account.

Ibid., sec. 2.

2 Kilty, 841.

1 Dorsey, 390.

4 *Cranch Ct.**Rep.*, 185, *ex parte**Jones*; 4 *Gill & J.*

Rep., 453, *Gwynn vs. Dorsey*; 4 *John ch.* 419; 1 *Har. & Gill*, 88 *Hurt vs. Fisher*.

SEC. 89. In case any executor or administrator shall not have money sufficient to discharge the just debts of, and claims against, the deceased, the orphans court granting the letters shall, on his application, made after the return of an inventory, direct a sale of the whole property therein contained, or of such part, or to such amount, as the court may think proper, and the court shall direct the manner and terms of sale, provided that no credit exceeding twelve months be given, in any case, and that where credit is given, bond with security shall be taken; the court shall have power, in case it shall suspect any fraud, collusion, connivance or improper management, to effect the said sale, or that it was unreasonably made, or that the property was sold much under its value, to compel the said executor or administrator, to account for all deficiencies as may have arisen by such executor's or administrator's misconduct, the court always observing the inventory as their rule for ascertaining such deficiency.

Assets insufficient for debts, court may order and regulate sale of personalty.

Ibid., sec. 3.

2 Kilty, 841.

1 Dorsey, 390.

Thomp. Dig., 45.

6 Md. Rep., 357.

Lowe vs. Lowe.

Court may order sale ex officio or on application. SEC. 90. The said court shall have power to direct a sale as aforesaid, in case it shall deem a sale advantageous for the persons interested in the administration, either ex officio, or on application of any of the said persons.
 Ibid., sec. 4. 2 Kilty, 841. 1 Dorsey, 390.

Suits by and against executors and administrators, costs. SEC. 91. Executors and administrators shall have full power and authority to commence and prosecute any personal action whatever, at law, or in equity, (as the case may require,) which the testator or intestate might have commenced and prosecuted, except actions of slander, and for injuries or torts done to the person; and they shall also be liable to be sued in any court of law or equity, (as the case may require,) in any action (except as aforesaid,) which might have been maintained against the deceased; and they shall be entitled to, or be answerable for costs, in the same manner as the deceased would have been, and they shall be allowed for the same in their accounts, provided the court awarding costs against them shall certify, that there were probable grounds for instituting, prosecuting or defending, the action on which a judgment or decree shall have been given against them.
 Ibid. sec. 5. 2 Kilty, 841. 1 Dorsey, 390, 391.

Death of either party shall not abate personal action. SEC. 92. No personal action shall abate by the death of either party, but executors and administrators shall notice and conform to the directions of the act of seventeen hundred and eighty-five, chapter eighty, respecting their prosecution or defense of such action.
 Md. act 1798, ch. 101, sub ch. 14, sec. 4. 2 Kilty, 850. 1 Dorsey, 408. [See 1785 ch. 80, sec. 1, 1 Dorsey 229.]

Plene administravit. Pleas and answers to assets. SEC. 93. As in pleading it is extremely difficult for executors and administrators, as well as the opposite parties, to guard against error or mistake, which may operate unjustly against them, in no action, brought against an executor or administrator, shall it be necessary for him to plead *plene administravit*, or anything relative to the assets, or for the plaintiff or plaintiffs to reply to such plea: *Provided nevertheless*, That any executor or administrator, sued in chancery, may be compelled, as usual, to say in his answer, whether or not he hath assets to answer all just claims against the deceased: *And provided also*, That if the said executor or administrator shall answer that he hath not assets as aforesaid, the proceedings shall be as they are at present; that is to say, an account may be taken of the assets under the direction of the court.
 Md. act 1798, ch. 101, sub ch. 8, sec. 7. 2 Kilty, 841, 842. 2 Cranch Ct. Rep., 29; Hellen vs. Beatty.

Judgments satisfied in proportion to assets. SEC. 94. And if the verdict of the jury on the issue joined be against the executor or administrator, or if he shall be willing to confess judgment, and the debt or damages which the deceased (if he or she were alive) ought to pay, be ascertained by verdict, or confession or otherwise, the court, before whom the action was brought, shall thereupon assess the sum which the executor or administrator ought to pay, regard being had to the amount of assets in his hands, and the debts due to other persons; and if it shall appear to the said court that there are assets to discharge all just claims against the deceased, the judgment shall be for the whole debt or damages found by the jury, or confessed, or otherwise ascertained, and costs; and if it shall appear to the court that there are not assets to discharge all such just claims, the judgment shall be for such sum only as bears a just proportion to the amount of the debt, or damages and costs, regard being had to the amount of all the just claims, and of the assets; that is to say, as the amount of all the said claims shall be to the assets, so shall the amount of the said debt, or damages and costs, be to the sum required, for which judgment is to be given.

SEC. 95. And in no case shall the court proceed to assess as aforesaid, and to pass such judgment against an executor or administrator, until the time limited by law, or by the orphans court, for the executor or administrator to pass his account shall have expired, *Provided*, That the said executor or administrator shall make oath, (or affirmation, as the case may require,) that he hath not assets to discharge all such just claims; and the account settled by the orphans court, in which the debt or damages sued for ought to be stated, shall be evidence to show the amount of assets and claims; and the court before whom the suit is brought against the executor or administrator for the recovery of a debt or damages, shall have power, when the real debt or damages are ascertained, to refer the matter to an auditor, to ascertain the sum for which judgment shall be given; and in case the judgment shall be for a sum inferior to the real debt or damage and costs, it shall go on and say "that the plaintiff be entitled to such further sum as the court shall hereafter assess on discovery of further assets in the hands of the defendant;" and the court, at any time afterwards, when applied to by the plaintiff, on three days notice to the defendant or his attorney, may assess and give judgment for such further proportionable sum as the plaintiff shall appear entitled to, regard being had as aforesaid to the amount of the debt, and other claims; and on any judgment passed as aforesaid, a *fiery facias* may issue against the defendant, and either his own goods, or the goods of the deceased, may be thereon taken and sold; and it shall be the duty of the executor or administrator to discharge the said judgment, or put it on a footing with other just claims, and on failure his administration bond may be put in suit by the plaintiff.

When judgments may be recovered against executor or administrator and *fiery facias* issue.

Ibid., sec. 9.
2 Kilty, 842.

SEC. 96. It shall be the duty of all executors and administrators to pay all just claims against the deceased, exhibited to them, or a just proportionable part thereof, according to the assets; and if any claim be known to the executor or administrator, (although the same be not exhibited,) he shall retain the same, or a just proportionable part, for the benefit of the creditors, provided he can satisfy the court, that such claim is just, or may probably be recovered; and when it is certain that there is a claim of a person out of the state, but the amount thereof cannot be ascertained, the court may allow such sum as it shall think proper to be retained, to be accounted for nevertheless, if within three years after the death of the deceased no demand shall be made by the creditor, or his legal representative, and suit thereon brought on the rejection thereof by the executor or administrator, and from the time of making payment to, or a dividend amongst the creditors, as hereafter directed, all interest on such claim, or proportionable part, shall cease: *Provided*, That the executor or administrator shall pay, or tender the same, together with such further part as shall be due on further money coming into hand, to the creditor on demand; and in case the executor or administrator, on demand of a greater sum made by such creditor, shall tender the principal and interest which were due at the time of such dividend, or the just proportionable part, together with such further proportion as aforesaid of assets, and the claimant shall notwithstanding bring suit, the said executor or administrator, at any time before judgment, may bring into court the money so tendered, or money to an equal amount, and if he shall satisfy the court, that the said sum was really the amount of the principal and interest due at the time of such dividend, or of the proportionable part to which the claimant was entitled at the dividend, together with such further proportion, (if any there arose,) the court shall thereupon give judgment, that the sum so brought in, deducting the costs sustained by the defendant, be paid to the plaintiff, and the said judgment shall be pleadable in bar to any action afterwards brought to recover the

Distribution among creditors; retention of assets for debts, interest.

Ibid., sec. 10.
2 Kilty, 842.
1 Dorsey, 391, 392.
Thomp. Dig., 48.
49 Md. Rep., 14,
Pole vs. Simons.

said debt; or, in case the executor or administrator shall not tender as aforesaid before the suit brought, the creditor shall recover no more than the proportionable part due at the time of the dividend, and such further proportion as he was entitled to on the coming in of further assets, with interest on each to the time of judgment.

When assets may be retained by executor or administrator for suits pending.

Ibid., sec. 11.
2 Kilty, 843.
1 Dorsey, 392.
Thomp. Dig., 49.

SEC. 97. And if any action be commenced or prosecuted against an executor or administrator, for the recovery of larger debt or damages than the said executor or administrator shall think due, so that the same cannot be ascertained before verdict, the executor or administrator shall be allowed to retain such sum to meet the said debt or damages as the orphans court shall allow, and if more than enough be allowed, the party shall afterwards account for it, but nothing shall be retained on account of such further debt or damages, where the court shall be satisfied that there will be money sufficient coming in after such dividend to meet the said damages, or a just proportion thereof, regard being had to other claims.

When arbitrators may be appointed by court.

Ibid., sec. 12.
2 Kilty, 843.
1 Dorsey, 392.
Matchett.

SEC. 98. The orphans court shall have power, with the consent of both parties, to be entered on their proceedings, to arbitrate between a claimant and an executor or administrator, or the dispute may, by the parties, be referred to any person or persons approved by the orphans court.

55 Md. Rep., 93, *Strite vs. Reiff*; 47 Md. Rep., 390, *Woods vs.*

When advertisement by executor or administrator shall bar claims.

Ibid., sec. 13.
2 Kilty, 843.
1 Dorsey, 392.
Thomp. Dig., 49.

71 Md. Rep., 608, *Van Bibber vs. Reese*; 54 Md. Rep., 359, *ex parte Worthington*; 41 Md. Rep., 411, *Levering vs. Levering*; 17 Md. Rep., 282, *Glenn vs. Hebb*; 7 Md. Rep., 27, *Rawlings vs. Adams*; 1 Gill Rep., 66, *Mitchell vs. Mitchell*.

SEC. 99. No executor or administrator, who shall, after the lapse of one year from the date of his letters, have paid away assets to the discharge of just claims, shall be answerable for any claim, of which he had no notice or knowledge: *Provided*, That at least six months before he shall make distribution, he shall have caused to be inserted in such and so many newspapers as the orphans court may direct, an advertisement, as follows, or fully to the following effect, viz. 'This is to give notice, that the subscriber (or subscribers) of _____, hath (or have) obtained from the *Supreme Court of the District of Columbia* [orphans court of _____ county in Maryland] letters testamentary (or of administration) on the personal estate of _____, late of _____, deceased; all persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the _____ day of _____ next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this _____ day of _____.'

Payment to creditors within thirteen months or in four months thereafter. When bond may be put in suit.

Ibid., sec. 14.
2 Kilty, 843.
1 Dorsey, 392.
393.

Thomp. Dig., 50.
4 Cranch, Ct. Rep., 509, *Union Bank vs. Smith*; 1 Gill & J. Rep., 453; 1 Cranch Ct. Rep., 568, *Gilpin vs. Oxley*; 2 Cranch Ct. Rep., 57, *Gilpin vs. Crandell*; *ibid.*, p. 241, *Bank of Wash'n. vs. Peltz*; 3 Cranch Ct. Rep., 61, *U. S. vs. Ritter*; 10 Md. Rep., 567, *Iglehart vs. Kirwan*; 8 Md. Rep., 387; *Edwards vs. Bruce*.

SEC. 100. It shall be the duty of an executor or administrator, within thirteen calendar months after the date of his letters, or within such further time, not exceeding four months longer, as shall be allowed by the orphans court on his making oath (or affirmation) as aforesaid respecting the insufficiency of the personal estate to discharge all just claims known to him, or pay each claimant his just proportion of the money then in his hands, (retaining as before directed;) it shall likewise be his duty, once in every term of six months, after the first distribution, to make distribution of the money which hath since come into his hands, until he shall have fully administered, and on failure his administration bond may be put in suit.

Claims filed after distribution must await further assets.

SEC. 101. In case all the assets shall have been paid away, or delivered, or distributed in the manner hereafter directed, and a claim shall afterwards be exhibited, of which the executor or administrator hath not knowledge or notice, he shall not be answerable

for the same; and if he be sued for any claim, and shall make it appear to the court in which suit is brought, that he hath so paid away, delivered or distributed, and the plaintiff cannot prove that the defendant had knowledge or notice as aforesaid before such payment, delivery or distribution, the court shall not proceed to give judgment, (although the amount of the claim against the deceased may be ascertained as herein before directed,) until the plaintiff shall be able to shew further assets coming into the defendant's hands, but if the plaintiff shall prove notice, or knowledge of the said claim, against the defendant, judgment may immediately be given for such sum as the plaintiff ought to have received at the dividend, and fieri facias may issue and have effect, and further judgment may be given, as herein before directed on coming in of further assets.

SEC. 102. In all cases where an executor or administrator is to make a payment of distribution amongst creditors, he may give notice, three weeks successively, in some convenient newspaper, of the time and place for making it, and in case any creditor shall not attend in person, or by agent or attorney, to receive the amount of proportionable part of the claim, all interest on such claim or proportionable part shall cease from that time: *Provided*, That the executor or administrator shall, at any time thereafter on demand, pay the said claim, or proportionable part, to the party, his agent or attorney duly authorized; and whenever the executor or administrator shall proceed to make an additional payment or dividend, he may advertise as aforesaid, and interest shall stop as aforesaid; and if at any additional dividend a just claim established as hereafter directed shall be exhibited, the creditor shall be entitled to such sum as will place him on an equal footing with those who have already received a dividend.

SEC. 103. In paying the debts of the deceased, an executor or administrator shall observe the following rules: Judgments and decrees against the deceased shall be wholly discharged before any part of other claims; after such judgments and decrees shall be satisfied, all other just claims shall be admitted to a distribution, on an equal footing, without priority or preference; if there be not sufficient to discharge all such judgments and decrees, a proportionable division or dividend shall be made between the judgment and decree creditors, but no executor or administrator shall be bound to discover what judgment or decrees have been passed against the deceased, unless in the [high] court of chancery, [or the general court of the shore, or the court of the county,] where the deceased last resided.*

SEC. 104. If a claim be exhibited against an executor or administrator, which he shall think it his duty to dispute or reject, he may retain in his hands assets proportioned to the amount of the claim, which assets shall be liable to other claims, or be delivered up or distributed as hereafter mentioned, in case the claim be not established; and if on any claims exhibited and disputed as aforesaid, the creditor or claimant shall not, within nine months after such dispute or rejection, commence a suit for recovery, the said creditor or claimant shall be for ever barred; and the executor or administrator may plead this act in bar, together with the general issue, or other plea proper to bring the merits of the cause to trial; and, on any dividend to be made nine months after such dispute or rejection, and failure to bring suit, the executor or administrator may proceed to pay, or distribute, as if he had not knowledge or notice of such claim, or as if it did not exist, but if the claim be put in suit within the nine months, it may be ascertained by verdict or otherwise, and the court

* Debts due the United States must first be paid; sec. 3466 R. S. U. S.

Ibid., sec. 15.
2 Kilty, 843.
1 Dorsey, 398.
Thomp. Dig., 51.
2 Cranch, Ct.
Rep., 39, Hellen
vs. Beatty; 63 Md.
Rep., 109, Bona-
parte vs. State; 53
Md. Rep., 367,
Colburn vs. Har-
ris; 44 Md. Rep.,
359, Zollickoffer
vs. Seth.

Advertisement
of distribution
among creditors.

Ibid., sec. 16.
2 Kilty, 843.
1 Dorsey, 398.
Thomp. Dig., 51.

Order of prior-
ity in paying
debts, administra-
tor not bound to
discover.

Ibid., sec. 17.
2 Kilty, 843, 844.
18 Md. Rep., 504,
Duvall vs. Fear-
son; 10 Md., Rep.,
156, Buckley vs.
Snouffer; 1 Gill
Rep., 57, Long-
well vs. Redinger.

Suit must be
brought on dis-
puted or rejected
claims within nine
months, or barred.

Ibid., sec. 18.
2 Kilty, 844.
1 Dorsey, 394.
Thomp. Dig., 52.
58 Md. Rep., 87,
Coburn vs. Harris;
ibid., 367, vol 53,
Md. Rep.; 48 Md.
Rep., 298. Oren-
dorff vs. Utz; 44
Md. Rep., 359,
Zollickoffer vs.
Seth; 21 Md. Rep.,
426, Monteith vs.

Balto. Assn.; 9 shall proceed as herein before directed, regard being had to the rules Md. Rep., 53 *Peter-son vs. Ellicott*; 1 Appeal Cases D. C., 497, *Patten vs. Glover*.

Claims of execu- SEC. 105. In no case shall an executor or administrator be allowed tor or administra- to retain for his own claim against the deceased, unless the same be tor on same foot- passed by the orphans court, and every such claim shall stand on ing with others. equal footing with other claims of the same nature.

Ibid., sec. 19. 2 Kilty, 844. 1 Dorsey, 394. Thomp. Dig., 53. 20 Md. Rep., 282, *Billingsley vs. Henry*; 14 Md. Rep., 8, *Hesson vs. Hesson*; 10 Md. Rep., 242, *Semmes vs. Young*; 1 Gill, Rep., 1, *State vs. Reigart*; 10 Gill & J. Rep., 276, *Stockett vs. Jones*; 6 Gill & J. Rep., 4, *Collison vs. Owings*; 3 Gill & J. Rep., 39, 7 Har. & J. Rep., 134, *Gist vs. Cockey*; 6 Har. & J. Rep., 67, *Scott vs. Burch*; 6 Har. & J. Rep., 65, *Carman vs. Turner*; 3 Har. & J. Rep., 251, *Spedden vs. State*; 3 Har. & J. Rep., 99, *Turner vs. Bouchell*; 1 Har. & J. Rep., 227, *Scott vs. Dorsey*; 53 Md. Rep., 352, *Coburn vs. Harris*; 1 Appeal Cases D. C., 467, *Patten vs. Glover*.

Executor in- SEC. 106. The bare naming of an executor in a will shall not oper- debted to deceased ate to extinguish any just claim which the deceased had against him, bound to account but it shall be the duty of every such executor, accepting the trust, to for same. give in such claim in the list of debts, and on his failure to give in

Ibid., sec. 20. such claim, or any part thereof, any person interested in the admin- 2 Kilty, 844. istration may allege the same, by petition to the orphans court grant- 1 Dorsey, 394, ing the administration, and the said court, with consent of the par- 395. ties, may decide on the same, or it may be referred by the parties, Thomp. Dig., 53. with the court's approbation, or, at the instance of either party the 3 Cranch, Ct. court may direct an issue or issues to be tried, and the same shall be Rep., 174, U. S. vs. tried in any court of law proper for the trial, and most convenient Rose; 60 Md. Rep., 228, *Handy vs. Collins*; 57 Md. under all circumstances; and the court of law shall have power to Rep., 240, *Lam- direct the jury, and grant a new trial; as if the issue or issues were brecht vs. State*; in a suit therein instituted, and a certificate from such court or any 51 Md. Rep., 383, judge thereof, of the verdict or finding of the jury, under seal Kirby vs. State; thereof, shall be admitted by the orphans court to establish or destroy 1 Md. Rep., 189, the claim, or any part thereof; and if the executor shall give in Beale vs. Hilliary. such claim, or the same, or any part, be established as aforesaid, he shall account for the sum due in the same manner as if it were so much money in his hands, and on failure his bond may be put in suit.

Administrator's SEC. 107. In like manner it shall be the duty of every administra- liability as to in- tor to give in a claim against himself, and on giving it, or failure to debtedness same give it in, there shall be the same proceedings in every respect as are as executor's. herein prescribed with regard to an executor.

Ibid., sec. 21. 2 Kilty, 844. 1 Dorsey 395. Thomp. Dig., 54. 64 Md. Rep., 157, *Whiting vs. Whiting*; 51 Md. Rep., 392, *Kirby vs. State*.

No claims paya- SEC. 108. No executor or administrator shall discharge any claim ble unless passed against the deceased, (otherwise than at his own risk,) unless the or proved. same be first passed by the orphans court granting the administration, or unless the said claim be proved according to the following rules.

Ibid., sec. 22. 2 Kilty, 844. 1 Dorsey, 395. Thomp. Dig., 54. 63 Md. Rep., 465, *Bonaparte vs. State*; 53 Md. Rep., 367, *Coburn vs. Harris*; 18 Md. Rep., 72, *Kent vs. Waters*; 17 Md. Rep., 93, *Cecil vs. Negro Rose*; 16 Md. Rep., 112, *Yingling vs. Hesson*; 16 Md. Rep., 1, *Cover vs. Stockdale*; 11 Md. Rep., 419, *Edelen vs. Edelen*; 6 Md. Rep., 210, *Mitchell vs. Williamson*; 4 Md. Rep., 522, *Dent vs. Maddox*; 1 Gill Rep., 358, *Bowling vs. Lamar*; 9 Gill & J. Rep., 324, *State vs. Reigart*; 3 Gill & J. Rep., 25, *Owens vs. Collison*.

RULES FOR AUTHENTICATING OR PROVING CLAIMS AGAINST DECE- DENT'S ESTATE.

Proof of claim SEC. 109. The voucher or proof of a judgment or decree shall be on judgment or a short copy thereof, under seal, attested by the clerk or register of decree. the court, where it was obtained, who shall certify, that there is no

entry or proceeding in the court, to shew that the said judgment (or decree) hath been satisfied; there shall likewise be a certificate of some person authorized to administer an oath endorsed on, or annexed to, a statement of the debt due on such judgment or decree, that the creditor, since the death of the deceased, hath taken before him the following oath, or affirmation, viz. 'That he (or she) hath not received any part of the sum for which the judgment or decree was passed, except such part (if any) as is credited;' and if the creditor on the judgment or decree be an assignee of the person who obtained it, the oath, or affirmation, shall go on, and say further, 'and that, to the best of his (or her) knowledge or belief, no other person hath received any parcel of the said sum, except such part (if any) as is credited' and an assignee shall also produce the assignment, under the hand of the assignor; and if there hath been more than one assignment, each assignment shall be produced under the hand of the party.

Md. act. 1798, ch. 101, sub ch. 9, sec. 1.
2 Kilty, 844.
1 Dorsey, 395.
Thomp. Dig., 54.
66 Md. Rep., 469,
Third National Bank vs. Lanahan.

SEC. 110. If a special bail shall have discharged a judgment against the deceased, he shall be considered as the judgment creditor, and in case the plaintiff who obtained the judgment shall not have assigned the same (as he ought to do) to the bail, a receipt from him, given to the bail, shall be considered as equivalent to an assignment.

Special bail discharging judgment becomes judgment creditor.

Ibid., sec. 2. 2 Kilty, 844. 1 Dorsey, 395, 396. Thomp. Dig., 55. 110 U. S. Rep., 729, U. S. vs. Ryder.

SEC. 111. If there be more than one creditor, the whole oath or affirmation aforesaid, with the other vouchers, shall be sufficient.

One such judgment creditor may prove for all.

Ibid., sec. 3. 2 Kilty, 844. 1 Dorsey, 396. Thomp. Dig., 55.

SEC. 112. In case of a specialty, bond, note, or protested bill of exchange, the vouchers shall be the instrument of writing itself, or a proved copy, in case it be lost, with a certificate of the oath, or affirmation made as aforesaid, since the death, and endorsed on, or annexed to, the instrument or a statement of the claim, 'that no part of the money intended to be secured by such instrument hath been received, or any security or satisfaction given for the same, except what (if any) is credited.'

Proof of a specialty, bond, or protested bill of exchange.

Ibid., sec. 4.
2 Kilty, 844.
1 Dorsey, 396.
Thomp. Dig., 55.
68 Md. Rep., 442,
Watson vs. Watson.

SEC. 113. And if the creditor on such instrument be an assignee, there shall be the same oath, (or affirmation,) of the original creditor, with respect to the time of the assignment; and in case of successive assignees, there shall be the same oath, or affirmation, taken by each, with respect to the time of each respective assignment.

Successive assignees must all make oath.

Ibid., sec. 5.
2 Kilty, 845.
1 Dorsey, 396. Thomp. Dig., 55.

SEC. 114. In case of a bill of exchange, the protest, and other things which would be required, (if the deceased were alive,) shall be necessary to justify an executor or administrator in making payment or distribution.

Proof of protest necessary.

Ibid., sec. 6.
2 Kilty, 845.
1 Dorsey, 396. Thomp. Dig., 56.

SEC. 115. If the claim be for rent, there shall be produced the lease itself, or the deposition of some credible witness or witnesses, or an acknowledgment in writing of the deceased, establishing the contract, and the time which hath elapsed during which rent was chargeable, and a statement of the sum due for such rent, with an oath or affirmation of the creditor thereon endorsed, "that no part of the sum due for the said rent, or any security or satisfaction for the same, hath been received, except what (if any) is credited;" and if the creditor be an assignee, there shall be such oath (or affirmation) of the original creditor, with respect to the time of assignment.

Proof of claim for rent.

Ibid., sec. 7.
2 Kilty, 845.
1 Dorsey, 396.
Thomp. Dig., 56.

Proof of open account. SEC. 116. The vouchers or proofs of any claim on open account shall be a certificate of an oath or affirmation taken by the creditor as aforesaid, since the death, endorsed on, or annexed to, the account, "that the account as stated is just and true, and that he (or she) hath not received any part of the money stated to be due, or any security or satisfaction for the same, except what (if any) is credited;" and moreover the account shall appear to have been proved as is required by an act passed at November session, one thousand seven hundred and eighty-five, chapter forty-six.

Ibid., sec. 8.
1 Dorsey, 396.
2 Kilty, 845.
Thomp. Dig., 56.

Limitation, plea of, discretionary with executor. SEC. 117. *Provided nevertheless,* That it shall not be considered as the duty of an executor or administrator to avail himself of the act of limitation to bar what he supposes to be a just claim, but the same shall be left to his honesty and discretion.

Ibid., sec. 9.
2 Kilty, 845.
1 Dorsey, 396.
Thomp. Dig., 56. 53 Md. Rep., 559, *Gordon vs. Small*; 18 Md. Rep., 163, *Feltz vs. Young*; 16 Md. Rep., 120, *Yingling vs. Hesson*; 127 U. S. Rep., 319, *Colton vs. Colton*.

Proof of claim by factor for non-resident. SEC. 118. If the claim arises on a bond, note or bill of exchange, or account for dealing with a factor and the principal be not within the *District* [state,] the factor who took the said bond, or note or bill, or who sold or delivered the articles in the account, may take oath, or affirmation, to be certified as aforesaid, and endorsed on a statement of the money thereon due, 'that the said statement is full, just and true, and that he (the deponent) took the said bond, (or note, or bill, or delivered the articles charged in the account,) as factor to ———, living in (or lately of) ———; that neither he (the deponent) nor the principal, nor any other person for him, or the principal to his knowledge or belief, hath received any part of the money originally due on such bond, note, bill or account, or any security or satisfaction for the same, except what (if any) is credited,' and the said oath, or affirmation, with the other respective vouchers and proofs aforesaid, shall authorize the executor or administrator in making payment or distribution.

Ibid., sec. 10.
2 Kilty, 845.
1 Dorsey, 397.
Thomp. Dig., 57.

Proof if factor be dead or out of the district. SEC. 119. If the factor aforesaid be dead, or out of the *District* [state,] and the principal be also out of the *District* [state,] and it shall appear, (in case of account) that the same have been regularly proved according to the act of 1785 aforesaid, an oath, (or affirmation,) of any other factor, made after the death of the testator or intestate, and certified and endorsed on the statement as aforesaid, 'that the said bond, note, bill or account, came into his hands as factor for the creditor, residing in ———, after the death (or removal) of ———, the factor who took the said bond, (or note, or bill, or delivered the articles in the account;) that he hath reason to believe, and does believe, that the said statement is full, just and true, and that no part of the money originally due on such bond, (note, bill or account,) or any security or satisfaction for the same, hath been received, except what (if any) is credited;' and the said oath, or affirmation, with the other respective vouchers or proofs as aforesaid, shall be sufficient to authorize the executors as aforesaid.

Ibid., sec. 11.
2 Kilty, 845.
1 Dorsey, 397.
Thomp. Dig., 57.

Proof of claims taken out of the district. SEC. 120. When any affidavit or depositions to prove claims shall have been taken out of the *District* [state,] the same shall be good, if taken and certified as aforesaid by the notary of the place, or by some person there authorized to administer an oath, and certified to be such under the seal of the governor, mayor or chief magistrate, or clerk of any court of record, or notary public of such place, and the said oath, affirmation or deposition, shall be as available as if taken before a justice within the *District* [state.]

Ibid., sec. 12.
2 Kilty, 845.
1 Dorsey, 397.
Thomp. Dig., 57.

SEC. 121. *Provided nevertheless*, That no executor or administrator shall be obliged to discharge any claim, of which vouchers and proofs shall be exhibited as aforesaid, but may reject, and at law dispute the same, in case he shall have reason to believe that the deceased never owed the debt, or had discharged the same, or a part thereof, or had a claim in bar; but every executor or administrator shall be obliged to discharge the same, or pay a just proportionable part thereof, if passed by the orphans court granting his letters, unless he shall appeal from the decision of the court in the manner hereafter directed.

Proved claims may be rejected; if passed by court appeal may be taken.

Ibid., sec. 13.
2 Kilty, 845.
Thomp. Dig., 58.
7 Mackey Rep., 527, *Hunt vs. Russ*;
54 Md. Rep., 679,
Shaeffer vs. Shaeffer;
30 Md. Rep., 367, *Coburn vs. Harris*; 30 Md. Rep., 553, *Bowie vs. Ghiselin*.

SEC. 122. If the creditor be an executor or administrator, the claim shall not be received, although vouched or approved as aforesaid, unless he make oath or affirmation, to be certified as aforesaid, 'that it does not appear from any book or writing of his testator, (or intestate,) that any part of the said claim hath been discharged, except what (if any) is credited, and that, to the best of the deponent's knowledge and belief, no part of the said claim hath been discharged, and no security or satisfaction hath been given for the same, except what (if any) is credited.

How account of executor or administrator may be proved.

Ibid., sec. 14.
2 Kilty, 846.
1 Dorsey, 398.
Thomp. Dig., 58.
2 Cranch, Ct. Rep., 582, *Nichols vs. Hodge*; 58 Md. Rep., 442, *Watson vs. Watson*.

SEC. 123. No executor or administrator shall be allowed in his account for any claim by him discharged, unless he produce the claim, passed by the orphans court, or proofs or vouchers as aforesaid.

No credit allowed for any claim, unless proved or passed by court.

Ibid., sec. 15. 2 Kilty, 846. 1 Dorsey, 398. Thomp. Dig., 58. 63 Md. Rep., 465, *Bonaparte vs. State*; 53 Md. Rep., 367, *Coburn vs. Harris*; 30 Md. Rep., 533, *Bowie vs. Ghiselin*; 3 Gill & J. Rep., 25, *Owens vs. Collinson*.

ACCOUNTS AND DEBTS DUE DECEDENT'S ESTATE.

SEC. 124. In the account of an executor or administrator shall be stated, on one side, the assets which have come to his hands, according to the inventory or inventories returned to the court, or received and appraised as herein before directed after the inventory or inventories returned, and the sales which have been made under the court's direction; that it is to say, the inventory or inventories are to shew the articles of the estate, and the sales the amount of their value, where they have been sold, and for articles so sold he shall be charged the price, according to the return; and if any article hath been sold for credit, and not yet paid for, it shall be accounted for in a subsequent account.

Accounts of executors and administrators, how stated.

Md. act 1798, ch. 101, sub ch. 10, sec. 1.
2 Kilty, 846.
1 Dorsey, 398.
Thomp. Dig., 59.
2 Cranch, Ct. Rep., 582, *Nichols vs. Hodge*; 4

Cranch, Ct. Rep., 185, *ex parte Jones*; 5 Cranch, Ct. Rep., 474, *Lupton vs. Janney*.

SEC. 125. On the other side shall be stated the disbursements by him made, viz: 1. Funeral expenses, to be allowed, at the discretion of the court, according to the condition and circumstances of the deceased, not exceeding three hundred dollars.¹ 2. The debts of the deceased, proved or passed as aforesaid, and paid or retained. 3. The allowance for things lost, or which have perished without the party's fault, which allowance shall be according to the appraisement. 4. His commission,² which shall be, at the discretion of the court, not under five per cent. nor exceeding ten per cent. on the amount of the inventory or inventories, excluding what is lost or hath perished.³ 5. His allowance for costs, and for extraordinary expenses, (not personal,) which the court may think proper to allow, laid out in the recovery or security of any part of the estate.

Order of disbursements; commissions allowed and costs.

Ibid., sec. 2.
2 Kilty, 846.
1 Dorsey, 398.
Thomp. Dig., 59.
¹ MacArthur Rep., 535, *Butler's estate*. 22 Wash. Law Rep., 92, *Nash vs. Ober*.

² Gill & J. Rep., 171, *Evans vs. Iglehart*; *ibid.*, p. 316, *Lee vs. Lee*; 4 Har. & J. Rep., 275, *Richardson vs. Stansbury*; 1 Peters, Rep., 562, *Nichols vs. Hodges*; 8 Howard Rep., 402, *West vs. Smith*.

³ 5 Cranch Ct. Rep., 474, *Lupton vs. Janney*.
68 Md. Rep., 163, *Dalrymple vs. Gamble*; 60 Md. Rep., 229, *Handy vs. Collins*; 72 Md. Rep., 138, *Hardt vs. Birely*.

Compensation to executor limited by will unless deemed insufficient by court.

SEC. 126. If any thing be bequeathed to an executor, by way of compensation, no allowance of commission shall be made, unless the said compensation shall appear to the court to be insufficient, and if so, it shall be reckoned in the commission to be allowed by the court.

Md. act 1798. ch. 101, subch. 14, sec. 5. 2 Kilty, 850. 1 Dorsey, 408. Thomp. Dig., 60.

Accounts returned every six months until fully administered.

SEC. 127. If the first account, to be returned as aforesaid, shall not shew the estate which was on hand to be fully administered, another account shall be returned within six months thereafter, and within every term of six months thereafter, an account shall be returned, until the estate shall appear to be fully administered; and whenever a discovery or receipt of assets shall take place, after rendering an account, another account shall be rendered within six months thereafter: *Provided nevertheless*, That an executor or administrator shall not be obliged to render accounts, when it appears to the court that the estate has been fully administered, except debts which the court shall set down and deem as desperate, unless the same shall afterwards be recovered.

Md. act 1798, ch. 101, sub ch. 10, sec. 3.

2 Kilty, 846.
1 Dorsey, 398.
Thomp. Dig., 60.
64 Md. Rep., 399, *Levering vs. Levering*; 57 Md. Rep., 89, *Biddison vs. Moseley*; 41 Md. Rep., 354, *Jones vs. Jones*; 34 Md. Rep., 389, *Scott vs. Leary*; 15 Md. Rep., 127, *Dennis vs. Dennis*; 14 Md. Rep., 388; *Scott vs. Fox*.

Court shall examine list of debts, suits thereon when to be commenced, penalty for neglect.

SEC. 128. The court shall examine every list of debts returned by an executor or administrator with the inventory, and for every debt which the court shall not mark as desperate, or improper to be put in suit, the executor or administrator shall commence a suit, unless the debt be paid within six months thereafter, or unless the debtor be out of the *District* [state,] or unless the courts shall think reasonable an excuse made within one month after the lapse of the said six months for not bringing suit, and on failure to bring suit as aforesaid, the party shall be liable to a suit on his administration bond, and to such damages as shall be found by the jury.

Ibid., sec. 4.
2 Kilty, 846.
1 Dorsey, 399.
Thomp. Dig., 61.

Executor or administrator not liable for all separate debts.

SEC. 129. It is not the intent of this act that an executor or administrator be answerable, at all events, for a debt which he shall return separate, but merely to enable the court, and all parties concerned, to form a just estimate of the circumstances of the deceased.

Ibid., sec. 5.
2 Kilty, 846. 1 Dorsey, 399.

After debts paid, distribution; future assets; when liability ceases.

SEC. 130. When it shall appear by the first, or other account of an executor administrator with the will annexed, that all the claims against, or debts of, the deceased, which have been known by or notified to the said executor or administrator, have been discharged, or retained for, or settled, it shall be his duty to deliver up the estate in his hands to those entitled; *Provided*, That his duty and power with respect to future assets shall not cease; and after such delivery he shall not be liable for any debt afterwards notified to him, provided he shall have advertised, as herein before directed, unless assets shall afterwards come into his hands, which shall be answerable for such debts.

Ibid., sec. 6.
2 Kilty, 846.
1 Dorsey, 399.
53 Md. Rep., 367, *Coburn vs. Harris*; 10 Md. Rep., 500, *Iglehart vs. Kirwan*; 6 Md. Rep., 347, *Lowe vs. Lowe*; 4 Md. Chyr. Rep., 425, *Conner vs. Ogle*; 2 Md Chyr. Rep., 162 *Lark vs. Linstead*; 4 Gill Rep., 23, *Schwenniski vs Glenn*; 2 Gill Rep., 134, *Ridenour vs. Keller*; 1 Gill Rep., 66, *Mitchell vs. Mitchell*; 7 Gill & J. Rep., 475, *Coward vs. Worrell*; 6 Gill & J. Rep., 25, *Boyd vs. Boyd*; 5 Gill & J. Rep., 314, *Claggett vs. Salmon*; 2 Har. & J. Rep., 483, *Hall vs. Griffith*.

When court may direct partial distribution.

SEC. 131. Whereas it often happens that an executor or administrator hath in his hands assets to a great amount, and there is no reason to apprehend that they will be nearly exhausted in payment of debts, and those entitled after payment of debts are in want of subsistence, or greatly straitened in their circumstances, in case any person so entitled shall apply, by petition, and satisfy the court that

Ibid., sec. 7.
2 Kilty, 846.
1 Dorsey, 399.
Thomp. Dig., 62.

he or she is really in want of subsistence, or greatly straitened in circumstances, and that it probably will not require more than one-half of the assets to discharge the debts, the court may direct the executor or administrator to deliver to the petitioner any part of what the court shall suppose will be the petitioner's distributive share, or any part of a legacy or bequest in money, not exceeding one-third part, the said petitioner giving bond, with security approved by the court, to the executor or administrator, for returning the same, or an equivalent, with interest, whenever so directed by the court; and the court shall have power to determine, in a summary manner, on any such petition, after a summons against such executor or administrator duly returned either summoned or non est.

SEC. 132. And the court in like manner, on any petition by a person in such circumstances, to whom a specific legacy or bequest hath been made, being satisfied that the assets, exclusive of all specific legacies, will not nearly be exhausted by debts, may direct the executor or administrator to deliver to the petitioner the said specific legacy or bequest, on his or her giving bond as aforesaid.

312, Donaldson vs. Raborg; *ibid.*, 28 Md. Rep., 34; 6 Md. Rep., 347,

SEC. 133. If an executor or administrator shall fail to return an account as herein before directed within the time limited by law, or by the court, his letters, on application of any person interested, may be revoked, and such administration (as the case may require,) may be granted at discretion of the court; and the administrator, to whom letters shall be granted, shall be entitled to put the delinquent's bond in suit, and to recover such damages thereon as the jury may find; and in assessing such damage it shall be the duty of the jury to allow such sum as will be equal to six per cent. per annum on the amount of the inventory or inventories from the time of the return or returns to the time of the verdict, over and beyond the damages, for such loss or injury as the estate may have sustained by the delinquent's conduct.

vs. Jones; 34 Md. Rep., 389, *Scott vs. Leary*; 15 Md. Rep., 127, *Dennis vs. Dennis*; 14 Md. Rep., 388, *Scott vs. Fox*.

SEC. 134. Whenever it shall appear by the first or other account of an administrator, that all the debts of, or claims against, the estate, known by or notified to him, have been discharged or allowed for in his account, it shall be his duty to deliver up and distribute the surplus or residue of the estate as hereafter directed: *Provided*, That his power and duty, with respect to future assets, shall not cease; and after such delivery, the administrator shall not be answerable for any debt afterwards notified to him, provided he shall have advertised as herein before directed, unless assets shall afterwards come into his hands which shall be liable for such debts.

Coburn vs. Harris; 10 Md. Rep., 560, *Iglehart vs. Kirwan*; 6 Md. Rep., 347, *Lowe vs. Lowe*; 2 Md. Rep., 420, *Lark vs. Linstead*; 4 Md. Chy., 425, *Conner vs. Ogle*; 2 Md. Chy., 162, *Lark vs. Linstead*; 4 Gill Rep., 23, *Schwenniski vs. Glenn*; 2 Gill Rep., 134, *Ridenour vs. Keller*; 1 Gill Rep., 425, *Gardner vs. Semmes*; 1 Gill Rep., 66, *Mitchell vs. Mitchell*; 7 Gill & J. Rep., 475, *Coward vs. Worrell*; 6 Gill & J. Rep., 25, *Boyd vs. Boyd*; 5 Gill & J. Rep., 314, *Clagett vs. Salmon*; 2 Har. & J. Rep., 493, *Hall vs. Griffith*.

SEC. 135. If by the provisions in a will it shall be necessary for an executor, or for an administrator with a copy of the will annexed, to retain in his hands the personal estate, or a part thereof, after all just claims are discharged, as where money, or some other thing is directed to be paid at a distant period, or upon a contingency, the court of chancery or the orphans court shall have power, on the application of such executor or administrator, or of a party interested, to decree or give directions relative thereto; and it shall be the duty of such executor or administrator, to apply to the court of

26 Md. Rep., 312, *Donaldson vs. Raborg*; *ibid.*, 28 Md. Rep., 34; 6 Md. Rep., 347, *Lowe vs. Lowe*.

Specific legacies may likewise be delivered.

Ibid., sec. 8.
2 Kilty, 847.
1 Dorsey, 400.
26 Md. Rep.,
Lowe vs. Lowe.

On failure to return account, letters may be revoked and bond liable.

Ibid., sec. 9.
2 Kilty, 847.
1 Dorsey, 400.
Thomp. Dig., 62.
64 Md. Rep., 399,
Levering vs. Levering; 57 Md. Rep., 89, *Biddison vs. Moseley*; 41 Md. Rep., 354, *Jones*

Administrator shall distribute surplus after debts paid; liability for future assets and debts.

Ibid., sec. 10.
2 Kilty, 847.
1 Dorsey, 400.
Thomp. Dig., 63.
53 Md. Rep., 367,

Court may direct investment of personal estate retained for future contingencies.

Ibid., sec. 11.
2 Kilty, 847.
1 Dorsey, 400.
Thomp. Dig., 63,
61 Md. Rep., 471,

Hindman vs. State; 57 Md. Rep., 486, *State vs. Robinson*; 48 Md. 138, *Hewlett vs. Hewlett*; 41 Md. Rep., 488, *Goldborough vs. Martin*; 31 Md. Rep., 21, *Gunther vs. State*; 5 Md. Rep., 219, *Miller vs. Williams*; 2 Md. Rep., 104, *Rieman vs. Peters*; 2 Md. Chy., 190, *Wootton vs. Burch*; 9 Gill Rep., 195, *Worthington vs. Owings*; 6 Gill & J. Rep., 171, *Evans vs. Iglehart*.

DISTRIBUTION OF INTESTATE'S PERSONAL ESTATE.

Widow's share. SEC. 136. When all the debts of an intestate, exhibited and proved, or notified and not barred, shall have been discharged, or settled and allowed to be retained, as herein directed, the administrator shall proceed to make distribution of the surplus as follows: If the intestate leave a widow, and no child, parent, grand-child, brother or sister, or the child of a brother or sister of the said intestate, the said widow shall be entitled to the whole.

Md. act 1798, ch. 101, sub ch. 11, sec. 1.
2 Kilty, 847.
1 Dorsey, 401.
Thomp. Dig., 64.
44 Md. Rep., 359, *Zollickoffer vs. Seth*; 36 Md. Rep., 511, *Hokamp vs. Hagaman*; 5 Md. Rep., 467, *Williams vs. Williams*; 4 Md. Rep., 1, *Cassely vs. Meyer*; 2 Md. Rep., 297, *Newcomer vs. Orem*; 4 Md. Chy., 425, *Conner vs. Ogle*; 3 Bland R., 184, *Hewitt's case*; 2 Bland R., 488, *Corrie's case*; 8 Gill Rep., 395, *Barnes vs. Ferguson*; 12 Gill & J. Rep., 112, *Hatton vs. Weems*; 10 Gill & J. Rep., 187, *Jones vs. Sothoron*; 9 Gill & J. Rep., 115, *Thomas vs. Fredrick School*; 4 Gill & J. Rep., 407, *Charlotte Hall vs. Greenwell*; 1 Gill & J. Rep., 270, *Hagthorp vs. Hook*; 2 Har. & J. Rep., 191, *De Sobry vs. De Laistre*.

If widow and child. SEC. 137. If there be a widow, and a child or children, or a descendant or descendants from a child, the widow shall have one-third only.

Ibid., sec. 2.
16 Md. Rep., 179, *McCubbin vs. Patterson*; 3 Md. Chy., 140, *Dimmock vs. Dimmock*; 1 Md. Chy., 337, *Hays vs. Henry*; 8 Gill Rep., 181, *Robinett vs. Wilson*; 12 Gill & J. 474, *Harris vs. Harris*; 11 Gill & J. 160, *State vs. Gaither*; 6 Gill & J., 171, *Evans vs. Iglehart*; 5 Har. & J. Rep., 59, *Williams vs. Kelly*; 4 Har. & McH. Rep., 101, *Griffith vs. Griffith*.

If widow and no child, but father, etc. SEC. 138. If there be a widow, and no child, or descendants of the intestate, but the said intestate shall leave a father, or mother, or brother or sister, or child of a brother or sister, the widow shall have one-half.

Ibid., sec. 3.
3 Md. Chy., 140, *Dimmock vs. Dimmock*; 1 Md. Chy., 337, *Hays vs. Henry*; 12 Gill & J. Rep., 474, *Harris vs. Harris*; 4 Har. & J. Rep., 480, *Coomes vs. Clements*.

Surplus exclusive of widow's share. SEC. 139. The surplus, exclusive of the widow's share, or the whole surplus, (if there be no widow,) shall go as follows:

Ibid., sec. 4
If children only, divided equally. SEC. 140. If there be children, and no other descendant, the surplus shall be divided equally amongst them.

Ibid., sec. 5.
If child, and descendants of a child, per stirpes. SEC. 141. If there be a child or children, and a child or children of a deceased child, the child or children of such deceased child shall take such share as his, her or their deceased parent, would (if alive) be entitled to; and every other descendant or other descendants, in existence at the death of the intestate, shall stand in the place of his, her or their deceased ancestor: *Provided*, That if any

Ibid., sec. 6.
1 Dorsey, 401.
2 Kilty, 847.
Thomp. Dig., 64.

child, or descendant, shall have been advanced by the intestate, by settlement or portion, the same shall be reckoned in the surplus, and if it be equal, or superior to a share, such child or descendant shall be excluded, but the widow shall have no advantage by bringing such advancement into reckoning; and maintenance, or education, or money given without a view to a portion or settlement in life, shall not be deemed advancement; and in all cases those in equal degree, claiming in the place of an ancestor, shall take equal shares. 61 Md. Rep., 303, Dilley vs. Love; 45 Md. Rep., 246, Pole vs. Simmons; 29 Md. Rep., 120, McComas vs. Amos; 27 Md. Rep., 698, Clarke vs. Wilson; 20 Md. Rep., 158, Cecil vs. Cecil; 19 Md. Rep., 332, Parks vs. Parks; 4 Md. Chy., 139, Dugan vs. Hollins; 9 Gill Rep., 81, Hayden vs. Burch; 3 Gill & J. Rep., 442, State vs. Jamison; 2 Har. & G. Rep., 114, Stewart vs. State.

SEC. 142. If there be a father, and no child or descendant, the father shall have the whole. If father only. Ibid., sec. 7. 1 Dorsey, 402. 2 Kilty, 847.

SEC. 143. If there be a brother or sister, or child or descendant of a brother or sister, and no child, descendant, or father of the intestate, the said brother, sister or child, or descendant of a brother or sister, shall have the whole. If a brother or sister or descendant of. Ibid., sec. 8. 1 Dorsey, 402. 2 Kilty, 848. 65 Md. Rep., 278, Shriver vs. State; 29 Md. Rep., 120, McComas vs. Amos; 11 Gill & J. Rep., 350, Porter vs. Askeu; 1 Har. & G. Rep., 476, Robbins vs. State; 1 Har. & Gill Rep., 474, Duvall vs. Harwood.

SEC. 144. Every brother and sister of the intestate shall be entitled to an equal share, and the child or children of a brother or sister of the intestate shall stand in the place of such brother or sister. Brother and sister share equally, their children per stirpes. Ibid., sec. 9. 29 Md. Rep., 120, McComas vs. Amos 1 Har. & Gill, 474, Duvall vs. Harwood.

SEC. 145. If the intestate leave a mother, and no child, descendant, father, brother, sister or child, or descendant of a brother or sister, the mother shall be entitled to the whole, and in case there be no father, a mother shall have an equal share with the brothers and sisters of the deceased, and their children and descendants. If mother only, entitled to whole, or shares equally with children per stirpes. Ibid., sec. 10. 2 Kilty, 848. 1 Dorsey, 402.

SEC. 146. After children, descendants, father, mother, brothers and sisters, of the deceased, and their descendants, all collateral relations, in equal degree, shall take, and no representation amongst such collaterals shall be allowed; and there shall be no distinction between the whole and half blood. After children and others, collaterals take per capita. Ibid., sec. 11. 2 Kilty, 848. 1 Dorsey, 402. 64 Md. Rep., 74, Keller vs. Hooper; 29 Md. Rep., 120, McComas vs. Amos; 2 Har. & Gill Rep., 9, Seekamp vs. Hammer.

SEC. 147. If there be no collaterals, a grand-father may take, and if there be two grand-fathers, they shall take alike, and a grand-mother, in case of the death of her husband the grand-father, shall take as he might have done. If no collaterals, then grandfather and grandmother. Ibid., sec. 12. Thomp. Dig., 66.

SEC. 148. If any person entitled to distribution shall die before the same be made, his or her share shall go to his or her representatives. Representatives entitled to distributive share. Ibid., sec. 13.

SEC. 149. Posthumous children of intestates shall take in the same manner as if they had been born before the decease of the intestate, but no other posthumous relation shall be considered as entitled to distribution in his or her own right. Posthumous children. Ibid., sec. 14. 65 Md. Rep., 278, Shriver vs. Chase vs. Lockerman. [See Alex. Brit. Statutes, p. 640, 10 and 11, William III, ch. 16.] 1 Md. Chy., Dec., 212, Conn vs. Conn; 11 Gill & J. Rep., 185,

Surplus escheats, if no relatives within fifth degree.

Ibid., sec. 15.

Thomp. Dig., 66. 21 Wash. Law Rep., 827, *In re Belcher*; 51 Md. Rep., 470, *Patapsco Institute vs. Rock Hill College*; 41 Md. Rep., 1, *Rock Hill College vs. Jones*; 4 Gill & J. Rep., 408, *Charlotte Hall vs. Greenwell*; 7 Gill & J. Rep., 369, *Thomas vs. Frederick Co. School*.

Administrators to pay balance to use of public schools when no legal representatives.

Md. act 1729, ch. 24, sec. 17.

1 Kilty, 211.

1 Dorsey, 75.

Thomp. Dig., 67.

Administrator with others in fifth degree may take residue.

Ibid., sec. 18.

1 Kilty, 212.

1 Dorsey, 75.

Widow takes residue to exclusion of collaterals.

Ibid., sec. 19.

1 Dorsey, 75.

1 Kilty, 212. Thomp. Dig., 67.

When residue paid shall be restored to legal representatives.

Ibid., sec. 20.

1 Kilty, 212.

1 Dorsey, 75 7

SEC. 150. If there be no relations of the intestate within the fifth degree, which degree shall be reckoned by counting down from the common ancestor to the more remote, the whole surplus shall belong to the *United States of America*.

SEC. 151. That every administrator obliged by the act, entitled, an act for the application of such intestates' estates as leave no legal representative, &c. to pay the balance of the estate to one of the public treasurers, shall hereafter be obliged to pay and satisfy the balance of such estate to the visitors of the public school of the county where the deceased resided, in the same manner as such administrator should have been obliged by law to pay the same to any legal representative in case any such should have appeared, to be applied to the use of such school; save that by the acts now in force, sundry particulars of the goods and chattels are directed to be paid in specie, according to appraisement, to the legal representatives, in this case, such administrator shall pay the said balance of such estate in current money, or in specie, at the direction of the visitors, for the payment whereof, if in current money, he shall be allowed ten per cent. if in specie, five per cent. and no more.

SEC. 152. *Provided*, That in case such administrator be of kin to the deceased, within the fifth degree of either consanguinity or affinity, then such administrator, and all others that are as nearly related to the deceased as such administrator, shall have as good a right to such residue if he or they were brothers or sisters' children to the deceased, and such balance shall be distributed accordingly.

SEC. 153. That in case there be a widow, no collaterals shall be admitted, other than these directed by this act, but such widow shall have the whole residue of such estate, any thing herein before contained to the contrary thereof notwithstanding.

SEC. 154. That in case such residue shall happen to be paid to such visitors as aforesaid, in default of legal representatives as aforesaid, and that any legal representatives of no remoter degrees amongst collaterals than brothers or sisters' children, shall at any time appear, and prove him, her or themselves to be such legal representatives, that then the visitors that received the residue of such estate, or their successors, if it shall be in their hands, shall restore the same to such legal representative or representatives; and if such residue shall be actually applied to the use and support of the public school, that then the public stock of such school, in the hands of the public treasurers of this province, or either of them, shall be liable to make satisfaction to such representative or representatives, of such residue, and that the said visitors shall give an order to such representative or representatives for the same, on the public treasurers, who shall be obliged, by virtue of this act and such order, to pay the same out of the public stock of such school, if so much in their hands, if not, so much as shall be in their hands, and the residue when they shall receive so much to the use of such school; and if the administrator shall be obliged to pay any further debt or duties that were due from the deceased, such legal representative receiving the said residue shall refund to such administrator the value of what such administrator shall be obliged to pay as aforesaid, provided the same doth not exceed the residue received by such representative, any thing in the said act for the application of such intestates' estates, &c. to the contrary in any wise notwithstanding.

SEC. 155. In case the surplus remaining in the administrator's hands after payment of all just debts exhibited and proved, or notified and not barred, or after retaining for the same, shall consist of specific property, or articles mentioned in the inventory or inventories, the administrator, if he cannot satisfy the parties, may apply to the court to make the distribution, and the court may appoint a day for making distribution, and by summons call upon the said parties to appear, and the said court may, at the appointed time, proceed to distribute, but if a majority in point of value shall neglect to appear, or appearing shall object to the distribution of the articles, or if the court shall deem a sale of the said articles, or any part of them, more advantageous, a sale shall be directed accordingly, and the rules herein before laid down, relative to a sale by order of the said court, shall be observed.

When court may distribute in kind, or order sale.
Md. act 1798, ch. 101, sub ch. 11, sec. 16.
2 Kilty, 848.
1 Dorsey, 402.
Thomp. Dig., 68.
73 Md. Rep., 424,
Myers vs. Safe Deposit Co.; 65 Md. Rep., 278, Scriver vs. State; 55 Md. Rep., 277, Wilson vs. McCarty; 28 Md. Rep., 84, Donaldson vs. Raborg; *ibid.*, vol. 26, p. 312; 19 Md. Rep., 42, Crawford vs. Blackburn; 9 Md. Rep., 290, Williams vs. Holmes; 6 Gill & J. Rep., 171.

SEC. 156. Any executor or administrator shall be entitled to appoint a meeting of creditors, or of persons entitled to distributive shares or legacies, or a residue, on some day by the court approved, and passage of claims, payment or distribution, may be there made, under the court's direction and control.

Executor or administrator may appoint meeting of creditors and distributees under court's direction.
Md. act 1798, ch. 101, sub ch. 14, sec. 12. 2 Kilty, 851. 1 Dorsey, 410. Thomp. Dig., 70. 65 Md. Rep., 278, Shriver vs. State; 62 Md. Rep., 542, Wood vs. Conrey; 57 Md. Rep., 89, Biddison vs. Mosely; 55 Md. Rep., 277, Wilson vs. McCarty; 39 Md. Rep., 649, Smith vs. Stockbridge; 28 Md. Rep., 84, Donaldson vs. Raborg; *ibid.*, vol. 26, p. 312; 14 Md. Rep., 288, Scott vs. Fox; 4 Md. Chy. 425, Conner vs. Ogle.

RIGHTS OF WIDOWS.

SEC. 157. Every devise of land, or any estate therein, or bequest of personal estate, to the wife of the testator, shall be construed to be intended in bar of her dower in lands, or share of the personal estate respectively, unless it be otherwise expressed in the will.

Devise or bequest bars dower, etc., unless otherwise expressed.
Md. act 1798, ch. 101, sub ch. 13, sec. 1. 2 Kilty, 850. 1 Dorsey, 406. Thomp. Dig., 70.

SEC. 158. A widow shall be barred of her right of dower in land, or share in the personal estate, by any such devise, or bequest, unless within ninety days after the authentication or probat of the will, she shall deliver, or transmit to the court where such authentication or probat hath been made, a written renunciation in the following form, or to the following effect: 'I, A. B. widow of _____, late of _____, deceased, do hereby renounce and quit all claim to any bequest or devise made to me by the last will of my husband, exhibited and proved according to law; and I elect to take, in lieu thereof, my dower, or legal share of the estate of my said husband, A. B.' But by renouncing all claim to a devise or bequest, or devises or bequests of personal property, made to her by the will of her husband, she shall be entitled to one-third part of the personal estate of her husband, which shall remain after payments of his just debts, and claims against him, and no more.

Widow may elect to take dower by written renunciation.
Ibid., sec. 2.
2 Kilty, 850.
1 Dorsey, 406, 407.
2 Cranch, Ct. Rep., 505, Ladd vs. Ladd; 40 Md. Rep., 537, Pindell vs. Pindell; 36 Md. Rep., 511, Hokamp vs. Haganman; 26 Md. Rep., 347, Gough vs. Manning; 12 Md. Rep., 438, Hanson vs. Worthington; 5 Md. Rep., 534, Collins vs. Carman; 4 Md. Chy., 484, Mayo vs. Bland; 1 Gill Rep., 403, Darrington vs. Rogers; 10 Gill & J. Rep., 192, Jones vs. Sothoron; 6 Gill & J. Rep., 80, Callis vs. Tolson; 2 Gill & J., 256, Hutchins vs. Hope.

SEC. 159. If the will of the husband devise a part of both real and personal estate, she shall renounce the whole, or be otherwise barred of her right to both real and personal estate.

Widow's renunciation must be entire.
Ibid., sec. 3. 2 Kilty, 850. 1 Dorsey, 407. 40 Md. Rep., 537, Pindell vs. Pindell.

When partial renunciation required. SEC. 160. If the will devise only a part of the real estate, or only a part of the personal estate, the devise shall bar her of only the real, or personal estate, as the case may require: *Provided nevertheless*, That if the devise of either real or personal estate, or of both, shall be expressly in lieu of her legal share of one or both, she shall accordingly be barred unless she renounce as aforesaid.

Ibid., sec. 4.
2 Kilty, 850.
1 Dorsey, 407.

Void devise shall not bar dower. SEC. 161. But if in effect, nothing shall pass by such devise she shall not be thereby barred, whether she shall or shall not renounce as aforesaid, it being the intent of this act, and consonant to justice, that a widow accepting, or abiding by a devise, in lieu of her legal right, shall be considered as a purchaser with a fair consideration.

Ibid., sec. 5.
2 Kilty, 850.
1 Dorsey, 407. 7 Mackey Rep., 249, *Young vs. Young*; *ibid.*, p. 268, *Baden vs. McKenny*; 10 Gill & J. Rep., 67, *Gibson vs. McCormick*; 8 Gill & J. Rep., 333, *Marshall vs. McPherson*; 9 Gill Rep., 371, *Chew vs. Farmers' Bank*; 1 Md. Chy., 296, *Thomas vs. Wood*; 1 Md. Rep., 223, *Snively vs. Bevans*; 5 Md. Rep., 503, *Collins vs. Carman*; 11 Md. Rep., 78, *Dugan vs. Hollins*; 13 Rep., 443, *Power vs. Jenkins*; 4 Har. & J. R., 480; 5 Har. & J. R., 59; 4 Har. & McH. R., 480.

Widow or her second husband liable for waste. SEC. 162. If a widow commit waste in the lands of the deceased, she shall be liable to an action by the heir or devisee, or his or her guardian; and if she marry a second husband, he shall be answerable for any waste committed by her before marriage, or by himself.

Ibid., sec. 6.
2 Kilty, 850. 1 Dorsey, 407.

Widow's remedy for dower. SEC. 163. A widow's remedy for dower shall be as heretofore.

Ibid., sec. 7. 2 Kilty, 850. 1 Dorsey, 407. Thomp. Dig., 71.

Widow's dower. SEC. 164. A widow, after the death of her husband, incontinent, and without any difficulty, shall have her marriage and her inheritance (2) and shall give nothing for her dower, her marriage, or her inheritance, which her husband and she held the day of the death of her husband, (3) and she shall tarry in the chief house of her husband by forty days after the death of her husband, within which days her dower shall be assigned her (if it were not assigned her before) or that the house be a castle; (4) and if she depart from the castle, then a competent house shall be forthwith provided for her, in the which she may honestly dwell, until her dower be to her assigned, as it is aforesaid; and she shall have in the meantime her reasonable estovers of the common; (5) and for her dower shall be assigned unto her the third part of all the lands of her husband, which were his during coverture, except she were endowed of less at the church door. (6) No widow shall be distrained to marry herself; nevertheless she shall find security, that she shall not marry without our license and assent (if she hold of us) nor without the assent of the Lord, if she hold of another.

9 Henry III. ch. 7, sec. 1, A. D. 1225.
Alex. Brit. Stat., 1. 2.
Kilty's Rep., 205.
7 Mackey Rep., 268, *Baden vs. McKenny*; 1 Md. Chy. Dec., 420; 3 Md. Chy., 266, *Hitch vs. Davis*; 2 Gill & J. Rep., 318, *Macauley vs. Grimes*; 1 Md. Rep., 163, *Chew vs. Chew*.

Dower barred by elopement. SEC. 165. And if a wife willingly leave her husband, and go away, and continue with her advouterer, she shall be barred for ever of action to demand her dower, that she ought to have of her husband's lands, if she be convict thereupon, except that her husband willingly, and without coercion of the church, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

13 Edward I, ch. 34, sec. 4, A. D. 1285.
Alex. Brit. Stat., 138.
Kilty's Rep., 213.

A widow shall recover damages in a writ of dower. SEC. 166. First, of widows which after the death of their husbands are deforced of their dowers, and cannot have their dowers or quarantine without plea, whosoever deforce them of their dowers or quarantine of the lands, whereof their husbands died seised, and that the same widows after shall recover by plea; (2) they that be convict of such wrongful deforcement shall yield damages to the

20 Henry, 3 ch. 1, A. D. 1235.
Alex. Brit. Stat., 20, 21.

same widows; that is to say, the value of the whole dower to them belonging, from the time of the death of their husbands unto the day that the said widows, by judgment of our court, have recovered her dower of another man before her writ purchased, unless he can shew that she hath received part of her dower of himself, and in the same town, before the writ purchased.

Kilty's Rep., 208.
47 Md. Rep., 389,
Brice vs. Hobb; 25
Md. Rep., 532,
Naill vs. Maurer;
22 Md. Rep., 359,
Knighton vs. Young; 2 Har. & J. Rep., 53, Keefer vs. Young; 2 Har. & J. Rep., 413,
Hammond vs. Higgins; 12 Gill & J. Rep., 388, Darnall vs. Hill; 11 Gill & J. Rep.,
365, Scott vs. Crawford; 8 Gill & J. Rep., 50, Sellman vs. Bowen.

SEC. 167. In a writ of dower, called *unde nihil habet*, the writ shall not abate by the exception of the tenant, because she hath received her dower of another man before her writ purchased, unless he can shew that she hath received part of her dower of himself, and in the same town, before the writ purchased.

Tenant's plea in writ of dower.

3 Edward I, ch. 49.

Alex. Brit. Stat., 65.

SEC. 168. Also if a woman sell or give in fee, or for term of life, the land that she holdeth in dower; it is ordained, that the heir, or other to whom the land ought to revert after the death of such woman, shall have present recovery to demand the land by a writ of entry made thereof in the chancery.

Writ of entry upon alienation of dower.

6 Edward I, ch. 7, A. D. 1278.

Alex. Brit. Stat., 86. Kilty's Rep., 211.

SEC. 169. In case where the husband, being impleaded for land, giveth up the land demanded unto his adversary by covin; after the death of the husband, the justices shall award the wife her dower, if it be demanded by writ. (2) But in case where the husband loseth the land in demand by default, if the wife, after the death of her husband, demandeth her dower, it hath been proved, that some justices have awarded unto the woman her dower notwithstanding the default which her husband made, other justices being of the contrary opinion, and judging otherwise. To the intent that from henceforth such ambiguity shall be taken away, it is thus ordained in certain, that in both cases the woman demanding her dower shall be heard. (3) And if it be alleged against her, that her husband lost the land, whereof the dower is demanded by judgment, whereby she ought not to have dower, and then it be inquired by what judgment, and if it be found that it was by default, whereunto the tenant must answer; then it behoveth the tenant to answer further, and to shew that he had right, and hath in the foresaid land, according to the form of the writ that the tenant before purchased against the husband. (4) And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the tenant shall go quit, and the wife shall recover nothing of her dower; which thing if he cannot shew, the wife shall recover her dower. (5) And so in these cases, and in certain other following, that is to say, when the wife being endowed loseth her dower by default, and tenants in free marriage, by the law of England or for term of life, or in fee-tail, divers actions do concur for such tenants, when they must demand their land lost by default: (6) And when it is come to that point, that the tenant must be compelled to shew their right, they cannot make answer without them to whom the reversion of right belongeth; therefore it is granted unto them to vouch to warranty, as if they were tenants, if they have a warranty. (7) And when the warrantor hath warranted, the plea shall pass between him that is seised and the warrantor, according to the tenor of the writ that the tenant purchased before, and by which he recovered by default: (8) and so from many actions at length they shall resort to one judgment, which is this, that the demandants shall recover their demand, or the tenants shall go quit. (9) And if the action of such a tenant, which is compelled to shew his right, be moved by a writ of right, though that the great assise or battail can not be joyned by the words accustomed, yet it shall be joyned by words convenient; (10) for when the tenant, in that he sheweth his

Wife endowable of lands recovered against her husband.

Where heir may avoid dower recovered.

Remedy for certain tenants losing by default.

13 Edward I, ch. 4, A. D. 1285.

Alex. Brit. Stat., 106.

Kilty's Rep., 212.

right which belongeth to him by the writ that he before purchased, instead of a demandant, the warrantor may well defend the right of the tenant, which is accounted in place of the demandant, as before is said, and offer to defend the seisin of his ancestors by the body of his freeman, or put himself in the great assise, and pray recognizance to be made, whether he hath more right to the land in demand, or else the party before named. (11) Or otherwise the great assise may be joynd thus, *talis defendit jus, &c.* and so the warrantor may defend the right, and knowledge the seisin of his ancestor, and put himself in the great assise, &c. and pray recognizance to be made, whether he hath more right in the foresaid land, as in that whereof he infeoffed such a man, or that such a one released and quit claimed, &c. or else the foresaid party, &c. (12) And where sometime it chanceth that a woman not having right to demand dower, the heir being within age, doth purchase a writ of dower against a gardian, and the gardian endoweth the woman by favour, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her dower in prejudice of the heir; (13) it is provided, that the heir, when he cometh to full age, shall have an action to demand the seisin of his ancestor against such a woman, like as he should have against any other deforceor; yet so, that the woman shall have her exception saved against the demandant, to shew that she had right to her dower, which if she can shew, she shall go quit and retain her dower, and the heir shall be grievously amerced, according to the discretion of the justices; and if not, the heir shall recover his demand, &c. (14) In like manner the woman shall be aided, if the heir or any other do implead her for her dower, or if she lose her dower by default, in which case the default shall not be so prejudicial to her, but that she shall recover her dower, if she have right thereto, and she shall have this writ.

Admeasurement of dower for the guardian and heir; the process therein.

13 Edward I, ch. 7, A. D. 1285.

Alex. Brit. Stat., 111, 112. Kilty's Rep., 212. 1 Md. Chy. Dec., 202, Mantz vs. Buchanan; 5 Gill Rep., 206, Penn vs. Isherwood.

Alienation in dower, when void.

11 Henry VII, ch. 20.

Alex. Brit. Stat., 285.

Kilty's Rep., 229.

SEC. 170. A writ of admeasurement of dower shall be from henceforth granted to a gardian; (2) neither shall the heir, when he cometh to full age, be barred by the suit of such a gardian, that sueth against the tenant in dower feignedly, and by collusion, but that he may admeasure the dower after, as it ought to be admeasured by the law of England.

SEC. 171. That if any woman which hath had, or hereafter shall have, any estate in dower, or for term of life, or in tail jointly with her husband, or only to her self, or to her use, in any manors, lands, tenements, or other hereditaments of the inheritance or purchase of her husband, or given to the said husband and wife in tail, or for term of life, by any of the ancestors of the said husband, or by any other person seised to the use of said husband, or of his ancestors, and have or shall hereafter, being sole, or with any other after taken husband, discontinued or discontinue, aliened, released, or confirmed, aliene, release, or confirm with warranty, or by covin suffered or suffer any recovery of the same against them, or any of them, or any other seised to their use, or to the use of either of them, after the form aforesaid, that all such recoveries, discontinuances, alienations, releases, confirmations, and warranties so had and made, and from henceforth to be had and made, be utterly void and of none effect: (2) And that it shall be lawful to every person and persons, to whom the interest, title, or inheritance, after the decease of the said women, of the said manors, lands, and tenements, or other hereditaments, being discontinued, aliened, and suffered to be recovered, after the first day of December next coming, in the form aforesaid, should appertain, to enter into all and every of the premisses,

and peaceably to possess and enjoy the same, in such manner and form as he or they should have done, if no such discontinuance, warranty, nor recovery had been had nor made. (3) *And over this be it ordained and enacted by the said authority*, That if any of the said husbands and women, or any other seised, or that shall be seised to the use of them of the estate afore specified, after the said first day of December, do make or cause to be made, or suffer any such discontinuance, alienations, warranties, or recoveries in form aforesaid, that then it shall be lawful to the person or persons to whom the said manors, lands, or tenements should or ought to belong after the decease of the said women, to enter into the same, and them to possess and enjoy, according to such title and interest as they should have had in the same, if the same women had been dead, no discontinuance, warranty, nor recovery had, as against the said husband during his life, if the said discontinuance, alienations, warranties, and recoveries be hereafter had by or against the said husbands and women during the coverture and espousal betwixt them. (4) *Provided always*, That the said women, after the decease of their said husbands, may re-enter into the same manors, lands, and tenements, and them to enjoy according to their first estate in the same. (5) *And over this be it ordained and enacted by the said authority*, That if the said woman, at the time of such discontinuance, alienations, recoveries, warranties, after the said first day of December, in form aforesaid, to be had and made of any of the premisses, be sole, that then she shall be barred and excluded of her title and interest in the same from thenceforth; (6) and that the person and persons to whom the title, interest, and possession of the same should belong after the decease of the said woman, shall immediately after the said discontinuances, alienations, warranties, and recoveries, enter into the same manors, lands, tenements, and other hereditaments, and them to possess and enjoy according to his or their title in the same. (7) *Provided also*, That this act extend not to avoid any recovery, discontinuance, or warranty after the form aforesaid, afore this time had, made, and suffered, but only where the said husband and woman, or either of them now being alive, or any other to their use, now have interest and title to the said manors, lands, tenements, or other hereditaments, aliened, discontinued, or suffered to be recovered after the form aforesaid, and thereof now taking the issues and profits, or any other person or persons to their use. (8) *Provided also*, That this act extend not to any such recovery or discontinuance to be had with the heirs next inheritable to the said woman, (9) or where he or they that next after the death of the same woman should have estate of inheritance in the same manors, lands, or tenements, be assenting or agreeable to the said recoveries, where the same assent and agreement is of record, or inrolled. (10) *Provided also*, That it shall be lawful for every such woman being sole, or married after the death of her first husband, to give, sell, or make discontinuance of any such lands for term of her life only, after the course and use of the common law, before the making of this present act.

SEC. 172. If any married woman shall have any estate settled upon her, by her husband by jointure or other settlement, before marriage, such jointure or settlement shall bar her of her dower of her husband's lands; yet it shall be lawful for her to accept what her husband shall by his last will and testament devise her.

Jointure or settlement by husband before marriage bars dower.

Md. act 1715, ch. 39, sec. 37.

Alex. Brit. Stat., 301. Thomp. Dig., 197. 25 Md. Rep., 532, Maurer vs. Naill; 11 Md. Rep., 415, Edelin vs. Edelin; 5 Md. Rep., 324, Maurer vs. Maurer.

SEC. 173. That whereas divers persons have purchased, or have estate made and conveyed of and in divers lands, tenements, and hereditaments unto them and to their wives, and to the heirs of the husband, or to the husband, and to the wife, and to the heirs of their

A woman shall not have jointure and dower.

27 Henry VIII, two bodies begotten, or to the heirs of one of their bodies begotten, or to the husband, and to the wife for term of their lives, or for term of life of the said wife; (2) or where any such estate, or purchase of any lands, tenements, hereditaments, hath been, or hereafter shall be made to any husband, and to his wife, in manner and form above expressed, or to any other person or persons, and to their heirs and assigns, to the use and behoof of the said husband and wife, or to the use of the wife, as is before rehearsed, for the jointer of the wife; (3) that then in every such case, every woman married, having such jointer made, or hereafter to be made, shall not claim, nor have title to have any dower of the residue of the lands, tenements, or hereditaments, that at any time were her said husbands, by whom she hath any such jointer, nor shall demand nor claim her dower of and against them that have the lands and inheritances of her said husband; (4) but if she have no such jointer, then she shall be admitted and enabled to pursue, have, and demand her dower by writ of dower, after the due course and order of the common laws of this realm; this act, or any law or provision made to the contrary thereof notwithstanding.

A woman shall be endowed whose jointure is recovered. SEC. 174. That if any such woman be lawfully expelled or evicted from her said jointer, or from any part thereof, without any fraud or covin, by lawful entry, action, or by discontinuance of her husband, then every such woman shall be endowed of as much of the residue of her husband's tenements or hereditaments, whereof she was before dowable, as the same lands and tenements so evicted and expelled shall amount or extend unto.

Ibid., sec. 7.
Alex. Brit. Stat., 296.
Kilty's Rep., 231.

A jointure after marriage may be refused. SEC. 175. That if any wife have, or hereafter shall have any manors, lands, tenements, or hereditaments unto her given and assured after marriage, for term of her life, or otherwise in jointer, except the same assurance be to her made by act of parliament, and the said wife after that fortune to overlive her said husband, in whose time the said jointer was made or assured unto her, that then the same wife so overliving shall and may at her liberty, after the death of her said husband, refuse to have and take the lands and tenements so to her given, appointed, or assured during the coverture, for term of her life, or otherwise in jointer, except the same assurance be to her made by act of parliament, as is aforesaid, (2) and thereupon to have, ask, demand, and take her dower by writ of dower, or otherwise, according to the common law, of and in all such lands, tenements, and hereditaments as her husband was and stood seized of any state of inheritance at any time during the coverture; anything contained in this act to the contrary thereof notwithstanding.

Ibid., sec. 9, A. D. 1535.
Alex. Brit. Stat., 297.

These rules apply to all personal representatives acting under Md. laws. SEC. 176. All rules herein contained, relative to an executor or administrator, shall apply and extend to an executrix or administratrix, or executors or administrators respectively, unless otherwise expressly provided for; and whenever any party in the singular number, or a male party is mentioned, the rule shall apply to a female, or to two or more having a joint interest, or jointly concerned, applying or called upon, so far as the rule can with propriety apply, or so far as is not otherwise directed.

Md. act 1798, ch. 101, sub ch. 14, sec. 10.
2 Kilty, 851.
1 Dorsey, 409. Thomp. Dig., 72.

Counter security of executor or administrator; consequent procedure. SEC. 177. If any security of an executor or administrator shall conceive him or herself in danger of suffering from the suretyship, he may apply to the orphans court which granted the administration, and the said court may call upon the party to give counter security, to be approved by the court; and if the party so called on shall not, within a fixed reasonable time, give such counter security, the court may order the property remaining in the hands of such executor or administrator to be delivered up to such security, and the court may

Md. act 1798, ch. 101, sub ch. 14, sec. 11.
2 Kilty, 851.

enforce the delivery, by process, as hereafter directed; and an inventory of the property delivered to such security shall be returned without delay, and the property contained in such inventory shall be by the said security sold, distributed and delivered up, as the case may require, under the immediate order of the court, as if such security were executor or administrator; but inasmuch as it would be inconvenient to creditors, and others interested in the estate, if there should be a double administration, the executor or administrator shall go on to discharge his trust, unless the court revoke his letters for some just cause, as herein before directed, and he shall be answerable for the property in the same manner as if it were not on his default as aforesaid delivered to the security, and he shall be entitled to sue the said security, in a special action on the case, grounded on this act, and recover damages, with double costs, in case he shall suffer from the misconduct of such security, in diminishing any part of the property, without obtaining an allowance for the same from the court; and the said security shall bring into court, to be deposited with the register of wills, the money arising from the sale of any property as aforesaid, to be applied according to the meaning of this act.

SEC. 178. Every person and persons that hereafter shall obtain, receive, and have any goods or debts of any person dying intestate, or a release or other discharge of any debt or duty that belonged to the intestate, upon any fraud, as is aforesaid, or without such valuable consideration as shall amount to the value of the same goods or debts, or near thereabouts, (except it be in or towards satisfaction of some just and principal debt of the value of the same goods or debts to him owing by the intestate at the time of his decease) shall be charged and chargeable as executor of his own wrong; (2) and so far only as all such goods and debts coming to his hands, or whereof he is released or discharged by such administrator, will satisfy, deducting nevertheless to and for himself allowance of all just, due and principal debts upon good consideration, without fraud, owing to him by the intestate at the time of his decease, and of all other payments made by him, which lawful executors or administrators may and ought to have and pay by the laws and statutes of this realm.

Glenn vs. Smith; 6 Har. & J. Rep., 61, Dorsey vs. Smithson; 2 Har. & J. Rep., 435, Norfolk vs. Gnatt.

SEC. 179. That all and every the executors and administrators of any person or persons, who as executor or executors in his or their own wrong, or administrators, shall from and after the first day of August next ensuing, waste or convert any goods, chattels, estate or assets of any person deceased, to their own use, shall be liable and chargeable in the same manner as their testator or intestate would have been if they had been living.

SEC. 180. That an act made in the thirtieth year of the reign of King Charles the Second, entitled, An act to enable creditors to recover their debts of the executors and administrators of executors in their own wrong; which said act, in the first year of the reign of the late King James the Second, was enacted to be in force from the first day of the then present session of Parliament, and to continue for seven years, and from thence to the end of the first session of the then next Parliament, shall be and is hereby continued and made perpetual. And forasmuch as it hath been a doubt whether the said act did extend to any executor or executors, administrator or administrators of any executor or administrator of right, who for want of privity in law were not before answerable, nor could be sued for the debts due from or by the first testator or intestate, notwithstanding that such executors or administrators had wasted the goods and estate

1 Dorsey, 409.
5 Peters Rep., 230, Yeaton vs. Lynn; 63 Md. Rep., 14, Sifford vs. Morrison; 4 Har. & J. Rep., 148; 1 Appeal cases, D. C., 31, Estate of McKnight; 21 W. L. Rep., 587; Ibid., 109 U. S. Rep., 258; U. S. vs. Walker; 112 U. S. Rep., 83, Wilson vs. Arrick.

Executor *de son tort*.

43 Elizabeth, ch. 8, A. D. 1601.
Alex. Brit. Stat., 427.

Kilty's Rep., 236.

1 Cranch, Ct. Rep., 206, Bay-sand vs. Lovering; 2 Cranch, Ct. Rep., 518, Peters vs. Breckenridge; 68 Md. Rep., 32, Baumgartner vs. Haas; 6 Gill & J. Rep., 152, Bentley vs. Cowman; 2 Gill & J. Rep., 493,

Liability of representative of executors *de son tort; devastavit*.

30 Charles II, ch. 7, A. D. 1677.
Alex. Brit. Stat., 567.

3 Gill & John. 52, Sibley vs. Williams.

Devastavit lies against executors by right.

4 & 5 William & Mary, ch. 24, A. D. 1692.

Alex. Brit. Stat., 585.

3 Gill & John. Rep., 52, Sibley vs. Williams.

of the first testator or intestate, or converted the same to his or their own use: *For remedy whereof be it further enacted and declared by the authority aforesaid*, That all and every the executor and executors, administrator or administrators of such executor or administrator of right, who shall waste or convert to his own use, goods, chattels, or estate of his testator or intestate, shall from henceforth be liable and chargeable in the same manner as his or their testator or intestate should or might have been; any law or usage to the contrary notwithstanding.

Priority of the Government.

9 Henry III, ch. 18, A. D. 1225.
Alex. Brit. Stat., 12, 13.
Kilty's Rep., 205.
3 Har. & Mc. Hen. Rep., 171,
Murray vs. Ridley; 6 Gill & John. Rep., 205 State vs. Bank of Md.; 10 Md. Rep., 504, State vs. Mayor of Balto.

SEC. 181. If any that holdeth of us lay-fee do die, and our sheriff or bailiff do shew our letters patents of our summons for debt, which the dead man did owe to us; it shall be lawful to our sheriff or bailiff to attach and inroll all the goods and chattels of the dead, being found in the said fee, to the value of the same debt, by the sight and testimony of lawful men, so that nothing thereof shall be taken away, until we be clearly paid off the debt; (2) and the residue shall remain to the executors to perform the testament of the dead; (3) and if nothing be owing unto us, all the chattels shall go to the use of the dead (saving to his wife and children their reasonable parts.)

Priority of the Government where estate is insolvent.

Sec. 3466, R. S. U. S.
3 Mar., 1797, c. 20, s. 5, v. 1, p. 515.
2 Mar., 1799, c. 22, s. 65, v. 1, p. 676.
U. S. vs. Fisher, 2 Cr., 358; U. S. vs. Hooe, 3 Cr., 73; Harrison vs. Slerry, 5 Cr., 289; Prince vs. Bartlett, 8 Cr., 431; U. S. vs. Bryan, 9 Cr., 374; Thelusson vs. Smith, 2 Wh., 396; U. S. vs. Howland, 4 Wh., 108; Conad vs. Insurance Company, 1 Pet., 386; Hunter vs. U. S., 5 Pet., 173; U. S. vs. State Bank, 6 Pet., 29; U. S. vs. Hack, 8 Pet., 271; Brent vs. Bank of Washington, 10 Pet., 596; Beaton vs. Farmers' Bank, 12 Pet., 102; U. S. vs. Herron, 20 Wall., 251; Bayne et al., Trustees, vs. U. S., 93 U. S., 642.

SEC. 182. Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority hereby established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed.

Liability of personal representative to Government.

Sec. 3467, R. S. U. S.
2 Mar., 1799, c. 22, s. 65, v. 1, p. 676.
596.

SEC. 183. Every executor, administrator, or assignee, or other person, who pays any debt due by the person or estate from whom or for which he acts, before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate for the debts so due to the United States, or for so much thereof as may remain due and unpaid. [See § 5101, R. S. U. S.]

Priority of sureties.

Sec. 3468, R. S. U. S.
2 Mar., 1799, c. 22, s. 65, v. 1, p. 676.
U. S. vs. Fisher, 2 Cr., 358; U. S. vs. Hooe, 3 Cr., 73; Prince vs. Bartlett, 8 Cr., 431; U. S. vs. Bryan, 9 Cr., 374; Thelusson vs. Smith, 2 Wh., 396; U. S. vs. Howland, 4 Wh., 108; Conad vs. Insurance Company, 1 Pet., 439; Hunter vs. U. S., 5 Pet., 173; Child vs. Shoemaker, 1 Wash., 494; U. S. vs. King, Wall., C. C., 12; Johns vs. Brodhag, 1 Cr., C. C., 235.

SEC. 184. Whenever the principal in any bond given to the United States is insolvent, or whenever, such principal being deceased, his estate and effects which come to the hands of his executor, administrator, or assignee, are insufficient for the payment of his debts, and, in either of such cases, any surety on the bond, or the executor, administrator, or assignee of such surety pays to the United States the money due upon such bond, such surety, his executor, administrator, or assignee, shall have the like priority for the recovery and receipt of the monyes out of the estate and effects of such insolvent or deceased principal as is secured to the United States; and may bring and maintain a suit upon the bond, in law or equity, in his own name, for the recovery of all moneys paid thereon. [25 Stat., p. 387, ch. 787.]

CHAPTER TWO.

ALIENS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Alien persons and corporations prohibited from acquiring real estate; exception: <i>Proviso</i>: Treaty rights not impaired. 2. Corporations prohibited from holding real estate when more than 20 per cent of stock is held by aliens. 3. Maximum of land which may be held by corporations, except under Congressional grants. Present titles not affected. 4. Property unlawfully held to be forfeited. Procedure. 5. Foreign legations and foreign representatives or attachés may acquire real estate for residences. 6. Prepayment for transportation of, etc., of emigrants under contracts for labor or service made previous to emigration unlawful. 7. All such contracts void and of no effect. 8. Penalty for violation of sec. 6; how recovered. | <p>Sec.</p> <ol style="list-style-type: none"> 9. Master of vessels guilty of misdemeanor for bringing emigrant laborer when; penalty. 10. When foreigners may employ other foreigners, etc., when foreignskilled labor may be employed. Artists, lecturers, servants, etc., excepted from provisions of this act. 11. Repeal of conflicting laws. 12. Contracts with State officers to take charge of immigration. Examination of ships. Prohibited persons not permitted to land. 13. Rules to govern this subject. 14. Return of prohibited persons; expenses. 15. Repeal of conflicting laws. 16. When effective. 17. Return of emigrants illegally landed. 18. Allowance to informers of violation of immigration laws. 19. What lands foreigners may inherit. |
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SEC. 1. It shall be unlawful for any person or persons not citizens of the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the Territories of the United States or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty shall continue to exist so long as such treaties are in force, and no longer. (See §§ 5, 19 of this chapter.)

Alien persons or corporations prohibited from acquiring real estate in.

Exception.

Proviso.

Treaty rights not impaired.

Mar. 3, 1887.
24 Stat., 576.
2 Sup. R. S., 556.

133 U. S. Rep., 272. *Geofroy vs. Riggs*. 1 Peters Rep., 343. *Spratt vs. Spratt*; 1 Appeal Cases D. C., p. 430. *Johnson vs. Elkins*.

SEC. 2. No corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations, not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in any of the Territories of the United States or of the District of Columbia.

Corporation having more than 20 per cent of stock held by aliens prohibited from holding real estate.

Ibid., sec. 2.

SEC. 3. No corporation other than those organized for the construction or operation of railways, canals, or turnpikes shall acquire, hold, or own more than five thousand acres of land in any of the Territories of the United States; and no railroad canal, or turnpike corporation shall hereafter acquire, hold, or own lands in any Territory, other than as may be necessary for the proper operation of its rail-

Maximum of land which may be held by corporations.

Congressional grants.

Present titles not affected. road, canal, or turnpike, except such lands as may have been granted to it by act of Congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

Ibid. sec. 3.

Property unlawfully held to be forfeited. Suits.

Ibid., sec. 4.

¹ 5 How. Rep., 233, *Taylor vs. Benham*; 133 U. S. Rep., 258, *Geofroy vs. Riggs*.

SEC. 4. All property acquired, held or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney-General to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned. [When lands escheat (Md. act 1781, ch. 51, § 5). See title "Real Estate."]

Alien ownership of real estate.

Foreign representatives may acquire, in District of Columbia.

Mar. 9, 1888.

25 Stat., 45.

2 Sup. R. S., 582.

SEC. 5. That an act entitled "An act to restrict the ownership of real estate in the Territories to American citizens, and so forth," approved March third, eighteen hundred and eighty-seven, be so amended that the same shall not apply to or operate in the District of Columbia, so far as relates to the ownership of legations, or the ownership of residences by representatives of foreign Governments, or attaches thereof.

¹ 24 Stat., 476.

Prepayment for transportation of or assisting foreign emigrants under contract for labor or service made previous to emigration, unlawful.

Feb. 26, 1885.

23 Stat., 332.

2 Sup. R. S., 479.

150 U. S. Rep.,

SEC. 6. From and after the passage of this act it shall be unlawful for any person, company, partnership or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation, or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

476, *Lees vs. U. S.*; 149 U. S. Rep., 698, *Fong Yee Ting vs. U. S.*

Such contracts void.

Ibid., sec. 2.

SEC. 7. All contracts or agreements, express or implied, parol, or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service by any person in the United States, its Territories, or the District of Columbia previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect.

Penalty for violation of first section, fine; how recovered.

Ibid., sec. 3.

SEC. 8. For every violation of any of the provisions of section one of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging or soliciting the migration or importation of any alien or aliens, foreigner or foreigners, into the United States, its Territories, or the District of Columbia, to perform labor or service of any kind under contract or agreement, express or implied, parol or special, with such alien or aliens, foreigner or foreigners, previous to becoming residents or citizens of the United States, shall forfeit and pay for every such offence the sum of one thousand dollars, which may be sued for and recovered by the United States or by any person who shall first bring his action therefor including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States; the pro-

ceeds to be paid into the Treasury of the United States; and separate suits may be brought for each alien or foreigner being a party to such contract or agreement aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit at the expense of the United States.

SEC. 9. The master of any vessel who shall knowingly bring within the United States on any such vessel, and land, or permit to be landed, from any foreign port or place, any alien laborer, mechanic, or artisan who, previous to embarkation on such vessel, had entered into contract or agreement, parol or special, express or implied, to perform labor or service in the United States, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than five hundred dollars for each and every such alien laborer, mechanic or artisan so brought as aforesaid, and may also be imprisoned for a term not exceeding six months.

Master of vessel, knowingly bringing such emigrant laborer, guilty of misdemeanor, punishable by fine or imprisonment.

Ibid., sec. 4.

SEC. 10. Nothing in this act shall be so construed as to prevent any citizen or subject of any foreign country temporarily residing in the United States, either in private or official capacity, from engaging, under contract or otherwise, persons not residents or citizens of the United States to act as private secretaries, servants, or domestics for such foreigner temporarily residing in the United States as aforesaid; nor shall this act be so construed as to prevent any person, or persons, partnership, or corporation from engaging, under contract or agreement, skilled workman in foreign countries to perform labor in the United States in or upon any new industry not at present established in the United States: *Provided*, That skilled labor for that purpose cannot be otherwise obtained; nor shall the provisions of this act apply to professional actors, artists, lecturers, or singers, nor to persons employed strictly as personal or domestic servants: *Provided*, That nothing in this act shall be construed as prohibiting any individual from assisting any member of his family or any relative or personal friend, to migrate from any foreign country to the United States, for the purpose of settlement here.

Foreigners temporarily residing in the United States may engage other foreigners as private secretaries, servants, etc.

Skilled workman in foreign countries may be engaged to perform labor in any new industry not established in the United States.

Provido.

Artists, lecturers, servants, etc., excepted.

Provido, as to assisting relatives and friends.

Ibid., sec. 5.

SEC. 11. All laws or parts of laws conflicting herewith be, and the same are hereby, repealed. [See § 18 of this chapter.]

Laws conflicting herewith, repealed.

[NOTE.—The following five sections are amendatory of the act of February 26, 1885:]

Ibid., sec. 6.

SEC. 12. The Secretary of the Treasury is hereby charged with the duty of executing the provisions of this act, and for that purpose he shall have power to enter into contracts with such State Commission, board, or officers as may be designated for that purpose by the Governor of any State to take charge of the local affairs of immigration in the ports within said State, under the rules and regulations to be prescribed by said Secretary; and it shall be the duty of such State Commission, board, or officers so designated to examine into the condition of passengers arriving at the ports within such State in any ship or vessel, and for that purpose all or any of such commissioners or officers, or such other person or persons as they shall appoint, shall be authorized to go on board of and through any such ship or vessel: and if in such examination there shall be found among such passengers any person included in the prohibition in this act, they shall report the same in writing to the collector of such port, and such persons shall not be permitted to land.

Contracts with State officers to take charge of immigration.

Examination of ships.

Prohibited persons not to be landed.

24 Stats., 414.
Sec. 6, Feb. 23, 1887.

SEC. 13. The Secretary of the Treasury shall establish such regulations and rules, and issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying

Rules, etc., to be prescribed by Secretary of the Treasury.

- 24 Stat., 415. out the provisions of this act; and he shall prescribe all forms of
Ibid., sec. 7. bonds, entries, and other papers to be used under and in the enforcement of the various provisions of this act.
- Return of prohibited persons. SEC. 14. All persons included in the prohibition in this act, upon arrival, shall be sent back to the nations to which they belong and from whence they came. The Secretary of the Treasury may designate the State board of charities of any State in which such board shall exist by law, or any commission in any State, or any person or persons in any State, whose duty it shall be to execute the provisions of this section and shall be entitled to reasonable compensation therefor to be fixed by regulation prescribed by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe regulations for the return of the aforesaid persons to the countries from whence they came, and shall furnish instructions to the board, commission, or persons charged with the execution of the provisions of this section as to the time of procedure in respect thereto, and may change such instructions from time to time. The expense of such return of the aforesaid persons not permitted to land shall be borne by the owners of the vessels in which they came. And any vessel refusing to pay such expenses shall not thereafter be permitted to land at or clear from any port of the United States. And such expenses shall be a lien on said vessel. That the necessary expense in the execution of this act for the present fiscal year, shall be paid out of any money in the Treasury not otherwise appropriated.
- Compensation.
- Expenses of return. Ibid., sec. 8.
- Appropriation.
- Conflicting laws repealed. SEC. 15. All acts and parts of acts inconsistent with this act are hereby repealed.
Ibid., sec. 9. Ibid., sec. 10.

SEC. 16. This act shall take effect at the expiration of thirty days after its passage. (See next section of this chapter.)

- Return of immigrants illegally landed. SEC. 17. The act approved February twenty-third, eighteen hundred and eighty-seven, entitled "An act to amend an act to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States its Territories, and the District of Columbia," is hereby, so amended as to authorize the Secretary of the Treasury, in case he shall be satisfied that an immigrant has been allowed to land contrary to the prohibition of that law, to cause such immigrant within the period of one year after landing or entry, to be taken into custody and returned to the country from whence he came, at the expense of the owner of the importing vessel, or, if he entered from an adjoining country, at the expense of the person previously contracting for the services.
- Oct. 19, 1888, 25 Stat., 566.
24 Stat., 414.

- Allowance to informers of violation of immigration laws. SEC. 18. The act approved February twenty-sixth, eighteen hundred and eighty-five, entitled "An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," is hereby amended so as to authorize the Secretary of the Treasury to pay to an informer who furnishes original information that the law has been violated such a share of the penalties recovered as he may deem reasonable and just, not exceeding fifty per centum, where it appears that the recovery was had in consequence of the information thus furnished.*
- 23 Stat., 333.

- What lands foreigners may inherit. SEC. 19. That any foreigner may, by deed or will hereafter to be made, take and hold lands within that part of the said territory which lies within this *District* [state.] in the same manner as if he

* An alien woman marrying a citizen of the United States thereby becomes a citizen; 6 D. C. Rep., 191, Owen vs. Kelly; *ibid.*, 7 Wallace Rep., 496.

was a citizen of this *District* [state,] and the same lands may be conveyed by him, and transmitted to, and be inherited by, his heirs or relations, as if he and they were citizens of this *District* [state]: *Provided*, That no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen.*

Md. act 1791, ch. 45, sec. 6.
2 Kilty, 321.
1 Dorsey, 372.
Spratt vs. Spratt.
1 Peters Rep., 349;
Geoffroy vs. Riggs,
7 Mackey Rep.,
331; Ibid, 133. U.
S. Rep., 258.

*This section is operative only so far as vested rights are concerned.

CHAPTER THREE.

ANIMALS.

Sec.

1. Dog tax to be levied and collected.
2. Tax-tags: record of; copy of record.
3. Dogs without tag to be impounded; if not released by owner to be killed, etc.
4. When dogs are personal property. With tag attached may run at large.
5. When owner is liable for damage done by registered dog.
6. Duty of owners of dogs. Penalty for not obtaining tax-tag. Penalty for using tax-tag without license.
7. When all dogs shall be muzzled or impounded.
8. Penalty for removing dog collar, etc. Penalty for molesting led dog.
9. Penalty for permitting dangerous dogs to go at large.
10. Repeal.
11. How lost or stolen dogs may be recovered. Penalty for stealing dogs. Dogs are personal property. Penalty for killing a licensed dog by police officer or other person. Penalty for allowing bitches in heat to run at large. Hydrophobic dogs.

Sec.

12. Fences to be 5 feet high. Horses to be kept inclosed. Domestic animals, ordinances in relation thereto. Goats and geese, ordinances in relation thereto.
13. Horses breaking inclosures, when may be killed.
14. Horses not to be killed except when on killers ground.
15. Animals trespassing, if owner be unknown, to be posted, etc.
16. Unlawful taking of horses and working same subject to forfeit, etc.
17. Stallions to be kept inclosed; when they may be impounded, etc.
18. Stallions may be killed when loose, etc.
19. Penalty for other than owners of land keeping brood mares. How recovered. Rules for impounding animals to be made by Commissioners of the District of Columbia. Cows and other animals for slaughter. (Note.)

DOGS.

SEC. 1. There shall be levied a tax of two dollars each per annum upon all dogs owned or kept in the District of Columbia; said tax to be collected as other taxes in said District are or may be collected.

Dog tax to be levied and collected.

June 19, 1878. 20 Stat., 173, ch. 323, sec. 1. 1 Sup. R. S., 374.

1 MacArthur Rep..

53, Mayor vs. Meigs.

SEC. 2. It shall be the duty of the collector of taxes, upon receipt of said tax, to give to the person paying the same, for each dog so paid for, a suitable metallic tag, stamped with the year, showing that said tax has been duly paid; and he shall keep a record of all such payments, with the date thereof, and the name, color, and sex of such dog, and the name of the person claiming any dog so paid for; and a copy of such record, certified under the hand and official seal of the said collector, which shall be given to any person demanding the same, upon payment of twenty-five cents therefor, shall be prima-facie evidence of such payment in any court of the District of Columbia.

Tax-tags.

Record.

Evidence of payment.

Ibid., sec. 2.

SEC. 3. The poundmaster of the District of Columbia shall, during the entire year, seize all dogs found running at large without the

Dogs without tags to be impounded; if not

released by owner, etc., to be killed, etc.

Ibid., sec. 3.

tax-tag, issued by the collector aforesaid, attached, and shall impound the same; and if, within forty-eight hours, the same are not redeemed, by the owners thereof, by the payment of two dollars, they shall be sold or destroyed, as the poundmaster may deem advisable; and any sale made by virtue hereof shall be deemed valid to all intents and purposes in all the courts of the District of Columbia.*

When personal property, etc., with tax-tag attached, may run at large.

Ibid., sec. 4, p. 174.

SEC. 4. Any dog wearing the tax-tag hereinbefore provided for shall be permitted to run at large in the District of Columbia, and shall be regarded as personal property in all the courts of said District; and any person injuring or destroying the same shall be liable to a civil action for damages, which, upon proof of said injuring or killing may be awarded in a sum equal to the value usually put upon such property by persons buying and selling the same, subject to such modification as the particular circumstances of the case may make proper.

When owner liable for damage done by registered dog.

Ibid., sec. 5.

SEC. 5. Any person owning any dog so recorded in the collector's office shall be liable to a civil action for any damage done by said dog to the full amount of the injury inflicted.

5 Mackey Rep., 518, *Murphy vs. Preston*.

Duty of owners of dogs.

Penalty for not obtaining tax-tag and for using same without license.

Ibid., sec. 6.

SEC. 6. It shall be the duty of any person owning or possessing a dog to place, or cause to be placed and kept, around the neck of such dog, a collar, on which shall be marked and engraved, in legible and durable characters, the name of the owner or possessor, and the letters "D. C.", and to which collar must be attached the insignia or tax-tag furnished by the District tax-collector, in accordance with the first and second sections of this law, under the penalty of not less than five nor more than ten dollars; and if any person shall put, or cause to be put, a collar, with the insignia or tax-tag, around the neck of any dog owned or possessed by any person or persons residing in the District, without having obtained a licence for keeping such animal, he, she, or they shall forfeit and pay the sum of not less than five nor more than ten dollars for each and every offense.

When all dogs shall be muzzled or be impounded.

Ibid., sec. 7.

SEC. 7. Whenever it shall be made to appear to the Commissioners that there are good reasons for believing that any dog or dogs within the District are mad, it shall be the duty of the Commissioners to issue a proclamation requiring that all dogs shall, for a period to be defined in the proclamation, wear good, substantial muzzles securely put on, so as to prevent them from biting or snapping; and any dog going at large during the period defined by the Commissioners without such muzzle shall be taken by the poundmaster and impounded, subject to the provisions of section three.

Penalty for removing collar, etc.

Penalty for molesting led dog.

Ibid., sec. 8.

SEC. 8. Any person who shall remove, or cause to be removed, the collar and insignia or tax-tag from the neck of any dog, or entice any properly licensed dog into any inclosure for the purpose of taking off its collar or insignia, or shall for such purpose decoy or entice any animal out of the inclosure or house of its owner or possessor, or shall seize or molest any dog while held or led by any person, or shall bring any dog into the District for the purpose of taking up and killing the same, shall forfeit and pay a sum of not more than twenty dollars.

Penalty for permitting dangerous dogs to go at large etc.

SEC. 9. If any owner or possessor of a fierce or dangerous dog permit the same to go at large in the District of Columbia, to the danger or annoyance of the inhabitants, he shall forfeit and pay, for the first

* For cruelty to animals see title Washington Humane Society, also act of Congress June 25, 1892, ch. 135, p. 60. 27 Statutes at Large. Sale of animals, money received for, how deposited, 25, Statutes, p. 328, sec. 3.

offense, ten dollars; for the second, a sum not exceeding twenty dollars; and upon a third conviction for the same offense, the Commissioners shall immediately cause the dog, upon account of which the conviction takes place, to be slain and buried.

Ibid., sec. 9.

SEC. 10. That all acts or parts of acts now in force in the District of Columbia inconsistent with the provisions of this act be, and the same are hereby, repealed.

Repeal.

Ibid., sec. 10.

SEC. 11. Owners of dogs who have complied with all the requirements of existing laws relating to dogs, and those which may hereafter be passed, shall be entitled to recover, upon proper proof of ownership before the Police Court, or other court of this District, any dog which may have been lost or stolen: and any person or persons who may be convicted of stealing a dog or dogs shall be liable to a fine of not less than five nor more than fifty dollars, with all costs of trial: and from and after the passage of this act dogs shall be deemed and held to be personal property.*

Owners of dogs who have complied with laws relating to dogs entitled to recover, by legal proceedings, any dog which may have been lost or stolen. Penalty for stealing a dog. Dogs hereafter to be deemed personal property.

Leg. Assembly, Jan. 19, 1872, sec. 1, ch. 36, p. 68.

HORSES.

SEC. 12. All enclosures by fences or otherwise, within the intention of this act hereinafter mentioned, shall be five foot high; and from and after the first day of May till the next tenth day of November next, and so yearly and every year, all owners of any horse or horses, mares, colts and geldings, shall and are hereby obliged to keep all such horse or horses, mares, colts or geldings, within good and sufficient enclosures, fenced grounds or pastures, upon the pains and penalties hereafter following. †

Fences shall be 5 feet high: owners of horses to keep same in enclosures.

Md. act 1715, ch. 31, sec. 1.
1 Kilty, 117.
1 Dorsey, 17
Thomp. Dig. 243.

SEC. 13. If the owner or owners of any such horse or horses, mares, colts or geldings as aforesaid, shall omit to take up, drive in, and keep up all such horses, mares, colts or geldings, and that such horses, mares, colts or geldings, shall break into the pastures, corn fields, or other enclosures of any inhabitants within this *District* [province,] within the time by this act limited as aforesaid, the said owner or owners thereof having notice or warning thereof given him, her or them, two several times by the party grieved, and notwithstanding the owner or owners of such horse or horses, mares, colts or geldings as aforesaid, neglecting to perform what is by this law enjoined and required, that then it shall and may be lawful for the person grieved and damnified, to shoot, kill or destroy any such horse or horses, mares, colts or geldings as aforesaid.

Horses, etc., breaking enclosures, etc., when may be killed.

Ibid., sec. 2.

SEC. 14. No person whatsoever, though grieved or damnified, shall presume to shoot, kill or destroy any such horse or horses as aforesaid, except upon his, her or their proper enclosed grounds, within his, her or their lawful possession, by lease for years, yearly rent, or other lawful tenure, upon the penalty of paying the owner thereof the full value of such horse, gelding, mare or colt so killed or destroyed, to be recovered by action of trespass, or action on the case, in any [county] court of this *District* [province.]

Not to be killed except when upon killer's ground.

Ibid., sec. 3.

SEC. 15. Whenever any horse, mare or gelding, shall break into any corn-field, or other enclosure, and the owner be not known, that then,

Animals trespassing if owner

* Any police officer or other person in the city of Washington who shall kill any properly licensed, collared, etc., dog, shall forfeit and pay a sum of not less than five nor more than twenty dollars, Webb's Digest, p. 123-124, part of sec. 7. Ordinance of Jan. 14, 1858.

† Owners or possessors of a female dog likewise prohibited from permitting such dog to run at large while in heat, under penalty of forfeiting ten dollars. Ibid., sec. 9.

See board of health ordinance in regard to hydrophobic dogs, sec. 25. Nov. 19, 1875, 1 Sup. R. S., 577.

‡ For ordinance of the board of health in relation to impounding domestic animals in Washington and Georgetown, May 19, 1871. See 1 Sup. R. S., 577-578.

For Washington ordinances in relation to goats and geese. See Webb's Digest, p 219, secs. 22 and 20.

be unknown to be posted, etc.

Ibid., sec. 4.

and in all such cases, it shall any may be lawful for the party aggrieved to take up such horse, mare or gelding so trespassing, and the same to carry before the next magistrate, who shall be obliged to take an account of the marks of such beasts, both natural and artificial, which the person aggrieved shall set up in the most public places in the same county; and, until the owner shall be known, it shall and may be lawful for such injured person to use and employ such horses, mares and geldings, without incurring the penalties in this act hereinafter imposed, not injuring such beast by any careless or wilful means, which beast shall be delivered in good order to the person owning the same, proving his property, by the testimony of one witness, before any magistrate.

Unlawful taking of horses and working same subject to forfeit, etc.

Ibid., sec. 5.

SEC. 16. Whosoever shall unlawfully, and without the knowledge and consent of the owner, take another man's horse, mare or gelding, and the same keep one hour in his possession, (except such horse, mare, or gelding, be found a trespassing as aforesaid, and the owner not known,) and such horse, mare or gelding, shall, without consent aforesaid, occupy in any labour or travel, shall not only pay damages to the owner, but shall forfeit and pay the sum of five hundred pounds of tobacco [\$8.33 $\frac{1}{2}$] one half to the informer, the other half to the party grieved, to be recovered in any county court of this *District* [province] by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

Stoned horses to be kept inclosed; when may be impounded, etc.

Ibid., sec. 12.

SEC. 17. All stoned horses shall be kept within good sufficient enclosures; and in case any stoned horse or horses that have been taken up and broke fit for use shall happen to be found loose, and out of such enclosures, it shall and may be lawful for any person or persons whatsoever to take up and impound, or cause to be taken up and impounded, in some open pound, and there to detain him, on the risk of the owner thereof, or cause him to be so detained, until the owner or owners of such horse, having speedy and convenient notice of such impounding, shall satisfy unto the person so impounding, or causing such horse to be impounded, the sum of five shillings, or sixty pounds of tobacco [\$1].

Stoned horses may be killed when loose, etc.

Ibid., sec. 13.

SEC. 18. In case any stoned colt above eighteen months old, or stoned horse unbroke, shall, at any time after the end of this present session of assembly, be found loose in the woods, or out of such enclosure, it shall and may be lawful for any person whatsoever, to shoot or otherwise kill and destroy such horse or colt, without being accountable or answerable to the owner or owners of such horse or colt, or any other person or persons whatsoever, in any action or suit whatsoever; and in case any person or persons shall at any time be sued for any such shooting, killing or destroying as aforesaid, it shall and may be lawful for such person to give this act in evidence upon the general issue, any law, statute or custom to the contrary notwithstanding.

Penalty for others than owners of land keeping brood mares. Rules for impounding animals to be made by Commissioners of District of Columbia.†

Ibid., sec. 14.

SEC. 19. It shall not be lawful for any person, not having land of his own, nor renting a plantation, to keep any breeding mare or mares in the woods, upon the penalty of six hundred pounds of tobacco [\$10.] for every breeding mare by such person owned and kept, the one-half of which fines to go to his majesty, towards defraying the county charge where such offender shall reside, the other half to the informer, or him or them that shall sue for the same, to be recovered by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.*

* See sec. 837, R. S. D. C., as to recovery and distribution of fine.
† By 21 Stat., 35, June 27, 1879, 1 Sup. R. S., 495, the Commissioners of the District of Columbia were authorized to make rules for impounding domestic animals. *Dennison vs. Gavin*, 3 McA., Rep., 267.
Cows and animals intended for slaughter: For ordinances of the city of Washington in relation thereto, see *Webb's Digest* p. 5, 119, 120. Ibid., p. 218, sec. 17, as to animals having infectious diseases.

CHAPTER FOUR.

APPRENTICES.

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| <p>Sec.
1. Justices may bind out orphan children.
2. Pauper children may be bound, as.
3. Any father may bind out his children.
4. Manufacturer, etc., may take children, etc.
5. Justices, on petition may inquire, etc.
6. Penalty for concealing or aiding runaway apprentices.
7. Master, etc., may be summoned, etc.
8. Apprentice may be adjudged to serve.</p> | <p>Sec.
9. Not to be carried out of the District.
10. Widow may assign apprentice, etc.
11. Judge may appoint three persons to assess widow's rights in apprentices.
12. Apprentice shall continue at his home, etc.
13. Master may apply to court, etc.
14. Two justices may bind out any child.
15. Fees of justices in such cases.
16. Penalty on persons harboring apprentices.</p> |
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SEC. 1. The justices of the several and respective orphans courts shall and may bind out as an apprentice every orphan child, (the increase or profits of whose estate, whether real or personal, is or are not sufficient for maintenance, support or education, of the said child,) to some manufacturer, mechanic, mariner, handicraftsman, or other person, at the discretion of the said justices, until such orphan child, if a male, shall arrive to the age of twenty-one years, or if a female, to the age of sixteen years; and the said justices are hereby directed, in all cases where they can, to make it a part of the contract on the part of the master or mistress of such apprentice, that he or she shall give such orphan child reasonable education in reading and writing, or in reading, writing and arithmetic, to be particularized therein, and also teach such orphan, especially if a male, some useful art or trade, and in all cases supply suitable clothing and maintenance; and the said justices shall and may also bind out as apprentices, such children as are suffering through the extreme indigence or poverty of their parents, also the children of beggars, and also illegitimate children, and the children of persons out of this state, where a sufficient sustenance is not afforded, in like manner, and on like terms: *Provided always*, That when any child is about to be bound out, the parent or parents of said child, if living in the county, shall be summoned to appear before the said justices, and the inclination of the said parent or parents so far as is reasonable, shall be consulted in the choice of the person to whom the said child shall be bound out: *And provided always* That when any child shall be before the court for the purpose of being bound out as an apprentice, if any relation or other person will, with good and sufficient security, enter into bond in the penalty of one hundred pounds, [\$266, §§ 7] for the due and comfortable maintenance, and for the providing sufficient and proper clothing for such child till of age as aforesaid, and also for the reasonable schooling and education of such child, then the court shall not proceed to bind out such child as aforesaid.

Justices may bind out orphan children.
Md. act 1798, ch. 45, sec. 2.
2 Kilty, 423.
1 Dorsey, 294, 295.
68 Md. Rep., 64.
Baker vs. Lauterback.

SEC. 2. Any one or more of the justices of the peace may take any child or children, who is or are destitute, or suffering for want of support, or the child or children of beggars, and place the same in the care of some proper person or persons until the next meeting of the orphans court, when the said child or children shall be bound out as apprentices by the said orphans court as aforesaid; [and in such case it shall and may be lawful for the said orphans court to make such an allowance as to them shall seem reasonable for the expense incurred by supporting as aforesaid the said child or children, and the same shall be levied on and paid by the county to which such child or children shall belong, except the person or persons who

Pauper children may be bound as apprentices, etc.
Ibid., sec. 3.
2 Kilty, 429.
1 Dorsey, 296.

have had the care of such child or children, or some other person or persons can be found who will agree to take the said child or children as an apprentice or apprentices as aforesaid, and pay the expense incurred as aforesaid.]*

Any father may bind out his child, etc.

Ibid., sec. 4.
2 Kilty, 429.
1 Dorsey, 296.

SEC. 3. That any father may bind out his child as an apprentice, on reasonable terms for any time not longer than till the full age of such child; that is to say, boys to twenty-one, and girls to sixteen years of age, and that the terms of such apprenticeship, with the age of the apprentice, shall be contained and expressed in an indenture, under the hand seal of the father and master; and that the said indenture shall be lodged by the said master with the register of the orphans court of the county where such master resides, within thirty days after the execution thereof, under the penalty of three pounds current money, [§8] to be recovered from said master by indictment in the [county court or] criminal court [of said county,] and to be applied to the use and benefit of the poor of said county;] and the register of the said orphans court shall and he is hereby obliged to receive and record the said indenture, and he shall be allowed the sum of three shillings current money for each and every indenture so recorded, to be paid by the said master. [§837. R. S. D. C.]

Manufacturer, etc., may take apprentice, etc.

Ibid., sec. 6.
2 Kilty, 429, 430.
1 Dorsey, 297.

SEC. 4. That it shall and may be lawful for any manufacturer or mechanic to take as an apprentice any male child until he shall arrive at the age of twenty-one years: *Provided always*, That the contract so made shall specify the age of the child at the time of making the said contract, and that the parent or parents of such child, if living, or if an orphan, the orphans court of such county as the child shall reside in, shall see the contract within two months after its execution, and notify their approbation thereof by an endorsement on the same, and that then the said contract shall be recorded among the records of the orphans court, and the sum of three shillings shall be paid by the master of the said apprentice therefor, and when so recorded the said contract shall be of the same validity as if the same had been originally made with the parents of the said child, or with the orphans court.

Justices, on petition, may inquire, etc.

Ibid., sec. 7.
2 Kilty, 430.
1 Dorsey, 297, 298.

SEC. 5. Whereas by reason of the inaccuracy of apprentices' contracts, disputes frequently arise between the parties, *Be it enacted*, That the justices, on the petition in writing, of any master or mistress of any apprentice so as aforesaid bound out, shall and may inquire into, hear and determine, any and every dispute that may arise on any contract or agreement so as aforesaid made; and if it shall appear to the said court, that the said contract has been violated on the part of the master or mistress, or that the complaint of such apprentice so petitioning as aforesaid is well founded, the said court may proceed to fine the said master or mistress according to the offence, a sum not exceeding ten pounds current money [§26.66 $\frac{2}{3}$] for the first offence, for the second offence any sum not exceeding twenty pounds current money; and the said county or criminal court may, in their discretion, discharge any apprentice because of imposition, or of the ill behaviour of the master or mistress, or of the hardness or unreasonableness of the terms of the contract, and shall provide for the said apprentice a new master, of the same trade or occupation with the first, and if the original contract was hard and unreasonable, such new contract shall be made as the court shall direct; which new master shall be bound to do and perform the contract in the same manner that the original master ought to have done, and shall also pay unto the original master of said apprentice such sum of money as shall be adjudged reasonable by any two or

* See sec. 965 R. S. D. C., 2 Sup. R. S., p. 103, sec. 12, when trustees of Reform School may apprentice boys.

three persons of the same trade or occupation, to be appointed by the court before which court the change of the master shall be made; and the said county or criminal court shall and may, upon the petition of the master or mistress as aforesaid, discharge him or her from his or her contract, because of an incorrigible temper, or of the ill behaviour of the apprentice; and in case the contract, whether defective in form or not, hath been partly executed, the said * * * court may award and compel the terms, or any part of the terms, to be performed by the master or mistress, or by the apprentice, as justice and equity may require; and the master or mistress of any apprentice may detain the said apprentice in his or her service till such apprentice is or shall be discharged by the court aforesaid; and the said master or mistress may maintain such action against strangers, as if such apprentice had been legally bound to serve; and if any apprentice shall abscond or run away from his master or mistress, or in any other way absent himself from the service of said master or mistress, the court may, during the whole of the remainder of the time which such apprentice hath to serve, or at any time within three years thereafter, award such compensation to be made by such apprentice to his master or mistress aforesaid, either by service or by payment of money, as justice and equity may require, and may enforce payment of the money so awarded by an attachment of contempt against his person, or fieri facias against his goods.

SEC. 6. That if any person or persons shall conceal, harbor, or in any way promote or facilitate the running away of apprentices, he, she or they, shall be subject to the same fines and penalties as the harbourers of servants now are subject to by the laws of this state.

[See last section of this chapter.]

2 Kilty, 430. 1 Dorsey, 298.

Penalty for concealing or aiding runaway apprentices.

Ibid., sec. 8.

SEC. 7. That any judge or justice of the peace, when he shall receive good information, or upon his own observation of cruel or improper usage from any master or mistress before him, and may require and take a recognizance of such master or mistress, with reasonable and proper security, to be forfeited in case the said master or mistress shall not appear at the next court, to answer and abide the determination of the said court upon any complaint that may be exhibited by such apprentice, or in default thereof may take away such apprentice from his master or mistress, and place the said apprentice, so cruelly used, under the care of some other proper person, who shall be bound to have the apprentice before the next court, to abide such determination as shall be made.

Master, etc., may be summoned, etc.

Ibid., sec. 9.

2 Kilty, 430.

1 Dorsey, 299.

SEC. 8. That if any apprentice shall be convicted of any offence, in consequence of which judgment shall be entered against him for any fine or penalty, and costs, the court by which such judgment shall be rendered, shall adjudge, and enter on their records, the time for which such apprentice shall serve his or her master or mistress, after the expiration of his or her apprenticeship, in case the said master or mistress will pay the said fine or penalty, or costs, and if the said master or mistress pay the said fine and penalty, and costs, the said apprentice shall be obliged to serve during the time adjudged by the said court.

Apprentice may be adjudged to serve, etc.

Ibid., sec. 10.

2 Kilty, 430, 431.

1 Dorsey, 299.

SEC. 9. That no master or mistress of an apprentice, bound out, shall send or carry his or her said apprentice out of the said *District* [state]; and any justice of the peace, on being credibly informed, or having from his own observation good reason to suspect that any master or mistress designs to carry or remove his or her apprentice out of this *District* [state,] except mariners, shall require, demand and take recognizance of such master or mistress, with reasonable

Not to be carried out of the State, etc.

Ibid., sec. 11.

2 Kilty, 431.

1 Dorsey, 299.

and proper security, to be forfeited in case he or she shall directly or indirectly remove or carry such apprentice out of this *District* [state]; and on such master or mistress' refusal to enter into recognizance, with security as aforesaid, such justice shall discharge such apprentice from his or her master, and provide another master, as heretofore directed by this act.

Widow may assign apprentice, etc.

Ibid., sec. 14.
2 Kilty, 431.
1 Dorsey, 300.

SEC. 10. Whereas apprentices are not, nor is it intended that they should be, assignable, and on the death of the master, the apprentice, although he has been maintained and considerably advanced in the art of his trade, is either bound out to a new master, who derives an immediate profit from his skill and labour, or is suffered to go at large, and it is reasonable that the widow of the deceased master, if he leave any, should derive some benefit from the expense, care and instruction, given the said apprentices, *Be it enacted*, That the widow of any master of a male apprentice, bound agreeably to the directions of this act, whose time shall not have expired at the death of his master, may, with the approbation of the orphans court, if the said apprentice was bound by the court, or if the said apprentice was bound by his father, with the approbation of the father, assign the whole residue of the contract, on such consideration as she may agree for, to some other person of the same trade with the first master, and the new master and the apprentice, shall be bound to perform the residue of the contract, as if the new master had been an original party thereto; and the gratuity or consideration, if any, received by the widow for such apprentice's time, shall be to her own use, and shall not be considered as assets of the deceased husband; and where female children are bound out to married men, as the qualities of their wives make a leading motive for such preference, and the girls are chiefly benefitted by the care of the wives, such apprentice girls shall serve out the residue of their time with the widow, on the death of the husband, and the widow shall make good, and strictly comply with, the terms of the contract made with her deceased husband; but if the widow shall not think proper to keep such apprentice girl, then the said widow shall carry the said apprentice to the orphans court and deliver her up, when she shall be again bound out as heretofore directed by this act.

Judge, etc., may appoint three persons, etc.

Ibid., sec. 15.
2 Kilty, 431.
1 Dorsey, 300,
301.

SEC. 11. That in every case where the consent of the father cannot be obtained by the widow of any deceased master to assign the residue of the contract of any apprentice, that it shall and may be lawful for any judge, or any two justices of the peace in the county where the deceased master did last reside, to appoint three persons of the same trade or occupation with the deceased master, any two of which shall have power to value, upon oath or affirmation, the residue of the contract, and the father may make his election, either to pay the widow of the deceased master such valuation, or the widow shall have power to make the assignment without his consent, of the residue of the indenture, with the approbation of the orphans court.

Apprentice shall continue at his home, etc.

Ibid., sec. 16.
2 Kilty, 431.
1 Dorsey, 301.

SEC. 12. Whereas it often happens, that immediately after the decease of the master of any apprentice, the apprentice leaves his home and employment without any license or authority, not only to his own injury, but also to the detriment of society, *Be it enacted*, That every apprentice, whose master shall die and leave a widow, shall continue at his home and business, as well after as before the death of his master, and shall be subject to the control and directions of the widow, until order be taken therein by the court, or justice aforesaid; and the said court or justice, as aforesaid, shall have power and authority to continue any apprentice so long as they or he shall be satisfied that the widow hath it in her power to, and doth, fulfil, the

contract made with her husband ; and the harbourer or harbourers of any apprentice or apprentices before they are discharged as aforesaid, shall be considered, and shall suffer the same penalties, as the harbourer or harbourers of servants are liable to under the laws of this *District* [state].

SEC. 13. That either the master or apprentice, upon a petition being filed, may apply to the court for the benefit of a trial by jury, and that the court shall thereupon charge, as the law directs, the attending jury, to determine each and all of the allegations contained in the said petition, which may be controverted, any law or usage to the contrary notwithstanding.

Master, etc., may apply to the court, etc.

Ibid., sec. 17.
2 Kilty, 431, 432.
1 Dorsey, 301.

SEC. 14. That at any time, when the orphans court be not in session, any two justices of the peace of such county shall and they are hereby empowered to bind out as an apprentice any child which the said court may lawfully bind out, subject to the terms, regulations, and restrictions prescribed by the act to which this is a supplement: *Provided always*, That the contract of apprenticeship so made shall be approved and recorded agreeably to the sixth section of the said law.

Two justices may bind out any child, etc.

Md. act 1794, ch. 47, sec. 1.
2 Kilty, 497.
1 Dorsey, 306.

SEC. 15. That the said two justices shall each have one quarter of a dollar for every contract of apprenticeship made before them as aforesaid, to be paid by the master.

Their allowance.

Ibid., sec. 2.
2 Kilty, 497. 1 Dorsey, 306.

SEC. 16. That if any person or persons shall wittingly or willingly entertain any servant or servants, unlawfully absenting him, her or themselves from his, her or their master, or permit or suffer them to be about their houses or plantations, during the space of one hour, or longer, such person or persons, so entertaining such servant or servants, or permitting or suffering them to be about their houses or plantations, shall forfeit and pay at the rate of one hundred pounds of tobacco [\$1.66 $\frac{2}{3}$] for every hour each servant shall be by him, her or them, so entertained, or permitted or suffered to be about his, her or their house or plantation as aforesaid, to be recovered in a summary way before a single magistrate, with costs, if the penalty does not exceed six hundred pounds of tobacco [\$10.] and if it does exceed six hundred pounds of tobacco, then to be recovered by action of debt, bill of indictment, plaint or information.* [See §837, R. S. D. C.]

Penalty on persons harboring apprentices.

Md. act 1748, ch. 19, sec. 2.
1 Kilty, 278.
1 Dorsey, 88, 89.

* This section made applicable to apprentices. Md. act 1793, ch. 45, sec. 8, 1 Dorsey, 208.

CHAPTER FIVE.

ARBITRATION AND AWARD.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Court may give judgment upon award, in suits entered, when. 2. Judgments on awards may be entered, when. 3. Proviso to previous section, as to death of parties to award. 4. Cause referred, etc., shall be continued ; powers of court in case of death of arbitrators ; on refusal of arbitrators to report ; entry of judgment in cases of. See note to this | <p>Sec.</p> <ol style="list-style-type: none"> section as to awards in orphans court and references of actions. 5. Submission of suits to arbitration ; procedure, etc. 6. Arbitration procured by undue means set aside, when encroachment by party walls (<i>see</i> secs. 482-483, R. S. D. C.), boards of trade (<i>see</i> secs. 613-616, R. S. D. C.), railroad land damages (<i>see</i> secs. 654-658, R. S. D. C.) |
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SEC. 1. If any cause, instituted, or hereafter to be instituted, in any of the courts, shall, by rule of court, and by the consent and agreement of the parties thereto, be submitted and referred to the Court may give judgment upon award, in suits entered, when.

Md. act 1778, ch. 21, sec. 8.
1 Kilty, 479.
1 Dorsey, 142, 143.

award and arbitrament of any person or persons, it shall and may be lawful to and for such court to give judgment upon the award of the person or persons to whom such submission and reference shall be made, as of the court to which such award shall be returned, and to award execution thereon, in the same manner as they might do upon verdict, confession or non-suit, and that such judgment shall have the same effect, to every intent and purpose, as any judgment upon verdict or confession would have.

When judgment on awards may be entered.

Ibid., sec. 9.
1 Kilty, 479.
1 Dorsey, 143.

SEC. 2. Such award shall remain seven days in the [general] court during their sitting, after the return thereof, before any such judgment shall be entered up; and if it shall appear to the justices of the court to which any such award shall be returned, within the respective times aforesaid, that the same was obtained by fraud or male-practice, in or by surprise, imposition or deception of the arbitrators, or without due notice to the parties, or their attorney or attorneys, it shall and may be lawful for the said court to set aside such award, and refuse to give judgment thereon.

Proviso to preceding sections as to death of parties to award.

Ibid., sec. 10.
1 Kilty, 480.
1 Dorsey, 143.

SEC. 3. If any cause which hath been referred, or which shall hereafter be referred, by virtue of this act, either of the parties, or any of the arbitrators to whom the same is or shall be referred, hath died, or shall happen to die before any award was or shall be made, or if the arbitrators, or any of them, have refused or shall refuse to act, or if after an award made the same hath been or shall be set aside, that then all that space of time from the impetration of the original writ in such cause, until the death of the party or arbitrator, or refusal to act, or setting aside such award, shall not run, be had, reckoned or estimated, as part of the time limited for the bringing or prosecuting such suit, and that this act shall and may be taken advantage of, in bar of the act of limitation, without any special replication, any thing to the contrary hereof notwithstanding.

Causes referred, etc., shall be continued: powers of court in case of death of arbitrators: on refusal of arbitrators to report: entering judgment in cases of.

Md. act 1785, ch. 80, sec. 11.
2 Kilty, 63.
1 Dorsey, 233, 234.

SEC. 4. All causes referred by consent of parties and rule of court, shall be continued until an award is returned, and if a death of either of the parties happen before an award returned and judgment thereon, such cause shall not abate by the death, but upon reasonable notice to the person or persons succeeding to the interest of or respecting the deceased in the thing or matter in contest, and not being a minor, the arbitrators shall proceed to a determination, and return their award, upon which judgment may be entered by the court, and such judgment shall be good and sufficient in law, notwithstanding the death of either of the parties; and in case any arbitrator or arbitrators appointed by the parties upon any reference aforesaid should die, or refuse to act, the court from which such cause was referred shall, upon motion of either of the parties, appoint an arbitrator or arbitrators in the stead of those dying or refusing to act, and any arbitrator or arbitrators so appointed shall have the same power and authority to decide the matter in question, as if appointed by the parties; and if an award be not returned within eight months after the cause may be referred as aforesaid, the court from which such cause shall be referred may, by order, compel the arbitrators to return their award, or give their reasons for not returning an award, or the court may, in their discretion, upon motion of either of the parties, reinstate the cause and take such order therein as they may think proper, to have the same fairly tried in court, in the same manner as if such cause never had been referred; and in all cases where awards may be made upon references aforesaid, the party in whose favor the award is given shall cause a copy thereof to be delivered to the adverse party or his attorney, at least three days before judgment is moved for upon such award, and the clerk of the court shall not enter judgment upon any award returned without a motion to

and direction from the court, and the court shall always have satisfactory proof by the party's own oath, or affirmation, as the case may be, or otherwise, that a copy of the award hath been delivered to the adverse party or his attorney as aforesaid before judgment shall be directed to be entered on any award.*

SEC. 5. Whereas it hath been found by experience, that references made by rule of court have contributed much to the ease of the subject, in the determining of controversies, because the parties become thereby obliged to submit to the award of the arbitrators, under the penalty of imprisonment for their contempt, in case they refuse submission: Now for promoting trade, and rendering the awards of arbitrators the more effectual in all cases, for the final determination of controversies, referred to them by merchants and traders, or others, concerning matters of account or trade, or other matters: *Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in Parliament assembled, and by authority of the same,* That from and after the eleventh day of May, which shall be in the year of our Lord one thousand six hundred and ninety eight, it shall and may be lawful for all merchants and traders, and others desiring to end any controversy, suit, or quarrel, controversies, suits, or quarrels, (for which there is no other remedy but by personal action or suit in equity) by arbitration, to agree that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any [of His majesty's] courts of record, which the parties shall choose, and to insert such their agreement in their submission, or the condition of the bond, or promise, whereby they oblige themselves respectively to submit to the award or umpirage of any person or persons, which agreement being so made and inserted in their submission or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof, made by the witnesses thereunto, or any one of them, in the court of which the same is agreed to be made a rule, and reading and filing the said affidavit in court, be entered of record in such court, and a rule shall thereupon be made by the said court, that the parties shall submit to, and finally be concluded by, the arbitration or umpirage which shall be made concerning them by the arbitrators or umpire pursuant to such submission; and in case of disobedience to such arbitration or umpirage, the party neglecting or refusing to perform and execute the same, or any part thereof, shall be subject to all the penalties of contemning a rule of court, when he is a suitor or defendant in such court, and the court, on motion shall issue process accordingly, which process shall not be stopped or delayed in its execution, by any order, rule, command, or process of any other court, either of law or equity, unless it shall be made appear on oath to such court, that the arbitrators or umpire misbehaved themselves, and that such award, arbitration, or umpirage, was procured by corruption, or other undue means.

Submission of suits to arbitration; procedure, etc.

9 & 10 William III, ch. 15, sec. 1, A. D. 1698.

Alex. Brit. Statutes, 615, 616.

9 Gill. & John. Rep., 1, Shriver vs. State.

SEC. 6. That any arbitration or umpirage procured by corruption, or undue means, shall be judged and esteemed void and of none effect, and accordingly be set aside by any court of law or equity, so as complaint of such corruption or undue practice be made in the court where the rule is made for submission to such arbitration or umpirage, before the last day of the next term after such arbitration or umpirage made and published to the parties; any thing in this act contained to the contrary notwithstanding.†

Arbitration procured by corruption or undue means, set aside, when.

Ibid., sec. 2.

* As to awards under the orphans court see 1798, ch. 101: see 1 Dorsey, p. 141, 143, October, 1778, ch. 21, as to references of actions.

† As to encroachment by party walls, secs. 482, 483, R. S. D. C.: by boards of trade, secs. 613-616, R. S. D. C.: of railroad land damages, secs. 654-658, R. S. D. C.

CHAPTER SIX.

ASSIGNMENTS.

Sec.

1. Surety paying obligation entitled to assignment and may sue in his own name. Of claims against the United States when void; by limited partnership, when void; liability of assignees to pay the United States.

Sec.

2. Surety paying judgment entitled to assignment thereof and execution.
3. Assignee of obligation may sue obligor and obligee.
4. Oath of obligee as to payment required at time of assignment.

Surety paying obligation entitled to assignment and may sue in his own name.

Md. act 1763, ch. 23, sec. 7.

1 Kilty, 334.

1 Dorsey, 107.

55 Md. Rep., 192.

Crisfield vs. State;
41 Md. Rep., 571,
Martindale, vs.
Brock.

SEC. 1. That where any person or persons is or are bound in any bond, or other obligation, for the payment of money, tobacco or other goods, or endorse any bill of exchange that shall be protested, and the money, tobacco or other goods, or such part thereof as shall be unpaid by the principal debtor, shall be paid or tendered by the surety or endorser, that the obligee or endorsee shall be obliged to assign such bond, obligation or protested bill, to the surety paying or tendering the money, tobacco or other goods, due as aforesaid, and that the assignee shall and may, by virtue of such assignment and this act, have an action in his or her own name against the principal debtor, any law, usage or custom, to the contrary notwithstanding.*

Surety paying judgment entitled to assignment thereof and execution.

Ibid., sec. 8.

1 Kilty, 334.

1 Dorsey, 107.

2 Mackey Rep.,

545, Herr vs. Barber;
3 Wheaton Rep., 520, Lenox
vs. Prout; 46 Md.
Rep., 245, Wilson
vs. Ridgley; 45
Md. Rep., 502, Mc-
Knew vs. Duvall.

SEC. 2. Where any person or persons hath recovered, or shall recover, any judgment against the principal debtor and surety, and such judgment hath been or shall be satisfied by sureties, that the creditor shall be obliged to assign such judgment to the surety satisfying the same, and that the assignee shall be entitled unto and have in his own name, as assignee, the same execution against the principal debtor, by virtue of such assignment and this act, as the creditor might or ought to have had, the said assignment being first recorded in the same court wherein the judgment shall have been rendered or obtained; and that where any judgment hath been or shall be rendered against several sureties, and one of them hath satisfied or shall satisfy the whole, the plaintiff or creditors shall be obliged to assign such judgment to the surety satisfying the same, and that the assignee shall have and be entitled to an execution against the other sureties against whom judgment hath been or shall be obtained by the principal creditor, for a proportionable part of the debt or damage paid by such assignee, any law, usage or custom, to the contrary notwithstanding: *Provided always*, That no defendant or defendants shall be precluded or debarred of his or their remedy against the plaintiff by *audita querela*, or other equitable course or proceeding whatsoever, anything in this act to the contrary notwithstanding.

Assignee of obligation may sue obligor and obligee.

Ibid., sec. 9.

1 Kilty, 335.

1 Dorsey, 108.

68 Md. Rep., 443,

Talbott vs. Suit;
43 Md. Rep., 452,
Jackson vs. My-
ers; 10 Md. Rep.,
13, Trustees vs.
Pratt; 6 Gill. and

SEC. 3. That upon all bonds, or other obligations under seal, that have or shall be assigned under hand and seal, the assignee shall and may, by virtue of such assignment, maintain an action or actions in his or her name against the obligor or obligors therein named, and if it shall happen that such obligor or obligors shall be unable to pay the debt mentioned in such obligation, or cannot be found in the place or county of his usual abode, or any other thing or casualty should happen whereby the assignee should not be able to receive or recover his debt from such obligor or obligors, that then and in every such case the like action shall and may be maintainable by such assignee against the obligee or obligees in such obligation mentioned, in case the said assignee hath not been, nor shall be, a surety

* Assignment of claim against the United States void unless, etc. Sec. 3477, R. S. U. S.; by limited partnership when void; sec. 510, R. S. D. C. Assignee's liability to pay the United States; sec. 3466 to 3468, R. S. U. S.

in the bond or obligation assigned to him as aforesaid, any law, usage or custom, to the contrary notwithstanding: *Provided*, That where any debt shall be lost by the negligence or default of the assignee or assignees, that the assignor or assignors shall not be liable, any such assignment notwithstanding.

SEC. 4. No action or actions shall be maintained in the name or names of any assignee or assignees upon any assignment wherein the obligee or obligees may be liable under this act, upon the default of the obligor or obligors as aforesaid, unless the assignor or assignors have made or shall make oath (or affirmation if a quaker,) before some magistrate, "that he, she or they, hath or have received no part of the sum mentioned in such obligation, or but such part thereof as shall be mentioned in such oath or affirmation at the time of making any such assignment," to be endorsed on such bond or obligation.

John. Rep., 259.
Lewis vs. Hoblitzell.
Oath required of obligee at time of assignment.
Ibid., sec. 10.
1 Kilty, 335.
1 Dorsey, 108.
2 Har. and McH. Rep., 477, Dorsey vs Barnes; 68 Md. Rep., 443, Talbott vs. Suit.

CHAPTER SEVEN.

AVENUES, STREETS, AND ALLEYS.

- Sec.
1. Occupation of public streets, spaces, and reservations prohibited for private purposes: title to streets of Washington, in the United States; additional telegraph, etc.; wires to be under ground; house numbers regulated.
 2. Railroads prohibited on streets fronting certain squares.
 3. Restrictions on location of street railroads.
 4. Portions of streets and avenues may be set aside as parks.
 5. Obstructions to be removed from certain streets.
 6. Suits to enforce same to be prosecuted.
 7. Conditional permits to remove pavements, etc.
 8. Penalty for obstructing certain streets.
 9. Penalty for failure to replace work, etc.
 10. Grades in vicinity of Capitol.
 11. Street and avenue lamps to be kept lighted.
 12. Railroad companies using steam engines shall light streets, etc.
 13. Street lamps to be increased when necessary; tax for same to be collected.
 14. Duty of Secretary of Interior to levy such tax, when Commissioners fail to do so.
 15. Restrictions upon occupancy of land

- Sec.
- adjoining Washington Canal; ownership of the land.
 16. Certain appropriations not to imply future obligations.
 17. Rock street, Georgetown, D. C., portion of vacated.
 18. Permit work; owner to pay half; discretionary with Commissioners to order; cost of work; how apportioned and collected.
 19. Permit work; owner to pay half; discretionary with Commissioners to order; mode of assessing charge; payments, when due; property sold for taxes.
 20. The Commissioners to establish grades of roads, streets, etc.
 21. Improper appropriation of streets, etc.
 22. Commissioners to condemn and open roads, etc., in county.
 23. When alleys may be opened and condemned.
 24. Changing alley ways in Washington City.
 25. Same: Acts of Congress relating to different alleys.
 26. When alleys in Washington may be opened.
 27. When draining into sewers is required.
 28. Penalty for not draining into sewers.
 29. Remuneration of owner when private sewer used.

SEC. 1. No open space, public reservation, or other public ground in the city of Washington, nor any portion of the public streets or avenues in said city, shall be occupied by any private person, or for any private purposes whatever. * [See title, post: "Highways," etc.]

Occupation of public streets, spaces and reservations prohibited.
Sec. 222, R. S.

D. C. MacArthur & M. Rep., 348, D. C. vs. Monroe: 7 Mackey Rep., 504, U. S. vs. Cole.

*The title to the streets of Washington is in the United States. 114 U. S. Rep., 460, D. C. vs. B. & P. Ry.
The numbering of houses regulated, Webb's Digest, 283.
Additional telegraph, etc., wires to be under ground. 25 Stat., 323; 2 Sup. R. S., 597; 140 U. S. Rep. 471. St. Louis vs. Telegraph Co.

Railroads prohibited around certain squares. SEC. 2. All railroads are prohibited on the I-street and K-street fronts of Farragut, Scott, and Franklin Squares.

Sec. 223, R. S. D. C.

Restrictions on location of street-railroads. SEC. 3. No further street-railroads shall be laid down in the city of Washington without the consent of Congress.

Sec. 224, R. S. D. C.

Portions of streets and avenues may be set aside as parks. SEC. 4. The proper authorities of the District are authorized to set apart from time to time, as parks, to be adorned with shade-trees, walks, and inclosed with curb-stones, not exceeding one-half the width of any and all avenues and streets in the said city of Washington, except Pennsylvania, Louisiana, and Indiana avenues, and Four-and-a-half street between the City Hall and Pennsylvania

Sec. 225, R. S. D. C.

avenue, leaving a roadway of not less than thirty-five feet in width in the center of said avenues and streets, or two such roadways on each side of the park in the center of the same: but such inclosures shall not be used for private purposes.

Officer in charge of public buildings and grounds to cause obstructions to be removed from certain streets, etc.

SEC. 5. It shall be the duty of the chief of engineers in charge of the public buildings and grounds to cause obstructions of every kind to be removed from such streets, avenues, and side-walks in the city of Washington as have been, or may be, improved in whole or in part by the United States, and to keep the same, at all times, free from obstructions. [See R. S. U. S., § 1818.]

Sec. 226, R. S. D. C.

May institute suits: district attorney to prosecute.

SEC. 6. For the purposes of carrying out the provisions of the preceding section the chief of engineers shall have power to institute suits in any court having competent jurisdiction, and it shall be the duty of the United States attorney for the District to prosecute the same.

Sec. 227, R. S. D. C.

May give permits for certain purposes.

SEC. 7. Whenever any person desires to remove the paving-stones, or to displace any other work done by the authority of the United States, for the purpose of laying gas-pipes, or for any other purpose, it shall be the duty of such person to obtain a written permit from the chief of engineers, and such person shall oblige themselves to replace the said work to the satisfaction of said officer, and within such time as he may prescribe.

Sec. 228, R. S. D. C.

Penalty for obstructing certain streets, etc.

SEC. 8. If any person shall place any obstruction on the streets, avenues, or side-walks, so improved by the United States, such person shall pay the costs of removing the same, and shall be subject to a penalty of ten dollars, to be recovered as other debts are recovered in said District, for each and every day the obstruction may remain after the chief of engineers shall have given notice for its removal.

Sec. 229, R. S. D. C.

Penalty for failure to replace work, how recovered.

SEC. 9. If any person removing the paving-stones or other work done by the authority of the United States shall fail to replace the same to the satisfaction of the chief of engineers, within the time prescribed by him, he shall be subject to a penalty of twenty-five dollars for each and every failure, and shall pay the costs of replacing the same, the whole to be recovered before any court in said District having competent jurisdiction.

Sec. 230, R. S. D. C.

Grades in vicinity of the Capitol.

SEC. 10. The grades of the streets and avenues in the vicinity of the Capitol are established in conformity with the plan approved by the mayor of the city of Washington, the officer in charge of public buildings and grounds, and the Architect of the Capitol Extension, as authorized by the joint resolution approved July fourteenth, eighteen hundred and seventy: and for this purpose the plan made by William Forsyth, surveyor, dated January twenty-third, eighteen

Sec. 231, R. S. D. C.

hundred and seventy-one, on file in the office of the Architect of the Capital Extension, shall be considered authentic.

SEC. 11. The avenue and street lamps in the City of Washington shall be kept lighted with six-foot burners twenty-one nights in each month from dark until daylight.

Street and avenue lamps to be kept lighted.

Sec. 232, R. S. D. C.

SEC. 12. Hereafter all railroad companies using engines propelled by steam shall provide for the lighting of the streets, avenues, alleys, and grounds through which their tracks may be laid, under the direction and control of the Commissioners.

Railroad companies using steam engines shall light streets, etc., where tracks laid.

July 1, 1882, 22 Stat., 189.

SEC. 13. The proper authorities are directed to increase from time to time, as the public good may require, the number of street-lamps on any of the streets, lanes, alleys, public ways, and grounds, in the city of Washington, and to do any and all things pertaining to the well lighting of the city, and to levy and collect a tax from the property-holders sufficient to defray the expenses thereof.

Lights to be increased when necessary, and tax for lighting, etc., collected.

Sec. 233, R. S. D. C.

SEC. 14. In event of the failure of the proper authorities to levy and collect the tax or to light the city as directed by the two preceding sections, the Secretary of the Interior shall levy and collect such tax sufficient to light the city and to fully execute the provisions of the two preceding sections.

Secretary of the Interior to levy tax when District authorities fail to do so.

Sec. 234, R. S. D. C.

THE WASHINGTON CANAL.

SEC. 15. The District authorities are not authorized to occupy nor to permit others to occupy more than forty feet for the purpose of landing on any portion of either side of the Washington Canal, extending from the Eastern Branch to Seventeenth street west upon the plan of the city of Washington; and the land made by filling up said canal is declared to be the property of the United States.

Restrictions upon occupancy of land adjoining Washington Canal. Ownership of the land.

Sec. 236, R. S. D. C.

SEC. 16. The appropriations made by Congress for filling said canal from Seventh street west to Seventeenth street west, and for the intercepting sewer along said canal, adjoining Government property, shall not be construed to create or imply any obligation on the part of the United States, in any respect whatever, in future.

Certain appropriations not to imply future obligations.

Sec. 237, R. S. D. C.

SEC. 17. That portion of Rock street, in Georgetown, in the District of Columbia, lying between Bridge street and the intersection of said Rock street with Monroe street is hereby vacated.

Rock street, Georgetown, D. C., portion of, vacated.

June 27, 1882, 22 Stat., 114.

SEC. 18. Permit work: For the improvement and repair of alleys and sidewalks and the construction of sewers under the permit system, ninety thousand dollars: *Provided*, That the property owners requesting such improvements shall pay one-half of the total cost: *And provided further*, That the Commissioners of the District of Columbia are authorized in their discretion to order such of the above enumerated work as in their opinion is necessary for the public health, safety, or comfort, and to pay the total cost of such work from said appropriation, one-half of the cost of such work to be charged against and become a lien upon the abutting property, and its collection to be enforced in the same manner as the collection of general taxes, and when so collected to be credited to said appropriation; and the material purchased under this appropriation shall be bought after due advertisement therefor, as required by existing law.

Permit work.

Provisos; owner to pay half.

Necessary work.

Cost of work how apportioned and collected.

July 18, 1888, 25 Stat., 319.

Permit work: SEC. 19. Permit work: For the improvement and repair of alleys and sidewalks and the construction of sewers and sidewalks, of such form and materials as the Commissioners may determine, under the permit system, one hundred and twenty-five thousand dollars: *Provided*, That the property owners requesting such improvements shall pay one-half of the total cost: *And provided further*; That the Commissioners of the District of Columbia are authorized in their discretion to order such of the above enumerated work as in their opinion is necessary for the public health, safety, or comfort, and to pay the total cost of such work from said appropriation, one half of the cost of such work so done, including material and labor, shall be charged against and become a lien upon the property abutting upon the line of such improvement, and shall be levied pro rata, according to the lineal frontage of each lot or part of lot abutting upon such improvement, within sixty days after making such assessment, and in order to reimburse said appropriation so expended one-half of the cost of such work so done, including labor and material, shall be charged against and become a lien upon the property abutting upon the line of the said work, and shall be levied pro-rata upon said property, according to its lineal frontage, upon such terms and regulations as to notice to proprietors and the method and terms of such notice as shall seem to the Commissioners of the District of Columbia right and proper, due notice of such terms and regulations being given by publication thereof in some newspaper published in the city of Washington for such time as said Commissioners shall prescribe, and the one-half so charged against such abutting property shall be paid as follows: One-third of the amount within sixty days from the date of service of notice of such assessment, without interest; one-third within one year and the remaining third within two years from the date of service of notice of such assessment, and interest shall be charged at the rate of ten per centum per annum from the date of service of such notice on all amounts shall remain unpaid at the expiration of thirty days after the service of the notice of such assessment: *Provided*, That if any property so assessed shall become subject to sale for any other assessment or tax whatever, then the assessment levied under this act shall become immediately due and payable, and such property may be sold therefor, together with the accrued interest thereon to the date of such sale, together with the costs of advertising and sale; and any property upon which such assessment and accrued interest thereon, or any part thereof, shall remain unpaid, at the expiration of two years from the date of service of notice of such assessment, shall be subject to sale therefor under the same conditions and penalties as are imposed by existing law for the non-payment of general taxes, and the material purchased under this appropriation shall be bought after due advertisement therefor, as required by existing law.

Owners to pay half.

Necessary work.

Mode of assessing charge.

Payments.

Property sold for taxes.
 March 2, 1889, 25 Stat., 796.
 22 Wash. Law Rep., 201, Allman vs. D. C.
 Ibid., 206, Jones vs. D. C.
 Ibid., 207, Keyser vs. D. C.

The Commissioners to establish grades of roads, streets, etc. SEC. 20. The Commissioners [Board of Public Works be, and they] are hereby, authorized to fix and establish the grades of the avenues, streets, and alleys of the cities of Washington and Georgetown, and the roads¹ of the county of Washington.

Leg. Assem., Aug. 19, 1871, sec. 1, p. 167. ¹See sec. 252, R. S. D. C. Provision for permanent system of highways outside of cities. 27 Stat. L., ch. 197, Mar. 2, 1893.

Improper appropriations of streets, etc. SEC. 21. The Secretary of the Interior is directed to prevent the improper appropriation or occupation of any of the public streets, avenues, squares, or reservations in the city of Washington, belonging to the United States, and to reclaim the same if unlawfully appropriated; and particularly to prevent the erection of any permanent building upon any property reserved to or for the use of the United States, unless plainly authorized by act of Congress, and to

Sec. 1818, R. S. U. S.
 U. S. vs. Cole, 7 Mackey Rep., 504.

report to Congress at the commencement of each session his proceedings in the premises, together with a full statement of all such property, and how, and by what authority, the same is occupied or claimed. Nothing herein contained shall be construed to interfere with the temporary and proper occupation of any portion of such property, by lawful authority, for the legitimate purposes of the United States.

SEC. 22. That said *Commissioners* [Board of Public Works] shall also have power to condemn and open roads and streets in the county of Washington in conformity with section eight of the act of Congress, approved March three, eighteen hundred and sixty-three, entitled "An act to define the powers and duties of the Levy Court of the county of Washington, District of Columbia, in regard to roads and other purposes." [See § 253, R. S. D. C., also post title "Highways," etc.]

Commissioners empowered to condemn and open roads and streets in Washington County.

Leg. Assem., Aug. 23, 1871, sec. 2, p. 110.

SEC. 23. The *Commissioners shall* [Board of Public Works] be, and they are hereby, authorized to condemn and open alleys in the cities of Washington and Georgetown upon the presentation of a plat of the alley to be opened, accompanied by a petition of a majority of the property-holders interested in said alley.

Alleys to be condemned and opened upon petition of majority of property holders interested.

Leg. Assem., Aug. 23, 1871, sec. 1, pp. 109, 110.

SEC. 24. Whenever all the owners of an entire square, or all the owners of a part of a square bounded on all sides by public streets, in the city of Washington, District of Columbia, shall present to the Commissioners of the District of Columbia, a petition asking that any alley or alleys within said square or part of square may be closed wholly or partially, and shall in said petition offer to dedicate for public use and shall so dedicate if in the opinion of the Commissioners of said District such dedication is necessary, as alley ways, ground owned by the petitioners in amount equal at least in area to that of the alley-way sought to be, closed, and shall also present to said Commissioners with said petition a correct plot of such square or part of square signed by all the owners thereof, upon which shall be accurately delineated the positions and dimensions of the existing alley way or ways, and a subdivision of the entire area of the alley or alleys, sought to be closed into parcels according to an agreement of all said owners for the future ownership of the same, the name of the agreed future owner of each parcel being marked thereon, and showing also the position and dimensions of the new alley way or ways proposed to be substituted therefor, it shall be the duty of said Commissioners, upon being satisfied of the truth of the facts stated in the petition as to ownership and of correctness of the plot, and also that the proposed change will not be detrimental to the public convenience, to make an order declaring the existing alley-way or ways closed as prayed for, and opening the new alley way or ways proposed to be substituted therefor.

Changing alleyways, in Washington, D. C.

July 6, 1882, 22 Stat., 151.

SEC. 25. The Commissioners shall cause a certified copy of the order to be attached to the plot and delivered to the petitioners, who may file the same for record with the recorder of deeds of the District, who shall record the same as other instruments affecting real estate, and thereafter the right of the public to use the alley-way or ways declared closed, and the proprietary interest of the United States therein, shall forever cease and determine, and the title to the same shall be vested according to the agreement of the owners as shown in the aforesaid plot, each person being thenceforward the owner in fee-simple of the parcel or parcels upon which his name shall be marked as provided in section one. The new alley way or ways

Copy of order and plot to be recorded: title thereupon vested in owner.

Ibid., sec. 2.

described in said order and delineated on said plot shall thereafter be and remain dedicated to public use as alley-ways, and like other alleys of said City, shall be under the care and control of the City Authorities.*

Alleys in county of Washington may be opened on petition of property-owners.

SEC. 26. The *Commissioners* [Board of Public Works be, and they] are hereby, authorized to condemn and open alleys in the county of Washington, upon the presentation of a plat of the alley to be opened, accompanied by a petition of a majority of the property-owners interested in said alley.

Leg. Assem., June 20, 1872, sec. 1, pp. 57, 58.

Draining into sewers required in certain cases.

SEC. 27. Any person or persons owning any lot or lots bordering on a public or private sewer will henceforth be required to drain such lot or lots into the sewer bordering thereon, and also drain all slops and water-closets into such sewer whenever the *Health Officer* [Board of Health] shall decide upon the necessity for so doing.

Leg. Assem., Aug. 21, 1871, sec. 1, p. 68.

Penalty for refusal.

SEC. 28. If any person or persons owning such lot or lots shall neglect or refuse to comply with the requirements of the first section of this act, within thirty days after a written notice has been served upon him or them by a member of the sanitary Metropolitan police, under authority or instruction from the *Health Officer* [Board of Health.] or if such lot or lots be vacant, and no owner or agent can be found within the District after a written notice has been posted upon the lot or lots for the period aforesaid by a member of said sanitary police, then the *Health Officer* [Board of Health] shall cause the said premises to be properly drained to the satisfaction of the *Commissioners* [Board of Public Works,] and the cost thereof, including the proportionate cost of such private sewer as may be thus made, shall be chargeable to the property, and be a lien thereon, to be collected in the same manner as other special taxes on real estate are collected.

Leg. Assem., Aug. 21, 1871, sec. 2, p. 68.

When private sewer used, owner to have remuneration.

SEC. 29. Where it has been found necessary to drain into a private sewer, the party owning or constructing such private sewer shall be entitled to such remuneration as may be deemed just by the *Commissioners* [Board of Public Works,] and the premises drained shall be assessed for such remuneration, which shall be collected as provided for in section two.

Leg. Assem., Aug. 21, 1871, sec. 3, p. 68.

*For acts of Congress relating to alleys in the following squares see: Square 762, 19 Stat., 56; square 751, 22 Stat., 343; square 195, 22 Stat., 4; square 234, 23 Stat., 36; square 635, 24 Stat., 23; square 895, 25 Stat., 73; square 132, 25 Stat., 355; square 725, alley extended, etc., 3 Legis. Assembly, ch. 56, June 26, 1873.

CHAPTER EIGHT.

BILLS, BONDS, AND PROMISSORY NOTES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Certain inland bills of exchange may be protested. 2. Protest or notice thereof to be given in fourteen days after made. In default of protest, etc., person failing liable in costs. 3. Bill lost or miscarried, drawer to give another. 4. Promissory notes may be assigned or indorsed and action maintained thereon as on inland bills of exchange. Plaintiff or defendant may recover costs. 5. Corporations or bodies politic shall not give note. 6. Party refusing to underwrite bill of exchange, such bill may be protested for nonacceptance. 7. No acceptance of inland bills of exchange to be sufficient unless same be underwritten; nor drawer liable to costs. | <p>Sec.</p> <ol style="list-style-type: none"> 8. No protests necessary for nonpayment unless bill be for £20 or more. By whom protests shall be made. 9. Acceptance of bill esteemed a full payment of debt. 10. Proviso as to remedy against drawer, acceptor, or indorser. 11. What shall be recovered on protested bills. 12. Inland bills liable to protest, etc. 13. What shall be recovered on certain bills, etc. 14. Plaintiff may assign many breaches of bond in courts of record. 15. Suits on sheriffs and testamentary bonds regulated. 16. In suits on bond, bill or other contract with penalty, the jury may find sum due as true debt, which may be pleaded and allowed to executors and others. |
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SEC. 1. All and every inland bill or bills of exchange [drawn in, or dated at and from, any trading city or town, or any other place in the Kingdom of England, Dominion of Wales, or town of Berwick upon Tweed,] of the sum of five pounds sterling [\$13.33 $\frac{1}{4}$] or upwards, [upon any person or persons of or in London, or any other trading city, town, or any other place] (in which said bill or bills of exchange shall be acknowledged and expressed the said value to be received) and is and shall be drawn payable at a certain number of days, weeks, or months after date thereof, that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the party's hand so accepting) and after the expiration of three days after the said bill or bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent, or assigns, may and shall cause the said bill or bills to be protested by a notary public, and in default of such notary public, by any other substantial person of the city, town, or place, in the presence of two or more credible witnesses, refusal or neglect being first made of due payment of the same; which protest shall be made and written under a fair written copy of the said bill of exchange, in the words or form following:

Certain inland bills of exchange may be protested.

9 and 10 William III, A. D. 1698, ch. 17, sec. 1. Alex. Brit. Stat., 633.

Kilty's Rep., 244.

2 Peters Rep., 590, Buckner vs. Finley; 5 Howard Rep., 711, U. S. vs. Bank; 4 Anne, ch. 16, secs. 12 and 13; Alex. Brit. Stat., 661.

"Know all Men, that I, A. B. on the — day of — at the usual place of abode of the said — have demanded payment of the bill, of which the above is a copy, which the said — did not pay, wherefore I the said — do hereby protest the said bill. Dated at — this — day of —.

[§ 988, R. S. D. C., Notaries Public.]

SEC. 2. Which protest so made, as aforesaid, shall within fourteen days after making thereof, be sent, or otherwise due notice shall be given thereof to the party from whom the said bill or bills were received, who is, upon producing such protest, to repay the said bill or bills, together with all interest and charges from the day such bill or bills were protested; for which protest shall be paid a sum not exceeding the sum of six pence; and in default or neglect of such protest made and sent, or due notice given within the days

Protest or notice thereof to be given in fourteen days after made.

In default of protest, etc., person failing liable in costs.

Ibid., sec. 2.

before limited, the person so failing or neglecting thereof, is and shall be liable to all costs, damages, and interest, which do and shall accrue thereby.

Bill lost or mis-carried; drawer to give another.

Ibid., sec. 3.

SEC. 3. *Provided nevertheless*, That in case any such inland bill or bills of exchange shall happen to be lost or miscarried within the time before limited for payment of the same, then the drawer of the said bill or bills is and shall be obliged to give another bill or bills of the same tenour with those first given, the person or persons to whom they are and shall be so delivered giving security, if demanded, to the said drawer, to indemnify him against all persons whatsoever, in case the said bill or bills of exchange so alledged to be lost or miscarried, shall be found again.

Promissory notes may be assigned or endorsed and action maintained thereon as on inland bills of exchange; plaintiff or defendant may recover cost.

3 and 4 Anne, ch. 9, sec. 1, A. D. 1703.

Alex. Brit. Stat., 649, 651.

Kilty's Rep., 245.

4 Cranch Rep., 161, *French vs. Bank*; 2 Peters Rep., 590, *Buckner vs. Finley*.

SEC. 4. Whereas it hath been held, that notes in writing, signed by the party who makes the same, whereby such party promises to pay unto any other person, or his order, any sum of money therein mentioned, are not assignable or indorsible over, within the custom of merchants, to any other person; and that such person to whom the sum of money mentioned in such note is payable, can not maintain an action, by the custom of merchants, against the person who first made and signed the same; and that any person to whom such note shall be assigned, indorsed, or made payable, could not, within the said custom of merchants, maintain any action upon such note against the person who first drew and signed the same: Therefore, to the intent to encourage trade and commerce, which will be much advanced, if such notes shall have the same effect as inland bills of exchange, and shall be negotiated in like manner; *Be it enacted*, * * * That all notes in writing, that after the first day of May, in the year of our Lord, one thousand seven hundred and five, shall be made and signed by any person or persons, body politic or corporate, or by the servant or agent of any corporation, banker, goldsmith, merchant, or trader, who is usually intrusted by him, her, or them, to sign such promissory notes for him, her, or them, whereby such person or persons, body politick and corporate, his, her, or their servant or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politick and corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons, body politic and corporate, to whom the same is made payable; and also every such note payable to any person or persons, body politic and corporate, his, her, or their order, shall be assignable or indorsible over, in the same manner as inland bills of exchange are or may be, according to the custom of merchants; and that the person or persons, body politic and corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for the same, in such manner as he, she, or they might do, upon any inland bill of exchange, made or drawn according to the custom of merchants, against the person or persons, body politic and corporate, who, or whose servant or agent, as aforesaid, signed the same; and that any person or persons, body politic and corporate, to whom such note that is payable to any person or persons, body politic and corporate, his, her, or their order, is indorsed or assigned, or the money therein mentioned ordered to be paid by indorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons, body politic and corporate, who, or whose servant or agent, as aforesaid, signed such note, or against any of the persons that indorsed the same, in like manner as in cases of inland bills of exchange: and in every such action the plaintiff or plaintiffs shall recover his, her, or their damages and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a ver-

dict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, defendant or defendants, respectively recovering, may sue out execution for such damages and costs by [*capias,*] *feri facias,* or *elegit*.

SEC. 5. *Provided*, That no body politic or corporate shall have power, by virtue of this act, to issue or give out any notes, by themselves or their servants, other than such as they might have issued, if this act had never been made.

Proviso against giving out notes by corporations, etc.

Ibid., sec. 3.

SEC. 6. And whereas by an act of Parliament made in the ninth year of the reign of His Late Majesty King William the Third, intituled, An act for the better payment of inland bills of exchange, it is, among other things, enacted, That from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the party's hand so accepting) and after the expiration of three days after the said bill or bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent, or assigns, may, and shall cause the same bill or bills to be protested in manner as in the said act is enacted: And whereas by there being no provision made therein for protesting such bill or bills, in case the party on whom the same are or shall be drawn, refuse to accept the same, by underwriting the same under his hand, all merchants and others do refuse to underwrite such bill or bills, or make any, other than a promissory acceptance, by which means the effect and good intent of the said act in that behalf is wholly evaded, and no bill or bills can be protested before or for want of such acceptance by underwriting the same, as aforesaid: *For remedy whereof be it enacted by the authority aforesaid*, That from and after the first day of May, which shall be in the year of our Lord one thousand seven hundred and five, in case, upon presenting of any such bill or bills of exchange, the party or parties, on whom the same shall be drawn, shall refuse to accept the same, by underwriting the same, as aforesaid, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the said bill or bills to be protested for non-acceptance, as in case of foreign bills of exchange; any thing in the said act, or any other law, to the contrary notwithstanding.

Party refusing to underwrite bill of exchange, such bill may be protested for non-acceptance.

Ibid., sec. 4.

SEC. 7. No acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever, unless the same be underwritten or indorsed in writing thereupon; and if such bill be not accepted by such underwriting, or indorsement in writing, no drawer of any such inland bill shall be liable to pay any costs, damages, or interest thereupon, unless such protest be made for non-acceptance thereof; and within fourteen days after such protest, the same be sent, or otherwise notice thereof be given to the party from whom such bill was received, or left in writing at the place of his or her usual abode; and if such bill be accepted, and not paid before the expiration of three days after the said bill shall become due and payable, then no drawer of such bill shall be compellable to pay any costs, damages or interest thereupon, unless a protest be made and sent, or notice thereof be given, in manner and form above mentioned: Nevertheless, every drawer of such bill shall be liable to make payment of costs, damages and interest upon such inland bill, if any one protest be made for non-acceptance, or non-payment thereof, be sent, given or left, as aforesaid.

No acceptance of inland bill of exchange to be sufficient, unless same be underwritten, nor drawer liable to costs.

Ibid., sec. 5.

SEC. 8. *Provided*, That no such protest shall be necessary, either for (non-acceptance or) non-payment of any inland bill of exchange, unless the value be acknowledged and expressed in such bill to be

No protest necessary for non-payment unless bill be for £20 or

more; by whom protests shall be made.

Ibid., sec. 6.
Acceptance of bill esteemed a full payment of debt.

Ibid., sec. 7.

received, and unless such bill be drawn for the payment of twenty pounds sterling [$\$53.33\frac{1}{3}$] or upwards; and that the protest, hereby required for non-acceptance, shall be made for non-payment thereof.

SEC. 9. If any person doth accept any such bill of exchange for and in satisfaction of any former debt, or sum of money formerly due unto him, the same shall be accounted and esteemed a full and complete payment of such debt, if such person, accepting of any such bill for his debt, doth not take his due course to obtain payment thereof, by endeavouring to get the same accepted and paid, and make his protest, as aforesaid, either for non-acceptance or non-payment thereof.

Proviso.

Ibid., sec. 8.

SEC. 10. *Provided*, That nothing herein contained shall extend to discharge any remedy, that any person may have against the drawer, acceptor or indorser of such bill.

What shall be recovered on protested bills, etc.

Md. act 1785, ch. 38, sec. 1.

2 Kilty, 26.

1 Dorsey, 197.

2 Har. and J. Rep., 396, Bryden vs. Taylor; 2 Peters Rep., 586.

Buckner vs. Finley; 2 Howard Rep., 711, Bank vs. U. S.; 5 Howard Rep., 382, U. S. vs. Bank.

SEC. 11. Upon all bills of exchange hereafter drawn in this *District* [state] on any person, corporation, company or society, in any foreign country, and regularly protested, the owner or holder of such bill, or the person or persons, company, society or corporation, entitled to the same, shall have a right to receive and recover so much current money as will purchase a good bill of exchange of the same time of payment, and upon the same place, at the current exchange of such bills, and also fifteen per cent. damages upon the value of the principal sum mentioned in such bill, and costs of protest, together with legal interest upon the value of the principal sum mentioned in such bill from the time of protest until the principal and damages are paid and satisfied; and if any endorser of such bill shall pay to the holder, or the person or persons, company, society or corporation, entitled to the same, the value of the principal and the damages and interest as aforesaid, such endorser shall have a right to receive and recover the sum paid, with legal interest upon the same, from the drawer, or any other person or persons, company, society or corporation, liable to such endorser upon such bill of exchange.

SEC. 12. All inland bills of exchange or orders drawn by a citizen, company, society or corporation, of any other of the United States, or any person or persons therein residing or being, on any person, company, society or corporation, of this *District* [state], or any person or persons therein residing, or being, shall be liable to official protest by a notaries public, who are hereby respectively vested with authority to make such protests under their respective seals of office, and shall receive [*his fee*] for such protests from the party requiring the same. [See § 990 R. S. D. C., post "Notaries Public."]

SEC. 13. Upon all bills of exchange or orders hereafter drawn in this *District* [state] upon any person or persons, company, society or corporation, in any other of the United States, and protested according to the laws or customs of the state where such bill shall be made payable, the owner or holder of such bill, or person or persons, company, society or corporation, entitled to the same, shall have a right to receive and recover so much current money as will purchase a good bill of exchange, at the current exchange of such bills, and also eight per cent. damages upon the value of the principal sum mentioned in such bill and costs of protest, together with legal interest upon the value of the principal sum mentioned in such bill, from the time of protest until the principal and damages are paid and satisfied; and if any endorser of any such bill shall pay to the holder, or person, company, society or corporation, entitled to the same, the value of the principal and the damages and interest as aforesaid, such endorser shall have a right to receive and recover the sum paid,

Inland bills liable to protest, etc.

Ibid., sec. 2.

1 Dorsey, 198.

What shall be received on certain bills, etc.

Ibid., sec. 3.

SEC. 13. Upon all bills of exchange or orders hereafter drawn in this *District* [state] upon any person or persons, company, society or corporation, in any other of the United States, and protested according to the laws or customs of the state where such bill shall be made payable, the owner or holder of such bill, or person or persons, company, society or corporation, entitled to the same, shall have a right to receive and recover so much current money as will purchase a good bill of exchange, at the current exchange of such bills, and also eight per cent. damages upon the value of the principal sum mentioned in such bill and costs of protest, together with legal interest upon the value of the principal sum mentioned in such bill, from the time of protest until the principal and damages are paid and satisfied; and if any endorser of any such bill shall pay to the holder, or person, company, society or corporation, entitled to the same, the value of the principal and the damages and interest as aforesaid, such endorser shall have a right to receive and recover the sum paid,

with legal interest upon the same, from the drawer, or any other person or persons, company, society or corporation, liable to such endorser, upon such bill of exchange.

SEC. 14. All actions which shall be commenced or prosecuted in any court of record, upon any bond or bonds, or on any penal sum for non-performance of any covenants or agreements in any indenture, deed, or writing contained, the plaintiff or plaintiffs may assign as many breaches as he or they shall think fit, and the jury, upon trial of such action or actions, shall and may assess, not only such damages and costs of suit as have heretofore been usually done in such cases, but also damages for such of the said breaches so to be assigned, as the plaintiff upon the trial of the issues shall prove to have been broken, and that the like judgment shall be entered on such verdict as heretofore hath been usually done in such like actions; and if judgment shall be given for the plaintiff on a demurrer, or by confession, or *nihil dicit*, the plaintiff upon the roll may suggest as many breaches of the covenants and agreements as he shall think fit, upon which shall issue a writ to the sheriff of that county where the action shall be brought to summon a jury to appear before the justices or justice of assize, or *nisi prius*, of that county, to inquire of the truth of every one of those breaches, and to assess the damages that the plaintiff shall have sustained thereby; in which writ it shall be commanded to the said justices or justice of assize, or *nisi prius*, that he or they shall make a return thereof to the court from whence the same shall issue, at the time in such writ mentioned; and in case the defendant or defendants, after such judgment entred, and before any execution executed, shall pay unto the court where the action shall be brought, to the use of the plaintiff or plaintiffs, or his or their executors or administrators, such damages, so to be assessed, by reason of all or any of the breaches of such covenants, together with the costs of suit, a stay of execution of the said judgment shall be entred upon record; or if by reason of any execution executed, the plaintiff or plaintiffs, or his or their executors or administrators shall be fully paid or satisfied all such damages so to be assessed, together with his or their costs of suit, and all reasonable charges and expences for executing the said execution, the lands, or goods of the defendant, shall be thereupon forthwith discharged from the said execution, which shall likewise be entred upon record; but notwithstanding in each case such judgment shall remain, continue, and be, as a further security to answer to the plaintiff or plaintiffs, and his or their executors or administrators, such damages as shall or may be sustained for further breach of any covenant or covenants in the same indenture, deed, or writing, contained, upon which the plaintiff or plaintiffs may have a *scire facias* upon the said judgment against the defendant, or against his heir, terre-tenants, or his executors or administrators suggesting other breaches of the said covenants, or agreements, and to summon him or them respectively to shew cause why execution shall not be had or awarded upon the said judgment, upon which there shall be the like proceeding as was in the action of debt upon the said bond or obligation for assessing of damages upon trial of issues joined upon such breaches or inquiry thereof, upon a writ to be awarded in manner as aforesaid; and that upon payment or satisfaction in manner as aforesaid, of such future damages, costs, and charges, as aforesaid, all further proceedings on the said judgment are again to be stayed, and so *toties quoties*, and the defendant, his lands, or goods, shall be discharged out of execution, as aforesaid.

Plaintiff may assign many breaches of bond in courts of record.

8 & 9 William III, ch. 11, sec. 8. A. D. 1697.

Alex. Brit. Stat.. 604-606.

Kilty's Rep.. 244.

60 Md. Rep., 208. *Ahl vs. Ahl*; 3 Md. Rep., 211. *James vs. State*; 2 Md. Rep., 284. *Scott vs. State*.

SEC. 15. Whereas it is represented to this general assembly, that No person to sheriffs' and testamentary bonds are frequently put in suit in the proceed to judgment, etc.

provincial court, and that the persons causing such bonds to be sued, upon their obtaining judgments, frequently issue executions for the whole penalties contained in such bonds, with directions to the sheriff, or coroners, to release the party executed, upon payment of what the creditor alleges his demand to be: And whereas an act of parliament, made the eighth and ninth years of King William the Third, entitled, An act for the better preventing frivolous and vexatious suits, does not fully provide for the evils complained of: *Be it enacted*, That it shall not be lawful for any person or persons causing such bonds to be sued to proceed to judgment, until the creditor or creditors clearly make appear to the court what his, her or their demand is or are, which court may, and they are hereby empowered, upon the defendant's having notice given him, her or them, or notice left at the place of his, her their last place of abode, twenty days before the court in which the plaintiffs apply for such debt or demand to be assessed, as also a copy of the nature of his, her or their demand, attested by the clerk, to assess such damages, or appoint auditors to adjust such demands, whereupon it shall be lawful for such court to give judgment to such creditor or creditors on such bond in usual manner; but that execution only issue for such sum as shall be made appear to be due, unless the party at whose request such bond be sued, or the defendant or defendants applies to the court, praying a writ of inquiry, which, if either party prays, shall be issued by the court, to be proceeded in according to the directions of the aforesaid act of parliament, and that execution issue for no more than found by the jury, with costs and interest till payment made or tendered; and that where any such bond is proceeded on to judgment, no other creditor shall come in for any part of the penalty, under pretence of any thing being due to such creditor, without sending a *scire facias* to be served, which *scire facias* shall be sued within eighteen months after such recovery, and not after, on the defendant or defendants, in which *scire facias* shall be contained the nature of such creditor or creditors' demand, and the sum due.

Suits on sheriffs' and testamentary bonds regulated.

Md. act 1729, ch. 25, secs. 1, 2.

1 Kilty, 213.
1 Dorsey, 77.
60 Md. Rep., 208, *Ahl vs. Ahl*.

In suits on bond, bill, or other contract with penalty, the jury may find sum due as the true debt, which may be pleaded and allowed to executors and others.

Md. act 1785, ch. 80, sec. 13.

2 Kilty, 63.
1 Dorsey, 234.
48 Md. Rep., 298, *Orendorf vs. Utz*; 41 Md. Rep., 236, *State vs. Tabler*; 38 Md. Rep., 338, *State vs. Wilson*.

SEC. 16. In all cases of actions brought for the penalty of any bond, bill, covenant or contract, with penalty, the jury may, under the direction of the court, upon the plea of payment, or performance of the conditions or terms of the contract, ascertain, and by their verdict find, what sum of money or tobacco is really and justly due to the plaintiff, and upon such finding, judgment shall be entered by the court for the penalty, to be released upon payment of the sum of money or tobacco so found to be due, and interest on the same until paid, and costs of suit; and the sum really due as aforesaid, or in any other manner ascertained, upon bonds and other instruments of writing with penalty, shall be considered in law as the true debt, and shall be so pleaded by and allowed to executors, administrators, and others.

CHAPTER NINE.

CHAMPERTY.

<p>Sec. 1. Statutes concerning champerty, etc., shall be enforced. 2. Pretenced rights in lands not to be bought unless the vendor hath taken the profit thereof one year before.</p>	<p>Sec. 3. Penalty for unlawfully maintaining of suits. Recovery and distribution of fine. 4. Purchase of pretenced title by him that is in possession is lawful. 5. Limitation of action against offender.</p>
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SEC. 1. All statutes heretofore made concerning maintenance, champerty, and embracery, or any of them now standing and being in their full strength and force, shall be put in due execution, according to the tenures and effects of the same statutes.*

Statutes concerning champerty, etc., shall be enforced.

32 Henry VIII, ch. 9, sec. 1, A. D. 1540. Alex. Brit. Stat., 318. Kilty's Rep., 232. 20 How. Rep., 483, Roberts vs. Cooper; 22 Wash. Law Rep., 108, Matthews vs. Horner.

SEC. 2. No person or persons, of what estate, degree, or condition soever he or they be, shall from henceforth bargain, buy, or sell, or by any ways or means obtain, get, or have any pretenced rights or titles, or take, promise, grant, or covenant to have any right or title of any person or persons, in or to any manors, lands, tenements, or hereditaments (except such person or persons, which shall so bargain, sell, give, grant, covenant, or promise the same, their antecessors, or they by whom he or they claim the same, have been in possession of them same, or of the reversion or remainder thereof, or taken the rents or profits thereof, by the space of one whole year next before the said bargain, covenant, grant or promise made) (2) upon pain that he that shall make any such bargain, sale, promise, covenant, or grant, to forfeit the whole value of the lands, tenements, or hereditaments, so bargained, sold, promised, covenanted, or granted, contrary to the form of this act; (3) and the buyer and taker thereof, knowing the same, to forfeit also the value of the said lands, tenements, or hereditaments so by him bought or taken, as is abovesaid; (4) the one-half of the said forfeitures to be to the king our sovereign lord, and the other half to the party that will sue for the same in any of the king's courts of record, by action of debt, bill, plaint, or information; in which action, bill, plaint, or information, no essoin, protection, wager of law, nor injunction shall be allowed.

Pretenced rights in lands not to be bought unless the vnder hath taken the profit thereof one year before.

Ibid., sec. 2. 22 Wash. Law Rep., 108, Matthews vs. Horner.

SEC. 3. No manner of person or persons of what estate, degree, or condition soever he or they be, do hereafter unlawfully maintain, or cause, or procure any unlawful maintenance in any action, demand, suit or complaint in any of the King's courts of the chancery, the star-chamber, White-hall, or elsewhere within any of the King's Dominions of England and Wales, or the marches of the same, where any person or persons have, or hereafter shall have authority, by virtue of the King's commission, patent, or writ to hold plea of lands, or to examine, hear, or determine any title of lands, or any matter or witnesses concerning the title, right, or interest of any lands, tenements, or hereditaments; (2) and also that no person or persons, of what estate, degree, or condition soever he or they be, do hereafter unlawfully retain, for maintenance of any suit or plea, any person or persons, or embrace any freeholders or jurors, or suborn any witness, by letters, rewards, promises, or any other sinister labour or means, for to maintain any matter or cause, or to the disturbance or hindrance of justice, or to the procurement, by occasion

Penalty for unlawfully maintaining of suits.

Ibid., sec. 3.

* The English statutes were in force in Maryland in the same manner and to the same extent as they were in England. 4 Cranch, Ct. Repts., 120. U. S. vs. Jennegen.

of any manner of perjury by false verdict, or otherwise, in any manner of courts aforesaid, (3) upon pain to forfeit for every such offense xli.* [the one moiety thereof unto the King our sovereign lord, and the other moiety to him that will sue for the same by action of debt bill, plaint, or information in any the King's courts;] in which action, no [essoin, protection, wager of law, nor] injunction shall be allowed. †

Purchase of pretended title by him that is in possession is lawful.

Ibid., sec. 4.
22 Wash. Law Rep., 108, Matthews vs. Horner.

SEC. 4. It shall be lawful to any person or persons being in lawful possession by taking of the yearly farm, rents or profits, of or for any manors, lands, tenements or hereditaments, to buy, obtain, get, or have, by any reasonable way or means, the pretended right or title of any other person or persons, hereafter to be made to, of or in such manors, lands, tenements or hereditaments, whereof he or they shall so be in lawful possession; anything in this act contained to the contrary notwithstanding.

Limitation of action against offender.

Ibid., sec. 6.

SEC. 5. This act shall not extend to charge any person or persons with any of the penalties mentioned in said act for any offence by him or them committed contrary to said act, except the same person or persons so offending be sued thereof by action of debt, bill, plaint or information within one year next after the same offence by him or them committed, as is aforesaid.

*The penalty is enlarged to £10 by V. Eliz. ch. 9, sec. 8.
†Stanton vs. Haskin, 1 McArthur, Rep. 558, Miller vs. Ammon, 145 U. S. Rep., 421. Recovery and distribution of fine regulated by sec. 837, R. S. D. C.

CHAPTER TEN.

CHANCERY.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Jurisdiction of court. 2. When suits may be maintained. 3. Proceedings to enforce a lien; judgments <i>in rem</i> and personal, and how enforced. 4. No subpoena to issue until after bill filed; exceptions as to injunctions, etc. 5. Bill dismissed, plaintiff to pay defendant's costs; no copy or abstract of any bill to go with <i>dedimus</i> for taking answer of defendant. 6. Decree confirming sale; effect of; where to be recorded to be effective; notice. 7. Minors and insane persons shall in certain cases make conveyances. 8. Guardian of infant must consent to decree and infant may show cause after majority. 9. Proceedings against defendants not served; publication (see footnote); <i>pro confesso</i>; court may direct performance. 10. Proceedings after decree against absent defendants. 11. Idiots or lunatics seized or possessed of certain estates in trust, to make conveyance of such estates under direction of court. 12. Idiots and lunatics holding trust estates and their committees may be compelled to make conveyances, etc. | <p>Sec.</p> <ol style="list-style-type: none"> 13. Infants, being trustees, by decree of court may make valid conveyances of trust estates. 14. Infants seized of estates in trust may be compelled by decree to make conveyance. 15. Infants seized of lands in trust, or of lands subject to an agreement to convey may be decreed to convey. 16. Infants may show cause against decree to convey trust, etc.; estates: limitation as to time. 17. Where property of insane person not devisable whole may be sold. 18. When court may direct sale of personal property, etc., of idiot, lunatic, or <i>non compos mentis</i>. 19. Court may direct sale of property of idiots, lunatics, and <i>non compos mentis</i>, when necessary for their support. 20. Sales of property of idiots, lunatics, etc., to be confirmed by decree after report filed. 21. Proceeds of sale of property of idiot, lunatic, etc., how applied and how distributed after their death. 22. Real estate of infants or lunatics, etc., when subject to mortgage may be sold by order of court. 23. Bond required in foreclosure of mortgage where infant concerned. <i>Non est factum</i>, plea of, must be verified. |
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| <p>Sec.</p> <p>24. Foreclosure mortgage sale may be ordered; bond and obligation. <i>Non est factum</i>, plea of, must be verified. Orders enforced by attachment.</p> <p>25. When trustee may be appointed to sell lands of deceased persons.</p> <p>26. When creditor may procure sale of decedents lands.</p> <p>27. Care of the person and management of estates of the insane to be directed by the court; appointment of committee; sale of property, etc.</p> <p>28. Trustee may be appointed to make any sale of estate of the insane.</p> <p>29. Such sale must be confirmed before conveyance; bond required of trustee, its obligations. <i>Non est factum</i>, plea of, must be verified.</p> <p>30. Terms of such sales regulated by court; bond.</p> <p>31. When bond required of trustee appointed by will of, etc. <i>Non est factum</i>, plea, must be verified.</p> <p>32. When court may order deed to be recorded; effect thereof.</p> <p>33. Joint interests in lands of infants or insane persons, sale of may be decreed.</p> <p>34. When a decree shall have effect of a conveyance.</p> <p>35. Parties may be present at taking of testimony by commission.</p> <p>36. Allowance to commissioner to take evidence.</p> <p>37. Payment of allowances to commissioners, etc., may be enforced.</p> <p>38. <i>Pro confesso</i> may be entered where defendant fails to answer.</p> <p>39. Proceedings to compel answer, <i>pro confesso</i>, or commission.</p> <p>40. Defendant may exhibit interrogatories to plaintiff; effect of, etc.</p> <p>41. Orders enforced by process of contempt and commitment.</p> <p>42. Public officers, marshal, etc., may be punished by fine etc., for failing to execute process or order.</p> <p>43. Marshal, etc., to return process or order; for failure, shall be fined.</p> <p>44. Decrees or judgments, how enforced; execution, injunction, etc., process of contempt.</p> <p>45. Demurrer or plea overruled, party in contempt until costs paid.</p> <p>46. Injunction to stay waste; if disobeyed, attachment may issue.</p> <p>47. Injunction to stay proceedings at law not granted until bond approved.</p> <p>48. Execution sale of perishable property enjoined, property to be delivered and liability of officer ceases.</p> <p>49. Foreclosure of mortgages regulated; <i>pro confesso</i> and final decree. Service by publication (note to this section).</p> <p>50. Bill being filed against residents and nonresidents, when may be taken <i>pro confesso</i>; decree.</p> <p>51. Commitment for contempt for non-compliance with orders of court.</p> <p>52. Power of court to make and execute orders and decrees. Appeal therefrom.</p> <p>53. Creditors may file petition for sale of lands of persons dying seized.</p> | <p>Sec.</p> <p>54. When United States will pay creditors of deceased whose lands escheated.</p> <p>55. After publication in suits for specific performance, <i>pro confesso</i> and final decree. Publication regulated (see note to this section).</p> <p>56. Decree made against nonresident shall stand confirmed unless reviewed; limitation of time for application for review.</p> <p>57. Court has authority to determine disputes as to escheated estates.</p> <p>58. Commissions on sales allowed to trustees, guardians, and agents.</p> <p>59. Lands of nonresident minors may be sold to pay debts of deceased as in case of resident minors.</p> <p>60. In such sales, court shall direct notice to be given to guardian of such minors.</p> <p>61. Remainder or other interest in land of nonresident minor may be sold to pay debts of person from whom derived.</p> <p>62. In such case notice required.</p> <p>63. Certain deeds may be ordered recorded without appearance of defendant; what notice required.</p> <p>64. Effect of deed so recorded.</p> <p>65. 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Lands escheated after death of person seized, his creditors entitled to pro rata distribution; procedure.</p> <p>75. Purchaser of equitable title has same title as under this act (1794 Md. act., ch. 60).</p> <p>76. Partition of lands of infants or insane persons having joint interests, when; procedure.</p> <p>77. Foreclosure of mortgages against nonresidents may be decreed.</p> <p>78. Sale of equitable interest in land may be decreed for creditor, process, etc.</p> <p>79. <i>Pro confesso</i> after publication may be decreed against nonresident; limitation as to review.</p> <p>80. Equitable title to land may be sold by decree.</p> |
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| <p>Sec.
81. Creditor may obtain sale of equitable title of deceased debtor's land.</p> <p>82. Commission to take depositions may issue to one person, by consent.</p> <p>83. Bill may be filed against sole heirs of deceased persons; procedure.</p> <p>84. Publication may be substituted for personal service where defendant evades service.</p> <p>85. Death of party not to abate causes regularly set or submitted; decree gives no preference.</p> <p>86. In suits for partition, nonresident infants answer to be taken by commission.</p> <p>87. Proceedings against nonresident defendant after service of summons.</p> <p>88. Answer to interrogatories, how enforced; <i>pro confesso</i> and final decree.</p> <p>89. Bill of revivor after death of complainant; power of court.</p> <p>90. Proceedings and decree against nonresident infants; their subsequent rights of review, etc.</p> <p>91. <i>Pro confesso</i>, when may be entered.</p> <p>92. Powers of single commissioner to take testimony.</p> <p>93. Claims against escheated lands, how enforced.</p> | <p>Sec.
94. Costs, how chargeable in suits against the Government.</p> <p>95. Defendant appearing shall answer fully each interrogatory of bill, plead, or demur; <i>pro confesso</i> against nonresident.</p> <p>96. Receivers may be sued without leave of court.</p> <p>97. Damages may be awarded upon untrue suggestion.</p> <p>98. Supreme Court authorized to appoint some fit person to take charge of estate of habitual drunkards; procedure; who may be appointed.</p> <p>99. Same subject; bond of committee.</p> <p>100. Same subject; powers and duties of committee.</p> <p>101. Same subject; when and how property can be sold.</p> <p>102. Same subject; contracts with habitual drunkards void as against them—as to other parties.</p> <p>103. Same subject; when control of property may be restored.</p> <p>104. Same subject; how fitness to control property ascertained.</p> <p>105. Same subject; repealing clause.</p> |
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Jurisdiction of the court of chancery.

Md. act 1715, ch. 41, sec. 7.

1 Dorsey, 25.

1 Kilty, 126. 3 Ohio St., 457, Carr vs. Iglehart; 3 Md. Chy., 331, Reynolds vs. Howard; 35 Md. Rep., 73, Pentz vs. Ins. Co.

When suits of equity may be maintained.

Sec. 723, R. S. U. S. 24 Sept., 1789, c. 20, s. 16, v. 1, p. 82. 23 Wall., 470, Lewis vs. Cocks; 105 U. S. Rep., 212, Root vs. Railway; 110 U. S. Rep., 574, Killian vs. Ebbinghaus; 121 U. S. Rep., 201, McConihay vs. Wright; Robinson vs. Campbell, 3 Wh., 212; Boyce's Executors vs. Grundy, 3 Pet., 210; *Ex parte* Tillinghast, 4 Pet., 108; Clark vs. Smith, 13 Pet., 195; U. S. vs. Price, 9 How., 83; Bennett vs. Butterworth, 11 How., 669; *Ex parte* Secombe, 19 How., 9; Hipp vs. Babin, 19 How., 271; Hungerford vs. Sigerson, 20 How., 156; Parker vs. Winnepiseogee Company, 2 Bl., 545; Watts vs. Sutherland, 5 Wall., 74; Thompson vs. Railroad Companies, 6 Wall., 134.

Proceedings to enforce a lien; judgments *in rem* and personal, and how enforced.

Sec. 808, R. S. execution thereof as at law.
D. C. 22 Feb., 1867, c. 64, s. 10, v. 14, p. 404.

No subpoena to issue until after bill filed; exceptions as to bills of injunction, etc.

4 Anne, ch. 16, sec. 22, A. D. 1705.
Alex. Brit. Stat., 663.
Kilty's Rep., 245.

SEC. 1. His majesty's high court of chancery within the province shall not hear, try, determine or give relief in any cause, matter or thing, wherein the original debt or damages doth not amount to twelve hundred and one pounds of tobacco [\$20], or five pounds and one penny in money [\$13.33 $\frac{1}{3}$]. [§§ 764, 769, 791, 800, 808, and 763, R. S. D. C., as amended Feb. 27, 1877, Sup. R. S., par. 11, p. 279.]

SEC. 2. Suits in equity shall not be sustained in either of the courts of the United States in any case where a plain, adequate, and complete remedy may be had at law.

SEC. 3. The proceeding to enforce any lien shall be by bill or petition in equity, and the decree, besides subjecting the thing upon which the lien has attached to the satisfaction of the plaintiff's demand against the defendant, shall adjudge that the plaintiff recover his demand against the defendant, and that he may have

SEC. 4. No subpoena, or any other process for appearance, do issue out of any court of equity, till after the bill is filed with the proper officer of the court, * * * except in cases of bills of injunction to stay wastes, or stay suits at law commenced, and a certificate thereof brought to the subpoena-office, or to him who usually makes out subpoenas, or other process in the * * * Court of Equity, under the hand of the * * * Clerk, * * * for which certificate he shall receive no fee.

SEC. 5. Upon the plaintiff's dismissing his own bill, or the defendant's dismissing the same for want of prosecution, the plaintiff in such suit shall pay to the defendant or defendants, his or their full costs [to be taxed by a master, and that no copy, abstract or tenor of any bill in equity, do go with dedimus or commission for taking the defendant's answer; but in lieu and recompence thereof, the sworn clerks of the court of chancery shall take to their own use, in all causes, the whole term-fee of three shillings and four pence, and also the whole fee or fees of and for all small writs made by the said sworn clerks.]

Bill dismissed, plaintiff to pay defendant's costs: no copy or abstract of any bill to go with *dedimus* for taking answer of defendant.

Ibid., sec. 23.

SEC. 6. In case of the sale of things, real or personal under a decree in equity, the decree confirming the sale shall divest the right, title, or interest sold out of the former owner, party to the suit, and vest it in the purchaser, without any conveyance by the officer or agent of the court conducting the sale; and the decree shall be notice to all the world of this transfer of title when a copy thereof shall be registered among the land-records of the District; but the court may, nevertheless, order its officer or agent to make a conveyance, if that mode be deemed preferable, in particular cases.

Decree confirming sale: effect of; where to be recorded to be effective notice.

Sec. 793, R. S. D. C.

Ibid., s. 21, 406.

SEC. 7. Persons under the age of one and twenty years, and persons being idiot, lunatic, or *non compos mentis*, seized or possessed of any lands, tenements or hereditaments, in trust, or by way of mortgage, or seized or possessed thereof, charged or chargeable with the payment of money or tobacco, and therefore subject or liable to a decree for sale, or bound by an agreement to convey, made by some person or persons having right or title to make such agreement, and therefore subject or liable to a decree for conveyance on a suit for a specific performance or execution of such agreement, shall, by direction of the court of chancery, signified by an order made upon the hearing of all persons concerned, on the petition of the person or persons for whom such infant or infants, or persons being idiot, lunatic, or *non compos mentis*, or his, her or their committee or committees, in his, her or their name or names, shall be seized or possessed in trust, or of the mortgagor or mortgagors, or other person or persons entitled to redemption, or person or persons entitled to money or tobacco secured by or upon the said lands, tenements or hereditaments, or of the person or persons entitled to any money or tobacco, with the payment whereof the said lands, tenements or hereditaments, are or shall be charged or chargeable, or of the person or persons entitled to a specific performance or execution of such agreement as aforesaid, convey and assure any such lands, tenements or hereditaments, in such manner as the court of chancery shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance, so to be had and made as aforesaid, shall be as good and effectual in law as if such infant or infants were, at the time of making such conveyance or assurance, of the full age of twenty-one years;* and the conveyance or assurance, so to be had and made as aforesaid, in the case of persons being idiot, lunatic, or *non compos mentis*, shall, in like manner, be as good and effectual as if the said person or persons was or were, at the time of making such conveyance or assurance, of sound mind, memory and understanding, and had by him, her or themselves, executed the same; and all and every such infant or infants, or persons being idiot, lunatic, or *non compos mentis*, being trustee or trustees, or mortgagee or mortgagees, or being seized or possessed of lands, tenements or hereditaments, liable or subject in any manner aforesaid, or the committee or committees of all and every such person, being idiot, lunatic, or *non compos mentis*, shall and may be compelled, by

Minors and insane persons shall in certain cases make conveyance.

Md. act 1773, ch. 7, sec. 1.

Thomp. Dig., 117.

1 Dorsey, 121.

1 Kilty, 400.

* By 1778, ch. 22, such infants shall be bound by conveyances made by guardians, in pursuance of the order and direction of the court of chancery, and conveyances which had been so made are declared to be valid and effectual.

such order as aforesaid, to make such conveyance or conveyances, assurance or assurances, in like manner as persons of full age and of sane memory are compellable to make.*

Guardian of infant must consent to decree, and infant may show cause after majority.

Ibid., sec. 2.
1 Dorsey, 123.
1 Kilty, 400.
Thom p. Dig.,
118.

SEC. 8. No order or direction as aforesaid shall be made or given in virtue of this act, in the case of any infant or infants seized or possessed of any lands, tenements or hereditaments, charged with or subject to the payment of money or tobacco, unless it shall appear, that the guardian or guardians of such infant or infants hath or have consented thereunto, and also that such infant or infants will not sustain any detriment, disadvantage or inconvenience, from such order or direction; and also, that upon every order or direction for conveyance to be made by an infant or infants, for the specific performance and execution of any such agreement as aforesaid, liberty shall be reserved for the said infant or infants to shew cause, within six months after he, she or they, shall have attained the full age of twenty-one years, if such infant or infants shall attain such full age, and also for the heirs of such infant or infants, if such infant or infants shall not so long live, in six months after the decease of such infant or infants, if the said heirs shall then be of full age, and if such heirs shall not then be of full age, in six months after such heirs shall have attained his, her or their full age, why such conveyance ought not to have been ordered or directed, and on sufficient cause being shewn as aforesaid, the infant or infants aforesaid, or his or their heirs, shall be entitled to and have a reconveyance, by order or decree of the said court, of the said lands, tenements or hereditaments, by whomsoever claimed or possessed, by, from or under the conveyance made by such infant or infants aforesaid, and also a full account of the rents and profits thereof, of and from the person who shall have received the same.

Proceedings against defendants not served.

SEC. 9. If any suit, which shall be commenced in the court of chancery, any defendant or defendants, against whom any subpoena or other process shall issue, shall not cause his, her or their appearance to be entered upon such process, within such time and in such manner as according to the rules of the court the same ought to have been entered, in case such process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of the court, that such defendant or defendants is or are out of this *District* [province,] or that upon inquiry at his, her or their usual place of abode, he, she, or they, could not be found so as to be served with such process, and that there is just ground to believe that such defendant or defendants is or are gone out of this *District* [province,] or otherwise abscond to avoid being served with the process aforesaid, then and in such case the said court may make an order, directing and appointing such defendant or defendants to appear at a certain day therein to be named [and a copy of such order shall forthwith be inserted in the Maryland Gazette, and continued therein for six successive weeks, and a copy of such order shall be left, as soon as conveniently may be, at the usual place of abode of such defendant or defendants, before his, her or their leaving this province or absconding as aforesaid, and also a copy of it shall be forthwith set up at the door of the court-house of the county wherein the defendant or defendants did last reside, before his, her or their absconding as aforesaid; and if the defendant or defendants do not appear within the time limited by such order, or within such further time as the court shall appoint,†] then, on proof made of such publication of such order, the court,

Publication.

Pro confesso.

* By 1791, ch. 79, on application by any representative of a person deceased, who shall have contracted for the sale and conveyance of lands, etc., and not performed the same, and shall have devised or left them to descend to persons under age, etc., if the said representatives are immediately interested in having a specific performance, the chancellor may decree the same as in other cases by this act.

† Publication now regulated by secs. 787 to 789 R. S. D. C.

being satisfied of the truth thereof, may order the bill of the plaintiff or plaintiffs to be taken *pro confesso*, and make such decree thereupon as shall be thought just, and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the party or parties so absenting. (if any such can be found,) or such part thereof as may be sufficient to satisfy the demands of the plaintiff or plaintiffs in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff or plaintiffs, or otherwise, as the nature of the case shall require; and the said court may likewise order such plaintiff or plaintiffs to be paid and satisfied his, her or their demands, out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff or plaintiffs first giving sufficient security, in such sum as the court shall think proper, to abide such order, touching the restitution of such estate or effects as the court shall think proper to make concerning the same, upon the appearance of the defendant or defendants to defend such suit, and paying such costs to the plaintiff or plaintiffs as the court shall order.

Court may direct performance.

Ibid., sec. 3.
1 Dorsey, 123.
1 Kilty, 401.
Thomp. Dig., 119.

SEC. 10. If any decree shall be made in pursuance of this act against any person or persons being out of this *District* [province,] or absconding in manner aforesaid at the time such decree is pronounced, and such person or persons shall, within two years after making such decree, return or become publicly visible, then and in such case he, she or they, shall likewise be served with a copy of such decree, within a reasonable time after his, her or their return or public appearance shall be known to the plaintiff or plaintiffs; and in case any defendant, against whom such decree shall be made, shall, within two years after making such decree, happen to die before his or her return into this province, or appearing openly as aforesaid, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff or plaintiffs, and such heir may be found, or if such heir shall be a feme covert, infant, or *non compos mentis*, the husband, guardian or committee, of such heir respectively, or, if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff or plaintiffs, then his or her executor or administrator, (if any such there be,) may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff or plaintiffs that the defendant is dead, and who is his or her heir, executor or administrator, or where he, she or they respectively be served therewith; and if any person or persons, so served with a copy of such decree, shall not, within six months after such service, appear and petition to have the said cause reheard, such decree, so made as aforesaid, shall stand absolutely confirmed against the person or persons so served with a copy thereof, his, her and their respective heirs, executors and administrators, and all persons claiming, or to claim, by, from or under him, her, them, or any of them, by virtue of any act done, or to be done, subsequent to the commencement of such suit; and if any person, so served with a copy of such decree shall, within six months after such service, or if any person, not being so served, shall, within two years next after the making such decree, appear in court, and petition to be heard with respect to the matter of such decree, and shall pay down, or give security for payment of such costs as the court shall think reasonable in that behalf, the person or persons so petitioning, his, her or their respective representatives, or any person or persons claiming under him, her or them respectively, by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution, may be had thereon, as their

Proceedings after decree against absent defendants.

Ibid., sec. 4.
Thomp. Dig., 121.
1 Dorsey, 124.
1 Kilty, 401.

might have been in case the same party had originally appeared, and the proceedings had been newly begun, or as if no former decree or proceedings had been in the same cause; and if any person or persons against whom such decree shall be made, his, her or their heirs, executors or administrators, shall not, within two years next after making such decree, appear and petition to have the cause reheard, and pay down, or give security for payment of such costs as the court shall think reasonable in that behalf, such decree, made as aforesaid, shall stand absolutely confirmed against the person and persons against whom such decree shall be made, his, her and their heirs, executors and administrators, and against all persons claiming, or to claim, by, from or under him, her or them, or any of them, or any of them, by virtue of any act done subsequent to the commencement of such suit, and at the end of such two years, it shall and may be lawful for the court to make such further order as shall be just and reasonable, according to the circumstances of the case.

Idiots and lunatics seized or possessed of certain estates in trust to make conveyances of such estates, under direction of court.

4 George II, ch. 10, sec. 1, A. D. 1731.

Alex. Brit. Stat., 700, 701.

Kilty's Rep., 249.

SEC. 11. Whereas many inconveniencies do and may arise, by reason that persons being idiot, lunatick, or *non compos mentis*, having estates in lands, tenements, or hereditaments, in trust only for others, or by way of mortgage, cannot (though by the direction of the *cestuy que trust*, or mortgagor) convey any sure estate in any such lands, tenements, or hereditaments, to any other person or persons; *For remedy thereof, be it enacted * * ** That from and after the twenty fourth day of June, one thousand seven hundred and thirty one, it shall and may be lawful to and for any such person or persons, being idiot, lunatick, or *non compos mentis*, or for the committee or committees of such person or persons, in his, her, or their name or names, by the direction of the [lord] chancellor [of Great Britain, or the lord keeper, or commissioners of the great seal of Great Britain for the time being,] signified by an order made, upon hearing all parties concerned, on the petition of the person or persons, for whom such person or persons being idiot, lunatick, or *non compos mentis*, shall be seized or possessed in trust, or of the mortgagor or mortgagors, or of the person or persons intituled to the monies secured by or upon any lands, tenements, or hereditaments, whereof any such person or persons being idiot, lunatick, or *non compos mentis*, is or are, or shall be seized or possessed by way of mortgage, or of the person or persons intituled to the redemption thereof, to convey and assure any such lands, tenements, or hereditaments, in such manner as the lord chancellor of Great Britain, or lord keeper, or commissioners of the great seal of Great Britain, shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance, so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said person or persons being idiot, lunatick, or *non compos mentis*, was or were, at the time of the making such conveyance or assurance, of sane mind, memory, and understanding, and not idiot, lunatick, or *non compos mentis*, or had by him, her, or themselves executed the same; any law, custom, or usage to the contrary in any wise notwithstanding.

Idiots and lunatics holding trust estates, and their committees may be compelled to make conveyances, etc.

Ibid., sec. 2.

SEC. 12. All and every such person and persons being idiot, lunatick, or *non compos mentis*, and only trustee or trustees, mortgagee or mortgagees, as aforesaid, or the committee and committees of all and every such person and persons, being idiot, lunatick, or *non compos mentis*, and only such trustee or mortgagee as aforesaid, shall and may be empowered and compelled, by such order so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of sane memory are compellable to convey, surrender, or assign their trust estates or mortgages.

SEC. 13. Whereas many inconveniences do and may arise by reason that persons under the age of one and twenty years, having estates in lands, tenements or hereditaments, only in trust for others, or by way of mortgage, cannot (though by the direction of the *cestuy que trust*, or mortgagor) convey any sure estate in such lands, tenements, or hereditaments to any other person or persons : *For remedy thereof, be it enacted* * * * That from and after the tenth day of May, one thousand seven hundred and nine it shall and may be lawful to and for any such person or persons, under the age of one and twenty years, by the direction of the high court of chancery, (or the court of exchequer,) signified by an order made upon hearing all parties concerned, upon the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor or mortgagors, guardian or guardians of such infant or infants, or person or persons entitled to the monies secured by or upon any lands, tenements, or hereditaments, whereof any infant or infants are or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements, or hereditaments, in such manner as the said court of chancery, [or the court of exchequer] shall, by such order so to be obtained, direct, to any other person or persons ; and such conveyance or assurance so to be had and made, as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever as if the said infants or infant were, at the time of making such conveyance, or assurance, of the full age of one and twenty years ; any law, custom, or usage to the contrary in any wise notwithstanding.

Infants, being trustees, by decree of court may make valid conveyances of trust estates.

7 Anne., ch. 19, sec. 1, A. D. 1708. Alex. Brit. Stat., 679. 680. Kilty's Rep., 247.

SEC. 14. All and every such infant or infants, being only trustee or trustees, mortgagee or mortgagees, as aforesaid, shall and may be compelled by such order so, as aforesaid, to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust, estates, or mortgages.

Infants seized of estates in trust may be compelled, by decree, to make conveyance.

Ibid., sec. 2.

SEC. 15. Any person or persons under the age of twenty-one years, seized or possessed of any lands, tenements or hereditaments, in trust, or by way of mortgage, or seized or possessed thereof, charged or chargeable with the payment of money or tobacco, and therefore subject or liable to a decree for sale, or bound by an agreement to convey, made by some person or persons having right or title to make such agreement, and therefore subject or liable to a decree for sale, or bound by an agreement to convey, made by some person or persons having right or title to make such agreement, and therefore subject or liable to a decree for conveyance, on a suit for a specific performance or execution of such agreement, shall, by the direction of the court of chancery, signified by an order made upon the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor or mortgagors, or other person or persons entitled to redemption, or person or persons entitled to money or tobacco, secured by or upon the said lands, tenements or hereditaments, or of the person or persons entitled to any money or tobacco, with the payment whereof the said lands, tenements or hereditaments, are or shall be charged or chargeable, or of the person or persons entitled to a specific performance or execution of such agreement as aforesaid, be bound and concluded by any deed or deeds, conveyance or conveyances, assurance or assurances, made and executed by the guardian or guardians (to be appointed by the said court) of such person or persons, under the age of twenty-one years as aforesaid, in pursuance of such order and direction of the court of chancery, and such deed or deeds, conveyance or conveyances, assur-

Infants seized of lands in trust, or of lands subject to an agreement to convey may be decreed to convey.

Md. act 1778, ch. 22, sec. 2. 1 Dorsey, 144, 145. 1 Kilty, 481. Thomp. Dig., 122.

ance or assurances, so to be had and made as aforesaid, shall be as good, valid and effectual in law, as if such infant or infants were, at the time of making such deed or deeds, conveyance or conveyances, assurance or assurances, of the full age of twenty-one years, and had by him, her or themselves, executed the same, anything in the said recited act to the contrary thereof in anywise notwithstanding.

Infants may show cause against decree to convey trust, etc., estates limitation as to time.

Ibid., sec. 4.

Where property of insane person not divisible whole may be sold.

Md. act 1800, ch. 67, sec. 3.

2 Dorsey, 429, 430. 76 Md. Rep. 567: Jackson vs. Wilson.

SEC. 16. That liberty be reserved to the infant or infants herein before mentioned, and the heirs of such infant or infants, to shew cause why such deed or deeds, conveyance or conveyances, assurance or assurances, ought not to have been ordered or directed, within six months, as limited in the said recited law, and in the manner and within the time therein mentioned.

SEC. 17. In cases where a sale of the property of any idiot, lunatic or person non compos mentis, shall be necessary for the support of such person, and such property will not admit of division without prejudice thereto, or shall be so situated, or of such a nature, as to render it advisable and beneficial to such person, in the opinion of the chancellor, to sell the whole, or any greater part thereof than may be necessary for the immediate support of such person, the said chancellor shall have full power and authority to order a sale or sales to be made of the whole, or so much of the property of such idiot, lunatic or person non compos mentis, as he shall think proper, and to direct the application of the money arising from such sale or sales, and the interest thereof, for the purposes aforesaid, and to direct from time to time in what funds the money arising from said sales shall be vested, and in all things to order in the premises as he may deem for the benefit and advantage of said lunatic.

Chancellor may direct the sale of personal property, etc., of idiot, lunatic, or person non compos mentis, when.

Md. act 1790, ch. 60, sec. 2.

1 Dorsey, 267.
2 Kilty 298; 59 Md. Rep., 67 estate of Dorsey.

SEC. 18. The chancellor shall have full power and authority to direct the sale of any personal property belonging to any idiot, lunatic, or person non compos mentis, whose person and estate hath been, or shall be, committed to a trustee or trustees, provided it shall appear to the said chancellor to be beneficial to the said idiot, lunatic, or person non compos mentis, to convert the personal estate into money, and place the same on interest; and provided that no sale of the said property be valid until the purchase money be paid, or a bond taken for the same in the name of the trustee or trustees, as such, with two good securities, to be approved by the chancellor.

Chancellor to direct the sale of property of idiots, lunatics, and persons non compos mentis, when necessary for their support, etc.

Md. act 1800, ch. 67, sec. 2.

1 Dorsey, 429.

SEC. 19. From and after the passage of this act, the chancellor shall have full power and authority, in all cases where trustees shall or may be appointed under the authority of the chancery court for the management of the estates and persons of idiots, lunatics and persons non compos mentis, to order and direct the property of such idiot, lunatic or person non compos mentis, or so much thereof as he may judge necessary for the support of such idiot, lunatic or person non compos mentis, or for the payment of all reasonable and just expenses which such trustee or trustees may or have occurred, to be sold, upon such terms as he may think proper, and to appoint a trustee or trustees for the purpose of effecting such sale or sales, and the money arising therefrom to be applied to the discharge of such expenses.

Sales of property of idiots, lunatics, etc., to be confirmed by decree, after report filed.

Ibid., sec. 4.

1 Dorsey, 430.

SEC. 20. All sales made by the authority of the chancellor, under this act, shall be notified to and confirmed by, the chancellor, before any conveyance of the property shall be made, and bond, with good and sufficient security, to be approved by the chancellor, shall be given by the person or persons empowered to sell the property as aforesaid, for the due execution of the trust committed to him or them, which bond shall be lodged with the register in chancery.

SEC. 21. The principal sum arising from the sale of the said property, or so much thereof as may remain unapplied to the use and maintenance of said lunatic, during the life-time of said lunatic, shall, on the death of the said lunatic, belong to such person or persons, his, her or their heirs or legal representatives, as would have been entitled to the said property in case the same had not been sold.

Proceeds of sale of property of idiot, lunatic, etc., how applied and how distributed after their death.

Ibid., sec. 5.

SEC. 22. Where any person or persons under the age of twenty-one years, or being idiot, lunatic, or *non compos mentis*, are or shall be possessed of any lands, tenements, hereditaments or real estate, whatsoever, which are, or shall be and stand, mortgaged for the payment of any sum or sums of money or tobacco, or for securing the payment of any debt whatsoever, and the day of payment in such mortgage is elapsed, it shall and may be lawful for the chancellor, upon the petition of the mortgagee, or mortgagees, or any person claiming under the mortgage, after summoning the infant, and his appearance by guardian, to be appointed by the chancellor for that purpose, and to answer and defend on the part of such infant, or after the appearance of such person being idiot, lunatic or *non compos mentis*, by the trustee or trustees, or committee of such person being idiot, lunatic or *non compos mentis*, to be appointed by the chancellor on behalf of such person for the purposes aforesaid, and hearing all parties, and being well satisfied of the execution of the deed of mortgage, and that the sum claimed by the person making such application is justly due, to order and decree a sale of such mortgaged premises, or such part thereof as may be necessary to discharge the debt or debts due on such mortgage, or the chancellor may decree a foreclosure of the whole or such part of the mortgaged premises as may be necessary and sufficient to discharge, pay and satisfy, the debt or debts due upon and secured by such mortgage, in such manner as the chancellor shall judge most proper; but if a part only is foreclosed, and such part shall be esteemed by the mortgagee, or person praying a foreclosure, insufficient to pay the money secured by such mortgage, then a sale thereof shall be made in such manner as the chancellor shall direct, and the money raised by such sale, or so much thereof as is necessary, shall be applied to discharge the debt secured by such mortgage; and if money sufficient to pay the debt secured by the mortgage is not raised by a sale of the part foreclosed and sold as aforesaid, then the chancellor shall decree a sale of such other part of the mortgaged premises as will be sufficient for that purpose.

In case of infancy or insanity, court may order sale of real estate when subject to mortgage.

Md. act 1785, ch. 72, sec. 2.

1 Dorsey, 208.

2 Kilty, 47.

Thomp. Dig.,

125.

19 Md. Rep., 396.

Bolgiano vs.

Cook 3 Har. & J.,

77. Prutzman vs.

Pitesell : 3 Har. &

McH., 328, Lamar

vs. Jones.

SEC. 23. That in all cases where a foreclosure of any mortgage, or sale of any land, shall be applied for, in which any infant shall be interested, the person or persons applying for such foreclosure or sale, before any decree of foreclosure or sale is made, shall give bond, with good and sufficient security, approved by the chancellor, to the infant, his heirs, executors and administrators, in such penalty as the chancellor shall direct, with condition, that in case the infant, within one year after arrival to age, shall make appear to the satisfaction of the chancellor, that there was *fraud* in obtaining the mortgage deed, or that no deed was really executed, or that the debt claimed, or so much as decreed to be paid, was not really due, that then the obligor, his heirs, executors or administrators, will reconvey the mortgaged premises to the infant, in case of decree for foreclosure, or in case of sale, to pay to the infant either the whole or such part of the money raised by such sale as the chancellor shall determine to be just, and also stand to, or abide by, such order and decree as the chancellor shall make in the cause; which bond shall be filed and safely kept by the register in chancery, and also recorded

Mortgage foreclosures where infant concerned, bond required.

Verification of plea *non est factum*.

Ibid., sec. 2.

2 Kilty, 48.

Thomp. Dig.,

126.

with the decree in the case; and suit may be maintained either upon the original or a copy of the record by the infant, his heirs, executors or administrators, upon breach of the condition, and in such suit the plea of *non est factum* shall not be received unless verified by the affidavit of the defendant or defendants.

Mortgage foreclosure sale may be ordered; bond and obligation thereof.

Plea of *non est factum* must be verified.

Orders enforced by attachment.

Ibid., sec. 3.

2 Kilty, 48.

1 Dorsey, 209.

Thomp. Dig., 127.

60 Md. Rep., 589.

McDonald *vs.*

Building Assn.;

31 Md. Rep., 476.

Johnson *vs.* Robert-

son: 52 Md.

Rep., 378. Johnson

vs. Hambleton: 30

Md. Rep., 522.

Dorsey *vs.* Dorsey.

SEC. 24. In all cases of application to the chancellor to foreclose any mortgage, he shall have full power and authority, in case the party against whom the bill shall be filed does not pay the sum due upon the mortgage by the time limited in the decree for paying the same, to order and direct that the mortgaged premises, or so much thereof as may be necessary to discharge the money due and costs, be sold for ready money. (unless the plaintiff shall consent to a sale on credit.) by a proper person to be appointed by the chancellor, and to order that the money raised by such sale be brought into court to be paid to the plaintiff; and the person empowered to make such sale shall give bond, with good security, to be approved by the chancellor, for the faithful execution of the trust, and full compliance with the order of the chancellor, and upon failure to execute such trust, the party grieved shall have a right to bring suit on such bond, or a copy thereof, against principal and security or securities, and shall recover the money for which the mortgaged premises shall have sold, and the plea of *non est factum* shall not be received, unless verified as aforesaid; and the chancellor may also issue attachment of contempt against the person empowered to sell as aforesaid, and his security or securities, and may thereupon commit both principal and securities until his order shall be fully complied with, and contempts cleared.*

Trustee may be appointed to sell lands of deceased persons, when.

Ibid., sec. 4.

1 Dorsey, 210.

10 Peters Rep.,

566, Peter *vs.*

Beverly; 2 How-

ard R., 57, Shriver

vs. Lynn; 4 Gill

and J. R., 323, Ma-

gruder *vs.* Peter;

58 Md. Rep., 211,

Keplinger *vs.* Mac-

cubbin; 60 Md.

Rep., 136, Cow-

man *vs.* Colquhoun;

SEC. 25. If any person hath died or shall die, leaving real or personal estate to be sold for the payment of debts, or other purposes, and shall not, by will or other instrument in writing, appoint a person or persons to sell or convey the same property, or if the person or persons appointed for the purpose aforesaid shall neglect or refuse to execute such trust, or if such person or persons, or any of them, shall die before the execution of such trust, so that the sale cannot be made for the purposes intended, in every such case the chancellor shall have full power and authority, upon application or petition from any person or persons interested in the sale of such property, to appoint such trustee or trustees for the purpose of selling and conveying such property, and applying the money arising from the sale to the purposes intended, as the chancellor shall, in his discretion, think proper.

When creditor may procure sale of decedent's lands.

Ibid., sec. 5.

2 Kilty, 49.

Thomp. Dig.,

128.

7 Mackey Rep.,

414, Marshall *vs.*

Wheeler; 8 Peters

Rep., 143, Bank

of U. S. *vs.* Ritchie;

66 Md. Rep., 92.

SEC. 26. If any person hath died, or shall hereafter die, without leaving personal estate sufficient to discharge the debts by him or her due, and shall leave real estate which descends to a minor, or person being idiot, lunatic, or *non compos mentis*, or who shall afterwards become *non compos mentis*, or shall devise real estate to a minor, or person being idiot, lunatic, or *non compos mentis*, or who shall afterwards become *non compos mentis*, the chancellor shall have full power and authority, upon application of any creditor of such deceased person, after summoning such minor, and his appearance by guardian, to be appointed as aforesaid and hearing as aforesaid, or after summoning the person being idiot, lunatic, or *non compos mentis*, and his appearance by trustee, trustees or committee, to be

*By 1794, ch. 60, sec. 9, 2 Kilty 512, when a mortgagor has removed, and his situation can not be ascertained, or that of his representatives, the chancellor, on evidence thereof, may decree a foreclosure or sale, on giving such public notice as he shall deem necessary.

appointed as aforesaid, and hearing as aforesaid,* and the justice of the claim of such creditor is fully established, if, upon consideration of all circumstances, it shall appear to the chancellor to be just and proper that such debts should be paid by a sale of such real estate, to order the whole or part of the real estate, so descending or devised, to be sold for the payment of the debts due by the deceased.

SEC. 27. The chancellor shall have full power and authority in all cases to superintend, direct and govern, the affairs and concerns of persons who are or may be lunatics or idiots, both as to the care of their persons and management of their estates, and may appoint a committee, trustee or trustees, for such persons, and may make such orders and decrees respecting their persons and estates as to him may seem proper, and may, upon application of any creditor or creditors of any person who is idiot, lunatic, or *non compos mentis*, and being satisfied of the justice of the claim, and that it will be for the benefit and advantage of the estate of such person being *non compos mentis*, to discharge and pay such claim, and that there is no other means of so doing than by selling part of the estate of such person, appoint a committee, trustee or trustees, for such person being idiot, lunatic, or *non compos mentis*, and may direct such committee, trustee or trustees, to sell so much of the personal property of such person as may be necessary to discharge the debts by him or her due, and if the personal property is not sufficient, then so much of the real property of such person being idiot, lunatic, or *non compos mentis*, as will be sufficient for the purpose aforesaid, may be ordered by the chancellor to be sold for such purpose.

SEC. 28. The chancellor shall have full power and authority to appoint a trustee or trustees for the purpose of making any sale by him directed in pursuance of this act.*

Ibid., sec. 7. 1 Dorsey, 212. Thomp. Dig., 129. 61 Md. Rep.,
vs. Lee.

SEC. 29. All sales made by the authority of the chancellor under this act, shall be notified to, and confirmed by, the chancellor, before any conveyance of the property shall be made, and bond with good and sufficient security, to be approved by the chancellor, shall be given by the person or persons empowered to sell property as aforesaid, for the due execution of the trust committed, which bond shall be lodged with the register in chancery; and any person interested in such sale shall have a right to a copy of such bond, and a certificate from the said register under his hand and seal of office paying ten shillings for the same, upon which copy and certificate an action may be maintained, in the name of the state, for the use of the party interested and apprehending himself aggrieved; and judgment may be by such party recovered upon such action for the damages by him actually sustained, and the plea of *non est factum* shall not be

White *vs.* Kauffman; 20 Md. Rep. 282, Billingslea *vs.* Henry; 19 Md. Rep., 529, Howard *vs.* Waters; 18 Md. Rep., 450, Ridgely *vs.* Bond.

Care of the persons and management of estates of the insane to be directed by the court; appointment of committee; sale of property, etc.

Ibid., sec. 6.
1 Dorsey, 211.
3 Mackey, Rep., 492, Bryant's case;
3 Cranch, Ct., 341,
Burk *vs.* Wheaton; 59 Md. Rep., 69, Dorsey's estate; 76 Md. Rep., 567, Jackson *vs.* Wilson.

Trustee may be appointed to make any sale of estate of the insane.

530, Worthington

Such sales must be confirmed before conveyance. Bond required of trustee; its obligation, plea of *non est factum*.

Ibid., sec. 8.
20 Md. Rep., 117, Cumberland Co. *vs.* Sherman; 19 Md. Rep., 377, Bolgiano *vs.* Cook; 13 Md. Rep., 85, Folck *vs.* Smith.

* By 1789, ch. 46, the chancellor shall have the same power to direct the sale of lands in this State belonging to minors, residents of any other State. Such notice to be given as the chancellor may direct. And by 1790, ch. 38, the chancellor may direct the sale of all lands and real property in this State, or any remainder or reversion thereon dependent belonging to minors, residents out of the State and the United States, for payment of debts due from the person from whom they derive such remainder, reversion or real estate; such notice to be given as the chancellor shall think proper.

By 1799, ch. 79, sec. 4, in bills filed against infants out of the State, there shall be the same proceedings as if the infants were of age, subject to revision in the manner therein prescribed.

By ch. 78, on a person's dying seized of lands, etc., in this State, liable to be escheated, such lands, etc., may be decreed to be sold for the payment of his debts, if he has not left personal property sufficient.

By 1794, ch. 60, real estates, devised or descending to nonresidents, may be decreed to be sold for the payment of debts. Likewise the real estates, or equitable interest therein, of persons dying without any known heirs or devisees; and provision is thereby made for obtaining the legal title.

By 1797, ch. 114, on a bill being filed against the heirs of a person deceased, and the person appearing who would have been heir if the act of 1786 to direct descents had not passed, the chancellor may order notice to be given, (by publication), to the other heirs, and may thereupon proceed in the suit, reserving to such heir the liberty of appearing, etc., within a limited time.

* By April, 1787, ch. 30, sec. 5; 2 Kilty, 121; 1 Dorsey, 244, the chancellor may allow to guardians, trustees, etc., a commission from 1 to 7½ per cent on sales under his orders or decrees.

received to any such action, unless the same is verified by the affidavit of the defendant or defendants tendering the same.

Court regulates terms of such sale, and may require bond.

Ibid., sec. 9.
2 Kilty, 50.
1 Dorsey, 213.
14 Md. Rep., 158, Ward vs. Hollins; 13 Md. Rep., 348, Wampler vs.

SEC. 30. All sales by the direction of the chancellor under the authority of this act, except in the case where a sale is directed to be made for ready money as aforesaid, shall be made upon such terms and conditions as the chancellor shall determine; and in case any sale shall be made on credit, the chancellor may, upon application of the mortgagee or creditor, direct any bond taken in consequence of such sale to be assigned to such mortgagee or creditor; and the assignee or assignees respectively may sue and maintain actions in their names against the obligor or obligors in such bonds. Wolfinger; 9 Md. Rep., 359, Wilson vs. Watts.

When bond required of trustee appointed by will.

Ibid., sec. 10.
2 Kilty, 50.
1 Dorsey, 213.
Thom p. Dig., 130.
50 Md. Rep., 506;
48 Md. Rep., 138;
45 Md. Rep., 529.

SEC. 31. In all cases where there hath been, or may hereafter be, an appointment of a trustee or trustees by last will and testament, to execute any trust, and any person interested in the execution of such trust shall make appear to the chancellor, that it is necessary for the safety of those interested in the execution of such trust, that the trustee or trustees should give bond and security for the due execution of the trust, it shall and may be lawful for the chancellor to order and direct that such bond be given by the trustee or trustees, on or before a day by the chancellor to be appointed; and if bond, with such security as may be approved by the chancellor, shall not be given by such trustee or trustees, agreeably to such order, then the chancellor may displace such trustee or trustees, and appoint one or more trustee or trustees in his or their stead, who shall give bond and security, to be approved by the chancellor, for the due execution of the trust; and all bonds taken in virtue of this power shall be made payable to the *United States of America* [state,] and shall be filed and kept by the register in chancery, and also by him recorded, and upon any breach of the condition, suit may be brought by any person interested, either upon the original bond or a copy of the record, and the plea of *non est factum* shall not be received in such suit, unless it be verified by affidavit of the defendant or defendants.

When court may order deed to be recorded, effect thereof.

Ibid., sec. 11.
1 Dorsey, 213,
214.

SEC. 32. In case any deed hath been or shall hereafter be executed, to the validity of which recording is necessary by law, and such deed hath not been, or shall not be, recorded agreeably to law, without any fraudulent design or intention of the party claiming under such deed, that the chancellor shall have full power and authority, upon application of the party claiming under such deed, and summoning and hearing the party making such deed, his heir, devisee, executor or administrator, as the case may require, and being satisfied that the party claiming under such deed has a fair and equitable claim to the premises therein mentioned, to order and decree that such deed shall be recorded; and when such deed is recorded, it shall, in pursuance of such decree, be taken and considered in all courts of law and equity against the party making such deed, his heirs, devisees, executors and administrators, in the same state, and to have the same effects and consequences, to all intents and purposes, as if such deed had been recorded within the time prescribed by law, but such deed shall not destroy, or in any manner affect, the title of any purchaser of the same thing or premises in case of a purchase made after the date of the deed aforesaid, and without notice of such deed by the person making such after purchase, whether such purchase be by contract or by deed recorded agreeably to law, nor shall such deed, though recorded as aforesaid, in any manner affect the creditors of the party making such deed, who may trust such party after the date of the said deed.*

* By 1791, ch. 79, 1 Dorsey, 283, a similar power is given to the chancellor, where the person executing such deed, his devisee or representatives, may be nonresidents of this state, without the appearance or hearing of the defendant, on notice being given as the chancellor may direct.

By 1792, ch. 41, 1 Dorsey, 286, the chancellor may decree the recording of such deed, without the appearance or hearing of the defendant, on such notice being given as he may direct. A provision is also made for a rehearing.

See also sec. 6, *post*, this chapter.

SEC. 33. In case any infant, idiot, or person *non compos mentis*, hath, or shall hereafter have, a joint interest, or interest in common with any other person or persons, in equal or unequal proportions, in any lands, tenements or hereditaments, and it shall appear to the chancellor, upon application of any of the parties concerned, and upon appearance of the infant, idiot, or person *non compos mentis*, as aforesaid, and hearing and examination of all the circumstances, that it will be for the interest and advantage both of the infant, idiot, or person *non compos mentis*, and of the other person or persons concerned, to sell such lands, tenements or hereditaments, or any part thereof, the chancellor may order and direct such lands, tenements or hereditaments, or any part thereof, to be sold, upon such terms as the chancellor shall direct, always taking care that a just proportion of the money arising from such sale be well and sufficiently secured to be paid to such infant, idiot, or person *non compos mentis*; and if any contract hath been made for any lands, tenements or hereditaments, held as aforesaid, for or on behalf of any infant, idiot, or person *non compos mentis*, which the chancellor, upon hearing as aforesaid, and examination into all the circumstances, shall think for the interest and advantage both of such infant, idiot, or person *non compos mentis*, and of the other person or persons interested therein, to be confirmed, the chancellor may confirm such contract, and order a deed to be executed according to the contract; and all sales and deeds made in pursuance of and agreeably to an order of the chancellor, in consequence of the above power, shall be good and sufficient in law to transfer the estate and interest of such infant, idiot, or person *non compos mentis*, in such lands, tenements or hereditaments, according to the true intent and meaning of such deeds respectively; and in all cases of deeds executed in consequence of the above power, the deed shall be executed and acknowledged by such person or persons as the chancellor shall appoint for this purpose.*

Infants or insane persons having joint interest in lands, sale may be decreed.

Ibid., sec. 12.
Thomp. Dig., 131.

136 U. S. Rep., 519, Thaw vs. Ritchie; 5 Mackey Rep., 202, 6 Mackey Rep., 107, Elliot vs. Brent; 4 Mackey Rep., 392, Meads vs. Hartley; 72 Md. Rep., 269, Roche vs. Waters; 62 Md. Rep., 77, Long vs. Long; 9 Md. Rep., 500, Campbell vs. Lowe; 11 Gill and J. Rep., 87.

SEC. 34. In all cases where a decree of the chancellor shall be made for a conveyance, release or acquittance, and the party against whom such decree shall pass shall neglect or refuse to comply therewith, such decree shall stand, be considered and taken, in all courts of law and equity, to have the same operation and effect as if the conveyance, release or acquittance, had been executed conformably to such decree.

When decree shall have effect of conveyance.

Ibid., sec. 13.
2 Kilty, 51.
1 Dorsey, 215.
Thomp. Dig., 132.

SEC. 35. The parties, and their attorneys or agents, shall have a right to be present at the execution of all commissions hereafter to be issued from the court of chancery for examining witnesses and taking evidence, and the interrogatories of the respective parties shall be read by the commissioners, so that they may be heard by the parties, their attorneys or agents, respectively, if they choose to attend, and each party shall, on application, have a right to a copy of the interrogatories of the adverse party, to be delivered by such party before any witness is examined on such interrogatories, and if either party shall, after witnesses are examined on the interrogatories of the adverse party, desire the commissioners to adjourn to a future day for the purpose of receiving additional interrogatories, proofs and witnesses, it shall be done by the commissioners, and the commissioners shall receive such additional interrogatories in writing, and take the proofs and evidence offered, and shall give each party a fair opportunity of adducing all his testimony; but if the party requiring an adjournment for the purpose aforesaid, shall neglect or refuse to exhibit his interrogatories, and produce his evidence, at

Parties may be present at execution of commission to take testimony.

Ibid., sec. 14.
Thomp. Dig., 133.

* By 1794, ch. 60, 1 Dorsey, 315, provision is made for decreeing a partition of lands held by infants, idiots, etc., jointly with other persons; and by 1797, ch. 114, 1 Dorsey 356, it is extended to infants residing out of the District [State.] on their answer being taken by commissioners to be appointed by the chancellor.

See act 1799, ch. 79, sec. 4, 2 Kilty, 916, is to nonresident infants.

the meeting in consequence of such adjournment, and it shall appear to the commissioners that delay and procrastination is effected by such party, then no further time shall be given him for the purpose aforesaid.*

Allowance to commissioners, etc.

Ibid., sec. 15.
1 Dorsey, 216.
Thomp. Dig., 134.

SEC. 36. Each commissioner to take evidence, acting in consequence of an appointment from the chancery court, shall be allowed twenty shillings current money [$\$2.66\frac{2}{3}$] per day for every day he shall actually serve in the execution of such commission, to be paid by the parties according to the time that such commissioner serves in taking the testimony of such parties respectively, and to be taxed in the bill of costs of the party for whom the decree of the chancellor shall pass in the cause.

Payment of allowances to commissioners, etc., may be enforced.

Ibid., sec. 18.

SEC. 37. Payment of the allowances to commissioners, witnesses, and the auditor aforesaid, may be compelled by order of the chancellor, and process of contempt for disobedience to such order may be issued as in other cases.

1 Dorsey, 217. 2 Kilty, 52.

Pro confesso may be entered where defendant fails to answer.

Ibid., sec. 19.
1 Dorsey, 217.
2 Kilty, 52.

SEC. 38. If any defendant, being of full age and regularly summoned to appear to any bill or petition in chancery, shall refuse or neglect to appear thereto at the return court, [and thereupon shall stand out the process of attachment of contempt, and attachment with proclamations, and do not appear] and put in a good and sufficient answer to the said bill or petition [by the fourth day of the court to which the said attachment with proclamations is returnable, or being served after appearance with, and brought into court upon, any process of contempt, for not answering the bill or petition filed, the said defendant, so brought into court, shall and may, upon motion, stand committed by order of the court for the same until discharged by the further order thereof; and if the defendant in the case first mentioned shall not appear and answer as aforesaid, by the fourth day of the court to which the attachment with proclamation is returnable, or if the defendant so committed for not answering as aforesaid shall not put in a good and sufficient answer by the fourth day of the court next after the court at which he shall be committed, in either case, unless the defendant shall have further time granted by the court to put in such answer,] the bill or petition shall be taken *pro confesso*, and such decree made thereupon as by the court may be thought just; and if in either of the cases aforesaid the defendant shall have further time granted him to answer, and the said defendant shall not, before the expiration of such further time, put in a good and sufficient answer to the bill or petition exhibited against him, such bill or petition shall be taken *pro confesso* without any further delay, and such decree made thereon as by the court may be deemed just; or the chancellor, in his discretion, may, in the cases aforesaid, order commission to issue for the plaintiff to examine witnesses to prove the allegations in his bill or petition, or the chancellor may examine the plaintiff on oath upon interrogatories, to ascertain the allegations in his bill or petition, and such decree shall be made in either case as the chancellor shall think just.

Proceeding to compel answer, *pro confesso* or commission.

Ibid., sec. 20.
Thomp. Dig., 135.

SEC. 39. Every defendant appearing at the return court of the subpoena, shall file a good and sufficient answer to the bill or petition exhibited against him, with the register in chancery, on or before the *first* [fourth] day of the court next following the said return court; and if the defendant, (not having further time granted by the court to file an answer,) shall omit or neglect to file such answer

* By 1795, ch. 88, sec. 4, 2 Kilty, 584, a commission for taking depositions (with the consent of both parties) may issue to one person, instead of four, and by 1799, ch. 79, sec. 6, 2 Kilty, 917, a commission for any other purpose may issue (with the like consent, and the approbation of the chancellor) to one person, or to three, with power to any two.

accordingly, the defendant shall be in contempt, and the plaintiff shall and may, upon motion, have an attachment of contempt against him, and if the defendant upon such attachment shall be returned *non est inventus*, the plaintiff shall be at liberty to obtain, upon motion, the usual process of attachment with proclamations to compel the defendant to answer, and if the defendant shall stand out the said process of attachment, and attachment of proclamations, and shall not file a good and sufficient answer by the return court of the last of the said process, the bill or petition filed, unless the defendant shall have further time granted him by the court to put in such answer, shall, upon motion, be taken *pro confesso*, and such decree made thereupon as by the court may be thought just, and if the said defendant shall have further time granted him to answer, and the said defendant shall not, before the expiration of such further time, put in a good and sufficient answer to the bill or petition exhibited against him, such bill or petition shall be taken *pro confesso*, without further delay, and such decree made thereon as by the court may be deemed just, or the chancellor may, in his discretion, in said cases, order commission to issue as aforesaid, or examine the plaintiff as aforesaid, and thereupon decree as he shall think just.

SEC. 40. In all cases the defendant in chancery may exhibit interrogatives to the plaintiff which shall be answered by him in writing upon oath, and such answer shall be evidence in the cause, in the same manner, and to the same effect, that the defendant's answer to the plaintiff's bill is evidence, and there shall be the same process, and the same power exercised by the chancellor to compel the plaintiff to answer the defendant's interrogatories, as can be issued, or lawfully exercised, to compel the defendant to answer the plaintiff's bill.

Defendant may exhibit interrogatories to plaintiff, effect of, etc.

Ibid., sec. 21.
1 Dorsey, 219.
2 Kilty, 53.
Thomps. Dig., 136.
9 Blatchf. Rep., 316, *Heath vs. Erie*
1837, *Ex parte Fisk*.

Railroad; 26 Mich. Rep., 102, 63 Ga. Rep., 312; 113 U.S. Rep., 713, *Ex parte Fisk*.

SEC. 41. In order to enforce obedience to the process, rules and orders, of the chancery court, in all cases where any party or person shall be in contempt for disobedience, non-performance or non-observance, of any process, rule or order, of the chancellor or chancery court, or for any other matter or thing whatsoever, whereby or wherein a contempt, according to the rules, law, practice or course, of the said court may be incurred, such party or person shall, for every such contempt, and before he shall be released or discharged from the same, pay to the register in chancery, a sum not exceeding ten pounds [\$26.66 $\frac{2}{3}$] current money, as a fine for the purgation of every such contempt, and that the said party or person being in court, upon any process of contempt, or otherwise, upon the order of the chancery court, shall and may stand committed and remain in close custody, until the said process, rule or order, shall be fully performed, obeyed and fulfilled, and until the said fine or fines for such contempts imposed by the said court, and the costs, shall be fully paid and discharged.

Orders enforced by process of contempt and commitment.

Ibid., sec. 22.
1 Dorsey, 220.
Thomps. Dig., 137.

SEC. 42. If any *marshal* [sheriff,] coroner, or other public officer or person, to whom any process or order, according to the course of the chancery court, shall or may be directed or delivered, shall serve and execute, and return served or executed, and the said *marshal* [sheriff,] coroner and other public officer, is and are hereby authorized and commanded to serve and execute any process of contempt, whether it be an attachment of contempt, attachment with proclamations, or any order of the chancellor commanding such *marshal* [sheriff,] coroner, or other public officer or person, to take and bring into court the body or bodies of the person or persons therein men-

Public officers, coroner, etc., may be punished by fine for failing to execute process or order.

Ibid., sec. 23.
1 Dorsey, 220.

tioned, and the said *marshal* [sheriff,] coroner, or other public officer or person, do and shall not bring into and have in court the body or bodies of the person or persons mentioned, according to the tenor of the process or order, and the return thereof, the plaintiff or person obtaining such process or order may move, that the *marshal* sheriff, coroner, or other public officer or person, be amerced, and it shall and may be lawful for the chancellor, upon motion, to amerce such *marshal* [sheriff,] coroner, or other public officer or person, nisi the court next following such motion for amerciamment, or the return of the process, or order any sum of money (having regard to the value of the matter, thing or sum, in question or demand,) and fine for contempt and costs, to compel such *marshal* [sheriff,] coroner, or other public officer or person, to comply with and fulfil the tenor of the process or order, and the return thereof, as the chancellor may think proper; and that when the said amerciamment, (which the chancellor may, in his discretion, as he may see just cause, continue, or enlarge or increase, from court to court,) shall be no longer continued, enlarged or increased, and thereby become final, the chancellor may, upon motion, order the said *marshal* [sheriff,] coroner, or other public officer or person, to pay the said amerciamment and costs to the plaintiff or other person at whose instance the said amerciamment is made, and fine for contempt, and upon a non-compliance with the said order for payment, may issue a process of fieri facias against the lands, tenements and hereditaments, goods and chattels, of the said *marshal* [sheriff,] coroner or other public officer, which shall thereupon be taken and sold to satisfy such amerciamment and fine for contempt, or the chancellor may issue a *capias ad satisfaciendum* against such sheriff, coroner or other public officer, for the said amerciamment and fine for contempt, and there shall be the same proceedings thereon as at common law, or the chancellor may, upon motion, order the said sheriff, coroner, or other public officer or person so amerced, and in court upon process of contempt, or otherwise, to stand committed and be kept in close custody until the said amerciamment and costs, and fine for contempt, be fully satisfied; and in case the amerciamment aforesaid shall not be satisfied and paid by means aforesaid, within six months from the time it may be ordered to be paid to the plaintiff or other person at whose instance the said amerciamment is laid, then, and immediately thereafter, such plaintiff or other person at whose instance the said amerciamment is laid, or any person representing such person, may sue the securities of such *marshal* [sheriff,] coroner, or other public officer, their heirs, executors or administrators respectively, upon the office bond given by such *marshal* [sheriff,] coroner or other public officer, and such securities, and their heirs, executors or administrators respectively, having assets, shall be liable upon such suits to pay and satisfy such amerciamment or any part thereof which may remain unsatisfied by such *marshal* [sheriff,] coroner or other public officer: *Provided always*, That if the said *marshal* [sheriff,] coroner, or other public officer or persons, so amerced, shall at any time before the said amerciamment is made final as aforesaid, bring into and have in court the body of the person arrested or taken according to the return of the said first mentioned process or order, the said *marshal* [sheriff,] coroner or other public officer, shall be released and discharged from the said amerciamment upon payment of the costs incurred, and the fine for contempt.

Such officers failing to return process or order shall be fined.

Ibid., sec. 24.
1 Dorsey, 222.
2 Kilty, 54.

SEC. 43. Any *marshal* [sheriff] coroner or other public officer, to whose hands any writ, process or order, of the chancery court, shall come or be delivered, shall refuse, neglect or delay, to make return thereof, according to the tenor and day of return of such writ, process or order, the same not being countermanded, such *marshal* [sheriff,] coroner or other public officer, shall be in contempt, and process of contempt shall, upon motion, be awarded and issued

against him, and before he shall be discharged from such contempt, he shall pay to the register, as herein before provided, as a fine for the said contempt, a sum not exceeding ten pounds current money, [§26.66 $\frac{2}{3}$] to be imposed by the court, and the costs incurred by means thereof. Thomp. Dig., 139.

SEC. 44. And to the end that all judgments and decrees of the court of chancery, as well those which may pass upon bills or petitions taken *pro confesso*¹ as in all other cases, may be speedily and effectually executed and fulfilled, *Be it further enacted*, That the plaintiff having obtained a judgment or decree, and having served the defendant therein named with an attested copy thereof under seal, upon affidavit made to the satisfaction of the court of such service, and the refusal, neglect or delay, of the defendant to obey, fulfil and perform, the same, or leaving an attested copy under seal of the said decree at the dwelling-house or last place of abode of the defendant, and upon affidavit thereof made to the satisfaction of the court, that the defendant could not or would not be found, so as to be personally served with such copy of the decree, or the plaintiff making it appear to the satisfaction of the court, by affidavit, that reasonable endeavours have been used to serve the defendant with an attested copy of the decree, and give him due notice thereof, but that the defendant could not or would not be found so as to be served personally with the same, it shall and may be lawful for the chancellor to issue attachment of contempt, attachment with proclamations, and also sequestration, against the defendant, until the decree shall be fully performed, fulfilled and executed, and the contempts cleared, or to order process of sequestration to issue to compel a performance of the said decree, by an immediate sequestration of the real and personal estate and effects of the defendant, or such part thereof as may be sufficient to satisfy the demand of the plaintiff in the decree specified and decreed, and to clear the contempts, or to issue *feri facias* against the lands, tenements and hereditaments, goods and chattels, of the defendant or defendants, upon which sufficient property shall be taken and sold to satisfy the demand of the plaintiff in the decree specified, or a *capias ad satisfaciendum* may be issued against the defendant or defendants by the chancellor, upon which there shall be the same proceeding as at law, or the chancellor may cause by injunction in the possession of the estate and effects demanded by the bill or petition, and whereof the possession or a sale is decreed, to be delivered to the plaintiff, or otherwise, according to the tenor and import of such decree, and as the nature of the case may require, and in case of sequestration, the court shall and may order payment and satisfaction to be made out of the estate and effects so sequestered, according to the true intent and meaning of the decree; and in case any defendant shall be arrested and brought into court upon any process of contempt issued to compel the performance of any decree of the chancery court, it shall and may be lawful for the said court, upon motion, to order such defendant to stand committed, or may order his estate and effects to be sequestered, and payment made as above directed, or possession of his estate and effects to be delivered, by injunction, as above directed, until such decree or order shall be fully performed and executed according to the tenor and true meaning thereof, and the contempts cleared.²

SEC. 45. That upon any demurrer or plea being overruled upon argument, or otherwise being withdrawn without leave of the chancery court, the party whose demurrer or plea is so overruled or withdrawn, shall pay to the opposite party the sum of five pounds current money [§13.33 $\frac{1}{3}$], and the costs thereof, and be in contempt until the said sum of money and costs are fully discharged and paid. Demurrer or plea overruled; party in contempt until costs paid.

¹ Ibid., pt. sec. 25.
² 1 Dorsey, 223.
 Thomp. Dig., 141. 30 Md. Rep., 35, Gilbert vs. Arnold; 61 Md. Rep., 139, Dennison vs. Yost.

Decrees or judgments, how enforced; execution, injunction, etc., process of contempt.

Ibid., sec. 25.
 Thomp. Dig., 139, 141.

¹ 114 U. S. Rep., 104, Thompson vs. Wooster; ² 6 Mackey Rep., 332, Condon vs. Gray.

Injunction to stay waste; if disobeyed attachment may issue.

Ibid., sec. 28.
 1 Dorsey, 224.
 2 Kilty, 55.
 Thomps. Dig., 247.
 3 Cranch, Ct., 336, Thurston vs. Mustin; id., 403, Mason vs. Muncaster; 113 U. S. Rep., 537, Erhardt vs. Boaro.

SEC. 46. That in all cases of injunction hereafter to be issued by order of the chancellor to stay waste, if the person or persons against whom the said injunction shall be issued, and upon whom it shall be served, shall, at any time after the service thereof, do or commit, or with his, her or their privity, consent or direction, suffer or permit to be done or committed, any waste or destruction of or upon the premises, or any part thereof, contrary to the tenor and import of the said injunction, and the prohibition therein contained, upon affidavit, or other proof, of such waste or destruction made, and the chancellor, upon consideration of the case, and the circumstances of landed property in this country, shall be of the opinion that waste hath really been committed, he shall and may, upon motion, order attachment of contempt against the person or persons charged with disobeying and committing a breach of the said injunction; and the said person or persons so offending being in court upon the said attachment or otherwise, and not making it appear to the satisfaction of the court that no waste or destruction hath been done or committed as aforesaid, since the service of the injunction, shall and may, by order of the chancellor, if he shall see cause, and in his discretion, upon motion, stand committed, and be kept in close custody until the further order of the chancery court therein, and the chancellor shall and may, either before or after commitment, or attachment issued, as aforesaid, upon motion, issue a commission to five discreet and sensible persons, not interested in the dispute, or connected with either of the parties, and residing as near as may be to the place where such waste may be committed, directing and empowering them, or any three or more of them, upon their oaths, to inquire of the said waste, if any hath been done or committed, and of the damage done by such waste, and the value of the thing wasted or destroyed; and upon a return of the said commissioners, or any three or more of them, ascertaining the waste or destruction, and value of the same, the chancellor shall and may, upon motion, order the said person or persons so having committed the said waste or destruction, being in court, upon an attachment of contempt or otherwise, to stand or remain committed, and kept in close custody until the double of the value of the damage found by commissioners as aforesaid, and costs, are fully paid and satisfied to the person or persons suing forth such injunction, and the fine for the contempt, or the chancellor may issue *feri facias* or *capias ad satisfaciendum*, as aforesaid, to compel payment of double the value of the damages aforesaid, and costs; and as often as any further waste or destruction shall be done or committed, contrary to the said injunction, the same proceeding and remedy shall and may be had against the person or persons having done or committed the same; and each commissioner as aforesaid appointed shall, before he acts as such, take an oath before some justice of the peace, well and truly to execute the said commission, without fear, favor, partiality or prejudice, which oath shall be returned with such commission; and each commissioner shall be allowed fifteen shillings current money per day for every day's actual service upon such commission, to be paid by the party against whom the complaint for committing waste is made, in case it is found by the commissioners as aforesaid that any waste or destruction shall have been committed; and if no waste or destruction shall be found to have been committed, then to be paid by the party making complaint, and payment of the said allowance to the commissioners as aforesaid may be compelled by order of the chancellor, and process for disobedience to such order as in other cases.

(See §§ 830, 831, 832, R. S. D. C.)

Injunction to stay proceedings at law not granted

SEC. 47. That whenever an application shall be made to the court of chancery by bill, in the usual manner, for an injunction to stay proceedings at law, the chancellor shall have full power and discre-

tion to prescribe the penalty of a bond, which shall be executed to the plaintiff or plaintiffs at law, with a surety or sureties approved by the chancellor, before the said injunction shall be granted; that the condition of the said bond shall be, to perform such order or decree as the chancellor shall finally pass in the cause on the hearing of both parties; and that whenever an injunction shall be obtained from the court of chancery by an executor or administrator, on filing a bill and executing a bond as aforesaid, the chancellor shall have full power and discretion to decree against such executor or administrator, as equity and good conscience shall to the chancellor seem to require.

until bond approved.

Md. act 1793, ch. 75, sec. 3.

1 Dorsey, 304.
2 Kilty, 467.
Thomp. Dig. 246.

SEC. 48. And, whereas it sometimes happens, that an injunction from the court of chancery prevents the *marshal* [sheriff] from proceeding to sell after he hath taken in execution property of a perishable nature, and doubts are entertained respecting the power, duty and liability of the sheriff, and whatever the law may be, great inconveniences must arise to one of the parties, or to the sheriff, whether injunction be afterwards dissolved or decreed to be perpetual, *Be it enacted*, That in case any injunction from the court of chancery shall hereafter issue to prevent a *marshal* [sheriff] or other officer from selling personal property taken in execution, immediately on the service of such injunction on the *marshal* [sheriff,] or other officer, he shall deliver back the property so taken in execution to the party from whom it was taken, and shall not be answerable to the plaintiff or plaintiffs at law on account of the same; and in all cases where personal property hath been taken in execution, and the *marshal* [sheriff] or other officer hath been prevented, by injunction from the chancery court, from selling the same, the sheriff or other officer may deliver the same, if in his possession, to the party from whom it was taken, and shall not be answerable for the same to the plaintiff or plaintiffs at law; and in every case of injunction heretofore issued, if the *marshal* [sheriff] or other officer hath taken any personal property out of the possession of the defendant at law who hath obtained the injunction, the said *marshal* [sheriff,] or other officer, shall be answerable at law for the said property to the party from whom it was taken.

Execution sale enjoined, personalty to be delivered back; officer's liability ceases.

Md. act 1799, ch. 79, sec. 10.

1 Dorsey, 421.
2 Kilty, 917.
Thomp. Dig. 246.

SEC. 49. If any mortgagor of real property within this *District* [state] to a citizen of this *District* [state,] or any person claiming under such mortgagor, shall reside out of this *District* [state] and within any other of the United States, the complainant may file his bill for foreclosing such mortgage in the [high] court of chancery, and upon service of notice thereof on the defendant, or inserting the same in the public newspapers [of the state where such defendant resides, after such bill is filed, for twelve weeks successively,]* and making proof before some judge or justice of the [general or] supreme court of such *District* [state] that such notice has been given personally, or by advertisement as aforesaid, and the same proof being properly certified, and the defendant fails to appear and answer [to such bill within nine months after such notice proved and certified as aforesaid, or such longer time as the chancellor shall grant,] such bill shall be taken *pro confesso*, and thereupon such proceeding and decree shall be had and made as the chancellor shall judge proper; and if the defendant be an infant, idiot, lunatic, or *non compos mentis*, the chancellor shall have full power and authority to proceed as by this act is directed in the case of residents of this *District* [State.]

Foreclosure of mortgages regulated: *pro confesso* and final decree.

Md. act 1785, ch. 72, sec. 30.

1 Dorsey, 225.
2 Kilty, 55.
Thomp. Dig. 142.

SEC. 50. If any person shall file a bill against any defendant or defendants residing within this *District* [state,] in which it shall be proper and necessary to join other defendant or defendants residing out of this *District* [state,] whether in the United States or any other

Bill being filed, etc., may be taken *pro confesso*, etc.

Ibid., sec. 31.

*Service by publication is now regulated by secs. 787, 788, 789, R. S. D. C.

1 Kilty, 56.
1 Dorsey, 226.
114 U. S. Rep.,
104, Thompson vs.
Wooster.

country, upon notice given and proved as aforesaid, and upon failure to appear and answer as aforesaid, the bill shall be taken *pro confesso*¹ against the defendant or defendants failing to appear and answer, and decree shall be given as aforesaid.

For not complying with order of court persons may be committed for contempt.

Ibid., sec. 33.
1 Dorsey, 227.
Thomp. Dig.,
144.

SEC. 51. The chancellor shall have full power and authority to commit any person or persons in contempt for not obeying or complying with any rule, order or decree, of the chancellor, to [the] custody [of the messenger, by him] to be closely confined in the gaol [of Anne Arundel county, or in the gaol of the county of which such person shall be an inhabitant, or where he may be taken, unless he be the sheriff of the county, in which case he may be confined in the gaol of Anne Arundel county, or the gaol of any county adjoining the county of which he shall be sheriff,] until such person or persons respectively be released and discharged by order of the chancellor,

Court empowered to make and execute orders and decrees.

Ibid., sec. 34.

SEC. 52. In all cases now depending in the [high] court of chancery, as well as in those which may hereafter be brought into the said court, the chancellor may make and execute any order or decree in pursuance of the power and authority herein and hereby conferred: *Provided*, Nothing herein contained shall be taken or construed to deprive any person of the liberty of appeal from any decree made by the chancellor in the premises.

Persons dying seized of lands, etc., creditors may file a petition for sale.

Md. act 1785, ch.
78, sec. 1.
1 Dorsey, 228.
2 Kilty, 58.

SEC. 53. In case any person shall die seized of any lands, tenements or hereditaments, in this *District* [state,] intestate, and without heirs of the whole or the half blood, and indebted, and not leaving personal estate sufficient to pay his debts, any of his creditors may file a petition in the chancery court, suggesting such facts, and praying that such real estate, or so much thereof as may be necessary, be sold for the payment of the debts of the deceased, and the attorney-general, upon notice of such petition being filed, shall appear to the same and defend, and the chancellor, being fully satisfied of the truth of the said facts, may order a sale by trustees, of the real estate of such deceased person, or of so much thereof as may be thought necessary, to discharge his debts, for the benefit of his creditors, and if not sufficient to pay the whole debts, the money arising from such sale to be equally distributed among the creditors in proportion to their debts without any preference; and upon any certificate of survey being made and returned in consequence of an escheat warrant, any creditor of the deceased may enter a caveat to the same, and thereupon no patent shall issue until an examination had by the chancellor, and payment made to the creditor or creditors proving their debts to the satisfaction of the chancellor, by sale of the property as aforesaid; and in case any person, having contracted in writing for the sale of any real estate, shall die seized intestate, and without heirs of the whole or half blood, in such case the person claiming a right of conveyance, in consequence of such contract, may file his petition in the chancery court, suggesting such contract, and praying a decree for conveyance, and the attorney-general, upon notice of such petition being filed, shall appear to the same, and the chancellor, being fully satisfied of the truth and validity of the contract, and that the petitioner has a just claim to a conveyance, may decree that the attorney-general shall execute a conveyance upon such terms and conditions as the chancellor shall think proper, and the consideration money, if any due from the person claiming a conveyance as aforesaid, shall be paid before conveyance to the treasurer of the western shore, to be applied, in the first place, to discharge the debts due from the deceased, and the balance to the use of this state.

When Government will pay

SEC. 54. If the creditor of any person dying intestate, and without heirs as aforesaid, shall be out of the *District of Columbia* [state,]

so that he or she hath not notice of the death of the intestate in time to enter a caveat as aforesaid, and the real estate of the deceased shall be escheated, [this] *The United States of America* [state] will, upon application of such creditor, pay to the amount received by the *The United States of America* [state] upon such escheat to the discharge of the just claim of such creditor, to be made appear to the satisfaction of the chancellor.

SEC. 55. If in any suit which shall be hereafter commenced in chancery against any defendant or defendants who resides out of this *District* [state,] to compel the conveyance of land, or real or personal property, being in this *District* [state,] or for compliance with any contract respecting land, or real or personal property, in this *District* [state,] on affidavit being made to the satisfaction of the court, that such defendant or defendants is or are out of the *District* [state], and that personal notice has been served on the defendant or defendants, or that notice of filing such bill hath been given* [ten weeks] in the public newspapers [of the state or kingdom where the defendant or defendants may reside, then and in such case the said court may make an order, directing and appointing such defendant or defendants to appear at a certain day therein to be named, and a copy of such order shall forthwith be inserted in the *Maryland Gazette*, and continued therein four weeks, and if such defendant or defendants shall not appear within the time limited by such order, then on proof being made of such publication of such order, the court being satisfied of the truth thereof [may order the bill of the plaintiff to be taken *pro confesso*,¹ and make such decree thereupon as shall be thought just, and may thereupon issue such process thereon as may be necessary and are usual in other cases where decrees have been made, the plaintiff or plaintiffs giving such security as the said court shall direct, touching the restitution of such land, or real or personal property, (as the case may be,) and as the said court shall think proper to make concerning the same, upon the appearance of the defendant or defendants to defend such suit.

SEC. 56. If any decree shall be made in pursuance of this act against any person or persons being out of this *District* [state] at the time such decree is pronounced, and such person or persons shall, within two years after making such decree, come into this *District* [state], or in case any defendant, against whom such decree shall be made, shall, within two years after making such decree, happen to die before his or their coming into this *District* [state] and the heir or representative, being of age, shall come into this *District* [state], within two years after such death, or if such heir or representative be an infant, *feme covert* or *non compos mentis*, come into this *District* [state] within two years after such disability removed, shall not, within six months after such coming into such this *District* [state], appear and petition to have the cause reheard; such decree so as aforesaid made shall stand confirmed; but if any person or persons interested or affected by the said decree as aforesaid, shall appear and give security to pay the costs incurred by the plaintiff or plaintiffs in the said suit, within the term of six months, after their said coming into this *District* [state] as aforesaid, the same proceedings shall be had for the determination of the said suit as if the defendant or defendants, or other persons interested therein, had originally appeared to the said suit, and no former decree had been made; and if such defendant or defendants, their heirs, executors or administrators, or any person or persons claiming under them, or any person or persons interested in the said decree, shall neglect to file their petition as aforesaid within the time limited as aforesaid after coming into this *District* [state], then such decree, made as aforesaid, shall stand absolutely confirmed.

creditor of deceased whose lands escheated.

Ibid., sec. 2.
2 Kilty, 59.
1 Dorsey, 229.
Thomp. Dig., 146.

After publication in suits for specific performance, *pro confesso* and final decree.

Md. act 1787, ch. 30, sec. 2.
1 Dorsey, 243.
2 Kilty, 121.
Thomp. Dig., 146.
¹ 114 U. S. Rep., 104, Thompson vs. Wooster.

Decree made against nonresident shall stand confirmed unless reviewed; limitation of time in which may be reviewed.

Ibid., sec. 3.
1 Dorsey, 244.
2 Kilty, 121.
Thomp. Dig., 147.

* Publication is regulated by secs. 787, 788, 789, R. S. D. C.

Court has authority to determine disputes, as to escheated estates.

Ibid., sec. 4.
Thomp. Dig., 148.

SEC. 57. The chancellor shall have full power and authority to hear and determine all such disputes, by making the attorney-general a party, who shall appear to answer and defend the said suit on behalf of the *United States* [state,] and upon hearing may make such order and decree therein as shall be agreeable to equity and justice, and the same proceedings shall be had, and the same rules of decision shall prevail, as in disputed cases between individuals.

Commissions on sales allowed to trustees, guardians, and agents.

Ibid., sec. 5.

SEC. 58. The chancellor shall have full power and authority to allow any guardians, trustees, agents or factors, who shall make disposition or sale of either real, personal or mixed property, for the purpose of paying the debts of deceased persons or others, under and in virtue of any order or decree of the chancery court, a commission from one per cent to seven and an half per cent for their trouble in selling and disposing thereof, and paying the same away in pursuance of such order or decree as the chancellor shall, on consideration of all circumstances, think just and right. [See rules of court as to commissions.]

Lands of non-resident minor may be sold to pay debts due from the deceased as in case of resident minors.

Md. act 1879, ch. 46, sec. 2. 2 Kilty, 234. 1 Dorsey, 256. Thomp. Dig., 148.

SEC. 59. The chancellor shall have the same power to direct the sale of lands, lying within this *District* [state,] belonging to minors, residents of any other state, for the payments of debts due from the deceased, as he hath in the case of minors, residents of this *District* [state.]

Court shall direct notice to guardian of such sale.

Ibid., sec. 3.

SEC. 60. It shall be the duty of the petitioner or petitioners to the chancellor for the sale of the lands as aforesaid, to give such notice to the guardian or guardians of minors, non-residents of this *District* [state,] in such manner as the chancellor shall direct.

Remainder or other interest in lands of nonresident minor may be sold to pay debts of person from whom derived.

Md. act 1790, ch. 38, sec. 2. 2 Kilty, 278. 1 Dorsey, 258. Thomp. Dig., 148.

SEC. 61. The chancellor shall have full power and authority to direct the sale of all lands and real property lying within this *District* [state,] or any remainder or reversion thereon dependent, belonging to minors resident out of the *District* [state] and the United States, for the payment of all just debts due from the person from whom they derive such remainder, reversion or real estate.

Notice required.

Ibid., sec. 3.

SEC. 62. It shall be the duty of the petitioner or petitioners to the chancellor for the sale of lands or real property, or any reversion or remainder as aforesaid, to give such notice, to entitle him or them to a decree against any such minor or minors, as the chancellor, under all circumstances, shall deem requisite and proper in each case. [See §§ 787-789, R. S. D. C.]

Court may order certain deeds to be recorded without appearance of defendant: what notice required.

Md. act 1791, ch. 79, sec. 2.

2 Kilty, 354.
1 Dorsey, 283, 284.

Thomp. Dig., 149.

4 H. & McH., 43, 281; 1 Har. & J., 180; 2 Har. & J.,

SEC. 63. In case any deed hath been or shall hereafter be executed, to the validity of which recording is necessary, and such deed hath not or shall not be recorded agreeably to law, without any fraudulent design or intention of the party claiming under the same, and the person who hath executed or shall execute such deed, his devisee or representatives, are or may be non-residents of this *District* [state,] it shall and may be lawful for the party claiming under such deed to the file his bill or petition in chancery, praying the order and decree of said court for recording such deed, and the chancellor thereupon, without the appearance of or hearing the defendant or defendants, shall have the same power and authority to order and decree the recording of such deed, as he hath in the cases mentioned in the eleventh section of the act to which this is a supplement; * *Provided*,

* 1785, ch. 72, sec. 11, 1 Dorsey, 213, *ante*; this chapter, sec. 32.

That the complainant or petitioner shall give such notice of his application in newspapers or otherwise, as the chancellor shall direct. 281; 56 Md. Rep., 421, 567.

[See § 787, R. S. D. C.]

SEC. 64. That every deed recorded in pursuance of this act, shall have the same operation, effects and consequences, and be liable to the same provisions, as a deed recorded under a decree in virtue of the act to which this is a supplement. Effect of deed so recorded. Ibid., sec. 3.

SEC. 65. Whereas infants, idiots, lunatics, and persons who are not of sound mind, seized of lands, tenements and hereditaments, may be compelled to convey the same, by decree of the court of chancery, for a specific performance of agreements made by the persons under whom they claim, provided application be made to the chancellor by the parties entitled to a conveyance,* but there is no legal provision for such a decree, as the circumstances of the case may require, upon application made by the representatives or persons interested in the estate of the person who makes a contract for the sale of his lands, *Be it enacted*, That if any person, seized of any land, tenement or hereditament, hath made or shall make a contract for the sale and conveyance thereof, and hath died or shall die without performing his part of the agreement, having devised or left the said land, tenement or hereditament, to descend to a person under twenty-one years of age, or to an idiot, lunatic, or person *non compos mentis*, in any such case, the chancellor, on application by bill or petition of any representative of the deceased, interested immediately in having such agreement specifically performed, and on hearing all parties concerned, shall have full power to decree a specific performance, and to direct a conveyance by trustee or guardian, or to decree otherwise, as justice and the established principles of chancery shall require: *Provided nevertheless*, That in the case of an infant, no decree shall be made for a specific performance in virtue of this act, unless it shall appear that the guardian or guardians of the infant have consented thereto, or unless the chancellor shall be satisfied that such infant or infants will not be in any manner injured thereby. Specific performance may be decreed, where land descended to infant or lunatic. Ibid., sec. 4.

SEC. 66. In all cases where any person or persons, his or their heirs, devisees or representatives, are bound by any contract or agreement, and are non-residents of this *District* [state,] if any bill is filed against such person or persons, his or their heirs, devisees or representatives, non-residents as aforesaid, to compel a specific performance of such contract or agreement, the chancellor shall and may, without the appearance of or hearing of the defendant or defendants, proceed to such a decree as the justice and equity of the case may require: *Provided*, That the complainant or petitioner shall give such notice of his or her application, in newspapers or otherwise, as the chancellor shall direct; and every such decree shall have the same operation, effect and consequences, as a decree in virtue of the act aforesaid against persons residing in any of the United States, to which this is a supplement. Specific performance may be decreed against non residents, what notice is required. Md. act 1792, ch. 41, sec. 2. 2 Kilty, 382. 1 Dorsey, 286. Thomp. Dig., 150.

SEC. 67. In case any deed hath been, or hereafter shall be, executed, to the validity of which deed recording is necessary, and such deed hath not been, or shall not be, recorded agreeably to law, without any fraudulent intention of the party claiming under the same, the chancellor, upon petition of the party to whom the said deed was executed, or of his, her or their legal representative, or of any of them, claiming the land or other thing conveyed, or intended to be conveyed, by such deed, and without the appearance or hearing of the Court may order deed to be recorded: effect thereof. Ibid., sec. 3. 2 Kilty, 383. 1 Dorsey, 286, 287. Thomp. Dig., 151.

* 1773, ch. 7. 1 Dorsey, 121; *ante*, this chapter, secs. 7, 8, and 9.

defendant or defendants, shall have power to decree the recording of the said deed in the county or general court records, within such time from the date of the decree as it ought originally to have been recorded from the date of the deed; and that the deed, when so recorded, shall have the same effect and consequence as if recorded agreeably to the *eleventh** section of the act, entitled, an act for enlarging the powers of the high court of chancery: *Provided*, That the petitioner or petitioners shall give such notice of his, her or their application, as the chancellor shall direct.

Decree may vest title in land, where heirs of vendor unknown.

Ibid., sec. 4.
Simmons case,
19 Wash. Law
Rep., 275; *ibid.*, 19,
D. C. Rep., 472.

SEC. 68. If any person, having contracted for the sale of any lands, tenements or hereditaments, and not having conveyed the same, hath died, or shall die, without leaving an heir known of and capable of inheriting his real estate, it shall be lawful for the chancellor, upon a bill filed by the person entitled to the conveyance, and such notice being given in the public newspapers, or otherwise, as the chancellor shall direct, the decree that the legal title and estate shall be vested in the person entitled to such conveyance, according to the terms of the contract, and thereupon, and by virtue of such decree, such legal title and estate shall be transferred and vested accordingly; and if the person filing his bill as aforesaid shall not have paid the whole purchase money, the chancellor may order that such purchase money shall be paid, or secured in such manner as he shall think most safe and proper, for the benefit of the legal representative of the person dying as aforesaid.

Review allowed within eighteen months.

Ibid., sec. 5.
Thomp. Dig.,
152.

SEC. 69. If any person or persons against whom any decree shall be made by virtue of this act, his, her or their heirs, devisees or representatives, or any person claiming under them, shall appear in the court of chancery at any time not exceeding eighteen calendar months from the time of making such decree, and request a review of the same, the chancellor, upon a bill filed by such person or persons, shall proceed to an examination of the matters in dispute, and to a final decree according to the equity of the case, in the same manner as if the said person or persons, or those under whom they claim, had originally appeared before him.

Creditor may obtain decree for sale of lands of nonresident decedent.

Md. act 1794, ch.
60, sec. 2.
2 Kilty, 510.
1 Dorsey, 315.
Thomp. Dig.,
152.
8 Peters Rep.,
143, *Bank vs.*
Ritchie; 17 Md.
Rep., 91, *Scott vs.*
Scott; 19 Md. Rep.,
529, *Howard vs.*
Waters; 20 Md.
Rep., 282, *Bil-*
lingslea vs. Henry;
66 Md. Rep., 92,
White vs. Kauff-
man.

SEC. 70. In all cases where any person or persons, non-residents of this *District* [State,] now is or are, or shall hereafter be, seized or possessed, or have any right or title to any lands, tenements or hereditaments, within this *District* [State,] by devise or descent, and the person or persons from whom such title is or shall be derived, has contracted, or may contract any debt or debts within this *District* [State,] or with any of the citizens thereof, the chancellor of this *District* [State,] upon the application of any such creditor or creditors, and such notice thereof being given as he shall direct, shall have full power and authority, if the claim of such creditor or creditors shall be established, and it shall appear to the chancellor to be just and proper, upon consideration of all circumstances, that such debt or debts should be paid by a sale of such real estate so devised or descending, to order and decree the whole, or any part thereof, to be sold for the payment of such creditor or creditors, in such manner, and upon such terms, as the chancellor, in his discretion, shall think proper; and the chancellor in all such cases shall have the same power and authority as he hath in other cases by the act to which this is a supplement.

Legal or equitable title to lands of decedent without

SEC. 71. In case any person seized or possessed of any lands, tenements or hereditaments, in this *District* [state,] or having an equitable right, title or interest therein, hath died, or shall die, without leaving

*1785, ch. 72, sec. 11, 1 Dorsey, 213; *ante* this chapter, sec. 32.

any known heir or devisee capable of inheriting or taking the same, and without leaving a sufficient personal estate for the payment of his or her debts contracted within this *District* [state,] or with any of the citizens thereof, the chancellor shall have full power and authority, upon the application of any such creditor or creditors, and such notice thereof being given as he shall direct, if the claim of such creditor or creditors shall be established to his satisfaction, to order and decree the whole of such real estate to be sold for payment of such creditor or creditors, in such manner, and upon such terms, as the chancellor in his discretion shall think proper, and after payment and satisfaction of such creditor or creditors, and the costs of such suit, to order and decree the surplus arising from such sale to be paid into the treasury for the use of the *United States* [state]; and the chancellor in all such cases shall have the same power and authority as he hath in other cases by the act to which this is a supplement.

known heirs may be sold to pay debts; surplus payable into Treasury.

Ibid., sec. 3.
2 Kilty, 511.
Thomp. Dig.; 153.
Simmons vs. Unknown heirs, 19 Wash. Law Rep., 275; 19 D. C. Rep., 472.

SEC. 72. Any person or persons who shall purchase an equitable title to lands under any decree of the chancellor passed in virtue of the provisions of this act, shall be entitled, upon payment of the purchase money, to an assignment or conveyance of such equitable interest, to be made by the trustee or trustees making such sale, and shall, in consequence of such purchase and assignment, or conveyance, stand, as to title, in the place of the person dying seized and possessed as aforesaid, and entitled to such remedy in all cases, and against all persons, as the person could or might have had whose title he, she or they, may claim by virtue of such purchase.

Purchaser of equitable title, paying purchase money, entitled to conveyance from trustee.

Ibid., sec. 4.
1 Dorsey, 316.

SEC. 73. Any creditor or creditors making application to the chancellor as aforesaid, by bill or petition, may pray and obtain a subpoena against the person or persons having the legal title to the land whereof the deceased died seized or possessed, or to which he, she or they, had claim, under the circumstances aforesaid; and in case the facts set forth in the bill or petition, to entitle the complainants to a decree as aforesaid, shall be established to the satisfaction of the chancellor, after the summoning and hearing of the person or persons so made defendant or defendants, or after such proceedings against such defendant or defendants, as would entitle the complainant or complainants to a decree in any other application for a decree for conveyance, in case of the defendant or defendants being under age, or residing out of the state, or standing out the process of the court, the chancellor, by his decree, may direct the trustee appointed, to make sale, on the chancellor's ratification thereof, and on receipt of the purchase money, by deed indented, acknowledged and recorded, agreeably to law, to convey to the purchaser or purchasers all the right, title, interest and estate, which was in the person so dying seized or possessed, or to which he, she or they, had claim as aforesaid, and all the right, title, interest and estate, of the person or persons having the legal estate in the land sold, and made defendant or defendants as aforesaid; and the purchaser or purchasers shall thereupon be entitled to hold the land so conveyed, free and discharged from all claim of any person claiming by descent or devise under the person dying seized or possessed, or claiming as aforesaid, and from all claim of such defendant or defendants.

Subpoena granted against legal title holder; sale and conveyance decreed at creditor's suit.

Ibid., sec. 5.
1 Dorsey, 316, 317.
Thomp. Dig., 154.

SEC. 74. If any patent shall hereafter issue to any person or persons for lands which have escheated or shall escheat to the *United States of America* [this State,] and the person whose title to the said lands became escheatable died, or shall die, leaving debts unpaid which were contracted within this state, or with any of the citizens thereof, it shall and may be lawful for such creditor or creditors to file his, her or their bill in chancery against the *United States of America* [State of Maryland,] in which it shall be sufficient to state

Where escheated lands are sold, creditor may recover from Government; pro rata distribution.

Ibid., sec. 6.
Thomp. Dig., 155.

the nature of his, her or their claim or demand, in like manner as if the said suit was brought against the original debtor, and upon his, her or their serving a subpoena on the attorney-general, and establishing the said claim according to the usual course of the court in other cases. such creditor or creditors, shall be entitled to recover of the *United States of America* [state,] his, her or their said debt, if the money received by the *United States of America* [state] for such escheat title shall have been equal to the same, and in case said sum received by the *United States of America* [state] shall be short of the said debt or debts, then such creditor or creditors shall recover so much thereof against the state as may or shall have been received for such escheat title, so granted as aforesaid; and in all such cases the chancellor shall cause notice to be given, in such manner as he shall think proper, to the creditor or creditors of the said deceased person, to make known their respective claims, and lodge the same with the register of the said court, and substantiate their respective demands in such manner as he shall direct; and in case there shall be more than one creditor who shall bring suit as aforesaid against the *United States of America* [state,] or upon such notice shall produce and substantiate his, her or their claim to the satisfaction of the chancellor, and if the money received by the *United States of America* [state] for the sale of such escheat title shall not be sufficient to pay and satisfy the whole of such creditors, then and in such case it shall and may be lawful for the chancellor to apportion the same among all such creditors, according to the amount of their respective claims.

Purchaser of equitable title has same title as under this act.

Ibid., sec. 7.

2 Kilty, 512.

1 Dorsey, 318.

SEC. 75. Where any sale or sales of such equitable titles have been made by virtue of any writ of *feri facias*, or decree of the chancellor of this state, the purchaser or purchasers thereof, his, her or their heirs or assigns, shall hold and have the same right and title thereto as if the said purchase had been made under and in virtue of the provisions of this act.

Thomp. Dig., 156.

Partition of lands of infant or insane person having joint interest, etc.

Ibid., sec. 8.

SEC. 76. In case any infant, idiot, or person *non compos mentis*, hath, or shall hereafter have, a joint interest or interest in common with any other person or persons in equal or unequal proportions, in any lands, tenements or hereditaments, and it shall appear to the chancellor, upon application of any of the parties concerned, and upon the appearance of the infant, by guardian to be appointed by the chancellor for that purpose, and for the purpose of answering and defending on the part of such infant, and upon the appearance of such idiot or person *non compos mentis*, by the trustee or trustees, or committee, of such idiot or person *non compos mentis*, to be appointed by the chancellor, on behalf of such person for the purposes aforesaid, and upon hearing and examining all circumstances, that it will be for the interest and advantage of all parties concerned to make partition of such lands, tenements or hereditaments, or any part thereof, the chancellor may order and decree partition to be made of such lands, tenements or hereditaments, or any part thereof, in the same manner and under the same regulations, as if all parties were of full age, or of sound mind and discretion; and all acts and deeds of conveyance done and executed by such guardian, trustee or committee, in pursuance of the order or decree of the chancellor, shall be good and effectual, and they are hereby severally authorized and empowered to do and execute, on behalf of such infant, idiot, or person *non compos mentis*, all acts and deeds whatever that may be adjudged necessary by the chancellor to render effectual and complete the partition aforesaid, as fully as if all the parties were of full age, or of sound mind and discretion.

SEC. 77. In all cases where any mortgagor or mortgagors of any lands or tenements within this *District* [state,] shall have removed to places unknown out of this *District* [state] and cannot be ascertained whether such mortgagor or mortgagors is or are dead or alive, and if dead, who are the legal representatives of such person or persons, or whether they have left any, it shall and may be lawful for the chancellor in such cases, upon satisfactory testimony thereof by affidavit of the complainant, and other evidence, to decree, upon giving such public notice as he shall deem necessary, a foreclosure of such mortgage, or sale of the mortgaged premises, and conveyance thereof, as in other cases where the party appears, and such decree passes in the said court.

Foreclosures may be decreed against non-resident mortgagors.

Ibid., sec. 9.
1 Dorsey, 318, 319.
Thomp. Dig., 157.

SEC. 78. Whereas it often occurs that persons against whom judgments or decrees are obtained hold and possess, or claim, lands, tenements or hereditaments, by equitable title only, and the creditor or creditors of such persons are often without remedy, either at law, or in equity, *Be it enacted*, That in such cases it shall and may be lawful for the chancellor, on application, to decree a sale of such equitable interest for the benefit of the creditor or creditors applying for the same, and the purchaser or purchasers thereof, under such decree, shall, upon payment of the purchase money, be entitled to an assignment of such equitable interest, to be made by the trustee making such sale, and shall be entitled to such remedies, both in law and equity, against all persons, and in all cases, as the person could or might have had whose title he, she or they, may claim by virtue of such purchase. [See § 80, 81 of this chapter.]

Sale of equitable interest in land may be decreed for creditor; process, etc.

Ibid., sec. 10.
Thomp. Dig., 157-159.
Deakins vs. Rex., 60 Md. Rep., 593.

SEC. 79. In any case whatever, where a bill shall be filed in the court of chancery against any person or persons not residing within the *District* [State,] the chancellor may direct such notice of the said bill, and of the object thereof, by advertisement [in newspapers, or otherwise, as to him shall seem proper, warning the defendant or defendants to appear in the said court in person, or by a solicitor, on or before some day to be fixed, not less than four months distant from the time of the first advertisement, or other notice, to shew cause why a decree should not be passed as prayed by the bill;]¹ and in case the defendant or defendants shall not so appear within the time limited, either the bill, at the discretion of the chancellor, may be taken *pro confesso*, and he shall proceed to decree in the same manner as if the defendant or defendants had admitted, by answer, the facts stated in the bill, or a commission shall, on application of the complainant or complainants, be issued for taking depositions on his or their part, and on return of the said commission, the chancellor may proceed to decree according to the facts proved, and the established principles and practice in equity: *Provided, nevertheless*, That if the said defendant or defendants shall appear to the bill in person, or by a solicitor, at any time before a decree shall be passed, there shall in all respects be the same proceedings before a decree, as if the defendant or defendants had appeared regularly on the return of a subpoena: *And provided also*, That if any person, against whom a decree shall be made, in virtue of this act, his or her heir or heirs, devisee, or representative, shall appear in the chancery court at any time within eighteen calendar months from the date of the decree, and require a review of the same, the chancellor, upon a bill filed by such person, his heir or heirs, devisee or representative, shall proceed to an examination of the matters in dispute, and to a final decree, in the same manner as if the said person had originally appeared before him.

After publication *pro confesso* may be decreed against non-resident; limitation as to review.

Md. act 1795, ch. 88, sec. 1.
2 Kilty, 583.
1 Dorsey, 329.
Thomp. Dig., 157.
¹Secs. 787 to 789, R. S. D. C.

SEC. 80. The chancellor shall have power and authority, on application already made, or hereafter to be made, by bill or petition, and

Equitable title to land may be

sold by decree in chancery.

Ibid., sec. 2.
1 Dorsey, 330.
2 Kilty, 584.
Thomp. Dig., 159.

after summoning and hearing the person or persons proper to be made defendant or defendants, or after such proceedings against him, her or them, as would entitle the complainant or complainants to a decree in other cases, to decree the sale of any equitable title or claim to land, in any case in which he might on application decree the sale of a legal complete title, and the purchaser or purchasers of such equitable title from a trustee or trustees, to be appointed in the same manner, and on the same terms, as other trustees for sale of land are appointed, shall, in consequence of such purchase, and a conveyance to be made by the said trustee or trustees, stand in the place of the person or persons in whom was the said equitable title at the time of the decree, and shall be entitled to such remedy against any party or parties as the said person or persons might have had.

[See §§ 78, 81 of this chapter.]

Creditor may obtain sale of equitable title of deceased debtors' land.

Ibid., sec. 3.

SEC. 81. Any creditor or creditors, who have made or shall make application to the chancellor by bill or petition, for the sale of any land which hath descended or been devised to an infant or infants, for the payment of the debts of the ancestor or deviser, who had only an equitable interest or title in the said land, may pray and obtain a subpoena against the person or persons having the legal title to the said land, in case such person or persons be resident of the *District* [state,] or give such notice of the bill or petition as the chancellor shall direct, in case such person or persons be not resident of the *District* [state]; and on summoning and hearing of all parties concerned, or on such proceedings against the defendant as are proper to entitle the complainant or complainants to a decree in other cases, the chancellor shall have power to decree, as shall appear to him just to all parties; and if it shall appear to him, that no money is due for the land from the person or persons who had the equitable claim or title aforesaid to the person or persons having the legal title, he shall decree a sale of the whole interest, estate and title, of all parties to the land aforesaid, and direct the money arising from the sale to be applied to the discharge of the just debts of the ancestor or deviser aforesaid; but if it shall appear to the chancellor, that the person or persons having the legal title, have not been paid the whole money contracted to be paid to him, her or them, the chancellor shall not decree a sale of more than the equitable title aforesaid, without the consent of the party or parties having the legal title, or without providing that the debt for the land shall be wholly paid. [See §§ 78, 80 of this chapter.]

Commission to take depositions may by consent issue to one person.

Ibid., sec. 4.

1 Dorsey, 331. Thomp. Dig., 180.

SEC. 82. Hereafter, with the consent of both parties to any cause in the court of chancery, a commission for taking depositions may issue to one person, instead of four persons, now required by law, or by the usage and practice of chancery, and that any one person to whom such commission shall be directed, shall be allowed for his services at the rate of thirty shillings per diem [§4].

Bill may be filed against sole heirs of deceased person; proceedings, how regulated.

Md. act 1797, ch. 114, sec. 2.

1 Dorsey, 356, 357.

2 Kilty, 757.

Thomp. Dig., 160.

1 Secs. 787-789. R. S. D. C.

SEC. 83. That on any bill in the court of chancery filed, or to be filed, against the heirs of any person deceased, the chancellor, at his discretion, may, on the appearance of such person or persons as would have been sole heir or only heirs in case the said act had not been made, pass an order, to be published in some convenient newspaper [at least three weeks successively, giving notice of the substance and object of the bill, and appointing a day, not less than four months subsequent to the publication,] for each of the heirs to appear and shew cause wherefore a decree should not pass, as prayed; and on proof of the chancellor's satisfaction of the due publication, the suit may be carried on between the complainant and the defendant appearing as aforesaid, and any other heirs or heir appearing in

consequence of the notice, and there may be the same decree, and it shall have the same effect, as if the heirs of the person deceased had appeared and defended the suit: *Provided, nevertheless*, That the answer of the heir or heirs appearing shall not operate against any absent heir, otherwise than if such absent heir had appeared, and defended the suit, but the chancellor, on application of the complainant, may, at discretion, either take the bill pro-confesso as to all absent heirs of the deceased, or direct a commission to issue for taking depositions ex parte, and receive such proof as he may think proper: *Provided, also*, That if any heir of the deceased shall, in person or by a solicitor, appear in court at any time before a decree shall be passed, and shall, on or before the fourth day of the subsequent term, put in a good and sufficient answer to each interrogatory stated in the bill, or a good plea or demurrer to the same, the proceedings shall thereafter be the same as if such heir had regularly appeared to a summons; and if at any time within nine months after a decree passed without his appearance, any heir shall appear, and file a petition, praying the chancellor to set aside the decree, and likewise answer, plead or demur as aforesaid, the chancellor shall accordingly annul the decree as to such heir, and there shall be the same proceedings for the purpose of deciding the cause on its merits, as if the said heir had regularly appeared to a summons.

SEC. 84. In case a subpoena to a bill in chancery shall be regularly returned *non est* by the *marshal* [sheriff of any county within the state] where the defendant shall be known, or generally supposed to reside, and the chancellor shall be satisfied, by the affidavit of some indifferent person or persons, of the said known or supposed residence, and of the defendant's having avoided, or kept out of the way of the sheriff, or evaded the service of the subpoena, the chancellor, on motion, may direct publication to be given in some newspaper convenient to the known or supposed residence of the defendant, [at least three weeks successively,] of the filing of the bill, and of its substance and object, and of the same day by him fixed, [not less than four months subsequent to the publication,] for the defendant's appearance in court, either in person or by solicitor; and on the defendant's failing to appear, and on satisfactory proof of the notice published, the chancellor, on motion, may proceed in the same manner as is prescribed by law in the case of a bill filed against a non-resident: *Provided*, That the said defendant have the same privilege as is herein before given to an absent heir, to appear, either before or after a decree; and every part of the provision herein contained, respecting the proceedings on appearance of such heir, shall be construed to extend to such evading defendant. [See §§ 787, 789, R. S. D. C.]

Publication may be substituted for service of subpoena, where defendant evades process.

Ibid., sec. 3.
Thomp. Dig., 161.

SEC. 85. In case any cause hath been or shall be set down regularly for hearing, or submitted to the chancellor by both parties, as ready for his decision, and one of the parties hath died, or shall die, after such setting down or submission, and before a decree passed, having a solicitor in court, the said cause shall not abate, and the chancellor may decree as if such deceased party were alive, and the decree shall have the same effect as if it had been passed against the deceased, except that it shall not entitle the complainant to a preference in the distribution of assets, either real or personal.

Causes regularly set or submitted shall not abate for death of party; decree gives no preference.

Ibid., sec. 4.
2 Kilty, 758.
1 Dorsey, 358.
Thomp. Dig.,

162. 2 Har. & J., 285, Brogden vs. Walker.

SEC. 86. That on a bill filed, for the purpose of obtaining partition of land held jointly or in common with an infant residing out of the state, the chancellor, on the complainant's motion, may direct a commission to issue unto three persons, such as he shall approve, authorizing them, or any two of them, to go to the infant, and appoint a guard-

In partition suits commission directed to take answer of non-resident infant.

Ibid., sec. 5.

ian for the purpose of answering and defending the suit, and authorizing them likewise to take the answer and return it to the court; and in receiving such answer, there may be the same proceedings as if the defendant had been regularly summoned, and had been heard by a guardian appointed by the court.

Proceedings against non-resident defendant after service of summons.

Md. act 1799, ch. 79, sec. 1.
2 Kilty, 915.
1 Dorsey, 417,
418.
Thomp. Dig., 162.

SEC. 87. In case any defendant in a cause instituted, or hereafter to be instituted, in the court of chancery, resides, or shall reside, out of the *District* [state,] and a summons from the said court hath been or shall be served upon the said defendant, and the service hath been or shall be proved to the satisfaction of the chancellor, the chancellor is hereby authorized, by order, to limit a certain day, on or before which the said defendant shall appear in person, or by a solicitor, and put in a good and sufficient answer to each interrogatory contained in the bill, or plea or demurrer to the same, and if a copy of the said order shall be inserted agreeably to the chancellor's directions, in some convenient newspaper, or personally served on the defendant at least three months before such day limited, and the defendant shall not have so appeared and answered, the chancellor shall, at discretion, either take the bill *pro confesso*, or direct a commission to issue for taking depositions, and shall finally decree as to him shall seem consistent with the established principles of equity, in the same manner as if the defendant had appeared and answered, and depositions had been taken in the usual manner.

Answer to interrogatories, how enforced; *pro confesso* and final decree.

Ibid., sec. 2.
1 Dorsey, 418.
2 Kilty, 916.
Thomp. Dig., 163.

SEC. 88. In any cause instituted, or hereafter to be instituted, in the court of chancery, if an attachment for want of appearance or answer shall have been or shall be duly returned served or attached, and the defendant served or attached shall not appear at the day of the return, the chancellor is hereby authorized, on application of the complainant or complainants, by order, to limit a certain day in the following term, on or before which day the defendant shall appear in person, or by a solicitor, and put in a good and sufficient answer to each interrogatory contained in the bill, or a plea or demurrer to the same, or otherwise the chancellor, on the application of the complainant, and at discretion, may either take the bill *pro confesso*, or direct a commission to issue for taking depositions, and shall finally decree as to him shall seem consistent with the established principles of equity, in the same manner as if the defendant had appeared and answered, and depositions had been taken in the usual way: *Provided, nevertheless*, That if at any time before a decree shall be passed, a defendant, non-resident or attached as aforesaid, shall appear as aforesaid, and immediately put in such answer, there shall be the same proceedings as if he had regularly appeared and answered.

Bill of revivor after death of complainant; power of the court.

Ibid., sec. 3.
1 Dorsey, 418,
419.
Thomp. Dig., 164.

SEC. 89. If, on the death of a complainant, any bill or revivor hath been or shall hereafter be filed in the court of chancery, and the defendant hath or shall have removed out of the *District* [state,] the chancellor shall have full power to make such order, and direct such proceedings, as may appear to him best calculated to promote substantial justice: *Provided*, That the said defendant's answer hath been or shall have been put in before the death of such complainant: *And provided also*, That the said defendant shall be alive at the time of such order or proceedings.

Proceedings and decree against non-resident infants, their rights thereafter.

Ibid., sec. 4.

SEC. 90. If any bill in chancery hath been, or shall be filed, against an infant out of the *District* [state] there shall, at the chancellor's discretion, be the same proceedings, and the chancellor may decree, as if the infant were of full age: *Provided*, That in all cases where a decree shall be passed against an infant out of the *District* [state] except those cases in which proceedings against infants out of the

District [state] are already provided for by law, there shall be liberty reserved for the said infant, within eighteen calendar months from the date of the decree, or within six such months after the said infant shall attain the age of twenty-one years, and likewise for any heir of the said infant, in case the said infant shall not so long live, within six months after the death of the said infant, or within six months after such heir shall attain such age, to shew cause wherefore the decree ought not to have been passed; and the bill to be filed by such infant or heir for shewing cause as aforesaid shall, as the case may require, either be filed against the original complainant or complainants, or any person or persons claiming or holding under him, her or them, and on such bill filed, the chancellor shall, at discretion, direct either the usual proceedings by subpoena, or such notice as he shall think proper, according to the nature of the case, of the bill and of its substance and object, and of a day by him limited, not less than four months after notice, for the defendant or defendants, to file an answer to such bill of revision; and if an answer be not accordingly filed, the chancellor may proceed to a reconsideration or revision of the decree before passed, or he may direct depositions, or other proofs, *ex parte*, to be received as evidence in addition to the former proceedings; and in case of the defendant's appearing to such bill of revision, additional evidence and proceedings may be had, and the chancellor shall pass such decree for or against the original complainant or complainants, or his, her or their representative or representatives aforesaid, or person or persons having the benefit of the original decree, as the established principles of equity shall to him appear, under all the circumstances of the case, to require.

SEC. 91. In certain cases, and particularly where a defendant hath been duly summoned, and has stood out of the process of the court, the chancellor is by law directed absolutely to take the bill *pro confesso*, and in other cases of non-appearance of the defendant, he may at discretion either take the bill *pro confesso*, or direct a commission for taking depositions: and whereas it appears unreasonable that in any cause whatever the chancellor should be directed absolutely to take the bill or bare allegations of a suitor *pro confesso*, *Be it enacted*, That in all cases whatever, where the chancellor is authorized to decree without the appearance of the defendant or defendants, it shall be at the discretion of the chancellor, either to take the bill *pro confesso*,¹ or direct a commission for taking depositions *ex parte*, as by law is directed in certain cases where the defendants are non-residents.

When decree *pro confesso* may be entered.

Ibid., sec. 5.
1 Dorsey, 419, 420.
Thomp. Dig., 165.
¹114 U. S. Rep., 104, Thompson vs. Wooster.

SEC. 92. Hereafter, with the consent of the party or parties in court, and with the approbation of the chancellor, a commission for any purpose whatever, which may lawfully issue from the chancery court in any cause there depending, or hereafter to be instituted, may be directed to one person only, or to three persons, with power to any two, and the person or persons to whom it shall be directed shall have the same authority as has heretofore been reposed in any greater number.

Powers of one person under commission in chancery.

Ibid., sec. 6.
2 Kilty, 917.

SEC. 93. In all cases where land has escheated, or shall escheat, to the *United States* [state,] or hath or shall become the property of the *United States* [state,] from the purchase thereof by an alien, [or hath been confiscated as the property of a British subject,] any person having any claim to the said land, or any part thereof, or having a lien or charge upon the same, or a title in equity, may bring a suit against the *United States* [state] in any court of law or equity, as the case may require, in the same manner as it might have been brought against the person from whom it hath devolved on the *United States* [state;] and if any such suit be brought in the chan-

Claims against escheated lands, how enforced.

Ibid., sec. 7.
Thomp. Dig., 166.

chery court, the attorney-general shall be the defendant in behalf of the *United States* [state,] between whom and the complainant or complainants there shall be such proceedings as might have been between the said complainant or complainants and the person whose title hath devolved on the *United States* [state;] *Provided*, That in no case shall the *United States* [state] be burthened with costs, or otherwise in consequence of having the said title. [See § 1059, R. S. U. S.]

Costs, how chargeable in suits against the Government.

Ibid., sec. 8.
1 Dorsey, 420, 421.

SEC. 94. In all cases whatever, where a suit shall hereafter be instituted against the *United States* [state] in the said court of chancery, all costs in the said suit shall be charged to the complainant or complainants, and the state shall not be answerable for any part thereof, unless the chancellor shall be of the opinion that the necessity of bringing such suit hath not been owing to the fault or negligence of the said complainant or complainants, and in case the chancellor shall be of such opinion, he shall have power to decree with respect to costs as to him justice shall seem to require; *Provided*, That in no case shall the *United States* [state] be liable to costs in which it is not at present liable.

Defendant appearing shall answer fully each interrogatory of bill, or plead, or demur; *pro confesso* against non-resident.

Ibid., sec. 9.
1 Dorsey, 421.

SEC. 95. In case any defendant shall hereafter appear in the court of chancery, either in person or by a solicitor, agreeably to an order limiting a day for such appearance, or shall voluntarily so appear to a bill filed in chancery, he shall put in a good and sufficient answer to each interrogatory contained in the bill, or a plea or a demurrer to the same, on or before the fourth day of the term succeeding such appearance, he shall otherwise be liable to be proceeded against, if a resident of the *District* [state,] as if he had been duly summoned and appeared as in ordinary cases, and if he be a non-resident, either the bill shall be taken *pro confesso*, or, at the discretion of the chancellor, a commission shall issue for taking depositions *ex parte*, and the chancellor may thereon proceed to decree.

Suits against receivers without leave of court.

Aug. 13, 1888, 25 Stat., 436, sec. 3.

SEC. 96. Every receiver or manager of any property appointed by any court of the United States may be sued in respect of any act or transaction of his in carrying on the business connected with such property, without the previous leave of the court in which such receiver or manager was appointed; but such suit shall be subject to the general equity jurisdiction of the court in which such receiver or manager was appointed, so far as the same shall be necessary to the ends of justice.

Upon an untrue suggestion in the chancery, damages may be awarded.

Alex. Brit. Statutes, p. 199. 17 Richard II, ch. 6, sec. 1, A. D. 1393. Kilty's Rep., 224. Md. act 1785, ch. 72, sec. 25. 1 Dorsey, 223 (sec. 44 of this chapter); Equity Rule of Court No. 29; 30 Md. Rep., 35, Gilbert vs. Arnold; 61 Md. Rep., 130.

SEC. 97. Forasmuch as people be compelled to come in the chancery, by writs grounded upon untrue suggestions, that the chancellor for the time being, presently after that such suggestions be duly found and proved untrue, shall have power to ordain and award damages according to his discretion, to him which is so troubled unduly, as afore is said.

Supreme court of District of Columbia authorized to appoint some fit person to take charge of the estate of habitual drunkards.

Upon petition of creditors, or relatives, or other person.

SEC. 98. Whenever any person residing in the District of Columbia has any estate, real or personal, in said District, and is unfit, from the habitual use of intoxicating liquors, to properly manage or control the same, the Supreme Court of the District of Columbia, on the petition of any creditor or relative of such person, or, if there be neither creditor or relative in said District, of any person living in said District, and upon summons being regularly served upon such person so unfit to manage or control his property as aforesaid, commanding him to appear and answer such petition, may order a jury to be summoned to ascertain whether such person be an habitual

drunkard and unfit from that cause to manage and control his property, and if the jury aforesaid shall return in their verdict that such person is an habitual drunkard, and unfit to manage or control his property, it shall be the duty of said court to appoint some fit person to be the committee of such person so declared unfit to manage or control his property as aforesaid.

If a jury shall adjudge them unfit to control their property.

Leg. Assem., June 25, 1873, ch. 21, sec. 1, p. 61.

SEC. 99. The committee so appointed shall, before entering upon the discharge of his duties, execute a bond, with surety, to be approved by the said court, or one of the justices thereof, to the United States, in a penal sum equal to double the amount of the personal property and the yearly rents to be derived from real estate, conditioned for the faithful performance of his duties.

Committee so appointed to give bond.

Ibid., sec. 2.

SEC. 100. Such committees shall have entire control of the estate, real and personal, of such habitual drunkard. He shall have power to collect all debts due such drunkard, and to adjust and settle all accounts due from him or her, and may sue and be sued in his representative capacity. It shall be the duty of such committee to apply the annual income of the estate of such habitual drunkard to the support of such habitual drunkard and the maintenance and education of his or her family. In all other respects not especially provided for in this act, the rights and duties of committees appointed under its provisions shall be the same as the rights and duties prescribed by law for the committees appointed over lunatics and idiots.

Powers and duties of committees over the estate.

Ibid., sec. 3, p. 62.

SEC. 101. The Supreme Court of the District of Columbia shall have power to sell the estate, real or personal, of any person so as aforesaid found to be an habitual drunkard, in all cases in which said court is now authorized by law to sell the real or personal estate of idiots and lunatics, or in which such a sale appears to be to the advantage of such habitual drunkard, or necessary for the payment of his debts, or for his support, or for the maintenance and education of his family, and the course of proceedings to effect such sale or sales shall be the same as in cases of sales of the estate of idiots or lunatics.

Supreme court to have power to sell property when necessary or advantageous.

Ibid., sec. 4.

SEC. 102. All contracts, agreements, or credits with habitual drunkards, after the finding of the jury aforesaid, and with notice of the same that such person is unfit to manage or control his or her property aforesaid, either by note, bill, bonds, or otherwise, shall be void as against such person declared to be unfit to manage or control his or her property as aforesaid, but persons making such contracts or agreements with such person as aforesaid shall be bound thereby.

Contracts, etc., made with habitual drunkards to be void as against them.

But persons making such contracts shall be bound thereby.

Ibid., sec. 5.

SEC. 103. When any person for whom a committee has been appointed under the provision of this act shall become competent to manage his or her property on account of a reformation in his or her habits as to sobriety, he or she may apply to said court to have said committee removed and the care and control of his or her property restored to him or her, and the disabilities provided for in this act removed.

Control of property to be restored upon reformation.

Ibid., sec. 6.

SEC. 104. It shall be the duty of the court, when any such application as provided for in the foregoing section is made, on proof that said committee has been notified, at least ten days before, of such intended application, to cause a jury to be summoned to try the question whether said applicant is a fit person to have the care or control of his or her property; and if the said jury return in their verdict that such person is fit to have the control of such property, as aforesaid, then the court shall enter an order fully restoring such

The question of fitness to control such property to be decided by jury.

Proviso. person to all the rights and privileges enjoyed before said committee was appointed: *Provided*, That such committee so removed shall be allowed a reasonable time to settle his accounts as such, and to pass over the money or property in his hands; and such removal shall not invalidate any contract made in good faith by such committee while acting as such: *Provided further*, That no application shall be sustained for the removal of any committee appointed under the provisions of this act until after the expiration of one year from such appointment unless for neglect of duty or mismanagement of his trust.

Proviso.

Ibid., sec. 7.

Repealing clause. SEC. 105. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Ibid., sec. 8.

CHAPTER ELEVEN.

COMMISSIONERS OF DEEDS AND NOTARIES PUBLIC.

- | Sec. | Sec. |
|--|---|
| 1. Appointment of commissioners of deeds, by whom; powers of, etc. | 13. Record of acts, notary to keep; certified copy of. |
| 2. Appointment of notaries public, by whom; residence of. | 14. Original of protest, to be prima facie evidence. |
| 3. Term of office of notaries and commissioners. | 15. Certificate of protest, evidence of facts, when. |
| 4. Notaries may take testimony to be used in U. S. courts; and acknowledgments and affidavits same as commissioners of U. S. circuit courts. | 16. Fees of notary. |
| 5. Oath and bond of notary. | 17. Penalty for taking excessive fees. |
| 6. Seal of notary. | 18. Records of notary, disposition of in case of death, etc. |
| 7. Seal, impression of, where to be deposited. | 19. Holidays, public, affecting acts of notaries and payment of promissory notes, etc. |
| 8. Seals, records and official documents of notary exempt from execution. | 20. Holiday, 22d February, legal. |
| 9. Powers and duties of notaries as to foreign bills. | 21. Holiday, inauguration day, legal. |
| 10. What acts of notaries, for use and effect beyond the District, may be performed. | 22. Holiday, 30th day of May, legal. |
| 11. Powers of notaries as to inland bills. | 23. Holidays, legal, falling on Sunday, how payment of promissory notes is affected by. |
| 12. General powers of notaries. | 24. Per diem employés of Government to be paid for certain holidays. |
| | 25. Employés of Government Printing Office allowed certain holidays with pay; provisos. |

President may appoint commissioners of deeds. SEC. 1. The President of the United States is hereby authorized to appoint as many commissioners of deeds throughout the United States as he may deem necessary, with power to take the acknowledgment of deeds for the conveyance of property within the said District, administer oaths, and take depositions in cases pending in the courts of said District in the manner prescribed by law; to whose acts, properly attested by their hands and seals of office, full faith and credit shall be given.

June 7, 1878.

20 Stat., 101, sec.

5. 1 Sup. R. S., 837.

May also appoint notaries public. SEC. 2. The President shall also have power to appoint such number of notaries public, residents of said District, as in his discretion the business of the District may require.

Ibid.

Terms of office of commissioners and notaries. SEC. 3. Said commissioners of deeds and notaries public to hold their offices for the period of five years, removable at discretion.

Ibid.

SEC. 4. That notaries public of the several States, Territories, and the District of Columbia be, and they are hereby, authorized to take depositions, and do all other acts in relation to taking testimony to be used in the courts of the United States, take acknowledgments and affidavits, in the same manner and with the same effect as commissioners of the United States circuit court may now lawfully take or do.

Notaries public may take testimony, etc.

Aug. 15, 1876.
19 Stat., 206.
Sup. R. S., 251.
129 U. S. Rep., 371, Barber vs.

Harris; 5 Mackey Rep., 168, Williams vs. Ten Eyck; 2 MacArthur Rep., 475, Denmead vs. Maak.

SEC. 5. Each notary public, before entering upon the duties of his office, shall take the oath prescribed for civil officers in the District, and shall give bond to the United States in the sum of two thousand dollars, with security to be approved by the supreme court, or a justice thereof, for the faithful discharge of the duties of his office.

Oath and bond of notaries.

Sec. 979, R. S. D. C.
Apr. 8, 1864.
13 Stat., 44, sec. 2.

[See 85, R. S. D. C.]

SEC. 6. Each notary public shall provide a notarial seal, with which he shall authenticate all his official acts.

Notarial seal.

Sec. 980, R. S. D. C. Ibid., sec. 7, p. 45.

SEC. 7. He shall deposit an impression of his official seal in the office of the clerk of the supreme court of the District.

Impression to be deposited, where.

Sec. 981, R. S. D. C. Ibid.

SEC. 8. A notary's official seal and his official documents shall be exempt from execution.

Seal and records not liable to execution.

Sec. 982, R. S. D. C. Ibid.

SEC. 9. Notaries public shall have authority to demand acceptance and payment of foreign bills of exchange, and to protest the same for non-acceptance and non-payment, and to exercise such other powers and duties as, by the law of nations, and according to commercial usages, notaries public may do.*

Authority of notaries public; foreign bills.

Sec. 983, R. S. D. C.

SEC. 10. They may also perform such other acts, for use and effect beyond the jurisdiction of the District, as, according to the law of any State or Territory of the United States, or any foreign government in amity with the United States, may be performed by notaries public.

Acts for use and effect beyond the District.

Sec. 984, R. S. D. C. Ibid.

SEC. 11. Notaries public may also demand acceptance of inland bills of exchange, and payment thereof, and of promissory notes, and may protest the same for non-acceptance or non-payment, as the case may require.

Inland bills; protests.

Sec. 985, R. S. D. C. Ibid.

SEC. 12. Each notary public shall have power to take and to certify the acknowledgment or proof of powers of attorney, mortgages, deeds, and other instruments of writing, the acknowledgment of any conveyance, or other instrument of writing executed by any married woman, to take depositions, and to administer oaths and affirmations in all matters incident or belonging to the duties of his office, and to take affidavits to be used before any court, judge, or officer within the District. [See R. S. U. S., §§ 863, 1778.]

Acknowledgments, oaths, etc.

Sec. 986, R. S. D. C. Ibid., pp. 44, 45, sec. 5.

SEC. 13. Each notary public shall keep a fair record of all his official acts, except such as are mentioned in the preceding section, and when required shall give a certified copy of any record in his office to any person, upon payment of the fees therefor.

Records; certified copies.

Sec. 987, R. S. D. C. Ibid., p. 45, sec. 6.

* For protests etc.: See title "Bills, bonds, and promissory notes."

Original protest to be prima facie evidence. SEC. 14. The original protest of a notary public, under his hand and official seal; of any bill of exchange or promissory note for non-acceptance or non-payment, stating the presentment by him of such bill of exchange or note for acceptance or payment, and the non-acceptance or non-payment thereof, and the service of notice on any of the parties to such bill of exchange or promissory note, and specifying the mode of giving such notice, and the reputed place of residence of the party to whom the same was given, and the post-office nearest thereto, shall be prima-facie evidence of the facts contained therein.

Sec. 988, R. S. D. C.
Ibid.
6 Howard R., 248, *Bowling vs. Harrison*; *MacArthur and M. Rep.*, 22, *Morton vs. Cammack*; Alex. British Stat., 633.

Certificate to be like evidence. SEC. 15. The certificate of a notary public, under his hand and seal of office, drawn from his record, stating the protest and the facts therein recorded, shall be evidence of the facts in like manner as the original protest.

Sec. 989, R. S. D. C.
Ibid., 45, sec. 9.

Fees. SEC. 16. The fees of notaries public shall be :
For each certificate and seal, fifty cents ;
Taking depositions or other writings, for each one hundred words, ten cents ;
Administering an oath, fifteen cents ;
Taking acknowledgment of a deed or power of attorney, with certificate thereof, fifty cents ;
Every protest of a bill of exchange or promissory note, and recording the same, one dollar and seventy-five cents ;
Each notice of protest, ten cents ;
Each demand for acceptance or payment, if accepted or paid, one dollar to be paid by the party accepting or paying the same ;
Each noting of protest, one dollar.

Sec. 990, R. S. D. C.
Ibid., sec. 10.

Penalty for taking higher fees. SEC. 17. Any notary public who shall take a higher fee than is prescribed by the preceding section shall pay a fine of one hundred dollars and be removed from office by the supreme court of the District.

Sec. 991, R. S. D. C.
Ibid.

Records in case of death, etc. SEC. 18. Upon the death, resignation, or removal from office of any notary public, his records, together with all his official papers, shall be deposited in the office of the clerk of the supreme court of the District.

Sec. 992, R. S. D. C.
Ibid., sec. 8.
¹⁸Wheaton Rep., 326, *Nichols vs. Webb*.

PUBLIC HOLIDAYS.

Certain holidays established; legal effect. SEC. 19. The following days, namely: The first day of January, commonly called New-Year's day; the fourth day of July; the twenty-fifth day of December, commonly called Christmas day; the twenty-second day of February¹; that day upon which the President of the United States is inaugurated, otherwise called Inauguration Day,² the thirtieth day of May in each year, usually called "Decoration Day,"³ and any day appointed or recommended by the President of the United States as a day of public fast or thanksgiving, shall be holidays within the District, and shall, for all purposes of presenting for payment or acceptance, for the maturity and protest, and giving notice of the dishonor of bills of exchange, bank-checks, and promissory notes, or other negotiable or commercial paper, be treated and considered as is the first day of the week, commonly called Sunday, and all notes, drafts, checks, or other commercial or negotiable paper falling due or maturing on either of said holidays shall be deemed as having matured on the day previous.*

Sec. 993, R. S. D. C., as amended 28 June, 1870.
16 Stat., 168.
Twenty-second February.

¹Amended Jan. 31, 1879, 20 Stat., 277.

Inauguration Day.

²Amended June 18, 1888.

25 Stat., 185.

Decoration Day.

³Amended August 1, 1888. 25 Stat., 353.

* Saturday a half-holiday, see resolution of Dec. 22, 1892; also Feb. 18, 1893.

SEC. 20. That section nine hundred and ninety-three of the Revised Statutes of the United States relating to the District of Columbia be, and the same hereby is, amended by adding to the days therein declared to be holidays within the District the twenty-second day of February; and such day shall be a holiday for all the purposes mentioned in said section.

Washington's birthday a legal holiday.

R. S. D. C., 993.
District of Columbia.

Jan. 31, 1879. 20 Stat., 277.

SEC. 21. That section nine hundred and ninety-three of the Revised Statutes of the United States, relating to the District of Columbia, be, and the same hereby is, amended, by adding to the days therein declared to be holidays within the said District, that day upon which the President of the United States is inaugurated, otherwise called Inauguration Day, and that such day shall be a holiday for all the purposes mentioned in said section.

Inauguration Day a holiday in District of Columbia.

R. S. D. C., sec. 993, p. 116.
June 18, 1888.

25 Stat., 185, ch. 391.

SEC. 22. That the thirtieth day of May in each year, usually called "Decoration Day," shall be, and hereby is, made a holiday within the District of Columbia as fully in all respects as are the days mentioned as holidays in section nine hundred and ninety-three of the Revised Statutes of the District of Columbia.

Decoration Day to be a holiday, District of Columbia.

R. S. D. C., sec.

993, p. 116. Aug. 1, 1888. 25 Stat., 353, ch. 723.

SEC. 23. Whenever any day set apart as a legal holiday within the District of Columbia shall fall on the first day of the week, commonly called Sunday, then and in such event the day next succeeding shall be a holiday within the District of Columbia, and shall for all purposes of presenting for payment or acceptance, for the maturity and protest and giving notice of the dishonor of bills of exchange, bank-checks, and promissory notes or other negotiable or commercial paper, be treated and considered as is the first day of the week, commonly called Sunday, and all notes, drafts, checks, or other commercial or negotiable paper falling due or maturing on such holiday shall be deemed as having matured on the Saturday previous.

Legal holidays, District of Columbia, falling on Sunday.

R. S. D. C., 993, amended.
20 Stat., 277.
Dec. 20, 1881.
22 Stat., 1.

SEC. 24. That all per diem employees of the Government, on duty at Washington or elsewhere in the United States, shall be allowed the day of each year, which is celebrated as "Memorial" or "Decoration Day" and the fourth of July of each year, as holiday, and shall receive the same pay as on other days.

Per diem employees.

Allowed pay for Decoration Day and Fourth of July.

Feb. 23, 1887. 24 Stat., 644.

SEC. 25. The employees of the Government Printing Office shall be allowed the following legal holidays with pay, to-wit: the first day of January, the twenty-second day of February, the fourth day of July, the twenty-fifth day of December, and such day as may be designated by the President of the United States as a day of public fast or thanksgiving: *Provided*, That the said employees shall be paid for these holidays only when the employees of the other government departments shall be so paid: *And provided further*, That nothing herein contained shall authorize any additional payment to such employees as receive annual salaries.

Employees of Government Printing Office. Holidays.

Proviso.

Proviso.

Apr. 16, 1880.
21 Stat., 304.

CHAPTER TWELVE.

CONSTABLES.

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|---|--|--|--|
| <p>Supreme court of District may appoint twenty constables.</p> <p>June 7, 1878.
20 Stat., 100, sec.</p> | <p>Sec. 1. The supreme court of the District shall have authority to appoint not exceeding twenty constables, who shall hold office for four years, subject to be removed by said court for cause, upon hearing. And said constables shall be the successors of the constables now holding office in the said District.*</p> | <p>Sec. 1. Supreme court may appoint twenty.</p> <p>2. Bond required; removal from office.</p> <p>3. Duties of constables.</p> <p>4. Shall take oath and give bond.</p> <p>5. Bond with sureties required.</p> <p>6. Powers of constables.</p> | <p>Sec. 7. Failure of constables to pay over money.</p> <p>8. Fees and commissions.</p> <p>9. Penalty for failing to qualify or find a substitute.</p> |
| <p>Form and approval of bond, removal from office.</p> <p>June 7, 1878.
20 Stat., 100, sec.</p> | <p>SEC. 2. The Supreme court of the District of Columbia shall have the power to fix the amount and form of the bonds, and approve the same, to be given by said constables, and may remove constables from office for willful violation, of law, or for misconduct, or for incompetency.</p> <p>3. Sup. R. S., 337. 3 Mackey, R. 388, D. C. vs. Van Horn.</p> | | |
| <p>Duties of constables.</p> <p>Sec. 1035, R. S. D. C. Mar. 3, 1863.</p> | <p>SEC. 3. The duties of constable shall be confined exclusively to the service of civil process and the collection of strictly private debts within the District.</p> <p>12 Stat., 803, sec. 10.</p> | | |
| <p>Constables to take oath and give bond.</p> <p>Sec. 1036, R. S. D. C. Jan. 16, 1877.
19 Stat., 222.</p> | <p>SEC. 4. Each constable shall, before performing any of the duties of his office, take the oath prescribed for civil officers in the District, and shall enter into a bond to the United States in the sum of five thousand dollars, with security, to be approved by the clerk of the supreme court of the District, conditioned for the faithful performance of the duties of his office, and for the punctual payment of all moneys coming into his hands to the persons entitled to receive the same.†</p> | | |
| <p>Bond with sureties required.</p> <p>Ibid.</p> | <p>SEC. 5. The clerk of said supreme court shall approve of no bond of any constable until at least three bondsmen shall sign said constable's bond, and each of said bondsmen shall file with said constable's bond an affidavit that he is the owner in fee-simple of unincumbered real estate, situated in the District of Columbia, of the cash value of at least five thousand dollars."</p> | | |
| <p>Power of constables.</p> <p>Sec. 1038, R. S. D. C. March 1, 1823,
3 Stat., 292.</p> | <p>SEC. 6. Constables are authorized to serve warrants and levy executions issued by justices of the peace, and make return thereof to such justices, in the same manner, and be liable to the same penalties, as the marshal or his deputies. (See §§ 910, 912, R. S. D. C.)</p> <p>U. S. vs. Bill, 2 Cranch, C. C., 202; Wells vs. Hubbard, 2 Cranch, C. C., 292.</p> | | |
| <p>Failure of constable to pay over money, etc.</p> <p>Sec. 1039, R. S. D. C.</p> | <p>SEC. 7. Where a constable shall have received money, on any judgment or execution, not exceeding twenty dollars, and shall fail to pay the same to the plaintiff, or his agent, when demanded, or shall fail to return any execution within the time limited for such return, it shall be lawful for the supreme court of the District, on</p> | | |

* Constable sued for act done by virtue of his office, etc., may plead general issue, etc. 7 James I. ch. 5, Alex. Brit. Statutes, p. 434.
† Sec. 20, Stat. 101, sec. 4, form, etc., of bond to be fixed by court.
Constable's oath to keep jury together See sec. 1015, R. S. D. C.

motion, five days' previous notice being given to the constable, to enter up judgment, instanter, against him for the amount so received, with interest and costs.

Ibid., p. 745.

SEC. 8. The fees of constables shall be fixed and determined by the supreme court, and a commission of five per cent. shall be allowed each constable for every sum on executions by him levied.

Fees and commissions.

Sec. 1040, R. S. D. C. Feb. 22, 1867, 14 Stat., 402. 1 Cr. Ct. R., 411, U. S. vs. Little.

SEC. 9. Whenever any person shall be appointed a constable by any court, and shall neglect to act according to such appointment, and shall not, within five days after notice of such appointment, qualify as constable, or within that time find a sufficient and proper person to qualify and act in his stead, he shall be fined by the said court not exceeding ten pounds current money [$\$26.66\frac{2}{3}$].

Penalty for failing to qualify or find substitute.

Md. act 1782, ch. 40, sec. 2. 1 Dorsey, 179.

CHAPTER THIRTEEN.

CONTRACTS AND ACCOUNTS FOR PUBLIC BUILDINGS, WORKS, AND FUEL.

- Sec.
1. Contracts for buildings and works to be advertised.
 2. Bids for same, how opened.
 3. Contracts in advance of appropriations void.
 4. Contractors to give security for advances.
 5. Measurement of work.
 6. Extra materials, how rated.
 7. Illegal vouchers, how stopped.

- Sec.
8. Penalty for making or passing, etc., fraudulent vouchers.
 9. Fuel, inspection of
 10. Inspectors of fuel, appointment; bond; duties.
 11. Appointment of inspectors, to be notified to accounting officer.
 12. No payment for fuel except on certificate.

SEC. 1. All contracts for buildings and other public works of the United States in the District of Columbia shall be advertised at least sixty days before letting.

Contracts to be advertised.

Sec. 238, R. S. D. C.

SEC. 2. Bids shall be opened in the presence of the bidders, if any of them shall be present, and notice thereof shall be given in the advertisement for proposals.

Bids, how opened.

Sec. 239, R. S. D. C.

SEC. 3. All contracts made without an appropriation of money for an object, the subject of a contract, are void,

Contracts in advance of appropriations void.

[See R. S. U. S., §§ 8733, 5503.]

Sec. 240, R. S. D. C.

SEC. 4. Good and sufficient security shall be given for twice the amount of money advanced at any time to a contractor under any contract.

Security required for advances to contractors.

Sec. 241, R. S. D. C.

SEC. 5. The following rule of measurement shall be applied to all buildings and other public works and contracts in the District of Columbia, namely:

Rule of measurement.

First. The work and materials shall be measured agreeably to the original contracts.

Sec. 242, R. S. D. C.

Second. The contracts and the proposals shall be put in the hands of the measurer, who, before entering on duty, shall be sworn to examine and measure and report every part of the work and materials without deviation from the contracts and proposals.

- Extramaterials, how rated.** SEC. 6. If it is shown that any extra materials are used they shall be rated at the pro-rata price for materials only, and shall be entered in a separate column of the account.
 Sec. 243, R. S. D. C.
- Illegal vouchers to be stopped.** SEC. 7. It shall be the duty of the First Comptroller of the Treasury to arrest and stop any voucher not made in form and in accordance with the terms of the contract against which it is drawn.
 Sec. 244, R. S. D. C.
- Penalty for making or passing, etc., fraudulent vouchers.** SEC. 8. It shall be a penal offense for every measurer and inspector of work, or disbursing officer, to make, or present, or to pass, or attempt to pass, any falsely made or fictitious voucher to draw money from the Treasury on any contracts or accounts whatever.
 Sec. 245, R. S. D. C. [See R. S. U. S., §§ 5438, 5440, 3490-3494.]
- Inspection of fuel in District of Columbia.** SEC. 9. It shall not be lawful for any officer or person in the civil, military, or naval service of the United States in the District of Columbia to purchase anthracite or bituminous coal or wood for the public service except on condition that the same shall, before delivery, be inspected and weighed or measured by some competent person to be appointed by the head of the Department or chief of the branch of the service for which the purchase is made. The person so appointed shall, before entering upon the duty of inspector, weigher, and measurer, and to the satisfaction of the appointing officer, give bond, with not less than two sureties, in the penal sum of five thousand dollars, and with condition that each ton of coal weighed by him shall consist of two thousand two hundred and forty pounds, and that each cord of wood to be so measured shall be of the standard measure of one hundred and twenty-eight cubic feet. The inspector, weigher, and measurer so appointed shall be entitled to receive from the venders of fuel weighed and measured by him twenty cents for each ton of coal weighed, and nine cents for each cord of wood measured by him. Each load or parcel of wood or coal weighed and measured by him shall be accompanied by his certificate of the number of tons or pounds of coal and the number of cords or parts of cords of wood in each load or parcel.
 Sec. 3711, R. S. U. S. 11 July, 1870, c. 243, s. 1, v. 16, p. 229.
- Appointment of inspectors of fuel.**
- Bond of; duties of.**
- Appointments to be notified to accounting officer.** SEC. 10. The proper accounting officer of the Treasury shall be furnished with a copy of the appointment of each inspector, weigher, and measurer appointed under the preceding section.
 Sec. 3712, R. S. U. S. Ibid., sec. 2.
- No payment without certificate.** SEC. 11. It shall not be lawful for any accounting officer to pass or allow to the credit of any disbursing officer in the District of Columbia any money paid by him for purchase of anthracite or bituminous coal or for wood, unless the voucher therefor is accompanied by a certificate of the proper inspector, weigher, and measurer that the quantity paid for has been determined by such officer.
 Sec. 3713, R. S. U. S. Ibid.

CHAPTER FOURTEEN.

CORONER.

<p>Sec. 1. Duties of, expenses of interring bodies; proviso; reports to health officer; valuables found on bodies, how disposed of; salary of coroner; bond of coroner. NOTE.—Jury, how composed, and their pay; fees of witnesses; abortive drugs, coroner to analyze.</p> <p>2. Duty of coroner on inquisition found before him.</p> <p>3. What things a coroner shall inquire into.</p> <p>4. Commission of. NOTE.—Is officer of the District.</p> <p>5. Usual oath of.</p> <p>6. Additional oath of; certificate of, to be filed and recorded; penalty for neglect.</p>	<p>Sec. 7. Usual and additional oath to be taken and recorded.</p> <p>8. To give bond; its condition and obligation. NOTE.—When coroner can not execute process, elisor may be appointed.</p> <p>9. May give bond in sixty days.</p> <p>10. Coroner paying certain judgments; subrogated NOTE.—<i>Capias ad satisfaciendum ne erreat.</i></p> <p>11. Judgment against, for failure to return execution.</p> <p>12. Judgment against, for failure to return original writ.</p> <p>13. Paying judgment is entitled to the original cause of action.</p> <p>14. Motion against, for return of writ; response, etc.</p>
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SEC. 1. It shall be the duty of the coroner to hold an inquest over any person found dead in the District of Columbia, when the manner and cause of death shall not be already known as accidental or in the course of nature. And said coroner is hereby authorized and empowered to issue his certificate to the auditor for the payment of such expenses as may be necessary for the interment of any person over whom he has held an inquest and whose body is not claimed by friends or relatives: *Provided*, That the amount of such expenses shall not exceed the sum of ten dollars. He shall make a monthly report to the *Health Officer* [Board of Health] of the number of inquests held by him during the month last past before said report, with a full description, as far as may be, of the age and sex of persons, color and nationality, the cause and mode of their death, and such other particulars as may be necessary to their identification, in case of strangers and unknown persons. He shall also, immediately after holding any inquest, deposit in some bank in the city of Washington, subject to the order of the *Commissioners* [Governor,] all moneys, and all other property and other effects with the property clerk of the police department, which shall be found upon the person of those over whom he shall hold inquest, as hereinbefore provided. He shall receive a salary of *one thousand eight hundred* [two thousand] dollars per annum, and give bond, to be approved by the *Commissioners* [Governor,] in the sum of five thousand dollars, conditioned for the faithful performance of his duties.*

Coroner.
Duties.

Expenses of interring bodies.
Proviso.

Reports to health officer.

Disposition of valuables found on body.

Salary.
Bond.

Leg. Assem.,
sec. 13, ch. 108, pp.
148, 149, 1871, Aug. 23.

SEC. 2. Every coroner, upon any inquisition before him found, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory or accessories to the same, before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material; and as well the said justices, as the said coroner, shall have authority by this act, to bind all such by recognizance or obligation, as do declare any thing material, to prove the said murder or manslaughter, offences or felonies, or to be accessory or accessories to the same, as is aforesaid, to appear at

The coroner's duty upon an inquisition found before him.

I and II Philip and Mary. A. D. 1554, ch. 10, sec. 5.
Alex. Brit. Stat., 370.
Kilty's Rep., 233.

*The bond to be filed in the office of the secretary of the Board of Commissioners of the District. Sec. 47, 1 Leg. Assem., ch. 108, p. 161. See chapter "D. C."
2 Sup. R. S., p. 322, Mar. 3, 1881: Coroner's jury, six persons; pay \$1 each per day. See title "Jury" post.

Witness fees before the coroner. See sec. 901, R. S. D. C.
Required to analyze abortive drugs. Sec. 7, p. 28, Leg. Assem., Jan. 19, 1872.

1 Cranch, Ct. Rep., 456, U. S. vs. Faw: money found by coroner on dead body, 22 Wash. Law Rep., 143, Tucker vs. Nebeker.

the next general goal-delivery to be holden within the county, city, or town corporate where the trial thereof shall be, then and there to give evidence against the party so indicted at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing, as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made: and likewise the said justices shall certify all and every such bond taken before them, in like manner as before is said of bailments and examination.

Of what things a coroner shall inquire.

4 Edward I, Stat. 2, A. D. 1276.
Alex. Brit. Stat. 66-70.

SEC. 3. A coroner ought to inquire of these things, if he be certified by the bailiffs, or other honest men of the country: First, he shall go the places where any be slain, or suddenly dead, or wounded, or where houses are broken, or where treasure is said to be found, and shall forthwith command six to appear before him in such a place; (2) and when they are come thither, the coroner upon the oath of them shall inquire in this manner, that is to wit, if they know where the person was slain, whether it were in any house, field, bed, tavern, or company, and who were there: Likewise it is to be inquired, who were culpable either of the act, or of the force, and who were present, either men or women, and of what age soever they be (if they can speak or have any discretion); (3) and how many soever be found culpable by inquisition in any of the manners aforesaid, they shall be taken and delivered to the sheriff, and shall be committed to the gaol; (4) and such as be founden, and be not culpable, shall be attached until the coming of the justices, and their names shall be written in rolls. (5) If it fortune any such man be slain, which is found in the fields, or in the woods, first it is to be inquired, whether he were slain in the same place, or not; (6) and if he were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, whether he were brought upon a horse, or in a cart: (7) It shall be inquired also, if the dead person were known, or else a stranger, and where he lay the night before; (8) and if any be found culpable of the murther, the coroner shall immediately go unto his house, and shall inquire what goods he hath, and what corn he hath in his graunge; and, if he be a freeman, they shall inquire how much land he hath, and what is its worth yearly; and further, what corn he hath upon the ground. (9) And when they have thus inquired upon every thing, they shall cause all the land, corn, and goods to be valued, in like manner as if they should be sold incontinently, and thereupon they shall be delivered to the whole township, which shall be answerable before the justices for all; (10) and likewise of his freehold, how much it is worth yearly over and above the service due to the lords of the fee; and the land shall remain in the King's hands, until the lords of the fee have made fine for it. (11) And immediately, upon these things being inquired, the bodies of such persons being dead or slain shall be buried.

In like manner it is to be inquired of them that be drowned, or suddenly dead, and after such bodies are to be seen, whether they were so drowned, or slain, or strangled by the sign of a cord tyed streight about their necks, or about any of their members, or upon any other hurt found upon their bodies, where upon they shall proceed in the form abovesaid; (2) and if they were not slain, then ought the coroner to attach the finders, and all other in the company. (3) A coroner also ought to inquire of treasure that is found, who were the finders, and likewise who is suspected thereof; and that may be well perceived where one liveth riotously haunting taverns, and hath done so for long time; hereupon he may be attached for this suspicion by four, or six, or more pledges, if he may be found. (4) Further, if any be appealed of rape, he must be attached, if the appeal be fresh, and they must see apparent sign of truth by effusion of

blood, or an open cry made; (5) and such shall be attached by four, or six pledges, if they may be found: (6) If the appeal were without cry, or without any manifest sign or token, two pledges shall be sufficient. (7) Upon appeal of wounds and such like, specially if the wounds be mortal, the parties appealed shall be taken immediately and kept until it be known perfectly, whether he that is hurt shall recover, or not; (8) and if he die, the defendant shall be kept; and if he recover health, they shall be attached by four or six pledges, after as the wound is great or small. (9) If it be for a maim, he shall find no less than four pledges; if it be for a small wound, two pledges shall suffice. (10) Also all wounds ought to be viewed, the length, breadth, and deepness, and with what weapons, and in what part of the body the wound or hurt is and how many be culpable, and how many wounds there be, and who gave the wound; (11) all which things must be inrolled in the roll of the coroners. (12) Moreover, if any be appealed of an act done, as principal, they that be appealed of the force shall be attached also, and surely kept in ward, until the principals be attainted or delivered. (13) Concerning horses, boats, carts, &c. whereby any are slain, that properly are called deodands, they shall be valued and delivered unto the towns, as before is said. (14) Concerning wreck of the sea, wheresoever it be found, if any lay hands on it, he shall be attached by sufficient pledges and the price of the wreck shall be valued and delivered to the towns. (15) If any be suspected of the death of any man being in danger of life, he shall be taken and imprisoned, as before is said.*

SEC. 4. Form of a commission to a coroner, surveyor, or any other civil officer of a government: The *District of Columbia* [state of Maryland] to A. B. of —, Esquire, greeting: Be it known, that reposing especial trust and confidence in your prudence and honesty, you are appointed sheriff, or one of the coroners, or surveyor of —, to hold the said office of —, with all lawful fees, profits, privileges and benefits, to the said office of — belonging, until you shall be duly discharged therefrom, and to execute the duties of the said office with diligence and fidelity, without favour, affection or partiality, according to law. Given under the seal of * * * this — day of —, in the year of our Lord one thousand eight hundred and ninety. Witness C. D.†

Forms of commission.

Md. act 1777, ch. 5, pt. of sec. 1.
1 Kilty, 441.
1 Dorsey, 128.

SEC. 5. The oath of [the coroner] and all other civil officers of this *District* [state:] 'I, A. B. do solemnly promise and swear that I will well and truly behave and demean myself in the office of — in all things appertaining to the duties thereof, according to the best of my skill and judgment, and without favour, affection or partiality; so help me God.'

Usual oath of coroner.

Ibid.
1 Dorsey, 128.

[See also two succeeding sections.]

SEC. 6. All coroners within this *District* [State] already commissioned, shall, on or before the first Monday in March next, take the following oath, or affirmation, (as the case may be,) before some judge or justice of the court of the county for which they may have been respectfully commissioned, to wit: 'I, A. B. do swear, or affirm, (as the case may be,) that in summoning jurors to be returned to any of the courts of this *District* [state,] and that in executing every writ or precept which shall come to my hands for the return of jurors, I will use my utmost diligence to summon and return, as jurors, sober and judicious persons, of good reputation, and qualified by the laws [of this state] to serve as jurors, and to prevent any man being summoned or returned by me, or by any officer under me, who in my judgment will be influenced in determining any of the matters

Additional oath of coroner: certificate to be recorded; penalty for neglect.

Md. act 1797, ch. 87, sec. 2.
2 Kilty, 731.
1 Dorsey, 349.
See sec. 837, R. S. D. C.

* When the jury appear, they are to be sworn and charged by the coroner to inquire upon the view of the body how the party came by his death. It is absolutely necessary that the inquest be held upon view of the body, and that the jury be sworn by the coroner, and an inquest taken otherwise is void. 2 Hawk., P. C., 77; 3 B. & A., 360, R. vs. Ferrand; 8 A. & E., 396, *In re Dawes*; 5 Best & S. 249, R. vs. Ingham.

† The coroner is an officer of the District. See act of Leg. Assem., Aug. 21, 1871, chap. 64, sec. 1, p. 74.

which shall come before him as a juror by hatred, malice or ill will, fear, favour, or affection, or by any partiality whatever; and that I will not summon or return as a juror any person, who, in my opinion or to my knowledge, may be solicitous to be returned upon the panel of jurors;" and that they respectively return a certificate of such oath, or affirmation, to the clerk of the court of the county for which such person is commissioned as coroner, within twenty days thereafter, there to be recorded by said clerk, whose duty it is hereby declared to be to record the same amongst the proceedings of the [preceding county] court; and that in case any coroner shall neglect to take such oath, or affirmation, or return a certificate thereof as aforesaid, the person so neglecting shall forfeit and pay the sum of fifty dollars, to be recovered¹ by indictment before the district court of the county for which such person is commissioned, [and applied to the use of said county.*]

The usual and additional oath to be taken and recorded.

Ibid., sec. 4.
1 Dorsey, 350.

SEC. 7. Every coroner hereafter commissioned within this *District* [state] shall, before he be allowed to proceed on the execution of his office, besides the usual oaths or affirmations as required by the constitution and laws of this *District* [state,] take the oath, or affirmation, (as the case may be,) above prescribed, before some judge or justice of the court of the county for which such person may be commissioned, and return a certificate of such oath, or affirmation, to the *Secretary of the Board of Commissioners of the District of Columbia* [clerk of the court of the county for which such person may be commissioned,] there to be recorded as aforesaid. †

Coroner to give bond: its condition and obligation.

Md. act 1797, ch. 95, sec. 1.
2 Kilty, 745.
Jan. 20, 1798.

SEC. 8. That from and after the first day of April next, and [between the first days of March and April †] in every third year thereafter, every coroner, before he executes any civil process, shall give bond, [or enter into a recognizance to the state of Maryland, in the penalty of one thousand pounds,] with a condition, that he will well and truly execute the office of coroner in all things thereto belonging; and shall also well and faithfully execute and return all writs, or other process, to him directed; and shall also pay and deliver, to the person or persons entitled to receive the same, all sums of money and tobacco, all goods and chattels, by him levied, seized or taken, agreeably to the directions of the writ, or other process, under which the same shall have been levied, seized, or taken; and also shall keep and detain in safe custody all and every person and persons committed to his custody, or by him taken in execution, or who shall be committed for the want of bail, without suffering them, or any of them, to escape or depart from his custody; and shall also satisfy and pay all judgments which shall be rendered against him as coroner; and shall also well and truly execute and perform the several duties required of or imposed upon him by the laws [of this state;] which bond or recognizance shall be entered into before, and attested by, the chief justice of the district, or any associate justice of the county, with two sufficient securities, freeholders of the county, and shall, immediately after the execution thereof, be delivered by the said justice to the clerk of the [county] court, to be by him recorded, and a copy thereof, certified under the seal of the court, shall be good evidence to prove the execution of such bond in any court of this *District* [State.] §

[See § 1 of this chapter.]

Coroner may give bond in sixty days.

Md. act 1799, ch. 91, sec. 1.

SEC. 9. Any coroner already appointed, or hereafter to be appointed, may give bond at any time of the year, within sixty days after his appointment, in the manner and for the term prescribed by law.

1 Dorsey, 428. 2 Kilty, 935.

* As an officer of the District he is also required to take an oath to support the Constitution of the United States. See sec. 48, Leg. Assem., Aug. 23, 1871, ch. 108, p. 162; See chapter on District of Columbia. Sec. 837, R. S. D. C.

† Sec. 48, 1 Leg. Assem., ch. 108, p. 162. See chapter on District of Columbia.

‡ Regulated by next section.

§ When coroner can not execute process elisor may be appointed. Md. act, 1794 ch. 54. Secs. 5 and 6, 1 Dorsey, 312.

SEC. 10. If any coroner, against whom any judgment shall be entered for default in not producing the body of the person against whom process may have been issued, shall satisfy the plaintiff the amount of his debt and costs, he shall have the same remedy against the defendant on the plaintiff's judgment against him as the plaintiff himself might originally have had.*

Coroner paying certain judgment subrogated.

Md. act 1797, ch. 95, sec. 2.
2 Kilty, 745.
1 Dorsey, 353.

SEC. 11. In case any coroner shall be called upon by order of any court of record [within this state.] or of the [high] court of chancery, to make return of any writ of execution, and shall fail or omit to make return thereof within the time limited by rule of court made for that purpose, it shall and may be lawful to and for the judges aforesaid to cause judgment to be entered up, in the name of the plaintiff or plaintiffs, against such coroner, for the amount of the debt or damages, and costs, recovered from the person or persons against whose body, goods, chattels, land or tenements, such execution shall have issued, which judgment shall have the same effect, operation and validity, as any judgment rendered upon any verdict of a jury.

Judgment may be entered against any coroner failing to return execution.

Md. act 1794, ch. 54, sec. 1.
2 Kilty, 507.
1 Dorsey, 311.

SEC. 12. In case any coroner shall be called upon by order of the justices [of the general court, or of any county court,] to return any original writ, and shall fail or omit to make return thereof within the time limited by rule of court for that purpose, and in all cases where any coroner, being called upon by order of the [general court or any county] court, to bring before them any defendant or defendants before arrested by such coroner upon any original writ or mesne process, according to the tenor of his return, the court, on motion, shall cause such coroner to be amerced to the amount of the debt or damages, and costs due from the defendant or defendants, to be ascertained by the oath of the plaintiff or plaintiffs, his, her or their factor, agent or attorney, and such other proof as the court may require, and shall and may enter judgment, *nisi* the second day of the next term thereafter, for the amount of the amercement aforesaid, in the name of the plaintiff or plaintiffs, and for his or their use, against such coroner, which judgment shall be as valid and effectual as any judgment rendered upon any verdict of a jury.

Coroner failing to return original writ, etc.. judgment may be entered against him.

Ibid., sec. 2.

SEC. 13. In all cases where any coroner shall pay and satisfy to the plaintiff or plaintiffs any judgment rendered against him in virtue of this act as aforesaid, or any judgment rendered against him for a default upon any execution, such coroner shall thereupon immediately become entitled to the original cause of action, or judgment, as the case may be, as fully as the plaintiff or plaintiffs themselves was or were, and may issue any execution in his own name, or in the name of the original plaintiff or plaintiffs, upon such judgment, for his own use, or prosecute such action to judgment and execution for his own use, and shall be entitled to every other benefit and advantage from such judgment, or cause of action, and suit thereon depending, that the original plaintiff or plaintiffs might or could have had thereupon.

And entitled to the original cause of action, where he pays judgment.

Ibid., sec. 3.

SEC. 14. Upon motion made to either of the said courts for an order upon the coroner to make return of any writ of execution, or any original writ, as aforesaid, the said court shall and they are hereby directed to make such order of course, unless such coroner shall, upon oath or otherwise, satisfy the said court that the said writ was not received by him, or to the best of his knowledge by any of his deputies.

Motion against coroner to return writ; response, etc.

Ibid., sec. 4.
1 Dorsey, 312.

* *Capias ad satisfaciendum*, secs. 794, 795, 796, R. S. D. C.; *ne exeat*, sec. 717, R. S. U. S.

CHAPTER FIFTEEN.

CORPORATIONS.

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| <p>Sec.
1. Creation of corporations by general law.</p> <p style="text-align: center;">CLASS 1.</p> <p style="text-align: center;">INSTITUTIONS OF LEARNING.</p> <p>2. How they may be incorporated; prerequisites.</p> <p>3. Corporate powers; succession, to sue and be sued; acquire and hold property, etc.</p> <p>4. Acquisition and alienation of property.</p> <p>5. Their tenure of property.</p> <p>6. Funds of, how applied.</p> <p>7. Bequests, etc., to, how applied.</p> <p>8. Limit to amount of land corporation may hold.</p> <p>9. Land reverts to original donor, when.</p> <p>10. Officers, and servants, how appointed, etc.</p> <p>11. Treasurer to give bond.</p> <p>12. Annual statement, what to contain; to be recorded by recorder of deeds.</p> <p>13. Process against corporation.</p> <p>14. <i>Quo warranto</i> proceedings against.</p> <p style="text-align: center;">CLASS 2.</p> <p style="text-align: center;">RELIGIOUS SOCIETIES.</p> <p>15. Limit to ownership of lands by.</p> <p>16. May assume a name; trustees of.</p> <p>17. Certificate of trustees, how verified and recorded.</p> <p>18. Trustees' term of office; rules and regulations concerning.</p> <p>19. Trustees, their successors, record of.</p> <p>20. Trustees, failure to choose.</p> <p>21. Corporate powers.</p> <p>22. Title to land, in whom vested.</p> <p>23. Trustees, powers and duties as to sale of lands.</p> <p>24. Same subject, mortgage of lands.</p> <p>25. Reversion of property, when.</p> <p>26. Private schools of, not privileged under school laws.</p> <p style="text-align: center;">CLASS 3.</p> <p style="text-align: center;">SOCIETIES, BENEVOLENT, EDUCATIONAL, ETC.</p> <p>27. Existing corporations (of this character) may avail themselves of provisions of this act, etc.; right reserved to alter or abolish charters and of repeal.</p> <p>28. Such societies, etc., how formed.</p> <p>29. Their corporate powers; proviso.</p> <p>30. Election of officers; vacancies, how filled.</p> <p>31. Existing societies, how reorganized.</p> <p>32. Sale, etc., of its real estate, when, etc.</p> | <p style="text-align: center;">CLASS 3—Continued.</p> <p>Sec.
33. Surrender of corporate powers; disposition of property.</p> <p>34. Name previously adopted by another not to be used.</p> <p>35. Board of Foreign Missions Methodist Protestant Church empowered to hold property; <i>proviso</i>, limitation as to real estate.</p> <p style="text-align: center;">CLASS 4.</p> <p style="text-align: center;">MANUFACTURING, AGRICULTURAL, MINING, MECHANICAL, INSURANCE, TRANSPORTATION, MARKET, AND SAVINGS BANK CORPORATIONS.</p> <p>36. Such companies, how formed; certificate of incorporation to be acknowledged and recorded; what certificate must contain.</p> <p>37. Perpetuation of real estate title insurance companies.</p> <p>38. Corporate powers.</p> <p>39. Trustees, number and qualifications of.</p> <p>40. Election of trustees; vacancies supplied.</p> <p>41. Nonelection of trustees not to dissolve company.</p> <p>42. Officers of company; how chosen; required to bond.</p> <p>43. By-laws.</p> <p>44. Assessment calls, forfeiture for non-payment.</p> <p>45. Stock defined as personal estate; transfers of.</p> <p>46. Liability of stockholders.</p> <p>47. Capital stock paid in, certificate and record of.</p> <p>48. When capital stock must be paid in full.</p> <p>49. Capital stock must be paid in money.</p> <p>50. Annual statement to be verified, recorded, and published.</p> <p>51. Trustees' liability for failure to make, etc., annual statement.</p> <p>52. False certificate, liability of officers making same.</p> <p>53. Funds not to be invested in stock of other companies.</p> <p>54. Loans of funds to stockholders prohibited; liability for breach.</p> <p>55. Liability of trustees for declaring, etc., unlawful dividends.</p> <p>56. Same subject, when trustee relieved.</p> <p>57. Same subject, when debts exceed capital stock.</p> <p>58. Liability of stockholders for debt, wages, etc.</p> <p>59. Same subject, limitation of.</p> <p>60. Same subject, executors, etc., not personally liable on stock held as such.</p> <p>61. Representation of stock held by executors, etc.</p> |
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CLASS 4—Continued.

- Sec.
 62. Holders of stock, as collateral, not subject to liability of stockholder.
 63. Stock book to be kept; duty of trustees as to.
 64. Same subject, to be open to inspection, by stockholders and creditors, etc.
 65. Transfers of stock not valid, unless recorded.
 66. Same subject, evidence of transfer.
 67. Liability of officers for noncompliance with section 66.
 68. Liability of company for neglect of section 64; penalty: how recovered, etc.
 69. Capital stock may be increased or diminished.
 70. Same subject, when not to be diminished.
 71. Existing companies may be reorganized.
 72. Meeting of stockholders; notice, etc.
 73. Same subject, organization of.
 74. Same subject; proceedings at, regulated to change or extend; verification of.
 75. Same subject, when change, etc., effectual.
 76. Same subject, sufficient vote for.
 77. Certified copy of certificate to be evidence.

CLASS 5.

CEMETERY ASSOCIATIONS.

78. Formation of; powers, etc.
 79. May acquire land, how and under what restrictions.
 80. Land to be platted and recorded, etc.
 81. General powers.
 82. Sale of lots and application of proceeds.
 83. Officers, how chosen.
 84. Same subject, first election.
 85. Same subject, subsequent elections, who may vote.
 86. By-laws.
 87. Property exempt.
 88. Dedication of land for burial ground, how effected, etc.

CLASS 6.

BOARDS OF TRADE.

89. How formed.
 90. Corporate powers.
 91. May hold real estate, limit to.
 92. Board of directors.
 93. Election of officers.
 94. Their tenure of office.
 95. Rules, regulations, etc.
 96. Fines, how imposed and collected.
 97. Arbitration, effect of.
 98. Award by.
 99. Same subject, notice, bond.
 100. Same subject, power to compel attendance of witnesses.
 101. Restriction upon carrying on business.

CLASS 7.

RAILROAD COMPANIES.

- Sec.
 102. How formed; requisites of articles of association; record of same.
 103. Corporate powers.
 104. Certified copy of articles to be prima facie evidence.
 105. Subscription books to capital stock to be opened, etc.
 106. Allotment of stock.
 107. Annual meeting of stockholders for election of directors.
 108. Same subject, judges of election.
 109. Same subject, certificate of election; its authority.
 110. Directors, number, qualifications and term of office.
 111. Same subject, how chosen, etc.
 112. Same subject, nonelection, how remedied.
 113. Special meetings of stockholders, how called.
 114. Same subject, proceedings at and adjournment.
 115. By-laws.
 116. Officers, how chosen, security to be given by, etc.
 117. President may be removed.
 118. Annual statements; by whom made.
 119. Same subject, may be called for at any meeting.
 120. Stock, personal property, when and how transferred.
 121. Same subject, subscriptions, how called in.
 122. Same subject, certificate of, to be recorded.
 123. Same subject, increase of.
 124. Same subject, how increase perfected.
 125. Same subject, limit of increase.
 126. Same subject, suits to enforce collections of subscriptions.
 127. General powers, liabilities, and restrictions on corporations; surveys and entry upon lands, etc.; responsibility; grants and donations to; how to be used; purchase, etc., of real estate and compensation therefor; laying out and constructing road; taking materials; restoration of roads over streets, water courses, etc.; construction of water courses and highways; intersections with other roads; roads to unite; when several corporations can not agree; motive power; compensation for traffic, buildings, stations, etc.; transportation, fares, and freight.
 128. Map and profile of road to be recorded.
 129. Same subject, as to alterations of.
 130. Tracks crossing highways.
 131. Same subject, compensation for lands taken.
 132. Title to lands, right to acquire.
 133. Lands, appropriation of.
 134. Same subject, description of lands to be deposited with clerk of court.

CLASS 7—Continued.

- Sec.
 135. Land, purchase of from owner or guardian.
 136. Land, proceedings on appropriation when unable to purchase.
 137. Land, notice to owner or guardian when unknown, on appropriation.
 138. Same subject, appointment of appraisers.
 139. Same subject, assessment of damages.
 140. Same subject. payment or tender for same.
 141. Same subject, costs of award.
 142. Same subject, review on appeal.
 143. Same subject, right to take possession by company.
 144. Same subject; costs, by whom paid.
 145. Same subject; claims to money, if by several, to be settled by court.
 146. Same subject, court to protect rights of claimants.
 147. Same subject; defective title, how perfected.
 148. Power to borrow money and issue bonds; restrictions.
 149. Annual report, contents, etc., to be filed with clerk of court.
 150. Carrying mails.
 151. Making up of trains, liability for neglect of this section.
 152. Accommodation of the public.
 153. Refusal to transport passengers or property, damages may be recovered.
 154. Passengers refusing to pay fare may be put off.
 155. Employés to wear badge.
 157. No officer to exercise authority without badge.
 157. Route and termini of road to be approved by Congress.
 158. Operation and management; fare and freight may be regulated by Congress.
 159. Construction of this chapter.
 160. Repeal of this chapter reserved.
 161. STREET CARS: Power to be employed; rails; *proviso*; grooved rails to be used in two years; powers by commissioners if company neglect; costs; certificates of indebtedness for; sale of property; no other but grooved rails to be used hereafter; not applicable out of city limits—when approval of Commissioners required.

CLASS 8.

SAVINGS BANKS AND TRUST COMPANIES.

162. To make and publish reports; penalties for failure: to be subject to national banking laws.
 163. To be examined.

CLASS 9.

INSURANCE.

164. When insurance companies shall do business; capital; same, assessment companies.

CLASS 9—Continued.

- Sec.
 165. Annual statements; special statements; penalty for neglect. NOTE.—District property, how insured.
 166. Assets of fire insurance companies; assets of inland and marine insurance companies; assets of life insurance companies; Commissioners must assent to company commencing operations.
 167. Foreign companies must have attorney in fact.
 168. Penalty for transacting business without authority.
 169. Application of insured to be attached to policy.
 170. When act is operative.
 171. Mutual Fire Insurance Company, of District of Columbia; failure to pay interest etc., policy of insured deemed lapsed; notice to insured; settlement, etc.
 172. Same subject; costs, by whom paid.
 173. Insurable interest required in insurance on ships or their cargo.
 174. Reinsurance, when permitted.
 175. Plaintiff in action to recover insurance shall disclose other insurance.

CLASS 10.

MARYLAND VESTRY ACT AND AMENDMENTS.

176. How vestries are chosen.
 177. Register of parish to enroll certain persons.
 178. Vacancies in vestry, how filled.
 179. Qualifications of voters and election of vestry, how decided.
 180. Oath of vestryman.
 181. Vestry meetings.
 182. Rector's powers, rights, etc.
 183. Title of church property in vestry.
 184. Rector's liability for waste.
 185. Church wardens, how chosen, and oath of.
 186. Same shall have power to keep the peace, etc.
 187. Elections for vestry may be held at any time, etc.
 188. Church wardens may be chosen at any time.
 189. Vestry may choose and contract with ministers.
 190. Ministers, their titles and priorities.
 191. Vestry may take subscriptions for parish purposes.
 192. Register to be provided by vestry; his duties and oath of office.
 193. Same subjects, additional duties of.
 194. Ministers to notify register of marriages, etc.
 195. Minister, or register neglecting duties, to pay, etc.
 196. Register the custodian of records; to certify copies etc.; fees.
 197. Vestry fined for failure to appoint register or provide books.
 198. Special meeting of vestry, how called.
 199. Vestrymen not attending meetings may be fined.
 200. When vestrymen or register may be fined.

- CLASS 10—Continued.
- Sec.
201. Fines, how recovered.
202. Vestrymen bodies coporate: their powers and duties.
203. Alienation of church property restricted.
204. Debts due minister not to be paid out of money received for property.
205. Vestry powers over cemeteries, pews, and other church property.
206. Vestry may have seal, sue and be sued.
207. Parishes, how formed, united, or divided.
208. Select vestry act repealed.
209. Protestant Episcopal churches, act of legislative assembly relating to, approved.

- CLASS 10—Continued.
- Sec.
210. Same subject: officers and voters, qualification of: *proviso*, regarding recently organized parishes.
211. Same subject as to meeting of vestries: vacancy in vestry, how filled; wardens, how elected; powers of vestries.
212. Same subject, organization of existing vestries confirmed.
213. Same subject, as to rights of associate rectors.
214. Rock Creek Cemetery, privileges.
215. St. John's Parish, voter's qualifications.
216. Qualifications of voters in certain churches.
217. Sections 215 and 216, applicable to other churches; *proviso*.

SEC. 1. Corporations may be formed within the District, for the purposes mentioned in this chapter, in the following manner:*

Creation of corporations by general law.

Sec. 519. R. S. D. C. 2 Cranch, C. C., 243, Potomac Com. *vs.* Gilman.

CLASS 1.

INSTITUTIONS OF LEARNING.

SEC. 2. Any five or more persons, desirous of associating themselves for the purpose of establishing an institution of learning, may make, sign, and acknowledge, before any officer authorized to take acknowledgment of deeds in the District, and file in the office of the recorder of deeds, a certificate in writing, to be recorded in a book kept for that purpose, and open to public inspection, in which shall be stated—

How may be incorporated.

Sec. 520. R. S. D. C.

First. The name or title by which the institution shall be known in law.

Second. The number of trustees, directors, or managers, and their names.

Third. The particular branch of literature and science, or either of them, proposed to be taught; and

Fourth. If the institution is to be of the rank of a college or university, the number and designation of the professorships to be established.

SEC. 3. Upon filing such certificate, the persons signing and acknowledging the same, and their successors and associates, shall be a body politic and corporate, by the name and style stated in the certificate, and by that name and style shall have perpetual succession, with power to sue and be sued, plead and be impleaded, to acquire, hold, and convey property in all lawful ways, to have and use a common seal, and to alter and change the same at pleasure, to make and alter, from time to time, such by-laws, not inconsistent with the Constitution of the United States or the laws in force in the District, as they may deem necessary for the government of the institution, and to confer upon such persons as may be considered worthy such academical or honorary degrees as are usually conferred by similar institutions.

Corporate powers.

Sec. 521. R. S. D. C.

* The United States of America is the true name of that grand corporation which the American people have formed, and the charter will, I trust, long remain in full force and vigor.—John Marshall. 1 Brock, Rep. 181, Dixon *vs.* U. S.

A corporation is not subject to suit in a jurisdiction foreign to its creation and where it does not transact business. Ambler *vs.* Archer. 21 Washn. Law Rep. 600.

When nonuser does not work a dissolution. 21 Washn. Law Rep. 653, Delafield *vs.* Brown. Quo warranto, forfeiture, 21 Washn. Law Rep., 782, U. S. *vs.* Metropolitan Ry.

- Acquirement of property. SEC. 4. Such corporation shall be competent in law and equity to take to themselves, in their corporate name, real, personal, or mixed property, by gift, grant, bargain and sale, conveyance, will, devise, or bequests of any persons whomsoever, and to grant, bargain, sell, convey, devise, let, place out at interest, or otherwise dispose of the same for the use of the institution, in such manner as shall seem most beneficial thereto.
 Sec. 523, R. S. D. C.
- Tenure of property. SEC. 5. Such corporation shall hold the property of the institution solely for the purposes of education, and not for the individual benefit of themselves, or of any contributor to the endowment thereof.
 Sec. 523, R. S. D. C.
- Funds, how to be applied. SEC. 6. The trustees, directors, or managers of any such corporation shall faithfully apply all the funds collected or the proceeds of the property belonging to the institution, according to their best judgment, in erecting or completing suitable buildings, supporting necessary officers, instructors, and servants, and procuring books, maps, charts, globes, and philosophical, chemical, and other apparatus necessary to the success of said institution.
 Sec. 524, R. S. D. C.
- Bequests, etc., how to be applied. SEC. 7. In case any donation, devise, or bequest shall be made for particular purposes, in accordance with the designs of the institution, and the corporation shall accept the same, such donation, devise, or bequest shall be applied in conformity with the express condition of the donor or devisor.
 Sec. 525, R. S. D. C.
- Limit to amount of land corporation may hold. SEC. 8. No such corporation shall hold more land at any one time than necessary for the purposes of education, as set forth in its articles of association, unless it shall have received the same by gift, grant, or devise, and in such case the corporation shall be required to sell or dispose of the same within ten years from the time the title thereto is acquired.
 Sec. 526, R. S. D. C.
- Land reverts to original donor, when. SEC. 9. On failure to so dispose of the land, so much of the same over and above the amount necessary to be used as provided in the preceding section shall revert to the original donor, grantor, devisor, or their heirs.
 Sec. 527, R. S. D. C.
- Appointment of officers, etc. SEC. 10. Such corporation shall have power to appoint a president or principal for the institution, and such professors or servants as may be necessary, and to displace any of them, as the interests of the institution require; to fill vacancies which may happen by death, resignation, or otherwise, among such officers or servants; and to prescribe and direct the course of studies to be pursued in the institution.
 Sec. 528, R. S. D. C.
- May require treasurer to give bond. SEC. 11. Such corporation may require the treasurer of the institution, and all other agents thereof, before entering upon the duties of their appointment, to give bonds for the security of the corporation in such sums and with security deemed sufficient by the corporation.
 Sec. 529, R. S. D. C.
- Annual statement, when to be filed and what to contain. SEC. 12. It shall be the duty of the trustees of any institution, or a majority of them, to file, on or before the first Monday in January in each year, in the office of the recorder of deeds, a statement of the trustees and officers of the institution, with an inventory of its property and liabilities and students, and such other information as will exhibit its condition or operation.
 Sec. 530, R. S. D. C.
- Process against corporation. SEC. 13. All process against any such corporation shall be by summons, and the service of the same shall be by leaving an attested copy thereof with the president, secretary, or treasurer, or at the office of the corporation, at least sixty days before the return-day thereof.
 Sec. 531, R. S. D. C.

SEC. 14. In case any such corporation shall at any time violate or fail to comply with any of the preceding provisions, upon complaint being made to the supreme court of the District, a writ of quo warranto shall issue, and the district attorney of the United States or the attorney of the District shall prosecute, in behalf of the people, for a forfeiture of all rights and privileges secured by this chapter to such corporation.

Prosecution for forfeiture, *quo warranto*.
Sec. 532, R. S. D. C.

CLASS 2.

RELIGIOUS SOCIETIES.

SEC. 15. It shall be lawful for the members of any society or congregation in the District, formed for the purpose of religious worship, to receive by gift, devise, or purchase, a quantity of land not exceeding an acre, and to erect thereon such houses and buildings, and to make such other use of the land and such other improvements thereon, as may be deemed necessary for the purposes named, and for the comfort and convenience of the society or congregation.

Limit to ownership of land.
Sec. 533, R. S. D. C.

SEC. 16. Such society or congregation may assume a name, and any number of trustees, not exceeding ten, who shall be styled trustees of such society or congregation by the name so assumed, may be elected or appointed according to the rules or discipline governing the church or denomination to which said society or congregation may belong.

May assume a name; trustees of.
Sec. 534, R. S. D. C.
Amended Mar. 3, 1883.
22 Stat., 529.
2 Sup. R. S., 407.

SEC. 17. The persons elected or appointed as trustees shall immediately thereafter make a certificate under their hands and seals, stating the date of their election or appointment, the name of the society or congregation, and length of time for which they were elected or appointed, which shall be verified by the affidavit of one of the persons making the same, and shall be filed and recorded in the office of the recorder of deeds of the District.

Certificate of trusteeship, how verified and recorded.
Sec. 535, R. S. D. C.
4 Mackey Rep., 43, Fifth Baptist Church. *vs.* Fifth B. Church.

SEC. 18. The trustees shall hold office during the period stated in their certificates, and vacancies in the office of trustee may be filled by election or appointment as provided in section five hundred and thirty-four; and rules and regulations may be adopted in relation to the management of the estate and the duties of trustees, or for their removal from office, in accordance with the rules or discipline governing the church or denomination to which such society or congregation may belong, not inconsistent with the Constitution of the United States and the laws in force in the District.

Trustees, term of office, rules and regulations.
Sec. 536, R. S. D. C.
Amended Mar. 2, 1883, 32 Stat., p. 529.

SEC. 19. At the expiration of the term of service of any of the trustees, one or more successors may be elected or appointed, as provided in section five hundred and thirty-four, and a certificate of their appointment or election shall be made, verified, filed, and recorded as provided in section five hundred and thirty-five.

Successors of trustees; record of.
Sec. 537, R. S. D. C.
Amended Mar. 2, 1883, 22 Stat., 529.

SEC. 20. A failure to elect or appoint trustees at the proper time shall not work a dissolution of the society or congregation; but the trustees last elected or appointed shall be considered as in office until another election or appointment shall take place.

Failure to choose trustees.
Sec. 538, R. S. D. C.

SEC. 21. Such trustees and their successors shall have perpetual succession and existence, and shall be capable in law to sue and be sued, implead and be impleaded, answered and be answered unto, defend and be defended, in all courts of law or equity whatsoever, in and by the name and style assumed as provided in section five hundred and thirty-four.

Corporate powers.
Sec. 539, R. S. D. C.

- Title to real estate.** SEC. 22. The title to land authorized to be purchased, and to the buildings and improvements thereon, shall be vested in the trustees by their assumed name, and their successors forever; and the same shall be held for the uses and purposes named and no other.
- Sec. 540, R. S. D. C.
- Trustees, powers and duties as to sale of lands.** SEC. 23. The trustees shall have power, under the direction of the society or congregation or the authority by whom they were elected or appointed, to sell and execute deeds and conveyances of the property authorized to be held by the society or congregation; and such deeds or conveyances shall have the same effect as like deeds or conveyances made by natural persons; but no deed or conveyance shall be made so as to defeat or destroy the interest or effect of any grant, donation, or bequest, and all grants, donations and bequests shall be appropriated and used as directed by the person making the same.
- Sec. 541, R. S. D. C.
Amended Mar. 3, 1883.
22 Stat., 529.
Sup., R. S. 2 ed., 408.
- Trustees, powers as to mortgaging lands.** SEC. 24. The trustees shall have power, under the direction of the society or congregation or the authority by whom they were elected or appointed, to execute mortgages, or deeds of trust in the nature of mortgages, upon the estate and property which any society or congregation are authorized to hold or to lease the same for a term not exceeding ten years. And such mortgages, deeds, and conveyances shall have the same effect and be enforced by the same remedies and proceedings as like mortgages, deeds, leases, and conveyances made by natural persons. [See § 454, R. S. D. C., "Real Estate," post.]
- Sec. 542, R. S. D. C.
Amended Mar. 3, 1883.
22 Stat., 529.
Sup. R. S., 2 ed., 408.
- Reversion of property; when.** SEC. 25. Upon the dissolution of any society or congregation, the estate and property of such society or congregation shall revert back to the persons, their heirs and assigns, who may have given or contributed to the purchase of or payment for the same, according to their respective rights.
- Sec. 543, R. S. D. C.
- Private schools for religious purposes.** SEC. 26. The provisions of the eleven preceding sections are intended to extend to members of societies formed to establish and maintain private schools for religious purposes, but shall not be construed as conferring privileges or any benefits to such societies under the school-laws of the District.
- Sec. 544, R. S. D. C.

CLASS 3.

SOCIETIES, BENEVOLENT, EDUCATIONAL, ETC.

- Existing corporations may avail themselves of provisions of act, etc. Congress reserves right to alter or abolish charters.** SEC. 27. That any corporation heretofore formed under sections five hundred and forty-five to five hundred and fifty-two, inclusive, of the Revised Statutes of the United States relating to the District of Columbia may avail itself of the provisions of this act by complying with its requirements, and those that this act is intended to amend; but the right to repeal this act, and to alter, amend, or abolish any charter of incorporation granted under it, is expressly reserved to Congress.
- Sup. R. S., 2 ed., 426. Apr. 23, 1884. 23 Stat., 13. 'Secs. 27-34 of this chapter.
- Benevolent, educational, etc., societies, how formed.** SEC. 28. Any three or more persons of full age, citizens of the United States, a majority of whom shall be citizens of the District, who desire to associate themselves for benevolent, charitable, educational, literary, musical, scientific, religious, or missionary purposes, including societies formed for mutual improvement, or for the promotion of the arts, may make, sign and acknowledge, before any officer authorized to take acknowledgement of deeds in the District and file in the office of the recorder of deeds, to be recorded by him, a certificate in writing in which shall be stated—
- Sec. 545, R. S. D. C.
Sup. R. S., 2 ed., 425.
Amended Apr. 23, 1884.
23 Stat., 13.
- "First. The name or title by which such society shall be known in law.

“Second. The term for which it is organized.

“Third. The particular business and objects of the society.

“Fourth. The number of its trustees, directors, or managers for the first year of its existence.”

SEC. 29. “Upon filing their certificate the persons who shall have signed and acknowledged the same, and their associates and successors, shall be a body politic and corporate, by the name stated in such certificate; and by that name they and their successors may have and use a common seal, and may alter and change the same at pleasure, and may make by-laws and elect officers and agents, and may take, receive, hold, and convey real and personal estate necessary for the purposes of the society as stated in their certificate, and other real and personal property the clear annual income from which shall not exceed in value twenty-five thousand dollars: *Provided, however,* That this section shall not be construed to exempt any property from taxation in addition to that now specifically exempted by law.”

Corporate powers.

Proviso.

Sec. 546, R. S. D. C.
Sup. R. S., 2 ed., 426.
Apr. 23, 1884.
23 Stat., 13.

SEC. 30. Such incorporated society may elect its trustees, directors, or managers at such time and place and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of the society, and a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen in such board of trustees, directors, or managers, the vacancies shall be filled in such manner as shall be provided by the by-laws of the society.

Election of officers: vacancies how filled.

Sec. 547, R. S. D. C.
Sup. R. S., 2 ed., 426.
Amended Apr. 23, 1884.
23 Stat., 13.

SEC. 31. The trustees, directors, or stockholders of any existing benevolent, charitable, educational, musical, literary, scientific, religious, or missionary corporation, including societies formed for mutual improvement, may, by conforming to the requirements herein, re-incorporate themselves, or continue their existing corporate powers under this chapter, or may change their name, stating in their certificate the original name of such corporation as well as their new name assumed; and all the property and effects of such existing corporation shall vest in and belong to the corporation so re-incorporated or continued.

Re-organization of existing societies.

Sec. 548, R. S. D. C.

SEC. 32. Any property of the corporation may be leased, encumbered by mortgage or deed of trust in the nature of a mortgage, or sold and conveyed absolutely, when authorized by a vote of a majority of the shares of stock of the corporation, or by a vote of a majority of the directors, managers, or trustees of the corporation, at a meeting called for the purpose, and the proceedings of which meeting shall be duly entered in the records of the corporation; and the proceeds arising therefrom shall be applied or invested for the use and benefit of such corporation.

Sale of real estate, etc.

Substitute for sec. 549, R. S. D. C.
Sup. R. S., 2 ed., 426.
Apr. 23, 1884.
23 Stat., 13.

SEC. 33. When any real estate shall have been devised or given to any such corporation for any specified benevolent purpose, and where, by a vote of three-fourths of the stock held by the stockholders, or three-fourths of the corporators, if no shares of stock have been created, at a meeting called for the purpose, of which such stockholders or corporators or members shall have at least ten days' notice, the corporation shall determine to surrender their corporate powers and cease to act under the same, said real and personal estate so acquired shall be sold at public auction, proper notice of the time and place of sale having been given, and the proceeds of the sale equitably distributed among the stockholders or corporators, or disposed of for the promotion and advancement of the objects for which such corporation was originally organized.*

Surrender of corporate powers.

Sec. 550, R. S. D. C.

* Sec. 551, R. S. D. C., was repealed April 23, 1884. 23 Stat., 13 Sup. R. S., 2 ed., p. 426, sec. 2.

Not to use any name previously adopted.

Sec. 552, R. S. D. C.

Board of Foreign Missions, Methodist Protestant Church empowered to hold property in District of Columbia.

Proviso.
Limitation as to real estate.

Aug. 4, 1886.
24 Stat., 218.

SEC. 34. The provisions of this chapter shall not extend or apply to any association or individual who shall, in the certificate filed with the recorder of deeds, use or specify a name or style the same as that of any previously existing incorporated body in the District.

SEC. 35. The Board of Foreign Missions of the Methodist Protestant Church, which is incorporated by the laws of Pennsylvania, is hereby empowered to hold real and personal property in the District of Columbia, acquired, or that shall be acquired, by gift, purchase, devise, or bequest, and the same enjoy, or convey at pleasure as freely as any person or body corporate can do: *Provided*, That only so much real estate may be held by the said Board of Foreign Missions as may be necessary for the proper transaction of its legitimate business, not to exceed an assessed value of fifty thousand dollars.

CLASS 4.

MANUFACTURING, AGRICULTURAL, MINING, MECHANICAL, INSURANCE, MERCANTILE, TRANSPORTATION, MARKET, AND SAVINGS-BANK CORPORATIONS.

Companies, how formed.

Sec. 553, R. S. D. C.

Amended Jan. 28, 1881.

21 Stat., ch. 29, 321.

2 Cranch, Ct. Rep., 449, Rockville, etc., vs. Van Ness.

Amended May 17, 1882, 22 Statutes, 67.

SEC. 36. Any three or more persons who desire to form a company for the purpose of carrying on any kind of manufacturing, agricultural, mining, mechanical, insurance, mercantile, transportation, telephone, or marketing business, in the District, or savings bank therein, may make, sign, and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the office of recorder of deeds, a certificate in writing, in which shall be stated.

First. The corporate name of the company and the object for which it is formed.

Second. The term of its existence, not exceeding twenty years, except in case of corporations formed only for the purpose of life-insurance, or for the purpose of insuring titles to real estate.¹

Third. The amount of the capital stock of the company, and the number of shares of which said stock shall consist.

Fourth. The number of trustees who shall manage the concerns of the company for the first year, and their names.

Fifth. The name of the place in the District in which the operations of the company are to be carried on.

Companies formed for insuring titles to real estate, may become perpetual, etc.

R. S. D. C., 553, p. 67, amended May 17, 1882, 22 Stat., 67.

SEC. 37. That any company heretofore formed, agreeably to the aforesaid section of the said Revised Statutes, for the purpose of insuring titles to real estate may become perpetual on filing in the office of the recorder of deeds of the District of Columbia a certificate to that effect in like manner as is provided by law for the filing of the original certificate of incorporation.

Corporate powers.

Sec. 554, R. S. D. C.

SEC. 38. When the certificates shall have been filed, in accordance with the provisions of the preceding section, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate in fact and in name, by the name stated in such certificate, and by that name have succession, and be capable of suing and being sued in any court of law or equity in the District; and they and their successors may have a common seal, and make and alter the same at pleasure, and they shall by their corporate name be capable in law of purchasing, holding, and conveying any real or personal estate whatever which may be necessary to enable the company to carry on its operations named in such certificate, but shall not mortgage such estate, or give any lien thereon, except in pursuance of a vote of the stockholders of the company.

SEC. 39. The stock, property, and concerns of such company shall be managed by not less than three or more than *fifteen* [nine] trustees, who shall, respectively, be stockholders, and a majority citizens of the District, and shall, except the first year, be annually elected by the stockholders, at such time and place as shall be determined by the by-laws of the company.

Trustees.
 Sec. 555, R. S. D. C.
 Amended Feb. 15, 1889.
 25 Stat., ch. 169, p. 627. Sup. R. S., 80, s. 4, v. 16. 102.

2 ed., 644. 5 May, 1870, c.

SEC. 40. Public notice of the time and place of holding such election shall be published not less than thirty days previous thereto, in the newspaper printed nearest to the place where the operations of the company shall be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All the elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the company, and the persons receiving the greatest number of votes shall be trustees: and when any vacancy shall happen among the trustees, it shall be filled for the remainder of the year in such manner as may be provided by the by-laws of the company.

Mode of election of trustees.
 Sec. 556, R. S. D. C.
 2 Cranch, C. C., 449, Rockville and W. T. P. Co. vs. Van Ness; 2 Cranch Ct. Rep., 449, Rockville Co. vs. Van Ness.

SEC. 41. In case it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of said company, when it ought to have been made, the company for that reason shall not be dissolved, but it shall be lawful on any other day to hold an election for trustees, in such manner as shall be provided by the by-laws, and all acts of trustees shall be valid and binding as against said company until their successors shall be elected.

Nonelection of trustees not to dissolve company.
 Sec. 557, R. S. D. C.

SEC. 42. There shall be a president of the company; who shall be designated from the trustees, and also such subordinate officers, who may be elected or appointed, and required to give security for the faithful performance of the duties of their office, as the company by its by-laws may require.

Officers, how chosen; required to give security.
 Sec. 558, R. S. D. C.

SEC. 43. The trustees shall have power to make such prudential by-laws as they deem proper for the management and disposal of the stock and business affairs of such company, not inconsistent with the laws of the District and the Constitution of the United States, and prescribing the duties of officers, artificers, and servants that may be employed, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

By-laws.
 Sec. 559, R. S. D. C.

SEC. 44. It shall be lawful for the trustees to call in and demand from the stockholders all such sums of money by them subscribed, at such times and in such installments as the trustees shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payment made thereon, if payment shall not be made by the stockholder within sixty days after a personal demand or a notice requiring such payment shall have been published for six successive weeks in a newspaper in the District.

Forfeiture for nonpayment of assessments.
 Sec. 560, R. S. D. C.

SEC. 45. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for non-payment.

Stock, personal estate; transfers.
 Sec. 561, R. S. D. C.

SEC. 46. All the stockholders of every company incorporated under this chapter shall be severally individually liable to the creditors of

Liability of stockholders.

Sec. 562, R. S. the company in which they are stockholders, to an amount equal to
D. C. the amount of stock held by them respectively, for all debts and con-
tracts made by such company, until the whole amount of capital stock
fixed and limited by such company shall have been paid in and a
certificate thereof shall have been made and recorded, as prescribed
in the following section.

Certificate of payment of capital stock; record of same. SEC. 47. The president and a majority of the trustees, within thirty days after the payment of the last installment of the capital stock so fixed and limited, shall make a certificate stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the trustees; and they shall within the said thirty days record the same in the office of the recorder of deeds of the District.

Sec. 563, R. S. D. C.

When capital must be paid in full. SEC. 48. The capital stock so fixed and limited shall be paid in, one-half within one year, and the other half thereof within two years from the incorporation of the company, or such corporation shall be dissolved.

Sec. 564, R. S. D. C. 21 Wash. Law Rep., 600, *Ambler vs. Archer*.

Money only to be payment for capital stock. SEC. 49. Nothing but money shall be considered as payment of any part of the capital stock.

Sec. 565, R. S. D. C. 21 Wash. Law Rep., 600, *Ambler vs. Archer*.

Annual report of company. SEC. 50. Every such company shall annually, within twenty days from the first of January, make a report, which shall be published in a newspaper in the District, which shall state the amount of capital and of the proportion actually paid, and the amount of existing debts; which report shall be signed by the president and a majority of the trustees, and shall be verified by the oath of the president or secretary of the company, and filed in the office of the recorder of deeds of the District.

Sec. 566, R. S. D. C.

Liability of trustees for failure to make report. SEC. 51. If any company fails to comply with the provisions of the preceding section, all the trustees of such company shall be jointly and severally liable for the debts of the company then existing, and for all that shall be contracted before such report shall be made.

Sec. 567, R. S. D. C.

Penalty for making false certificate. SEC. 52. If any certificate or report made, or public notice given, by the officers of any company in pursuance of the provisions of this chapter shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof.

Sec. 568, R. S. D. C.

Funds not to be invested in stocks of other companies. SEC. 53. It shall not be lawful for any company to use any of their funds in the purchase of any stock in any other corporation.

Sec. 569, R. S. D. C. 21 Wash. Law Rep., 600, *Ambler vs. Archer*.

Loans to stockholders prohibited; liability. SEC. 54. No loan of money shall be made by any company to any stockholder therein; and if any such loan shall be made to a stockholder, the officers who shall make it, or who shall assent thereto, shall be jointly and severally liable to the extent of such loan and interest, for all the debts of the company contracted while they are stockholders or officers thereof.

Sec. 570, R. S. D. C.

Liability for unlawful dividends. SEC. 55. If the trustees of any company shall declare and pay any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly

Sec. 571, R. S. D. C.

and severally liable for all the debts of the company then existing, and for all that shall be hereafter contracted, while they shall respectively remain in office.

SEC. 56. If any one of the trustees shall object to declaring such dividend, or the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection in writing with the secretary of the company and with the recorder of deeds of the District, they shall be exempt from the liability prescribed in the preceding section.

Trustees filing objections to dividends declared, etc., relieved.

Sec. 572, R. S. D. C.

SEC. 57. If the indebtedness of any company shall at any time exceed the amount of its capital stock, the trustees of such company assenting thereto shall be personally and individually liable for such excess to the creditors of the company.

When indebtedness exceeds capital stock: liability.

Sec. 573, R. S. D. C.

SEC. 58. The stockholders of any company organized under the provisions of this chapter shall jointly, severally, and individually be liable for all debts that may be due and owing to all their laborers, servants, and apprentices, for services performed for such corporation, and shall be individually liable for all debts of said corporation to the amount of the stock of each stockholder.

Personal liability of stockholders for debt.

Sec. 574, R. S. D. C.

SEC. 59. No stockholder shall be personally liable for the payment of any debt contracted by any such company which is not paid within one year from the time the debt becomes due, unless a suit for the collection of such debt shall be brought against the company within one year after the debt became due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such company, for any debt contracted by the company, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder, nor until an execution against the company shall have been returned unsatisfied in whole or in part.

Limitation of liability of stockholders for debts.

Sec. 575, R. S. D. C.

SEC. 60. No person holding stock in such company as executor, administrator, guardian, or trustee, shall be personally subject to any liability as stockholder of such company, but the estate and funds in the hands of such executor, administrator, guardian, or trustee, shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust-fund would have been if he had been living and competent to act and hold the stock in his own name.

Executors, etc., of stockholders not personally liable.

Sec. 576, R. S. D. C.

SEC. 61. Every such executor, administrator, guardian, or trustee, shall represent the stock in his hands at all meetings of the company, and may vote accordingly as a stockholder.

Representation of stock held by executors, etc.

Sec. 577, R. S. D. C.

SEC. 62. No person holding stock in such company as collateral security shall be personally subject to any liability as stockholder of such company, but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and every person who shall pledge his stock as collateral security may, nevertheless, represent the same at all meetings, and vote as a stockholder.

Holders of stock as collateral not subject to liability of stockholders.

Sec. 578, R. S. D. C.

SEC. 63. It shall be the duty of the trustees of every corporation formed under this chapter to cause a book to be kept by the treasurer or secretary thereof, containing the names of all persons, alphabetically arranged, who are or shall within six years have been stockholders of such company, and showing their place of residence, the

Stock book to be kept.

Sec. 579, R. S. D. C.

number of shares of stock held by them respectively, the time when they became owners of such shares, and the amount of stock actually paid in.

Stock book to be open to inspection.

Sec. 580, R. S. D. C.

SEC. 64. Such book shall, during the usual business-hours of the day on every business-day, be open for inspection of stockholders and creditors of the company, and their personal representatives, at the office or principal place of business of such company in the district where its business operations shall be located, and any stockholder, creditor, or representative shall have a right to make extracts from such books.

Transfers of stock not valid unless recorded.

Sec. 581, R. S. D. C.

SEC. 65. No transfer of stock shall be valid for any purposes whatsoever, except to render the person to whom it shall be transferred liable for the debts of the company, according to the provisions of this chapter, until it shall have been entered, as required by section five hundred and seventy-nine, by an entry showing to and from whom transferred.

Stock book to be presumptive evidence.

Sec. 582, R. S. D. C.

SEC. 66. Such book shall be presumptive evidence of the facts therein stated in favor of the plaintiff in any suit or proceeding against such company, or against any one or more stockholders.

Penalty for neglect of officers.

Sec. 583, R. S. D. C.

SEC. 67. Every officer or agent of any company who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, as herein provided, shall be deemed guilty of a misdemeanor, and the company shall pay to the party injured a penalty of fifty dollars for any such neglect or refusal, and all damages resulting therefrom.

Additional penalty of company for neglect to keep stock book open.

Sec. 584, R. S. D. C.

SEC. 68. Every company that shall neglect to keep such book open for inspection, as provided in section five hundred and eighty, shall forfeit to the United States the sum of fifty dollars for every day it shall so neglect, to be sued for and recovered, in the name of the people, in the supreme court of the District, and when so recovered the amount shall be paid into the treasury of the District, for the use thereof.

Companies may increase or diminish capital stock.

Sec. 585, R. S. D. C.

SEC. 69. Any existing corporation heretofore formed in the District for any of the purposes mentioned in section five hundred and fifty-three, or any company which may be formed under this chapter, may increase or diminish its capital stock, by complying with the provisions of this chapter, to any amount which may be deemed sufficient and proper for the purposes of the corporation, and may also extend its business to other manufacturing, mining, or mechanical business, subject to the provisions and liabilities of this chapter.

When not to be diminished.

Sec. 586, R. S. D. C.

SEC. 70. Before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital.

Reorganization of existing companies.

Sec. 587, R. S. D. C.

SEC. 71. Any existing company heretofore formed may come under and avail itself of the privileges and provisions of this chapter by complying with the following provisions, and thereupon such company, its officers and stockholders, shall be subject to all the restrictions, duties, and liabilities of this chapter. [See section 87 of this chapter.]

SEC. 72. Whenever any company shall desire to call a meeting of the stockholders for the purpose of availing itself of the privileges of this chapter, or for increasing or diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the trustees or directors to publish a notice signed by a majority of them in a newspaper in the District at least three successive weeks, and to deposit a notice thereof in the post-office addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting and the time and place when and where such meeting shall be held.

Meeting of stockholders.

Sec. 588, R. S. D. C.

SEC. 73. If, at any time and place specified in the notice provided for in the preceding section, stockholders shall appear by proxy or in person, representing not less than two-thirds of all the shares of stock of the corporation, they shall organize and proceed to a vote of those present in person or by proxy.

Organization of meeting of stockholders.

Sec. 589, R. S. D. C.

SEC. 74. If, on canvassing the votes, it shall appear that a sufficient number of votes are in favor of increasing or diminishing the amount of capital, or extending or changing the business of the company, or for availing itself of the privileges and provisions of this chapter, a certificate of the proceedings, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed, and verified by the affidavit of the chairman, and be countersigned by the secretary.

Proceedings at meetings of stockholders, to extend or change, etc., to be verified.

Sec. 590, R. S. D. C.

SEC. 75. Such certificate shall be acknowledged by the chairman, and filed as required by section five hundred and fifty-three, and when so filed the capital stock of such corporation shall be increased or diminished to the amount specified in the certificate, and the business extended or changed accordingly; and the company shall be entitled to the privileges and provisions and be subject to the liabilities of this chapter.

When change shall be deemed made.

Sec. 591, R. S. D. C.

SEC. 76. A vote of at least two-thirds of all the shares of the stock of a company shall be necessary to an increase or diminution of the amount of its capital stock, or the extension or change of its business, or to enable a company to avail itself of the provisions of this chapter.

When votes sufficient.

Sec. 592, R. S. D. C.

SEC. 77. A copy of any certificate of incorporation filed in pursuance of this chapter, certified by the recorder of deeds to be a true copy and of the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

Certified copy of certificate to be evidence.

Sec. 593, R. S. D. C.

CLASS 5.

CEMETERY ASSOCIATIONS.

SEC. 78. When five or more persons shall associate themselves together for the purpose of forming a cemetery association in the District, such persons shall have the power to adopt a corporate name, and by that name shall be known as a body corporate, and by that name shall have perpetual succession and be invested with all powers, rights, privileges, liabilities, and immunities incident to corporations, and may have a common seal, and may alter or change the same at their pleasure.

Formation of association; corporate power.

Sec. 594, R. S. D. C.

- May acquire land, how.** SEC. 79. Such persons, so associated, shall have power to acquire by gift, grant, or purchase any lot or lots of land not exceeding fifty acres, and lay out the same for a burial-place for the dead, with convenient aisles, and to sell the same for such purpose and for no other purposes, reserving a sufficient portion thereof for the burial of the stranger and indigent. [See § 1187.]
- Sec. 595, R. S. D. C.
- Survey plat and record.** SEC. 80. They shall cause the land designed as a burial-ground to be surveyed and platted; and a plat of the ground, so surveyed, shall be recorded in the office of the recorder of deeds of the District. Each lot shall be duly numbered by the surveyor, and such number shall be marked on the plat and recorded.
- Sec. 596, R. S. D. C.
- General powers of association.** SEC. 81. Such association shall have power to inclose and ornament their burial-ground, to build and erect a hearse-house and keep the same in proper repair; to purchase a hearse or hearses; and to do all other necessary acts to the end that all the appliances, conveniences, and benefit of a public and private cemetery may be obtained.
- Sec. 596, R. S. D. C.
- Proceeds of sale of lots.** SEC. 82. The proceeds arising from the sale of lots, after deducting all expenses of purchasing and laying out the same, shall be applied, appropriated, and used in improving and ornamenting the burial-ground, or for other purposes named in this chapter.
- Sec. 598, R. S. D. C.
- Officers, how chosen.** SEC. 83. The officers of any such corporation shall be a president, a treasurer, who shall act as secretary, and three directors, who shall be severally chosen annually by ballot, and shall hold office until their successors are chosen. Any neglect to choose officers on the day fixed upon for that purpose shall not operate as a forfeiture of the act of incorporation, in accordance with the provisions of this chapter.
- Sec. 599, R. S. D. C.
- First election.** SEC. 84. The first election of officers by the persons associating, according to and for the purpose specified in section five hundred and ninety-four shall be at the time and place designated and agreed upon by a majority of the persons so associating themselves together, and no other than such persons shall vote at such election.
- Sec. 600, R. S. D. C.
- Subsequent election, whomay vote.** SEC. 85. At each subsequent election of officers of any such corporation the owner of a lot in said burial-ground shall be entitled to one vote in the election of officers of the corporation, and no more, and shall, by virtue of such membership, be a member of the corporation.
- Sec. 601, R. S. D. C.
- By-laws.** SEC. 86. Each corporation shall have power to establish and change by-laws, and prescribe rules and regulations for its government and the duties of its officers and the management of its property.
- Sec. 602, R. S. D. C.
- Exemptions.** SEC. 87. The property of any such corporation, its grounds, lots, and appliances, shall be exempt from taxation and shall not be liable to sale on execution. [See chapter on "Taxes," post.]
- Sec. 603, R. S. D. C.
- Dedication of land for burial-ground.** SEC. 88. Any person desiring to dedicate any lot of land, not exceeding five acres, as a burial-place for the interment of the dead, for the use of any society, association, or neighborhood, may, by deed, duly executed or recorded, convey such land to the District of Columbia, by the corporate name of said District of Columbia, specifying in such deed the society, association, or neighborhood for the use of which the dedication is desired to be made, and thereby vest the title to such land in perpetuity for the uses stated in the deed, and such land shall be thereafter exempt from taxes for all purposes whatever.*
- Sec. 604, R. S. D. C.

* For penalty for injury to cemeteries see sec. 1187 R. S. D. C.; see title "Crimes and Offenses."

CLASS 6.

BOARDS OF TRADE.

SEC. 89. Any number of persons, not less than twenty, residing in the District, may associate themselves together as a board of trade, and assemble at any time and place upon which a majority of the members so associating may agree, and elect a president and one or more vice-presidents, as they may see fit, and adopt a name, constitution, and by-laws, such as they may agree upon.

Board, how formed.
Sec. 605, R. S. D. C.

SEC. 90. Such persons shall thereupon become a body corporate and politic in fact and in name, by the name and style, or title, which they may have adopted, and by that name shall have succession, shall be capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts of law and equity, and they and their successors shall have a common seal, and may alter and change the same at their discretion.

Corporate powers.
Sec. 606, R. S. D. C.

SEC. 91. Such corporation, by the name and style which shall be adopted, shall be capable in law of purchasing, holding, and conveying any estate, real or personal, for the use of the corporation not exceeding in quantity one city, town, or village lot and building in the District.

May hold real estate; limit.
Sec. 607, R. S. D. C.

SEC. 92. The president, vice-president, secretary, and treasurer shall be ex-officio members of the board of directors, and, together with the directors elected, shall manage the business of the corporation.

Board of directors.
Sec. 608, R. S. D. C.

SEC. 93. All officers shall be elected by a plurality of votes given at any election, and a general election of officers shall be held at least once in each year; but in case of any accidental failure or neglect to hold such general election, the corporation shall not thereby lapse or terminate, but shall continue and exist, and the old officers shall hold over until the next general election of officers provided for in the constitution adopted.

Election of officers.
Sec. 609, R. S. D. C.

SEC. 94. The officers shall hold their offices for the time which shall be prescribed in the constitution adopted by the corporation, and until others shall be elected and qualified as prescribed by such constitution.

Tenure of office.
Sec. 610, R. S. D. C.

SEC. 95. Such corporation shall have the right to admit as members such persons as they may see fit, and expel any members as they may see fit; and in all cases a majority of the members present at any stated meetings shall have the right to pass, and also the right to repeal, any by-laws of the corporation; and in all cases the constitution and by-laws adopted by the corporation shall be binding upon and control the same until altered, changed, or abrogated in the manner that may be prescribed in such constitution.

Rules and regulations.
Sec. 611, R. S. D. C.

SEC. 96. Such corporation may inflict fines upon any of its members, and collect the same, for breach of the provisions of the constitution or by-laws; but no fine shall in any case exceed twenty-five dollars. Such fines may be collected by action of debt, brought in the name of the corporation, before any justice of the peace, against the person upon whom the fine shall have been imposed.

Fines.
Sec. 612, R. S. D. C.

SEC. 97. The award of any general committee of reference appointed by said corporation upon any matter of difference, submitted to such committee for arbitration in writing, with or without

Arbitration.
Sec. 613, R. S. D. C.

seal, by any member of the corporation or by any other person, shall have the same force and effect as if the same had been submitted to the arbitration of the members of said committee of reference, by their individual names by deed of submission.

Award. SEC. 98. Any such award may be filed and made a rule of court, and judgment entered thereon and execution issued in the same manner and under the same rules and regulations that other awards may be entered, under and by virtue of the laws in force in the District.
Sec. 614, R. S. D. C.

Submission-bond not required; notice. SEC. 99. No submission or arbitration bond shall be required to be filed with such awards; but four days' notice of the filing of such award shall be given to the opposite party of the party filing the award.
Sec. 615, R. S. D. C.

Power of committee of reference to issue subpoenas. SEC. 100. A committee of reference, when sitting as arbitrators, shall have the right to issue subpoenas and compel the attendance of witnesses by attachment, the same as justices of the peace.
Sec. 616, R. S. D. C.

Restriction upon carrying on business. SEC. 101. Such corporation shall have no power or authority to do or carry on any business excepting such as is usual in management and conduct of boards of trade or chambers of commerce, and is provided for in the preceding sections of this chapter.
Sec. 617, R. S. D. C.

CLASS 7.

RAILROAD COMPANIES.

Railroad companies how formed. SEC. 102. Any number of persons, not less than seven, being subscribers to the stock of any contemplated railroad, may be formed into a corporation for the purpose of constructing, owning, and maintaining such railroad, by complying with the following requirements, namely:
Sec. 618, R. S. D. C.

First. Whenever stock to the amount of at least fifty thousand dollars shall have been subscribed, and five per cent. upon such subscription shall actually have been paid in, the subscribers to such stock shall elect directors for the company from among their own number, and shall severally subscribe articles of association in which shall be set forth—

First. The name of the corporation;

Second. The amount of the capital stock of the company;

Third. The number of shares of which said stock shall consist;

Fourth. The number of directors to manage the affairs of the company, and their names;

Fifth. The point or place from which the proposed railroad is to be constructed, and its length, as near as may be.

Second. Each subscriber to such articles of association shall state his place of residence, and the number of shares taken by him in such company.

Articles of association to be recorded. Third. The articles of association shall be filed in the clerk's office of the recorder of deeds of the District, and be recorded in a book kept for that purpose.

Corporate powers. SEC. 103. Upon filing the articles of association in accordance with the provisions of the preceding section, the persons who shall have subscribed the same, and all persons who shall from time to time become stockholders in such company, and their successors, shall be a body politic and corporate, in perpetuity, by the name stated in such articles of association, and shall be capable of suing and being
Sec. 619, R. S. D. C.

sued, and may have a common seal, and may make and alter the same at pleasure, and shall be capable in law of purchasing, holding, and conveying any real or personal property whatever necessary for the construction of such road, and for the erection of all necessary buildings and yards and appurtenances for the use of the same.

SEC. 104. A copy of any articles of association filed in pursuance of section six hundred and eighteen, and certified to be a copy by the recorder of deeds, shall, in all courts and places, be prima-facie evidence of the incorporation of such company and of the facts stated therein.

Certified copy of articles of association to be prima-facie evidence.

Sec. 620, R. S. D. C.

SEC. 105. The directors named in section six hundred and eighteen, shall open books for subscription to the capital stock of the company at such times and in such places as a majority of them may direct, thirty days' notice of which shall be given by publication in some daily paper published in the District.

Subscription books to be opened.

Sec. 621, R. S. D. C.

SEC. 106. In case a greater amount of stock shall be subscribed than the whole capital stock required by the company, the directors shall distribute the capital stock so subscribed as equally as possible among the subscribers; but no share shall be divided in making such distribution, nor shall a greater number of shares be allotted to any one subscriber than subscribed for by him.

Allotment of stock.

Sec. 622, R. S. D. C.

SEC. 107. There shall be an annual meeting of the stockholders at the office of the company for the election of directors to serve for the ensuing year, notice of which shall be given by the directors chosen as provided in section six hundred and eighteen, for the first annual election, and afterward by their successors in office, which notice shall be published not less than twenty days previous thereto, in a newspaper published in the city of Washington.

Stockholders' annual meeting.

Sec. 623, R. S. D. C.

SEC. 108. Three judges of election shall be chosen by the board of directors previous to any such annual meeting, who shall be stockholders, but not directors, at the time of the election, whose duty it shall be to receive the votes of the stockholders at such election for directors, and to openly count the votes and declare the result.

Duties of judges of election.

Sec. 624, R. S. D. C.

SEC. 109. The judges of election shall furnish the directors elected at such meeting of stockholders with a certificate of their election, which certificate shall be evidence of their authority to act as such directors.

Their certificate: its authority.

Sec. 625, R. S. D. C.

SEC. 110. There shall be not less than seven nor more than thirteen directors. No person shall be a director unless he shall be a stockholder and qualified to vote for directors at the election at which he shall be chosen. The directors shall hold their offices one year, and until others are elected and qualified.

Directors: number, qualifications, and term of office.

Sec. 626, R. S. D. C.

SEC. 111. Directors shall be chosen at the annual meeting of stockholders by ballot, and by a majority of the votes of the stockholders present, in person or by proxy; and every such stockholder being so present at any election of directors, shall be entitled to give one vote for every share of stock which he may have owned for ten days next preceding such election; but no stockholder shall vote at any such election upon any stock except such as he shall have owned for ten days.

Directors, how chosen.

Sec. 627, R. S. D. C.

Non-election of directors; how remedied. SEC. 112. In case it shall happen at any time that an election of directors shall not be made on the day designated by the by-laws of the company when it ought to have been made, the company for that reason shall not be dissolved if within ninety days thereafter they shall hold an election for directors in such manner as the by-laws of the company shall provide.

Sec. 628, R. S. D. C.

Stockholders' special meetings; how called. SEC. 113. Meetings of the stockholders may be called at any time during the interval between the annual meetings by the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of the meeting.

Sec. 629, R. S. D. C.

Proceedings; adjournment of stockholders' meetings. SEC. 114. When any such meeting is called by the stockholders, the particular object of the meeting shall be stated in the notice, and, if at any meeting thus called a majority in value of the stockholders are not represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business, and if within such three days stockholders having a majority of the stock do not attend, the meeting shall be dissolved.

Sec. 630, R. S. D. C.

By-laws. SEC. 115. The directors shall have power to make by-laws for the management and disposition of stock, property, and business affairs of such company, and prescribing the duties of the officers, artificers, and servants that may be employed, and for the appointment of all the officers for carrying on all the business within the object and purposes of the company.

Sec. 631, R. S. D. C.

Officers; how chosen. SEC. 116. There shall be a president of the company, who shall be chosen by and from the directors, and also such subordinate officers as the company by-laws may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their offices as the company by its by-laws may require; but nothing contained in this section shall be so construed as to prevent the stockholders from removing a president in the manner prescribed in the following section.

Sec. 632, R. S. D. C.

Removal of president. SEC. 117. At all general meetings of the stockholders of any such company, a majority in value of such stockholders may remove any president or any director, and elect others in their stead; but notice of such intended removal shall have been given as required in sections six hundred and twenty-three and six hundred and twenty-eight.

Sec. 633, R. S. D. C.

Annual statement of affairs. SEC. 118. At each regular meeting of the stockholders of any such corporation it shall be the duty of the president and directors, in office for the preceding year, to exhibit a clear and distinct statement of the affairs of the company.

Sec. 634, R. S. D. C.

May be called for at any meeting. SEC. 119. At any meeting of the stockholders a majority of those present, in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish them when required.

Sec. 635, R. S. D. C.

Stock, personal estate; how transferred. SEC. 120. The stock of such company shall be deemed personal estate, and shall be transferable only on the books of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid, or the shares shall have been forfeited for the non-payment of calls thereon.

Sec. 636, R. S. D. C.

SEC. 121. It shall be lawful for the directors to call in and demand from the stockholders, respectively, any sums of money by them subscribed, in such payments or installments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholder within thirty days after personal demand or notice requiring such payment; but subscriptions shall not be required to be paid except in equal installments of not more than ten per centum per month.

Subscriptions to stock; how called in.

Sec. 637, R. S. D. C.

SEC. 122. The president and a majority of the directors, within thirty days after the payment of the last installment of the capital stock as fixed and limited by the company, shall make a certificate stating the amount of capital stock so fixed and paid in, which certificate shall be signed by the president and a majority of the directors, and sworn to by the president and secretary; and they shall, within the said thirty days, file and record the same in the office of the recorder of deeds of the District.

Certificate of amount of capital stock paid up; to be recorded.

Sec. 638, R. S. D. C.

SEC. 123. The capital stock of such companies may be increased from time to time, if necessary, in the manner provided in the following section, to a sum equal to the cost of constructing the road, together with the right of way and motive-power, and all the appurtenances and expenses necessary for the complete running of the road.

Increase of capital stock.

Sec. 639, R. S. D. C.

SEC. 124. Such increase may be made only by filing in the office of the recorder of deeds a certificate stating the amount of the desired increase, and the reasons or necessity for the same, signed by the president and a majority of the directors, and attested by the secretary and seal of such company.

Increase of capital stock: how made.

Sec. 640, R. S. D. C.

SEC. 125. In no case shall the capital stock of any such company be increased to a greater amount than the actual cost of building and equipping the road.

Limit to the amount of increase of capital stock.

Sec. 641, R. S. D. C.

SEC. 126. It shall be lawful for all companies formed and incorporated under the provisions of this chapter to sue for and collect any installment or subscription to stock due to said companies in like manner as other debts are now collected.

Suits for installments of subscription.

Sec. 642, R. S. D. C.

SEC. 127. Every such corporation shall possess the general powers and be subject to the liabilities and restrictions in the special powers following, that is to say:

General powers, liabilities, and restrictions of corporation.

First. To cause such examination and survey for the proposed railroad to be made as may be necessary to the selection of the most advantageous route for the railroad; and for such purpose, by their officers, agents, and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Surveys and entry.

Responsibility.

Second. To receive, hold, and take such voluntary grants and donations of real estate, and other personal property, as shall be made to it, to aid in the construction, maintenance, and accommodation of such railroad; but the real estate thus received by voluntary grants shall be held and used for the purposes of such grants only.

Grants and donations.

How to be used.

Third. To purchase, and by voluntary grants and donations receive and take, and by its officers, engineers, and surveyors and agents, enter upon, and take possession of, and hold and use all such lands and real estate and other property as may be necessary for the construction and maintenance of its railroad and stations, depots, and

Purchase, etc., of real estate.

- Compensation.** other accommodations necessary to accomplish the objects for which the corporation was created; but not until the compensation to be made therefor, as agreed upon by the parties, or ascertained as prescribed in this chapter, shall have been paid to the owner or owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.
- Laying out and constructing road.** **Fourth.** To lay out its road, not exceeding six rods wide, and to construct the same; and for the purpose of cuttings, embankments, and procuring stone and gravel, may take as much more land within the limits of its charter, in the manner hereafter provided, as may be necessary for the proper construction and security of the road.
- Taking materials.**
- Restoration of roads over streets, water courses, etc.** **Fifth.** To construct its road upon any street, or across any stream of water, water-course, road, highway, railroad, or canal, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life and property, but the corporation shall restore the stream or water-course, road or highway, thus intersected, to its former state, or in a sufficient manner not to have unnecessarily impaired its usefulness or injured its franchises.
- Construction of water courses and highways.**
- Intersecting with other roads.** **Sixth.** To cross, intersect, join, and unite with any other railroad before constructed on any point on its route, and upon the grounds of such other railroad company, with the necessary turn-outs, sidings, switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained or determined by commissioners, to be appointed as is provided in this chapter in respect to taking of lands; but this section is not to affect the rights or franchises heretofore granted.
- Roads to unite.**
- When the several corporations can not agree.**
- Change of route.** **Seventh.** To purchase lands necessary for the use of the road or take them; and may change the line of its road whenever a majority of the directors shall so determine, as provided in this chapter; but no such change shall vary the general route of the road.
- Motive power.** **Eighth.** To take, transport, carry, and convey persons and property on its railroad by the force or power of steam, of animals, or any mechanical power, or by any combination of them, and to receive compensation therefor.
- Buildings, stations, etc.** **Ninth.** To erect and maintain all necessary and convenient buildings, stations, depots, and fixtures, and machinery for the accommodation and use of its passengers, freight, and business, and obtain and hold the lands therefor.
- Fares and freights.** **Tenth.** To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor.
- Sec. 643, R. S. D. C.**
- Map and profile of road to be filed with recorder of deeds.** **SEC. 128.** Every such company, before constructing a part of its road, shall make a map and profile of the route intended to be adopted, which shall be certified by a majority of the directors, and filed in the office of the recorder of deeds of the District, for the inspection and examination of all parties interested.
- Sec. 644, R. S. D. C.**
- Alteration of line; record of same.** **SEC. 129.** If at any time after the location of the track of such road, in whole or in part, and the filing of the map thereof, it shall appear to the directors of the company that the line thereof may be improved, such directors may, from time to time, alter the line, and cause a new map to be filed in the recorder's office, and may thereupon take possession of the lands embraced in such new location that may be required for the construction and maintenance of the
- Sec. 645, R. S. D. C.**

road on such new line, either by agreement with the owner or by such proceedings as are authorized under the provisions of this chapter, and use the same in place of the line for which the new is substituted.

SEC. 130. Whenever the track of such railroad shall cross a road or highway such road or highway may be carried under or over the track, as may be most expedient; and in all cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the company may take additional lands for the construction of such road or highway, or such new line as may be deemed requisite by the directors.

Tracks crossing highways.

Sec. 648, R. S. D. C.

SEC. 131. Unless the lands so taken shall be purchased or voluntarily given for the purposes mentioned in the preceding section, compensation thereof shall be ascertained in the manner provided in this chapter as nearly as may be, and duly made by such corporation to the owners and persons interested in such lands, and the same, when so taken and compensation made, to become part of such intersecting road or highway, in such manner and by such terms as the adjacent parts of such highway may be held for highway purposes.

Compensation for land taken under previous section.

Sec. 647, R. S. D. C.

SEC. 132. In case any company formed under this chapter is unable to agree for the purchase of any real estate required for the construction of the track, turn-outs, and water-stations, it shall have the right to acquire the title to the same in the manner and by the special proceedings prescribed in this chapter.

Right to acquire title to lands.

Sec. 648, R. S. D. C.

SEC. 133. Such company is authorized to enter upon any land for the purpose of examining and surveying its railroad-line, and may appropriate so much thereof as may be deemed necessary for its railroad, including necessary side tracks and water-stations, materials for constructing, except timber, a right of way over adjacent lands sufficient to enable such company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains.

Appropriation of lands.

Sec. 649, R. S. D. C.

SEC. 134. The corporation shall forthwith deposit with the clerk of the supreme court of the District a description of the rights and interests intended to be appropriated, and such lands, rights, and interests shall belong to such company, to use for the purpose specified, by making or tendering payment as hereinafter provided.

Description of lands to be taken to be deposited with clerk of court.

Sec. 650, R. S. D. C.

SEC. 135. The corporation may, by its directors, purchase any such lands, materials, right of way, or interest of the owner of such lands; or in case the same is owned by a person insane, or an infant, at a price to be agreed upon by the regularly-constituted guardian or parent of said insane person or infant, if the same shall be appraised by the court, and on such agreement and approval, the owner, guardian, or parent, as the case may be, shall convey the premises, so purchased, in fee-simple or otherwise, as the parties may agree, to such railroad company; and the deed, when made, shall be deemed valid in law.

Purchase of lands from owner or guardian.

Sec. 651, R. S. D. C.

SEC. 136. If the corporation shall not agree with the owner of the land, or with his guardian if the owner is incapable of contracting, touching the damages sustained by such appropriation, the corporation shall deliver to such owner or guardian a copy of the instrument of appropriation.

Proceedings in cases of appropriation.

Sec. 652, R. S. D. C.

- Notice by advertisement, when.** SEC. 137. If the owner, or his guardian in case such owner is incapable of contracting, be unknown, the corporation shall publish in some newspaper in the District, to be designated by the court, for the term of six weeks, an advertisement reciting the substance of such instrument of appropriation.
Sec. 653, R. S. D. C.
- Appointment of appraisers.** SEC. 138. Upon fixing such act of appropriation and delivering such copy, or making such publication, the supreme court for the District, upon the application of either party, shall appoint by warrant three disinterested freeholders of the neighborhood on which the land lies, to appraise the damages which the owner of the land may sustain by such appropriation.
Sec. 654, R. S. D. C.
- Assessment of damages.** SEC. 139. The appraisers shall be duly sworn, and they shall consider the injury which such owner may sustain by reason of such railroad, and shall forthwith return their assessment of damages to the clerk of the court, setting forth the value of the property taken, or injury done to the property, which they assess to the owner, or owners separately, to be by him filed and recorded.
Sec. 655, R. S. D. C.
- Payment or tender.** SEC. 140. The corporation shall pay to said clerk the amount thus assessed, or tender the same to the party in whose favor the damages are awarded or assessed, and on making payment or tender thereof, in the manner herein required, it shall be lawful for such corporation to hold the interests in such lands or materials on said roadway within fifty feet on each side of the center of such roadway, for the uses aforesaid.
Sec. 656, R. S. D. C.
- Cost of award.** SEC. 141. The cost of the award shall be paid by such company; and on notice by any party interested and showing said proceedings, the court may order the payment thereof and enforce such payment by execution.
Sec. 657, R. S. D. C.
- Review on appeal.** SEC. 142. The award of the arbitrators may be reviewed by the court, in which such proceeding may be had, on written exceptions filed by either party, in the clerk's office, within ten days after the filing of such award, and the court shall take such order therein as right and justice may require, by ordering a new appraisement, on good cause shown.
Sec. 658, R. S. D. C.
- Company may take possession, when.** SEC. 143. Notwithstanding such appeal, the company may take possession of the property described as aforesaid, and the subsequent proceedings on the appeal shall only affect the amount of compensation to be allowed, if prior to the assessment the corporation shall tender to such owner or guardian, and in case of refusal to receive the same shall pay into court, if he be unable to contract, an amount equal to the award afterward made, exclusive of costs.
Sec. 659, R. S. D. C.
- Costs of arbitration.** SEC. 144. The costs of arbitration shall be paid equally by such company and such owner or guardian.
Sec. 660, R. S. D. C.
- In case of adverse claimants money to be paid into court, for determination as to rights.** SEC. 145. If there are any adverse or conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into court by the company until it can determine who is entitled to the same, and shall direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts in which such determination and order are to be made.
Sec. 661, R. S. D. C.
- Court to protect rights of parties in interest, etc.** SEC. 146. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is

unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent; the court shall also have power, at any time, to amend any defect or informality in any of the special proceedings authorized by this chapter as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party in interest as it deems proper, and also to appoint other commissioners in the place of any who shall die, or refuse, or neglect, or are unable to serve, or who may leave or be absent from the District. Sec. 662, R. S.
D. C.

SEC. 147. At any time after an attempt to acquire title by appraisal of damages, or otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect the same in the same manner as if no appraisal had been made; and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession, to take possession of, and use such real estate during the pendency and until the final conclusion of such new proceedings, and may stay all actions and proceedings against the company, or any officer or agent or workmen of such company, on account thereof, on such company paying into court a sufficient sum, as the court may direct, to pay the compensation therefor, when finally ascertained; and in every such case the party interested in real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same. Defective title:
how may be per-
fected.
Sec. 663, R. S.
D. C.

SEC. 148. Such company may, from time to time, borrow such sums of money as they may deem necessary for completing or operating their railroad, and issue and dispose of their bonds for any amounts so borrowed, for such sums and at such rates of interest as may be agreed upon, and mortgage their corporate property and franchises to secure the payment of any debt contracted by the company; and the directors of the company may confer on any holder of any bond issued for money so borrowed the right to convert the principal due or owing thereon into stock of the company; at any time not exceeding fifteen years from the date of such bond, under such regulations as the company may adopt; and the company may sell their bonds whenever they may deem proper, and such sales shall be as valid as if such bonds should be sold at par value. But such corporation shall not have power to issue any bonds or to execute any mortgages upon its property or franchises until at least one-half of the capital stock shall have been fully paid. Power to borrow
money and issue
bonds; restriction.
Sec. 664, R. S.
D. C.

SEC. 149. Every such corporation shall make an annual report to the clerk of the supreme court of the District of the operations of the year ending on the first day of January, which report shall be verified by the oath of the treasurer and acting superintendent of operations, and filed in his office by the tenth day of January of each year, and shall state— Annual report.
Sec. 665, R. S.
D. C.

First. The capital stock and the amount actually paid in.

Second. The amount expended for the purchase of lands, for the construction of the road, for buildings, and for engines and cars respectively.

Third. The amount and nature of its indebtedness, and the amounts due the corporation.

Fourth. The amount received for the transportation of passengers, of property, of mails, and from other sources.

Fifth. The amount of freight, specifying the quantity, in tons, of the products of the forest, of animals, of vegetables, food, other agricultural products, manufactures, merchandise, and other articles.

Sixth. The amount paid for repairs, engines, cars, buildings, and salaries. -

Seventh. The number and amount of dividends, and when paid.

Eighth. The number of engine-houses and shops, of engines and cars, and their character.

Carrying the mails. SEC. 150. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road; and in case such corporation shall not agree to the rates of transportation thereof, and as to time, rate of speed, manner, and condition of carrying the same, the said supreme court may appoint three commissioners, who shall fix and determine the same.

Sec. 666, R. S. D. C.

Making up trains. SEC. 151. In forming a passenger train, baggage, or freight, or merchandise, or lumber cars shall not be placed in rear of passenger cars; and if any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor or engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly.

Sec. 667, R. S. D. C.

Accommodation of the public. SEC. 152. Every such corporation shall start and run their cars for the transportation of persons or property at regular times, to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall within a reasonable time previous thereto offer, or be offered, for transportation at the place of starting, and the junction of other railroads, and at siding and stopping places established for receiving and discharging way passengers and freight, and shall take, transport, and discharge such passengers and property at, from and to such places, on the due payment of tolls, freight, or fare therefor.

Sec. 668, R. S. D. C.

Penalty for refusal to transport passengers or property. SEC. 153. In case of the refusal by such corporation or their agents to take and transport any passenger or property, as provided in the preceding section, or to deliver the same at the regularly appointed place, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit.

Sec. 669, R. S. D. C.

Passenger refusing to pay fare. SEC. 154. If any passenger shall refuse to pay his fare or toll, the conductor of the train may put him out of the cars at any usual stopping place.

Sec. 670, R. S. D. C.

Employés to wear badge. SEC. 155. Every conductor, baggage-master, engineer, brakeman, or other employé of any such railroad corporation, employed on a passenger-train, or at stations for passengers, shall wear upon his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed.

Sec. 671, R. S. D. C.

No officer to exercise authority without badge. SEC. 156. No collector or conductor without such badge shall demand, or be entitled to receive, from any passenger any fare, toll, or ticket, or exercise any of the powers of his office; and no other of said officers or employés without such badge shall have any authority to meddle or interfere with any passenger or property.

Sec. 672, R. S. D. C.

Route and termini of road to be approved by Congress. SEC. 157. No railroad shall be built under the provisions of this chapter until the route and termini of such road shall have been approved and sanctioned by Congress.

Sec. 673, R. S. D. C.

Regulation by Congress of management and rates of fare and freight. SEC. 158. Congress may make all needful rules and regulations for the operation and management of such railroads, and may regulate the rates of fare and freight upon all such roads.

Sec. 674, R. S. D. C.

SEC. 159. Nothing contained in this chapter shall be so construed as to authorize any corporation organized under the same to construct or own any railroad outside of the District of Columbia, nor to limit the right of the District authorities to regulate the running of trains, or to establish the grade upon which such roads shall be built within the cities of Washington and Georgetown.

Construction of chapter.

Sec. 675, R. S. D. C.

SEC. 160. Congress may, at any time, alter, amend, or repeal this chapter, saving and preserving all rights which may become vested under the same, and may amend or repeal any incorporation formed or created under this chapter; but any such amendment or repeal shall not, nor shall the dissolution of any company formed under this chapter, take away or impair any remedy given against any such corporation, its stockholders, or officers, for any liability which shall have been previously incurred.

Repeal by Congress.

Sec. 676, R. S. D. C.

SEC. 161. Any company authorized by law to run cars propelled by horses within the District of Columbia is hereby authorized to substitute for horses electric power by storage or independent electrical batteries or underground wire, or underground cables moved by steam power, on the whole or any portion of its roadway, with authority to purchase and use any terminal grounds and facilities necessary for the purpose; and any such street railway company electing to substitute such power on any part of its tracks or road-beds on the streets of the District of Columbia shall, before doing so, cause such part of its road-beds to be laid with a flat grooved rail and made level with the service of the streets upon each side of said tracks or road-beds, so that no obstruction shall be presented to vehicles passing over said tracks: *Provided*, That in the event said companies or either of them shall fail for the period of two years from the passage of this act to exercise the powers and privileges hereinbefore given, such companies are hereby required to cause said rails and road beds to be relaid with the flat grooved rail hereinbefore mentioned, so as to be level with the surface of the streets upon each side of said tracks or road beds and the cost of making the changes hereinbefore required shall be paid by the corporations or persons owning or operating said street railroads, and if, after being notified by the Commissioners of the District of Columbia in writing to comply with the terms of this act, the said corporations or either of them shall not within ninety days thereafter begin the work required and complete the same within a reasonable time, not more than twelve months from the expiration of said period of ninety days it shall be the duty of the Commissioners to cause the necessary changes in said rails and road-beds to be made as soon as practicable; and shall issue certificates of indebtedness against the property, real or personal, of such railway company, which certificates shall bear interest at the rate of ten per centum per annum until paid, and which, until they are paid, shall remain and be a lien upon the property on or against which they are issued, together with the franchise of said company; and if the said certificates are not paid within one year the said Commissioners of this District of Columbia may proceed to sell the property against which they are issued, or so much thereof as may be necessary to pay the amount due, such sale to be first duly advertised daily for one week in some newspaper published in the city of Washington, and to be sold at public auction to the highest bidder: *Provided further*, That after the passage of this act no other rail than that herein mentioned shall be laid by any street railway company in the streets of Washington and Georgetown, and all companies granted franchises or extensions by the Fiftieth Congress shall have extension of one year's time within which to lay their tracks. So much of the charters of the street railway companies of the District of Columbia as is inconsistent with this section is hereby repealed.

Street cars may be run by electricity or cables.

Rails.

Provisos.

Grooved rails to be used in two years.

Commissioners to make change on neglect of company.

Certificates of indebtedness for cost.

Sale of property.

No other rail to be hereafter used

Not applicable out of city limits.

Approval of Commissioners.

Mar. 2, 1889.
25 Stat., 797.

Provided further, That the foregoing requirements as to motive-power, rails and road-bed shall not apply to street railroads outside the city of Georgetown and the Boundary limits of the city of Washington: *and Provided*, That the authority hereinbefore granted in each and every particular shall be exercised only with the approval of the Commissioners of the District of Columbia, expressed by resolution of said board.

CLASS 8.

SAVINGS-BANKS AND TRUST COMPANIES:

Savings and trust companies under United States laws to make and publish reports.

R. S., secs. 5211-5218.

SEC. 162. That all savings-banks or savings and trust companies organized under authority of any act of Congress shall be, and are hereby, required to make, to the Comptroller of the Currency, and publish, all the reports which national banking associations are required to make and publish under the provisions of sections fifty two hundred and eleven, fifty-two hundred and twelve and fifty two hundred and thirteen, of the Revised Statutes, and shall be subject to the same penalties for failure to make or publish such reports as are therein provided; which penalties may be collected by suit before any court of the United States in the district in which said savings banks or savings and trust companies may be located.

Savings and trust companies in District of Columbia to be subject to national banking laws.

R. S., secs. 5133-5243.

And all savings or other banks now organized, or which shall hereafter be organized, in the District of Columbia, under any act of Congress, which shall have capital stock paid up in whole or in part, shall be subject to all the provisions of the Revised Statutes, and of all acts of Congress applicable to national banking associations, so far as the same may be applicable to such savings or other banks:

June 30, 1876.
19 Stat., 63, ch. 156, sec. 6. 1 Sup. R. S., 218.
290, 2 Sup. R. S., 353.

Provided, That such savings banks now established shall not be required to have a paid-in capital exceeding one hundred thousand dollars.*

133 U. S. Rep., 198, Keyser vs. Hitz; 22 Stat., 162, ch.

Banks organized under act of Congress to be examined.

Report.

Expense.

17 Stat., 412.
Cap. 43, Jan. 20, 1873.

SEC. 163. The Comptroller of the Currency, in addition to the powers now conferred upon him by law for the examination of national banks, is hereby further authorized, whenever he may deem it useful, to cause examination to be made into the condition of any bank in the District of Columbia organized under act of Congress. The Comptroller, at his discretion, may report to Congress the results of such examination. The expense necessarily incurred in the execution of this act shall be paid out of any appropriation made by Congress for special bank examinations.

CLASS 9.

INSURANCE.

Insurance companies. Capital required.

Assessment companies.

Jan. 26, 1887.
24 Stat., 366, sec. 1.

SEC. 164. No company hereafter organized or incorporated within the District of Columbia shall transact the business of insurance in any of its branches unless the whole capital of such company be not less than one hundred thousand dollars, actually and in good faith paid up in full, in cash, excepting life-insurance companies which issue to their members policies or certificates agreeing to pay benefits or sums of money which are to be realized by assessments levied upon the members; no other capital than such assessments shall be required of them. The Commissioners of said District, or any two of them, shall ascertain and determine such facts, upon evidence satisfactory to them to be filed in their office, and thereupon shall issue to such companies authority to transact business.†

* This provision has been added to sec. 5205 in the second edition of the Revised Statutes.
† Property belonging to the District of Columbia may be insured for five years or less: 23 Statutes 312.

SEC. 165. Every insurance company doing business in said District must transmit to the Commissioners of the District a statement of its condition and business for the year ending on the preceding thirty-first day of December, which statement shall be rendered on the first day of January following or within sixty days thereafter, except that foreign companies shall transmit their statements of business, other than that done in the United States, prior to the following first day of July, which statements must be in form and state the particulars required by the blanks prescribed by the Commissioners; and the Commissioners, or any two of them, may require at any time statements from any company doing business within the District, or from any of its officers or agents, on such points as they may deem necessary and proper to elicit a full exhibit of its business and standing, all of which statements herein required must be verified by the signatures and oaths of the president or vice-president, or the secretary or actuary. No company having neglected to file a statement required of it within the time and manner prescribed shall do any business, after notification by the Commissioners, or any two of them, while such neglect continues; and any company or association neglecting to make and transmit any statement required shall forfeit one hundred dollars for each day's neglect.

Annual statements to be made.

Special statements.

Companies not filing statements prohibited from doing business.

Money penalty.

Ibid., sec. 2.

SEC. 166. That every fire-insurance company, to entitle itself to the written authority by this act required to transact business in the District, shall have assets equal to its liabilities, including a reinsurance reserve liability equal to fifty per centum of premiums received upon one year-risk, and an amount proportioned to the unexpired time upon all other fire risks. Every company doing an inland or marine business shall have assets equal to its liabilities, including a reinsurance reserve liability equal to the total premiums charged upon all unexpired inland or marine risks. Every life-insurance company, excepting those organized upon the plan of assessments on their members, shall have assets equal to its liabilities, including a reserve liability computed upon the basis of the American experience table of mortality, at four and one-half per centum interest. Before issuing any written authority to any company to transact business in the District, the Commissioners, or a majority of them, shall satisfy themselves that such company has complied with the law; and at any time thereafter they shall revoke such authority when satisfied that such company has fallen below such requirements.

Assets of fire insurance companies.

Inland and marine insurance companies.

Life-insurance companies.

Permit from Commissioners required before operating.

Ibid., sec. 3.

SEC. 167. No insurance company organized or incorporated under the laws of any of the United States of America, or of any foreign state or country, shall transact the business of insurance in any of its branches within the District of Columbia until such company shall have duly constituted some proper person domiciled in the District their agent and attorney-in-fact for the purpose of receiving for them summonses, writs, and processes issuing out of any court having any jurisdiction in said District, and until the evidence of such appointment of such agent and attorney-in-fact, authenticated in a manner satisfactory to the Commissioners of the District, or any two of them, shall be filed in the office of such Commissioners.

Foreign insurance companies not to transact business until an attorney in fact be appointed.

Ibid., sec. 4.

SEC. 168. Any insurance company, or any officer or agent of any insurance company, effecting any contract of insurance in behalf of such company when the written authority required by this act shall not have been given by said Commissioners, or after such authority has been revoked, shall be subject to a penalty of one hundred dollars for every offense, to be recovered by due process in the courts of the District.

Penalty for transacting business without authority.

Ibid., sec. 5.

Application to be attached to policy.

Ibid., sec. 6.

SEC. 169. Each insurance company doing business in the District of Columbia shall attach to each policy issued by such company a copy of the application made by the insured, so that the whole contract may appear in said application and policy.

To take effect in ninety days.

Ibid., sec. 7.

SEC. 170. This act shall take effect and be in full force after ninety days from its passage.

Mutual Fire Insurance Company of the District of Columbia.

Failure to pay interest, etc., shall be deemed a lapse of the policy of insurance.

SEC. 171. Whenever the holder or holders of a policy or policies of insurance hereafter issued in the Mutual Fire Insurance Company of the District of Columbia shall have failed for the full period of three years to pay the interest on any lawful assessment due upon his or their premium note or notes, such policy or policies of insurance shall be deemed to be lapsed, and the board of managers may proceed to settle and cancel the same, after a previous advertisement of their intention to do so, to be inserted in two newspapers printed and published in the city of Washington, once in each week, for the period of three consecutive months, and after serving, besides, whenever practicable, a personal notice in writing, for a like period of time, upon the holder or holders of such policy or policies; or in the event of his or their death, upon the legal representatives of such holder or holders.

Settlement, etc.

July 5, 1884.
23 Stat., 155.

SEC. 172. The cost of such advertisement and notice shall be deducted from the sum or sums of money which may be found to be due on the settlement of said policy or policies to the holder or holders thereof.

Costs by whom paid.

Ibid., sec. 2.

Insurable interest required in insurance on ships or effects laden thereon.

19 George II, ch. 37, sec. 1, A. D. 1746.

Alex. Brit. Stat., 760, 761. Kilty's Rep., 252. 94 U. S. Rep., 460, Conn. Mutual Ins. Co. vs. Shafer.

SEC. 173. No assurance or assurances shall be made by any person or persons, bodies corporate or politick, on any ship or ships, or on any goods, merchandizes, or effects, laden or to be laden on board of any such ship or ships, interest or no interest, or without further proof of interest than the policy, or by way of gaming or wagering, or without benefit of salvage to the assurer; and that every such assurance shall be null and void to all intents and purposes.

Reassurance, when permitted.

Ibid., sec. 4.

Alex. Brit. Stat., 761.

SEC. 174. It shall not be lawful to make re-assurance, unless the assurer shall be insolvent, become a bankrupt, or die; in either of which cases such assurer, his executors, administrators or assigns, may make re-assurance, to the amount of the sum before by him assured, provided it shall be expressed in the policy to be a re-assurance.

When plaintiff required to disclose other insurance.

Ibid., sec. 6.

SEC. 175. In all actions or suits brought or commenced after the said first day of August, by the assured, upon any policy of assurance, the plaintiff in such action or suit, or his attorney or agent, shall within fifteen days after he or they shall be required so to do in writing, by the defendant, or his attorney or agent, declare in writing what sum or sums he hath assured, or caused to be assured in the whole, and what sums he hath borrowed at respondentia or bottom-ree, for the voyage, or any part of the voyage in question in such suit or action.

CLASS 10.

MARYLAND VESTRY ACT AND AMENDMENTS.

How vestries are to be chosen, etc.

Md. act 1798, ch. 24, sec. 2.

SEC. 176. That vestries shall be chosen for each parish within this District [state] in the following manner: Every male citizen of this District [state] above twenty-one years of age, resident of the parish where he offers to vote six months next preceding the day of election, who shall have been entered on the books of the said parish one

month at least preceding the day of election as a member of the protestant episcopal church, and who shall also contribute to the charges of the said parish in which he offers to vote such sum as a majority of the vestry in each parish shall annually, within ten days after their election, in writing, make known and declare, not exceeding two dollars, shall have a right of suffrage in the election of vestrymen for such parish; and all persons so qualified shall, on the next ensuing Easter Monday, assemble in their respective parishes, at their parish church, or if there shall be two or more protestant episcopal churches in any parish, at the church first built therein, or if there be in any parish no such church, then at such other place as the rector of the parish, or if there be no rector, as any three or more vestrymen, may have publicly notified to the parishioners, and the said persons, so qualified to vote, when assembled, or such of them as may assemble in each parish, shall proceed, by a majority of votes, to elect, by ballot, eight vestrymen from among the persons qualified to vote, who, with the rector of the parish for the time being, shall be deemed and considered the vestry of the said parish for the ensuing year, and the rector of the parish shall always be one of the vestry.*

¹ Dorsey, 359, 360.
² Kilty, 774.

SEC. 177. That the register of the parish shall, and it is hereby declared to be his duty, to enroll any person of the protestant episcopal church who shall apply for the purpose, on the books of the parish, under the penalty of eight dollars, and he shall be authorized to demand and receive the sum of six cents for each and every such enrolment.†

Register to enroll certain persons.

Ibid., sec. 3.

SEC. 178. That on refusal to serve, resignation, death, or removal from the parish with a view to reside elsewhere, or on legal discharge from serving, or any other disqualification of any person chosen a vestryman, the rector, (if any,) or if no rector, any two of the vestry, or of those persons who last possessed the powers of vestrymen, shall, with all convenient speed, appoint a general meeting of the parishioners entitled to suffrage as aforesaid, at the parish church or elsewhere, as herein before mentioned; and at such meeting, such of them as shall assemble shall proceed, by a majority of votes, to fill up such vacancy or vacancies from among the persons qualified to vote, as herein before provided; and on every Easter Monday for ever, after the first election as herein before directed, the parishioners entitled to suffrage shall assemble, as herein before prescribed, and they, or such of them as may assemble, shall, by a majority of votes, put out four of the eight vestrymen whom they please, and shall immediately thereafter elect, by ballot, four vestrymen from among the persons qualified to vote, including those whom they have voted out, all or any of whom they may re-elect; and such persons so chosen, with the remaining vestrymen and the rector, shall be the vestry for the ensuing year.

How vacancies in vestry to be filled.

Ibid., sec. 4.

SEC. 179. That the vestrymen of each parish, or a majority of those who shall attend, shall judge of the election of vestry men, and of the qualification of voters, and of the qualification of the parishioners proposed to be elected as vestrymen.

Vestrymen to judge of elections, etc.

Ibid., sec. 5.

SEC. 180. That every person chosen a vestryman shall, before he acts as such, take and subscribe the oath of support and fidelity required by the constitution and form of government, unless such person hath before taken such oath, and also make and subscribe a declaration of his belief in the christian religion, and he shall also take and subscribe the following oath of office, to wit: 'I, A. B., do

Oath of vestrymen.

Ibid., sec. 6.

* Modified by act of legislative assembly, ch. 57, June 26, 1873.

† See Leg. Assem. 1872, secs. 1, 2 and 3, p. 51, *post.* 3 Leg. Assem. 1873, ch. 57, sec. 1, p. 128.

solemnly swear, that I will faithfully execute the office of a vestryman of ——— parish, in ——— county, without prejudice, favour or affection, according to the best of my skill and knowledge; which oaths and declarations any justice of the peace, or any vestryman present, may administer and take.

Meetings of vestry.

Ibid., sec. 7.

SEC. 181. That the first Monday in February, May, August and November, in each year, shall be the days on which a vestry shall be held in every parish, at eleven o'clock in the forenoon, at the place at which vestry elections are directed by this act to be held, without any notice given thereof, and every vestry may also hold adjourned or special meetings at such times and places as they may agree upon; at any which time or place, any four vestrymen, together with the rector, if he shall attend, if not, any four without him, shall be a sufficient quorum for the transaction of any business whatever, which they are authorized to do by this act, and whatsoever shall be thus done by a majority of such quorum, or of the members attending, if more than above directed, shall be valid and obligatory as if done by the whole vestry: *Provided always*, That due notice of all adjourned and special meetings shall be given to all the members of the vestry.*

Rector to preside in vestry; custodian of church property.

Ibid., sec. 8.

SEC. 182. That the rector of each parish for the time being shall preside in the vestry, collect the votes, and shall, upon an equal division of those present, have a vote, except in cases in which he is in any manner particularly interested, and he shall have, except he may otherwise contract with the vestry, the possession, occupation and free use of all the glebe-lands, houses, ground-rents, books and other property, belonging to his parish, and be entitled to the benefit thereof during the time he shall officiate therein as rector.

Title of all church property is in vestry.

Ibid., sec. 9.

SEC. 183. That the vestry of each parish for the time being, as trustees of the parish, shall have an estate in fee simple in all churches and chapels, and in all glebes, and other lands, and shall have a good title and estate in all other property heretofore belonging to the church of England, or which shall hereafter belong to the said church, now called the Protestant Episcopal Church, in Maryland; and it shall be lawful for such vestry so to manage and direct all such property as they may think most advantageous to the interests of the parishioners, and they shall also have the property in all books, plate and other ornaments belonging to said churches and chapels, or any of them.

Penalty on the rector for waste, etc.

Ibid., sec. 10.

SEC. 184. That if any rector shall commit any waste on any glebe-land, or other land belonging to the vestry of his parish, or if he shall do any injury to his parsonage, or to his parish library, he shall be liable to pay treble damages, to be recovered of him by the vestry in their corporate name, in the same manner as if he was not one of the vestry.

Churchwardens to be chosen; oath of.

Ibid., sec. 11.

SEC. 185. That on every Easter Monday, immediately after the election of vestrymen, the vestry shall proceed to choose from among the persons qualified to vote, two sober, discreet and pious persons, to be churchwardens for the ensuing year, and before they act as such, they shall take and subscribe the oath of fidelity, and make and subscribe the declaration herein before prescribed to be taken by vestrymen, and also an oath, that they will faithfully discharge the duties of a churchwarden.

* Modified by act of legislative assembly, 1873, June 26; sec. 2. See also 3 Leg. Assem. 1873, ch. 57, sec. 2, p. 128.

SEC. 186. That every churchwarden shall have power to keep the peace, and also preserve order and decency in his respective church or chapels; and it shall be lawful for any churchwarden to apprehend any person guilty of any breach of the peace, or of any disorderly conduct, or of making a noise in any church or chapel, or in the church or chapel yard, or other enclosure, so as to disturb the congregation, and to turn such person out of the church, chapel yard, or other enclosure thereto belonging; and it shall be the duty of any person (who may be called upon) to assist the churchwarden in the before-mentioned duties.

Churchwardens shall have power to keep the peace, etc.

Ibid., sec. 12.
2 Kilty, 775.

SEC. 187. That if, from any cause whatever, those persons qualified to vote in any parish should suffer Easter Monday to elapse without any election of vestrymen, then the said election may be held on any other day appointed for the purpose, at any time after, although it may be in any subsequent year, of which day notice shall be given by the rector (if any) in his church, immediately after divine service, on two succeeding Sundays, and if no rector, by any two vestrymen, or of those persons who last possessed the powers of vestrymen, by writing set up at the door of the church ten days before the day of meeting.

Elections for vestrymen may be held at any time, etc.

Ibid., sec. 13.

SEC. 188. If churchwardens should not from any cause be chosen by the vestry on the day of the election of vestrymen, it shall and may be lawful to choose them at any subsequent meeting of the vestry, and such elections shall be held valid and obligatory.

Churchwardens, when may be chosen, etc.

Ibid., sec. 14.

SEC. 189. That the vestry of every parish shall have full power and authority, from time to time, to choose one or more ministers or readers of the Protestant Episcopal church, (heretofore called the church of England,) to officiate in any church or chapel belonging to the parish, and to perform the other duties of a minister therein, for such time as the said vestry may think proper, and they may agree and contract with such minister or ministers, reader or readers, for his or their salary, and respecting the use and occupation of the parsonage house, or any glebe or other lands, or other property, if any, belonging to the parish, and on such terms and conditions as they may think reasonable and proper, and their choice and contract shall be entered among their proceedings; and upon the expiration of such contract, the said vestry may, in their discretion, renew their choice, or make a new contract, but if they do not incline so to do, their former choice and contract shall remain until they declare their desire to make a new choice or contract.

Vestry may choose and contract with ministers.

Ibid., sec. 15.

Maryland Court of Appeals, 1892, Edward H. Bartlett, etc., vestry of St. Mathew's Parish, vs. Frederick S. Hipkins, 76 Md. Rep., 5.

SEC. 190. That if only one minister shall be chosen for any parish, he shall be called the rector thereof, but where two or more ministers shall be chosen of the same order in the ministry, they shall be called associated rectors of such parish, and shall preside in the vestry by rotation; and in any parish in which there shall at any time be more than one minister regularly settled, and either of them of superior order in the ministry, such superior minister shall have the sole right of presiding in the vestry, and be called the rector thereof, and the other or others shall be called associated ministers of such parish. [See 3 Leg. Assem., 1878, ch. 57, sec. 4 p. 129.]

Ministers, if one only, styled rector; if more, associated rectors, their several priority.

Ibid., sec 16.

SEC. 191. If the vestry of any parish should think it necessary to take in subscriptions for the maintenance of their minister or ministers, reader or readers, or for paying the salaries of such other officers as the occasions of the parish may require to be appointed, or for any other parish purposes, it shall and may be lawful for them so to do.

Vestry may take in subscriptions; etc.

Ibid., sec. 17.

Vestry shall provide register; duties and official oaths.

Ibid., sec. 18.

SEC. 192. That the vestry of every parish shall be and they are hereby obliged to provide a fit person as register of their parish, whose duty it shall be to keep true and fair entries of the proceedings of such vestry in the execution of their trust, which register also shall, before he acts as such, take and subscribe the oath of fidelity herein before mentioned, (unless he shall have before taken such oath,) and make and subscribe a declaration of his belief in the christian religion, as also take an oath for the due and faithful execution of the duties of his office, to be administered as hereinbefore directed.

Register, additional duties of.

Ibid., sec. 19.

SEC. 193. That it shall be the duty of the said register to enter in a book, provided for the purpose, all baptisms, marriages and funerals, of free persons in the parish by any minister of the Protestant Episcopal church, and which may be known to him by any of the said ministers or vestrymen of the parish; and it shall also be the duty of the said register, in the entry of baptisms, to insert the Christian names of the persons baptized, the Christian and surnames of the parents, with the dates of the baptisms and births of the persons baptized, and in the entry of marriages and burials to insert the times of the celebration, and the christian and surnames of the persons married, and the persons buried; and it shall be the duty of the minister or ministers of every parish, to take care that the said register be made acquainted with all the baptisms, marriages and burials, celebrated by him or them in the parish.

Ministers to notify register of marriages, etc.

Ibid., sec. 20.

SEC. 194. That if any minister of the Protestant Episcopal church shall celebrate any baptism, marriage or burial, in any parish in which he may not be a settled minister, he is hereby required to communicate it to the rector, or some one of the vestry, of the parish, who shall communicate it to the register of said parish.

Penalty for neglect of duty by ministers or registers.

Ibid., sec. 21.

SEC. 195. That if any minister or vestryman shall fail in the duties herein respectively assigned them, or if any register shall refuse or neglect to enter any baptism, marriage or burial, so made known to him, the person offending shall forfeit eight dollars for every such offense. [§ 887, R. S. D. C. See "Pleading and Practice."]

Register the custodian of records; to certify copies under seal of vestry; fees.

Ibid., sec. 22.

SEC. 196. That the register of every parish shall have the custody of all registers of baptism, marriages and burials, belonging to his parish, and he is hereby obliged to shew any person or persons reasonably desiring it any such register, or give a certificate of the entry of any birth, marriage or burial, entered therein, which may be desired of him, and such certificate under the hand of such register, and with the common seal of such vestry annexed thereto, shall be received in evidence in all courts of justice within this *District* [state]; and for every search which may be required, he shall be entitled to twenty-five cents, and for every certificate as aforesaid, he shall be entitled to twenty-five cents, nor shall he be obliged to make a search, or give a certificate, until he shall have been paid the reward before allowed.

Penalty on vestry for failure to appoint register or provide books.

Ibid., sec. 23.

SEC. 197. That if any vestry shall neglect or refuse to appoint a register for their parish, or to provide him with such good and substantial books as the execution of the duties herein committed to him may require, the individual vestrymen who shall vote against going into the appointment of a person to fill the office of a register, or who shall refuse to vote on the question of said appointment, or against the provision of good substantial books as aforesaid, shall forfeit and pay the sum of five dollars each for every time he shall offend, or vote as aforesaid, the said fine to be recovered before a single magistrate: *Provided always*, That the vestrymen, so offending,

may in all cases allege, before said magistrate, such excuse or excuses, as he may think sufficient to relieve him from the payment of the fine as aforesaid.

SEC. 198. That whenever special meetings of the vestry shall be necessary, the rector shall call them, but if there be no rector, or if he shall be absent, or refuse or neglect to call a meeting, then any two of the vestry, agreeing so to do, may summon a special vestry.

Special meetings of vestry, how called.

Ibid., sec. 24.

SEC. 199. That no vestryman shall absent himself from any stated meeting, or from special or adjourned meeting, of which he was duly notified, without such excuse as the rest of the vestry will allow, under a penalty not less than two, or exceeding eight dollars.

Penalty for vestrymen not attending meetings.

Ibid., sec. 25.

SEC. 200. That if any person elected a vestryman, agreeably to this act, shall, after convenient notice given him by the register of the parish, who is hereby required to give him such notice under the penalty of twenty dollars, refuse to serve as a vestryman, according to the provisions herein made, without alleging such an excuse as the residue of the vestry will allow, unless he shall have heretofore served two years, or been voted out at a former vestry election, or if any person elected a churchwarden, who has not before served in that office within the last three years, shall, after the same notice, refuse to serve as such, or having been qualified, shall retire from his office without the consent of the vestry, before the time for which he was elected shall have expired, unless he shall have been disqualified for remaining a churchwarden, the former shall forfeit twenty dollars, and the latter ten dollars.

Penalty on register and vestrymen in certain cases.

Ibid., sec. 26.

SEC. 201. That all fines and penalties by this act imposed shall be recoverable before any justice of the peace, and applied to the use of the parish in such manner as the vestry may direct.

All fines are to be recovered before justice of the peace.

Ibid., sec. 27.

SEC. 202. That the vestrymen of every parish in this *District* [state] for the time being, shall be, and they are hereby declared to be, one community, corporation and body politic, for ever, by the name of The Vestry of the parish to which they severally belong, and by the same name they, and their successors, shall and may have perpetual succession, and shall and may, at all times hereafter, be persons able and capable in law to purchase, take and hold, to them and their successors, in fee, or for any less estate or estates, any lands, tenements, hereditaments, rents or annuities, within this *District* [state,] by the gift, bargain, sale or devise, of any person or persons, bodies politic and corporate, capable of making the same, and such lands, tenements or hereditaments, to rent or lease in such a manner as they may judge most conducive to the interests of their respective parishes, and also to take and receive any sum or sums of money, and any kind of goods and chattels, which may or shall be given, sold or bequeathed, unto them, by any person or persons, bodies politic or corporate, capable to make a gift, sale or bequest thereof, and to apply the same for the use of their respective parishes as herein before directed: *Provided*, That the clear yearly value of the estate of any vestry, (exclusive of the rents of pews, collections in churches, funeral charges, and the like,) shall not exceed two thousand dollars.

Vestrymen declared bodies corporate; powers and duties.

Ibid., sec. 28.

SEC. 203. That no vestry shall sell, alien or transfer, any of their estates, or property belonging to their church or churches, without the consent of five at least of their body, (of which number the rector shall always be one,) together with the consent of both the churchwardens, and in case there be no rector in the parish, then it shall be necessary to obtain the consent of the bishop of the protestant episcopal church in this state for the time being, previous to any sale, alienation or transfer, of any of the estates or property aforesaid.

Restriction upon alienation of church property.

Ibid., sec. 29.

Application of proceeds of church property limited.

Ibid., sec. 30.

SEC. 204. That no vestry shall apply any of the principal of the money arising from the sales of any of the estates or property aforesaid towards any debt or debts contracted with their minister on account of his official duties.

Vestry powers as to cemeteries, pews, and church property.

Ibid., sec. 31.

SEC. 205. That nothing herein before contained shall be construed to prevent the vestry of any parish from buying at any time a lot of land, not exceeding two acres, for a burial-ground, or a site for a church or parsonage-house, or from selling or renting the pews of their churches or chapels, provided in so doing the said vestry shall not interfere with any existing right or title in any person to any pew or pews. [See Leg. Assem. 1871, § 1, p. 8, post.]

Vestry may have seal, and sue and be sued.

Ibid., sec. 32.

SEC. 206. That the vestry of every parish, and their successors, (by the name aforesaid,) shall be for ever hereafter able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any courts of justice, and before all or any judges, officers or other persons whatsoever, in all and singular actions, matters and demands whatsoever; and that it shall and may be lawful for them, and their successors, for ever hereafter, to have a common seal for their use, and the same, at the will and pleasure of them, and their successors, to change, alter, break and make anew, from time to time, as they shall think best.

Convention may make, unite, or divide parishes.

Ibid., sec. 33.

SEC. 207. That it shall be lawful for the convention of the Protestant Episcopal Church in this state to divide or unite parishes, as occasion may require, and to alter their bounds, and to constitute new parishes; and vestrymen and churchwardens of such new parishes shall be chosen as hereinbefore provided, and shall have perpetual succession, and be incorporated, by the name of The Vestry of such new parish, and such vestry and churchwardens shall have all the powers hereby granted in this act to other vestrymen and churchwardens: *Provided always*, That a majority of the members of the Protestant Episcopal Church, qualified to vote for vestrymen, residing in any parish, or part or parts of a parish or parishes, proposed to be added to any new parish or parishes, or to be constituted into a new parish, shall consent thereto.

Select vestry act repealed.

Ibid., sec. 34.

¹ Mar., 1779, ch. 9.

SEC. 208. That immediately after the election of vestrymen on the next ensuing Easter Monday, as herein before directed, the act,¹ entitled, an act for the establishment of select vestries, and all the supplementary acts thereto, shall be and hereby are repealed.

Approval of act of District of Columbia relating to Protestant Episcopal churches.

Mar., 28, 1879, 18 Stat., 25.

SEC. 209. The act of the legislative assembly of the District of Columbia entitled "An act for the relief of parishes of the Protestant Episcopal Church in the District of Columbia," approved June twenty-sixth, eighteen hundred and seventy-three, is hereby approved; and all acts now in force in the District of Columbia, inconsistent therewith, are hereby repealed.

[NOTE.—The act of the District legislature, here referred to, 1873, ch. 57, is contained in the following four sections:]

Qualification for voting and holding office.

SEC. 210. That in any parish of the Protestant Episcopal Church now existing in said District, or hereafter organized therein, residence within the limits of the parish shall no longer be prescribed as a qualification for voting at parish elections or other business meetings of the parish, or for holding office in the same; but any male member of the congregation above the age of twenty-one years may be admitted to vote at parish meetings, and shall be qualified to hold office in such parish, who shall own or lease a pew or part of a pew in the parish church, or, in case the pews are free, shall be a stated

worshiper in the church, and who shall have been entered on the books of the parish, as required by existing law, and shall have complied with the other requirements of said law, or with such other conditions as a majority of the qualified voters of the parish may hereafter adopt at a parish meeting called for the purpose :

Provided, That in the case of a newly organized parish all male members of any church or congregation in communion with the Protestant Episcopal Church in the District of Columbia, of full age and uniting in the organization of such new parish, shall be qualified to vote at the first election of vestrymen thereof.

Proviso, in case of newly organized parishes.

Leg. Assem., 1873, p. 128, sec. 1.

SEC. 211. That hereafter vestries of the Protestant Episcopal Church shall not be obliged to meet on any stated days or at any particular place, but only at such times and places as they may find most convenient ; and if any vacancy shall happen in vestries after their election, or any person elected a vestryman shall refuse to serve, then the other vestrymen shall have power to appoint a person or persons, as the case may be, to serve until the next succeeding election ; and any parish, by a vote of the majority of its qualified voters may at any parish meeting provide that the wardens of such parish shall be elected in the same manner as vestrymen, and be members of the vestry ; and vestries shall have power to make all rules and regulations respecting the temporal government and support of their respective parishes, not inconsistent with public law.

Vestries not required to meet on stated days, etc.

Vacancies in, how filled.

Warden, how may be elected.

Power of vestries.

Ibid., sec. 2.

SEC. 212. That vestries now existing shall be regarded as legally constituted, notwithstanding irregularities in their election or defect of qualifications in the voters by whom they were elected, and are hereby confirmed in their offices until the period appointed by law for the next election of vestries.

Organization of existing vestries confirmed.

Ibid. sec. 3.

SEC. 213. That all acts or parts of acts now in force in the District of Columbia respecting the right and privileges of associate rector in parishes of the Protestant Episcopal Church in said District be and the same are hereby repealed.

Laws as to rights, etc., of associate rectors repealed.

Ibid., sec. 4.

SEC. 214. The vestry of Rock Creek parish, in said District, be, and hereby are, invested with all the privileges and immunities with respect to the cemetery attached to St. Paul's Church, in said parish, as are conferred upon cemetery associations organized under the fifth section of the act of Congress passed on the fifth day of May, eighteen hundred and seventy.

Certain privileges granted vestry of Rock Creek parish, as to cemetery.

Leg. Assem., June 30, 1871, sec. 1, p. 8.

SEC. 215. So much of the act of the General Assembly of the State of Maryland, passed in the year seventeen hundred and ninety-eight, entitled "An act for the establishment of vestries for each parish in the State," as requires residence within the parish limits as a qualification of voters at a parish election, shall hereafter be held to be complied with by the admission of all persons owning or leasing a pew in any church or chapel of the said St. John's parish to vote at such elections, or other business meeting of the said parish, on the same terms and under the same restrictions as are now provided in the case of resident parishioners.

Provisions as to the rights of parishioners of St. John's parish ; qualifications of voters.

Leg. Assem., Jan. 19, 1872, sec. 1, p. 51.

SEC. 216. In any free church or chapel of the said parish in which the pews are not sold or leased, the qualifications of voters shall be determined by a vote of a majority of the stated worshipers in said church or chapel, at a meeting duly named for that purpose by at least [—] week's public notice in one or more newspapers of the District of Columbia ; and such qualifications, so determined, shall be made known, published, and declared in the manner provided by the act of seventeen hundred and ninety-eight, as aforesaid.

Qualifications of voters in certain churches.

Ibid., sec. 2, p. 51.

Provisions of this act to apply to any other parish desiring to avail itself of the same.

Ibid., sec. 3, p. 51.

Proviso.

SEC. 217. The provisions of this act shall apply to any other parish of the Protestant Episcopal Church in the District of Columbia which may desire to avail itself of the same, by a three-fourths vote, favorable thereto, of the rector and vestrymen in vestry meeting assembled: *Provided*, That two weeks' notice be given, through some newspaper published in said District, that a meeting of the said vestry is to be called for that purpose; and such vote shall be made known in manner provided by the act of Assembly of seventeen hundred and ninety-eight aforesaid.

CHAPTER SIXTEEN.

CRIMES AND OFFENSES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Penitentiary offenses. (NOTES.—Common law offense where cognizable. "Ransomed" definition of; where sentences to be executed.) 2. Capital crimes not specially provided for, how punished. 3. Other crimes not provided for, how punished. 4. Whipping abolished; other punishment provided for. 5. Disorderly conduct, how punished. 6. Expenses of criminal process. 7. Murder. 8. Punishment of death to be by hanging. 9. Murder, jurisdiction where injury inflicted in one district and death occurs in another. 10. Manslaughter. 11. Same, how punished. 12. Provisos to preceding section. 13. Abortion, how punished. 14. Same, aiders or assistants in, how punished. 15. Same, exemption in favor of regular physician. 16. Same, penalty for selling abortion drugs. 17. Same, druggists to register abortive prescriptions. 18. Same, punishment for selling, offering for sale or advertising abortives. 19. Same, coroner to analyze abortives. 20. Same, offenders under previous 7 sections, competent witnesses against each other. 21. Arson; punishment for. 22. Rape; punishment for. 23. Same, assault with intent to commit; punishment for. 24. Carnal and unlawful knowledge of females under 16, to be felony. 25. Adultery, how punished. (NOTES.—Money fines completed. Tobacco fines how discharged.) 26. Depredations on houses; penalty. 27. Burglary and housebreaking; penalty. 28. Unlawful entries with intent to destroy property, etc; penalty. 29. Sodomy. Certain other crimes, Breaking houses with intent to kill, etc. Accessories. (NOTES—Penalties for.) | <p>Sec.</p> <ol style="list-style-type: none"> 30. Forcible entry; punishment. 31. Same, restitution, when. 32. Horse-stealing, mayhem, bigamy, or accessory; punishment. 33. Mayhem, defined. 34. Bigamy. (NOTE.—Construing "beyond the seas.") 35. Perjury and subornation of perjury; Penalty. 36. Perjury defined. Same at common law. (NOTE.—Same, effect of conviction of.) 37. Subornation of perjury, defined. 38. Convicted under sections 36 and 37, persons disqualified as witnesses. 39. Forgery, counterfeiting, uttering, etc. Penalty for. (NOTE.—Forgery at common law. 40. Grand larceny; punishment. 41. Larceny or destruction of bills, notes, etc; punishment. 42. Stealing or injuring books, maps, etc., of United States; punishment. 43. Receiving stolen property; punishment. 44. Petty larceny, and receiving; second conviction for; punishment. 45. Larceny from the person, a felony; penalty. 46. Attempt to commit larceny from the person; penalty. 47. False pretenses; keeping a faro or gaming table; penalty. 48. Accessory after the fact, in felonies; penalty. 49. Duels, challenging to fight; penalty. 50. Duels, sending challenge to fight; penalty. 51. Duels, assaulting etc., for refusal to fight; penalty. 52. Duels, evasions of law by going out of District. 53. Duels, bar to proceedings, in what case. 54. Embezzlement of effects of District of Columbia; penalty. 55. Embezzlement of effects of private citizens; penalty. 56. Stealing, secreting, etc., of books, etc., property of District of Columbia; penalty. 57. Secreting, removing, altering, etc., records, books, etc., property of District of Columbia; penalty. |
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| <p>Sec.
58. Buying or receiving embezzled goods, etc.</p> <p>59. Petty larceny, receiving or buying chattles knowing same to be stolen; penalty.</p> <p>60. Lottery tickets, sale of; penalty. Informers share of penalty.</p> <p>61. Same subject; contract of sale void.</p> <p>62. Policy lottery; policy shop and sale of tickets, etc., prohibited; penalty.</p> <p>63. Policy, permitting house to be used for; penalty.</p> <p>64. Gift enterprises prohibited; repeal of act of legislative assembly relating thereto.</p> <p>65. Same; penalty for.</p> <p>66. Police court, appeal from, and final judgment. (NOTE.—Per later law.)</p> <p>67. Enlistment of criminals; penalty for.</p> <p>68. Officers of jail shall not take rewards etc; penalty.</p> <p>69. Selling, etc., liquor to soldiers; penalty.</p> <p>70. Same, by licensed vendors; penalty.</p> <p>71. Same subject, forfeiture of license.</p> <p>72. Misprision of felony; penalty.</p> <p>73. Rioters shall be suppressed and imprisoned. (NOTE.—As to powers of Commissioners.)</p> <p>74. Same, they shall be arrested and prosecuted as under the statute of forcible entry. (NOTE.—For authorities.)</p> <p>75. Same, punishment of rioters; who shall assist in suppressing riots.</p> <p>76. Obscene literature, etc., circulation of; same, as to medicine to prevent corruption or produce abortion; penalty. (NOTE.—Posting bills of immoral character; penalty.)</p> <p>77. Injury to trees, works of art, fences, etc; penalty.</p> <p>78. Trespass on land of another, etc.; penalty.</p> <p>79. Trespass on improved or cultivated lands etc.; penalty.</p> <p>80. Injury to cemeteries; penalty.</p> <p>81. Bottles for mineral, etc., waters, how rights of owners protected.</p> <p>82. Same subject, penalty for using, etc., marked bottles.</p> <p>83. Travel over Bennings bridge regulated and discharge of firearms thereon; penalty.</p> <p>84. Adulterated food, or drugs; manufacture of food from diseased, etc.; matter and sale thereof prohibited; penalty.</p> <p>85. Adulteration of drugs; penalty.</p> <p>86. Exceptions as to liability for.</p> <p>87. Spurious food or drugs not to be sold; penalty. Proviso.</p> <p>88. Compounded food and drugs, regulations concerning; penalty.</p> <p>89. Food injuriously altered; penalty.</p> <p>90. Onus of proof on defendant, when.</p> <p>91. Impositions in sale of goods under warranty; penalty.</p> <p>92. Forgery, etc., of warranty; penalty.</p> <p>93. False warranty, label, etc.; penalty.</p> | <p>Sec.
94. Analysis of food, drugs, etc.; regulated.</p> <p>95. Analysis, purchaser entitled to have.</p> <p>96. Refusal to sell to officer, food or drugs; penalty.</p> <p>97. Definition of "food," "drugs."</p> <p>98. Oleomargarine act not affected.</p> <p>99. Exempted articles, how known.</p> <p>100. Ballast cast into harbor, etc.; penalty.</p> <p>101. Obstructions of channels; penalty.</p> <p>102. Boundaries, cutting down, etc.; penalty.</p> <p>103. Same subject, unlawfully setting up; penalty.</p> <p>104. Same subject, as to prosecutions.</p> <p>105. Tobacco plants, destruction of; penalty.</p> <p>106. Blank writs, not to be delivered by clerk; penalty.</p> <p>107. Sabbath breaking; penalty.</p> <p>108. Oleomargarine, making and sale of regulated; packages to be labeled.</p> <p>109. Same subject, selling or possessing contrary to act; penalty. Informers to get half penalty.</p> <p>110. Same subject, misdemeanor to sell, expose for sale, etc.</p> <p>111. Vehicles to keep to the right and maintain distance.</p> <p>112. Droppings from vehicles; penalty.</p> <p>113. Bill posting regulated.</p> <p>114. Petroleum, storage regulated.</p> <p>115. Erection of buildings, provisions for safety. (NOTE.—Regulation of elevators.)</p> <p>116. Public lamps, use regulated.</p> <p>117. Same subject.</p> <p>118. Raising false alarm of fire, in church, theater, etc.; penalty.</p> <p>119. Concealed weapons, carrying of; penalty.</p> <p>120. Notorious or professional thieves, etc., when arrested, how punished. (NOTE.—Vagrants, public prostitutes, etc., open profanity or indecent language, etc., how punished.)</p> <p>121. Trespassing and damaging parks in front of houses, penalty; owners of lots privileged, etc.</p> <p>122. Public parks, etc., injury to, penalty.</p> <p>123. Penalty for violation of sections 121, 122.</p> <p>124. Trespass upon public parks, etc., penalty.</p> <p>125. Railroad trains, running of, regulated.</p> <p>126. Fence across Long bridge.</p> <p>127. Railroads, obstruction of streets by; deposit of freight regulated.</p> <p>128. Same, certain tracks to be fenced.</p> <p>129. Same, penalty for violation of sections 125-128.</p> <p>130. Same, speed of engines and cars regulated. Proviso as to tunnels.</p> <p>131. Same, warnings at crossings; penalty for failure.</p> <p>132. Same, sidewalks encumbered by engines and cars; penalty.</p> <p>133. Same, as to laying new track or altering grade; penalty.</p> <p>134. Same, to pave street, between rails.</p> |
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<p>Sec. 135. Same, how tracts shall be laid : space between to be kept free of ice and snow. Penalty for violation of sections 130-135.</p> <p>136. Same, to be notified of duties, etc.</p> <p>137. Capitol grounds ; use regulated.</p> <p>138. Same, obstruction of roads, etc.</p> <p>139. Same, sale of articles, etc.</p> <p>140. Same, injury to statue, seats, etc.</p> <p>141. Same, loud, etc., language, etc.</p> <p>142. Same, parades and assemblages.</p> <p>143. Same, penalties for violation of this law.</p> <p>144. Same, police and watchmen ; duties of.</p> <p>145. Same, preservation of order.</p> <p>146. Same, national occasions, what permitted.</p> <p>147. Same, who empowered to regulate under section 146.</p> <p>148. Scale of prices to be posted in restaurants, saloons, etc.</p>	<p>Sec. 149. Same subject ; penalties for violation.</p> <p>150. Same, no discriminating between persons who desire to buy or be waited upon on account of color.</p> <p>151. Same, regulating sales ; posting of list of prices, etc.</p> <p>152. Same, list of prices to be filed, etc. ; list to be evidence ; notice to file list.</p> <p>153. Same, same room and prices for all guests ; proviso.</p> <p>154. Same, penalties imposed for violations of sections 148-153.</p> <p>155. Criminals convicted to serve additional term on running away.</p> <p>156. Breaking prison ; when felony.</p> <p>157. Priests and "clerks" exempt from arrest during divine service.</p> <p>158. Penalty for arresting priests during divine service.</p>
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Penitentiary of-fenses.

Sec. 1144, R. S. D. C.
¹18 Stat., 473.
²135 U. S. Rep., 444, Lane's case.

SEC. 1. Every person convicted in any court in the District of any of the following offenses, to wit : manslaughter,¹ assault with intent to kill, arson, rape, assault with intent to commit a rape,² burglary, robbery, horse-stealing, mayhem, bigamy, perjury, or subornation of perjury, larceny, if the property stolen is of the value of thirty-five dollars or upward, forgery, obtaining by false pretenses any goods or chattles, money, bank-note, promissory note, or any other instrument in writing for the payment or delivery of money or other valuable thing, or keeping a faro-bank or other common gaming-table, or petit larceny upon a second conviction, shall be sentenced to suffer punishment by imprisonment and labor in the penitentiary for the periods respectively prescribed in this chapter.*

Capital crimes not specially provided for.

Sec. 1145, R. S. D. C.

SEC. 2. All capital felonies and crimes not specially provided for in this chapter, except murder, treason, and piracy, shall be punished by imprisonment and labor in the penitentiary for a period not less than seven nor more than twenty years.†

[See R. S. U. S., title "Crimes. "]

¹ Cranch, C. C., 414, U. S. vs. Dixon.

Punishment for other offenses.

Sec. 1146, R. S. D. C.

SEC. 3. Every other felony, misdemeanor, or offense not provided for by this title, shall be punished as provided by laws in force in the District.†

² Cranch, Ct. Rep., 38, U. S. vs. Smithers.

Substitution of imprisonment for whipping.

Sec. 1147, R. S. D. C.

SEC. 4. Where, by any law in force prior to March second, eighteen hundred and thirty-one, whipping was made a part of the whole of the punishment, the court shall substitute therefor imprisonment in the District jail for a period not exceeding six months.

[See R. S. U. S., § 5827.]

Punishment for disorderly conduct.

Sec. 1148, R. S. D. C.

SEC. 5. No person in the District shall be fined or imprisoned for disorderly conduct, unless personally and individually guilty of acts disorderly in themselves.

Act of July 29, 1892, 27 Stat., ch. 320, p. 322.

* The supreme court of the District has jurisdiction of all crimes known to the common law. The word "ransomed," as used in the English penal statutes in force in this District, means severely fined ; 6 D. C. Rep., 53, U. S. vs. Griffin.
 † Where sentences to imprisonment for more than one year to be executed. Sec. 5541, R. S. U. S. Cumulative sentences. 3 Mackey Rep., 136, Fry's case ; 3 MacArthur Rep., 24, Jackson's case. Juvenile offenders, how punished ; see sec. 47, ch. 53, Penitentiary.
 No right of appeal in favor of the United States. 22 Wash. Law Rep., 404, U. S. vs. Ainsworth ; 144 U. S. Rep., 310, U. S. vs. Sanges.
 ‡ There are no common law offenses against the United States. 144 U. S. Rep., 678, U. S. vs. Eaton. ; Assault and battery is a crime triable by jury, within the meaning of the Constitution. 9 Mackey Rep., 570., In re Robinson.

SEC. 6. The necessary expenses incurred in the execution of criminal processes within the District shall be chargeable to the United States, as provided in this title.

Expenses of criminal process.

Sec. 1149, R. S. D. C.

SEC. 7. Every person who commits murder—

Murder.

First. Within any fort, arsenal, dock-yard, magazine, or in any other place or district of country under the exclusive jurisdiction of the United States ;¹

Sec. 5339, R. S. U. S.

Second. Or upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular State ;

Third. Or who upon any such waters maliciously strikes, stabs, wounds, poisons, or shoots at any other person, of which striking, stabbing, wounding, poisoning, or shooting such other person dies, either on land or at sea, within or without the United States, shall suffer death. [See §§ 5323-5326, 5340, R. S. U. S.]

¹ Mackey Rep., 498, 567, Guiteau ; 1 Cranch Ct. Rep., 412, U. S. vs. Norris ; 20 D. C. Rep., 79, U. S. vs. Barber ; *ibid.*, 365, U. S. vs. Cross ; *Ibid.*, 272, U. S. vs. Heath ; 4 Mackey Rep., 503, U. S. vs. Nardello ; 1 Mackey Rep., 152, U. S. vs. Neverson. 4 Dall., 426, U. S. vs. McGill ; 3 Wh., 336, U. S. vs. Bevans ; 5 Wh., 184, U. S. vs. Furlong ; 5 Wh., 412, U. S. vs. Holmes ; 12 Wh., 480, U. S. vs. Marchant and Colson ; 1 Wash., 463, U. S. vs. Magill ; 1 Gallis, 624, U. S. vs. Ross ; 2 Mas., 91, U. S. vs. Cornell ; 4 Mas., 505, U. S. vs. Freeman ; 5 Mas., 28, U. S. vs. Drew ; 2 Blatch., 207, U. S. vs. Douglass.

SEC. 8. The manner of inflicting the punishment of death shall be by hanging. [See §§ 5340, 5400, R. S. U. S. ; § 1093, R. S. D. C.]

Punishment of death by hanging.

Sec. 5325, R. S. U. S. 9 Mackey Rep., 573, *ex parte* Cross ; 143 U. S. Rep., 451, Schwab vs. Berggren ; 137 U. S. Rep., 495, Holden vs. Min.

AN ACT for the trial of murders, in cases where either the stroke or death only happens within that part of Great Britain called England.

SEC. 9. For preventing any failure of justice and taking away all doubtstouching the trial of murders in the cases hereinafter mentioned.

Murder, jurisdiction where injury inflicted in one district and death occurs in another.

Be it enacted, That where any person, at any time after the twenty fourth day of June in the year of our Lord one thousand seven hundred and twenty-nine, shall be feloniously stricken or poisoned upon the sea, or at any place out of that part of the Kingdom of Great Britain called England and shall die of the same stroke or poisoning within that part of the Kingdom of Great Britain called England ; or where any person, at any time after the twenty-fourth day of June in the year of our Lord one thousand seven hundred and twenty nine, shall be feloniously stricken or poisoned at any place within that part of Great Britain called England and shall die of the same stroke or poisoning upon the sea, or at any place out of that part of the Kingdom of Great Britain called England ; in either of the said cases an indictment thereof found by the jurors of the county in that part of the Kingdom of Great Britain called England, in which such death, stroke or poisoning shall happen respectively as aforesaid, whether it shall be found before the corner upon the view of such dead body or before the justices of the peace, or other justices or commissioners, who shall have authority to inquire of murders, shall be as good and effectual in the law, as well against the principal in any such murder, as the accessaries thereunto, as if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing and the offense of such accessaries, had happened in the same county where such indictment shall be found ; and that the justices of gaol delivery and oyer and terminer in the same county where such indictment shall be found, and also any superior court, in case such indictment shall be removed into such superior court, shall and may proceed upon the same in all points, as well against the principals in any such murder, as the accessaries thereto, as they might or

A. D. 1729, 2 Geo. II, ch. 21.

5 Brit. Stat. L., 688.

1 Mackey Rep., 567, Guiteau's case ; 3 Gill and John. Rep., 52, Sibley vs. Guy ; 76 Md. Rep., 322, Stout vs. State.

ought to do, in case such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offense of such accessaries, had happened in the same county where such indictment shall be found; and that every such offender, as well principal as accessory, shall answer upon their arraignments, and have the like defences, advantages and exceptions (except challenges for the hundred) and shall receive the like trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as they ought to do, if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessaries had happened in the same county where such indictment shall be found.

Manslaughter, etc. **SEC. 10.** Every person convicted [of manslaughter, or¹] of any assault with intent to kill, shall be sentenced to suffer imprisonment and labor, for the first offense for a period not less than two nor more than eight years, and for the second offense for a period not less than six nor more than fifteen years.

Sec. 1150, R. S. D. C.
6 Mackey Rep., 66, U. S. vs. Angney; 1 Cranch, C. C., 411, U. S. vs. Norris; 1 Cranch, C. C., 444, U. S. vs. McLaughlin; 2 Cranch, C. C., 36, U. S. vs. Craig; 2 Cranch, C. C., 438, U. S. vs. Williams; 3 Cranch, C. C., 205, U. S. vs. Anderson; ¹ Repealed, 18 Stat., 473.

Manslaughter; how punished. **SEC. 11.** Whoever shall hereafter be convicted of the crime of manslaughter, in any court of the United States, in any State or Territory, including the District of Columbia, shall be imprisoned not exceeding ten years, and fined not exceeding one thousand dollars.* This act shall not affect or apply to any prosecution now pending, or the prosecution of any offence already committed.

Mar. 3, 1875.
18 Stat., 473.
2 Sup. R. S., 85.
6 Mackey Rep., 66, U. S. vs. Angney; 4 Mackey Rep., 446, U. S. vs. Hamilton. R. S., sec. 5343.

Repeal. **SEC. 12.** All acts or parts of acts inconsistent with this act are hereby repealed:
Provided, That said acts shall remain in force for the punishment of all persons who have heretofore committed the crime of manslaughter.

R. S., sec. 5343.

Abortion, etc., how punished. **SEC. 13.** Any person who shall administer, or cause to be administered, to any woman in any condition of pregnancy, any medicine, drug, substance, or thing whatsoever, with the intention thereby to produce a miscarriage by any such woman, or to prevent her from giving birth to the child with which she may be pregnant, or shall use on any such woman any instruments, or any other means for said purposes, shall, in case of the death of said woman by any of said substance or means, or in case of the death of the child therefrom, be guilty of manslaughter, and be punished, on conviction thereof, by imprisonment at hard labor in the penitentiary of the District, or in any penitentiary used by said District, for a period of not less than four nor more than seven years, and be fined in a sum not exceeding one thousand dollars.

Leg. Assem., Jan. 19, 1872, sec. 1, pp. 26, 27.
2 MacArthur Rep., 514, U. S. vs. May; 40 Md. Rep., 635, Hayes vs. State; 67 Md. Rep., 524, Lamb vs. State.

Abortion, aiders or assistants in, how punished. **SEC. 14.** Any person who shall aid or assist any one in producing, or causing to be produced, an abortion as aforesaid, or advise, direct, or counsel any one to produce, or caused to be produced, any such abortion, or permit or allow any abortion to be produced or caused as aforesaid, or in any manner countenance or approve thereof, in the event of the death of the woman pregnant, in consequence of any abortion as aforesaid, or in the event of the death of the child, shall, on conviction of any of the acts mentioned in this section, or referred to, be punished by penitentiary imprisonment as aforesaid for not less than three nor more than six years, and be fined not exceeding five hundred dollars.

Ibid., sec. 2, p. 27.

* Criminal responsibility where death results from negligence. 21 Wash. Law Rep., 806, Ainsworth vs. U. S.

SEC. 15. The preceding sections of this act shall not apply to any case of abortion produced or caused by regular physicians for the purpose of preserving the life of any woman pregnant, such induction of premature labor having been previously recommended by at least one physician in council; but it shall include and apply in all other cases of actual abortion or attempted abortion, ending in the death of the pregnant woman or of the child with which she may be, or have been, pregnant, as mentioned in either of said sections.

Exemption in favor of regular physicians.

Ibid., sec. 3, p. 27.

SEC. 16. No druggist, pharmacist, dealer in medicine or medicines, or any other person shall sell or furnish to any person or persons any drug, medicine, or other substance known or presumed to be emmenagogue, ecobolic, or abortifacient, except upon the written prescription of some graduated physician who has been licensed to practice in the District of Columbia; and whoever shall unlawfully supply or procure any medicine, drug, substance, or thing whatever, knowing that the same is intended to be unlawfully used or employed with intent so to procure or assist in the miscarriage of any woman, whether she be or be not pregnant, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment in the District jail not less than three months nor more than one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. [See § 76 of this chapter.]

Penalty for selling abortive drugs.

Ibid., sec. 4, p. 27.

SEC. 17. Any druggist, pharmacist, or dealer in medicine or medicines, who shall fill or compound any prescription as named in section four, shall, in a book especially provided for the purpose, correctly register the name of the physician prescribing, the name of the person to whom sold or furnished, and a copy of said prescription or prescriptions, together with the date of the sale or dispensation.

Druggists, etc., to register abortive prescriptions.

Ibid., sec. 5, p. 28.

SEC. 18. It shall not be lawful for any person or persons to expose for sale, or otherwise dispose of, or to advertise in any manner whatever, any substance or thing intended, or which may be employed, to produce or assist in the miscarriage of any woman, whether she be or be not pregnant. And any publisher or proprietor of a newspaper or other publication, or the printer or utterer of any handbill, circular, poster, or other means of advertising, who shall continue to so publish, print, or utter the same, or of a similar import, five days after he or they shall have been notified in writing by the Superintendent of Police of the unlawfulness thereof, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment in the District jail not less than three months nor more than one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Punishment for selling, offering for sale or advertising abortives.

Ibid., sec. 6, p. 28.

SEC. 19. It shall be the duty of the Coroner of the District of Columbia, whenever his attention is called to the probable violation of the preceding section, to make, or cause to be made, an analysis or other full description of such substance or thing as may have been the cause or supposed cause of such violation.

Coroner to make analysis, etc.

Ibid., sec. 7, pp. 28, 29.

SEC. 20. Every person offending against any of the provisions of this act shall be a competent witness against any other person so offending, and may be compelled to appear and give evidence before any magistrate or grand jury, or in any court, in the same manner as other persons, but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

Such offenders competent witnesses against each other.

Ibid., sec. 8, p. 29.

SEC. 21. Every person convicted of the crime of maliciously, willfully, or fraudulently burning any dwelling-house, or any other house, barn, or stable adjoining thereto, or any store, barn, or out-

Arson.

Sec. 1151, R. S. D. C.

5 Cranch, Ct. Rep., 73, U. S. vs. White; 18 D. C. Rep., 371, U. S. vs. McBride.

house having goods, tobacco, hay, or grain therein, although the same shall not be adjoining to any dwelling-house; or of maliciously, willfully, or fraudulently, and with intent to injure or defraud any other person or persons, or body politic or corporate, burning or setting on fire with intent to burn, or attempting to set on fire or burn, any house or out-house in the District, whether the same be finished or in process of erection, though such house or out-house shall not, at the time of such burning or setting on fire, or attempting to set on fire or burn, have any goods, tobacco, hay, or grain therein, nor be adjoining to any dwelling-house, nor be occupied or used for any purpose whatever; or of maliciously and willfully burning any of the public buildings in the District, belonging to the United States or to the District, or any church, meeting-house, or other building for public worship, belonging to any voluntary society or body corporate, or any college, academy, school-house, or library, or any ship or vessel afloat or building, or as being accessory thereto, shall be sentenced to suffer imprisonment and labor for a period of not less than one nor more than ten years for the first offense, and not less than five nor more than twenty years for the second offense. [See § 5837, R. S. U. S.]

Rape.
 Sec. 1152, R. S. D. C.

SEC. 22. Every person convicted of rape, or as being accessory there to before the fact, shall be sentenced to suffer imprisonment and labor, for the first offense for a period not less than ten nor more than thirty years, and for the second offense for and during the period of his natural life.

Assault with intent to commit rape.
 Sec. 1153, R. S. D. C.
 22 Wash. Law Rep., 74, U. S. vs. Snowden.

SEC. 23. Every person convicted of an assault with intent to commit a rape, shall be sentenced to suffer imprisonment and labor, for the first offense for a period not less than one nor more than five years, and for the second offense for a period not less than five nor more than fifteen years.

Carnal and unlawful knowledge of females under sixteen to be felony.
 Punishment.
 Feb. 9, 1889.
 25 Stat., 658, chap. 120.

SEC. 24. Every person who shall carnally and unlawfully know any female under the age of sixteen years, or who shall be accessory to such carnal and unlawful knowledge before the fact in the District of Columbia or other place, except the territories, over which the United States has exclusive jurisdiction; or on any vessel within the admiralty or maritime jurisdiction of the United States, and out of the jurisdiction of any State or Territory, shall be guilty of a felony, and when convicted thereof shall be punished by imprisonment at hard labor, for the first offense for not more than fifteen years, and for each subsequent offense not more than thirty years.

Adultery, how punished.
 Md. act 1715, ch. 27, sec. 3.
 1 Dorsey, 15.
 1 Kilty, 115.
 17 Md. Rep., 187, Wagaman vs. Byers; 43 Md. Rep., 252, Griffin vs. Moore; 48 Md. Rep., 173, Shafer vs. Ahalt.

SEC. 25. Every person or persons that shall commit adultery, and shall be thereof convict, either by confession, or verdict of twelve men, [in the provincial or any of the county courts of this province,] shall be fined, by the justices before whom such conviction shall be, three pounds current money [\$8.] as aforesaid, or twelve hundred pounds of tobacco [\$20.], [to the king's majesty, his heirs and successors, toward defraying such county charges as aforesaid].* [See § 887, R. S. D. C.]

Depredation on fixtures in houses; penalty.
 Apr. 17, 1878.

SEC. 26. Every person who, in the District of Columbia, shall willfully and without color of right, enter into any occupied or unoccupied dwelling-house or other building, the property of another, and shall cut, break, or tear from its place any gas-pipe, water-pipe door-

* All fines can be imposed only in money as computed by the following Maryland act: 1781, ch. 16 sec. 1, 2. Tobacco fines are dischargeable in money by Maryland act 1780, ch. 23, sec. 3, in force in this District. See note to the section on "Sabbath breaking."
 The acts of Congress relating to polygamy, and unlawful cohabitation are not in force in this District; 6 Mackey, Rep. 319; U. S. vs. Crawford See also 91 U. S. Rep., 228; Pollard vs. Lyon.

bell, or other fixture therein; or who shall, in such dwelling-house or other building, willfully and without color of right cut, break, or tear down any wall, or part of a wall, or door, with intent to cut, break, or tear from its place any pipe or fixture therein, shall, for the first offense, be fined not more than two hundred dollars, and be imprisoned in the District jail not less than two months or more than one year, and for any subsequent offense shall be imprisoned in the penitentiary for not less than one year or more than three years.

20 Stat., 96.
2 Sup. R. S., 157.

SEC. 27. Every person, his aiders, abettors, and counselors, who shall either in the night or day, break and enter, or who shall in the night-time enter without breaking into any dwelling-house, bank, store, warehouse, shop, stable, or other building or any vessel, canal-boat, or water craft, or any railroad car, in the District of Columbia, with intent to commit any larceny or other felony or misdemeanor therein, shall be imprisoned not more than ten years.

Burglary and house breaking, etc.

July 12, 1882.
22 Stat., 162,
chap. 269, sec. 1.

[Substitute for § 1154, R. S. D. C.]

SEC. 28. Every person who shall enter any dwelling-house, bank, store, warehouse, shop, stable or other building or any vessel, canal-boat, or other water craft, or any railroad car, or any yard where lumber, coal, or any sort of goods and chattels are deposited and kept for the purpose of trade in the District of Columbia, with the intent maliciously to injure or destroy any of the buildings, vessels, boats, or cars, aforesaid, or any part thereof, or any property or effects deposited or kept therein, or any property or effects deposited or kept in or upon any such yard or with intent to slay, kill, maim, or assault any person being in or upon any of the premises aforesaid, upon conviction thereof, shall be imprisoned not more than fifteen years.

Unlawful entries with intent to destroy property, etc.; imprisonment.

Ibid., sec. 2.

This act shall not affect any offense committed or indictment found before its passage.

SEC. 29. If any person shall be convicted before the said justices of any of the crimes following, to wit: Any felony, [or manslaughter; or petty larceny;] [or an assault, with an intent to rob,] [murder or commit a rape]; or sodomy;¹ [or breaking a dwelling-house in the daytime, with an intent to murder or commit a felony therein; or breaking a store-house, warehouse, or other out-house, in the day or night, with an intent to commit murder or felony therein; or receiving stolen goods, knowing them to be stolen;] or forgery or perjury, at common law, or by act of assembly, or by statute introduced into this state before the fourth day of July, seventeen hundred and seventy-six; or subornation of perjury; or of being accessory to any of the said crimes to which by law there can be an accessory; that the said justices may pass such judgment as the law requires for such crimes.*

Certain crimes punishable; sodomy; breaking house with intent to murder, etc.

Md. act 1793, ch. 57, sec. 10.

2 Kilty, 445.

¹ 3 Har. and J. Rep., 154, Davis vs. State.

SEC. 30. That none from henceforth make any entry into any lands and tenements, but in case where entry is given by the law, and in such case not with strong hand, nor with multitude of people, but only in peaceable and easy manner. (2) And if any man from henceforth do to the contrary, and thereof be duly convicted, he shall be punished by imprisonment of his body, and thereof ransomed at the King's will.† [See § 684, title "Landlord and Tenant."]

Forcible entry punishable.

5 Richard II, ch. 8, A. D. 1381.

Alex. Brit. Stat., 184.

6 D. C. Rep., 45, Adams vs. Horr; 6 D. C. Rep., 53, U. S. vs. Griffin; ransomed means severely fined.

SEC. 31. That such judges, justices, or justices of the peace as by reason of any act or acts of parliament now in force, are authorized, and enabled upon enquiry, to give restitution of possession unto tenants, of any estate of freehold, of their lands or tenements, which shall be entred upon by force, or from them withholden by force,

Restitution may be awarded on conviction of forcible entries, etc.

21 James I, ch. 15, A. D. 1623.

*For punishments of the foregoing crimes not specially provided for, see secs. 1145 and 1146, R. S. D. C.
†Confirmed by 15 Richard II, ch. 2. See Alex. Brit. Stat., 196.

Alex. Brit. Stat., shall by reason of this present act, have the like, and the same authority and ability from henceforth (upon indictment of such forcible entries, or forcible withholdings before them duly found) to give like restitution of possession unto tenants for term of years, of lands or tenements by them so holden, which shall be entred upon by force, or holden from them by force. [5 R. 2, Stat. 1, c. 7; 15 R. 2, c. 2; 8 H. 6, c. 9; 31 El. c. 11.] [See § 684, E. S. D. C., title, "Landlord and Tenant."]

Horse stealing, mayhem, bigamy. SEC. 32. Every person convicted of horse-stealing, mayhem, bigamy, or as being accessory to any of said crimes before the fact, shall be sentenced to suffer imprisonment and labor, for the first offense for a period of not less than two nor more than seven years, and for the second offense for a period not less than five nor more than twelve years.

Sec. 1155, R. S. D. C.
4 Stat., 448.
Mar. 2, 1831.
Ibid., sec. 7, pp. 448, 449. 1 Cranch, C. C., 605, U. S. vs. Maxwell; 1 Cranch, C. C., 607, U. S. vs. Toms; 2 Cranch, C. C., 252, U. S. vs. Krouse; 2 Cranch, C. C., 195, U. S. vs. Black.

Mayhem defined. SEC. 33. If any person shall on purpose, and of malice aforethought, unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or lip, or cut off or disable any limb or member, of any free person, servant, apprentice or slave, with intention in so doing to maim or disfigure, in any of the manners aforesaid, such person, that then and in every such case the person or persons so offending, their counsellors, aiders and abettors, shall be and are hereby declared to be felons, and shall be punished [as provided in sec. 32].*

Md. act 1793, ch. 58, sec. 12.
2 Kilty, 446.

Bigamy. SEC. 34. That if any person or persons * * * being married, or which hereafter shall marry, do at any time * * * marry any person or persons, the former husband or wife being alive; that then every such offense shall be felony; and the party and parties so offending shall suffer * * * as in cases of felony.†

Provided always, That this act, nor anything therein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas † by the space of seven years together, the one of them not knowing the other to be living within that time.

Provided, also, * * * That this act, nor anything herein contained, shall extend to any person or persons that are or shall be at the time of such marriage divorced or to any person or persons where the former marriage hath been or hereafter shall be by sentence in the court declared to be void and of no effect; nor to any person or persons for or by reason of any former marriage had or made or hereafter to be had or made within the age of consent.

[See § 1155, E. S. D. C.]

Perjury and subornation of perjury. SEC. 35. Every person convicted of perjury, or subornation of perjury, shall be sentenced to suffer imprisonment and labor, for the first offense for a period of not less than two nor more than ten years, and for the second offense for a period of not less than five nor more than fifteen years.

Sec. 1156, R. S. D. C.
2 Cranch, Ct. Rep., 102, U. S. vs. Burford; 3 Cranch, Ct. Rep., 293, U. S. vs. Thomas; 9 Mackey Rep., 424, U. S. vs. Jackson.

Perjury defined. SEC. 36. If any person or persons, after the publication hereof, either by subornation, unlawful procurement, sinister persuasion, or means of any other, or by their own act, consent or agreement,

* Mayhem also defined by sec. 5348, R. S. U. S.

† The British statute declared to be in force in Maryland by act of April, 1706, ch. 8; 1 Kilty, p. 85; 4 Cranch, Ct. Rep., 120; U. S. vs. Jennege; 1 Mackey Rep., 566, U. S. vs. Guiteau; sec. 5352, R. S. U. S., is not in force in this District. 6 Mackey Rep., 325; U. S. vs. Crawford, 102 U. S. Rep., 668, Page vs. Burnstine.

‡ Beyond the seas has been construed to mean beyond the jurisdiction. 2 How. Rep., 405, Rhodes vs. Bell; 1 Cranch, Ct. Rep., 475, Ferris vs. Williams; 2 Cranch, Ct. Rep., 112, Lee vs. Cassin.

wilfully and corruptly, commit any manner of wilful perjury, by their deposition in any court of record in this *District* [province,] as aforesaid, or being examined *in perpetuum rei memoriam*; that then every person and persons so offending, and being thereof duly convicted [*shall be punished as prescribed in section 1156 R. S. D. C.*] and be from thenceforth to be discredited and disabled for ever to be sworn in any of the courts of record aforesaid, until such time the said judgment be reversed; upon which he, she or they, shall recover his, her or their damages, in manner and form as is before mentioned.*

1 Kilty, 84.
1 Dorsey, 1.
This law is declared to be in full force by Md. act 1705, ch. 8.

SEC. 37. If any person or persons whatsoever, from and after the publication hereof, shall unlawfully or corruptly procure any witness or witnesses, by letters, rewards, promises, or by any other sinister, unlawful labour or means whatsoever, to commit any wilful and corrupt perjury, in any matter or cause whatsoever, now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint or information, in anywise touching or concerning any lands, tenements or hereditaments, or any goods, chattels, debts or damages, in any of the courts of record within this province, or that shall unlawfully and corruptly procure or suborn any witness or witnesses, from and after the publication aforesaid, to be sworn to testify *in perpetuum rei memoriam*; that then every such offender or offenders shall, for his or their said offence, being thereof lawfully convicted [*be punished as prescribed by section 1156, R. S. D. C.*]

Subornation of perjury defined.

Ibid., sec. 2.

SEC. 38. No person or persons, being convict or attain as aforesaid, shall be from thenceforth received as a witness, to be deposed and sworn in any court of record within this *District* [province,] until such time as the judgment given against the said person or persons be reversed, by attain or otherwise. And that, upon every such reversal, the parties grieved to recover his, her or their damages, against all and ever such person or persons, as did procure the said judgment so reversed to be given against them, or any of them, by action or actions upon his, her or their case or cases, according to the common course of the laws of this *District* [province,]

Disqualified as witnesses in courts of record.

Ibid., sec. 3.

SEC. 39. Every person convicted of having falsely forged and counterfeited any gold or silver coin, passing or in circulation within the *District*; or having falsely uttered, paid, or tendered in payment, any such counterfeit or forged coin, knowing the same to be forged and counterfeit; or of having aided, abetted, or commanded the perpetration of either of said offenses; or of having falsely made, altered, forged, or counterfeited, or caused or procured to be falsely made, altered, forged, or counterfeited, or having willingly aided or assisted in falsely making, altering, forging, or counterfeiting, any paper writing, or printed paper, to the prejudice of the right of any other person, body politic or corporate, or voluntary association, with intent to defraud such person, body politic or corporate, or voluntary association, or of having passed, uttered, or published, or attempted to pass, utter, or publish, as true, any such falsely made, altered, forged or counterfeited paper writing, or printed paper, to the prejudice of the right of any other person, body politic or corporate, or voluntary association, knowing the same to be falsely made, altered, forged, or counterfeited, with intent to defraud such person, body politic or corporate, or voluntary association, shall be sentenced to suffer imprisonment and labor, for the first offense for a period not less than one year nor more than seven years, and for the second offense for a period not less than three nor more than ten years.†

Forgery, counterfeiting, etc.

Sec. 1157, R. S. D. C.

2 Cranch, C. C., 294, U. S. vs. Book; 4 Cranch, C. C., 304, U. S. vs. McCarthy.

1 Mackey Rep., 341, U. S. vs. B'sksler; 2 Cranch, Ct. Rep., 294, U. S. vs. Book; 4 Cranch, Ct. Rep., 304, U. S. vs. McCarthy.

* Perjury at common law. See Md. act, 1793, ch. 57, sec. 10; 2 Kilty, 445.

† Forgery at common law: Md. act 1793, ch. 57, sec. 10; 2 Kilty, 445.

Grand larceny. SEC. 40. Every person convicted of feloniously stealing, taking, and carrying away any goods or chattels, or other personal property, of the value of thirty-five dollars or upward, or any bank-note, promissory note, or any other instrument of writing, for the payment or delivery of money or other valuable thing, to the amount of thirty-five dollars or upward, shall be sentenced to suffer imprisonment and labor, for the first offense for a period not less than one nor more than three years, and for the second offense for a period not less than three nor more than ten years.

Sec. 1159, R. S. D. C.
 MacArthur and Mackey, Rep. 375, U. S. vs. Murphy; 1 Mackey Rep., 419, U. S. vs. Rodgers; 1 Cranch, C. C., 13, U. S. vs. Cancey; 1 Cranch, C. C., 402, U. S. vs. Walker; 1 Cranch, C. C., 517, U. S. vs. McPherson; 2 Cranch, C. C., 159, U. S. vs. Betty Read; 3 Cranch, C. C., 254, U. S. vs. Holland; 4 Cranch, C. C., 335, U. S. vs. H. Thompson; 5 Cranch, C. C., 38, U. S. vs. Robertson; 5 Cranch, C. C., 492, Weston vs. U. S.

Larceny or destruction, etc., of bills, notes, etc. SEC. 41. If any person shall steal, or maliciously and feloniously destroy, any bank-bill, promissory note or notes, bill of exchange, order, receipt, warrant, draft, check, or bond, given for the payment of money, or receipt acknowledging the receipt of money or other property, or any Government bonds or other securities, or stamps, United States Treasury notes, or any public stocks of the value of thirty-five dollars or upward, knowing the same to be such, any such person shall be deemed guilty of a misdemeanor, and on conviction, shall be sentenced to suffer imprisonment and labor not more than three years nor less than one year.

Sec. 1159, R. S. D. C.

Stealing, injuring, etc., books, maps, etc.; how punished. SEC. 42. Any person who shall steal, wrongfully deface, injure, mutilate, tear, or destroy any book, pamphlet, or manuscript, or any portion thereof, belonging to the Library of Congress, or to any public library in the District of Columbia, whether the property of the United States or of any individual or corporation in said District, or who shall steal, wrongfully deface, injure, mutilate, tear, or destroy any book, pamphlet, document, manuscript, print, engraving, medal, newspaper, or work of art, the property of the United States, shall be held guilty of a misdemeanor, and, on conviction thereof, shall, when the offense is not otherwise punishable by some statute of the United States, be punished by a fine of not less than ten dollars nor more than one thousand dollars, and by imprisonment for not less than one nor more than twelve months, or both, for every such offense.

June 19, 1878.
 20 Stat., 171.
 R. S., secs. 80-100.

Receiving stolen property. SEC. 43. If any person shall receive or buy any goods or chattels, or bank bill or bills, or promissory note or notes, bill of exchange, order, receipt, draft, warrant, check, or bond, given for the payment of money, or any Government bond, United States Treasury note or notes, or other securities, or Government stamps or stocks, of the value of thirty-five dollars or upward, which have been stolen, knowing the same to be stolen, with intent to defraud the owners thereof, every person so offending shall be deemed guilty of a misdemeanor, and, upon conviction, shall be sentenced to suffer imprisonment and labor, not more than three years nor less than one year.

Sec. 1160, R. S. D. C.
 9 Mackey Rep., 424, U. S. vs. Jackson; 21 Wash. Law Rep., 227, U. S. vs. Lowenstein.

Petty larceny and receiving, second conviction. SEC. 44. Every person, upon a second conviction of larceny, where the property stolen is under the value of thirty-five dollars, or upon a second conviction of receiving stolen goods, knowing them to be stolen, where the property stolen is under the value of thirty-five dollars, shall be sentenced to suffer imprisonment and labor for a period not less than one year nor more than three years.

Sec. 1161, R. S. D. C.
 1 MacArthur Rep., 149, U. S. vs. Cross; MacArthur and Mackey Rep., 375, U. S. vs. Murphy; 21 Wash. Law Rep., 227, U. S. vs. Lowenstein.

[See § 1173, R. S. D. C. § 59 post.]

Larceny from the person of another a felony. SEC. 45. Whoever, in the District of Columbia, commits larceny from the person of another shall be deemed guilty of a felony, and

shall, on conviction thereof, be punished by imprisonment not more than six years, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Penalty.

Mar. 3, 1883.
22 Stat., 530.

SEC. 46. Whoever, in the District of Columbia, attempts to commit larceny from the person of another by any overt act, done with the intent to commit a larceny, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished in the police court of the District of Columbia by imprisonment in the District jail not more than one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

Attempt to commit larceny, etc.; penalty.

Ibid., sec. 2.

SEC. 47. Every person convicted of obtaining by false pretenses any goods or chattels, money, bank-note, promissory note, or any other instrument in writing, for the payment or delivery of money or other valuable thing, or of keeping a faro-bank or gaming-table, shall be sentenced to suffer imprisonment and labor for a period not less than one year nor more than five years.

False pretenses: keeping a faro or gaming table.

Sec. 1162, R. S. D. C.

Crain vs. U. S., 22 Wash. Law 441, U. S. vs. Watkins vs. Robertson: 5 Cranch, C. C., 378, U. S. vs. Ringgold: 5 Cranch, C. C., 390, U. S. vs. Milburn.

SEC. 48. Every person convicted of being an accessory after the fact in any felony, shall be sentenced to suffer imprisonment and labor, for the first offense for a period not less than one nor more than five years, and for the second offense for a period not less than two nor more than ten years.

Accessory after the fact.

Sec. 1163, R. S. D. C.

1 Cranch, Ct. Rep., 174, U. S. vs. Williams.

SEC. 49. If any person shall, in the District, challenge another to fight a duel, or shall send or deliver any written or verbal message, purporting or intending to be such challenge, or shall accept any such challenge or message, or shall knowingly carry or deliver any such challenge or message, or shall knowingly carry or deliver an acceptance of such challenge or message to fight a duel in or out of the District, and such duel shall be fought in or out of the District, and either of the parties thereto shall be slain or mortally wounded in such duel, the surviving party, and every person carrying or delivering such challenge or message, or acceptance of such challenge or message, and all others aiding or abetting, shall be deemed guilty of felony, and upon conviction, shall be punished by imprisonment and confinement to hard labor in the penitentiary for a term not exceeding ten years, in the discretion of the court.

Challenging to fight a duel.

Sec. 1164, R. S. D. C.

3 Cranch, Ct. Rep., 178, U. S. vs. Shackelford.

SEC. 50. If any person shall give or send, or cause to be given or sent, to any person in the District, any challenge to fight a duel, or to engage in single combat with any deadly or dangerous instrument or weapon whatever, or if any person in the District shall accept any challenge to fight a duel or to engage in single combat with any deadly or dangerous instrument or weapon whatever, or shall be the bearer of any such challenge, every person so giving or sending, or causing to be given or sent, or accepting such challenge or being the bearer thereof, and every person aiding or abetting in giving, sending, or accepting such challenge, shall be deemed guilty of a high crime and misdemeanor, and on conviction, shall be punished by imprisonment and confinement to hard labor in the penitentiary, for a term not exceeding five years, in the discretion of the court.

Sending challenge.

Sec. 1165, R. S. D. C.

SEC. 51. If any person shall assault, strike, beat, or wound, or cause to be assaulted, stricken, beaten, or wounded, any person in the District, for declining or refusing to accept any challenge to fight a duel, or to engage in single combat with any deadly or dangerous instrument or weapon whatever, or shall post or publish, or

Assaulting, etc., for refusal to accept challenge.

Sec. 1166, R. S. D. C.

cause to be posted or published, any writing charging any such person so declining or refusing to accept any such challenge, to be a coward or using any other opprobrious or injurious language therein, tending to degrade and disgrace such person for so declining or refusing such challenge, every person so offending, on conviction thereof, shall be punished by confinement to hard labor in the penitentiary for a term not exceeding three years, in the discretion of the court. [See § 840, R. S. D. C.]

Going out of the District to evade the law.

Sec. 1167, R. S. D. C.

SEC. 52. If any person or persons, for the purpose of evading the provisions of the three preceding sections, shall leave the District, by previous arrangement or concert within the same, with the intent to give or receive any such challenge without the District, and shall give or receive any such challenge accordingly, the person or persons so offending shall be deemed guilty of a misdemeanor, and be subject to the same penalties as if such challenge had been given and received within the District.

Bar to proceedings, in what case.

Sec. 1168, R. S. D. C.

SEC. 53. Every offender may plead a former conviction or acquittal for the same offense in any State or country; and the same being established, shall be a bar to any further proceedings against such person under the preceding section.

Embezzlement of effects of District of Columbia.

Feb. 4, 1878.
20 Stat., 23, sec. 1.
2 Sup. R. S., 151.

Penalty.

SEC. 54. If any officer, clerk, agent, or employee in the service of the District of Columbia, or in the service of any of the officers thereof, shall embezzle or wrongfully convert to his own use, or fraudulently take, make way with, or secrete, with intent to embezzle or fraudulently convert to his own use, or shall knowingly and willfully or wrongfully sell or dispose of any money, goods, rights of action, bonds, or obligations of the United States, or any State, or any municipal or other corporation, foreign or domestic, Treasury notes, postage or revenue stamps, warrants, or other valuable security or effects whatever, belonging to said District, or to any person, government, or corporation, which shall come into his possession or under his care by virtue of such office, clerkship, agency or employment, he shall, on conviction thereof, be punished by a fine not exceeding five thousand dollars or by imprisonment not exceeding five years, or both.

Embezzlement of effects of private citizens, etc.

Ibid., sec. 2.

Penalty.

SEC. 55. If any officer, clerk, agent, or employee in the service of any person, firm, association, or corporation shall, within the District of Columbia, embezzle or wrongfully convert to his own use or fraudulently take, make way with, or secrete, with intent to embezzle or fraudulently convert to his own use, or shall knowingly and willfully or wrongfully sell or dispose of any money, goods, rights of action, bonds, or obligations of the United States, or any State, or any municipal or other corporation, foreign or domestic, Treasury notes, postage or revenue stamps, warrants, or other valuable security or effects whatever, belonging to such person, firm, association or corporation, which shall come into his possession or under his care by virtue of such office, clerkship, agency or employment, he shall on conviction thereof, be punished by a fine not exceeding five thousand dollars or by imprisonment not exceeding five years, or both.

Books, etc., of Washington, Georgetown, and levy court to belong to District.

SEC. 56. All records, books, files, maps, plats, surveys, drawings, writings and other papers, of the late corporations of Washington, Georgetown, or of the levy court of the District of Columbia, or made by persons in the employment or service of either of them, or of the District of Columbia, in the course of such employment or service, or which shall hereafter be so made, are, and shall be the property of the District of Columbia;

And whoever shall steal any such record, book, file, map, plat, survey drawing or other paper, or instruments used in surveying or engineering work, such property of said District of Columbia shall upon conviction thereof, be imprisoned not more than three years, or pay a fine not exceeding five thousand dollars or both, without reference to the value of the property or thing so taken.

—punishment for stealing, secreting, etc.

Ibid., sec. 3.

SEC. 57. All persons who shall willfully secrete or remove from the office, room or place where the same are usually kept, any record, book, file, writing, paper map, plat, survey, drawing, field note, or any note in reference to the same, or instruments used in surveying or engineering work, the property of the District of Columbia, or within the care or custody of the Commissioners of the District of Columbia, or of any officer or employé of said District, or shall alter, change, deface, obliterate or destroy the same or who having removed from such office room or place where the same was usually kept any article or thing hereinbefore named, or who having come into possession of any such article or thing, so removed, and who knowing such to be the property of the District of Columbia shall hereafter on demand of the Commissioners of said District, their agent or attorney, refuse or neglect forthwith to return the same, shall be guilty of a misdemeanor, and upon conviction thereof shall be imprisoned not more than three years, or be fined not exceeding five thousand dollars, or both.

Penalty for secreting, removing, altering, etc.

Ibid., sec. 4.

SEC. 58. Every person who shall buy, or in any way receive, any money, goods, rights in action, Government bonds, United States Treasury notes, or other valuable security or effects whatever, or Government stamps, knowing the same to have been embezzled, taken, or secreted, contrary to the provisions of the two preceding sections, shall, upon conviction, be punished in the same manner and to the same extent as therein prescribed upon a conviction of a servant, clerk, or agent for such embezzlement.

Buying or receiving.

Sec. 1171, R. S. D. C.

SEC. 59. If any person shall steal any money, or other goods and chattels of any kind whatever, of less value than thirty-five dollars, the property of another, or shall steal or maliciously destroy any bank-bill, promissory note, bill of exchange, order, warrant, draft, check, or bond, or any accountable receipt for money, given for the payment or acknowledgment of any sum under thirty-five dollars, or any United States Treasury note or Government stamps of less value than thirty-five dollars, the property of another, or shall receive or buy the same, knowing the same to be stolen, for the purpose of defrauding the owner thereof, every such person so offending, on conviction thereof, shall make restitution to the party injured in twofold the value of the property stolen or destroyed, and be fined in any sum not exceeding two hundred dollars, or shall be imprisoned in the jail of the District for any time not exceeding six months, or both, at the discretion of the court. [See § 44 ante.]

Petty larceny; receiving; penalty.

Sec. 1173, R. S. D. C.

2 Cranch, C. C., 65, U. S. vs. Haukey; 2 Cranch, C. C., 133, U. S. vs. Negro Henry Bowen; 2 Cranch, C. C., 364, U. S. vs. Rigsby.

SEC. 60. It shall not be lawful to keep within the District any office or place of business for the sale of lottery-tickets, or of any share or interests in lottery-tickets, nor shall it be lawful to sell or offer for sale within the District any lottery-ticket or any share or interest in any lottery-ticket; and every person who shall be duly convicted of offending against the provisions of this section shall be punished by imprisonment in the District jail for a period not less than one nor more than six months, and shall forfeit and pay a fine of not less than one hundred nor exceeding one thousand dollars, one-half of which shall go to the informer and the other half to the District. [See §§ 402, 403, R. S. D. C.]

Sale of lottery-tickets.

Sec. 1174, R. S. D. C.

Contract of sale void. SEC. 61. The contract of sale for such lottery-tickets, or share or interests in such lottery-tickets, shall be absolutely void, and any person paying therefor shall have a right to recover back the money paid as money paid on a void consideration.

Sec. 1175, R. S. D. C.

Policy-lottery or policy-shop in District of Columbia, and sale of tickets, etc., prohibited. SEC. 62. That if any person shall, within the District of Columbia, keep, set up, or promote, or be concerned as owner, agent, clerk, or in any other manner, in managing any policy-lottery or policy-shop, or shall sell or transfer any ticket, certificate, bill, token, or other device purporting or intended to guarantee or assure to any person, or entitle him to a chance of drawing or obtaining a prize, or share of, or interest in, any prize to be drawn in any lottery, or in the game or device commonly known as policy-lottery or policy; or shall, for himself or another person, sell or transfer, or have in his possession, for the purpose of sale or transfer, or shall aid in selling, exchanging, negotiating, or transferring a chance or ticket in, or share of a ticket in, any policy-lottery, or any such bill, certificate, token, or other device, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine of not more than five hundred dollars, or be imprisoned in the District jail not less than two months or more than one year or both in the discretion of the court.

Apr. 29, 1878.
20 Stat., 39, ch. 68, sec. 1.
2 Sup. R. S., 158.
8 Mackey Rep., 230, U. S. vs. Green; 20 D. C. Rep., 404 U. S. vs. King.

Permitting house to be used for policy-lottery prohibited. SEC. 63. That if any person shall knowingly permit in any house under his control, in the District of Columbia, the sale of any chance or ticket in, or share of a ticket in, any lottery or policy-lottery, or policy-shop in such house, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars or more than five hundred dollars, or be imprisoned in the District jail not less than two months or more than one year, or both, in the discretion of the court.

Apr. 29, 1878.
20 Stat., 39, ch. 68, sec. 2; 1 Sup. R. S., 315.

Gift enterprises; certain act of legislative assembly repealed. SEC. 64. So much of the act of the legislative assembly of the District of Columbia entitled "An act imposing a license on trades, business, and professions practiced or carried on in the District of Columbia," approved August twenty-third, eighteen hundred and seventy-one, as authorizes gift-enterprises therein, and licenses to be issued therefor, is disapproved and repealed, and hereafter it shall be unlawful for any person or persons to engage in said business in any manner as defined in said act or otherwise.

Sec. 1176, R. S. D. C.

Penalty for engaging in gift-enterprise business. SEC. 65. Every person who shall in any manner engage in any gift-enterprise business in the District shall, on conviction thereof in the police court, on information filed for and on behalf of the District, pay a fine not exceeding one thousand dollars, or be imprisoned in the District jail not less than one nor more than six months, or both, in the discretion of the court.

Sec. 1177, R. S. D. C.

Appeal from police court and final judgment. SEC. 66. In such cases, any party deeming himself aggrieved by judgment of the police court may appeal therefrom to the supreme court of the District in the usual manner, and the judgment of said court shall be final.*

Sec. 1178, R. S. D. C.

Procuring enlistment of criminals; penalty. SEC. 67. It shall be unlawful for any person, with knowledge of the fact, to present or offer to any recruiting agent or officer, or any mustering officer in the United States military or naval service, either as a volunteer or as a substitute for any person, any person charged with the commission of any criminal offense, and confined or held on bail for the trial of such offense within the District; and it shall in like manner be unlawful for any person, in any way or manner, to

Sec. 1179, R. S. D. C.

* See act of Congress, March 3, 1891, ch. 536, 20 Stats., 848; 2 ed. Sup. R. S., 911.

abet, aid, or assist in procuring the offer or acceptance of any person so charged or held for trial, or released on bail and awaiting trial, either as a volunteer or as a substitute for any person drafted, or liable to draft, in the military or naval service of the United States, whether the person so drafted, or liable to draft, shall be a resident of the District, or shall reside elsewhere. And any person who shall knowingly offend against any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than two hundred and fifty dollars and not more than one thousand dollars, and by imprisonment in the District jail for a term not less than six months nor more than one year.

SEC. 68. Any officer of the District jail, or any guard thereof, or any attaché or employé connected therewith, who shall demand, or directly or indirectly receive, any compensation, fee, reward, or gratuity for any information given in respect to any prisoner confined therein, or awaiting trial upon bail, or for any service, assistance, or influence rendered, given, or exerted, with any view, intent, or purpose of having such person thus charged or held for trial, or held on bail to await trial, taken, offered, or used, either as a volunteer or as a substitute, for any other in the military or naval service, or who shall corruptly receive, for any act done by virtue of his office or employment, any fee, compensation, reward, or gratuity, shall be deemed guilty of a misdemeanor, and shall on conviction be punished by a fine of not less than two hundred and fifty dollars, and not more than one thousand dollars, and by imprisonment in the District jail for a term not less than three months nor more than one year.

Penalty for officers of jail to receive rewards.

Sec. 1180, R. S. D. C.

SEC. 69. It shall not be lawful for any person in the District to sell, give, or administer, to any soldier or volunteer in the service of the United States, or any person wearing the uniform of such soldier or volunteer, any spirituous liquor or intoxicating drink; and any person offending against the provisions of this section shall, on conviction thereof, pay a fine of twenty dollars, or, in default of such payment, be committed to the District jail for thirty days.

Selling intoxicating drinks to soldiers: penalty.

Sec. 1181, R. S. D. C.

SEC. 70. Any person licensed to sell spirituous liquors or intoxicating drink within the District, who shall suffer or permit any soldier or volunteer in the service of the United States, or any person wearing the uniform of such soldier or volunteer, to drink any spirituous liquor or intoxicating drink upon his premises, shall be deemed guilty of the same offense mentioned in the preceding section, and, upon conviction, shall be punished accordingly.

Penalty of persons licensed, permitting, etc.

Sec. 1182, R. S. D. C.

SEC. 71. Any person convicted under the provisions of the two preceding sections shall forfeit his license to sell spirituous liquor and intoxicating drink.

Forfeiture of license.

Sec. 1183, R. S. D. C.

SEC. 72. Every person who, having knowledge of the actual commission of the crime of murder or other felony upon the high seas, or within any fort, arsenal, dock-yard, magazine, or other place or district of country under the exclusive jurisdiction of the United States, conceals, and does not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, is guilty of misprision of felony, and shall be imprisoned, not exceeding three years, and fined not exceeding five hundred dollars.

Misprision of felony.

Sec. 5390, R. S. U. S.

Apr. 30, 1790, c. 9, sec. 6.
1 Stat., sec. 6, p. 113.

SEC. 73. Item, whereas at the Parliament holden at Westminster the fifth year of the reign of our sovereign lord the King that now is;

Rioters shall be suppressed and imprisoned.

17 Richard II,
ch. 7.
Alex. Brit. Stat.,
201.

1 Cranch, Ct.
Rep., 163, U. S. vs.
McFarlane; 4
Cranch, Ct. Rep.,
601, U. S. vs. Pla-
co: *ibid.*, 671,
U. S. vs. Stock-
well: *ibid.*, 675,
U. S. vs. Fenwick.

forasmuch as villaines and other offenders of late have risen by assemblies and outrageous numbers in divers parties of the realm, against the King's dignity and his crown, and the laws of his land; it was straintly defended by the King to all manner of people, that none from henceforth should make, or begin again, such riot or rumor, nor other like; and if any man did, and that duly proven, he should be taken as a trayter to the King and his realm. Nevertheless a grievous complaint was made to our sovereign lord the King at this present Parliament that diverse people, not having consideration to the said defence, as well in the counties of Chester, Lancaster, and elsewhere in England, have made such assemblies in outrageous manner, to accomplish their malice against the King's peace, his crown, his dignity and the laws of his land: Wherefore our sovereign lord the King in this present Parliament hath descended (defended) to all the liege people, as well lords as other, of whatsoever estate that they be, that none shall make such assemblies, riot, or rumor against the peace in no wise; and if any such assembly be begun as soon as the sheriffs and other the King's ministers may thereof have knowledge, they with the strength of the county and country, where such case shall happen, shall set disturbance against such malice with all their power, and shall take such offenders and put them in prison, till due execution of the law be of them made, and that all lords and other liege people of the realm, shall be attending with all their strength and power to the sheriffs and ministers aforesaid.*

Rioters shall be
arrested and pros-
ecuted as under
the statute of
forcible entries.

13 Henry IV,
ch. 7, A. D. 1411.
Alex. Brit. Stat.,
213.

SEC. 74. That if any riot, assembly, or rout of people against the law, be made in parties of the realm, that the justices of peace, three, or two of them at the least, and the sheriff or under-sheriff of the county where such riot, assembly, or rout shall be made hereafter, shall come with the power of the county (if need be) to arrest them, and shall arrest them; (2) and the same justices and sheriff, or under-sheriff, shall have power to record that which they shall find so done in their presence against the law; (3) and that by the record of the same justices and sheriff, or under-sheriff, such trespassers and offenders shall be convict in the same manner and form as is contained in the statute of forcible entries. (4) And if it happen that such trespassers and offenders be departed before the coming of the said justices and sheriff, and under-sheriff, that the same justices, three, or two of them, shall diligently inquire within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to the law of the land.†

The punishment
of rioters: able-
bodied persons
shall assist in sup-
pressing.

2 Henry V, ch. 8.
Alex. Brit. Stat.,
218, 220.

SEC. 75. *Provided always*, That the said justices, and other officers aforesaid, shall execute their offices aforesaid at the King's costs, in going and continuing in doing their said offices, by payment thereof to be made by the sheriff of the same county for the time being, by indentures betwixt the sheriff and the said justices, and other officers aforesaid, to be made of the payment aforesaid, whereof the said sheriff upon his account in the exchequer may have due allowance; (2) and that such rioters attainted of great and heinous riots, shall have one whole year's imprisonment at the least, without being let out of prison by bail, mainprise, or in any other manner during the year aforesaid; (3) and that the rioters attainted of petty riots shall have imprisonment as best shall seem to the King or his council; (4) and that the fines of such rioters attainted, shall be by the said justices increased and put to greater sums than they were wont to be put in such cases before this time, in aid and supportation of the

* The common law requires sheriffs, constables, and other peace officers to do all that in them lies towards the suppression of riots, and they may command others to assist them. *State vs. Mayhew*, 2 Gill, 501.

† The Commissioners have power to order military assistance to aid the civil authorities to quell riots, etc. Sec. 34, R. S. D. C.

* For prosecutions for forcible entries, see 6 D. C., Rep. 45, *Adams vs. Horr*; and *Ibid.*, p. 53, *U. S. vs. Giffin*.

justices and other officers aforesaid in this behalf; (5) and that the King's liege people being sufficient to travel in the county where such routs, assemblies, or riots be, shall be assistant to the justices, commissioners, sheriff, or under-sheriff of the same county, when they shall be reasonably warned, to ride with the said justices, commissioners, and sheriff, or under-sheriff, in aid to resist such riots, routs, and assemblies, upon pain of imprisonment, and to make fine and ransom to the King; (6) and that the bailiffs of franchises shall cause to be impanelled sufficient persons as before, upon pain to lose to the King forty pounds, in case that such sufficient persons may be found within the same franchises; (7) and that like ordinances and pains shall hold place, and take effect in cities, boroughs, and other places and towns infranchised, which have justices of the peace within the cities, boroughs, towns, and other places aforesaid; (8) and that this statute shall begin to hold place presently after the proclamation thereof made.

SEC. 76. Every person who, within the District of Columbia or any of the Territories of the United States, or other place within the exclusive jurisdiction of the United States, sells, or lends, or gives away, or in any manner exhibits, or offers to sell, or to lend, or to give away, or in any manner to exhibit, or otherwise publishes or offers to publish in any manner, or has in his possession, for any such purpose, any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other articles of an immoral nature, or any drug or medicine, or any article whatever, for the prevention of conception, or for causing unlawful abortion, or who advertises the same for sale, or writes or prints, or causes to be written or printed, any card, circular, book, pamphlet, advertisement, or notice of any kind, stating when, where, how, or of whom, or by what means, any of the articles in this section hereinbefore mentioned can be purchased or obtained, or manufactures, draws, or prints, or in any wise makes any of such articles, shall be imprisoned at hard labor in the penitentiary for not less than six months nor more than five years for each offense, or fined not less than one hundred dollars nor more than two thousand dollars, with costs of court.* [See §§ 1755, 2491, 2492, 3392, R. S. U. S.]

Circulation of obscene literature.

Sec. 5389, R. S. U. S.
3 Mar., 1873, c. 258, sec. 1, v. 17, p. 598.

PROTECTION OF GARDENS, GROUNDS, ETC.

SEC. 77. Every person who, in the District, shall willfully and maliciously, or wantonly, and without cause, cut down or destroy, or by girdling, lopping, or otherwise, injure any fruit or other tree, not his own, standing or growing for shade, ornament, or other useful purpose, or shall maliciously destroy, mutilate, or otherwise injure any statuary, monument, or other work of art, standing or being on land not his own, or shall maliciously break down or injure any fence inclosing or belonging to another's land, or shall maliciously sever from the freehold of another any product thereof, or anything attached thereto, shall be punished by imprisonment in the District jail not more than three months, or by a fine not exceeding one hundred dollars.

Injury to trees, works of art, etc.

Sec. 1184, R. S. D. C.
1 Cranch, Ct. Rep., 314. U. S. vs. Wagner.

SEC. 78. Every person who, in the District, without color of right, shall willfully commit any trespass by cutting down or destroying any timber or wood standing on the land of another, or by carrying away any kind of timber or wood cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf, or mold from such land, or any roots, fruit, or plant there being, or

Trespass on lands; carrying away timber, soil, etc.

Sec. 1185, R. S. D. C.

* Penalty for bill-posting, etc., of an immoral character: Webb's Digest, p. 47, sec. 6. Applies to whole District. See Leg. Assem., July 3, 1871, ch. 8, p. 9.

by cutting down or carrying away any grass, hay, grain, or corn, standing or being on such land, shall be punished by imprisonment in the District jail not more than sixty days, or by a fine not exceeding sixty dollars.

Trespass upon
gardens, etc.
Sec. 1186, R. S.
D. C.

SEC. 79. Every person who, in the District, without color of right, shall willfully commit any trespass by entering upon the garden, orchard, or other improved land of another, with intent to cut, take, carry away, destroy, or injure the trees, grain, grass, hay, fruit, or vegetables there growing or being, shall be punished by imprisonment in the District jail not more than forty days, or by a fine not exceeding fifty dollars.

Penalty for injury to cemeteries.

Sec. 1187, R. S.
D. C.

SEC. 80. If any person shall willfully or maliciously cut down, break down, level, demolish, or otherwise destroy, or injure, or damage any railing, fence, or inclosure around or upon any land conveyed to any cemetery association, or to the District, under the provisions of sections five hundred and ninety-five and six hundred and four, as a burial-place for the interment of the dead, or any gate or post thereon, or shall remove, break, injure, or deface any tomb, or other stone, plank, or board, or any inscription thereon, or shall cut down, destroy, injure, or remove any tree or shrub standing or growing upon such land, he shall be liable to indictment, and, upon conviction, be fined not less than ten dollars nor more than one hundred dollars. [See §§ 595, 604, R. S. D. C.]

Manufacturers of mineral waters may file description of marks upon their bottles.

Sec. 1188, R. S.
D. C.

SEC. 81. All manufacturers and venders of mineral waters and other beverages allowed by law to be sold in bottles, upon which their names or marks shall be respectively impressed, may file with the clerk of the supreme court of the District a description of such bottles and of the name or marks thereon, and shall cause the same to be published for not less than two weeks, successively, in a daily or weekly newspaper, published in the District.

Penalty for using or dealing in marked bottles.

Sec. 1189, R. S.
D. C.

SEC. 82. It shall be unlawful for any person, without the permission of the owner thereof, to fill with mineral waters or other beverages any such bottles so marked, for sale, or to traffic in any such bottles so marked, and not bought by him of such owner, and every person so offending shall be liable to a penalty of fifty cents for every bottle so filled, or sold, or used, or disposed of, or bought, or trafficked in, for the first offense; and of five dollars for every subsequent offense, to be recovered as other fines are recovered in the District.

Regulation of travel over Benning's bridge.

Sec. 1191, R. S.
D. C.

SEC. 83. It shall not be lawful for any person to ride, drive, or lead any horse, mule, or other animal over the wooden part of the upper Eastern Branch or Benning's bridge at a faster gait than a walk; or to discharge any gun or other fire-arm on or under said bridge, or from the causeway leading thereto; and all persons violating either of the provisions of this section shall forfeit and pay, for every offense, a penalty of not more than ten nor less than five dollars, the money when collected to be handed over to the authorities of the District, and by them applied to such repairs and improvements of the road leading to the bridge as from time to time may be required.

ADULTERATION OF FOOD AND DRUGS.

Manufacture of injurious or adulterated articles of food, etc., prohibited; penalty.

SEC. 84. That no person within the District of Columbia shall mix, color, stain, or powder, or order or permit any other person to mix, color, stain, or powder any article of food or drugs with any ingredient or material so as to render the article injurious to health, or

manufacture any article of food which shall be composed in whole or in part of diseased, decomposed, offensive, or unclean animal or vegetable substance with the intent that the same may be sold in the said District, and no person shall sell in the District of Columbia any such article so mixed, colored, stained, powdered or manufactured. Any person violating this section shall be guilty of a misdemeanor, and for each offense be fined not exceeding two hundred dollars for the first offense, and for each subsequent offense not exceeding three hundred dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

Oct. 12, 1888.
25 Stat., 549.

SEC. 85. No person shall, within the District of Columbia, except for the purpose of compounding as hereinafter described, mix, color, stain, or powder, or order or permit any other person to mix, color, stain or powder, any drug with any ingredient or material so as to effect injuriously the quality or potency of such drug, with intent that the same may be sold in the said District of Columbia, and no person shall sell any such drug so mixed, colored, stained, or powdered under the same penalty in each case respectively as in the preceding section for a first and subsequent offense.

Adulteration of
drugs; penalty.

Ibid., sec. 2.

SEC. 86. No person shall be liable to be convicted under either of the two last foregoing sections of this act in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, colored, stained, or powdered, as in either of those sections mentioned, and that he could not, with reasonable diligence, have obtained that knowledge.

Sale by innocent
parties.

Ibid., sec. 3.

SEC. 87. No person shall sell in the District of Columbia any article of food or drug which is not of the nature, substance, and quality of the article demanded by any purchaser, and any person violating this section shall be guilty of a misdemeanor, and for the first offense be fined not exceeding fifty dollars, and for each subsequent offense not exceeding one hundred dollars, or imprisonment not exceeding six months, or both, in the discretion of the court: *Provided*, That an offense shall not be deemed to be committed under this section in the following cases, that is to say:

Articles of food
or drug to be of
quality, etc., de-
manded by pur-
chaser; penalty.

Proviso.

First. Where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof.

Permissible ad-
ditions.

Noninjurious
necessary ingredi-
ents.

Second. Where the drug or food is a proprietary medicine.
Third. Where the food or drug is compounded as authorized by this act.

Proprietary
medicine.

Authorized
compounds.

Fourth. Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

Unavoidable
admixtures.

Ibid., sec. 4.

SEC. 88. No person shall sell in the District of Columbia any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser. Any person violating this section shall be guilty of a misdemeanor and fined not exceeding fifty dollars: *Provided*, That no person shall be guilty of any such offense as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended, fraudulently, to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person

Sale of com-
pounds; penalty.

Proviso, notice.

Ibid., sec. 5.

receiving the same a notice, by a label, distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed.

Altering articles
of food injurious-
ly; penalty.

Ibid., sec. 6.

SEC. 89. No person shall, in the District of Columbia, with the intent that the same may be sold in its altered state without notice, subtract from any article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration, and any person violating the provisions of this section shall be guilty of a misdemeanor and fined not exceeding one hundred dollars.

Defendant to
prove exception.

Ibid., sec. 7.

SEC. 90. In any prosecution under this act, where the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon proviso contained in this act, it shall be incumbent upon him to prove the same.

Sale of articles
purchased with
written warranty.

Ibid., sec. 8.

SEC. 91. If the defendant in any prosecution under this act prove to the satisfaction of the court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the purchaser, and with a written warranty to that effect: that he had no reason to believe at the time when he sold it that the article was otherwise; and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution.

Forging, etc.,
warranty: pen-
alty.

Ibid., sec. 9.

SEC. 92. Any person who shall forge, or shall alter knowing it to be forged, any certificate or any writing purporting to contain a warranty, as provided in section eight of this act, shall be guilty of a misdemeanor and be punishable, on conviction, by imprisonment for a term not exceeding one year with hard labor.

Applying false
warranty, label,
etc.: penalty.

Ibid., sec. 10.

SEC. 93. Every person who shall willfully apply to any article of food or a drug a certificate or warranty given in relation to any other article or drug, or who shall give a false warranty in writing to any purchaser in respect of an article of food or a drug sold by him as principal or agent, or who shall willfully give a label with any article sold by him which shall falsely describe the article sold shall be guilty of a misdemeanor, and on conviction be fined not to exceed one hundred dollars.

Analysis regu-
lated.

Ibid., sec. 11.

SEC. 94. The analysis provided for in this act, shall be under the control of the Commissioner of Internal Revenue under such rules and regulations as may be prescribed by the Secretary of the Treasury.

Purchaser en-
titled to have
article analyzed.

Ibid., sec. 12.

SEC. 95. Any purchaser of an article of food or of a drug in the said District shall be entitled to have such article analyzed by such analyst, and to receive from him a certificate of the result of his analysis, and any health officer, inspector of nuisances, or any food inspector may procure any sample of food or drug, and if he suspects the same to have been sold to him contrary to any provision of this act he shall submit the same to the Commissioner of Internal Revenue to be analyzed who shall with all convenient speed cause such analysis to be made and give a certificate to such officer, wherein he shall specify the result of the analysis.

Refusal to sell to
health officer, etc.:
penalty.

Ibid., sec. 13.

SEC. 96. If any officer mentioned in section twelve of this act shall apply to purchase any article of food or any drug exposed to sale or on sale by retail or on any premises or in any shop or store, and shall tender the price for the quantity which he shall require for the

purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer, such person shall be guilty of a misdemeanor and fined for each offense not exceeding fifty dollars.

SEC. 97. The term "food," as used in this act, shall include every article used for food or drink by man other than drugs or water. The term "drug," as used in this act, shall include all medicines for internal or external use.

Definitions.

Ibid., sec. 14.

SEC. 98. Nothing in this act shall be construed as modifying or repealing the provisions of chapter eight hundred and forty of the acts of the first session of the Forty-ninth Congress, entitled "An act defining butter; also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August sixth, eighteen hundred and eighty-six.

Oleomargarine act not affected.

Ibid., sec. 15.
Vol. 24, p. 209

SEC. 99. The Commissioner of Internal Revenue may, from time to time declare certain articles or preparations to be exempt from the provisions of this act; and it shall be the duty of the Commissioners of the District to prepare and publish from time to time a list of the articles, mixtures, or compounds declared to be exempt from the provisions of this act, in accordance with this section.

List to be published of articles exempt.

Ibid., sec. 16.

SEC. 100. If any ballast shall be taken, unladen, or cast out of any ship or other vessel, on any pretence whatsoever, within the limits hereafter mentioned, but in the day time; that is to say, between the rising and setting of the sun, [or if any ballast shall be unladen, or taken out of any ship or vessel in the bay of Chesapeake, above Cedar point, below the mouth of Patuxent river,] in any river, creek or harbour, within this province, and cast [into the bay above Cedar point aforesaid, or] into any river, creek or harbour, below high water mark, that the master, or other person having the charge or command of such ship or vessel, shall forfeit and pay the sum of fifty pounds current money [\$133.33 $\frac{1}{2}$]. * * * [See § 837, R. S. D. C.]

Ballast cast into harbor, creek, or river; the penalty.

Md. act 1734, ch. 16, sec. 2.
1 Dorsey, 79.
1 Kilty, 229.

SEC. 101. No person whatsoever shall presume to build any wear or hedge cross any river, creek or branch, below any public landing place, so as to prejudice or dam up the channel, or to obstruct the passage of boats, on pain of forfeiting ten pounds current money of Maryland [\$26.66 $\frac{1}{2}$]. [See § 837, R. S. D. C.]

Obstructing passage of boats by wears or hedges: the penalty.

Ibid., sec. 3.

BOUNDARIES OF LAND.

SEC. 102. It shall not be lawful for any person or persons whatsoever within this [District] [province,] under any pretence whatsoever, to cut down, or otherwise destroy, any boundary or bounded trees, either of his own lands, or of the lands of any other person whatsoever, even although such boundary or bounded trees should stand within the person's own land so cutting down and destroying the same, under the penalty of five thousand pounds of tobacco [\$83.33 $\frac{1}{2}$] for every offence.*

Penalty for cutting down boundaries, etc.

Md. act 1722, ch. 8, sec. 2.
1 Kilty, 172.
1 Dorsey, 59.

SEC. 103. If any person or persons whatsoever shall, without lawful authority, either at random, or for their own pleasure, presume to bound any tree or trees in the woods, or upon their own lands, or that shall bound any tree or trees, or set up other boundaries for their own or others land, in lieu and place of any original boundary or bounded tree that is any way decayed or destroyed, without first giving notice to all persons concerned in such boundaries of the time

Penalty for unlawfully setting up boundaries.

Ibid., sec. 3.
1 Dorsey, 59.

* The latter part of this section, which is omitted, was repealed by sec. 837, R. S. D. C.

and place proposed for setting up or making such new boundary, or that upon the failure of the persons concerned in such lands (upon notice, or when notice cannot be given,) being present at the time and place appointed, shall not take with him four substantial freeholders of his neighbourhood at the least, that may be present at the bounding such tree or trees, or setting up such other boundary, shall forfeit for every time he, she or they shall be convicted thereof, the sum of five thousand pounds of tobacco [§83.33½].*

Prosecutor's duty to particularly describe the place, etc.

Ibid., sec. 4.

SEC. 104. In all prosecutions against any of the offenders aforesaid, [the attorney-general, or clerk of indictments,] in their indictments or other proceedings, shall be as particular as possible in describing the place upon or to whose lands the boundaries relate, which have been made, so set up or destroyed, contrary to the true intent of this act.

Penalties for destroying tobacco plants.

Md. act 1744, ch. 5, sec. 2.

1 Kilty, 249.
1 Dorsey, 83.

SEC. 105. Any person or persons who shall, after the end of this present session of assembly, cut or destroy, or cause to be cut up or destroyed, any tobacco plants belonging to any other person or persons, or by threats, menaces, or other sinister means, shall cause or excite any person or persons to cut up or destroy any tobacco or tobacco plants belonging to any other person or persons, and shall be thereof convict by due course of law, shall forfeit and pay unto the party grieved one hundred pounds sterling,† and suffer six months imprisonment, without bail or mainprise, and shall also remain in prison, as in execution, until the said sum be satisfied, in case the offender be of sufficient ability to pay the same, and if the offender shall not be of sufficient ability, then and in every such case the offender shall remain and continue in prison for the space of one whole year, without bail or mainprise: *Provided also*, That the party grieved shall and may have and maintain his or her action of trespass, or other proper action at law, for recovery of damages against the offender, any thing herein contained to the contrary notwithstanding.

Clerks shall not deliver blank writs; penalty.

Md. act 1715, ch. 48, sec. 11.

1 Kilty, 140. 1 Dorsey, 44.

SEC. 106. That no clerks of any courts within this *District* [province,] shall after the end of this present session of assembly, deliver to any attorney, sheriff or other person, any blank writ or writs whatsoever on penalty of six thousand pounds of tobacco [§100].‡

Sabbath breaking punishable.

Md. act 1723, ch. 16, sec. 10.

1 Dorsey, 67.
1 Kilty, 180.

Md. court of appeals, Jan., 1894, *Judefind vs. State*; 2 Md. Rep., 310, *State vs. Fearson*, 29 Md. Rep., 405, *Thomas vs. Hunter*; 56 Md. Rep., 209, *Ry. Co. vs. Lehman*.

SEC. 107. No person whatsoever shall work or do any odiously labour on the Lord's day, commonly called Sunday, and that no person, having children, servants [or slaves,] shall command, or wittingly, or willingly suffer any of them to do any manner of work or labour on the Lord's day, (works of necessity and charity always excepted,) nor shall suffer or permit any children, servants [or slaves,] to profane the Lord's day, by gaming, fishing, fowling, hunting, or unlawful pastimes or recreations; and that every person transgressing this act, and being thereof convict by the oath of one sufficient witness, or confession of the party before *the Police Court* [a single magistrate,] shall forfeit two hundred pounds of tobacco [§3.33½], to be levied and applied as aforesaid. §

In District of Columbia, butter

SEC. 108. Every person who shall manufacture for sale, or who shall offer or expose for sale, any article or substance in semblance

* The omitted part of this section was repealed by sec. 837, R. S. D. C.

† \$366.66; current money. See Md. act 1781, ch. 16, secs. 1, 2.

‡ See sec. 837, R. S. D. C.; Md. act 1741, ch. 16, sec. 2; 1 Kilty, pp. 593, 541.

§ Sec. 837, R. S. D. C.: By the Maryland act of 1781, ch. 16, secs. 1, 2, all fines can only be imposed in current money, at the rate in value 7s. 6d. for \$1 or "Spanish milled pieces of eight," which was the Spanish dollar declared to be of the value of 100 cents. 1 Stat. L., sec. 9, pp. 248, 300; 1 Mackey Rep., 346 U. S. vs. Bicksler; see secs. 165, 166 of chapter on Pleading and Practice. The tobacco fines shall be discharged in specie, valuing tobacco at the rate of 12s. 6d. per hundred; see Maryland act, 1780, ch. 23, sec. 3; 1 Kilty, 541; see also sec. 164, chapter on Pleading and Practice.

of butter or cheese, not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals, not produced from milk, enters as a component part, or into which melted butter, or any oil thereof, has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon every tub, firkin, box or package of such article or substance, the word Oleo-Margarine, in plain Roman letters, not less than half an inch square placed horizontally in proper order thus.

and cheese made of fat, etc., to have packages stamped oleomargarine.

OLEO-MARGARINE.

And in case of retail sales of such article or substance in parcels the seller shall in all cases deliver therewith to the purchaser a written or printed label bearing the plainly written or printed word Oleo-Margarine, in type or letters as aforesaid ;

Oleomargarine, sale of, to be accompanied with label.

And every sale of such article or substance not so stamped, branded, marked, or labeled shall be void, and no action shall be maintained for the price thereof.*

2 Sup. R. S., 207. Jan. 25, 1879. 20 Stat., 264, sec. 1.

127 U. S. Rep., 678. Powell vs. Penna.

SEC. 109. Every person who shall sell, or offer to sell, or have in his or her possession with intent to sell, contrary to the provisions of this act, any of the said article or substance required by the first section of this act to be stamp, marked, or labeled as therein stated, not so stamped, marked, or labeled, or in case of a retail sale without delivery of a label required by section one of this act, shall, for each such offense, forfeit and pay a fine of one hundred dollars, to be recovered by indictments in any court of the District of Columbia of competent jurisdiction for the trial of misdemeanors, and the one-half of such fine when paid to go to the informer, and the residue to be paid into the treasury of the District of Columbia.

Penalty for selling or having in possession contrary to act.

Ibid., sec. 2.

SEC. 110. Every person who shall sell, or offer or expose for sale, or who shall cause or procure to be sold, or offered or exposed for sale, any article or substance required by the first section of this act to be marked, branded, stamped, or labeled, not so marked, branded, stamped, or labeled, shall be guilty of a misdemeanor, and, on trial for such misdemeanor, proof of the sale or offer or exposal alleged shall be presumptive evidence of knowledge of the character of the article so sold or offered.

Penalty for selling without label.

Ibid., sec. 3.

SEC. 111. Whenever two or more carriages, carts, or wagons are in motion on any street, avenue, or alley within the District of Columbia, and following each other, the drivers thereof shall maintain a distance of not less than ten feet between each and every cart or wagon, and shall keep on the right-hand side of the street, and the drivers of said carts or wagons shall, at all times, keep at the head of their teams, under a penalty of five dollars for each and every violation of the provisions of this act.

Drivers of vehicles to keep to the right, etc., and maintain distance.

Leg. Assem., June 20, 1872, sec. 1, p. 56.

SEC. 112. Whenever any driver of any cart of wagon shall drop from his load any part thereof, he shall replace, or cause the same to be replaced, under a penalty of five dollars for every failure so to do.

Drivers required to replace droppings.

Ibid., sec. 2, p. 57.

SEC. 113. All acts and parts of acts in relation to posting bills now in force in the city of Washington be, and are hereby, extended to apply to all places in the District of Columbia.†

Bill-posting laws of Washington City extended to whole District.

Leg. Assem., July 3, 1871, sec. 1, p. 9.

* For general law of the United States, see 24 Stat., 309, Aug. 2, 1886, ch. 840; 2 Sup. R. S., 505. † See Webb's Digest, 46, for ordinances in relation to bill posting.

Penalty for storing more than 500 gallons of petroleum in one place at one time.

Leg. Assem., Aug. 23, 1871, sec. 1, pp. 115, 116.

Persons engaged in the erection of buildings, etc., to provide suitable scaffolding, etc., for the safety of workmen.

3 Leg. Assem., June 23, 1873, ch. 24, sec. 1, p. 65.

Public lamps not to be used for private purposes; penalty.

Unless by special permission for charitable enterprises.

Leg. Assem., Aug. 23, 1871, sec. 1, p. 114.

Persons now appropriating public lamps to be notified to desist.

Penalty for failure so to do.

Ibid., sec. 2, p. 114.

Penalty for raising false alarm of fire in church, theater, etc.

Leg. Assem., July 20, 1871, 15, 16.

Carrying of concealed deadly weapons; how punished.

Leg. Assem., Aug. 10, 1871, sec. 1, p. 33.

SEC. 114. It shall not be lawful for any person or persons to warehouse or hold in any building or shed within the District of Columbia more than five hundred gallons, at any one time, of petroleum, coal-oils, and burning-fluids, under a penalty of a fine not exceeding five hundred dollars, or by imprisonment for the term of six months in the jail of the District.

SEC. 115. All persons engaged in the erection, repairing, altering, or painting of any building or buildings or other structures in this District, shall furnish and apply, or cause to be furnished and applied, such suitable and proper scaffolding, hoist-stays, ladders, and such other mechanical contrivances as will afford protection to the lives and limbs of the workmen engaged on such building; and any person neglecting to furnish safe and substantial appliances shall, on conviction, be liable to a fine of not less than five nor more than one hundred dollars.*

SEC. 116. It shall be unlawful for any person or persons to use any public lamps as a sign for business purposes, by painting thereon letters or any other device, or by substituting for a street-lamp any other lamp upon a public lamp-post, or by placing a transparency over or around any lamp, unless in cases where special permission shall have been granted by the *Commissioners* [Governor] in aid of any benevolent enterprise devoted exclusively to some charitable purpose; and any person or persons offending against this act shall be liable, upon conviction thereof, to a penalty of not less than five nor more than ten dollars for each and every such offense, the said fines to be collected and applied in the same manner as other fines are collected and applied.

SEC. 117. The superintendent of lamps be, and he is hereby, directed to notify all persons who are now appropriating any public lamp or lamps to private purposes, to desist therefrom and remove all business device they may have painted and placed upon any public lamp; and if, in ten days from the time of such notice, such device shall not have been removed, the person or persons so offending shall be subject to the penalty imposed by the first section of this act, for each and every week that they shall have failed to comply with the order or request of the said superintendent.

SEC. 118. Any person or persons who shall knowingly raise or report any false alarm of fire in any church, theatre, hall, or other public assemblage, or who shall aid, assist, procure, or incite any other person to do the same, shall be punished by a fine of not more than fifty dollars, nor less than five dollars.

SEC. 119. It shall not be lawful for any person or persons to carry or have concealed about their persons any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk-knives, or dirks, razors, razor-blades, sword-canes, slung-shots, or brass or other metal knuckles, within the District of Columbia; and any person or persons who shall be duly convicted of so carrying or having concealed about their persons any such weapons shall forfeit and pay, upon such a conviction, not less than twenty dollars nor more than fifty dollars, which fine shall be prosecuted and recovered in the same manner as other penalties and forfeitures are sued for and recovered: *Provided*, That the officers, non-commissioned officers, and privates of the United States army, navy, and marine corps, police officers, and members of any regularly organized militia company or regiment, when on duty, shall be exempt from such penalties and forfeitures.†

* For law regulating elevators, see 24 Stat., 580, Mar. 3, 1887; see also title "District of Columbia."

† See act of Congress relating to concealed weapons, July 13, 1892, 27 Stat., 116.

SEC. 120. If any person shall be known to be a notorious or professional thief, burglar, pickpocket, gambler, or confidence person, and shall have been arrested within the District of Columbia, by any officer or person having the authority to make arrests, and if it shall be proven to the satisfaction of the judge of the police court, by the evidence of two or more respectable witnesses, that such thief, burglar, pickpocket, gambler, or confidence person, had an unlawful purpose in view at the time of such arrest, he or she, in default of sufficient security not to violate any criminal law of said District, or to ply his or her vocation therein, shall be committed by said judge to the work-house for a term not to exceed ninety days, or, in the discretion of the judge, he or she may be required to leave the District within six hours from the time of the entry of the decision of said judge, or to give security that he or she will not violate any criminal law or any ordinance for the prevention of disorderly conduct in said District, for a period not to exceed one year.*

Professional thieves, gamblers, or confidence persons, how punished when arrested.

Leg. Assem., June 20, 1872, sec. 1, p. 57.

SEC. 121. It shall not be lawful for any person or persons who are not the owners or occupants of the lots lying in the same street or avenue, and fronting on the parks now made, or which shall hereafter be made on the side or sides of any street or avenue in the cities of Washington and Georgetown, to enter, walk, or trespass on such parks, or to cut or injure in any way, the grass, flowers, trees, or shrubbery growing thereon, or to deface, climb upon, or injure the railings, posts or chains inclosing the same, but such parks shall be under the immediate care and keeping of the owners or occupants of the lots fronting thereon, and on the same side of the streets or avenues, who may enter, care for, and use them for such purpose, and in such ways as will not injure the grass, trees, shrubbery, fences, posts, chains and railings upon and inclosing the same, subject to such general control and regulations as the Board of Commissioners [Public Works] may from time to time prescribe.

Unlawful for persons other than owners or occupants of lots in same street and fronting on parks on side of a street, to enter such parks, or to injure grass or shrubbery, or to deface or climb upon railings inclosing the parks.

Owners of lots fronting such parks to have immediate care of same, subject to general control by board of public works.

Leg. Assem., June 20, 1872, ch. 29, sec. 1, pp. 41, 42.

SEC. 122. It shall not be lawful for any person or persons to cut or injure the trees or shrubbery in any of the parks now made or which shall hereafter be made in the center of any of the streets or avenues in the cities of Washington and Georgetown, or to climb upon, deface or injure the posts, chains or railings inclosing the same.

Unlawful to injure parks in center of streets.

Ibid., sec. 2.

SEC. 123. Any person offending against the provisions of this act shall be punished by a fine of not less than five dollars, nor more than fifty dollars for each and every offense, to be recovered in the police court in the name of the District of Columbia, in the manner prescribed in the police act for the recovery of fines in violation of ordinances of the late corporation of Washington and Georgetown.

Fine of from \$5 to \$50 recoverable in police court for violation of this act.

Ibid., sec. 3.

SEC. 124. No person shall walk over or through any public park or other ground, not set apart or intended for travel by the District of Columbia, or the proper branch of the Government thereof, or in any manner trespass thereon, or trespass on any reservation or other land or property of the United States, within the said District, or ride through or over the same, or drive or permit to be driven over or through the same, any animal, animals, or any creature of any class, without the written or printed authority or permission of the proper officer in charge thereof; and if any person or persons shall

Trespass upon public parks or grounds prohibited.

Penalty for violation of this act.

3 Leg. Assem., June 26, 1873, ch. 51, p. 124.

* Vagrant, idle and disorderly persons, public prostitutes, beggars, or persons drunk in or about the streets, etc., and all suspicious persons, or persons guilty of open profanity or grossly indecent language or behavior publicly in the streets of Washington, may be required to give security for good behavior or committed to the workhouse. See Webb's Digest, p. 437. Act of July 29, 1862, ch. 320, pp. 322, 323.

do any act or thing herein mentioned, or direct or suffer the same to be done, he, she, or they shall be subject to a penalty of not less than five nor more than twenty dollars for each offence, or for the doing of any of the matters or things herein mentioned, or intended to be prohibited or prevented, to be recovered in the name of the District of Columbia as other fines and penalties against the law of said District are or may be recoverable.

RAILROADS.

Regulations for the running of railroad trains in the city of Washington. SEC. 125. That from and after the passage of this act it shall be unlawful for any of the railroad companies passing into the limits of the city of Washington with their engines to ring the bells of said engines, or cause the blowing of steam whistles, either at the crossings or in the lines of any of the streets or avenues, or inside the limits of said city.
3 Leg. Assem., ch. 53, sec. 1, p. 125. June 26, 1873.

Baltimore and Potomac Railroad Company to erect fence across the Long bridge. SEC. 126. That it shall be the duty of the Baltimore and Potomac Railroad Company, for the safety of the public, to erect, or cause to be erected, on the Long bridge, across the Potomac river, between its track and the public carriageway of said bridge, a close fence, which shall be not less than fourteen feet in height above said carriageway.
Ibid., sec. 2.

Obstruction of streets prohibited; freight, etc., to be deposited only at the regular stations. SEC. 127. That it shall be unlawful for any railroad company running its tracks through any of the streets or avenues of the city of Washington to obstruct any of the said streets or avenues, by depositing lumber, ties, or other materials used in the construction of railroads, or to unload other freight or merchandise, of whatever nature or description, in any of such streets or avenues at any point in said city other than the regular stations established for such purposes.
Ibid., sec. 3.

Baltimore and Potomac and Alexandria and Washington Railroad companies to construct fence along certain portions of their tracks. SEC. 128. That the Baltimore and Potomac Railroad Company and the Alexandria and Washington Railroad Company shall have, or cause to be erected, a substantial iron or paling fence, not less than five feet high, along each side of their track or tracks within the city of Washington, from their depot or depots at the corner of Sixth and B streets northwest, along Sixth street to Virginia avenue, along Virginia avenue to Third street southwest, and also from the intersection of Sixth street and Maryland avenue, along Maryland avenue to Ninth street southwest, with sliding gates at each street-crossing, to be closed while trains or locomotives are passing: *Provided*, That no part of said inclosed space shall be used for the purpose of parking cars or the depositing of goods or material of any kind.
Ibid., sec. 4.

Penalty for violating this act. SEC. 129. That whenever any railroad company violates any section of this act, a fine of not less than one hundred or more than two hundred dollars shall be imposed and collected as all other fines for violation of the ordinances of the District of Columbia, and that all acts or parts of acts inconsistent with this act be, and the same are hereby repealed.
Repealing clause.
Ibid., sec. 5.

Speed of engines and cars in cities not to exceed 6 miles an hour; penalty. SEC. 130. No locomotive engines or railroad cars of any description shall be run, driven, or propelled over or upon any railroad track or tracks within the cities of Washington or Georgetown at a greater speed than at the rate of six miles an hour, under the penalty of fifty dollars for each and every violation of any of the provisions of this section, to be forfeited and paid by the railroad company owning or using such locomotive engine or railroad car, or the engineer or conductor in whose charge said locomotive engine or railroad car may be, severally and respectively: *Provided*, That this section
Proviso as to tunnels.
Leg. Assem., Aug. 23, 1871, sec. 1, p. 105.

shall not apply to any car or engine while running through any tunnel under the cities of Washington and Georgetown, or any parts thereof.

SEC. 131. The Baltimore and Ohio, Alexandria and Washington, Baltimore and Potomac, and National Junction Railroad Companies are hereby directed and required (to keep in the day time, at every point where any public street crosses the railroad track or tracks of said companies, a person stationed with a red flag, and in the evening, until arrival and departure of the last train at night, at all the street crossings, a person with a flag and lighted lamp or lantern with red glass,) to give warning of the approach of the locomotive engines and railroad cars, of any descriptions, of said companies, under the penalty of ten dollars for every time any locomotive engine or railroad car shall pass, (at any such crossings without such persons being stationed) and such warning being given, to be forfeited and paid by the said companies, or the engineer or conductor in whose charge such locomotive engine or railroad car may be, severally and respectively.

Warning must be given at crossings of approaching engines or cars; penalty.

Ibid., sec. 2.

SEC. 132. No railroad, locomotive engine, or railroad car, or train of cars, shall encumber or obstruct any sidewalk or crosswalk, or any street, in the cities of Washington or Georgetown, for a longer period than is absolutely necessary for the safe and expeditious discharge of passengers only, under the penalty of twenty-five dollars for each offense, to be forfeited and paid by the railroad company owning or using such locomotive engine or railroad car, or train of cars, or the agent, engineer, or conductor in whose charge such locomotive engine, railroad car, or train of cars, may be, severally and respectively.

Sidewalks not to be encumbered by engines or cars longer than is absolutely necessary; penalty.

Ibid., sec. 3, p. 106.

SEC. 133. No railroad company shall lay down any rail or rails, or railroad track or tracks, or shall alter the grade or location of any rail or rails, or railroad track or tracks, in, across, or along any street in the cities of Washington or Georgetown, except when directed and required by the Board of Public Works to alter the grade or location thereof, without having first given twenty days' notice to the Board of Public Works of the desire and intention of the said railroad company to lay down or alter the grade or location of such rail or rails, railroad track or tracks, except when replacing a worn or broken rail, under the penalty of fifty dollars for each and every violation of any of the provisions of the section, to be forfeited and paid by the said company or the person or persons laying or altering the same, severally and respectively.

Railroad companies not to lay new track or alter grade except when required without giving twenty days' notice; penalty.

Ibid., sec. 4, p. 106.

SEC. 134. That portion of the street lying or being between the rails or tracks, and two feet from the outside rail or tracks of any railroad company, shall be paved in the same manner as the rest of the street or avenue in which such rails or tracks may be laid.

To pave street between rails, and 2 feet outside.

Ibid., sec. 5, pp. 106, 107.

SEC. 135. That rail or rails, track or tracks, of said companies shall be laid as shall least obstruct the free passage of vehicles and carriages over the same, and the upper surface of the rails shall be laid flush with the surface of the streets, and shall conform to the grades thereof, as now established, or as they shall from time to time be re-established or altered, the same to be done at the expense of the said companies; and in all streets or parts of streets which are not paved the rail shall be so laid in such manner as shall least interfere with the public travel thereon, and as shall be authorized and approved by the District government engineer. The railroad companies or their agents shall be required to keep the surface of the streets inside of the rail in good order and repair, and all snow, ice, dirt, and filth cleaned and removed from such portions of the streets at the expense of said companies, and in such manner as not to

Rails and tracks to be so laid as to least obstruct travel.

Space between rails to be kept in order and free from snow, etc., at expense of company; penalty.

Ibid., sec. 6, p. 107.

obstruct travel in any part of the street, under the penalty of fifty dollars for each and every violation of any of the provisions of this section, to be forfeited and paid by the said company, or the person or persons so violating.

The Commissioners to notify railway companies of their duties and act in case of neglect.

Ibid., sec. 7, p. 107.

SEC. 136. It shall be the duty of the *Commissioners* [Board of Public Works] to notify said railroad companies to lower or raise the rail or rails, or their track or tracks, as the case may require, in accordance with the sixth section of this act; and in case of a failure of said railroad companies to comply with the terms thereof within ten days after said notice, which shall be in writing, then it shall and may be lawful for the *Commissioners* [Board of Public Works] to take up and relay and repair said railroad track or tracks, and assess and collect the same from said neglecting company or companies.

Regulations governing use of Capitol grounds. Public travel.

July 1, 1882, 22 Stat., 126; 2 Sup.

SEC. 137. Public travel in and occupancy of the Capitol Grounds shall be restricted to the roads, walks, and places prepared for the purpose by flagging, paving, or otherwise.

Obstruction of roads, forbidden.

Ibid., sec. 2.

SEC. 138. It is forbidden to occupy the roads in such manner as to obstruct or hinder their proper use, to drive violently upon them, or with animals not under perfect control, or to use them for the conveyance of goods or merchandise, except to or from the Capitol on government service.

Sale of articles, etc., forbidden.

Ibid., sec. 3.

SEC. 139. It is forbidden to offer or expose any article for sale; to display any sign, placard, or other form of advertisement; to solicit fares, alms, subscriptions, or contributions.

Injury to any statue, seat, wall, tree, shrub, etc., forbidden.

Ibid., sec. 4.

SEC. 140. It is forbidden to step or climb upon, remove, or in any way injure any statue, seat, wall, or other erection, or any tree, shrub, plant, or turf.

Fire works, loud, threatening, or abusive language.

Ibid., sec. 5.

SEC. 141. It is forbidden to discharge any fire-arms, fire-work, or explosive, set fire to any combustible, make any harangue or oration, or utter loud, threatening, or abusive language.

Parades or assemblages, etc.

Ibid., sec. 6.

SEC. 142. It is forbidden to parade, stand, or move in processions or assemblages, or display any flag, banner, or device designed or adapted to bring into public notice any party, organization, or movement.

Penalties.

Ibid., sec. 7.

SEC. 143. Offenses against this act shall be triable before the police court of the District of Columbia, and shall be punishable by fine or imprisonment, or both, at the discretion of the judge of said court; the fine not to exceed one hundred dollars, the imprisonment not to exceed sixty days. But in the case of heinous offenses by reason of which public property shall have suffered damage to an amount exceeding one hundred dollars in value, said judge of the police court may commit or hold to bail the offender for trial before the supreme court of the District of Columbia, when the offense shall be punishable by imprisonment in the penitentiary for a period of not less than six months nor more than five years.

Duties of policemen, watchmen, etc.

Ibid., sec. 8.

SEC. 144. It shall be the duty of all policemen and watchmen having authority to make arrests in the District of Columbia to be watchful for offenses against this act, and to arrest and bring before the proper tribunal those who shall offend against it under their observation, or of whose offenses they shall be advised by witnesses.

SEC. 145. It shall be the duty of all persons employed in the service of the government in the Capitol or on its grounds to prevent, as far as may be in their power, offenses against this act, and to aid the police, by information or otherwise, in securing the arrest and conviction of the offenders.

Capitol employes to aid in preserving order, etc.

Ibid., sec. 9.

SEC. 146. In order to admit of the due observance within the Capitol Grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the House of Representatives, acting concurrently, are hereby authorized to suspend for such proper occasions so much of the above prohibitions as would prevent the use of the roads and walks of the said grounds by processions or assemblages, and the use upon them of suitable decorations, music, addresses, and ceremonies: *Provided*, That responsible officers shall have been appointed, and arrangements determined, adequate, in the judgment of said President of the Senate and Speaker of the House of Representatives, for the maintenance of suitable order and decorum in the proceedings, and for guarding the Capitol and its grounds from injury.

National occasions, celebrations, etc., how conducted.

Proviso.

Ibid., sec. 10.

SEC. 147. In the absence from Washington of either of the officers designated in the last section the authority therein given to suspend certain prohibitions of this act shall devolve upon the other, and in the absence from Washington of both it shall devolve upon the Capitol police commission.

Capitol police commission to act in absence of President of Senate and Speaker of House of Representatives.

Ibid., sec. 11.

SEC. 148. Keepers or owners of restaurants, eating-houses, bar-rooms, or ice-cream saloons, or soda-fountains, at which food, refreshments or drinks are sold, or keepers of barber shops and bathing houses, must put in a conspicuous place in their restaurant, eating-houses, ice-cream saloons, or places for the sale of soda water, a scale of the prices for which the different articles they have for sale will be furnished.

Scale of prices to be posted in restaurants, saloons, etc.

Leg. Assem., June 20, 1872, sec. 1, p. 65.

SEC. 149. Persons violating the provisions of the above section are to be deemed guilty of misdemeanor, and, upon conviction in a court having jurisdiction, are to be fined by the court not less than twenty dollars, and not more than fifty dollars.

Violation of foregoing section a misdemeanor punishable with fine of from \$20 to \$50.

Ibid., sec. 2.

SEC. 150. Any restaurant keeper or proprietor, any hotel keeper or proprietor, proprietors or keepers of ice-cream saloons or places where soda-water is kept for sale, or keepers of barber shops and bathing houses, refusing to sell or wait upon any respectable well-behaved person, without regard to race, color, or previous condition of servitude, or any restaurant, hotel, ice-cream saloon or soda fountain, barber shop or bathing-house keepers, or proprietors, who refuse under any pretext to serve any well-behaved, respectable person, in the same room, and at the same prices as other well-behaved and respectable persons are served, shall be deemed guilty of a misdemeanor, and upon conviction in a court having jurisdiction, shall be fined one hundred dollars, and shall forfeit his or her license as keeper or owner of a restaurant, hotel, ice-cream saloon, or soda fountain, as the case may be, and it shall not be lawful for the Assessor [Register] or any officer of the District of Columbia to issue a license to any person or persons, or to their agent or agents, who shall have forfeited their license under the provisions of this act, until a period of one year shall have elapsed after such forfeiture.

Refusal to sell or wait upon respectable, well-behaved persons without regard to race, color, or previous condition of servitude, or refusal to sell or wait upon such person in same room, and at same prices as other respectable, well-behaved persons, to be a misdemeanor punishable with fine of \$100 and forfeiture of license, and license not to be afterwards issued until lapse of one year after forfeiture.

Ibid., sec. 3, pp. 65, 66.

Regulation of sales in eating houses, ice-cream saloons, etc.

List of prices to be kept conspicuously posted.

And no prices different therefrom shall be demanded or received.

June 26, 1873.
3 Leg. Assem.,
ch. 46, sec. 1, p. 116.

Proprietors of eating-houses, etc., to file with the assessor a list of the prices of articles to be kept for sale.

Which may be used as evidence in any proceedings instituted for violation of this act.

Register to notify all persons who may fail to file in his office list of prices.

Ibid., sec. 2.

All well-behaved persons to be served in the same room and at the common prices.

Proviso.

Ibid., sec. 3.

Penalty for violation of this act.

SEC. 151. The proprietor or proprietors, or keeper or keepers, of every licensed restaurant, eating-house, bar-room, sample-room, ice-cream saloon, or soda-fountain room, or establishment in the District of Columbia, shall put up, or cause to be kept up, and to be regularly kept up, or cause to be kept up, in two conspicuous places in the chief room or rooms of his, her, or their restaurant, eating-house, bar-room, ice-cream saloon, or soda-fountain room, and in one conspicuous place in each small or private room, if any, used in connection with said restaurant, eating-house, bar-room, sample-room, ice-cream saloon, and soda-fountain room, for the accommodation of guests, visitors, or customers thereat, printed cards, or papers, on which shall be distinctly printed the common or usual price for which each article or thing kept in any of said places or establishments to be eaten or drank therein is or may be commonly sold, or the price or prices for which the articles or things are or may be commonly or usually furnished to persons calling for, desiring, or receiving the same or any part or parts thereof, and no greater price or prices than those mentioned or contained on said cards or printed papers shall be asked for, demanded, or received from any person or persons for any of the articles or things kept in any manner for sale in any of the places or establishments aforesaid, either by said proprietor or proprietors, keeper or keepers, or by their agents, employes, or any one acting in any manner for them.

SEC. 152. On or before the first day of November in each year the proprietor or proprietors, keeper or keepers, of each licensed restaurant, eating-house, bar-room, sample-room, ice-cream saloon, and soda-fountain room or establishment in said District, as aforesaid, shall transmit to the Assessor [Register] of said District a printed copy of the usual or common price or prices of articles or things kept for sale by him, her, or them, as aforesaid, which shall be filed by the Assessor [Register] in his office, and unless he is notified of changes therein, the copy transmitted and filed in said office may be used in any case or proceeding under this act as prima facie evidence of the common or usual prices charged for the articles or things mentioned therein by the proprietor or proprietors, keeper or keepers, of any of the places or establishments aforesaid, and in a failure of any proprietor or proprietors, keeper or keepers, to transmit the copy aforesaid, the Assessor [Register] shall notify such person of such failure, and require such copy to be forthwith transmitted to him.

SEC. 153. The proprietor or proprietors, keeper or keepers, of any licensed restaurant, eating-house, bar-room, sample-room, ice-cream saloon, or soda-fountain room shall sell at and for the usual or common prices charged by him, her, or them, as contained in said printed cards or papers, any article or thing kept for sale by him, her, or them to any well-behaved and respectable person or persons who may desire the same, or any part or parts thereof, and serve the same to such person or persons in the same room or rooms in which any other well-behaved person or persons may be served or allowed to eat or drink in said place or establishment: *Provided*, That persons of different sexes shall not be accommodated in the same room or rooms unless they accompany each other, or call for any articles or things together, or unless said room or rooms are ordinarily used indiscriminately by persons of both sexes.

SEC. 154. If the proprietor or proprietors, keeper or keepers, of any place or establishment, as aforesaid, shall neglect or refuse to put up printed cards or papers of prices as provided for in the first section of this act, or shall refuse to send a copy or duplicate to the Assessor [Register,] as provided in the second section, or shall place or cause to be placed on said card or paper, or permit to be placed thereon any price or prices other or greater than that for which any

article or thing is, or may be, usually and commonly sold or furnished by him, her, or them, or different from or more than is usually or commonly demanded or received therefor by him, her or them, or by his, her, or their authority or direction, or shall demand or receive in any manner, or under any circumstances, or for any reason or pretence, in person or by any employé or agent, from any person or persons aforesaid, any sum or prices different or greater than is contained on said cards or papers, or than is usually and commonly asked or received for any article or thing kept for sale as aforesaid, or shall refuse or neglect, in person or by his, her, or their employé or agent, directly or indirectly, to accommodate any well-behaved and respectable person as aforesaid in his, her, or their restaurant, eating-house, bar-room, sample-room, ice-cream saloon, or soda-fountain room, or shall refuse or neglect to sell at the common and usual prices aforesaid in and at his, her, or their restaurant, eating-house, bar-room, sample-room, ice-cream saloon, or soda-fountain room, to any such person or persons therein at said prices, any article or thing kept therein and in the room or rooms in which such articles or things are ordinarily sold and served or allowed to be eaten or drank, or shall at any time or in any way or manner, or under any circumstances, or for any reason, cause, or pretext, fail, decline, object, or refuse to treat any person or persons aforesaid as any other well-behaved and respectable person or persons are treated at said restaurant, eating-house, bar-room, sample-room, ice-cream saloon, or soda-fountain room, he, she, or they, on conviction of a disregard or violation of any provision, regulation, or requirement of this act or any part of this act contained, be fined one hundred dollars, and forfeit his, her, or their license; and it shall not be lawful for any officer of the District to issue a license to any person or persons, or their agent or agents, whose license may be forfeited under the provisions of this act for one year after such forfeiture: *Provided*, That the provisions of this act shall be enforced by information in the Police Court of the District of Columbia, filed on behalf thereof by its proper attorney or attorneys, subject to appeal to the Criminal Court of the District of Columbia in the same manner as is now or may be hereafter provided for the enforcement of the District fines and penalties under ordinances and law.

Proviso.

Ibid., sec. 4.

SEC. 155. If any male or female criminal shall run away before the time shall be fully expired for which such criminal shall be convicted and adjudged, the time of service and labour of such criminal shall be extended by the said justices, not exceeding one year for every time such criminal shall run away.

Convicted criminals running away to serve additional term.

Md. act 1793, ch. 57, sec. 14. 2 Kilty, 447.

SEC. 156. Concerning prisoners which break prison, none from henceforth that breaketh prison shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convict thereupon according to the law and custom of the realm, albeit in times past it hath been used otherwise.*

When it is felony to break prison; when not.

1 Edward II, ch. 2, sec. 1, A. D. 1307. Alex. Brit. Stat., 158. Kilty's Rep., 215.

* It is held that any place whatever, where a person is restrained of his liberty under lawful arrest for a supposed offense, is a prison within this act, whether the common gaol, the street, the house of the constable or of a private person, or as Lord Coke expresses it, 2 Inst., 589.

But the party must be actually imprisoned, for if the sheriff have a *capias* upon an indictment against A. and come to arrest him and is prevented from arresting him, this is not a felony, for A. never was in prison. And there must, too, be an actual forcible breaking of the prison by the prisoner himself; therefore if a stranger break the prison without the prisoner's procurement, or if the door be open and he goes out, or if the gaoler himself lets him out, this is no felony in him, but only a misdemeanor.

If the prison be set on fire, or struck by lightning, or in any like case of inevitable necessity not produced by the prisoner himself, he may break it to escape. And no breach of a prison will amount to a felony unless the prisoner escape. 2 Inst. (*supra*).

The words "have judgment of life or member" mean "shall be guilty of felony." If therefore the party were arrested for an offense, such as petty larceny, or homicide in self defense, etc., which do not require judgment of life or member, a prison breach by him is no felony. All such offenses, however, are high misdemeanors, and punishable by fine and imprisonment, "for it can not be thought the meaning of the statute, in ordaining that such offenses shall not be punished as capital ones, to intend that they shall not be punished at all." 2 Hawk., P. C., 128.

The rescue of or forcibly freeing another from arrest or imprisonment is in most instances of the same nature as the offense of prison breaking.

Priests or clerks shall not be arrested during divine service.

50 Edward III, ch. 5, sec. 1, AD. 1376.

Alex. Brit. Stat., 178, 179.

Kilty's Rep., 44.

SEC. 157. Item, Because that complaint is made to our lord the King by the clergy of his said realm of England, that as well divers priests bearing the sweet body of our Lord Jesus Christ to sick people, and their clerks with them, as otherwise divers other persons of holy church, whiles they attend to divine services in churches, churchyards, and other places dedicate to God, be sundry times taken and arrested by authority royal, and commandment of other temporal lords, in offence of God, and of the liberties of holy church, and also in disturbance of divine services aforesaid; the same our lord the King, who would be sore displeased if any did in such manner, will and granteth, and defendeth upon grievous forfeiture, that none do the same from henceforth, so that collusion or feigned cause be not found in any of the said persons of holy church in this behalf.

Penalty for arresting of priests during divine service; imprisonment, severe fine, and civil action.

1 Richard II, ch. 15, sec. 1, A. D. 1377.

Alex. Brit. Stat., 183, 184.

Kilty's Rep., 222.

SEC. 158. Item, Because that prelates do complain themselves, that as well beneficed people of holy church, as other, be arrested and drawn out as well of cathedral churches, as of other churches and their churchyards, and sometime whiles they be intended to divine services, and also in other places. although they be bearing the body of our Lord Jesus Christ to sick persons, and so arrested and drawn out, be bound and brought to prison against the liberty of holy church: (2) it is ordained, that if any minister [of the King,] or other, do arrest any person of holy church by such manner, and thereof be duly convict, he shall have imprisonment and then be ransomed [at the King's will,] and make gree to the parties so arrested: (3) *Provided always*, That the said people of holy church shall not hold them within the churches or sanctuaries by fraud or collusion in any manner. *

* The word "ransomed" means, severely fined. 6 D. C. Reports, 53 U. S. vs. Griffin.

CHAPTER SEVENTEEN.

DEBT AND MONEY.

- | Sec. | Sec |
|--|--|
| 1. Debt of District not to be increased. Penalty for violation of this section. | 13. Same subject, interest on said bonds payable by Treasury. |
| 2. Commissioners of sinking fund abolished; Treasurer of United States to exercise their duties. | 14. Additional certificates of indebtedness, power to issue annulled. Sewer certificates, further issue of, prohibited. |
| 3. Treasurer's power to sell bonds to pay judgments of Court of Claims, etc. | 15. Funding liabilities of city of Washington; issuance of bonds and taxation for same; certain unsold bonds, negotiation of. |
| 4. Same, may purchase funded debt of District for sinking fund. | 16. Appropriations for interest and sinking fund; how deposited; balances, how treated by Treasurer. Interest on appropriations for water supply, how disbursed; duties of Treasurer as to amount due United States. |
| 5. Retained money on contracts not to be invested, except, etc. | 17. Eight per cent certificates and coupons of all bonds paid, to be destroyed. |
| 6. Certain bonds, etc., to be destroyed, etc. | 18. Interest of sinking-fund appropriation, balances to be consolidated in Treasury. |
| 7. Three-sixty-five bonds may be issued in lieu of others. | 19. Improvement and repair act of the legislative assembly, etc., approved. |
| 8. Issuance of twenty-year 5 per cent bonds to redeem funded debt. form of bonds, etc. | 20. Certificates of indebtedness of city of Washington, certain of, to be used only for payment of indebtedness due June 6, 1871. |
| 9. Same subject, sale of bonds and disposition of proceeds. | 21. Penalty for violation of section 20 of this chapter. |
| 10. Same subject, repeal clause. | |
| 11. Same subject, issuance of said bonds; proviso, limit of issue. | |
| 12. Issuance of fifty year 3.65 bonds: such bonds exempt from taxation: payment of interest on, secured; bonds to be numbered and registered: frauds in issue of, prevented: to be exchanged for other indebtedness. (See Section 22 of this chapter.) | |

Sec.
22. Amendment to section 12 of this chapter. Registered bonds may be issued for coupon bonds; the interest, where payable.
23. Annual report of sinking fund.
24. Sinking-fund bonds to be registered.
25. Revenues and appropriations to be deposited in Treasury. How withdrawn and accounted for.

Sec.
26. Money from sale of animals or other property (except water department) to be paid into Treasury; disposition of same.
27. Money received for taxes not to be diverted from legitimate objects.

SEC. 1. There shall be no increase of the present amount of the total indebtedness of the District of Columbia; and any officer or person who shall knowingly increase, or aid or abet in increasing, such total indebtedness, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by imprisonment not exceeding ten years, and by fine not exceeding ten thousand dollars.

Debt of District not to be increased; penalty.
Mar. 14, 1876.
19 Stat., 211, sec. 2.
1878, June 11, ch. 180, sec. 13. 1880, June 16, ch. 243. 1881, Mar. 3, ch. 134, sec. 4.

SEC. 2. The offices of sinking-fund commissioners are hereby abolished; and all duties and powers possessed by said commissioners are transferred to, and shall be exercised by, the Treasurer of the United States, who shall perform the same in accordance with the provisions of existing laws.

U. S. Treasurer to be sinking-fund commissioner.
16 Opin. Att'y Gen., 632.
June 8, 1878.
20 Stat., ch. 170, sec. 7, p. 107. 1 Sup. R. S., 345; 2 ed., *ibid.*, 179.

SEC. 3. The Treasurer of the United States, as ex-officio sinking-fund commissioner, is hereby authorized, whenever in his opinion it will be more advantageous for the interest of the District of Columbia to do so, to sell the bonds authorized to be issued under the provisions of the sixth section of the act of the Congress of the United States entitled "An act to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes," approved June sixteenth, eighteen hundred and eighty, for the satisfaction of the judgments which may be rendered by said Court of Claims under the provisions of said act, and pay the said judgments from the proceeds of said sales, instead of delivering to said judgment claimants the said bonds as provided for in said act:

Treasurer may sell bonds to pay certain judgments of Court of Claims, etc.
Mar. 3, 1881.
21 Stat., 458.
1880, June 16, ch. 245, sec. 6.

SEC. 4. Hereafter the said Treasurer, as ex-officio sinking-fund commissioner as aforesaid, with the approval of the Secretary of the Treasury, is hereby authorized and empowered to purchase any of the funded indebtedness of said District of Columbia for the sinking-fund authorized to be created for the redemption and payment of the indebtedness of said District of Columbia, as in his opinion may be for the best interests of said District of Columbia.

Treasurer may purchase funded debt of District for the sinking fund.
21 Stat., 284.
2 Sup. R. S., 322.

SEC. 5. The Treasurer of the United States, as Commissioner of the Sinking-Fund of the District of Columbia, shall not be compelled hereafter to invest money retained from District contracts hereafter entered into; but may, in his discretion retain said funds without interest, or invest the same in any class of United States, or District of Columbia bonds, at the request and at the risk, of the contractor, whenever the sum retained on any contract shall reach the sum of one hundred dollars or more. Any sum less than one hundred dollars shall be retained without interest as above.

Retained money on contracts not to be invested; disposition by Treasurer of United States.
Mar. 3, 1887.
24 Stat., ch. 355, p. 501.
2 Sup. R. S., 559.

SEC. 6. The commissioners of the District of Columbia and the Treasurer of the United States as * commissioners of the sinking fund of said District, shall destroy by burning all bonds, sewer certificates and other obligations of every kind of the city of Wash-

Bonds, certificates, etc., re-deemed to be destroyed.

* See sec. 7, ch. 170, act of Congress, June 8, 1878, 20 Stat., 107.

Mar. 3, 1875. 18 Stat., 501, sec. 16.
1 Sup. R. S., 193.

ington the city of Georgetown or the District of Columbia whatsoever heretofore paid or redeemed by either of said boards under the direction of the Secretary of the Treasury and shall preserve the evidence thereof as shall be prescribed by said Secretary.

Three-sixty-five bonds may be issued in lieu of others.
Ibid., sec. 18.

SEC. 7. The three-sixty-five registered bonds of the District of Columbia, authorized by acts of Congress, approved June twentieth, eighteen hundred and seventy-four, and February twentieth, eighteen hundred and seventy-five, in lieu of coupon bonds, may be issued in denominations of one thousand dollars and five thousand dollars.

Commissioners to issue bonds, twenty-year 5 per cent to redeem funded debt.
June 10, 1879. 21 Stat., 9.

SEC. 8. The Commissioners of the District of Columbia are hereby authorized to prepare, execute, and deposit with the Secretary of the Treasury of the United States bonds of the District of Columbia, bearing interest not exceeding five per centum per annum, and payable twenty years after date, to the amount of not more than one million two hundred thousand dollars, the proceeds to be used only for the redemption of funded indebtedness of said District or of the late municipal corporations of Washington and Georgetown which became due January first and March first, eighteen hundred and seventy-nine, or those now existing and payable at pleasure, for the redemption of which the sinking fund of said District may not provide. Said five per centum bonds shall be in such form and denominations as the Secretary of the Treasury shall approve, and shall be numbered consecutively and registered in the office of the auditor of said District, and also in the office of the Register of the Treasury of the United States, in such manner as the Secretary of the Treasury may direct, and shall bear the seal of the District of Columbia: *Provided*, That this act shall not be construed to make the government of the United States liable for either the principal or interest of said bonds, or any part thereof.

Form, etc.

Proviso.

Sale of bonds and disposition of proceeds.
Ibid.

SEC. 9. Said bonds shall be sold by the Secretary of the Treasury to the highest bidder upon public tender, but for not less than their par value, after being advertised for one week in two daily newspapers in the city of Washington and two in the city of New York. The bids shall be opened by the Secretary of the Treasury and the awards approved by him. The money realized from the sale of said bonds shall be paid out by the Secretary of the Treasury only for the purposes named in this act.

Repeals.

Ibid., sec. 2.

SEC. 10. The provisions of all acts conflicting herewith, and the acts or parts of acts authorizing said Commissioners of the District of Columbia to issue bonds to redeem certain bonds of said District falling due January first and March first, eighteen hundred and seventy-nine, no bonds having been issued thereunder, are hereby repealed.

Issue of twenty-year 5 per cent bonds of District of Columbia.

June 8, 1880. 21 Stat., 165. 1879, ch. 17. Stat. I, sess. I.

SEC. 11. The act entitled "An act authorizing the Commissioners of the District of Columbia to issue twenty-year five per centum bonds of the District of Columbia to redeem certain funded indebtedness of said District," approved June tenth, eighteen hundred and seventy-nine, is hereby so amended as to authorize the Commissioners of said District to issue registered bonds as well as coupon bonds upon the terms and conditions and in the manner provided in said act; and the Secretary of the Treasury be, and hereby is, authorized to exchange registered bonds for coupon bonds already issued under the authority of the act approved June tenth, eighteen hundred and seventy-nine, and to sell either the registered or coupon bonds, as may be most to the benefit of the said District, at not less than their par value, in the redemption of the said funded indebtedness of said District: *Provided*, That the amount of both the reg-

Proviso.

istered and coupon bonds so issued or exchanged, with those already issued under said act, shall not exceed the amount of one million two hundred thousand dollars, as provided in said act of June tenth, eighteen hundred and seventy-nine.

Limit to issue bonds.

SEC. 12. The sinking-fund commissioners of said District are hereby continued; and it shall be the duty of said sinking-fund commissioners to cause bonds of the District of Columbia to be prepared, in sums of fifty and five hundred dollars, bearing date August first, eighteen hundred and seventy-four, payable fifty years after date, bearing interest at the rate of three and sixty-five hundredths per centum per annum, payable semi-annually, to be signed by the secretary and the treasurer of said sinking-fund commissioners and countersigned by the comptroller of said District, and sealed as the board may direct; which bonds shall be exempt from taxation by Federal, State, or municipal authority, engraved and printed at the expense of the District of Columbia, and in form not inconsistent herewith. And the faith of the United States is hereby pledged that the United States will, by proper proportional appropriations as contemplated in this act, and by causing to be levied upon the property within said District such taxes as will [do so] provide the revenues necessary to pay the interest on said bonds as the same may become due and payable, and create a sinking-fund for the payment of the principal thereof at maturity. Said bonds shall be numbered consecutively, and registered in the office of the comptroller of said District, and shall also be registered in the office of the Register of the Treasury of the United States, for which last named registration the Secretary of the Treasury shall make such provision as may be necessary. And said commissioners shall use all necessary means for the prevention of any unauthorized or fraudulent issue of any of such bonds. And the said sinking-fund commissioners are hereby authorized to exchange said bonds at par for like sums of any class of indebtedness in the preceding section of this act named, including sewer taxes or assessments paid, evidenced by certificates of the auditing board provided for in this act.*

Sinking-fund commissioners to issue fifty year 3.65 bonds; exempt from taxation.

June 20, 1874.
18 Stat., 120,
sec. 7.
2 Sup. R. S., 23.

Faith of the United States pledged to secure the payment of interest, etc.

Bonds to be numbered and registered.

Prevention of fraudulent issues.

Exchange of bonds for other indebtedness.

SEC. 13. Hereafter the Secretary of the Treasury shall pay the interest on the three-sixty-five bonds of the District of Columbia issued in pursuance of the act of Congress approved June twentieth, eighteen hundred and seventy-four, when the same shall become due and payable; and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia, as hereinbefore provided.

Interest on 3.65 bonds, payable by Secretary of the Treasury.

June 11, 1878.
20 Stat., 105,
2 Sup. R. S., 176,
177. 1874, ch. 337.
18 Stat., 116.

SEC. 14. The authority conferred on the board of public works to issue additional certificates of indebtedness by section four of the act of the legislative assembly approved on the twenty-ninth day of May, eighteen hundred and seventy-three, is hereby annulled. No property shall be advertised for sale or sold for the collection of any assessment authorized by the legislative assembly by the act entitled "An act creating drainage and sewerage sections in the cities of Washington and Georgetown, in the District of Columbia, and providing for the payment of the construction of sewers and drains therein by assessments and issuing certificates therefor" approved on the twenty-sixth day of June, eighteen hundred and seventy-three, until otherwise ordered by Congress; and it shall be unlawful to issue any further certificates of indebtedness authorized by said act.

Annulment of certain powers granted by legislative assembly.

No property to be advertised or sold for sewer taxes.

Further issue of sewer certificates prohibited.

June 20, 1874.
18 Stat., 120,
sec. 8.

*The words "do so" in brackets, in this section, were added by act of Feb. 20, 1785, 18 Stat., p. 332, ch. 94: see also 2 ed. Sup. R. S. p., 64.

Approval of act of the legislative assembly.

Certain unsold bonds not to be negotiated at less than par.

Ibid., sec. 10.

¹ Acts of Leg. Assem., ch. 34, p. 51.

Appropriations for interest and sinking fund for water bonds to be deposited to credit of interest and sinking fund for funded debt, etc.

July 5, 1884.

23 Stat., 131, sec. 1.

Treasurer United States to invest certain balances in bonds of District of Columbia in his discretion.

Interest on amount appropriated for increase of supply of water, etc., to be drawn only on requisition of Treasurer United States.

22 Stat., 168.

Proviso.

Treasurer United States to estimate amount to refund to United States, in instalments, with interest, one-half the amount advanced by United States remaining unpaid for increase of water supply. 22 Stat., 170.

Eight per cent certificates of indebtedness and coupons, etc., destruction of, authorized.

July 5, 1884.

23 Stat., ch. 227, p. 131.

Consolidation of unexpended balances of appropriations for interest and sinking fund.

Ibid.

Certain act confirmed.

Sec. 127, R. S. D. C.

SEC. 15. The act of the legislative assembly of the District of Columbia entitled "An act to fund unsettled liabilities of the city of Washington, and providing for the issuing of the bonds, and levying and collecting taxes to pay the same" approved June twentieth, eighteen hundred and seventy-two,¹ is hereby ratified and approved: but none of the bonds authorized by said act remaining unsold shall be negotiated or sold at less than par.

SEC. 16. The Commissioners of the District of Columbia are directed to deposit the amount annually appropriated for interest and sinking-fund for the water-bonds to the credit of the appropriation for interest and sinking-fund for the funded indebtedness of the District of Columbia; and that the Treasurer of the United States, as sinking-fund commissioner of the District of Columbia, shall, after paying the interest on the funded indebtedness of the District, including the interest on the water-bonds, out of the combined funds, invest the balance thereof on account of the several sinking-funds in such bonds of the District of Columbia, including the water-bonds, as he may deem most advantageous; to pay interest on one-half of all moneys already advanced, and that may be advanced to July first, eighteen hundred and eighty-five, by the United States (excepting the amounts advanced for constructing fishways), under the provisions of an act approved July fifteenth, eighteen hundred and eighty-two, entitled "An act to increase the water supply of the city of Washington, and for other purposes," thirty thousand dollars, or so much thereof as may be required, said amount to be drawn from the Treasury only on the requisition of the Treasurer of the United States: *Provided*, That hereafter it shall be the duty of the Commissioners of the District of Columbia to include in their annual estimates for the expenses of the water department an estimate, to be made by the Treasurer of the United States, of the amount necessary to refund, in not less than twenty-five annual instalments, one half of the amount advanced by the United States under the said act of July fifteenth, eighteen hundred and eighty-two, with interest on said amount at the rate of three per centum per annum, computed annually on the principal sum remaining unpaid; in all, one hundred and eighty-six thousand three hundred and forty-nine dollars.

SEC. 17. The Treasurer of the United States is hereby authorized to cause to be destroyed, in the same manner as United States securities are destroyed, all the eight per centum certificates of indebtedness, and coupons thereof, together with all coupons of other District of Columbia bonds due prior to July, eighteen hundred and seventy-eight, which have been or may hereafter be paid or retired by payment of taxes or by purchase.

SEC. 18. Any balances now unexpended of the appropriations for interest and sinking-fund for the District of Columbia may be consolidated on the books of the Treasury Department, and hereafter any amount appropriated for any fiscal year may be consolidated with the unexpended balances of the appropriations for the same purpose for the years preceding.

SEC. 19. The act of the legislative assembly, approved July tenth, eighteen hundred and seventy-one, entitled "An act making appropriations for improvements and repairs in the District of Columbia, and providing for the payment thereof" is approved, ratified, and confirmed.

SEC. 20. The certificates of indebtedness of the corporation of Washington, issued by authority of acts of Congress of July seventh and fifteenth, eighteen hundred and seventy, shall be used for no other purpose than the payment of the ascertained indebtedness of said corporation on the sixth day of June, eighteen hundred and seventy.

Restrictions upon use of certain certificates of indebtedness.

Sec. 128, R. S. D. C.

7 July, 1870, ch. 212, secs. 6, 7, v. 16, p. 191.

SEC. 21. Any person who shall violate the provisions of the preceding section shall be deemed guilty of a misdemeanor in office, and be dismissed therefrom.

Penalty for violation of preceding section.

Sec. 129, R. S. D. C.

SEC. 22. The seventh section of the act of Congress entitled "An act for the government of the District of Columbia, and for other purposes," approved June twentieth, eighteen hundred and seventy-four, is hereby, amended by inserting the words "do so" after the fortieth word following the first period in said section, so that it will read: "And the faith of the United States is hereby pledged that the United States will, by proper proportional appropriations as contemplated in this act, and by causing to be levied upon the property within said District such taxes as will do so, provide the revenues necessary to pay the interest on said bonds as the same may become due and payable, and create a sinking fund for the payment of the principal thereof at maturity": *Provided*, That registered bonds may be issued in lieu of coupon bonds as provided in said act or exchanged for coupon bonds already issued, and the interest of all said bonds shall be payable at the Treasury of the United States.

Amending, 1874, c. 337, s. 7; *ante*, p. 120.

Registered bonds may be issued for coupon bonds; the interests, where payable.

Feb. 20, 1875, 18 Stat., ch. 94, p. 332.
2 Sup. R. S., 64.

SEC. 23. The *Treasurer of the United States*, as [commissioner of the sinking-fund] shall, on or before the first day of January in each year, cause to be placed on record in the office of the *Assessor* [register] of said District, a full and complete report of all their acts.

Treasurer to make annual report as sinking-fund commissioner.

Sec. 135, R. S. D. C.

SEC. 24. A proper registry shall be kept in the office of the *Assessor* [register] of the District of the number, denomination, and date of issue of the bonds mentioned in the preceding sections, and to whom such bonds were issued.

Registry of sinking-fund bonds to be kept.

Sec. 136, R. S. D. C.

SEC. 25. Hereafter all moneys appropriated for the expenses of the government of the District of Columbia, together with all revenues of the District of Columbia from taxes or otherwise, shall be deposited in the Treasury of the United States, as required by the provisions of section four of an act approved June eleventh, eighteen hundred and seventy eight, and shall be drawn therefrom only on requisition of the Commissioners of the District of Columbia (except that the moneys appropriated for interest and the sinking-fund shall be drawn therefrom only on the requisition of the Treasurer of the United States), such requisition specifying the appropriation upon which the same is drawn; and in no case shall such appropriation be exceeded either in requisition or expenditure; and the accounts for all disbursements of the Commissioners of said District shall be made monthly to the accounting officers of the Treasury by the auditor of the District of Columbia, on vouchers certified by the Commissioners, as now required by law: *Provided*, That said Commissioners shall not make requisitions upon the appropriations from the Treasury of the United States for a larger amount during the fiscal year eighteen hundred and eighty-four than they make on the appropriations arising from the revenues of said District, including one-half of all general taxes paid in drawback certificates during said fiscal year, as required by the third section of the act approved June

Appropriations, together with revenues, to be deposited in U. S. Treasury.

Mar. 3, 1883, 22 Stat., 470.

Disbursement accounts made monthly, etc., by the Commissioners.

21 Stat., 36.

twenty-seventh, eighteen hundred and seventy-nine, entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes."

Moneys from sale of animals or other property (except, etc.) to be paid into Treasury; disposition of same.

Mar. 2, 1839.
25 Stat., ch. 370,
sec. 3, p. 808.
See also 25 Stat.,
p. 329, sec. 3, and
22 Stat., 470.

SEC. 26. Hereafter all moneys received from the sales of animals or material of any sort, purchased under appropriations made for the District of Columbia since July first, eighteen hundred and seventy-eight, other than for the water department, shall be paid into the Treasury of the United States, to the credit of the United States and the District in equal parts; and all balances of appropriations that have been heretofore or that shall be hereafter made for the District of Columbia under section three of the act of June eleventh, eighteen hundred and seventy-eight, entitled "An act providing a permanent form of government for the District of Columbia," heretofore or hereafter remaining unexpended at the end of two years from the close of the fiscal year for which such appropriations have been or shall be made, shall be covered into the Treasury, one-half to the credit of the surplus fund and one-half to the credit of the general fund of the District of Columbia.

Money received from taxes not to be diverted from legitimate objects.

July 7, 1870.
Sec. 116, R. S.
D. C.
16 Stat., 190, 191.

SEC. 27. It shall not be lawful for the District authorities, or any person charged with the disbursements of money in the District, to divert from its legitimate object any money levied or collected as taxes from the people of the District.

CHAPTER EIGHTEEN.

DESCENTS.

Sec.

1. How lands shall descend; order of descent. (For distribution of personalty of intestates, see Administration, *ante*.)
2. No right in lands, etc., shall vest except in children; posthumous children.
3. What persons shall be considered in same degree, etc.
4. Advancements to heirs by intestates, how treated; hotchpot.
5. Entails, dower right, etc., not to be affected, etc.
6. Children legitimized by parents marriage and fathers acknowledgment capable of inheriting, etc.

Sec.

7. Issue of colored persons married according to customs prevailing at time and place of marriage, may take and transmit property by inheritance, etc., as legitimate.
8. Foregoing section to take effect from passage.
9. Posthumous children may take estates.
10. Proviso to preceding section as to marriage or other settlements.
11. Descents shall not bar right of entry, unless disseisor had possession five years.

How lands shall descend.

Md. act 1786, ch. 45, sec. 2.
2 Kilty, 97.
Thomp. Dig., 178.
19 Wallace Rep., 168, Copley *vs.* Cooper; 7 Cranch, Rep., 465, Barnitz *vs.* Casey; 7 Mackey Rep., 331, Geofroy *vs.* Riggs; 6

SEC. 1. If after the commencement of this act, any person seized of an estate in any lands, tenements or hereditaments, lying or being in this *District* [state,] in fee-simple or fee-simple conditional, heretofore or hereafter acquired, or of an estate in fee-tail, to the heirs of the body generally, created and acquired after the commencement of this act, shall die intestate thereof, such lands, tenements or hereditaments, shall descend to the kindred, male and female, of such person, in the following order, to wit: First to the child or children and their descendants, if any, equally, and if no child or descendant, and the estate descended to the intestate on the part of the father, then to the father, and if no father living, then to the brothers and sisters of the intestate of the blood of the father, and their descendants

equally, and if no brother or sister as aforesaid, or descendant from such brother or sister, then to the grand-father on the part of the father, and if no such grand-father living, then to the descendants of such grand-father and their descendants in equal degree equally, and if no descendant of such grand-father, then to the father of such grand-father, and if none such living, then to the descendants of the father of such grand-father in equal degree, and so on, passing to the next lineal male paternal ancestor, and if none such, to his descendants in equal degree without end, and if no paternal ancestor, or descendant from such ancestor, then to the mother of the intestate, and if no mother living, to her descendants in equal degree equally, and if no mother living, or descendants from such mother, then to the maternal ancestors and their descendants in the same manner as is above directed as to the paternal ancestors and their descendants, and if the estate descended to the intestate on the part of the mother, and the intestate shall die without any child or descendants as aforesaid, then the estate shall go to the mother, and if no mother living, then to the brothers and sisters of the intestate of the blood of the mother and their descendants in equal degree equally, and if no such brother or sister, or descendant of such brother or sister, then to the grand-father on the part of the mother¹, and if no such grand-father living, then to his descendants in equal degree equally, and if no such descendant of such grand-father, then to the father of such grand-father, and if none such living, then to his descendants in equal degree, and so on, passing to the next male maternal ancestor, and if none such living, to his descendants in equal degree and if no such maternal ancestor, or descendant from any maternal ancestor, then to the father of the intestate, and if no father living, to his descendants in equal degree equally, and if no father living, or descendant from the father, then to the paternal ancestors and their descendants in the same manner as is above directed as to the maternal ancestors; and if the estate is or shall be vested in the intestate by purchase, and not derived from or through either of his ancestors, and there be no child or descendant of such intestate, then the estate shall descend to the brothers and sisters of such intestate of the whole blood, and their descendants, in equal degree equally,² and if no brother or sister of the whole blood, or descendant from such brother or sister, then to the brothers and sisters of the half blood and their descendants, in equal degree equally,³ and if no brother or sister of the whole or half blood, or any descendant from such brother or sister, then to the father, and if no father living, then to the mother, and if no mother living, then to the grand-father on the part of the father, and if no such grand-father living, then to the descendants of such grand-father in equal degree equally,⁴ and if no such grand-father, or any descendant from him, then to the grand-father on the part of the mother, and if no such grand-father, then to his descendants in equal degree equally,⁵ and so on without end, alternating the next male paternal ancestor and his descendants, and the next male maternal ancestor and his descendants, and giving preference to the paternal ancestor and his descendants, and if there be no descendants or kindred of the intestate as aforesaid to take the estate, then the same shall go to the husband or wife, as the case may be, and if the husband or wife be dead, then to his or her kindred in the like course as if such husband or wife had survived the intestate, and then had died entitled to the estate by purchase, and if the intestate has had more husbands or wives than one, and all shall die before such intestate, then the estate shall be equally divided among the kindred of the several husbands or wives in equal degree equally.^{6*}

* For distribution of personal estate of intestate. See "Administration," ante.

No right shall vest except in children; posthumous children.

Ibid., sec. 3.
2 Kilty, 98.
Thomp. Dig., 180. 65 Md. Rep.,

SEC. 2. That no right in the inheritance shall accrue to or vest in any person other than to children of the intestate and their descendants, unless such person is in being, and capable in law to take as heir at the time of the intestate's death, but any child or descendant of the intestate, born after the death of the intestate, shall have the same right of inheritance as if born before the death of the intestate. 283, *Shriver vs. State*. 'Alex. Brit. Stat., 640.

Who shall be considered in same degree, etc.

Ibid., sec. 4.
2 Kilty, 98.
Thomp. Dig., 181.
2 Peters Rep., 613, *Chirac vs. Reinecker*.

SEC. 3. If in the descending or collateral line any father or mother may be dead, the child or children of such father or mother shall, by representation, be considered in the same degree as the father or mother would have been if living, and shall have the same share of the estate as the father or mother if living would have been entitled to, and no more; and in such case, where there is more children than one, the share aforesaid shall be equally divided among such children.

Advancement and hotchpot.

Ibid., sec. 5.
2 Kilty, 98.
Thomp. Dig., 181.
61 Md. Rep., 604, *Dilley vs. Love*; 27 Md. Rep., 693, *Clark vs. Wilson*.

SEC. 4. Any child or children of the intestate, or their issue, having received from the intestate any real estate by way of advancement, may elect to come into partition with the other parceners, on bringing such advancement into hotchpot with the estate descended, but such child or children, or their issue, shall not be entitled to claim a share by descent, without bringing such advancement into the common stock or hotchpot, if there be another child or children unprovided for.

Entails, etc., not to be affected, etc., nor dower right.

Ibid., sec. 6.
2 Kilty, 98.
15 Md. Rep., 160, *Simpers vs. Simp-ers*; 1 Md. Rep., 163, *Chew vs. Chew*.

SEC. 5. Nothing herein contained shall be construed or taken to alter, or in any manner change the course of descent as heretofore used and established, so as to affect the case of any entail or limitation in tail whatever, made, created and in being, before the commencement of this act, but the same shall, during the continuance of the estate in tail or limitation in tail, and until the same may be legally destroyed or barred, descend according to the course of descent heretofore used and established, nor shall anything herein be taken or construed to interfere with or alter any limitation, grant or gift, by devise, conveyance or otherwise, to special or particular heirs in a different course of descent from what is by this act specified, but in such cases the descent shall be according to the limitation or form of the gift, devise or grant, until the entail shall be legally barred or destroyed, nor shall this, or anything therein contained be taken or construed to bar or affect any widow's right of dower,

Children legitimized by parents' marriage and father's acknowledgment; capable of inheriting, etc.

Ibid., sec. 7.
2 Kilty, 98. Thomp. Dig., 182. 14 Peters Rep., 199, *Brewer vs. Blougher*; 3 Wallace Rep., 176, *Blackburn vs. Crawfords*; 43 Md. Rep., 516, *Hawbecker vs. Hawbecker*; 31 Md. Rep., 116, *Southgate vs. Annan*; 2 Bland Rep., 544, *Helms vs. Franciscus*; 2 Bland Rep., 236, *Campbell's case*; 7 Har. and J. Rep., 1 *Bevans vs. Taylor*; 5 Har. and J. Rep., 10, *Pratt vs. Flamer*.

SEC. 6. If any man shall have one or more children by any woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall in virtue of such marriage and acknowledgment be hereby legitimated, and capable in law to inherit and transmit inheritance as if born in wedlock.

Issue of colored persons married according to custom prevailing at time and place may in District of Columbia take and transmit property

SEC. 7. The issue of any marriage of colored persons, contracted and entered into according to any custom prevailing at the time in any of the States wherein the same occurred, shall, for all purposes of descent and inheritance and the transmission of both real and personal property within the District of Columbia, be deemed and held to be legitimate, and capable of inheriting and transmitting inheritance, and taking as next of kin and distributee according to

law, from and to their parents, or either of them, and from and to those from whom such parents, or either of them, may inherit or transmit inheritance, anything in the laws of such State to the contrary notwithstanding:

Provided, That nothing herein shall be construed as implying that any such marriage is not valid, or such issue legitimate for all other purposes. [See §§ 724, 725, 726, R. S. D. C.]

SEC. 8. This act shall take effect and be in force from and after its passage.

SEC. 9. Whereas it often happens that by marriage and other settlements, estates are limited in remainder to the use of the sons and daughters, the issue of such marriage, with remainders over, without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters, by which means such sons and daughters, if they happen to be born after the decease of their father, are in danger to be defeated of their remainder by the next in remainder after them, and left unprovided for by such settlements, contrary to the intent of the parties that made those settlements:

Be it enacted, &c., That where any estate already is or shall hereafter, by any marriage or other settlement, be limited in remainder to, or to the use of the first or other son or sons of the body of any person lawfully begotten, with any remainder or remainders over to, or to the use of any other person or persons, or in remainder to, or to the use of a daughter or daughters lawfully begotten, with any remainder or remainders to any other person or persons, that any son or sons, or daughter or daughters of such person or persons lawfully begotten, or to be begotten, that shall be born after the decease of his, her, or their father, shall and may, by virtue of such settlement, take such estate so limited to the first and other sons, or to the daughter or daughters, in the same manner as if born in the life time of his, her, or their father, although there shall happen no estate to be limited to trustees, after the decease of the father, to preserve the contingent remainder to such afterborn son or sons, daughter or daughters, until he, she, or they come *in esse*, or are born, to take the same; any law or usage to the contrary in any wise notwithstanding. [See Md. Act 1786, ch. 45, § 3.]

SEC. 10. *Provided always*, That nothing in this act shall extend or be construed to extend to divest any estate in remainder, that, by virtue of any marriage or other settlement, is already come to the possession of any person or persons, or to whom any right is accrued, though not in actual possession, by reason or means of any after-born son or sons, or daughter or daughters not happening to be born in the life time of his, her, or their father.

SEC. 11. Where divers persons of their insatiable minds have heretofore by strength, and without title, entered into manors, lands, tenements, and other hereditaments, and wrongfully disseised the rightful owners and possessors thereof, and so being seised by disseisin, have thereof died seised, by reason of which dying seised, the disseisee, or such other persons as before such descent might have lawfully entered into the said manors, lands, and tenements, were, and be thereby clearly excluded of their entry into the said manors, lands, and tenements, and put to their action for their remedy and recovery therein, to their great costs and charges; (2) for reformation whereof, be it enacted by the authority of this present Parliament.

That the dying seised hereafter of any such disseisor, of, or in any manors, lands, tenements, or other hereditaments, having no

by inheritance, etc., as legitimate.

Feb. 6, 1879.
20 Stat., 282.
Sup. R. S. U. S.,
409.

When act takes effect.

Ibid.
Posthumous children may take estates.

10 and 11 William III, ch. 16, sec. 1, A. D. 1699.
Alex. Brit. Stat., p. 640.
Kilty's Rep., 245.

65 Md. Rep., 278, Shriver vs. State; 11 Gill and J. Rep., 185, Chase vs. Lockerman; 1 Md. Chy. Dec. 212, Conn vs. Conn.

Proviso as to marriage or other settlements.

Ibid., sec. 2.
Alex. Brit. Stat., 641.

Descents shall not bar right of entry, unless disseisor had possession five years.

32 Henry VIII, ch. 33, sec. 1, A. D. 1540.
Alex. Brit. Stat., p. 334.
Kilty's Rep., 232.

right or title therein, shall not be taken or deemed from henceforth any such descent in the law, for to toll or take away the entry of any such person or persons, or their heirs, which at the time of the same descent had good and lawful title of entry into the said manors, lands, tenements, or hereditaments, except that such disseisor hath had the peaceable possession of such manors, lands, tenements, or hereditaments whereof he shall so die seised, by the space of five years next after the disseisin therein by him committed, without entry, or continual claim by or of such person or persons as have lawful title thereunto.

CHAPTER NINETEEN.

DISTRICT OF COLUMBIA, ITS ORGANIZATION AND GOVERNMENT.

- | Sec. | Sec. |
|---|---|
| 1. Congress to exercise exclusive legislation for the District of Columbia. | 25. Powers and authority of governor and board of public works vested in Commissioners; also powers over revenues; also authorized to take possession of books, credits, etc., of District. |
| 2. Territorial area of. (NOTE.—Organic acts 1874 and 1878.) | 26. Executive power is vested in the Commissioners. (NOTE.—Pardons and respites.) |
| 3. Territory named. | 27. Commissioners may pardon and respite for offenses committed against laws enacted by legislative assembly. Commissioners shall commission all officers, etc. |
| 4. Permanent seat of the Government of the United States. | 28. Commissioners' powers as to water service. |
| 5. Created a government and constituted a body corporate for municipal purposes. Powers of, etc. | 29. Same, restricted from making contracts or incurring liability on account of United States, except under appropriations. |
| 6. Property and persons in, subject to existing laws. | 30. All contracts of Commissioners to be in writing, etc., and be filed in office of secretary. |
| 7. A municipal corporation; the Commissioners officers thereof; existing laws continued. | 31. Contracts not to be made until money be appropriated for. |
| 8. Former cities of Washington and Georgetown to continue to be known as such. | 32. Contracts in which Commissioners are interested, void; payment on them prohibited. |
| 9. Charters of Washington and Georgetown and powers of levy court continued for certain purposes. | 33. Contracts for rent of buildings not to be made without previous appropriation by Congress. |
| 10. The District, the successor of the former corporations. | 34. Contracts for removal of garbage, length of, etc. |
| 11. Public offices attached to seat of government to be exercised in the District, and not elsewhere, etc. | 35. Insurance of property regulated. |
| 12. Disqualification for crime, etc., for holding office. | 36. Commissioners, further powers and duties of, application of revenues. |
| 13. Register of wills, recorder of deeds, attorney, and marshal, offices and duties of, remain, etc. | 37. Commissioners may locate hack stands, etc. Penalty for violation of this power. |
| 14. Executive, legislative assembly, board of public works, and delegate abolished. | 38. Commissioners may reduce, adjust, and equalize salaries. |
| 15. Three Commissioners; appointment and powers of. | 39. Commissioners may abolish or consolidate offices. |
| 16. Engineer Commissioner, duties of, limited. | 40. Commissioners may fix pay of Metropolitan police, and price of lighting city lamps. District to pay expenses of health office, Metropolitan police, and lighting city lamps. |
| 17. Assistants to Engineer Commissioner. | 41. Commissioners to control repairs of streets, sewers, etc. |
| 18. Engineer Commissioner's compensation. | 42. Commissioners to disburse on warrant all moneys, etc. |
| 19. Civil Commissioners, qualifications of. | |
| 20. Same subject, their oath of office, salary, and bond. Board of Commissioners, its president, how and when chosen. | |
| 21. Same subject, their term of office. (NOTE.—Unexpired terms.) | |
| 22. Process against District, on whom to be served. | |
| 23. Sureties on bonds, who prohibited. | |
| 24. Powers and property vested in the Commissioners. | |

- | Sec. | Sec. |
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| 43. Commissioners to erect and maintain lamps, etc., outside city limits. | through streets, etc.; dogs and fowls running at large; deposits of litter, etc., on streets; noises and fireworks; passage of vehicles on streets; and prescribe penalties for their violation. |
| 44. Commissioners to submit annual estimates of work proposed to be done, etc. | 67. Rules and regulations made under preceding section to be published. |
| 45. Same subject, as to water department expenses. | 68. Commissioners empowered to make regulations as to construction, repair, and operation of elevators, etc. |
| 46. Same subject, how transmitted to Congress. | 69. Same subject, penalty for refusing to conform to such regulations. |
| 47. Same subject, approval of estimate by Secretary of the Treasury and their transmission to Congress. | 70. Commissioners not to permit telegraph, telephone, and electric light wires to be put on or over streets, etc.; to report to Congress about removal of existing wires; may permit laying of same under streets, etc. |
| 48. Same subject, 50 per cent of approved estimates, to be appropriated by Congress and other half to be raised by taxation. | 71. Same subject, may authorize putting wires under ground. |
| 49. Commissioners to expend appropriations for contingent expenses and account for same and report to Congress. | 72. Commissioners to investigate and report on contracts for lighting by gas and electricity, and invite proposals. |
| 50. Commissioners to report official acts to Congress annually. | 73. District buildings: United States not liable for erection of or site for, and no land or use thereof is granted, etc. |
| 51. Commissioners to pay temporary overseers, etc., of certain works and include same in annual report. | 74. Condemned property to be sold at auction, etc., and proceeds covered into Treasury. |
| 52. Charities, asylums, etc., to report annually to Commissioners, who shall transmit same to Congress, etc. | 75. Oath of civil officers of District. |
| 53. Accounts of Commissioners and other officers to be settled by accounting officers of U. S. Treasury. | 76. District offices created: Collector of taxes; auditor; his chief clerk; inspector and tapper of water mains; attorney; assistant attorney; surveyor; market masters; superintendents of public schools; fire department; fire-alarm telegraph; sealers of weights and measures; inspectors of provisions, wood, coal, lumber, liquors, feed; harbor; master; Washington Asylum, trustees of poor; superintendent of sweeps; officers of burial grounds; secretary to Commissioners; trustees of Corcoran charity and such other officers as may be necessary, etc. |
| 54. Same subject, to be rendered monthly. | 77. Attorney for District, his duties and pay. |
| 55. Repairs of streets, alleys, etc., and laying of pavements; notice to be given in certain newspapers; proposals, how accepted; rights of Commissioners as to bids, etc. (NOTE.—Permit work, etc.) | 78. Same, assistant attorney, his duties and pay. |
| 56. Same subject, contracts for, how entered into and preserved. | 79. Same, may administer oaths. |
| 57. Same subject, bond required of contractor; retention of parts of contract price; provisions as to laying pavements. | 80. Auditor's duties, bond and salary. |
| 58. Costs of laying pavements, sewers, etc.; how paid, and by whom. | 81. Same, chief clerk of, his duties and salary and bond. |
| 59. When railways refuse to pave between tracks, etc.: duties of the Commissioners in relation thereto. | 82. Market masters, their duties and salary. |
| 60. When railways cross streets, etc.; costs of and grade regulated. | 83. Superintendent of meters, additional pay for, but salary limited. |
| 61. Commissioners' duties as to laying water and gas mains, and direct laying and replacing gas mains by Washington Gas Light Company. | 84. Duties, pay, and liabilities of certain officers. |
| 62. Police and school boards abolished; transfer of their duties and authority to Commissioners. | 85. No person to be appointed to office who is not a resident. |
| 63. Commissioners to make building regulations. | 86. Officers of District to take and subscribe oath, etc.; same to be certified and recorded. |
| 64. Building regulations and for sale of coal when made by Commissioners, effect of. | 87. All bonds of officers to be filed with the Secretary. |
| 65. Commissioners to make rules for impounding domestic animals. | 88. Seal of the District, design for. |
| 66. Commissioners to make, modify, and enforce police regulations as to pawnbrokers; junk dealers; second-hand clothing dealers; storage of inflammable substances; street vendors; carriage stands; hack charges; driving of animals | 89. Same subject, custody of seal. |

<p>Sec. 90. Same subject, use of design for seal authorized.</p> <p>91. Police laws extended to Capitol square.</p> <p>92. Time, standard of.</p>	<p>Sec. 93. Fiscal year to commence July 1 of each year.</p> <p>94. Leap year, 29th of February, shall be counted with 28th, and accounted one day.</p>
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Congress to exercise exclusive legislation for this District.

SEC. 1. The Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States.

Constitution U. S., Art. 1, sec. 8, par. 16. 147 U. S. Rep., 298, *Shoemaker vs. U. S.*; *MacArthur and Mackey Rep.*, 171, *Roach vs. Van Riswick*; 1 *Mackey Rep.*, 528, *U. S. vs. Guiteau*; 4 *Mackey Rep.*, 285, *D. C. vs. Oyster*; 4 *Mackey Rep.*, 328, *D. C. vs. Waggaman*; 6 *Mackey Rep.*, 325, *U. S. vs. Crawford*; 9 *Wallace Rep.*, 41, *U. S. vs. Dewitt*; 97 *U. S. Rep.*, 542, *Welch vs. Cook*; 129 *U. S. Rep.*, 141, *Stoutenburgh vs. Hennick*; 139 *U. S. Rep.*, 445, *Talbot vs. Silver Bow County*; 132 *U. S. Rep.*, 1, *Met. Ry. vs. D. C.*

Territorial area.

SEC. 2. The District of Columbia is that portion of the territory of the United States ceded by the State of Maryland for the permanent seat of government of the United States, including the river Potomac in its course through the District, and the islands therein.*

Sec. 1, R. S. D. C.

July 16, 1790, ch. 28, sec. 1. 1 *Stat.*, 130. 1 *Mackey Rep.*, 226, *Railroad vs. D. C.*; 68 *Md. Rep.*, 297, *Briscoe vs. State*; 136 *U. S. Rep.*, 479, *Indiana vs. Kentucky*.

District of Columbia.

SEC. 3. That all the territory which was ceded by the State of Maryland to the Congress of the United States for the permanent seat of the government of the United States shall continue to be designated as the District of Columbia.

June 11, 1878.
20 *Stat.*, 102.
1 *Sup. R. S.*, 339.

Permanent seat of Government.

SEC. 4. All that part of the territory of the United States included within the present limits of the District of Columbia shall be the permanent seat of Government of the United States.

Sec. 1795, R. S. July 16, 1790, ch. 28, sec. 1. 1 *Stat.*, 130.

The District created a government and constituted a body corporate for municipal purposes.

SEC. 5. The District is created a government by the name of the District of Columbia, by which name it is constituted a body corporate for municipal purposes, and may contract and be contracted with, sue and be sued, plead and be impleaded, have a seal, and exercise all other powers of a municipal corporation not inconsistent with the Constitution and laws of the United States and the provisions of this title.

Sec. 2, R. S. D. C.

Feb. 21, 1871. 16 *Stat.*, 419. *MacArthur and M. Rep.*, 253; 103 *U. S. Rep.*, 706, *D. C. vs. Cluss*; 132 *U. S. Rep.*, 7, *Railroad vs. D. C.*; 136 *U. S. Rep.*, 453, *D. C. vs. Woodbury*.

Existing laws.

June 11, 1878.
20 *Stat.*, 102,
sec. 1.
1 *Sup. R. S.*, 339.

SEC. 6. Said District and the property and persons that may be therein shall be subject to the following provisions for the government of the same, and also to any existing laws applicable thereto not hereby repealed or inconsistent with the provisions of this act.

A municipal corporation; the Commissioners thereof; existing laws continued.

SEC. 7. The District of Columbia shall remain and continue a municipal corporation, as provided in section two of the Revised Statutes relating to said District, and the Commissioners herein provided for shall be deemed and taken as officers of such corporation; and all laws now in force relating to the District of Columbia not inconsistent with the provisions of this act shall remain in full force and effect.

June 11, 1878.
20 *Stat.*, 102.

Former cities of Washington and Georgetown to

SEC. 8. That portion of the District included within the limits of the city of Washington, as the same existed on the twenty-first day

* The organic acts were passed, June 20, 1874, 18 *Stat.*, ch. 337, p. 116; 1 *Sup. R. S.*, 53, and June 11, 1878 (20 *Stat.*, ch. 180, p. 102; 1 *Sup. R. S.*, 339). See also, 2 ed. *Sup. R. S.*, pp. 22 and 173.

of February, eighteen hundred and seventy-one, shall continue to be known as the city of Washington, and that portion of the District included within the limits of the city of Georgetown, as the same existed at that date, shall continue to be known as the city of Georgetown.

continue to be known as such.

Sec. 94, R. S. D. C.

SEC. 9. The charters of the cities of Washington and Georgetown severally, and the powers of the levy court of the District of Columbia, shall be continued for the following purposes, to wit :

Charters of Washington and Georgetown, and powers of levy court continued for certain purposes.

First. For the collection of all sums of money due to said cities respectively, or to the levy court ;

Second. For the enforcement of all contracts made by said cities, respectively, or by the levy court, and all taxes assessed prior to the twenty-first day of February, eighteen hundred and seventy-one, remaining unpaid ;

Sec. 95, R. S. D. C.

Third. For the collection of all just claims against said cities, respectively, or against the levy court ;

Fourth. For the enforcement of all legal contracts against said cities, respectively, or against the levy court, until the affairs of said cities, respectively, and of the levy court, shall have been fully closed ;

And no suit in favor of or against said corporations, or either of them, shall abate by reason of the passage of the act "to provide a government for the District of Columbia," approved February 21, 1871, but the same shall be prosecuted to final judgment as if said act had not been passed.

SEC. 10. The District of Columbia is the successor of the corporations of Washington and Georgetown, and all the property of said corporations, and of the county of Washington, is vested in the District of Columbia. [See §§ 313-316, R. S. D. C.]

District of Columbia the successor of the former corporations.

Sec. 96, R. S. D. C.

SEC. 11. All offices attached to the seat of Government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law. [See §§ 4798, 4799.]

Public offices to be exercised at seat of Government.

Sec. 1796, R. S. U. S. July 16, 1790. 1 Stat., 130.

SEC. 12. No person convicted of bribery, perjury, or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, upon final judgment, duly recovered according to law, all such moneys due from him, shall be eligible to any office of profit or trust in the District.

Disqualification for holding office for crime.

Sec. 86, R. S. D. C.

SEC. 13. The offices and duties of register of wills, recorder of deeds, United States attorney, and United States marshal for the District, remain as under laws existing on the twenty-first day of February, eighteen hundred and seventy-one, till modified by act of Congress.

Register of wills, recorder of deeds, attorney, and marshal, their offices and duties remain.

Sec. 90, R. S. D. C.

SEC. 14. All provisions of law providing for an executive, for a secretary for the District, for a legislative assembly, for a board of public works, and for a delegate in Congress from the District of Columbia are hereby repealed.

Executive, legislative assembly, board of public works, etc., of District of Columbia abolished.

June 20, 1874. 18 Stat., 116, ch. 337, sec. 1. 1 Sup. R. S., 53.

SEC. 15. The President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint two persons, who, with an officer of the Corps of Engineers of the

Three Commissioners: appointment of and powers.

June 11, 1878. United States Army, whose lineal rank shall be above that of captain, shall be Commissioners of the District of Columbia, and who, from and after July first, eighteen hundred and seventy-eight, shall exercise all the powers and authority now vested in the Commissioners of said District, except as are hereinafter limited or provided, and shall be subject to all restrictions and limitations and duties which are now imposed upon said Commissioners.

Engineer Commissioner, duties of, limited. SEC. 16. The Commissioner who shall be an officer detailed, from time to time, from the Corps of Engineers, by the President, for this duty, shall not be required to perform any other, [nor shall he receive any other compensation than his regular pay and allowances as an officer of the Army.]

June 11, 1878.
20 Stat., 103.

Assistants to Engineer Commissioner. SEC. 17. The President of the United States may detail from the Engineer Corps of the Army not more than two officers, of rank subordinate to that of the engineer officer belonging to the Board of Commissioners of said District to act as assistants to said Engineer Commissioner, in the discharge of the special duties imposed upon him by the provisions of this act.

June 11, 1878.
20 Stat., 107.

Compensation of Engineer Commissioner. SEC. 18. The Engineer Commissioner shall be entitled to receive such compensation, in addition to his Army pay and allowances, as will make his compensation equal to five thousand dollars per annum.

Mar. 3, 1881. 21 Stat., ch. 134, p. 460.

Civil Commissioners, qualifications of. SEC. 19. The two persons appointed from civil life shall, at the time of their appointment, be citizens of the United States, and shall have been actual residents of the District of Columbia for three years next before their appointment, and have, during that period, claimed residence nowhere else.

June 11, 1878.
20 Stat., 103.

President of board of Commissioners. SEC. 20. And one of said three Commissioners shall be chosen president of the Board of Commissioners at their first meeting, and annually and whenever a vacancy shall occur, thereafter; and said Commissioners shall each of them, before entering upon the discharge of his duties, take an oath or affirmation to support the Constitution of the United States, and to faithfully discharge the duties imposed upon him by law; and said Commissioners appointed from civil life, shall each receive for his services a compensation at the rate of five thousand dollars per annum, and shall, before entering upon the duties of the office, each give bond in the sum of fifty thousand dollars, with surety as is required by existing law.

June 11, 1878.
20 Stat., 103.

Term of office of civil Commissioners. SEC. 21. The official term of said Commissioners appointed from civil life shall be three years, and until their successors are appointed and qualified; but the first appointment shall be one Commissioner for one year and one for two years, and at the expiration of their respective terms their successor shall be appointed for three years.*

June 11, 1878.
20 Stat., 103.

Service of process against District. SEC. 22. In suits hereafter commenced against the District of Columbia, process may be served on any one of said Commissioners, until otherwise provided by law.

June 20, 1874. 18 Stat., ch. 337, pt. sec. 2, p. 116. 1 Sup. R. S., 54.

Sureties on bonds, given to District, who prohibited. SEC. 23. Neither of said Commissioners, nor any officer whatsoever of the District of Columbia, shall be accepted as surety upon any bond required to be given to the District of Columbia; nor shall any contractor be accepted as surety for any officer or other contractor in said District

June 11, 1878.
20 Stat., 103.

* Attorney-General Devens rendered an opinion July 7, 1880, that the term of office of the Commissioners appointed from civil life is three years, and not for unexpired balance of their predecessors terms.

SEC. 24. As soon as the Commissioners appointed and detailed as aforesaid shall have taken and subscribed the oath or affirmation hereinbefore required, all the powers, rights, duties, and privileges lawfully exercised by, and all property, estate, and effects now vested by law in the Commissioners appointed under the provisions of the act of Congress approved June twentieth, eighteen hundred and seventy-four, shall be transferred to and vested in and imposed upon said Commissioners; and the functions of the Commissioners so appointed under the act of June twentieth, eighteen hundred and seventy-four, shall cease and determine.

Powers and property vested in Commissioners. 1874, ch. 337, 18 Stat., 116.

June 11, 1878. 20 Stat., 103, sec. 3.

SEC. 25. *The Commissioners shall*, until otherwise provided by law, exercise all the power and authority now lawfully vested in the governor or board of public works of said District, except as hereinafter limited; and shall be subject to all the restrictions and limitations now imposed by law on said governor or board;

Commissioners vested with powers of the governor and board of public works.

And shall have power to apply the taxes or other revenues of said District to the payment of the current expenses thereof, to the support of the public schools, the fire department, and the police, and to the payment of the debts of said District secured by a pledge of the securities of said District or board of public works as collateral, and also to the payment of debts due to laborers and employees of the District and board of public works;

June 20, 1874. 18 Stat., 116, ch. 337, sec. 2. 1 Sup. R. S., 53.

And for that purpose shall take possession and supervision of all the offices, books, papers, records, credits, securities, assets, and accounts belonging or appertaining to the business or interests of the government of the District of Columbia and the board of public works, and exercise the power and authority aforesaid.

SEC. 26. The executive power is vested in the *Commissioners* [a Governor].*

Executive power vested in the Commissioners.

Sec. 3 R. S. D. C.

SEC. 27. The *Commissioners* [governor] may grant pardons and respite for offenses against the laws of the District enacted by the legislative assembly thereof. They shall commission all officers appointed under the laws of the District so enacted, and shall take care that the laws be faithfully executed.

Commissioners may grant pardons, and commission officers, etc.

C. 27 Stat. L., ch. 55, p. 22. April 28, 1892. Sec. 6, R. S. D.

SEC. 28. The Commissioners of the District of Columbia shall have all the powers and be subject to all the duties and limitations provided in chapter eight of the Revised Statutes of the United States relating to the District of Columbia,¹ excepting such powers and duties as belong to the Chief of Engineers.

Powers of Commissioners of District of Columbia as to water service.

June 10, 1879. 21 Stat., 9. The water service.

SEC. 29. The *Commissioners* [board of public works] are prohibited from incurring or contracting further liabilities on behalf of the United States in the improvement of streets, avenues, and reservations beyond the amount of appropriations previously made by Congress, and from entering into any contract touching such improvements on behalf of the United States, except in pursuance of appropriations made by Congress.

Restrictions upon making contracts or incurring liabilities on account of the United States.

Sec. 83, R. S. D. C. Jan. 8, 1873, 17 Stat., 405.

SEC. 30. All contracts made by the *Commissioners* [board of public works] shall be in writing, and shall be signed by the parties making the same, and a copy thereof shall be filed in the office of the secretary of the District. [See § 52, R. S. D. C.]

Contracts to be in writing, and copies filed in office of secretary of the District.

*They may grant pardons and respites, 27 Stat. L., ch. 55, p. 22. April, 1892.

Sec. 80, R. S. D. C.

Restrictions upon contracts. SEC. 31. The *Commissioners* [board of public works] have no power to make contracts to bind said District to the payment of any sums of money except in pursuance of appropriations made by law, and not until such appropriations shall have been made.

Sec. 81, R. S. D. C.

Contracts in which Commissioners are interested void. Payments on such contracts prohibited. SEC. 32. All contracts made by the *Commissioners* [board of public works] in which any member of the board shall be personally interested shall be void, and no payment shall be made thereon by the District or any officers thereof.

Sec. 82, R. S. D. C.

Contracts for rent of buildings in Washington not to be made without previous appropriation. SEC. 33. Hereafter no contract shall be made for the rent of any building, or part of any building, in Washington, not now in use by the Government, to be used for the purposes of the Government until an appropriation therefor shall have been made in terms by Congress.

R. S., secs. 3679, 3732; 1877, Mar. 3, ch. 106; 1880, June 15, ch. 225; 13 C. Cls., 166. June 22, 1874. 18 Stat., 144. 98 U. S. Rep., 104, *Bradley vs. U. S.*

Contracts for removal of garbage. SEC. 34. That hereafter contracts for removal of garbage may be made for periods not exceeding five years, subject to annual appropriations by Congress.

Act July 5, 1884. 23 Stat., 130.

Insurance of District property. SEC. 35. That hereafter property belonging to the District of Columbia may be insured in advance for periods of five years or less.

Feb. 25, 1885. 23 Stat., 312.

Further powers and duties of Commissioners: application of revenues. SEC. 36. The Commissioners of the District of Columbia shall have power, subject to the limitations and provisions herein contained, to apply the taxes or other revenues of said District to the payment of the current expenses thereof, to the support of the public schools, the fire department, and the police, and for that purpose shall take possession and supervision of all the offices, books, papers, records, moneys, credits, securities, assets, and accounts belonging or appertaining to the business or interests of the government of the District of Columbia, and exercise the duties, powers, and authority aforesaid;

But said Commissioners, in the exercise of such duties, powers, and authority, shall make no contract, nor incur any obligation other than such contracts and obligations as are hereinafter provided for and shall be approved by Congress.

Hack stands may be located by the Commissioners. SEC. 37. The Commissioners shall have power to locate the places where hacks shall stand and change them as often as the public interests require. Any person violating any orders lawfully made in pursuance of this power shall be subject to a fine of not less than ten nor more than one hundred dollars, to be recovered before any justice of the peace in an action in the name of the Commissioners.

June 11, 1878. 20 Stat., 104. 3 Mac Arthur Rep., 267.

Commissioners may reduce, adjust, and equalize salaries. SEC. 38. The commissioners of the District or their successors in office are hereby authorized to reduce, adjust, and equalize the pay or salaries of all officers or employees payable from the funds of the District government in whole or in part: *Provided, however,* That the aggregate sum of pay and salaries shall not be increased beyond the present aggregate amount of pay and salaries.

Mar. 3, 1875. 18 Stat., 501.

Offices may be abolished or consolidated by Commissioners. SEC. 39. Said Commissioners are hereby authorized to abolish any office, to consolidate two or more offices, reduce the number of employees, remove from office, and make appointments to any office under them authorized by law.

1874, June 20. 16 Opin. Att'y Gen., 179. June 11, 1878. 20 Stat., 104. 4 Mackey Rep., 573, *Eckloff vs. D. C.*; *ibid.*, 135, U. S. Rep., 240; 143 U. S. Rep., 18 D. C. cs. Hutton.

SEC. 40. The said Commissioners [*of the District of Columbia*] are hereby authorized to fix the salaries to be paid to the officers and privates of the metropolitan police until otherwise provided by law; and to require the Washington Gas-light Company to light the city lamps at such price as shall to the said Commissioners appear to be just and reasonable.

Commissioners to fix pay of Metropolitan police and of gas company for lighting city lamps.

And all expenses heretofore incurred by the general government for the [board of] health office for the metropolitan police, and for gas inspection, shall hereafter be a charge upon the government of the District.

Expenses therefor and for board of health, etc., to be paid by District.

June 20, 1878. 20 Stat., 208, 209.

SEC. 41. The Commissioners [board of public works] shall have entire control of and make all regulations which they shall deem necessary for keeping in repair the streets, avenues, alleys, and sewers of the city, and all other works which may be intrusted to their charge by Congress. [See §§ 238 245, R. S. D. C.]

Commissioners to control repairs of streets, sewers, etc.

D. C. Feb. 21, 1871. 16 Stat., 427. 149 U.S. Rep., 465, *St. Louis vs. Telegraph Co.*: *ibid.*, 148, U.S. Rep., 92.

Sec. 77, R. S.

SEC. 42. They shall disburse upon their warrant all moneys appropriated by the United States, or the District of Columbia, or collected from property-holders, in pursuance of law, for the improvement of streets, avenues, alleys, and sewers, and roads and bridges.

Commissioners to disburse on warrant all moneys, etc.

[See §§ 110-118.] Sec. 78, R. S. D. C.

SEC. 43. Said Commissioners shall have power to erect light, and maintain lamp posts, with lamps, outside of the city limits, when, in their judgment, it shall be deemed proper or necessary.

Lights and lamp-posts to be maintained.

June 11, 1878. 20 Stat., 104.

SEC. 44. The said Commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June thirtieth, eighteen hundred and seventy-nine, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof;

Commissioners to submit annual estimates. 1880, June 4, ch. 121, sec. 2. 1881, Mar. 3, ch. 134, sec. 1, par. 5.

Also the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District;

June 11, 1878 20 Stat., 104.

The cost of maintaining all public institutions of charity, reformatories, and prisons belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or District of Columbia;

And also the expenses of the Washington Aqueduct and its appurtenances;

And also an itemized statement and estimate of the amount necessary to defray the expenses of the government of the District of Columbia for the next fiscal year;

Provided, That nothing herein contained shall be construed as transferring from the United States authorities any of the public works within the District of Columbia now in the control or supervision of said authorities.

SEC. 45. Hereafter it shall be the duty of the Commissioners to include in the annual estimates of the District of Columbia estimates of the expenses of the water department:

Annual estimates of District: how made and transmitted.

Mar. 3, 1881. 21 Stat., 458. 1 Sup., R. S., 605.

SEC. 46. The annual estimates of the District of Columbia shall be transmitted to Congress by the Commissioners of the District of Columbia at the same time that the regular annual estimates for

Ibid. 2 Sup. R. S., 322. R. S., sec. 3669.

1878, June 11, ch. 180, sec. 3.
1880, June 4, ch. 121, sec. 2.

Estimates to be considered and approved by Secretary of Treasury.

Commissioners to transmit to Congress.

June 11, 1878.
20 Stat., 104.

Appropriation of 50 per cent of taxation to be made by Congress.

June 11, 1878.
20 Stat., 104.

Contingent expenses, to be expended and accounted for by Commissioners.

R. S., sec. 193, p. 30.

Feb. 25, 1885.
23 Stat., 319.

Commissioners to report to Congress annually.

June 11, 1878. 20 Stat., 108, pt. sec. 12.

Temporary overseers, etc., of certain work to be included in annual report.

July 18, 1888.
25 Stat., 316.

Report to the Commissioners and to Congress of accounts of charities, asylums, etc.

July 18, 1888.
25 Stat., 327.

expenses of the government are submitted by the Secretary of the Treasury and with his action on the same to be printed in the general book of estimates.

SEC. 47. The Secretary of the Treasury shall carefully consider all estimates submitted to him as above provided, and shall approve, disapprove, or suggest such changes in the same, or any item thereof, as he may think the public interest demands; and after he shall have considered and passed upon such estimates submitted to him, he shall cause to be made a statement of the amount approved by him and the fund or purpose to which each item belongs, which statement shall be certified by him, and delivered, together with the estimates as originally submitted, to the Commissioners of the District of Columbia, who shall transmit the same to Congress.

SEC. 48. To the extent to which Congress shall approve of said estimates, Congress shall appropriate the amount of fifty per centum thereof; and the remaining fifty per centum of such approved estimates shall be levied and assessed upon the taxable property and privileges in said District other than the property of the United States and of the District of Columbia; and all proceedings in the assessing, equalizing, and levying of said taxes, the collection thereof, the listing return and penalty for taxes in arrears, the advertising for sale and the sale of property for delinquent taxes, the redemption thereof, the proceedings to enforce the lien upon unredeemed property, and every other act and thing now required to be done in the premises, shall be done and performed at the time and in the manner now provided by law, except in so far as is otherwise provided by this act.

SEC. 49. All appropriations made for contingent expenses of the District of Columbia shall be expended under the direction and in the sole direction of the Commissioners; but such expenditures shall be accounted for in the Treasury Department as other expenditures for the District, and a detailed statement of such expenditures shall be reported to Congress in accordance with section one hundred and ninety-three, Revised Statutes of the United States.

SEC. 50. The said Commissioners shall annually report their official doings in detail to Congress on or before the first Monday of December.

SEC. 51. Overseers and inspectors, temporarily required in connection with sewer, street, or road work, or the construction and repair of buildings and bridges, or any work done under contracts authorized by appropriations shall be paid out of the sums appropriated for the work, and for the time actually engaged thereon; and the Commissioners of the District, in their annual report to Congress, shall report the number of such overseers and inspectors, and their work, and the sums paid to each, and out of what appropriation.

SEC. 52. Hereafter the several institutions included under the heads of asylums, reformatories, industrial schools, and charities named in the annual appropriation acts for the support of the District of Columbia shall report to the Commissioners of the District, on or before the first day of December of each year, a full and detailed account of receipts and expenditures, and all their operations, and said Commissioners shall transmit the same to Congress at the beginning of each regular session, with such suggestions and recommendations as they may deem pertinent, together with estimates for maintaining the same.

SEC. 53. The accounts of said Commissioners, and the tax-collectors, and all other officers required to account, shall be settled and adjusted by the accounting officers of the Treasury Department of the United States.

Accounts to be settled by accounting officers of the Treasury.

June 11, 1878. \ 20 Stat., ch. 170, sec. 4. 1 Sup. R. S., 342, pt. sec. 4.

SEC. 54. The accounts for all disbursements of the Commissioners of said District shall be made monthly to the accounting officers of the Treasury by the auditor of the District of Columbia, on vouchers certified by the Commissioners, as now required by law.

Disbursement accounts made monthly.

July 1, 1882. 22 Stat., ch. 263, p. 144, pt. sec. 3. 1 Sup. R. S., 606.

SEC. 55. When any repairs of streets, avenues, alleys, or sewers within the District of Columbia are to be made, or when new pavements are to be substituted in place of those worn out, new ones laid, or new streets opened, sewers built, or any works the total cost of which shall exceed the sum of one thousand dollars, notice shall be given in one newspaper in Washington and if the total cost shall exceed five thousand dollars, then in one newspaper in each of the cities of New York, Philadelphia, and Baltimore also for one week, for proposals, with full specifications as to materials for the whole or any portion of the works proposed to be done;

Repairs of streets, alleys, etc., and laying of pavements, notice to be given; and proposals, how accepted, etc.

June 11, 1878. 20 Stat., 105, sec. 5.

1 Sup. R. S., 343.

And the lowest responsible proposal for the kind and character of pavement or other work which the Commissioners shall determine upon shall in all cases be accepted:

1879, Mar. 3, ch. 182, sec. 2.

Provided, however, That the Commissioners shall have the right, in their discretion, to reject all of such proposals:

Provided, That work capable of being executed under a single contract shall not be subdivided so as to reduce the sum of money to be paid therefor to less than one thousand dollars.*

SEC. 56. All contracts for the construction, improvement, alteration, or repairs of the streets, avenues, highways, alleys, gutters, sewers, and all work of like nature shall be made and entered into only by and with the official unanimous consent of the Commissioners of the District, and all contracts shall be copied in a book kept for that purpose and signed by said the Commissioners, and no contract involving an expenditure of more than one hundred dollars shall be valid until recorded and signed as aforesaid.

Contracts: how entered into, etc.

June 11, 1878. 20 Stat., 106, pt. sec. 5.

1 Sup. R. S., 343.

SEC. 57. No pavement shall be accepted nor any pavement laid except that of the best material of its kind known for that purpose, laid in the most substantial manner;

And good and sufficient bonds to the United States, in a penal sum not less than the amount of the contract, with sureties to be approved by the Commissioners of the District of Columbia, shall be required from all contractors, guaranteeing that the terms of their contracts shall be strictly and faithfully performed to the satisfaction of and acceptance by said Commissioners; and that the contractors shall keep new pavements or other new works in repair for a term of five years from the date of the completion of their contract;

Provisions as to laying pavements: bond required.

June 11, 1878. 20 Stat., 106.

And ten per centum of the cost of all new works shall be retained as an additional security and a guarantee fund to keep the same in repair for said term, which said per centum shall be invested in registered bonds of the United States or of the District of Columbia and the interest thereon paid to said contractors.

SEC. 58. The cost of laying down said pavement, sewers, and other works, or of repairing the same, shall be paid for in the following proportions and manner, to wit:

When any street or avenue through which a street-railway runs

* For permit work, repairing sidewalks, alleys and see 25 Stat. L., ch. 370, p. 793, 1880.

shall be paved, such railway company shall bear all of the expenses for that portion of the work lying between the exterior rails of the tracks of such roads, and for a distance of two feet from the exterior to such track or tracks on each side thereof, and of keeping the same in repair;

Cost of laying pavements, sewers, etc.; how paid.

June 11, 1878.
20 Stat., 106.

But the said railway companies, having conformed to the grades established by the Commissioners, may use such cobblestone or Belgian blocks for paving their tracks, or the space between their tracks, as the Commissioners may direct;

The United States shall pay one-half of the cost of all work done under the provisions of this section, except that done by the railway companies, which payment shall be credited as part of the fifty per centum which the United States contributes toward the expenses of the District of Columbia for that year; and all payments shall be made by the Secretary of the Treasury on the warrant or order of the Commissioners of the District of Columbia or a majority thereof, in such amounts and at such times as they may deem safe and proper in view of the progress of the work.

Railways refusing to pave.

June 11, 1878.
20 Stat., 106.
1 Sup. R. S., 344.

SEC. 59. If any street railway company shall neglect or refuse to perform the work required by this act, said pavement shall be laid between the tracks and exterior thereto of such railway by the District of Columbia; and if such company shall fail or refuse to pay the sum due from them in respect of the work done by or under the orders of the proper officials of said District in such case of the neglect or refusal of such railway company to perform the work required as aforesaid, the Commissioners of the District of Columbia shall issue certificates of indebtedness against the property, real or personal, of such railway company, which certificates shall bear interest at the rate of ten per centum per annum until paid, and which, until they are paid, shall remain and be a lien upon the property on or against which they are issued together with the franchise of said company; and if the said certificates are not paid within one year, the said Commissioners of the District of Columbia may proceed to sell the property against which they are issued, or so much thereof as may be necessary to pay the amount due, such sale to be first duly advertised daily for one week in some newspaper published in the city of Washington, and to be at public auction to the highest bidder.

Railways crossing streets.

June 11, 1878.
20 Stat., 106.

SEC. 60. When street railways cross any street or avenue, the pavement between the tracks of such railway shall conform to the pavement used upon such street or avenue, and the companies owning these intersecting railroads shall pay for such pavements in the same manner and proportion as required of other railway companies under the provisions of this section.

Water and gas mains, when and how laid.

Duties of Washington Gas Light Company.

June 11, 1878.
20 Stat., 107.

SEC. 61. It shall be the duty of the Commissioners of the District of Columbia to see that all water and gas mains, service pipes, and sewer connections are laid upon any street or avenue proposed to be paved or otherwise improved before any such pavement or other permanent works are put down; and the Washington Gas Light Company, under the direction of said Commissioners, shall at its own expense take up, lay, and replace all gas mains on any street or avenue to be paved, at such time and place as said Commissioners shall direct.

Police and school boards abolished. Transfer of duties to the Commissioners.

June 11, 1878.

SEC. 62. From and after the first day of July, eighteen hundred and seventy-eight, the board of metropolitan police and the board of school trustees shall be abolished; and all the powers and duties now exercised by them shall be transferred to the said Commissioners of the District of Columbia, who shall have authority to employ

such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act.

20 Stat., 107.

SEC. 63. The Commissioners of the District of Columbia be, and they hereby are, authorized and directed to make and enforce such * * * building regulations for the said District as they may deem advisable.

Commissioners to make building regulations.

June 14, 1878.
20 Stat., 131.

SEC. 64. Such rules and regulations made as above provided shall have the same force and effect within the District of Columbia as if enacted by Congress.*

Effect of regulations.

Ibid., sec. 2.

SEC. 65. The Commissioners of the District of Columbia be, and are hereby, authorized to prescribe rules for taking up and impounding of domestic animals found running at large in the District of Columbia.†

Rules as to impounding domestic animals to be made by Commissioners.

June 27, 1879. 21 Stat., 35. 1 Sup. R. S., 495.

SEC. 66. The Commissioners of the District of Columbia are hereby, authorized and empowered to make, modify, and enforce usual and reasonable police regulations in and for said District as follows :

Police regulations.

Commissioners authorized to make regulations concerning:

First. For causing full inspection to be made, at any reasonable times, of the places where the business of pawnbroking, junk-dealing, or second-hand clothing business may be carried on.

Pawnbrokers, junk dealers, and second-hand clothes dealers.

Second. To regulate the storage of highly inflammable substances in the thickly populated portions of the District.

Inflammable substances.

Third. To locate the places where licensed venders on streets and public places shall stand, and change them as often as the public interests require, and to make all the necessary regulations governing their conduct upon the streets in relation to such business.

Street venders.

Fourth. To make needful regulations for the orderly disposition of carriages or other vehicles assembled on streets or public places, and to require vehicles upon such streets and avenues as they deem necessary to pass along on the right side thereof.

Carriage stands.

Fifth. To establish and regulate the charges to be made by owners of hacks and hackney carriages of any kind whatsoever.

Hack charges.

Sixth. To prohibit conducting droves of animals upon such streets and avenues as they may deem needful to public safety and good order.

Droves of animals.

Seventh. To regulate the keeping and running at large of dogs and fowls.

Dogs and fowls.

Eighth. To prohibit the deposit upon the streets or sidewalks of fruit, or any part thereof, or other substance or articles that might litter the same, or cause injury to or impede pedestrians.

Deposits on streets and sidewalks.

Ninth. To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud cries, upon the streets or public places, and to prohibit the use of any fireworks or explosives within such portions of the District as they may think necessary to public safety.

Noises and fireworks.

Tenth. To regulate the movements of vehicles on the public streets and avenues for the preservation of order and protection of life and limb.

Passage of vehicles.

Eleventh. To prescribe reasonable penalties for the violation of any of the regulations in this act mentioned ; and said penalties may be enforced in any court of the District of Columbia having jurisdiction of minor offenses, and in the same manner that such minor offenses are now by law prosecuted and punished.

Penalties for violations.

Jan. 26, 1887.
24 Stat., 368, ch. 49.

* For regulations as to sale of coal, etc., see "weights and measures," *post*.

† See Md. act, 1715, ch. 31; 1 Kilty, 117; 1 Dorsey, 17; 3 MacArthur Rep., 267, *Dennison vs. Gavin*.

- Regulations to be printed. — SEC. 67. That the regulations herein provided for shall, when adopted, be printed in one or more of the daily newspapers published in the District of Columbia; and no penalty prescribed for the violation of said regulations shall be enforced until thirty days after such publication.
- Ibid., sec. 2.
- Regulation of elevators. — SEC. 68. The Commissioners of the District of Columbia are hereby, authorized and directed to make and publish such orders as may be necessary to regulate the construction, repair, and operation of all elevators within the District of Columbia, and prescribe such means of security as may be found necessary to protect life and limb.
- Mar. 3, 1887.
24 Stat., 580.
- Penalty for violation. — SEC. 69. That any person or persons, or corporation, who shall neglect or refuse to comply with the orders made pursuant to this act, shall, upon conviction thereof in the police court of the District of Columbia, be fined not less than ten dollars nor more than one hundred dollars for each offense.
- Ibid., sec. 2.
- Telegraph, etc., wires to be put under ground. — SEC. 70. The Commissioners of the District of Columbia shall not, after the fifteenth day of September, eighteen hundred and eighty-eight, permit or authorize any additional telegraph, telephone, electric lighting or other wires to be erected or maintained on or over any of the streets or avenues of the city of Washington, and the said Commissioners are hereby directed to investigate and report to Congress at the beginning of its next session the best method of removing all electric wires from the air or surface of the streets, avenues and alleys, and the best method of interring the same under ground, and such legal regulation thereof as may be needed; and they shall report what manner of conduits should be maintained by the city of Washington, if any, and the cost of constructing and maintaining the same, and what charge, if any, should be made by the city for the use of its conduits by the persons or corporations placing wires therein, and upon what terms and condition the same should be used when required so to do, and for such investigation, one thousand dollars is hereby appropriated: *Provided*, That the Commissioners of the District may, under such reasonable conditions as they may prescribe, authorize the wires of any existing telegraph, telephone or electric light company now operating in the District of Columbia, to be laid under any street, alley, highway, footway or side-walk in the District, whenever in their judgment the public interest may require the exercise of such authority—such privileges as may be granted hereunder to be revocable at the will of Congress without compensation and no such authority to be exercised after the termination of the present Congress. [See § 71 of this chapter.]
- July 18, 1888.
25 Stat., 323.
- Proviso.*
Permits.
- Putting wires under ground. — SEC. 71. The Commissioners of the District of Columbia may hereafter, under such reasonable conditions as they may prescribe, authorize the overhead wires of any telegraph, telephone, or electric light company to be laid under any street, alley, highway, footway, or sidewalk in the District, whenever in their judgment the public interest may require the exercise of such authority, such privileges as may be granted hereunder to be revocable at the will of Congress without compensation, and this authority to continue only until the termination of the Fifty-first Congress. [See § 70 of this chapter.]
- Mar. 2, 1889.
25 Stat., 804.
- Report on contracts for lighting by the Commissioners. — SEC. 72. The Commissioners of the District of Columbia shall investigate, ascertain, and report to the first session of the Fifty-first Congress what deduction may be made for gas and electric lighting, both for annual and for five year contracts, and that they be authorized to invite proposals for supplying said light at reduced rates, and in this they are not limited to any one system.
- Mar. 2, 1889.
25 Stat., 800.

SEC. 73. The United States shall not be liable for any expenditures for land for the erection of a building for the District offices, nor for the purchase-money therefor, nor for the buildings to be erected thereon, and no land, or use thereof, is granted under the act of Congress of March third, eighteen hundred and seventy-three, chapter two hundred and twenty-eight, for the purpose of erecting such building.

United States not liable for expenditures for a building for District offices; no land granted for such purpose.

Sec. 235, R. S. D. C. Mar. 3, 1873. 17 Stat., 540.

SEC. 74. Whenever any horses, carriages, or wagons, or property of any description may become unfit for service, in the judgment of the Commissioners, the same shall be sold at auction to the highest bidder, after due advertisement, and the proceeds thereof shall be paid into the Treasury of the United States to the credit of the appropriation out of which the purchase was made.

Property condemned, to be sold at auction, etc.

Mar. 3, 1883. 22 Stat., 470.

[See 25 Stat., § 3, pp. 328, 808.]

SEC. 75. All civil officers in the District shall, before they act as such, respectively take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; and the oath or affirmation provided for by this section, shall be taken and subscribed, certified and recorded, in such manner and form as may be prescribed by law.

Oath of District officers.

Sec. 85, R. S. D. C.

Wash. Law Rep., v. 1, No. 20, p. 101, Derr *et al.* vs. Lubey.

SEC. 76. The following offices be, and the same are hereby, created in and for the District of Columbia, namely:

Certain offices created for the District.

Collector of Taxes.

Auditor.

[Deputy Auditor.] *The chief clerk is ex officio.*¹

Auditor. See organic act 1874, 2 sup. R. S., 23.

Coroner.

Inspector and Tapper of Water-mains.

Attorney.

Assistant Attorney.

Surveyor.

One superintendent of lamps.

Three [four] market masters.

Two [one] superintendents of public schools. [See 25 Stat., p. 800.]

[Secretary of public schools for, and a resident of, that part of the District or Columbia known as the city of Washington.]

Chief Engineer of the Fire Department.

Assistant Engineer of the Fire Department.

Superintendent and two operators of the fire-alarm telegraph.

Sealer of Weights and Measures.

Coroner. Inspector. Attorney.

Surveyor.

Market masters. Officers of public schools.

Fire department.

Sealer of weights and measures.

Inspectors.

Three inspectors of flour and two of salted provisions for, and residents of, the District of Columbia.

Three [five] inspectors and measurers of wood—one for, and resident of, that part of the District of Columbia known as the city of Washington, and one for, and a resident of, that part of said District known as the city of Georgetown; [and one for Anacostia District.]

Two [three] inspectors and weighers of coal—one for, and resident of, Washington, and one for, and a resident of, Georgetown.

Five inspectors and measurers of lumber—four for, and residents of, that part of the District of Columbia known as the city of Washington, and one for, and resident of, that part of said District known as the city of Georgetown.

Two gaugers and inspectors of spiritous liquors—one for, and a resident of, that part of the District of Columbia known as the city of Washington, and one for, and a resident of, that part of said District known as the city of Georgetown.

Gaugers.

Weighers.	Four weighers of hay, straw, and fodder—three for, and residents of, that part of the District of Columbia known as the city of Washington, and one for, and a resident of, that part of said District known as the city of Georgetown.
Harbor master.	One harbor master for, and a resident of, that part of said District known as the city of Georgetown.
Washington asylum.	Intendant of the Washington Asylum. Physician of the Washington Asylum. Resident Student of Washington Asylum.
Trustees of poor.	Two trustees of poor for, and residents of, that part of the District of Columbia known as the city of Georgetown.
Superintendent of sweeps.	Three superintendents of sweeps—two for, and residents of, that part of the District of Columbia known as the city of Washington; and one for, and a resident of, that part of said District known as the city of Georgetown.
Apothecaries.	Apothecaries.
Officers of burial grounds.	Two commissioners of western burial ground. One Sexton of the Western Burial Ground. Two commissioners of the eastern burial ground. One Sexton of the Eastern Burial Ground.
Secretary.	Secretary to the <i>Commissioners</i> [Governor] of the District of Columbia.
Trustees of Corcoran charity.	Three trustees of the "Corcoran Charity," to be appointed from residents of that part of the District of Columbia known as the city of Georgetown.
Other necessary officers.	And such other officers as the <i>Commissioners</i> [Governor and the Legislative Assembly] may, from time to time, find necessary to carry into effect the laws of the District of Columbia.*

Leg. Assem., Aug. 21, 1871, sec. 1, pp. 74, 75.

The attorney for the District, his duties and salary.

1 Leg. Assem., Aug. 23, 1871, ch. 108, sec. 18, p. 150.

SEC. 77. That the attorney for the District of Columbia shall be under the direction of the *Commissioners* [Governor,] and have charge and conduct of all law business of the said District, and all suits instituted by and against the government thereof. He shall furnish opinions in writing to the *Commissioners* [Governor, either branch of the Legislative Assembly, or any committee thereof,] whenever requested to do so. All requests for opinions shall be transmitted through the *Commissioners* [Governor] and a record thereof kept, with the opinions, in the office of the secretary of the District. He shall perform such other professional duties as may be required of him by the *Commissioners* [Governor.] He shall receive an annual compensation of *four* [three] thousand dollars.

The assistant attorney, his duties and salary.

Ibid., sec. 19.

SEC. 78. That the assistant attorney for the District of Columbia shall, under the direction and control of the attorney for the said District, perform such duties as may, with the consent of the *Commissioners* [Governor,] be assigned to him by the said attorney. He shall receive an annual compensation of *two thousand* [fifteen hundred] dollars.

Attorney of District and his assistant to administer oaths.

Leg. Assem., Aug. 19, 1871, sec. 1, p. 48.

SEC. 79. The attorney and the assistant attorney of the District of Columbia be, and are hereby, authorized to administer oaths and affirmations in the discharge of their official duties within the District of Columbia.

Auditor's duties: his bond and salary.

Leg. Assem., Aug. 23, 1871, ch. 108, sec. 10, p. 146.

SEC. 80. It shall be the duty of the auditor of the District of Columbia to audit all accounts against the said District, and also [to compare all accounts against the cities of Washington and Georgetown and the county of Washington created prior to the first

* The office of treasurer abolished; 21 Stat., 460, Mar. 3, 1881.
For list of all District officers and their compensation, see ch. 370; Mar. 2, 1899, 25 Stat., p. 793.
The compensation of District officers, etc., included in the annual appropriation acts of Congress. For the Fiftieth Congressional act, see 25 Stat., p. 793.

day of June, eighteen hundred and seventy-one, and if found correct upon comparison with the appropriations made therefor by the Legislative Assembly, and the report of the special commission to audit said claims, a copy of which shall be filed with the auditor by said commission, to] approve and certify the same. He shall keep a record of all bills certified by him, their amounts, the appropriation to which they are chargeable, and the date of approval. He shall retain in his office the originals of all contracts and agreements not otherwise provided for. He shall also examine and audit all accounts, not otherwise provided for in this act, and certify the amount of the same to the comptroller. He shall countersign all warrants drawn by the comptroller if, upon comparison with the amount certified by him, he shall find the same correct, and shall give bond, to be approved by the *Commissioners* [Governor,] in the sum of twenty thousand dollars, conditioned for the faithful discharge of the duties of his office. He shall receive an annual compensation of three thousand dollars.

SEC. 81. There shall be one chief clerk, for auditor's office who shall hereafter, in the necessary absence or inability of the auditor from any cause, perform his duties, without additional compensation.*

Chief clerk of auditor may act as auditor.

Mar. 2, 1889.
25 Stat., 794.

SEC. 82. The market-masters shall be subject to the direction of the commissioners. Unless prevented by sickness or unavoidable absence, they shall, during market hours, be present at the scale-houses, weigh all articles and provisions brought there for that purpose, see that violations of market regulations are corrected or prosecuted, and perform such other duties as may be prescribed. Their annual compensation shall be as follows, namely: For two market-masters, at one thousand two hundred dollars each; one market-master, nine hundred dollars.

Market-master's duties and salary.

25 Stat., 795.

SEC. 83. That the superintendent of meters be hereafter allowed to draw an additional salary of nine hundred dollars per annum, to be paid by the District government, for his services as superintendent of street lamps under the said government of the District of Columbia. But the aggregate annual salary of said superintendent shall not exceed two thousand one hundred dollars.

Superintendent of meters. additional compensation; but salary limited.

Aug. 7, 1882.
22 Stat., 325.

SEC. 84. The intendant, physician, and resident student of the Washington Asylum, physicians to the poor, apothecaries, commissioners and sextons of the Eastern and Western Burial Grounds, and garbage-masters, shall each perform the same duties, receive the same compensation, and be subject to the same liabilities in their respective localities as are prescribed in existing laws and ordinances in said localities. †

Duties, salaries, and liabilities of certain officers.

1 Leg. Assem., Aug. 23, 1871, ch. 108, sec. 40, p. 158.

SEC. 85. No person shall be appointed to perform the duties of any of the offices herein created, unless he be a resident of the District of Columbia.

To be eligible, persons must be residents of the District.

Leg. Assem., Aug. 21, 1871. sec. 3, pp. 77, 78.

SEC. 86. The said officers [named in this act] shall take and subscribe an oath or affirmation before the *Commissioners* [Governor]

Oath of office; before whom said oath shall be

* The auditor may require the said chief clerk to give bond for the faithful performance of such duties during the absence or inability of the auditor, etc.; 2 Sup. R. S., p. 776; 26 Stat., 233, ch. 724.
† Salaries appropriated under 25 Stat., p. 578, ch. 389:

Intendant	\$1,200	One engineer	\$600	One female keeper	\$300
Matron	600	Assistant engineer	300	One female keeper	180
Visiting physician	1,080	Second assistant engi-		Two cooks, each	120
Resident physician	480	neer	300	Three cooks, each	60
One clerk	400	Five watchmen, each....	365	One nurse	180
Baker	420	Blacksmith	240	Four nurses, each	60
Overseer	400	Hostler	120	One teacher	300
Five overseers, each	400	Ambulance driver.....	120		

taken, how certified and recorded. or secretary of the *board of Commissioners* District of Columbia, or some judge or justice of the peace of said District who may be duly commissioned and qualified, or before the Chief Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths or affirmations, when so taken, shall be certified and transmitted by the person administering the same to the secretary of the said District, to be by him recorded among the executive proceedings.

1 Leg. Assem.,
Aug. 23, 1871, ch.
109, sec. 48, p. 162.

Bonds shall be filed with the Secretary. SEC. 87. All bonds given in pursuance of this act shall be filed in the office of the secretary of the *board of Commissioners* of the District of Columbia.

Ibid., sec. 47, p.
161.

Seal of District adopted. SEC. 88. That the following design be, and the same hereby is, adopted for the seal of the District of Columbia.

Leg. Assem.,
Aug. 3, 1871, sec. 1, p. 24.

To be in custody of secretary of the Commissioners. SEC. 89. The secretary of the District shall have the official charge and custody of said seal.

Ibid., sec. 2.

Use of design for seal authorized. SEC. 90. The use of said design, as the seal of the District, by the executive department of the District government, is hereby approved and legalized.

Ibid., sec. 3.

Police laws of District of Columbia extended to Capitol Square. SEC. 91. All laws and regulations of the District of Columbia for the preservation of the public peace and order shall extend to the Capitol Square, whenever application for the same is requested by the presiding officer of either House of Congress, or by the Chief of U. S. Engineers in charge of public buildings and grounds.

Sec. 1819, R. S. U. S.

Standard of time in District of Columbia. SEC. 92. The legal standard of time in the District of Columbia shall hereafter be the mean time of the seventy-fifth meridian of longitude west from Greenwich.

Mar. 13, 1884.
23 Stat., 4.

Fiscal year to commence on the first day of July. SEC. 93. The fiscal year of said District shall commence on the first day of July in each and every year until otherwise provided by law.

Leg. Assem.,
Aug. 22, 1871, sec. 1, p. 78.

Leap year: that day and the one before shall be accounted one day. SEC. 94. That, to take away from henceforth all doubt and ambiguity, that might arise hereupon, the day increasing in the leap-year shall be accounted for one year, so that because of that day none shall be prejudiced that is impleaded, but it shall be taken and reckoned of the same month wherein it groweth; and that day, and the day next going before, shall be accounted for one day. And therefore we do command you, that from henceforth you do cause this to be published afore you, and be observed.

21 Henry III, A. D. 1236.
Alex. Brit. Stat., 36, 37.
Kilty's Rep., 208.

CHAPTER TWENTY.

EVIDENCE.

- Sec.
1. Mode of proof in actions at law. (NOTE.—Proof in equity; letters rogatory; proof by commission.)
 2. Depositions, *de bene esse*.
 3. Same, mode of taking.
 4. Same, transmission of.
 5. Same, under *dedimus*, in *perpetuam*.
 6. Same, in *perpetuam*.
 7. Same, of seafaring men; how obtained; effect of.
 8. Same, taken under sections 6 and 7 may be read, if witness be dead.
 9. Same, not to extend to boundaries of land.
 10. Same, exceptions.
 11. Same, notice to take.
 12. Same, certificate of judge.
 13. Same, commission may issue.
 14. Same, in *perpetuam*; when admissible.
 15. Same, how taken under *dedimus*.
 16. Subpoena *duces tecum*, under *dedimus*.
 17. Attendance of witnesses under *dedimus*.
 18. Copies of Department records and papers.
 19. Same, in office of Solicitor of Treasury.
 20. Instruments and papers of Comptroller of Currency.
 21. Organization papers of national banks.

- Sec.
22. Transcripts of books, etc., in Treasury Department, in suits against delinquents.
 23. When original records lost or destroyed.
 24. Same subject.
 25. Authentication of acts of legislature and proof of judicial acts.
 26. Proof of records, etc., kept in offices not pertaining to courts.
 27. Copies of foreign records, etc., relating to land titles in United States.
 28. Testimony of witnesses before Congress, not admissible in evidence against them in criminal prosecutions.
 29. Pleadings, disclosures, etc., judicially obtained not to be used against witness or party; exemption not to extend to cases of perjury.
 30. Production of books, etc.
 31. Production of books, etc., in actions at law.
 32. Exemplifications; when good.
 33. Proof of deeds.
 34. Proof of execution of deed, will, bond, bill, or instrument by oath of subscribing witnesses; attestation thereof; in case of death of witness; provisos.

SEC. 1. The mode of proof in the trial of actions at common law shall be by oral testimony and examination of witnesses in open court, except as hereinafter provided.*

Sec. 861, R. S. U. S. 1 Stat., 88. 24 Sept., 1789, ch. 20, sec. 20. 20 Feb., 1812, ch. 25, sec. 3, v. 2, p. 682. 24 Jan., 1827, ch. 4, secs. 1, 2, v. 4, pp. 197, 199. 113 U. S. Rep., 713, *Ex parte Fisk*.

SEC. 2. The testimony of any witness may be taken in any civil cause depending in a district or circuit court by deposition *de bene esse*, when the witness lives at a greater distance from the place of trial than one hundred miles, or is bound on a voyage to sea, or is about to go out of the United States, or out of the district in which the case is to be tried, and to a greater distance than one hundred miles from the place of trial, before the time of trial, or when he is ancient and infirm. The deposition may be taken before any judge of any court of the United States, or any commissioner of a circuit court, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the cause. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition, to the opposite party or his attorney of record, as either may be nearest,

Depositions *de bene esse*.
 Sec. 863, R. S. U. S.
 24 Sept., 1789, ch. 20, sec. 30, v. 1, p. 88.
 1 Mar., 1817, ch. 30, v. 3, p. 350.
 26 Feb. 1853 ch. 80, sec. 1, v. 10, p. 163.
 29 July 1854, ch. 159, sec. 2, v. 10, p. 315.
 9 May, 1872, ch. 146, v. 17, p. 89.
 138 U. S. Rep., 632, *Gormley vs. Bunyan*.

* For proof in equity, see Rule of Court No. 63, Mackey's Practice, p. 123. As to letters rogatory from courts of the United States, see secs. 875, 4071 to 4074, inclusive, R. S. U. S.; also 19 Stat., 240, Feb. 27, 1877. Sup. R. S., 1, ed., p. 266, par. 12. Depositions may be taken by commission. See Md. act, 1773, ch. 7, sec. 3, *post*, title, "Witnesses;" see also Rule of Court No. 63, p. 123, Mackey's Practice.

which notice shall state the name of the witness and the time and place of the taking of his deposition; and in all cases in rem, the person having the agency or possession of the property at the time of seizure shall be deemed the adverse party, until a claim shall have been put in; and whenever, by reason of the absence from the district and want of an attorney of record or other reason, the giving of the notice herein required shall be impracticable, it shall be lawful to take such depositions as there shall be urgent necessity for taking, upon such notice as any judge authorized to hold courts in such circuit or district shall think reasonable and direct. Any person may be compelled to appear and depose as provided by this section, in the same manner as witnesses may be compelled to appear and testify in court.

Mode of taking depositions *de bene esse*.

Sec. 864, R. S. U. S.

24 Sept. 1789, ch. 20, secs. 30, v. 1, p. 88. 9 May, 1872, ch. 146, v. 17, p. 89. 1 MacArthur Rep., 496, Claxton vs. Adams; 149 U. S. Rep., 481, Bibb vs. Allen; 21 Wallace Rep., 191, Doane vs. Glenn; 3 Wall. Rep., 191, Blackburn vs. Crawford; Ibid., 107, York County vs. Railroad. 1 Pet., 351, Bell vs. Morrison; 5 Pet., 604, Patapsco Ins. Co. vs. Southgate; 11 Wall., 659, Cook vs. Burnley; 15 Wall., 151, Shute vs. Thompson; 3 McLean, 383, Doe dem. Moore vs. Nelson *et al.*; 1 Cr., C. C., 523, Jones vs. Knowles; Hemps., 688, Marstin vs. McRae; Hemps., 689, Rainer vs. Haynes; 2 Cr., 195, Thorpe and Burton vs. Simmons; 2 Cr., C. C., 198, Centre vs. Keene; 2 Cr., C. C., 421, Bussard vs. Catalino.

SEC. 3. Every person deposing as provided in the preceding section, shall be cautioned and sworn to testify the whole truth, and carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or by himself in the magistrate's presence, and by no other person, and shall, after it has been reduced to writing, be subscribed by the deponent.

Transmission to the court of depositions *de bene esse*.

Sec. 865, R. S. U. S.

24 Sept. 1789, ch. 20, sec. 30, v. 1, p. 88. 8 Cr., 70, Beale vs. Thompson; 7 Wh., 453, Evans vs. Hettich; 13 Pet., 209, Stein vs. Bowman; 7 How., 693, Harris vs. Wall.; Mart. (N. C.), 81, Jones vs. Neale; 4 McLean, 240, Shankwiker vs. Reading; 2 Cr., C. C., 335, Thorp vs. Orr.

SEC. 4. Every deposition taken under the two preceding sections shall be retained by the magistrate taking it, until he delivers it with his own hand into the court for which it is taken; or it shall, together with a certificate of the reasons as aforesaid of taking it and of the notice, if any, given to the adverse party, be by him sealed up and directed to such court, and remain under his seal until opened in court. But unless it appears to the satisfaction of the court that the witness is then dead, or gone out of the United States, or to a greater distance than one hundred miles from the place where the court is sitting or that, by reason of age, sickness, bodily infirmity, or imprisonment, he is unable to travel and appear at court, such deposition shall not be used in the cause.

Depositions under a *dedimus potestatem* and *in perpetuam*, etc.

Sec. 866, R. S. U. S.

24 Sept., 1789, ch. 20, s. 30, v. 1, p. 88. 9 May, 1872, ch. 146, v. 17, p. 89. 4 Dall., 410, Guppy vs. Brown; 3 Cr., 293, Buddecum vs. Kirk; 4 Wh., 508, Sergeant vs. Biddle; 7 Wh., 453, Evans vs. Hettich; Pet., C. C., 85, Gilpins vs. Consequa; Pet., C. C., 235, Nelson vs. U. S.; Pet., C. C., 301, Willings vs. Consequa; 2 Wash., C. C., 7, Winthrop vs. Insurance Company; 3 Wash., C. C., 109, Richardson vs. Golden; 3 Wash., C. C., 332, Bell vs. Davidson; 3 Wash., C. C., 404, Lonsdale vs. Brown; 4 Wash., C. C., 323, Dodge vs. Israel; 5 Mass., 451, The Schooner Ruby; 1 Gall., 160, Cunningham vs. Otis; 2 Wash., C. C., 223, Leroy vs. Delaware Ins. Co.; 2 Wash., C. C., 356, U. S. vs. Price's Administrator; 4 Wash., C. C., 186, Bauderau vs. Montgomery; 1 Paine, 65, Peters vs. Prevost.

SEC. 5. In any case where it is necessary, in order to prevent a failure or delay of justice, any of the courts of the United States may grant a *dedimus potestatem* to take depositions according to common usage; and any circuit court, upon application to it as a court of equity, may, according to the usages of chancery, direct depositions to be taken in *perpetuam rei memoriam*, if they relate to any matters that may be cognizable in any court of the United States. And the provisions of sections eight hundred and sixty-three, eight hundred and sixty-four, and eight hundred and sixty-five, shall not apply to any deposition to be taken under the authority of this section. [See §§ 875, 4071, R. S. U. S.]

SEC. 6. That it shall and may be lawful for any person or persons to take the deposition or depositions of any witness or witnesses, who may have knowledge of any fact, in proving which such person or persons may apprehend him, her or themselves, interested, before a judge of the [general] court, first giving twenty days' notice to the party or parties against whom such depositions are intended to be used, or, in case of absence or minority, to his, her or their guardian, agent or attorney, if any, and in case of absence, if no agent or attorney, setting up a notice in writing at the court-house [of the county] where such deposition or depositions are intended to be taken, twenty days before such depositions are taken, which deposition or depositions so taken, with proof of such notice, shall be lodged with the clerk of the county where the same are taken, to be recorded, and such clerk shall record the same, and receive for his service at the same rate per side as for recording any other matter.

Depositions may be taken, etc., to perpetuate testimony.

Md. act 1779, ch. 8, sec. 2.
1 Dorsey, 145.
1 Kilty, 486.

SEC. 7. That the depositions of any such sea-faring men, or others, taken before *one of the justices of the* [provincial] court in the presence of the adverse party to him that requires such depositions to be taken, if upon due notice he thinks fit to be present, or upon notice to refuse to be present, (the notice being proved,) shall be received as good evidence in any of the courts within this *District* [province,] as if such evidence were personally present upon the trial, and should deliver the same *viva voce*.

Depositions to be received, etc., as evidence.

Md. act 1721, ch. 14, sec. 3.
1 Dorsey, 57.

SEC. 8. That all such depositions, or a transcript thereof, under seal, whether taken before or after any suit or action commenced, may be read in evidence on any arbitration or trial at law or in equity, if such deponent or deponents die before such arbitration or trial, or cannot be had to attend the same, of which satisfactory proof shall be made.

May be read in evidence if witness die, etc.

Md. act 1779, ch. 8, sec. 3.

1 Dorsey, 146.
Scott vs. McCann, 76 Md. Rep., 47.

SEC. 9. That nothing in this act is meant or intended to extend to proving the boundaries of land, or in any manner to alter the law now in force for that purpose.

Not to extend to proving boundaries of land.

Ibid., sec. 4. 1 Dorsey, 146.

SEC. 10. That in case of minors who have no guardian or trustee, and in case of absentees who are residents of this *District* [state], and of all other absentees residents of other of the United States, or residing in foreign states in amity with the United States, where such absentees have no trustee, guardian, agent or attorney, the common and usual mode of perpetuating testimony shall be adopted, and no other, any thing herein contained to the contrary notwithstanding.

Rule in case of minors and non-residents.

Ibid., sec. 5.
1 Dorsey, 146.

SEC. 11. That in all cases where testimony may be perpetuated by this act, and where it shall be made appear, to the satisfaction of the judge or justice, by affidavit of the party, that his witness or witnesses are sick and not likely to live, or may be about to march out of this state on the public service as a soldier or militia-man, it shall and may be lawful to take the deposition or depositions of such witness or witnesses, on giving such notice less than twenty days, as the judge or justice may think reasonable, all circumstances considered, so that the party interested, his guardian, trustee, agent or attorney, may have convenient time to attend.

Where witnesses are sick or soldiers.

Ibid., sec. 6.
1 Dorsey, 146.

SEC. 12. That the judge or justice shall and he is hereby required to give the party a certificate of having made affidavit, and of the number of days appointed for notice, which shall be lodged with the deposition or depositions, and an attested copy of such deposition or depositions, and of such certificate, shall be taken as good evidence of the truth of the facts therein contained.

Judge, etc., to give a certificate, etc.

Ibid., sec. 7.
1 Dorsey, 146.

Commission may issue, etc., to perpetuate testimony.

Ibid., sec. 8.
1 Dorsey, 146.

SEC. 13. And, for regulating the chancery practice in the case of perpetuating testimony,

Be it enacted, That commission shall and may issue to perpetuate testimony on bill for that purpose, before any appearance of the party defendant, to such four persons, in the usual manner, as the chancellor may approve, and on return of said commission, if no good objection be made thereto in twelve months from the time of such return, the chancellor shall and may order the same to be recorded in perpetual memory, any law or usage to the contrary notwithstanding.

Depositions in perpetuum, etc., admissible at discretion of the court.

Sec. 867, R. S. U. S. 20 Feb., 1812, ch. 25, sec. 3, v. 2, p. 682. 3 Story, 516, Gould vs. Gould.

SEC. 14. Any court of the United States may, in its discretion, admit in evidence in any cause before it any deposition taken in perpetuum rei memoriam, [which would be so admissible in a court of the State wherein such cause is pending, according to the laws thereof.]

Deposition under a *dedimus potestatem*, how taken.

Sec. 868, R. S. U. S.
24 Jan., 1827, ch. 4, sec. 1, v. 4, p. 197.
3 Wall., 113, York Co. vs. Central R. R.

SEC. 15. When a commission is issued by any court of the United States for taking the testimony of a witness named therein at any place within any district or Territory, the clerk of any court of the United States for such district or Territory shall, on the application of either party to the suit, or of his agent, issue a subpoena for such witness, commanding him to appear and testify before the commissioner named in the commission, at a time and place stated in the subpoena; and if any witness, after being duly served with such subpoena, refuses or neglects to appear, or, after appearing, refuses to testify, not being privileged from giving testimony, and such refusal or neglect is proven to the satisfaction of any judge of the court whose clerk issues such subpoena, such judge may proceed to enforce obedience to the process, or punish the disobedience, as any court of the United States may proceed in case of disobedience to process of subpoena to testify issued by such court.

[See §§ 871, 872, 873, 874, R. S. U. S., also title "Witnesses," post.]

Subpoena *duces tecum* under a *dedimus potestatem*.

Sec. 869, R. S. U. S.
24 Jan., 1827, ch. 4, sec. 2, v. 4, p. 199.
1 Burr's Trial, 183.

SEC. 16. When either party in such suit applies to any judge of a United States court in such district or Territory for a subpoena commanding the witness, therein to be named, to appear and testify before said commissioner, at the time and place to be stated in the subpoena, and to bring with him and produce to such commissioner any paper or writing or written instrument or book or other document, supposed to be in the possession or power of such witness, and to be described in the subpoena, such judge, on being satisfied by the affidavit of the person applying, or otherwise, that there is reason to believe that such paper, writing, written instrument, book, or other document is in the possession or power of the witness, and that the same, if produced, would be competent and material evidence for the party applying therefor, may order the clerk of said court to issue such subpoena accordingly. And if the witness, after being served with such subpoena, fails to produce to the commissioner, at the time and place stated in the subpoena, any such paper, writing, written instrument, book, or other document, being in his possession or power, and described in the subpoena, and such failure is proved to the satisfaction of said judge, he may proceed to enforce obedience to said process of subpoena, or punish the disobedience in like manner as any court of the United States may proceed in case of disobedience to like process issued by such court. When any such paper, writing, written instrument, book, or other document is produced to such commissioner, he shall, at the cost of the party requiring the same, cause to be made a correct copy thereof, or of so much thereof as shall be required by either of the parties.

SEC. 17. No witness shall be required, under the provisions of either of the two preceding sections, to attend at any place out of the county where he resides, nor more than forty miles from the place of his residence, to give his depositions; nor shall any witness be deemed guilty of contempt for disobeying any subpoena directed to him by virtue of either of the said sections, unless his fee for going to, returning from, and one day's attendance at, the place of examination, are paid or tendered to him at the time of the service of the subpoena.

Witness under a *dedimus protestatem*, when required to attend.

Sec. 870, R. S. U. S.
24 Jan., 1827, ch. 4, secs. 1, 2, v. 4, pp. 197, 199.

SEC. 18. Copies of any books, records, papers, or documents in any of the Executive Departments, authenticated under the seals of such Departments, respectively, shall be admitted in evidence equally with the originals thereof. [See §§ 2469, 2470, R. S. U. S.]

Copies of Department records and papers.

Sec. 882, R. S., U. S. 1 Stat., p. 69, Sept. 15, 1789, ch. 14, sec. 5. 22 Feb., 1849, ch. 61, sec. 3, v. 9 p. 347; 31 May, 1854, ch. 60, sec. 2, v. 10, p. 297.

SEC. 19. Copies of any documents, records, books, or papers in the office of the Solicitor of the Treasury, certified by him under the seal of his office, or, when his office is vacant, by the officer acting as Solicitor for the time, shall be evidence equally with the originals.

Copies of records, etc., in office of Solicitor of the Treasury.

Sec. 883, R. S. U. S. 22 Feb., 1849, ch. 61, sec. 2, v. 9, p. 347.

SEC. 20. Every certificate, assignment, and conveyance executed by the Comptroller of the Currency, in pursuance of law, and sealed with his seal of office, shall be received in evidence in all places and courts; and all copies of papers in his office, certified by him and authenticated by the said seal, shall in all cases be evidence equally with the originals. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Instruments and papers of Comptroller of the Currency.

Sec. 884, R. S. U. S.
3 June, 1864, ch. 106, sec. 2, v. 13, p. 100.

SEC. 21. Copies of the organization certificate of any national banking association, duly certified by the Comptroller of the Currency, and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association, and of every matter which could be proved by the production of the original certificate. [See § 5135.]

Organization certificates of national banks.

Sec. 885, R. S. U. S.
3 June, 1864, ch. 106, sec. 6, v. 13, p. 101.

SEC. 22. When suit is brought in any case of delinquency of a revenue officer, or other person accountable for public money, a transcript from the books and proceedings of the Treasury Department, certified by the Register and authenticated under the seal of the Department, or, when the suit involves the accounts of the War or Navy Departments, certified by the Auditors respectively charged with the examination of those accounts, and authenticated under the seal of the Treasury Department, shall be admitted as evidence, and the court trying the cause shall be authorized to grant judgment and award execution accordingly. And all copies of bonds, contracts, or other papers relating to, or connected with, the settlement of any account between the United States and an individual, when certified by the Register, or by such Auditor, as the case may be, to be true copies of the originals on file, and authenticated under the seal of the Department, may be annexed to such transcripts, and shall have equal validity, and be entitled to the same degree of credit which would be due to the original papers if produced and authenticated in court: *Provided*, That where suit is brought upon a bond or other sealed instrument, and the defendant pleads "non est factum," or makes his motion to the court, verifying such plea or motion by his oath, the court may take the same into consideration, and, if it appears to be necessary for the attainment of justice, may

Transcripts from books, etc., of the Treasury, in suits against delinquents.

Sec. 886, R. S. U. S.
3 Mar., 1797, ch. 20, sec. 1, v. 1, p. 512.
3 Mar., 1817, ch. 45, sec. 11, v. 3, p. 387.

9 Wh., 651, *Walton vs. U. S.*; 3 Pet., 12, *U. S. vs. Buford*; 5 Pet., 292, *Smith vs. U. S.*; 6 Pet., 172, *Cox vs. U. S.*; 8 Pet., 375, *U. S. vs. Jones*; 15 Pet., 336, *Gratiot vs. U. S.*; 1 How., 250, *U. S. vs. Irving*; 10 How., 109, *Hoyt*.

vs. U. S.; 17 How., 437, *Bruce vs. U. S.*; 1 McLean, 487, *U. S. vs. Edwards*; 3 McLean, 324, *U. S. vs. Hilliard et al.*; 1 Paine, 417, *U. S. vs. Lent*; 2 Paine, 68, *U. S. vs. Martin*; 2 Cr., C. C., 328, *U. S. vs. Van Zandt*; 2 Cr., C., 336, *U. S. vs. Griffith*; 2 Cr., C. C., 462, *U. S. vs. Lee*; 1 McAll., 243, *U. S. vs. Harrill*; Gilp., 44, *U. S. vs. Mattison*; 1 Bond, 149, *U. S. vs. Corwin*; 19 Wall., 198, *U. S. vs. Gaussen*.

When original records are lost or destroyed.

Sec. 899, R. S. U. S.

3 Mar., 1871, ch. 111, sec. 1, v. 16, p. 474.

20 Wallace, Rep., 226, *Cornett vs. Williams*.

Same subject.

Sec. 900, R. S. U. S.

3 Mar., 1871, ch. 111, sec. 2, v. 16, p. 475.

SEC. 23. When the record of any judgment, decree, or other proceeding of any court of the United States is lost or destroyed, any party or person interested therein may, on application to such court, and on showing to its satisfaction that the same was lost or destroyed without his fault, obtain from it an order authorizing such defect to be supplied by a duly certified copy of the original record, where the same can be obtained; and such certified copy shall thereafter have, in all respect, the same effect as the original record would have had.

SEC. 24. When any such record is lost or destroyed, and the defect cannot be supplied as provided in the preceding section, any party or person interested therein may make a written application to the court to which the record belonged, verified by affidavit, showing such loss or destruction; that the same occurred without his fault or neglect; that certified copies of such record cannot be obtained by him; and showing also the substance of the record so lost or destroyed, and that the loss or destruction thereof, unless supplied, will or may result in damage to him. The court shall cause said application to be entered of record, and a copy of it shall be served personally upon every person interested therein, together with written notice that on a day therein stated, which shall not be less than sixty days after such service, said application will be heard; and if, upon such hearing, the court is satisfied that the statements contained in the application are true, it shall make and cause to be entered of record an order reciting the substance and effect of said lost or destroyed record. Said order shall have the same effect, so far as concerns the party or person making such application and the persons served as above provided, but subject to intervening rights, which the original record would have had, if the same had not been lost or destroyed.

Authentication of legislative acts and proof of judicial proceedings of States, etc.

Sec. 905, R. S. U. S.

26 May, 1790, ch. 11, v. 1, p. 122.

27 Mar., 1804, ch. 56, sec. 2, v. 2, p. 299.

147 U. S. Rep., 367, *Glenn vs. Garth*; 146 U. S.

Rep., 685, *Huntington vs. Attrill*; 137 U. S. Rep., 294, *Grover vs. Radcliffe*; 133 U. S. Rep., 111, *Cole vs. Cunningham*; 7 Cr., 408, *Ferguson vs. Harwood*; 7 Cr., 481, *Mills vs. Durjee*; 11 Wh., 392, *U. S. vs. Amedy*; 2 Pet., 592, *Buckner vs. Finley*; 9 Pet., 637, *Owings vs. Hull*; 9 Pet., 700, *Urtetiqui vs. D'Arbel*; 13 Pet., 312, *McElmoyle vs. Cohen*; 6 How., 44, *Stacey vs. Thrasher*; 9 How., 522, *Bank of Alabama vs. Dalton*; 11 How., 165, *D'Arcy vs. Ketchum*; 13 How., 307, *Railroad vs. Howard*; 17 How., 322, *Booth vs. Clark*; 1 Cr., C. C., 190, *Mason vs. Lawrason*; Hemp., 232, *Buford vs. Hickman*; Pet., C. C., 354, *Craig vs. Brown*; Hemp., 94, *Stewart vs. Gray*; 1 Cr., C. C., 78, *Gardner vs. Lindo*; Hemp., 538, *Trigg vs. Conway*; 3 Wash., C. C., 126, *Turner vs. Waddington*; 4 McLean, 199, *Catlin vs. Underhill*; 4 McLean, 366, *Morgan vs. Curtenius*; 3 Cr., C. C., 594, *Hale vs. Brotherton*; 6 McLean, 24, *Mewster vs. Spalding*; 1 Cr., C. C., 14, *Parrot vs. Habersham*; 2 Wash., C. C., 449, *Talcott vs. Delaware Ins. Co.*; 1 Wash., C. C., 330, *James vs. Stookey*; District Court, Oregon, 1867, *Bennett vs. Bennett*.

SEC. 25. The acts of the legislature of any State or Territory, or of any country subject to the jurisdiction of the United States, shall be authenticated by having the seals of such State, Territory, or country affixed thereto. The records and judicial proceedings of the courts of any State or Territory, or of any such country, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice or presiding magistrate, that the said attestation is in due form. And the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the State from which they are taken.

SEC. 26. All records and exemplifications of books, which may be kept in any public office of any State or Territory, or of any country subject to the jurisdiction of the United States, not appertaining to a court, shall be proved or admitted in any court or office in any other State or Territory, or in any such country, by the attestation of the keeper of the said records or books, and the seal of his office annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county, parish, or district in which such office may be kept, or of the governor, or secretary of state, the chancellor or keeper of the great seal, of the State, or Territory, or country, that the said attestation is in due form, and by the proper officers. If the said certificate is given by the presiding justice of a court, it shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or, if given by such governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or country aforesaid in which it is made. And the said records and exemplifications, so authenticated, shall have such faith and credit given to them in every court and office within the United States as they have by law or usage in the courts or offices of the State, Territory, or country, as aforesaid, from which they are taken.

SEC. 27. It shall be lawful for any keeper or person having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of the head of one of the Departments, the Solicitor of the Treasury, or the Commissioner of the General Land-Office, to authenticate copies thereof under his hand and seal, and to certify them to be correct and true copies of such laws, judgments, orders, decrees, journals, correspondence, or other public documents, respectively; and when such copies are certified by an American minister or consul, under his hand and seal of office, to be true copies of the originals, they shall be sealed up by him and returned to the Solicitor of the Treasury, who shall file them in his office, and cause them to be recorded in a book to be kept for that purpose. A copy of any such law, judgment, order, decree, journal, correspondence, or other public document, so filed, or of the same so recorded in said book, may be read in evidence in any court, where the title to land claimed by or under the United States may come into question, equally with the originals.

SEC. 28. No testimony given by a witness before either House, or before any committee of either House of Congress, shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege. [See § 103 R. S. U. S.]

U. S. 24 Jan., 1862, ch. 11, v. 12, p. 333. 24 Jan., 1857, ch. 19, sec. 2, v. 11, p. 156.

SEC. 29. No pleading of a party, nor any discovery or evidence obtained from a party or witness by means of a judicial proceeding in this or any foreign country, shall be given in evidence, or in any manner used against him or his property or estate, in any court of the United States, in any criminal proceeding, or for the enforcement of any penalty or forfeiture: *Provided*, That this section shall not exempt any party or witness from prosecution and punishment for perjury committed in discovering or testifying as aforesaid.

142 U. S. Rep., 547, Counselman vs. Hitchcock; 116 U. S. Rep., 616, Boyd vs. U. S.; 12 Blatch., 553, U. S. vs. Hughes; 6 Bliss, 379, U. S. vs. Three Tons Coal; 6 Bliss., 483, U. S. vs. Distillery.

SEC. 30. That the chancellor shall have power and authority, on the application of either party, on the trial of any actions at law

Proofs of records, etc., kept in offices not pertaining to courts.

Sec. 906, R. S. U. S. 27 Mar., 1804, ch. 56, secs. 1, 2, v. 2, pp. 298, 299. 21 Feb., 1871, ch. 62, v. 16, p. 419.

Copies of foreign records, etc., relating to land titles in the United States.

Sec. 907, R. S. U. S. 22 Feb., 1849, ch. 61, sec. 1, v. 9, p. 346. 2 Mar., 1849, ch. 82, v. 9, p. 350.

Testimony of witnesses before Congress not admissible against them in criminal prosecutions.

Sec. 859, R. S. U. S. sec. 2, v. 11, p. 156.

Pleadings, disclosures, etc., not to be used in criminal proceedings.

Sec. 860, R. S. U. S. 25 Feb., 1868 ch. 13, sec. 1, v. 15, p. 37.

Chancellor to have power to de-

cree, etc., production of books, etc.

Md. act 1798, ch. 84, sec. 2.
1 Dorsey, 369.
2 Kilty, 822.

depending in the general courts, or on any bill instituted in the chancery court, either for discovery or relief, to require and decree that the parties shall produce either the original books, writings or papers, or copies certified by a justice of the peace, of all such parts of such books, writings or papers, in their possession or power, as contain evidence pertinent to the issue, or relative to the matters in dispute between the parties, to be used as evidence at the trial of such cause or causes: *Provided*, That before any such order shall be made, the party making such application shall satisfy the chancellor, on oath or affirmation, that the said books, writings or papers, contain material and necessary evidence, and that such party cannot safely proceed to the trial of his, her or their case, without the benefit of such testimony.

Power to order production of books and writings in actions at law.

Sec. 724, R. S. U. S.
24 Sept., 1789, ch. 20, sec. 15, v. 1, p. 82.
20 How., 194,

SEC. 31. In the trial of actions at law, the courts of the United States may, on motion and due notice thereof, require the parties to produce books or writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might be compelled to produce the same by the ordinary rules of proceeding in chancery. If a plaintiff fails to comply with such order, the court may, on motion, give the like judgment for the defendant as in cases of nonsuit; and if a defendant fails to comply with such order, the court may, on motion, give judgment against him by default.

Thompson vs. Selden; 2 Dall. C. C., 332, Geyger's Lessee vs. Geyger; 2 Cr., C. C., 386, Maye vs. Carberry; 2 Cr., C. C., 342, Bank U. S. vs. Kurtz; 1 Wash., C. C., 298, Hilton's Lessee vs. Brown; 3 Wash., C. C., 381, Bas vs. Steele; 4 Wash., C. C., 126, Durham vs. Riley; 4 Wash., C. C., 519, Vasse vs. Mifflin; 2 Blatch., 23, Jacques vs. Collins; 1 Cur., C. C., 301, Iasigi vs. Crown.

Exemplification of good evidence, etc.

Md. act 1785, ch. 46, sec. 1.
1 Dorsey, 199.
2 Kilty, 29.

SEC. 32. An exemplification of the record under the hand of the keeper of the same, and the seal of the court or office where such record may be made, shall be good and sufficient evidence in any court of this *District* [state] to prove any debt of record made or entered in any other of the United States, or in any foreign country whatever. [See Const. of U. S., art. 4, sec. 1.]

What shall be good evidence to prove deeds, etc.

Ibid., sec. 2.
1 Dorsey, 199.
10 Wheaton Rep., 471, Darby vs. Mayer.

SEC. 33. A copy of the record or register of any deed, will, or other instrument of writing, which the laws of the *District* [state] or country where the same may be executed require to be recorded or registered, and which have been or shall be recorded or registered agreeably to such laws, under the hand of the keeper of such record or register, and the seal of the court or office in which such record or register has been or may be made, or a copy of any deed, will, or other instrument of writing lodged for safe keeping in any office or court, agreeably to the laws of the state or country as aforesaid, and certified as aforesaid, shall be good and sufficient evidence in any court of this *District* [state] to prove such deed, will, or instrument of writing.*

Oath of witnesses, etc., good evidence, etc.

Ibid., sec. 3.
2 Kilty, 29.
1 Dorsey, 199.
200.
30 Md. Rep., 409, Beatty vs. Mason:

SEC. 34. That where any deed, will, bond, bill, note, or other instrument of writing, hath been or shall be executed in any other of the United States, or in any foreign country, and to give validity to which recording or registering is not or shall not be made necessary, proof to the execution of such deed, will, bond, bill, note, or other instrument of writing, by the oath or affirmation, as the case may be, of the subscribing witnesses to the same, or any of them, taken before any court, judge or justice, or other officer of the state or country

* By Nov., 1798, ch. 101, sub ch. 1, sec. 4, an attested copy, under the seal of office, of any will, testament, or codicil, recorded in any office authorized to record the same, shall be admitted as evidence in any court of law or equity, provided that the execution of the original will or codicil be subject to be contested until a probat hath been had according to the said act.
See sec. 25 title "Real Estate" *post*, as to certain deeds.

where such deed, will, bond, bill or instrument, hath been or may be executed, having authority by law to administer an oath or affirmation, as the case may be, and a certificate under seal from the governor, chief magistrate, or a notary public of such state or country, that the court or officer before whom such oath or affirmation, as the case may be, shall be taken, hath authority to administer such oath or affirmation, as the case may be, and that such oath or affirmation as aforesaid hath been duly made before such court, judge, justice, or other officer, shall be good and sufficient evidence in any court of this *District* [state] to prove any such deed, will, bond, bill, note, or other instrument; and if all the witnesses to any deed, will, bond, bill, note, or other instrument of writing aforesaid, have died or shall die before the execution of such deed, will, bond, bill, note, or other instrument of writing, be proved as aforesaid, then proof, by a credible witness, to the hand-writing of the party making such deed, will, bond, bill, note, or other instrument of writing, or to the hand-writing of the subscribing witnesses to the same, or of any of them, taken and certified as aforesaid, shall be good evidence for the purpose aforesaid: *Provided always*, That in case any suit shall be brought in any court of this *District* [state,] upon any such instrument of writing, proved as aforesaid, to recover any sum of money, or other valuable thing specified therein to be due, the party bringing such suit shall, at or before the first imparlance court, make oath or affirmation, as the case may be, before some judge or justice of this *District* [state,] or before some court, judge, justice, or officer of the state or country where such instrument in writing hath been or shall be executed, having authority as aforesaid, and to be certified as aforesaid, that such instrument of writing was duly executed by the person therein mentioned to have executed the same, and that the debt, or other valuable thing appearing to be due by such instrument of writing, or any part thereof, except what is credited, is not paid, or in any manner satisfied, by discount, account in bar, or otherwise, to the knowledge or belief of the party bringing such suit, but that the whole of the money or other thing specified to be paid or delivered by such instrument of writing, or such part thereof as shall be stated in such oath or affirmation, as the case may be, to be due, remains unpaid, according to the best of the knowledge and belief of the party bringing such suit: *And provided also*, That nothing in this act shall be taken or construed in any manner to alter or repeal the laws now in being, establishing the mode for conveying lands, tenements or hereditaments, within this *District* [state], by persons residing or being without the *District* [state]: *And provided also*, That every creditor of a deceased person, and any executor or administrator of a creditor, on suit by them, or any of them, shall make oath or affirmation as the law now directs.

109 U. S. Rep., 608.
Robertson vs.
Pickrell.

CHAPTER TWENTY-ONE.

EXECUTIONS.

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| <p>Sec.
1. <i>Fieri facias</i> or other writ of execution shall bind from date of delivery to officer. "Sheriff," used as referring to "marshal." Stay of execution and supersedeas. Death of marshal after levy or sale.</p> <p>2. Lands liable to sale on execution.</p> <p>3. Personalty distrained shall not be impounded in several places.</p> <p>4. The order of satisfaction of executions.</p> <p>5. No execution shall be stayed unless bond be given. For stay of execution, see "Judgments," <i>post</i>. Where execution stayed by injunction, see "Chancery," <i>ante</i>.</p> <p>6. On return of execution on forfeited recognizance, defendant may plead, etc.</p> <p>7. Liability of marshal for failure to make returns.</p> <p>8. Liability of marshal and coroner for failure to return original writ, etc.</p> <p>9. When rights of original plaintiff enure to sheriff, etc.</p> <p>10. Court shall order return of writ, unless, etc.</p> | <p>Sec.
11. Clerk may direct writ to elisor, etc. Appointment of elisor.</p> <p>12. Elisor's powers, duties and fees; additional elisor.</p> <p>13. Exemptions of property from attachment, distraint or execution, in favor of head of family or householder.</p> <p>14. Wife of debtor must sign conveyance of exempted articles.</p> <p>15. Earnings, not exceeding \$100, of residents of District of Columbia exempt from levy, execution, etc. Repeal of inconsistent acts or parts.</p> <p>16. Wearing apparel of deceased persons exempt from appraisement and sale.</p> <p>17. Judgment debtor for personal debt or as executor or administrator, may show chattels, etc., on execution issued, to be appraised and delivered to creditor and credited on judgment.</p> <p>18. Appraisers (under preceding section) in case of seizure of goods of non-residents.</p> <p>19. Restrictions on levy on plate or jewels of orphans, when.</p> |
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Fieri facias or other writ of execution shall bind from date of delivery to officer. SEC. 1. No writ of *fieri facias*, or other writ of execution, shall bind the property of the goods against whom such writ of execution is sued forth, but from the time that such writ shall be delivered to the *marshal* [sheriff, under-sheriff,] or coroners, to be executed: And for the better manifestation of the said time, the *marshal* [sheriff, under-sheriff,] and coroners, their deputies and agents, shall upon the receipt of any such writ, (without fee for doing the same) endorse upon the back thereof, the day of the month or year whereon he or they received the same.*

Lands liable to be sold on execution. SEC. 2. The houses, lands, and other hereditaments, and real estates, situate or being within any of the said plantations belonging to any person indebted, shall be liable to, and chargeable with, all just debts, duties, and demands of what nature or kind soever, owing by any such person to His Majesty, or any of his subjects, and shall and may be assets, for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond, or other specialty, and shall be subject to the like remedies, proceedings, and process in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling, or disposing of any such houses, lands, and other hereditaments and real estates, towards the satisfaction of such debts, duties, and demands, and in like manner as personal estates in any of the said plantations respectively are seized, extended, sold, or disposed of, for the satisfaction of debts.†

29 Cor. II, ch. 3.
sec. 16, A. D. 1676.
Alex. Brit. Stat., 511.
Kilty's Rep., 241.

5 George II. ch. 7, sec. 4, A. D. 1732.
Alex. Brit. Stat., p. 716.
Kilty's Rep., 249.
3 Cranch, Ct. Rep., 331, Sawyer vs. Morte; 1 Bland Rep., 443, Jones vs. Jones; 4 Harris and McHenry Rep., 533, Dorsey vs. Worthington; 3 ibid., p. 450; 2 Harris and J. Rep., 64, 73; 3 Harris and J. Rep., 497; 5 Peters Rep., 367, Tayloe vs. Thompson; 24 How. Rep., 404, Smith vs. McCann; 91 U. S. Rep., 361, Morsell vs. Bank.

*The word sheriff may be used as referring to the marshal. 5 Cranch, Ct. Rep., 400, U. S. vs. Williams.
Stay of execution and supersedeas regulated by sec. 850, R. S. D. C. See "Judiciary," sec. 46.
Death of marshal after levy or sale. See Sec. 994, R. S. U. S.
† *Scire facias* after a year. 13 Edward I, ch. 45. See "Judgments."

SEC. 3. That no cattle or other goods distrained or taken by way of distress, for any manner of cause at one time, shall be impounded in several places, whereby the owner or owners of such distress shall be constrained to sue several replevies for the delivery of the said distress so taken at one time; upon pain every person offending contrary to this act, shall forfeit to the party grieved, for every such offense, an hundred shillings, [£13.33 $\frac{1}{3}$] and treble damages.

Personalty distrained shall not be impounded in several places.

1 and 2 Philip and Mary, ch. 12, sec. 1, pt., A. D. 1554.

Alex. Brit. Stat., 368. Kilty's Rep., 284.

SEC. 4. We or our bailiffs shall not seise any land or rent for any debt, as long as the present goods and chattels of the debtor do suffice to pay the debt, and the debtor himself be ready to satisfy therefor. (2) Neither shall the pledges of the debtor be distrained, as long as the principal debtor is sufficient for the payment of the debt. (3) And if the principal debtor fail in payment of the debt, having nothing wherewith to pay, or will not pay where he is able, the pledges shall answer for the debt. (4) And if they will, they shall have the lands and rents of the debtor, until they be satisfied of that which they before paid for him, except that the debtor can shew himself to be acquitted against the said sureties.

The order of satisfaction of executions.

9 Henry III, ch. 8, sec. 1, A. D. 1225.

Alex. Brit. Stat., 12.

Kilty's Rep., 205.

SEC. 5. That no execution upon any judgment obtained [either] in the [provincial or county courts, or other inferior] courts of record within this *District* [province,] shall be stayed or delayed, or any supersedeas upon such judgment granted, or issued forth, upon any appeal or writ of error from any such court or courts of record as aforesaid to the court before whom such appeal ought to be brought, or before whom such writ of error ought to be heard and determined, unless such person or persons in whose name such appeal or writ of error shall be made or brought as aforesaid, or some other in his, her or their behalf, shall immediately upon making such appeal, or suing out such writ of error as aforesaid, enter into bond, with sufficient sureties, (such as the justices of the court by whom judgment shall be given as aforesaid, [or the keeper of the seal for the time being,] to whom application shall be made for such writ of error as aforesaid, shall approve of,) in double the sum recovered by such judgment obtained as aforesaid, with condition, "That if the party appellant, or party suing out such writ of error as aforesaid, shall not pursue the directions of this act hereafter mentioned, at the next-court ensuing, before whom such appeal or writ of error ought to be tried as aforesaid, and prosecute the same writ with effect, and also satisfy and pay to the said party, his executors, administrators or assigns, in case the said judgment shall be affirmed, as well all and singular the debts, damages and costs adjudged by the court before whom such action was first brought, and from whose judgment such appeal shall be made, or thereon a writ of error brought as aforesaid, as also all costs and damages that shall be awarded by the court before whom such appeal or writ of error shall be heard, tried and determined as aforesaid, then the said bond to be and remain in full force and virtue, otherwise of no effect."*

No execution shall be stayed unless bond be given.

Md. act 1713, ch. 4, sec. 2.

1 Kilty, 100.

[See §§ 770, 850 R. S. D. C.; also "Judiciary," sec. 46.]

SEC. 6. Where any execution hath issued, or shall hereafter issue, on any forfeited recognizance, against any person for not appearing according to the tenor of the recognizance, it shall and may be lawful for such person, on the return of the execution, to appear, and plead in discharge thereof any plea which would have been good and sufficient upon a *scire facias* on the said recognizance, if a *scire facias* had been issued, and upon such plea being determined in favour of the person pleading the same, he shall be discharged from the said forfeiture; and any court, from which execution shall issue

On return of execution on forfeited recognizance, defendant may plead, etc.

Md. act 1782, ch. 42, sec. 2.

1 Kilty, 623.

1 Dorsey, 180.

43 Md. Rep., 295, *State vs. Schultz*.

* For stay of execution see judgments, 1778, ch. 21, sec. 7. Md. act. where execution stayed by injunction. See Md. act 1799, ch. 79, sec. 10, "Chancery."

on any recognizance forfeited for not attending as a witness in any case not capital, may, upon motion, and good and sufficient cause fully shewn by such person, discharge him from the execution, upon such terms as the court shall think fit and proper: *Provided*, That such person shall not be discharged from such execution until the trial of the plea, unless he shall pay and satisfy the execution, or give bond payable to the state before the sheriff, or enter in recognizance in court, with one good and sufficient security, in double the forfeiture and costs due upon such execution, conditioned to appear and plead in discharge of the said execution, and to abide by and fulfil the judgment of the court thereupon.

Liability of marshal for failure to make returns.

Md. act 1794, ch. 54, sec. 1.
2 Kilty, 507.

SEC. 7. In case any *marshal* [sheriff] or coroner shall be called upon by order of any court of record within this *District* [state,] or of the [high] court of chancery, to make return of any writ of execution, and shall fail or omit to make return thereof within the time limited by rule of court made for that purpose, it shall and may be lawful to and for the judges aforesaid to cause judgment to be entered up, in the name of the plaintiff or plaintiffs, against such *marshal* [sheriff] or coroner, for the amount of the debt or damages, and costs, recovered from the person or persons against whose body, goods, chattels, land or tenements, such execution shall have issued, which judgment shall have the same effect, operation and validity, as any judgment rendered upon any verdict of a jury.*

Liability of marshal and coroner for failure to return original writ, etc.

Ibid., sec. 2.

SEC. 8. In case any *marshal* [sheriff] or coroner shall be called upon by order of the justices of the [general] court, [or of any county court,] to return any original writ, and shall fail or omit to make return thereof within the time limited by rule of court for that purpose, and in all cases where any marshal [sheriff] or coroner, being called upon by order of the general court, or any county court, to bring before them any defendant or defendants before arrested by such *marshal* [sheriff] or coroner upon any original writ or mesne process, according to the tenor of his return, the court, on motion, shall cause such *marshal* [sheriff] or coroner to be amerced to the amount of the debt or damages, and costs, due from the defendant or defendants, to be ascertained by the oath of the plaintiff or plaintiffs, his, her or their factor, agent or attorney, and such other proof as the court may require, and shall and may enter judgment, *nisi* the second day of the next term thereafter, for the amount of the amercement aforesaid, in the name of the plaintiff or plaintiffs, and for his or their use, against such *marshal* [sheriff] or coroner, which judgment shall be as valid and effectual as any judgment rendered upon any verdict of a jury.

Rights of original plaintiff enure to sheriff, etc., when.

Ibid., sec. 3.

SEC. 9. In all cases where any *marshal* [sheriff] or coroner shall pay and satisfy to the plaintiff or plaintiffs any judgment rendered against him in virtue of this act as aforesaid, or any judgment rendered against him for a default upon any execution, such *marshal* [sheriff] or coroner shall thereupon immediately become entitled to the original cause of action, or judgment, as the case may be, as fully as the plaintiff or plaintiffs themselves was or were, and may issue any execution in his own name, or in the name of the original plaintiff or plaintiffs, upon such judgment, for his own use, or prosecute such action to judgment and execution for his own use, and shall be entitled to every other benefit and advantage from such judgment, or cause of action, and suit thereon depending, that the original plaintiff or plaintiffs might or could have had thereupon.

*This law of Maryland, relative to sheriff, applies to the marshal in this District. 5 Cranch, Ct. Rep., 400. U. S. vs. Williams.

SEC. 10. Upon motion made to either of the said courts for an order upon the *marshal* [sheriff] or coroner to make return of any writ of execution, or any original writ, as aforesaid, the said court shall and they are hereby directed to make such order of course, unless such *marshal* [sheriff] or coroner shall, upon oath or otherwise, satisfy the said court that the said writ was not received by him, or to the best of his knowledge by any of his deputies.

Court shall order return of writ, unless, etc.

Ibid., sec. 4.
2 Kilty, 508.

SEC. 11. The clerk of the general court, on application for any original writ within the jurisdiction of such court, or for any writ of execution on any judgment rendered in such court, shall and may direct the same to an elisor, to be appointed by one judge or justice of the court, which appointment shall be made by the judge or justice in writing, and filed with the clerk, before the issuing of such writ, and no such appointment shall be made by any judge or justice unless he shall be satisfied, by affidavit, that the *marshal* [sheriff] or coroner of the county cannot safely be trusted with the execution thereof.

Clerk may direct writ to an elisor, etc., his appointment.

Ibid., sec. 5.
2 Kilty, 508.
1 Dorsey, 312.
3 Cranch, Rep., 496, *Knox vs. Summers*; sec. 922, R. S. U. S.; 1 Stat., p. 87, sec. 28, 1789, ch. 20.

SEC. 12. That such elisor, in the execution of such process, shall have such power and authority as any *marshal* [sheriff] might have lawfully exercised in such cases, and shall be entitled to the same fees, and subject to the same remedies, as in like cases might be received by, or had against, any *marshal* [sheriff] or coroner; and if any elisor shall refuse to execute such process, or shall die, or otherwise become incapable of executing the same, it shall and may be lawful, upon application of the plaintiff, or his or her agent or attorney, for such judge or justice to certify the same to the clerk who issued the said writ, and to nominate and appoint some other elisor, to whom the said clerk is hereby authorized and required to direct the same writ, who shall thereupon have all the powers and authorities, and in all respects stand in the same situation, as if he had been originally named in, and the said writ had been originally directed to him.

Elisor's powers, duties, and fees; additional elisor.

Ibid., sec. 6.
2 Kilty, 508.

SEC. 13. The following property, being the property of the head of a family or householder, shall be exempt from distraint, attachment, levy, and sale on execution or decree of any court in the District:

Exemptions of property from attachment distraint or execution, in favor of head of family or householder.

First. All wearing apparel belonging to all persons, and to all heads of families, being householders;

Second. All beds, bedding, household furniture, stoves, cooking utensils, and so forth, not exceeding three hundred dollars in value;

Sec. 797, R. S. D. C.

Third. Provisions for three months' support, whether provided or growing;

1 Mackey Rep., 303, *Wallingsford vs. Bennett*.

Fourth. Fuel for three months;

Fifth. Mechanics' tools and implements of the debtors trade or business amounting to two hundred dollars in value, with two hundred dollars worth of stock for carrying on the business of the debtor or his family;

Sixth. The library and implements of a professional man or artist, to the value of three hundred dollars;

Seventh. One horse, mule, or yoke of oxen; one cart, wagon or dray, and harness for such team;

Eighth. Farming utensils, with food for such team for three months, and if the debtor be a farmer, any other farming tools of the value of one hundred dollars;

Ninth. All family pictures, and all the family library not exceeding in value four hundred dollars;

Tenth. One cow, one swine, six sheep; and these exemptions shall be valid when the property is in transitu, the same as if at rest; but no property named and exempted in this section shall be exempted from attachment or execution for any debt due for the wages of servants, common laborers, or clerks, except the wearing apparel, beds, and bedding, and household furniture and provisions, for the debtor and family. [See §§ 603, 982, 1286, R. S. D. C.]

Wife of debtor must sign conveyance of exempted articles.

SEC. 14. No deed of trust, bill of sale, or mortgage upon any exempted articles, shall be binding or valid unless signed by the wife of the debtor, if he be married and living with his wife.

Sec. 798, R. S. D. C.; 8 Mackey Rep., 529; 19 Wash. Law Rep., 83. *Justh vs. Wilson*; 2 Gray Mass. Rep., 383, *Richards vs. Chase*.

Earnings, not exceeding \$100, of residents of District of Columbia exempt from levy, execution, etc.

Repeal.

June 19, 1878.

20 Stat., 173.

1 Sup. R. S., 373.

SEC. 15. The earnings, not to exceed one hundred dollars each month of all actual residents of the District of Columbia, and who are married persons, or who have to provide for the support of a family in said District, for two months next preceding the issuing of any writ or process from any court or justice of the peace, or other officer of and in said District, against them, shall be exempt from attachment, levy, seizure, or sale upon such process;

And the same shall not be seized, levied on, taken, reached, or sold by attachment, execution, or any other process, or proceedings of any court, judge, justice of the peace, or other officer of and in said District;

Provided, That this act and nothing herein contained shall apply, or in any manner affect any existing debt, contract, note, or judgment.

That all acts or parts of acts inconsistent with the provisions of this act be, and they are hereby, repealed.

Wearing apparel of deceased persons to be exempt from appraisement and sale.

To whom it shall belong.

1 Leg. Assem., ch. 20, p. 23, Aug. 3, 1871.

SEC. 16. The ordinary wearing apparel of deceased persons, who may have died citizens, or, if women who have been six months immediately prior to their decease residents of the District of Columbia, be, and the same is hereby, exempt from appraisement and sale in all cases where there shall be a widow or child, or children or grandchild, or grandchildren, and that the said wearing apparel shall belong to and be the property of the child or children of the deceased, and if there be no child or children, then the same shall belong to and be the property of the grandchild or grandchildren of the deceased, and if there be no child nor grandchild, then the same shall belong to and be the property of the widow of the deceased.

Judgment debtor, for personal debt, or as administrator or executor, may show chattels, etc., on execution issued, to be appraised and delivered to creditor and credited on judgment.

Md. act 1716, ch. 16, sec. 2.

1 Kilty, 147.

1 Har. and McH. Rep., 434, *Nicholson vs. Sligh*; 3 Har. and McH. Rep., 12, *Donaldson vs. Harvey*.

SEC. 17. If any writ of *fieri facias* shall be delivered to any *marshal* [sheriff] of this *District* [province,] if the defendant, where the judgment is against him for his proper debt or cost, will upon oath shew all his personal estate, when thereto required, or where judgment is rendered against him as an executor or administrator, shew all the personal estate of the deceased's in his hands unadministered, to the *marshal* [sheriff] or his deputy, so that such *marshal* [sheriff] may levy such part thereof as the creditor or plaintiff, or his attorney in fact or in law shall direct, such *marshal* [sheriff] shall within three days at furthest, cause such goods, so taken, to be appraised by four substantial freeholders of his county, two of them to be named by the plaintiff, or his attorney at law or in fact, and two by the defendant, and who are neither of kin to plaintiff or defendant, creditor or debtor, who upon their oaths to be administered to them by the said *marshal* [sheriff,] shall within three days, indifferently and justly value and appraise the said goods and chattels, so taken in execution; and the *marshal* [sheriff] shall thereupon give notice to the creditor, or his attorney at law or in fact, of the value of the said goods, and

shall deliver so much of the said goods, as according to such appraisement, will amount unto the debt or damage, and cost in such execution mentioned, to the plaintiff, or his attorney at law or in fact, in discharge of such debt and cost; and the said plaintiff or creditor is hereby obliged to take and accept the same at such appraisement and value as aforesaid, in satisfaction of so much of his debt, damage or cost, as such goods, according to appraisement, will amount unto; and if any creditor or plaintiff, or his attorney in fact or law, shall refuse or deny to take and accept the same, according to such appraisement, such *marshal* [sheriff] is hereby authorised and empowered to retain in his hands, at such plaintiff's or creditor's proper risk, so much of the said goods as will satisfy the same debt or damage, with costs, for such plaintiff's or creditor's use, who shall pay to such *marshal* [sheriff] all costs and charges he shall be at in keeping and securing such goods and chattels; and the said plaintiff or creditor shall have no other action against such *marshal* [sheriff] than only for such goods and chattels, so taken and retained as aforesaid, and such *marshal* [sheriff] shall give a full and sufficient discharge to such debtor for so much of the debt and cost, as such goods, by such appraisement, shall amount unto, which shall be a sufficient bar against such plaintiff or creditor, and perpetually bar and hinder him from taking out any other execution against the goods or chattels, lands or tenements, of such debtor, whose goods and chattels as aforesaid have been taken in execution as aforesaid, for so much as such goods, by appraisement, shall amount unto, any law, statute, usage or custom to the contrary notwithstanding.*

SEC. 18. *Provided always*, That in case the plaintiff or defendant are nonresidents within the respective counties wherein such writs shall be executed as aforesaid, or have not left an attorney at law or in fact, who is a resident within the county, so that the *marshal* [sheriff] cannot conveniently give him or them notice within three days after the serving such writs according to the exigence of this act, and who shall not be present at such time and place of appraisement, or who, on notice given, shall not think fit to be present at such time and place, it shall and may be lawful for the *marshal* [sheriff] to choose two sufficient freeholders, qualified as aforesaid, on part and behalf of such absent party, to the ends aforesaid; and in case that both plaintiff and defendant are likewise nonresidents in such county, and cannot conveniently have notice as aforesaid, nor shall be present thereat, that then such *marshal* [sheriff] shall be, and is hereby empowered on behalf of both parties, to choose four appraisers qualified as aforesaid, to make such appraisement as aforesaid.

Appraisers, how chosen in case of seizure of goods of nonresidents.

Ibid., sec. 3.

SEC. 19. *Provided also*, That nothing in this act contained shall extend, or be construed to extend, to empower any *marshal* [sheriff] to levy, by virtue of any *fiери facias*, for any debt or damage recovered against any executor or administrators, any plate or jewels reserved in favour of orphans, by the act for better administration of justice in probat of wills and granting administrations, &c. but that the sheriffs shall be and are hereby obliged to follow the directions of that act, touching such plate and jewels, any thing in this act to the contrary notwithstanding.

Restrictions against levy of plate or jewels of orphans; when.

Ibid., sec. 4.

* This act was repealed in Maryland in November, 1803; 1 Dorsey, 482; 1 Stat. L., p. 81, sec. 14; *ibid.*, p. 93, sec. 2; *ibid.*, p. 335, sec. 8; see secs. 716, 883, R. S., U. S.; the law of Maryland relative to sheriff applies to the marshal in this District; 5 Cranch, Ct. Rep. 400, U. S. *vs.* Williams.

CHAPTER TWENTY-TWO.

FIRE DEPARTMENT AND SAFETY FROM FIRE.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. One-third of cost of, to be paid by United States. False alarms of, penalty for raising. 2. Part of cost of, how appropriated. 3. Use of certain buildings granted to. 4. Use of library rooms reserved in Columbia engine-house. 5. Members of, exempt from military duty. 6. Relief fund of firemen. 7. Protection of property from fire and safety of lives, hotels, etc., over 50 feet high, to provide fire escapes and standpipes. | <p>Sec.</p> <ol style="list-style-type: none"> 8. Hallways and stairs in hotels, etc., how they shall be lighted; one or more alarms or gongs to be kept; notices of fire escapes to be kept posted, where; building inspector and chief of fire department, duties of, in connection with fire escapes and standpipes. 9. Penalty for not complying with and liability for neglect of requirements of section 7 of this chapter. 10. Repeal of all acts inconsistent with three preceding sections. |
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One-third of cost of fire department to be paid by the United States. SEC. 1. One-third the expense incurred by the District Government in maintaining a fire department in the District shall be paid by the United States. *

Sec. 190, R. S. D. C. Jan. 31, 1873. 17 Stat., 422.

To be paid into treasury of District when appropriated by Congress; limit. SEC. 2. The Secretary of the Treasury is directed to pay annually into the treasury of the District, out of any moneys which may be appropriated by Congress for that purpose, one-third of the entire cost of maintaining the fire departments, as provided by the preceding section; but the amount paid by the United States in any one year shall not exceed twenty-five thousand dollars.

Sec. 191, R. S. D. C.

Ibid. SEC. 3. The right of use and occupancy of the buildings and appurtenances known as the *Union*,¹ Franklin, Columbia, and Anacostia engine-houses, granted to the city of Washington for the purposes of the fire department, shall continue during the pleasure of Congress so long as used for such purposes.

Sec. 192, R. S. D. C. Feb. 18, 1867. 14 Stat., 397. ¹ Amended Feb. 27, 1877. 19 Stat., 240. Sup. R. S., 1 ed., 279.

Use of library-rooms in Columbia engine-house reserved. SEC. 4. The use and occupancy of the Columbia engine-house shall not interfere with the possession and occupancy by the Columbia Fire Company of the library-rooms in said building.

Sec. 193, R. S. D. C. Ibid.

Members of fire department exempt from military duty. SEC. 5. Members of the fire department are exempt from military duty in time of peace.

Sec. 194, R. S. D. C. Mar. 2, 1837. 6 Stat., 687. 2 Mar., 1837, ch. 26, sec. 1, v. 6, p. 687.

Firemen's relief fund. SEC. 6. Hereafter the Commissioners shall deduct one dollar each month from the pay of each fireman, which sum so deducted shall be kept as a firemen's relief fund, and be invested in United States or District bonds and held in manner provided in this act for the police fund, and shall be used for the relief of any fireman who, by injury received or disease contracted in line of duty, or having served not less than fifteen years, shall become so permanently disabled as to be discharged from service therefor; and in case of his death from

* False alarms of fire, penalty for raising, act Leg. Assem., July 30, 1871, ch. 14, p. 15; see "Crimes and Offences."

such injury or disease, leaving a widow or children under sixteen years of age, for their relief: *Provided further*, That such relief shall not exceed for any one fireman or his family the sum of fifty dollars per month; and a sum not exceeding seventy-five dollars may be allowed from said fund to defray the funeral expenses of any fireman dying in the service of the District.*

Proviso.

SEC. 7. It shall be the duty of the owner or owners, in fee or for life, of every building constructed and used, or intended to be used, as a hotel, factory, manufactory, theater, tenement-house, seminary, college, academy, hospital, asylum, hall, or place of amusement, and of the trustee or trustees of every estate, association, society, college, academy, school, hospital, or asylum owning or using any building fifty feet high or upwards, used for any of the purposes herein above mentioned, to provide and caused to be erected and affixed to said building iron fire-escapes and combined stand-pipes and ladders, or either of said appliances as may be approved and adopted by the Commissioners of the District of Columbia.

Protection of property from fire, and safety of lives, District of Columbia.

Hotels, etc., over 50 feet high to provide fire escapes and stand-pipes.

Jan. 26, 1887.
24 Stat., 365.
2 Sup. R. S., 520.

SEC. 8. In all hotels, factories, manufactories, workshops, schools, seminaries, colleges, hospitals, asylums, halls, or places of amusement, or other places mentioned in this act, the hallways and stairways shall be properly lighted when occupied at night; and at the head and foot of each flight of stairs, and at the intersection of all hallways with main corridors, shall be kept during the night a red light; and one or more proper alarms or gongs, capable of being heard throughout the building, shall always remain easy of access and ready for use in each of said buildings, to give notice to the inmates in case of fire; and there shall be kept posted in a conspicuous place in every sleeping-room a notice descriptive of such means of escape; and the building inspector and chief engineer of the fire department shall have the right to designate the location of the said fire-escapes and stand-pipes in conformity with this act, and shall grant certificates of approval to every person, firm, corporation, trustee, and board of school trustees complying with the requirements of this act, which certificates shall relieve the party or parties from the liabilities of fines or damages imposed by this act.

Hallways and stairways to be lighted.

Alarms.

Notices.

Ibid., sec. 2.

SEC. 9. That every person, corporation, trustee, or board of school directors neglecting or refusing to comply with the requirements of the first section of this act, upon receiving thirty days' notice of the same, shall be liable to a fine not exceeding one hundred dollars, to be collected as fines are now by law collected; and the building inspector and chief engineer shall cause to be erected upon said building said appliances as in their judgment may be necessary, and the same shall be charged and held as a lien against said property and collected the same as other improvements made by the District authorities; and in case of fire occurring in any such building not provided with said appliances as may be required by the building inspector and chief engineer of the fire department, and in accordance with the requirements of the first section of this act, the person, persons, trustee, trustees, corporation, or school directors who or which neglected to provide such building with said appliances as aforesaid shall be liable in an action for damages in case of death or personal injury being caused in consequence of such fire breaking out in said building; and such action may be maintained by any person or persons now authorized by law to sue, as in other cases for injuries caused by neglect of duty.

Penalty for not complying.

Liability for neglect.

Ibid., sec. 3.

SEC. 10. That all acts or parts of acts inconsistent with this act are hereby repealed.

Repeal.

Ibid., sec. 4.

* This section repeals the provision relating to this subject, contained in the act of Congress July 5, 1884, 23 Stat., 126.

CHAPTER TWENTY-THREE.

FRAUDS AND FRAUDULENT CONVEYANCES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Sales of personalty, possession remaining in vendor, mortgagor or donor, are void, unless in writing and recorded within twenty days. 2. Proviso to preceding section; such sales, etc., valid against vendor, mortgagor, and donor. 3. Contracts for sale of goods for £10 or more, when only good. 4. Parol leases and interests of freehold shall have the force of estates at will only. 5. Leases not exceeding three years, when excepted from provisions of preceding section. 6. No leases or estates of freehold, etc., or not copyhold, shall be granted, assigned, or surrendered by parol. 7. Promises and agreements by parol void, when, viz: executor, etc., to answer damages out of his estate; to pay debt, default or miscarriage of another; agreement upon consideration of marriage; contracts for sale of lands or any interest in them; agreements not to be performed within one year. 8. Declarations or creations of trusts affecting lands shall be in writing. 9. Exception to preceding section in cases of trusts arising, transferred or extinguished by implication of law. 10. Assignment of trusts shall be in writing. 11. Lands, etc., shall be liable to the judgments, etc., of the <i>cestui que trust</i> and held free from the incumbrances of the person seized in trust. Trusts shall be assets in the hands of heirs. 12. Proviso to preceding section: No heir shall by reason thereof become chargeable of his own estate. | <p>Sec.</p> <ol style="list-style-type: none"> 13. Fraudulent deeds made to avoid the debts of others, shall be void; the penalties of the parties to such fraudulent assurances. 14. All fraudulent conveyances made to avoid the debt or duty of others, shall be void. 15. Forfeitures of parties to fraudulent deeds; who shall have the forfeiture and by what means. 16. Proviso to previous sections. Estates made upon good consideration and bona fide. 17. Fraudulent conveyances made to deceive purchasers shall be void. 18. The penalty of the parties to fraudulent conveyances, who do avow the same. 19. Conveyances made upon good considerations and bona fide. 20. Lands first conveyed with condition of revocation or alteration and after sold for money or other good consideration. 21. Proviso to preceding section. Mortgages bona fide not affected. 22. Deeds of gift of goods and chattels to defraud creditors, shall be void. 23. Fraudulent assurances of lands or goods to deceive creditors, shall be void. 24. Debtor upon judgment, etc., taking up money of another upon a mortgage without notice of the judgment to the mortgagee, shall lose his equity to redeem. 25. Person mortgaging twice, without notice to second mortgagee, loses his equity. 26. Proviso to preceding section, When second mortgagee, etc., may redeem prior mortgages. 27. Proviso to section preceding next above. Right of widow to dower in mortgaged property, when. |
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Sales of personalty, possession remaining in vendor, mortgagor or donor, are void, unless in writing and recorded within twenty days.

SEC. 1. No goods or chattels, whereof the vendor, mortgagor or donor, shall remain in possession, shall pass, alter or change, or any property thereof be transferred to any purchaser, mortgagee or donee, unless the same be by writing, and acknowledged before one provincial justice, or one justice of the county where such seller, mortgagor or donor shall reside, and be within twenty days recorded in the records of the same county.

Md. act 1729, ch. 8, sec. 5. 1 Dorsey, 73. 1 Kilty, 207. 8 Mackey Rep., 555, Sanders vs. Wilson; 2 Mackey Rep., 264, Terney vs. Corbett; 151 U. S. Rep., 608. Shauer vs. Alterton; 68 Md. Rep., 299, Lincoln vs. Quinn.

Proviso to preceding section: such sales, etc., valid against vendor, mortgagor, and donor.

SEC. 2. That nothing in this act shall extend, or be construed to extend, to make void any such sale, mortgage or gift, against such seller, mortgagor or donor, his executors, administrators or assigns only, or any claiming under him, her or them.

Ibid., sec. 6, p. 73. 19 Wash. Law Rep., 215, Sanders vs. Wilson; ibid., 8 Mackey Rep., 555.

SEC. 3. No contract for the sale of any goods, wares and merchandizes, for the price of ten pounds sterling, or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such a contract, or their agent thereunto lawfully authorized [§26.66½].

Contracts for sale of goods for £10 or more.

29 Car. II, ch. 3, sec. 17. A. D. 1676.
Alex. Brit. Stat., 512.

SEC. 4. All leases, estates, interests of freehold, or terms of years, or any uncertain interest of, in, or out of any messuages, manors, lands, tenements or hereditaments made or created by livery and seisin only, or by parol, and not put in writing, and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage to the contrary notwithstanding.

Parol leases and interests of freehold shall have the force of estates at will only.

29 Charles II, ch. 3, sec. 1. A. D. 1676.
Alex. Brit. Stat., 508.

SEC. 5. Except nevertheless all leases not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount unto two third parts at least of the full improved value of the thing demised.

Exception to preceding section, in case of leases not exceeding three years.

Ibid., sec. 2. Alex. Brit. Stat., p. 509. 95 U. S. Rep., 454. Williams vs. Morris; 45 Md. Rep., 181, Gittings vs. Bank.

SEC. 6. And moreover, that no leases, estates, or interests, either of freehold, or terms of years, or any uncertain interest, not being copyhold, or customary interest, of, in, to, or out of any messuages, manors, lands, tenements, or hereditaments, shall at any time after the said four and twentieth day of June, be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

No leases or estates of freehold etc., or not copyhold, shall be assigned, granted or surrendered by parol.

Ibid., sec. 3.
Alex. Brit. Stat., 509.

SEC. 7. That from and after the said four and twentieth day of June, no action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; (2) or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriages of another person; (3) or to charge any person upon any agreement made upon consideration of marriage; (4) or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them; (5) or upon any agreement that is not to be performed within the space of one year from the making thereof; (6) unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

Promises and agreements by parol.

Ibid., sec. 4.
Alex. Brit. Stat., 509.

SEC. 8. That from and after the said four and twentieth day of June, all declarations or creations of trusts and confidence, of any lands, tenements, or hereditaments, shall be manifested and proved by some writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

Declarations or creations of trusts shall be in writing.

Ibid., sec. 7.
Alex. Brit. Stat., 509.

SEC. 9. *Provided always*, That where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or

Trusts arising, transferred or ex-

tinguished by im-
plication of law,
excepted.

Ibid., sec. 8.
Alex. Brit. Stat.,
510.

Assignment of
trusts shall be in
writing.

Ibid., sec. 9.
Alex. Brit. Stat., 510.

Lands, etc.,
shall be liable to
the judgments,
etc., of *cestui que
trust*, and held
free from the in-
cumbrances of the
persons seized in
trust. Trusts shall
be assets in the
hands of heirs.

Ibid., sec. 10.
Alex. Brit. Stat.,
510, 511.

Proviso to pre-
vious section: No
heir shall by
reason thereof be-
come chargeable
of his own estate.

Ibid., sec. 11.
Alex. Brit. Stat.,
511.

Fraudulent
deeds made to
avoid the debts of
others, shall be
void; the penalties
of the parties to
such fraudulent
assurances.

13 Elizabeth. ch.
5, sec. 1, A. D.
1570.

may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this statute had not been made; any thing herein before contained to the contrary notwithstanding.

SEC. 10. That all grants and assignments of any trust or confidence, shall likewise be in writing, signed by the party granting or assigning the same or by such last will or devise, or else shall likewise be utterly void and of none effect.

SEC. 11. That from and after the said four and twentieth day of June, it shall and may be lawful for every sheriff, or other officer, to whom any writ or precept is or shall be directed, at the suit of any person or persons, of, for and upon any judgment, statute or recognizance hereafter to be made, or had, to do, make and deliver execution unto the party in that behalf suing, of all such lands, tenements, rectories, tithes, rents and hereditaments, as any other person or persons be in any manner of wise seised or possessed, or hereafter shall be seised or possessed in trust for him against whom execution is so sued, like as the sheriff or other officer might or ought to have done, if the said party against whom execution hereafter shall be so sued, had been seised of such lands, tenements, rectories, tithes, rents or other hereditaments of such estate as they be seised of in trust for him at the time of the said execution sued, (2) which lands, tenements, rectories, tithes, rents and other hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed, freed and discharged from all incumbrances of such person or persons as shall be so seised or possessed, in trust for the person against whom such execution shall be sued; (3) and if any *cestuy que trust* hereafter shall die, leaving a trust in fee-simple to descend to his heir, there, and in every such case, such trust shall be deemed and taken, and is hereby declared to be assets by descent, and the heir shall be liable to and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been, if the estate in law had descended to him in possession in like manner as the trust descended; any law, custom or usage to the contrary in any wise notwithstanding.

SEC. 12. *Provided always*, That no heir that shall become chargeable by reason of any estate or trust made assets in his hands by this law, shall by reason of any kind of plea, or confession of the action, or suffering judgment by *nient dedire*, or any other matter be chargeable to pay the condemnation out of his own estate: (2) but execution shall be sued of the whole estate so made assets in his hands by descent, in whose hands soever it shall come, after the writ purchased, in the same manner as it is to be at and by the common law, where the heir at law pleading a true plea, judgment is prayed against him thereupon; any thing in this present act contained to the contrary notwithstanding.

SEC. 13. For the avoiding and abolishing of feigned, covinous and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, as well of lands and tenements, as of goods and chattels, more commonly used and practised in these days, than hath been seen or heard of heretofore: (2) Which feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, have been, and are devised and contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent, to delay, hinder or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures,

heriots, mortuaries and reliefs, not only to the let or hindrance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, bargaining and chevisance between man and man, without the which no commonwealth or civil society can be maintained or continued :

Preamble to this act.
Alex. Brit. Stat., 378.
Kilty's Rep., 234.

SEC. 14. *Be it, therefore declared, ordained and enacted by the authority of this present Parliament.* That all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or any of them, or of any lease, rent, common or other profit or charge out of the same lands, tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise : (2) and all and every bond, suit, judgment and execution, at any time had or made sithence the beginning of the Queen's Majesty's reign that now is, or at any time hereafter to be had or made ; (3) to or for any intent or purpose before-declared and expressed, shall be from henceforth deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, by such guileful, covinous or fraudulent devices and practices, as aforesaid, are, shall or might be in any wise disturbed, hindered, delayed or defrauded) to be clearly and utterly void, frustrate, and of none effect ; any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

All fraudulent conveyances made to avoid the debt or duty of others, shall be void.

Ibid., sec. 2.
Alex. Brit. Stat., 378, 379.

1 MacArthur Rep., 280, Walter vs. Lane; ibid., p. 317. Offutt vs. King; 2 Mackey Rep., 43, Edwards vs. Entwisle; 8 Wheaton Rep., 242. Sexton vs. Wheaton; 67 Md. Rep., 82. Ferrall vs. Farnen.

SEC. 15. That all and every the parties to such feigned, covinous, or fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, and other things before expressed, and being privy and knowing of the same, or any of them ; (2) which at any time after the tenth day of June next coming, shall wittingly and willingly put in ure, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made bona fide, and upon good consideration ; (3) or shall alien or assign any the lands, tenements, goods, leases, or other things before-mentioned, to him or them conveyed, as is aforesaid, or any part thereof. (4) shall incur the penalty and forfeiture of one year's value of the said lands, tenements and hereditaments, leases, rents, commons, or other profits, of or out of the same : (5) and the whole value of said goods and chattels ; (6) and also so much money, as are or shall be contained in any such covinous and feigned bond ; (7) the one moiety whereof to be to the queen's majesty, her heirs and successors, and the other moiety to the party or parties grieved by such feigned and fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, leases, rents, commons, profits, charges, and other things aforesaid, to be recover'd in any of the Queen's courts of record, by action of debt, bill, plaint or information, wherein no essoin, protection, or wager of law shall be admitted for the defendant or defendants ; (8)¹ and also being thereof lawfully convicted, shall suffer imprisonment for one half year without bail or mainprise.

Forfeiture of parties to fraudulent deeds; who shall have the forfeiture and by what means.

Ibid., sec. 3.
Alex. Brit. Stat., 379.

Kilty's Rep., 234.
Sec. 837, R. S. D. C.

SEC. 16. Provided also, and be it enacted by the authority aforesaid That this act, or any thing therein contained, shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattels, had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured ; which estate or interest, is or shall be upon good consideration and bona fide, lawfully conveyed or assured to any person or persons, or bodies politick or corporate, not having at the time of such conveyance or

Proviso to previous sections. Estates made upon good consideration and bona fide.

Ibid., sec. 6.
Alex. Brit. Stat., p. 380.

59 Md. Rep., 72,
Welde vs. Scotten.

assurance to them made, any manner of notice or knowledge of such covin, fraud or collusion, as is aforesaid; any thing before-mentioned to the contrary hereof notwithstanding.

Fraudulent conveyances made to deceive purchasers, shall be void.

27 Elizabeth, ch. 4, sec. 2, A. D. 1585.

Alex. Brit. Stat., 414.

Kilty's Rep., 235.
5 Peters Rep., 280, Cathcart vs. Robinson.

SEC. 17. That all and every conveyance, grant, charge, lease, estate, incumbrance, and limitation of use or uses, of, in, or out of any lands, tenements, or other hereditaments whatsoever, had or made any time heretofore sithence the beginning of the Queen's Majesty's reign that now is, or at any time hereafter to be had or made, for the intent and of purpose to defraud and deceive such person or persons, bodies politick or corporate, as have purchased, or shall afterwards purchase in fee-simple, fee-tail, for life, lives or years, the same lands, tenements and hereditaments, or any part or parcel thereof so formerly conveyed, granted, leased, charged, incumbered or limited in use, (3) or to defraud and deceive such as have or shall purchase any rent, profit or commodity in or out of the same, or any part thereof, (4) shall be deemed and taken only as against that person and persons, bodies politick and corporate, his and their heirs, successors, executors, administrators and assigns, and against all and every other person and persons lawfully having or claiming by, from or under them, or any of them which have purchased, or shall hereafter so purchase for money, or other good consideration, the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of the same, to be utterly void, frustrate, and of none effect; (5) any pretence, colour, fained consideration, or expressing of any use or uses to the contrary notwithstanding.

The penalty of the parties to fraudulent conveyances, who do avow the same.

Ibid., sec. 3.
Alex. Brit. Stat., 414, 415.

SEC. 18. That all and every the parties to such fained, covinous and fraudulent gifts, grants, leases, charges or conveyances before expressed, or being privy and knowing of the same or any of them, which after the twentieth day of April next coming, shall wittingly and willingly put in ure, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made, bona fide, or upon good consideration, to the disturbance or hindrance of the said purchaser or purchasers, lessees or grantees, or of or to the disturbance or hindrance of their heirs and successors, executors, administrators, or assigns, or such as have or shall lawfully claim any thing by, from or under them, or any of them, shall incur the penalty and forfeiture of one year's value of the said lands, tenements and hereditaments so purchased or charged; (2) the one moiety whereof to the Queen's Majesty, her heirs and successors, and the other moiety to the party or parties grieved by such fained and fraudulent gift, grant, lease, conveyance, incumbrance, or limitation of use, to be recovered in any of the Queen's courts of record, by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law shall be admitted for the defendant or defendants; (3) and also being thereof lawfully convicted, shall suffer imprisonment for one half year, without bail or mainprize. (See sec. 377 B. S. D. C.)

Conveyances made upon good considerations and bona fide.

Ibid., sec. 4.
Alex. Brit. Stat., 415, 416.

Kilty's Rep., 235.

SEC. 19. *Provided also.* That this act, or any thing therein contained, shall not extend or be construed to impeach, defeat, make void or frustrate any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest, or limitation of use or uses, of, in, to or out of any lands, tenements or hereditaments heretofore at any time had or made, or hereafter to be had or made, upon, or for good consideration and bona fide, to any person or persons, bodies politick or corporate; any thing before-mentioned to the contrary hereof notwithstanding.

Lands first conveyed with con-

SEC. 20. That if any person or persons have heretofore sithence the beginning of the Queen's Majesty's reign that now is, made, or

hereafter shall make any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in, or out of any lands, tenements or hereditaments, with any clause, provision, article or condition of revocation, determination or alteration, at his or their will or pleasure, of such conveyance, assurance, grants, limitations of uses or estates of, in or out of the said lands, tenements or hereditaments, or of, in or out of any part or parcel of them, contained or mentioned in any writing, deed or indenture of such assurance, conveyance, grant or gift; (2) and after such conveyance, grant, gift, demise, charge, limitation of uses, or assurance so made or had, shall or do bargain, sell, demise, grant, convey or charge the same lands, tenements or hereditaments, or any part or parcel thereof, to any person or persons, bodies politick and corporate, for money or other good consideration paid or given (the said first conveyance, assurance, gift, grant, demise, charge or limitation, not by him or them revoked, made void or altered, according to the power and authority reserved or expressed unto him or them, in, and by the said secret conveyance, assurance, gift or grant,) (3) That then the said former conveyance, assurance, gift, demise and grant, as touching the said lands, tenements, and hereditaments, so after bargained, sold, conveyed, demised or charged against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators and assigns, and against all and every person and persons which have, shall, or may lawfully claim any thing, by, from, or under them, or any of them, shall be deemed, taken, and adjudged to be void, frustrate, and of none effect, by virtue and force of this present act.

SEC. 21. *Provided nevertheless*, That no lawful mortgage made, or to be made *bona fide*, and without fraud or covin, upon good consideration, shall be impeached or impaired by force of this act, but shall stand in the like force and effect as the same should have done if this act had never been had nor made; any thing in this act to the contrary in any wise notwithstanding.

SEC. 22. That where oftentimes deeds of gift of goods and chattels have been made, to the intent to defraud their creditors of their duties, and that the person or persons that maketh the said deed of gift goeth to sanctuary, or other places privileged, and occupieth and liveth with the said goods and chattels, their creditors being unpaid: (2) It is ordained, enacted, and established by the assent of the Lords spiritual and temporal, and at the request of the commons in the said Parliament assembled, and by authority of the same, That all deeds of gift of goods and chattels made or to be made of trust, to the use of that person or persons that made the same deed of gift, be void and of none effect.

SEC. 23. Because that divers people inherit of divers tenements, borrowing divers goods in money or in merchandise of divers people of this realm, do give their tenements and chattels to their friends, by collusion thereof to have the profits at their will, and after do flee to the franchise of Westminster, of St. Martin le Grand of London, or other such privileged places, and there do live a great time with an high countenance of another man's goods, and profits of the said tenements and chattels, till the said creditors shall be bound to take a small parcel of their debt, and release the remnant; (2) it is ordained and assented, that if it be found that such gifts be so made by collusion, that the said creditors shall have execution of the said tenements and chattels, as if no such gift had been made.

SEC. 24. That if any person or persons, from and after the first day of May which shall be in the year of our Lord one thousand

dition of revocation for alteration and after sold for money, or other good consideration.

Ibid., sec. 5.
Alex. Brit. Stat.,
415, 416.

Proviso to preceding section: Mortgages *bona fide* not affected.

Ibid., sec. 6.
Alex. Brit. Stat.,
416.

All deeds of gift made to defraud creditors shall be void.

3 Henry VII.
ch. 4, A. D. 1486.
Alex. Brit. Stat.,
255.
Kilty's Rep., 228.

Fraudulent assurances of lands or goods to deceive creditors, shall be void.

50 Edward III,
ch. 6, A. D. 1376.
Alex. Brit. Stat.,
180.
Kilty's Rep., 44.

Debtor upon judgment, etc.,

taking up money of another upon a mortgage without notice of the judgment to the mortgagee, shall lose his equity to redeem.

4 and 5, William and Mary, ch. 16, sec. 2. A. D. 1692.
Alex. Brit. Stat., 578, 579.
Kilty's Rep., 242.

six hundred ninety and three, shall borrow any money, or for any other valuable consideration, for the payment thereof, voluntarily give, acknowledge, permit, or suffer to be entered, against him or them, one or more judgment or judgments, statute or statutes, recognizance or recognizances, to any person or persons, creditor or creditors; and if the said borrower or borrowers, debtor or debtors, shall afterwards take up or borrow any other sum or sums of money of any other person or persons, or for other valuable consideration become indebted to such person or persons, and for securing the repayment and discharge thereof, shall mortgage his, her, or their lands or tenements, or any part thereof, to the said second or other lender or lenders of the said money, creditor or creditors, or to any other person or persons in trust for, or to the use of, such second or other lender or lenders, creditor or creditors, and shall not give notice to the said mortgagee or mortgagees of the said judgment or judgments, statute or statutes, recognizance or recognizances, in writing under his, her, or their hand or hands, before the execution of the said mortgage or mortgages, unless such mortgager or mortgagers, his, her, or their heirs, upon notice to him, her, or them, given by the mortgagee or mortgagees of the said lands and tenements, his, her, or their heirs, executors, administrators, or assigns, in writing under his, her, or their hands and seals, attested by two or more sufficient witnesses of any such former judgment or judgments, statute or statutes, recognizance or recognizances, shall within six months pay off and discharge the said judgment or judgments, statute or statutes, recognizance or recognizances, and all interest and charges due thereupon, and cause or procure the same to be vacated or discharged by record, that then the mortgager or mortgagers of the said lands and tenements, his, her, or their heirs, executors, administrators, or assigns, shall have no benefit or remedy against the said mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns, or any of them, in equity or elsewhere, for redemption of the said lands and tenements, or any part thereof; but the said mortgagee or mortgagees his, her, or their heirs, executors, administrators and assigns, shall and may hold and enjoy the said lands and tenements for such estate and term therein, as were or was granted and settled to the said mortgagee or mortgagees against the said mortgager or mortgagers, and all person and persons lawfully claiming from, by, or under him, her, or them, freed from equity or redemption, and as fully to all intents and purposes whatsoever, as if the same had been purchased absolutely and without any power or liberty of redemption.

Person mortgaging twice without notice to second mortgagee, loses his equity.

Ibid., sec. 3.
Alex. Brit. Stat., 579.
Kilty's Rep., 242.

SEC. 25. That if any person or persons, who have or hath once mortgaged, or from and after the said first day of May shall mortgage, any lands or tenements to any person or persons, for security of money lent, or otherwise accrued or become due, or for other valuable considerations; and if the said mortgager or mortgagers shall again mortgage the same lands or tenements, or any part thereof, to any other person or persons for valuable considerations (the said former mortgage being in force and not discharged) and shall not discover to the said second or other mortgagee or mortgagees, or some or one of them, the former mortgage or mortgages in writing under his or their hands; that then and in those cases also, the said mortgager or mortgagers, his, her, or their heirs, executors, administrators, or assigns, shall have no relief or equity of redemption against the said second or after mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns, upon the said after mortgage or mortgages, but that such mortgagee or mortgagees, his, her, or their heirs, executors, administrators, and assigns, shall and may hold and enjoy such more than once mortgaged lands, and tenements, for such estate and term therein, as

were or was granted and conveyed by the said mortgager or mortgagers, against him, her, or them, his, her, or their heirs, executors, or administrators respectively, freed from equity of redemption, and as fully to all intents and purposes, as if the same had been an absolute purchase, and without any power or liberty of redemption.

SEC. 26. *Provided always, and be it further enacted by the authority aforesaid,* That nevertheless if it so happen there be more than one mortgage at the same time made, by any person or persons to any person or persons, of the same lands and tenements, the several late or under mortgagees, his, her, or their heirs, executors, administrators, or assigns, shall have power to redeem any former mortgage or mortgages, upon payment of the principal debt, interest, and costs of suit, to the prior mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns; any thing therein contained to the contrary thereof in any wise notwithstanding.

Proviso to previous section: When second mortgagee, etc., may redeem prior mortgages.

Ibid., sec. 4. Alex. Brit. Stat., 579, 580.

SEC. 27. *Provided always,* That nothing in this act contained shall be construed, deemed, or extended to bar any widow of any mortgager of lands or tenements from her dower and right in or to the said lands, who did not legally join with her husband in such mortgage, or otherwise lawfully bar or exclude her self from such her dower or right.*

Proviso to preceding section: Right of widow to dower in mortgaged property: when.

Ibid., sec. 5:

Alex. Brit. Stat., 580. 6 Mackey Rep., 536, Thompson's estate: 12 Peters Rep., 201, Stelle vs. Carroll.

* For statute of 3 and 4 William and Mary, ch. 14, on fraudulent devices; see "Wills" post.

CHAPTER TWENTY-FOUR.

GAME AND FISH.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Game, season for. Quail, penalty for killing or possessing, when. 2. Same subject, pheasants; penalty for killing, etc., when. 3. Same subject, woodcock; penalty for killing, etc., when. 4. Same subject, prairie chicken; penalty for killing, etc., when. 5. Same subject, snipe; penalty for killing, etc., when. 6. Same subject, ducks and wild geese; penalty for killing, etc., when. 7. Same subject, rail, reed birds; penalty for killing, etc., when. 8. Same subject, venison; penalty for selling or possessing, when. 9. Same subject, certain birds; penalty for killing, etc., when. 10. Same subject, robbing wild birds' nests, penalty, when. 11. Same subject, trapping, etc., wild birds, etc., penalty, when. 12. Same subject, killing wild ducks, penalty for, when. 13. Same subject, killing birds or wild fowl at night, penalty, when. 14. Killing birds for scientific purposes, proof required. | <p>Sec.</p> <ol style="list-style-type: none"> 15. Trespassing on another's lands in hunting, penalty for, when. 16. Notice to trespassers, how made. Penalty for destroying notices. 17. Sunday shooting or carrying of guns, etc., penalty, when. 18. Repeal of all inconsistent acts. 19. Fish-netting season, when. 20. "Closed season" in fishing season, what required in certain cases. 21. Black bass or salmon, to be caught with hook only. 22. Shad or herring, when can be caught. 23. Penalty, etc., for violating provisions of preceding four sections. 24. Use of nets, etc., in waters of Potomac, prohibited. 25. Proviso to preceding section for outlines and U. S. Fish Commissioner. Penalty for violation of provision, where cognizable. 26. Tar, oil or other waste product not to be deposited or allowed to flow into Potomac or its tributaries. Penalty for violation of this section. |
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PROTECTION OF GAME.

SEC. 1. No person shall kill or expose for sale, or have in either his or her possession, either dead or alive, any partridge otherwise quail.

Game-season for—Quail.

- June 15, 1878. between the first day of February and the first day of November,
20 Stat., 134. under a penalty of five dollars for each bird so killed or in posses-
Sup. R. S., 353. sion.*
- Pheasant. SEC. 2. No person shall kill or expose for sale, or have in his or her
Ibid., sec. 2. possession, either dead or alive, any pheasant, otherwise ruffed
grouse, between the first day of February and the first day of August,
under a penalty of five dollars for each bird so killed or in possession.
- Woodcock. SEC. 3. No person shall kill or expose for sale, or have in his or
Ibid., sec. 3. her possession, either dead or alive, any woodcock, between the first
day of February and the first day of July, under a penalty of five
dollars for each bird so killed or in possession.
- Prairie-chicken. SEC. 4. No person shall kill or expose for sale, or have in his or
Ibid., sec. 4. her possession, either dead or alive, any prairie-chicken, otherwise
pinnated grouse, between the first day of February and the first day
of September under a penalty of five dollars for each bird so killed
or in possession.
- Snipe. SEC. 5. No person shall kill or expose for sale, or have in his or her
Ibid., sec. 5. possession, either dead or alive, any snipe, or plover, between the
first day of May and the first day of September, under a penalty of
five dollars for each bird so killed or in possession.
- Ducks, wild SEC. 6. No person shall kill or expose for sale, or have in his or her
geese. possession, either dead or alive, any wild duck, wild goose, or wild
Ibid., sec. 6. brandt, between the first day of April and the first day of Septem-
ber, under a penalty of five dollars for each bird so killed or in posses-
sion.
- Rails, reed- SEC. 7. No person shall kill or expose for sale, or have in his or
birds. her possession, either dead or alive, any water-rail, or ortolan, or
Ibid., sec. 7. reed-bird, or rice-bird, between the first day of February and the
first day of September, under a penalty of two dollars for each bird
so killed or in possession.
- Venison. SEC. 8. No person shall expose for sale or have in his or her pos-
Ibid., sec. 8. session, any deer-meat, or venison, between the first day of January
and the fifteenth day of August, under a penalty of twenty cents for
each and every pound of deer-meat so exposed for sale or had in pos-
session.
- Birds not to be SEC. 9. No person shall kill or expose for sale, or have in his or
killed. her possession, dead, at any time any turkey-buzzard, wren, sparrow,
Ibid., sec. 9. blue-bird, humming-bird, blue jay, robin or migratory thrush, wood
or song robin, martin, mocking-bird, swallow, oriole, red or car-
dinal bird, cat-bird, pewit, whip-poor-will, gold-finch, sap-sucker,
hanging-bird, wood-pecker, crow black bird, or any other insectiv-
orous bird, save as herein provided, under a penalty of two dol-
lars for each bird killed or in possession dead.

* Unwholesome birds, fish, etc. See Health Ordinance, Sup. R. S., 2 ed., p. 308, sec. 8.
Unlawful to fish or hunt with dogs in county on Sunday under penalty of \$5 fine. See Levy Court
Ord., May 11, 1893, p. 5, sec. 6.

SEC. 1. It shall not be lawful to sell or offer for sale, or to buy eggs of any of the species of birds,
viz: the pheasant, partridge or quail species, any bird or birds of the woodcock species; any bird or
birds of the lark or robin species; any bird or birds of the water rail, sora, ortolan or marsh-pullet
species. And it shall not be lawful to kill, sell, or offer for sale, or buy any animal of the hare or wild
rabbit species between the first day of February and the fourth day of July in each year: *Provided*,
That nothing in this law shall be so construed as to prohibit any person or persons from selling or
offering for sale within the city of Washington any bird or animal of the kind above described, to
be kept in cages, aviaries, or otherwise for preservation, or as objects of curiosity or amusement.

SEC. 2. Any person offending against the provisions of this law shall forfeit and pay a sum of not
less than one dollar nor more than three dollars for each and every offense. Webb's Digest, p. 179,
Feb. 6, 1840, Corporation Ordinance of city of Washington.

SEC. 10. No person shall rob the nest of any wild bird of eggs or young, or destroy such nest, unless in the necessary prosecution of farming business, under a penalty of two dollars for each egg or bird so taken, and under a penalty of five dollars for each nest destroyed.

Robbing, etc., wild birds' nests.
Ibid., sec. 10.

SEC. 11. No person shall trap, net, or ensnare any wild bird or water-fowl, or have in possession any trap, net, or snare, with the intent to capture or kill any wild bird or water-fowl, under a penalty of five dollars for every bird or water-fowl so trapped, netted, or ensnared, and under a further penalty of twenty dollars for having in possession any such net, trap, or snare; and such net, trap or snare shall be forfeited and destroyed.

Trapping wild birds.
Ibid., sec. 11.

SEC. 12. No person shall at any time kill or shoot at any wild duck, wild goose, or wild brandt with any other gun than such as are habitually raised at arm's length and fired from the shoulder, under a penalty of five dollars for each and every wild fowl killed, and under the further penalty of twenty-five dollars for firing such gun at any wild fowl as aforesaid, or having said gun in possession.

Killing wild ducks, etc., with certain guns.
Ibid., sec. 12.

SEC. 13. No person shall kill or shoot at any bird or wild fowl in the night-time, under a penalty of twenty-five dollars for every bird or wild fowl so killed, and under the further penalty of ten dollars for shooting at any bird or wild fowl in the night-time as aforesaid.

Killing birds at night.
Ibid., sec. 13.

SEC. 14. Persons in killing birds for scientific purposes, or in possession of them for breeding, shall be exempt from the operations of this act by proving affirmatively such purposes; and the possession shall in all cases be presumptive evidence of unlawful purpose.

Killing birds for scientific purposes.
Ibid., sec. 14.

SEC. 15. Any person who shall knowingly trespass on the lands of another for the purpose of shooting or hunting thereon, after due notice, or notice as provided for in the following section, by the owner or occupant of lands, shall be liable to such owner or occupant in exemplary damages to an amount not exceeding one hundred dollars, and shall also be liable to a fine of ten dollars for each and every trespass so committed. The possession of implements of shooting on such lands shall be presumptive evidence of the trespass.

Trespassing on another's lands in hunting.
Ibid., sec. 15.

SEC. 16. The notice referred to in the preceding section shall be given by erecting and maintaining sign-boards at least eight by twelve inches in dimension, on the borders of the premises, and at least two such signs for every fifty acres; and any person who shall maliciously tear down or in any manner deface or injure any of such sign-boards shall be liable to a penalty of not less than five dollars nor more than twenty-five dollars for each and every sign-board so torn down, defaced or injured.

Notice to trespassers.
Destroying notices.
Ibid., sec. 16.

SEC. 17. There shall be no shooting, or having in possession in the open air the implements for shooting, on the first day of the week, called Sunday; and any persons violating the provisions of this section shall be liable to a penalty of not more than twenty-five dollars nor less than ten dollars for each offense.

Shooting or carrying gun on Sunday.
Ibid., sec. 17.

SEC. 18. All acts or parts of acts now in force in the District of Columbia, inconsistent with the provisions of this act be, and the same are hereby, repealed.

Repeals.
Ibid., sec. 18.

PROTECTION OF THE POTOMAC FISHERIES.

SEC. 19. It shall not be lawful to fish with fyke-net, pound-net stake-net, weir, float-net, gill-net, haul-seine, or any other contrivance stationary or floating, in the waters of the Potomac River

Fish netting season.
Apr. 6, 1880.

- 21 Stat., 71. within the District of Columbia, after the thirtieth day of May in
2 Sup. R. S., 279. any year. [See sec. 24, post.]
- Sunday, etc., SEC. 20. During the fishing season, namely, from the first day of
closed season. January to the thirtieth day of May in every year, there shall be
Ibid., sec. 2. observed in each week, a closed season, beginning at sundown on
Saturday evening, and ending at midnight on Sunday night during
which time it shall be unlawful to lay out any haul seine or float
net or to fish the same, and all stake-nets, and the leaders of all
hedges or pounds, fyke-nets and weirs shall be lifted clear of the
water so as to allow unobstructed passage to the fish: *Provided*,
That in the case of weirs it will be sufficient to remove a section of
the hedging next the pound or pen, not less than twelve feet in length.
- Black bass and SEC. 21. It shall be unlawful for any person to take, in any other
salmon. manner than by angling, or with the out line, any fish of the species
Ibid., sec. 3. known as "black bass" or "salmon".
- Shad and her- SEC. 22. It shall be unlawful for any person to have in possession
ring. or expose for sale in the District of Columbia, after the tenth day of
Ibid., sec. 4. June in any year, fish of the shad or herring species (fresh) under a
penalty of five dollars for every fish so exposed or found in possession.
- Penalty. SEC. 23. Any person who shall offend against any of the provisions
Angling, etc., of this act, shall be deemed guilty of a misdemeanor and upon suffi-
permitted. cient proof thereof in the Police Court or other Court of the District
Ibid., sec. 5. shall be fined not less than ten nor more than one hundred dollars for
each offense and shall forfeit to the District his nets, boats and other
apparatus, which shall be sold and the proceeds of such sales and all
fines accruing under this act shall be paid into the Treasury, and
therefrom, to the informer, in each case where conviction ensues,
shall be paid the sum of ten dollars: *Provided*, That nothing in this
act shall be construed to prohibit angling or fishing with the out line,
or to prevent the Commissioner of Fish and Fisheries, or his agents,
from taking from the waters named, in any manner desired, fish of
any kind for scientific purposes or for the purposes of propagation.
- Protection of fish SEC. 24. From and after date of passage of this act, for a term of
in District of Co- five years, it shall not be lawful to fish with fyke-net, pound-net,
lumbia. stake-net, weir, float-net, gill-net, haul-seine, or any other contrivance,
Use of nets and stationary or floating, in the waters of the Potomac River within the
other contrivances District of Columbia. [See sec. 19, ante.]
in waters of Poto-
mac unlawful.
- Mar. 2, 1885; 2 Su. R. S., 480. 23 Stat., 340, sec. 1.
- Any offense SEC. 25. Any person who shall offend against any of the provisions
against this act a of this act shall be deemed guilty of a misdemeanor, and upon suffi-
misdemeanor. cient proof thereof in the police court or other court of the District
Punishment. of Columbia, shall be punished by a fine of not less than ten dollars
Proceeds of fines nor more than one hundred dollars for each and every such offense
and seizures to be and shall forfeit to the District his nets, boats, and all other apparatus
paid into United and appliances used in violation of law, which shall be sold; and the
States Treasury. proceeds of such sales, and all fines accruing under this act, shall be
Provido. paid into the Treasury: *Provided*, That nothing in this act shall be
Angling and construed to prohibit angling or fishing with the outline or to prevent
taking of fish for the United States Commissioner of Fish and Fisheries, or his agents,
propagation and from taking from said waters of the Potomac River in the District
scientific purposes of Columbia, in any manner desired, fish of any kind for scientific
excepted. purposes or for the purposes of propagation.
Ibid., sec. 2.
- Depositing, or SEC. 26. From and after three months from the date of the passage
allowing flow of of this act it shall be unlawful to allow any tar, oil, ammoniacal liquor

or other waste products of any gas-works or of works engaged in using such products or any waste product whatever of any mechanical, chemical, manufacturing or refining establishment to flow into or be deposited in Rock Creek or the Potomac River or any of its tributaries within the District of Columbia or into any pipe or conduit leading to the same; and any one guilty of violating this section shall on conviction as provided in Section two of this act, be fined not less than ten dollars nor more than one hundred dollars for each and every day during which said violation shall continue, to be prosecuted for and recovered as provided in the preceding section.

tar, oil, or other waste product into Potomac River or tributaries within the District of Columbia, a misdemeanor.

Punishment.

Mar. 2, 1885.
23 Stat., 340,
sec. 3.

CHAPTER TWENTY-FIVE.

GAMBLING.

- Sec.
1. Keeping gaming table, etc., or inducing betting thereon, penalty for.
 2. Permitting gaming table, etc., to be set up or used on premises, penalty for.
 3. Confidence game, three-card monte, etc., penalty for.
 4. Definition of term gambling table.
 5. Repeal.
 6. Pool selling and other gambling unlawful.
 7. Penalty for certain offenses.
 8. Letting house for gambling purposes, penalty for.
 9. Who shall be deemed keeper of gambling house.
 10. Deceits and fraud in gaming, penalty for; how sued for and recovered.
 11. Certain gaming contracts void; the penalty, how recovered.
 12. All notes, mortgages, etc., when the consideration is for money won by gaming or for repayment of money lent at such gaming, etc., shall be

- Sec.
- void. If such mortgage shall encumber any land, etc., they shall devolve to the person entitled to them in case grantor had been dead. All conveyances to the contrary to be void.
 13. The loser of £10 at cards, etc., may sue for the money within three months; if he neglect any person may sue and recover treble value.
 14. Winner of money shall make discoveries.
 15. After discovery and repayment, defendant discharged from further liability.
 16. Any person winning by fraud, etc., over £10 at one sitting shall forfeit five times the value.
 17. Any person assaulting, etc., on account of money won at play to be imprisoned two years.
 18. When equity will grant relief for money won at gaming.

SEC. 1. Every person who shall in the District of Columbia, set up or keep any gaming table, or any house, vessel, or place on land or water for the purpose of gaming, or gambling device commonly called A. B. C., faro-bank, E. O., roulette, equality, keno, thimbles or "little joker," or any kind of gambling table or gambling device, adapted, devised, and designed for the purpose of playing any game of chance for money or property, or who shall induce, entice or permit any person to bet or play at or upon any such gaming table or gambling device, or on the side or against the keeper thereof, shall, on conviction, be adjudged guilty of misdemeanor, and shall be punished by imprisonment for a term not more than five years.*

Penalty for keeping gaming table, etc., or inducing betting thereon.

Jan. 31, 1883.
22 Stat., 411.
2 Sup. R. S., 396,
sec. 1.

SEC. 2. Every person who shall, in the District of Columbia, knowingly permit any gaming table, bank, or device to be set up or used, for the purpose of gaming in any house, building, vessel, shed, booth, shelter, lot or other premises to him belonging, or by him occupied, or of which he hath at the time the possession or control, shall, on conviction, be adjudged guilty of misdemeanor, and punished by imprisonment for not more than one year, and by fine not exceeding five hundred dollars.

Penalty for permitting gaming table, etc., to be set up or used on premises.

Ibid., sec. 2.
9 Mackey Rep.,
430, U. S. vs. Herzog.

* Book-making and pool-selling, how punished. 26 Stat., 824, 2 Sup. R. S., 900.

Penalty for confidence game, three-card monte, etc.

Ibid., sec. 3.

SEC. 3. Every person who shall, in the District of Columbia, deal, play or practice, or be in any manner accessory to the dealing, playing or practicing of the confidence game or swindle known as three-card monte or of any such game, play, or practice, or any other confidence game, play or practice, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment, at hard labor, in the jail of the District, not more than five years.*

Definition of term gaming table.

Ibid., sec. 4.

SEC. 4. All games, devices, or contrivances at which money or any other thing shall be bet or wagered shall be deemed a gaming table within the meaning of this act; and the courts shall construe the preceding sections liberally, so as to prevent the mischief intended to be guarded against.

Repeal.

SEC. 5. All laws inconsistent with this act are hereby repealed.

Ibid., sec. 5.

Pool selling and other gambling unlawful in Washington and Georgetown, D. C.

Apr. 26, 1888.
25 Stat., 94, sec. 1.
2 Sup. R. S., 900.
Punishment.

SEC. 6. It shall be unlawful for any person or persons, or association or persons, in the cities of Washington and Georgetown, in the District of Columbia, to bet, gamble, or make books and pools on the result of any trotting race or running race of horses, or boat race, or race of any kind, or on any election, or contest of any kind, or game of base ball.

Ibid., sec. 2.

SEC. 7. Any person or persons, or association of persons, violating the provisions of this act, shall be fined not exceeding five hundred nor less than twenty-five dollars, or be imprisoned not more than ninety days, or both, at the discretion of the court.

Penalty for letting house for gambling purposes.

Leg. Assem., July 20, 1871, ch. 16, sec. 1, p. 16.

SEC. 8. If any person or persons shall let any house, room or rooms, or suite of apartments in the District of Columbia, knowing that the same are to be used for gambling purposes, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred nor more than two thousand dollars, or imprisonment not less than thirty days, or more than six months, or both, in the discretion of the court.

Who shall be deemed keeper of gaming house.

Ibid., sec. 2.

SEC. 9. Any person who shall at any time hereafter appear, act, or behave him or herself as master or mistress, or as the person having the care, government, or management of any gaming house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

Deceits and fraud in gaming; the penalty; how to be sued for and recovered.

16 Charles II, ch. 7, sec. 2, A. D. 1664.

Alex. Brit. Stat., 476.

Kilty's Rep., 239.
4 Cranch, Ct. Rep., 426, Fleming vs. Foy.

SEC. 10. If any person or persons do, or shall by any fraud, shift, cousenage, circumvention, deceit, or unlawful device, or ill practice whatsoever, in playing at or with cards, dice, tables, tennis, bowls, kittles, shovel-board; or in or by cock-fightings, horse-races, dog-matches, or foot-races, or other pastimes, game or games whatsoever, or in, or by bearing a share, or part of the stakes, wagers, or adventures, or in, or by betting on the sides or hands of such as do, or shall play, act, ride or run, as aforesaid, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever, that then every person and persons so offending, as aforesaid, shall *ipso facto* forfeit and lose treble the sum or value of money, or other thing or things so won, gained, obtained or acquired; the one moiety thereof to our sovereign lord the King, his heirs and successors; and the other moiety thereof unto the person or persons grieved, or who shall lose the money, or other thing or things so gained; so as every such

* The confidence game punished as larceny. MacArthur and M. Rep., 375, U. S. v. Murphy.

loser and person grieved in that behalf, do, or shall prosecute and sue for the same within six kalendar months next after such play :*

(3) And in default of such prosecution, the same other moiety to such person or persons as shall or will prosecute or sue for the same within one year next after the said six months expired : (4) And that the said forfeiture shall or may be sued for, or recovered by action of debt, bill, plaint or information, in any of his majesty's courts at Westminster, wherein no essoin, protection or wager of law shall be allowed : (5) And that all and every such plaintiff or plaintiffs, informer or informers, shall in every such suit and prosecution have and recover his and their treble costs against the person offending and forfeiting, as aforesaid ; any law, statute, custom, or usage to the contrary in any wise notwithstanding.

[Modified by § 887, R. S. D. C.]

SEC. 11. If any person or persons shall play at any of the said games, or any other pastime, game or games whatsoever (other than with and for ready money) or shall bet on the sides or hands of such as do, or shall play thereat, and shall lose any sum or sums of money, or other thing or things so played for, exceeding the sum of one hundred pounds [\$266.66 $\frac{2}{3}$] at any one time or meeting, upon ticket or credit, or otherwise, and shall not pay down the same at the time when he or they shall so lose the same, the party and parties who loseth or shall lose the said monies, or other thing or things so played or to be played for, above the said sum of one hundred pounds, shall not in that case be bound or compelled, or compellable to pay or make good the same ; (3) but the contract and contracts for the same, and for every part thereof, and all and singular judgments, statutes, recognizances, mortgages, conveyances, assurances, bonds, bills, specialties, promises, covenants, agreements and other acts, deeds and securities whatsoever, which shall be obtained, made, given, acknowledged or entred into for security or satisfaction, of, or for the same, or any part thereof, shall be utterly void and of none effect : (4) And that the person or persons so winning the said monies, or other things shall forfeit, and lose treble the value of all such sum and sums of money, or other thing or things, which he shall so win, gain, obtain or acquire, above the said sum of one hundred pounds ; (5) the one moiety thereof to our said sovereign lord the King, his heirs and successors ; and the other moiety thereof to such person or persons as shall prosecute or sue for the same within one year next after the time of such offence committed ; (6) and to be sued for by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, wherein no essoin, protection, or wager of law shall be allowed : (7) And that every such plaintiff or plaintiffs, informer or informers, shall in every such suit and prosecution, have and receive his treble costs against the person and persons offending and forfeiting, as aforesaid ; any law, custom, or usage to the contrary notwithstanding.

Certain gaming contracts void; the penalty, how recovered.

Ibid., sec. 3.
Alex. Brit. Stat., 477, 478.
Kilty's Rep., 239.

SEC. 12. All notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever, given, granted, drawn, or entred into, or executed by any person or persons whatsoever, where the whole or any part of the consideration of such conveyances or securities, shall be for any money, or other valuable things whatsoever, won by gaming or playing at cards, dice, tables, tennis, bowls or other game or games whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or for the reimbursing or repaying any money knowingly lent, or advanced for such gaming or betting, as aforesaid, or lent or advanced at the time and

All notes, mortgages, etc., when the consideration is for money won by gaming or for repayment of money lent at such gaming, etc., shall be void. If such mortgages, etc., shall incur any lands,

*The proprietors of a "faro bank" are jointly liable for money won and received by "dealers" or players employed by them; 17 Ohio St. Rep., 464, *Lear vs. McMillen*.

etc., they shall devolve to the person entitled to them in case grantor had been dead. All conveyances to the contrary to be void.

9 Anne, ch. 14, sec. 1, A. D. 1710.

Alex. Brit. Stat., 689, 690.

Kilty's Rep., 248.

3 Cranch, Ct. Rep., 655, *Sardo*

vs. Fongeres; 20

Wash. Law Rep.,

677, *Lulley vs.*

Morgan; 8 Har.

and McH. Rep.,

Hook vs. Boteler;

4 Cranch, Ct. Rep.,

426, *Fleming vs.*

Foy.

The loser of £10 at cards, etc., may sue for the money within three months; if he neglect any person may sue and recover treble value.

Ibid., sec. 2.

Alex. Brit. Stat., 690, 691.

Kilty's Rep., 248.

¹⁷ Ohio St. Rep., 464, *Lear vs. McMillen*.

Winner shall make discovery under oath.

Ibid., sec. 3.

Alex. Brit. Stat., 691.

Kilty's Rep., 248.

Upon discovery and repayment

place of such play, to any person or persons so gaming or betting, as aforesaid, or that shall, during such play, so play or bett, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; any statute, law, or usage to the contrary thereof in any wise notwithstanding: And that where such mortgages, securities, or other conveyances, shall be of lands, tenements, or hereditaments, or shall be such as incumber or affect the same, such mortgages, securities, or other conveyances, shall enure and be to and for the sole use and benefit of, and shall devolve upon such person or persons as should or might have, or be entitled to such lands, tenements, or hereditaments, in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead, and as if such mortgages, securities, or other conveyances, had been made to such person or persons so to be entitled after the decease of the person or persons so incumbering the same: And that all grants or conveyances to be made for the preventing of such lands, tenements, or hereditaments, from coming to, or devolving upon such person or persons hereby intended to enjoy the same, as aforesaid, shall be deemed fraudulent and void, and of none effect, to all intents and purposes whatsoever.

SEC. 13. Any person or persons whatsoever, who shall, at any time or sitting, by playing at cards, dice, tables, or other game or games whatsoever, or by betting on the sides or hands of such as do play at any of the games aforesaid, lose to any one or more person or persons so playing or betting, in the whole, the sum or value of ten pounds [$\$26.66\frac{2}{3}$], and shall pay or deliver the same, or any part thereof, the person or persons so losing, and paying and delivering the same, shall be at liberty, within three months then next, to sue for and recover the money or goods so lost, and paid or delivered, or any part thereof, from the respective winner and winners thereof, with costs of suit, by action of debt founded on this act, to be prosecuted in any court of record, in which actions or suits no essoin, protection, wager of law, privilege of Parliament, or more than one imparlance shall be allowed; in which actions it shall be sufficient for the plaintiff to allege, that the defendant or defendants are indebted to the plaintiffs, or received to the plaintiff's use, the monies so lost and paid, or converted the goods won of the plaintiff's to the defendant's use, whereby the plaintiff's action accrued to him, according to the form of this statute, without setting forth the special matter: And in case the person or persons who shall lose such money, or other thing, as aforesaid, shall not, within the time aforesaid, really and bona fide, and without covin or collusion, sue, and with effect prosecute for the money, or other thing, so by him or them lost, and paid or delivered, as aforesaid, it shall and may be lawful to and for any person or persons, by any such action or suit, as aforesaid, to sue for and recover the same, and treble the value thereof, with cost of suits, against such winner or winners, as aforesaid; [the one moiety thereof to the use of the person or persons that will sue for the same, and the other moiety to the use of the poor of the parish where the offence shall be committed.] [See § 837, R. S. D. C.]

SEC. 14. And for the better discovery of the monies, or other thing so won, and to be sued for and recovered, as aforesaid, It is hereby further enacted by the authority aforesaid, That all and every the person or persons, who by virtue of this present act shall or may be liable to be sued for the same, shall be obliged and compellable to answer upon oath such bill or bills as shall be preferred against him or them, for discovering the sum and sum of money, or other thing so won at play, as aforesaid.

SEC. 15. Provided always, and be it nevertheless enacted by the authority aforesaid, That upon the discovery and repayment of the

money, or other thing so to be discovered and repaid, as aforesaid, the person or persons, who shall so discover and repay the same, as aforesaid, shall be acquitted, indemnified, and discharged from any further or other punishment, forfeiture, or penalty, which he or they may have incurred by the playing for, or winning such money or other thing so discovered and repaid, as aforesaid; any former or other statute, law or usages, or any thing in this present act contained to the contrary thereof, in any wise notwithstanding.

defendant discharged from further liability.

Ibid., sec. 4.

SEC. 16. If any person or persons whatsoever, do, or shall, by any fraud or shift, cousenage, circumvention, deceit, or unlawful device or ill practice whatsoever, in playing at or with cards, dice, or any the games aforesaid, or in or by bearing a share or part in the stakes, wagers or adventures, or in or by betting on the sides or hands of such as do or shall play, as aforesaid, win, obtain or acquire to him or themselves, or to any other or others, any sum or sums of money or other valuable thing or things whatsoever, or shall at any one time or sitting, win of any one or more persons whatsoever, above the sum or value of ten pounds [\$26.66 $\frac{2}{3}$], that then every person or persons so winning by such ill practice, as aforesaid, or winning at any one time or sitting above the said sum or value of ten pounds, and being convicted of any of the said offences, upon any indictment or information to be exhibited against him or them, for that purpose, shall forfeit five times the value of the sum or sums of money, or other thing so won, as aforesaid; and in case of such ill practice, as aforesaid, shall be deemed infamous, [and suffer such corporal punishment, as in cases of wilful perjury]¹ and such penalty to be recovered by such person or persons as shall sue for the same by such action, as aforesaid.

Any person winning by fraud, etc., over £10 at one sitting shall forfeit five times the value.

Ibid., sec. 5.
Alex. Brit. Stat., 691, 692.
Kilty's Rep., 248.

¹Repealed by sec. 5327, R. S. U. S.

SEC. 17. And for the preventing of such quarrels as shall and may happen upon the account of gaming, Be it further enacted by the authority aforesaid, That in case any person or persons whatsoever, shall assault and beat, or shall challenge or provoke to fight any other person or persons whatsoever, upon account of any money won by gaming, playing or betting at any of the games aforesaid, such person or persons assaulting and beating, or challenging or provoking to fight such other person or persons upon the account aforesaid, shall, being thereof convicted upon an indictment or information to be exhibited against him or them for that purpose, [forfeit to her majesty, her heirs and successors, all his goods, chattels and personal estate whatsoever, and shall also'] suffer imprisonment without bail or mainprize, in the common gaol of the county where such conviction shall be had, during the term of two years.

Any person assaulting, etc., on account of money won at play to be imprisoned two years.

Ibid., sec. 8.
¹See sec. 5326, R. S. U. S.

SEC. 18. And whereas in and by a certain statute, made in the ninth year of the reign of her late majesty Queen Anne, entitled An act for the preventing excessive and deceitful gaming, it is among other things enacted, That from and after the first day of May one thousand seven hundred and eleven, any person or persons whatsoever, who should at any time or sitting, by playing at cards, dice, tables, or other game or games whatsoever, or by betting on the sides or hands of such who do play at any of the games aforesaid, lose to any one or more person or persons so playing or betting, in the whole, the sum of ten pounds [\$26.66 $\frac{2}{3}$], and should pay and deliver the same, or any part thereof, the person or persons so losing, or paying or delivering the same, should be at liberty within three months then next, to sue for, and recover 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; to be sued for and recovered by action of debt, founded on the said act, to be prosecuted in any of her then said Majesty's courts of record; in which actions or suits no essoin, protection, wager of law, privilege of Parliament, or more

When court of equity may grant relief for money won at gaming.

18 George II, ch. 34, sec. 3, A. D. 1745.
Alex. Brit. Stat., 759, 760.
Kilty's Rep., 25.

than one imparlance should be allowed, with further directions, as in the said act are particularly set forth; and whereas for the better discovery of the monies, or any thing so won, and to be sued for as aforesaid, it is by the said statute enacted, That all and every person or persons, who by virtue of the said statute should or might be liable to be sued for any such sum or sums of money, or valuable things, should be obliged and compelled to answer, upon oath, such bill or bills as should be preferred against him or them, for the discovery of the sum or sums of money to be won at play as aforesaid; but no provision is made, or authority given to any court of equity to decree the same to be paid; Be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of June one thousand seven hundred and forty-five, in case any bill or bills shall be brought, exhibited and filed in any court of equity, against any person or persons, for any sum or sums of money won by any person or persons after the said twenty-fourth day of June, one thousand seven hundred and forty-five, contrary to the true intent and meaning of the said act, it shall and may be lawful for such court, wherein such bill shall be brought, exhibited and filed, to proceed and decree thereupon, and enforce such decree or decrees, as shall be made in pursuance thereof, in the same manner as is practiced and used in other causes, upon bills and answers depending in the courts where such bill shall be so brought and exhibited.

CHAPTER TWENTY-SIX.

GAS.

- | Sec. | Sec. |
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| 1. Standard power and purity of gas regulated. (NOTE.—Charter of Washington Gaslight Company, charter of Georgetown Gaslight Company.) | 12. Expenses of inspection to be a charge upon the District when for United States. |
| 2. Penalty for supplying gas of less power, etc.; proviso. | 13. Fees paid to inspector, how applied. |
| 3. Inspector of gas and meters, how appointed, his duties and salary. | 14. Companies, etc., to remove meters for test and replace same. |
| 4. Superintendent of meters, additional allowance of. | 15. Inspector to give bond and take oath of office. |
| 5. Laboratory for inspectors to be provided. | 16. Price of gas. |
| 6. Costs of laboratory, by whom paid. | 17. Discount from price, when allowed. |
| 7. Furnishers of gas may be represented at each test. | 18. Advance or reduction of price regulated. |
| 8. Daily inspections; record to be kept and open to the public; full monthly report to be furnished to newspapers. | 19. Washington Gaslight Company to furnish statement to Secretary of Interior. |
| 9. Bills to consumers, when to be reduced. | 20. District to be furnished gas at same rate as United States. |
| 10. Test of meters; when they shall be deemed accurate and stamped and record thereof to be kept, which shall be open to public inspection. | 21. Rate for lighting, etc., of street lamps. |
| 11. Test of meters in use on request of consumers; fees for and by whom paid; meters to be inspected, proved and sealed at laboratory before use; fees by whom paid. | 22. Stoppage of gas for nonpayment of bills; restriction on removal of meters. |
| | 23. Power of Congress to amend or repeal. |
| | 24. Penalty for fraudulently obtaining gas. |
| | 25. Price to be uniform to all consumers. |
| | 26. Not more than \$25 to be paid for gas for street lamps. |

Standard power and purity of gas in District of Columbia, etc.

SEC. 1. That from and after the thirtieth day of June, eighteen hundred and seventy-four, the illuminating power of the gas furnished by any gas-light company, person, or persons, in the District

of Columbia, shall be equal to sixteen candles by the Bunsen photometer, using the English parliamentary standard Argand-burner, having fifteen holes and a seven-inch chimney, consuming five cubic feet of gas per hour, and such gas shall not contain more than twenty grains of sulphur in any form in one hundred cubic feet, nor more than five grains of ammonia in any form in one hundred cubic feet.*

June 23, 1874.
18 Stat., 277.
1 Sup. R. S., 113.
2 Sup. R. S., 52,
sec. 1.

SEC. 2. When the illuminating gas supplied by any company, person, or persons in the District of Columbia, shall at any one time be of less illuminating power or of less purity than according to the standard just heretofore given, it shall be so reported by the inspector of gas and meters to the company, person, or persons supplying the same, who shall be subject to a penalty of one hundred dollars, to be recovered before the proper tribunal and paid into the treasury of the District of Columbia aforesaid, for each and every day during which such violation shall continue:

Penalty for supplying gas of less power, etc.

Ibid.

Provided, however, That if it shall appear that such deviation from the above-named standards could not have been prevented by ordinary care and prudence, but was occasioned by some unavoidable cause, then the said penalty shall not be enforced.

SEC. 3. That a suitable and impartial person, competent as a chemist, who is not a stockholder or employee in any gas-works, shall be appointed by the President of the United States, by and with the advice and consent of the Senate to be designated and known as inspector of gas and meters, whose compensation shall be a salary of two thousand dollars per annum, and whose duties shall be to test and determine the illuminating power and purity of the gas furnished by any company, person, or persons in the District of Columbia; and to test, prove, and seal all meters that may be hereafter used by them.

Inspector of gas and meters to be appointed; his salary and duties.

Ibid., p. 278, sec. 2.

SEC. 4. That the superintendent of meters be hereafter allowed to draw an additional salary of nine hundred dollars per annum, to be paid by the District government, for his services as superintendent of street lamps under the said government of the District of Columbia. But the aggregate annual salary of said superintendent shall not exceed two thousand one hundred dollars.

Superintendent of meters, additional compensation

p. 325.

Aug. 7, 1882.
23 Stat., ch. 433,
2 Sup. R. S., 381.

SEC. 5. A laboratory shall be provided and fitted up by the Washington Gas-Light Company, subject to the approval of the inspector, in the central part of the city of Washington, at a distance as near as may be, of two thousand feet from any gas works, and furnished with suitable apparatus for the transaction of the business of the inspector and assistant inspector, for which it is intended, and the laboratory shall be kept open on all business days between the hours of eight o'clock in the forenoon and five o'clock in the afternoon.

Laboratory for inspectors to be provided by Washington Gaslight Company.

June 23, 1874.
18 Stat., 277,
sec. 3.
1 Sup. R. S., 113.
2 Sup. R. S., 52. Ibid.

SEC. 6. The cost of fitting up said laboratory shall be paid for by each Gas Company in the District of Columbia in proportion to their sale of gas for the year eighteen hundred and seventy-three.

Cost of laboratory.

SEC. 7. The company, person or persons furnishing the gas may, if they see fit, on each occasion of the testing of the gas by the inspector be represented by some officer, but such officer shall not interfere in the testing.

Companies and persons furnishing gas may be represented at each testing.

Ibid., sec. 4.

Daily inspections

* For charter of the Washington Gaslight Company see 9 Stat. L., ch. 96, p. 722, July 8, 1848. Charter of Georgetown Gaslight Company, 10 Stat. L., p. 786, July 20, 1854. Its rights extended by act of Congress March 3, 1873.

Record of inspection open to public.

Full report for each month to be furnished to newspapers.

Ibid., sec. 5.

Bills to be reduced if gas below standard quality.

Ibid., sec. 6.

Test of meters.

What meters shall be deemed accurate and stamped.

Record of meters inspected.

Ibid., pp. 278, 279, sec. 7.

Test of meters now in use on request of consumer.

Fees.

When to be paid by gas company, etc.

Meters hereafter used to be first inspected, proved, and sealed at laboratory.

Fees; by whom payable.

Ibid., p. 279, sec. 8.

Expenses of inspection to be a charge upon the District.

SEC. 8. Daily inspections, Sundays excepted, shall be made in conformity to the intent of this act between the hours of five and eleven o'clock in the afternoon, and a record shall be kept of each inspection, giving the illuminating power and purity, which shall be open to the public, and a copy of the daily inspection shall be furnished the following day to the company, person, or persons furnishing the gas, Saturday's inspection to be furnished on Monday, and a full report for the month to be furnished, upon request, to any daily paper printed in the city of Washington on the day of their publication, next after the twenty-fourth day of each month, to include each day's test from the date of previous publication, and giving the average illuminating power for the month.

SEC. 9. All bills for gas furnished by any company, person, or persons shall state the average illuminating power for the month; and if the same shall fall below sixteen candles, as in this act prescribed, then the amount of the bill shall be reduced pro rata.

SEC. 10. In testing meters, the inspector or assistant inspector shall ascertain whether the meter is of proper construction, and requires only the pressure of a column of water indicated by the water-gauge, commonly used for such tests, of one-fourth of an inch high to work it, and whether it works regularly and correctly, and registers exactly the amount of gas passing through it, first, at the rate the meter is marked to supply; secondly, at one-third its rate; thirdly, at twice its rate. The standard foot shall be one cubic foot, containing sixty-two and three hundred and twenty-one one-thousandths pounds, avoirdupois weight, of distilled water at the temperature of sixty-two degrees Fahrenheit, and with a barometrical pressure of thirty inches; and meters registering within two per centum either way of the exact number of such feet passing through them at the first-named rate, and within three per centum at the second and third rates, and no others shall be deemed accurate and be stamped by the inspector. The inspector shall keep at the laboratory a correct record of all meters inspected by him, with their proof at the time of inspection, which record shall be open at all times to the public for any reasonable examination by any company, person, or persons having any interest therein.

SEC. 11. Any gas meters now in use shall be proved and tested on the written request of the consumer of gas on whose premises it may be, and in his presence, if he requires, upon the payment in advance to the inspector or assistant inspector of fifty cents for each and every meter inspected, proved, and sealed, and if any such meter, on being tested, shall be found to register inaccurately to the injury of the consumer to an extent exceeding two per centum, the fee of fifty cents shall be returned to the person applying for said inspection and be paid to the inspector by the company, person, or persons supplying the gas; and every such meter shall be considered correct, and sealed accordingly, which shall register quantities varying from the true standard measure of gas of not more than two per centum, and a record shall be kept of the same and of all fees so collected. And all meters hereafter used by any gas company, person, or persons, shall be first inspected, proved, and sealed at the laboratory provided for by this act; and for such inspection, proving, and sealing the company, in the first instance, and thereafter the company, person, or persons applying to have the meter inspected, shall pay fifty cents for each meter, a record of which shall be kept and of the fees so collected.

SEC. 12. All expenses heretofore incurred by the General Government for gas inspection, shall hereafter be a charge upon the District.

SEC. 13. All fees collected by the inspector of gas and meters shall be paid to the collector for payment into the Treasury to the credit of the United States and the District of Columbia in equal parts.

Fees of inspector, how applied.

July 18, 1888.
25 Stat., 314. 2 Sup. R. S., 597.

SEC. 14. Each company, person, or persons manufacturing illuminating gas in the District of Columbia, shall, when required, in writing, by the inspector of gas and meters, bring to the laboratory any meter that may have been required to be inspected, proved, and sealed, and to return the same to its proper place after such inspection; and it shall not be lawful for any other party or person to remove and return meters.

Companies to remove meters for test and return same.

June 23, 1874.
18 Stat., 277.
2 Sup. R. S., 53, sec. 9.

SEC. 15. The inspector of gas and meters shall give bond to the extent of double his annual salary, and shall take an oath or affirmation, before some officer legally qualified to administer the same, that he will faithfully, diligently, and impartially discharge the duties of his office.*

Inspector to give bond and take oath.

Ibid., sec. 10.

SEC. 16. The Washington Gas-Light Company shall be authorized, on and after the passage of this act, to charge and receive for illuminating gas furnished to and paid for by the Government of the United States, at the rate of two dollars and fifty cents per one thousand cubic feet; and when furnished and paid for by other parties, or by the inhabitants of the city of Washington, at the rate of two dollars and seventy-five cents per one thousand cubic feet:

Price for gas.

Ibid., pp. 279, 280, sec. 11.

SEC. 17. If the party or inhabitants so furnished shall pay monthly any bill within seven days after the same shall have been presented, said party shall be entitled to a discount upon the amount of such bill at the rate of twenty-five cents per one thousand cubic feet. And all laws authorizing any higher rates are hereby repealed.

Discount for prompt payment

Ibid.

SEC. 18. When the price of gas coals delivered at the works of the Washington Gas-Light Company shall advance to eight dollars and fifty cents per ton the price of gas to consumers may be advanced ten cents per thousand cubic feet and an additional ten cents per thousand feet for each additional dollar per ton that gas coals may advance in price and in like manner a reduction of ten cents per thousand feet shall be made for each and every dollar per ton that gas coals may fall in price below seven dollars per ton.

Advance or reduction of price according to price of coal.

Ibid.

SEC. 19. And for that purpose the Washington Gas-Light Company shall in the month of May in each year furnish the Secretary of the Interior with a statement of all their coal contracts or purchases for the ensuing year excepting the Ritchie mineral and the Richmond coal, the cost of which shall not enter into any calculation in making an average, which statement shall be sworn to before a Justice of the Peace by their Engineer and Secretary, and the advance or reduction of price shall take place on the first of July ensuing.

Gaslight Company to furnish statement to Secretary of Interior.

Ibid.

SEC. 20. The Washington Gas-Light Company shall be authorized and required to furnish illuminating gas to the government of the District of Columbia within the distance of fifty yards from any of their mains, on the same terms as to the Government of the United States, and in case of the non-payment of any monthly bills by the said District beyond the period of ten days from the time of presentation, the company shall be entitled to demand and receive interest thereon from date until paid.

Gas to be furnished to District government at same rate as to United States.

Ibid., sec. 12.

* The office of assistant inspector was abolished July 1, 1882. Ch. 263, 2 Sup. R. S., 351.

Rate for light, cleaning and repair, etc., of street-lamps.

Ibid.

SEC. 21. The said company shall light, extinguish, keep clean, and repair the Washington City street-lamps at the uniform price of forty dollars for each lamp per annum, to burn two thousand two hundred hours per annum, with a six-foot burner on each lamp, subject to any regulation that may be prescribed by the city authorities as to the time of lighting and extinguishing the same, and any extra number of hours to be charged and paid for at the same rate: *Provided*, That the city of Washington shall furnish, when necessary, new lanterns to replace old ones, and shall furnish and pay for the reasonable expense of erecting new lamp-posts to replace such as are old, damaged, and unfit for use. [See § 26 of this chapter, as to rate of pay.]

Stoppage of gas for nonpayment of bills.

Restriction on removal of meters.

Ibid., sec. 13.

SEC. 22. If any person or persons, supplied with gas, neglect or refuse to pay the amount due for the same, such company may stop the gas from entering the premises of such person or persons. In no case shall the officers, servants, or workmen of the company remove a meter from premises supplied by the company, unless by consent of the consumer, without first giving forty-eight hours' notice in writing by leaving the same at the premises of the consumer; and said removal shall take place only between the hours of eight o'clock in the forenoon and two o'clock in the afternoon.

Act may be altered, amended, or repealed.

Ibid., sec. 14.

Penalty for fraudulently obtaining gas.

Ibid., sec. 15.

SEC. 23. It shall be lawful for Congress at any time hereafter to alter, amend, or repeal this act, and all acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 24. Any person who, with intent to injure or defraud any gas company in the District of Columbia, shall make or cause to be made any pipe, tube or other instrument or contrivance, or connect the same, or cause it to be connected with any main service pipe or other pipe for conducting or supplying illuminating gas in such manner as to connect with and be calculated to supply illuminating gas to any burner or orifice by which illuminating gas is consumed, around or without passing through the meter provided for the measuring and registering of the quantity of gas there consumed, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment not exceeding six months or by fine not exceeding two hundred and fifty dollars.

Price to be uniform to all consumers.

Ibid., sec. 16.

SEC. 25. The price which may be charged for gas by any Gas-Light Company in the District of Columbia shall be uniform and the same to all consumers and any reduction made in the price or cost to any person or persons, except to officers of the company, shall furnish a legal right on the part of any other person or persons to demand gas at the same cost or price.

Not more than \$25 to be paid for gas for streetlamp, etc., lamps in Washington.

June 20, 1878.
20 Stat., 206.
1 Sup. R. S., 383.

SEC. 26. No more than twenty-five dollars shall be paid per street-lamp for gas [for lighting the *Executive Mansion and public grounds in Washington*]; and in case a contract can not be made at that rate, the engineer in charge is hereby authorized to substitute other illumination material, and to use so much of the sum hereby appropriated as may be necessary for that purpose. [See sec. 21, of this chapter.]

CHAPTER TWENTY-SEVEN.

GUARDIAN AND WARD.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Parents may dispose of the custody of children during minority; ravishment of ward or trespass, actions for by guardian. 2. Management of estates of children by guardian. 3. Proviso as to discharge of apprentices. 4. Appointment of guardian of children having no natural or testamentary guardian, when and how. (See Sec. 20.) 5. Power of court to have orphan before it to appoint guardian. 6. On application of any friend of orphan, guardian may be compelled to give bond, etc. 7. Guardian to give bond before acting as such; form of bond. 8. Property of ward to be delivered to guardian when bond executed; executors, etc., and former guardian to deliver property of ward to guardian; punishment for non-compliance; new security may be required of guardian. 9. Appraisement of ward's estate, how made. 10. Waste of ward's land prohibited; when guardian may cut off and sell wood, etc. 11. Management of ward's real estate. 12. Profit of ward's estate to be accounted for. 13. Accounts of guardian shall be settled at least once a year. 14. First account of guardian, what to contain. 15. Personal property of ward, how disposed of. 16. Expenditures of ward to be within his income; exceptions; interest on ward's money; commissions to be allowed guardian. 17. Failure of guardian to account; his bond may be sued; his liability to attachment and fine. 18. Final account of guardian when ward becomes of age or marries and delivery of ward's property; liability of guardian for non-compliance. 19. Powers of equity court as to trusts, not affected by foregoing 15 sections. 20. Appointment of guardian. (See Sec. 4.) 21. Bond required of guardian; ward's pension, how protected. 22. Bond and account required of natural guardian. 23. Special guardian may be appointed if natural guardian fails to give bond. 24. Additional security may be required of guardian, when. | <p>Sec.</p> <ol style="list-style-type: none"> 25. Notice to guardian to give further security. 26. Dismissal of guardian for failure to give further security, and appointment of new guardian; order as to ward's estate. 27. Enforcement of orders of court. 28. Counter security of surety on guardian's bond, how obtained. 29. When orphans may elect guardian. 30. Approval by court of guardian elected, etc. 31. Removal by court of guardians by election and new election. 32. Guardian <i>ad interim</i>, when and how appointed. 33. Supersedure of guardian by election, notice of. 34. Foreign guardians or committee of lunatics may sue, etc., as if appointed in this District. 35. And may collect and receive money and convey lands belonging to their minor or lunatic. 36. Proof of bond by such committee or guardian must be first filed. 37. Certain payments to foreign committees or guardians legalized. 38. Evidence of security. 39. Such evidence to be recorded. 40. Sale of infant's real estate, when and how effected. 41. What petition must state. 42. Parties defendants, who are; guardian <i>ad litem</i>, answers of, etc. 43. Evidence required before decree. 44. Requisites to render decree of sale lawful. 45. Costs, by whom paid. 46. No sale of infant's estate to be decreed if acquired by will which directs otherwise. 47. Guardian or guardian <i>ad litem</i> not to purchase at sale of infant's estate. 48. Manner and terms of sale of infant's estate, etc.; lien to be retained for purchase money. 49. Investment of proceeds of sale of infant's estate. 50. Security to be required for same. 51. Death of infant after sale; proceeds, how considered; succession. 52. Trespassers on lands, etc., of wards and orphans shall pay damages to guardian, etc. 53. Guardian committing waste upon orphan's estate; damage to be inquired into and security entered into by guardian; contempt of court for refusal, punished by imprisonment. 54. Minors entitled to lands, etc., by purchase, not obliged to defend in ejectment until of age. |
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Parents may dispose of the custody of children during their minority. Actions of ravishment of wards or trespass by guardian.

12 Charles II. ch. 24, sec. 8, A. D. 1660.

Alex. Brit. Stat., 466, 467.

Kilty's Rep., 238.

SEC. 1. That where any person hath, or shall have any child or children under the age of one and twenty years, and not married at the time of his death, that it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or at that time in *ventre sa mere*; or whether such father be within the age of one and twenty years, or of full age, by his deed executed in his life-time, or by his last will and testament in writing, in the presence of two or more credible witnesses, in such manner, and from time to time as he shall respectively think fit, to dispose of the custody and tuition of such child or children, for, and during such time as he or they shall respectively remain under the age of one and twenty years, or any lesser time, to any person or persons in possession or remainder, other than Popish recusants; (2) and that such disposition of the custody of such child or children made since the twenty-fourth of February, one thousand six hundred forty-five, or hereafter to be made, shall be good and effectual against all and every person or persons claiming the custody or tuition of such child or children as guardian in socage or otherwise: (3) And that such person or persons to whom the custody of such child or children hath been, or shall be so disposed or devised, as aforesaid, shall and may maintain an action of ravishment of ward or trespass, against any person or persons which shall wrongfully take away or detain such child or children, for the recovery of such child or children; (4) and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.*

Management of children's estates by guardians.

Ibid., sec. 9.

SEC. 2. That such person or persons to whom the custody of such child or children hath been, or shall be so disposed or devised, shall and may take into his or their custody to the use of such child or children, the profits of all lands, tenements and hereditaments of such child or children; and also the custody, tuition and management of the goods, chattels and personal estate of such child or children, till their respective age of one and twenty years, or any lesser time according to such disposition aforesaid; (2) and may bring such action or actions in relation thereunto, as by law a guardian in common socage might do.

Proviso as to discharge of apprentices.

Ibid., sec. 10.

Court may appoint guardian of children having no natural guardian or guardian by will; when and how.

Md. act 1798, ch. 101, sub. ch. 12, sec. 1.

2 Kilty, 848.

1 Dorsey, 403.

SEC. 3. This act, or any thing therein contained, shall not discharge any apprentice from his apprenticeship.

SEC. 4. Whenever land shall descend, or be devised, to a male under the age of twenty-one years, or to a female under sixteen, or any such male or female shall be entitled to a distributive share of personal estate of an intestate, or to a legacy or bequest under a last will or codicil, and the said male or female shall not have a natural guardian, or guardian appointed by last will, agreeably to the statute in that case provided, the orphans court of the county where the land lies, or in which administration of the personal estate is granted, shall have power to appoint a guardian to such infant, until the age of twenty-one years (if a male,) and until the age of sixteen (if a female,) or marriage, and such appointment may be made at any time after the probat of the will, or administration granted on the estate of the deceased, under whom the infant appears to be so entitled to land; and it may be made, if the court shall think proper, in the case of personal estate, either before or after the executor or administrator shall have passed his account. [See § 20 of this chapter.]

Power of court to have orphan before it to appoint guardian.

SEC. 5. The said court shall have power to call or have brought before them any orphan as aforesaid, for the purpose of appointing a guardian.

Ibid., sec. 2.

* 3 Cranch, Ct. Rep., 158; Mauro vs. Ritchie; 2 Peters Rep., 243.

SEC. 6. The court shall also have power, on application of any friend of the infant as aforesaid entitled to land, or a legacy, or distributive share, to call on any guardian under the statute aforesaid, or natural guardian, to give bond for performance of his or her trust, and the court, at discretion, may direct such bond to be given; and on the guardian's failure or neglect, the court may appoint another guardian.

On application of any friend of orphan guardian to give bond, etc.

Ibid., sec. 3.

SEC. 7. And every guardian appointed by the court, before he shall have authority to act as such, shall enter into bond to the *United States of America* [the state of Maryland,] in such penalty, and with such sureties, as the court shall approve; and the said bond shall be recorded, and be subject to be put in suit, and be in all respects on a footing with the bond given by an executor or administrator; and the form of the condition of it shall be as follows: "The condition of the above obligation is such, that if the above bounden _____, as guardian to _____, of _____ county, shall faithfully account with the *Supreme Court of the District of Columbia* [orphans court of _____ county,] as directed by law, for the management of the property and estate of the orphan under his care, and shall also deliver up the said property agreeably to the order of said court, or the directions of law, and shall in all respects perform the duty of guardian to the said _____, according to law, then the above obligation shall cease; it shall otherwise remain in full force and virtue in law." [See § 21 of this chapter.]

Guardian to give bond before acting as such.

Form of bond.

Ibid., sec. 4.

SEC. 8. On a guardian's executing such bond, the court shall have power to order the land, distributive share, or other property belonging to such orphan, to be delivered to such guardian immediately, or at such time as shall appear reasonable; in the case of a legacy or bequest, the court shall direct the delivery as soon as it shall appear that the same may be delivered without prejudice to the person administering; and in the case of a distributive share, the court shall direct the delivery as soon as the same shall be ascertained; and on failure of any former guardian appointed by the court, or of an executor or administrator, to comply with such order, his bond may be put in suit, and he may also be attached for contempt, and fined not exceeding three hundred dollars aforesaid; and the court shall have power to call on any guardian for new security, and on failure, may appoint a new guardian.

Property of ward to be delivered to guardian when bond executed.

Executors, etc., and former guardian to deliver property of ward to guardian.

Punishment for noncompliance.

New security may be required of guardian.

Ibid., sec. 5.

1 Har. and J. Rep., 297.

SEC. 9. Every guardian appointed by the court, having the care of a real estate, shall, within three months after executing his bond, procure the said estate to be viewed and reported on by two skilful discreet persons, not related to either party, and appointed by the orphans court, which two persons, before they proceed to act, shall swear, or affirm, as the case may be, before some judge or justice, that they will appraise the same without favour or prejudice, and to the best of their skill and judgment; and it shall be the duty of the appraisers to examine the estate, and estimate the annual value thereof, including any working beasts and stock, and utensils thereon belonging to the orphan, and proper to be leased with the land; they shall likewise set down, in writing, what dwelling-houses, out-houses, orchards, gardens, meadows, enclosures, and other improvements, are on the land, and the condition thereof, and what proportion of the said land is in their estimation in woods; and they shall make a certificate, under their hands and seals, of the whole they have done, to which shall be annexed a certificate of their appointment, and of their having taken the oath or affirmation as aforesaid, and the same shall be returned by the guardian to the orphans court, within three months as aforesaid; and the same shall be evidence against him, in case of any suit for misconduct brought against him.

Appraisal of ward's estate: how made.

Ibid., sec. 6.

Waste of ward's land prohibited. When guardian may cut off and sell wood, etc.

Ibid., sec. 7.

Management of ward's real estate.

Ibid., sec. 8.

Profit of ward's estate to be accounted for.

Ibid., sec. 9.

Accounts of guardian shall be settled at least once a year.

Ibid., sec. 10.
136 U. S. Rep., 519, *Thaw vs. Ritchie*; *ibid.*, 5 Mackey Rep., 201; 2 Bland Rep., 409, *Jones vs. Stockett*; 2 Har. and G. Rep., 120, *Brodress vs. Thompson*; 3 Har. and G. Rep., 347, *Pottenger vs. Stewart*; 3 Har. and G. Rep., 251, *Spedden vs. State*.

First account of guardian; what it shall show.

Ibid., sec. 11.
8 Md. Rep., 230, *McClellan vs. Kennedy*; 8 Md. Rep., 44, *State vs. Baker*; 8 Gill Rep., 391, *Barnes vs. Compton*; 7 Gill Rep., 366, *Richards vs. Swan*; 6 Gill Rep., 258, *Magruder vs. Darnell*; 4 Md. Chy. 322, *Gibbs vs. Cunningham*; 3 Md. Chy. 306, *O'Hara vs. Sheppard*; 3 Har. and J., 251, *Spedden vs. State*.

Personal property of ward; how disposed of.

Ibid., sec. 12.
2 Kilty, 849.

Expenditures of ward to be within his income, except, etc.

Interest on ward's money.

Commission to be allowed guardian.

Ibid., sec. 13.

55 Md. Rep., 452, *White vs. Dimmock*.

SEC. 10. No guardian shall commit waste on the land, but the court may, on his application, allow him to cut down and sell wood, and account for the same, in case it shall deem the same advantageous or necessary for the ward's education and maintenance.

SEC. 11. And each guardian having a real estate under his care, shall either cultivate the same, with the stock and utensils, belonging to the ward, or to be purchased with his or her money, with the approbation of the court, or he shall lease the same from year to year, or for any term not exceeding three years, and within the non-age of the ward; or he may, with the court's approbation, undertake the estate on his own account, and be answerable for the annual value, such annual value to be every third year ascertained, under the direction of the court.

SEC. 12. Every guardian shall account for all profit and increase of the estate, or annual value as aforesaid, and shall not be answerable for any loss or decrease sustained without his fault, to be allowed by the orphans court.

SEC. 13. And once in each year, or oftener if required, a guardian shall settle an account of his trust with the orphans court; and the said court shall ascertain, at discretion, the amount of the sum to be annually expended in the maintenance and education of the orphan, regard being had to the future situation, prospects and destination, of the ward; and the said court, if it shall deem it advantageous to the ward, may allow the guardian to exceed the income of the estate, and to make use of his principal, and to sell part of the same, under its order; provided nevertheless, that no part of the real estate shall, on account of such maintenance or education, be diminished, without the approbation of the court of chancery, or general court, as well as of the orphans court.

SEC. 14. And on the first account to be rendered by a guardian, he shall state the property by him received from an executor or administrator, or otherwise belonging to his ward, and every increase, and the profits thence arising, if any.

8 Md. Rep., 230, *McClellan vs. Kennedy*; 8 Md. Rep., 44, *State vs. Baker*; 8 Gill Rep., 391, *Barnes vs. Compton*; 7 Gill Rep., 366, *Richards vs. Swan*; 6 Gill Rep., 258, *Magruder vs. Darnell*; 4 Md. Chy. 322, *Gibbs vs. Cunningham*; 3 Md. Chy. 306, *O'Hara vs. Sheppard*; 3 Har. and J., 251, *Spedden vs. State*.

SEC. 15. In case the personal property of a ward shall consist of specific articles, such as working beasts, animals of any kind, stock, furniture, plate, books, and so forth, the court, if it shall deem it advantageous for the ward, may at any time pass an order for the sale thereof for ready money, or on credit, the purchaser, with security, giving bond to the said ward, bearing interest; and all proceedings relative to such sale shall be as herein directed with respect to sales by executors or administrators.

SEC. 16. Every account of a guardian shall state his expenditures in maintaining and educating the ward, not exceeding the income of the estate, unless allowed by the court; and for no balance of money in his hands shall he be charged interest, unless he shall consent to take the same on interest, but the court may direct him to place the same at interest, taking bond to the orphan, with security approved by the court; and for the trouble and care of such guardian, the court may allow any commission, not exceeding ten per cent.

SEC. 17. On a guardian's failing to account as herein directed, his bond shall be liable to be put in suit, and he shall also be liable to attachment and fine as aforesaid, but he shall not be liable to any fine in a court of law, any act to the contrary notwithstanding.

Failure of guardian to account, bond may be sued; his liability to attachment and fine.

SEC. 18. On the ward's arrival at age as aforesaid, the guardian shall exhibit a final account to the orphans court, and shall deliver up agreeably to the court's order, to the said ward, or the husband, (as the case may require,) all the property of such ward in his hands, including bonds, and other securities, and on failure his office bond shall be liable, and he shall also be liable to attachment and fine as aforesaid.

Ibid., sec. 14.
Final account of guardian when ward becomes of age or marries, and delivery of ward's property; liability of guardian for noncompliance.

Ibid., sec. 15. 54 Md. Rep., 332, *State vs. Henderson*; 32 Md. Rep., 1, *Griffith vs. Parks*.

SEC. 19. Nothing in this act contained shall be construed to affect the general superintending power exercised by the court of chancery with respect to trust.

Powers of equity court as to trusts not affected by this act.

SEC. 20. The supreme court of the District has power to appoint a guardian or guardians to any infant orphan entitled or have right or claim to any property, real, personal, or mixed, within the jurisdiction of the court, or whose person and residence may be within such jurisdiction, except when such orphan may have a testamentary guardian. [See § 4 of this chapter.]

Ibid., sec. 16.
Appointment of guardian.

147, *Barclay vs. Govers*; 1 Cranch, C. C., 244, *Reinhart vs. Orme*; 3 *Mauro vs. Ritchie*; 3 Cranch, C. C., 343, *Smoot vs. Bell*.

Sec. 937, R. S. D. C.
20 Feb., 1846, ch. 8, sec. 1, v. 9, p. 4.
1 Cranch, C. C., 147, *Cranch, C. C.*

SEC. 21. The court shall require of guardians so appointed, and of testamentary guardians, unless directed otherwise by the will appointing them, bond, with good and sufficient surety, as required by law.* [See § 7 of this chapter.]

Bond to be required.

3 Cranch, C. C., 251, *U. S. vs. Little*; 4 Cranch, C. C., 191, *U. S. vs. Nicholls*; 5 Cranch, C. C., 620, *U. S. for the use of Godey vs. Bender*; 3 Cranch, Ct. Rep., 343, *Smoot vs. Bell*.

Sec. 938, R. S. D. C.

SEC. 22. When any infant, whose father may be living, shall, by gift or otherwise, be entitled to any property separate from the father, it shall be lawful for the court to compel the father, as natural guardian, to give bond and security to account for the property, and to compel him to account, as guardians in other cases.

Natural guardian to give bond and to account.

Sec. 939, R. S. D. C.

SEC. 23. If the father shall fail or refuse to give such bond, or at his request, the court shall have power to appoint a special guardian to take charge of the property, who shall give bond and security as in other cases, but with condition to suit the case.

Special guardian may be appointed, when.

Sec. 940, R. S. D. C.

SEC. 24. In all cases the court shall have power, when it has good cause to believe that the interest of the ward require, to compel any guardian to give additional, other, or further security, in such time as the court may direct.

Additional security may be required, when.

Sec. 941, R. S. D. C. Ibid., sec. 2, p. 4.

SEC. 25. No order shall be made directing a guardian to give new security, until he shall have been duly summoned to show cause against, or have had ten days' notice in writing of, the intended application.

Notice to guardian.

Sec. 942, R. S. D. C.

SEC. 26. Upon the failure of any guardian to comply with the order of court directing such security, the court shall have power

Dismissal and new appointment.

* Embezzlement of ward's pension money. See §§ 4783, 5486, R. S. U. S.

Sec. 943, R. S. and authority, and it shall be their duty to dismiss such guardian
D. C. from office, and appoint another in his stead, and order the estate of
the ward to be forthwith delivered to the newly-appointed guardian.

Enforcement of SEC. 27. The court shall have power, by fine or imprisonment, or
order of the court. any legal process, to compel and enforce a compliance with its order,
or may, where it can be so done, order the marshal to take possession
Sec. 944, R. S. of and deliver the property.
D. C.

Counter securi- SEC. 28. If any surety of a guardian, by petition to the court, set-
ty. ting forth that he apprehends himself to be in danger of suffering
thereby, shall pray that he may be relieved, the court, after a sum-
Sec. 945, R. S. mons to answer the petition shall have been served upon the guard-
D. C. ian, or a copy of such summons left at the place of his usual abode,
8 Aug., 1846, ch. shall order him to give counter security for the complete indemnity
97, sec. 2, v. 9, P. of the original surety, or to deliver the ward's estate into the hands
72. of the surety, or of some other person; in either of which cases the
court shall take sufficient security of the person in whose hands the
ward's estate shall be delivered, and may make such further order
for the relief of the petitioner as shall seem just.

Election of guar- SEC. 29. Every orphan or other infant, to whom the supreme court
dian by orphan. is authorized to appoint a guardian, shall be entitled, on arriving at
the age of fourteen years, or at any age between fourteen and twenty-
Sec. 946, R. S. one years, notwithstanding any appointment of guardian before
D. C. made by the court, to elect a guardian for himself.
Ibid., sec. 1, pp.
71, 72.

Approval by the SEC. 30. The court shall approve the character and competency of
court. the person so elected guardian, and shall require of him such secu-
rity, and exercise toward him all such jurisdiction and powers for
Sec. 947, R. S. compelling the faithful administration of his trust, as provided in
D. C. the cases of guardians appointed by the court.
8 August, 1846,
ch. 97, sec. 1, v. 9, pp. 71, 72.

Removal of SEC. 31. If the court, in the due exercise of its jurisdiction and
guardian elected. powers, shall see fit to supersede and remove such guardian, or if
such guardian die, or become incompetent during the minority of
Sec. 948, R. S. the orphan, the court shall forthwith cite the orphan to appear and
D. C. make a new election of guardian, which the orphan may do under
Ibid. the same conditions and restrictions as are prescribed in respect to
the original election of guardian.

Guardian ad in- SEC. 32. For the interval of time between the removal, death, or
terim. incompetency, of the first elected guardian, and the new election of
another by the orphan, the court may, if it deem expedient, appoint
Sec. 949, R. S. a guardian ad interim until such new election be made; taking such
D. C. security of the guardian ad interim, and exercising over him such
Ibid. jurisdiction and powers, as required and given in the cases of other
guardians.

Notice of super- SEC. 33. Where a guardian is to be superseded by an election, as
sedure. provided in the preceding sections, he shall have notice of the appli-
cation by summons, or in writing.
Sec. 950, R. S.
D. C.
Ibid.

Guardian, etc., SEC. 34. It shall be lawful for any person, appointed the committee
of minor or luna- of a lunatic, or the guardian of a minor or lunatic, by the proper
tic may act in the authority in any State or Territory of the United States, to institute
District. and prosecute to final judgment any suit or action in the courts of
the District, as he might have done if his authority as such guard-
ian or committee had been derived from the proper tribunals of the
District.
Sec. 951, R. S.
D. C.
8 March, 1864, ch.
22, sec. 1, v. 13, pp.
18, 19.

SEC. 35. Such committee or guardian may in the same manner collect and receive any sum of money due to such lunatic or minor, and may by deed, duly executed, release and convey to any party entitled to the same, whether by purchase or otherwise, any lands or estates situated in the District, the property of such lunatic or minor, or to or upon which such lunatic or minor may have a claim or mortgage, in the same manner as he might have done if his authority had been derived from the tribunals of the District

May receive money and convey property.
Sec. 952, R. S. D. C.

SEC. 36. Such committee or guardian, before making conveyance of real estate or release of claim, or mortgage thereon, shall file in the supreme court of the District the official certificate of the judge of the court from which he derived his appointment that he has given a sufficient bond to account to the minor or lunatic for all sums of money received by virtue of the authority conferred by the two preceding sections.

Proof of bond.
Sec. 953, R. S. D. C.

SEC. 37. All payments made within the District prior to March eighth, eighteen hundred and sixty-four, to the committee or guardian of a lunatic or the guardian of a minor duly appointed at the domicile of the lunatic or minor out of the District, in the United States, shall be good and sufficient.

Certain payments sufficient.
Sec. 954, R. S. D. C.

SEC. 38. The guardian or committee shall in such cases file in the supreme court of the District the official certificate of the judge of the court from which such committee or guardian derived his appointment, that he has given sufficient bond to account to the minor or lunatic for all payments so made.

Evidence of security.
Sec. 955, R. S. D. C.

SEC. 39. In all cases the evidence of the appointment and authority of such committee or guardian shall be first recorded in the office of the supreme court of the District.

Evidence of appointment.
Sec. 956, R. S. D. C.

SALE OF INFANT'S ESTATE BY GUARDIAN.

SEC. 40. The guardian of any infant may file a bill in the supreme court for the sale of such infant's real estate, or part thereof, when he shall think that the interests of his ward will be promoted thereby.

Sale of infant's estate; petition of guardian.
Sec. 957, R. S. D. C. 136 U. S. Rep., 519, *Thaw vs. Ritchie*.

SEC. 41. Such bill shall be verified by the oath of the guardian, and shall set forth plainly and distinctly all the estate, real and personal, to which the infant is entitled, and all the facts which, in the opinion of the guardian, are calculated to show whether the interest of his ward will be promoted by such sale or not.

What petition must state.
Sec. 958, R. S. D. C. 3 March, 1843, ch. 87, sec. 1, v. 5, pp. 621, 622.

SEC. 42. The infant, together with those who would be heirs to the estate if he were dead, shall be made parties defendant, and it shall be the duty of the court to appoint some fit and disinterested person to be guardian ad litem for the infant, who shall answer the bill on oath; the infant, also, if above the age of fourteen years, shall answer the bill in proper person on oath.

Parties defendant, who are.
Sec. 959, R. S. D. C. *Ibid.*, p. 622.

SEC. 43. Whether the answer to the plaintiff's bill admit the facts alleged or not, commissions for taking depositions shall be awarded; and before the court shall have authority to decree a sale, every fact material to ascertain the propriety thereof shall be proved by clear and credible evidence, given by disinterested witnesses; depositions to be taken in the presence of the guardian ad litem, or upon interrogatories agreed upon by him.

Evidence required before decree.
Sec. 960, R. S. D. C. *Ibid.*, sec. 2, p. 622.

Requisites to
render decree of
sale lawful.

Sec. 961, R. S.
D. C.
Ibid., sec. 3, p.
622.

SEC. 44. If, upon hearing the cause, it shall be proved, to the satisfaction of the court, by evidence taken in accordance with the preceding section, that the interest of the infant manifestly requires the sale of his real estate, wholly or in part, and if in the opinion of the court the rights of others will not be violated thereby, the court may decree such sale.

Costs.

Sec. 962, R. S.
D. C. Ibid., sec. 6, p. 622.

SEC. 45. If a sale be decreed, the costs of the suit shall be paid out of the estate of the infant; otherwise the costs shall be paid by the plaintiff.

No sale to be de-
creed; when.

Sec. 963, R. S.
D. C.
Ibid

SEC. 46. No sale of an infant's real estate shall be decreed under the provisions of this chapter, if the testator from whom such estate is derived shall, by his last will and testament, have expressly directed otherwise.

Guardian not to
be a purchaser.

Sec. 964, R. S.
D. C.
Ibid.

SEC. 47. In no case shall the guardian or the guardian ad litem be admitted a purchaser at such sale, either by himself or through another, or in any manner whatever become the owner of the real estate during the infancy of the ward.

Manner of sale.

Sec. 965, R. S.
D. C.
Ibid., sec. 3, p. 622.

SEC. 48. All sales shall be made in such manner and upon such terms of credit as the court may direct, always retaining a lien upon the estate for the payment of the purchase-money.

Proceeds: how
to be invested and
applied.

Sec. 966, R. S.
D. C. Ibid., sec. 4, p. 622.

SEC. 49. The proceeds of sale shall be invested and applied for the benefit of the infant, either in the purchase of other real estate or in such other manner as the court shall think best.

Security to be re-
quired.

Sec. 967, R. S.
D. C.
Ibid.

SEC. 50. In whatever hands the proceeds of the sale may be placed, the court shall require ample security that they shall be faithfully applied in such manner as the court may direct.

In case of in-
fant's death.

Sec. 968, R. S.
D. C.
136 U. S. Rep.,
531, *Thaw vs.*
Ritchie.

SEC. 51. If the infant, after any such sale, shall die intestate, under the age of twenty-one years, the proceeds, or so much thereof as may remain at his death, shall be considered as real estate, and shall pass accordingly to such persons as would have been entitled to the estate if it had not been sold.

Trespassers on
lands, etc., of
wards or orphans
shall pay damages
to guardian, etc.

Md. act 1729, ch.
24, sec. 7.

1 Kilty, 210.
1 Dorsey, 74.
2 Bland Rep.,
606, *Addison vs.*
Bowie; 6 Gill
Rep., 269, *Magru-*
der vs. Darnall; 1
Gill Rep., 367,
Chaney vs. Small-
wood; 4 Gill and J. Rep., 444, *Burch vs. State*; 4 Gill and J. Rep., 323, *Magruder vs. Peter*; 3 Gill and J. Rep., 413, *Robinson vs. Townshend*; 3 Gill and J. Rep., 133, *Hungerford vs. Bourne*; 2 Gill and J. Rep., 468, *Wells vs. Beall*; 1 Har. and Gill Rep., 220, *Drury vs. Conner*; 2 Har. and J. Rep., 244, *Gunby vs. Selby*.

SEC. 52. And, whereas several persons, not being guardians, have got into the possession of lands belonging to orphans, and demised or occupied the same, and received the profits thereof:

Be it enacted, That it shall not be lawful for any person whatsoever, not being a guardian, or not having license from a guardian, to enter into, possess or occupy, any lands or tenements belonging to any orphan or orphans, without first applying to the *Supreme Court of the District of Columbia* [county court,] and obtaining leave from them for such rents as they shall think just and reasonable to be paid to such orphan or orphans, on pain of being trespassers, and paying treble damages, and full cost to such orphan or orphans, to be recovered by the guardian during the orphan's minority, or by the orphan when at full age.

SEC. 53. That when and as often as *The Supreme Court of the District of Columbia* [any county court] shall, by the presentment of any grand jury or otherwise, be informed of any waste being done by any guardian upon any orphan's estate, to issue their warrant to cause such guardian to appear before them, and if, upon the said guardian's appearance before them, and being heard in his or her defence, or refusal to appear, being summoned, such information shall appear to be true, the said justices shall order the *marshal* [sheriff,] with all possible speed, to summon a jury upon the place where the waste shall be committed, to inquire upon their oath into the same, and of what damage such waste shall be to such orphan, which being returned to the said justices, they are hereby required to oblige the guardian to give security for double the damages that shall be assessed by such jury, and in case of refusal to commit such guardian to prison, there to remain until he or she will comply with their order therein.

Guardian committing waste upon orphan's estate; damage to be inquired into, and security entered into by guardian; contempt of court for refusal punished by imprisonment.

Ibid., sec. 9.

SEC. 54. All persons under the age of twenty-one years, who shall hereafter be entitled to any lands, tenements or hereditaments, by purchase, shall not be obliged, during their minority, to answer any suit or ejectment in relation to the said lands, tenements, hereditaments, any more or otherwise than they would be if such lands, tenements or hereditaments, became their right by descent.*

Minors entitled to lands by purchase not obliged to defend in ejectment until of age.

Md. act 1729, ch. 24, sec. 16.
1 Dorsey, 75.
1 Kilty, 211.

* See sec. 2, Md. act 1875, ch. 80; 2 Kilty, 61; 1 Dorsey, 332; 68 Md. Rep., 1, *Tice vs. Shaw*.

CHAPTER TWENTY-EIGHT.

HEALTH.

Sec.

1. Health officer appointed and board of health abolished. (NOTES.—Ordinance of Washington city as to nuisances; registry of dentists; prevention and spread of scarlet fever and diphtheria; health officer may call on police for aid: smallpox hospital.)
2. Salaries of health officer, sanitary inspectors, clerk, and other assistants.
3. Sanitary inspectors: their appointment, duties, and reports: report of health officer.
4. Clerks to health officer.
5. Plumbing inspector, appointment and duties.
6. Plumbing regulations to be enforced by health officer.
7. Penalty for violation of plumbing regulations.
8. Ordinances of board of health, legalized, excepting certain sections.
9. Same subject, list of same.
10. Health officer to secure full, etc., record of vital statistics, etc.; marriages, deaths, and burials must be reported to health officer.
11. Births must be reported within six days; penalty for neglect.
12. Health officer to issue regulations to prevent or remove epidemics and diseases; regulations to be advertised in newspapers, and be subject to modification and approval by Commissioners.

Sec.

13. Same subject, such regulations to include instructions for interment of dead and house visitation, etc.; destruction of infected clothing, etc., of poor persons; payment for same provided for.
14. Removal of persons to public hospitals provided for; penalty for refusal to comply with this section.
15. Proprietors of tenement houses, etc., to notify health officer of infectious diseases in houses, etc.; penalty for neglect.
16. Penalty for not disinfecting vehicles or selling clothing of infectious people, etc., or exposing such persons in streets, etc.
17. Penalty for letting rooms where infected persons have been, without first disinfecting same.
18. Contagious diseases, etc., of animals; suppression of same; pleuro-pneumonia; duties of commissioners in relation thereto.
19. Same subject, duty of District attorneys for violation of section 18.
20. Flour inspectors, appointment of; their term of office.
21. Same subject; oath of office.
22. Flour barrels must be well made, etc.; millers' marks; duty of inspectors as to marks and brands.
23. Inspection of flour and penalty for false packing, etc.

<p>Sec. 24. Quantity of flour in each package; inspector's duty as to weight, etc.; penalty for packing short weight.</p> <p>25. Inspection, grade, and branding of flour; pay of inspector; unmerchantable flour, how branded; penalty for selling flour in violation of section 25.</p> <p>26. Commissioners of flour inspection, appointment of; their duties.</p> <p>27. Appeal from judgment of inspector of flour to Commissioners; remedy.</p>	<p>Sec. 28. Cooperaage of barrels may be required by inspectors; inspectors not to purchase, except for their own use; penalty.</p> <p>29. Rye flour, graded.</p> <p>30. Penalty for fraudulent marking or packing flour.</p> <p>31. Board of inspectors of flour, how approved, etc.</p> <p>32. Repealing clause to act. Assembly, Aug. 21, 1871.</p>
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Health officer appointed and board of health abolished.

June 11, 1878.
20 Stat., sec. 8,
p. 107.
2 Sup. R. S., 179.

SEC. 1. That in lieu of the board of health now authorized by law, the Commissioners of the District of Columbia shall appoint a physician as health-officer, whose duty it shall be, under the direction of the said Commissioners, to execute and enforce all laws and regulations relating to the public health and vital statistics, and to perform all such duties as may be assigned to him by said Commissioners; and the board of health now existing shall, from the date of the appointment of said health-officer, be abolished.*

Salaries of health officer, etc.

1878, June 20,
ch. 359, sec. 1, par.
2.

—of clerks and assistants.

Ibid., sec. 11.

SEC. 2. The salary of the health-officer shall be three thousand dollars per annum; and the salary of the sanitary inspectors shall not exceed the sum of one thousand two hundred dollars per annum each;

And the salary of the clerk and other assistants of the health-officer shall not exceed in the aggregate the amount of seven thousand dollars, to be apportioned as the Commissioners of the District of Columbia may deem best.

Sanitary inspectors; their appointment and duties and reports.

Report of health officer.

Ibid., sec. 9.

SEC. 3. There may be appointed by the Commissioners of the District of Columbia, on the recommendation of the health-officer, a reasonable number of sanitary inspectors for said District, not exceeding six, to hold such appointment at any one time, of whom two may be physicians, and one shall be a person skilled in the matters of drainage and ventilation; and said Commissioners may remove any of the subordinates, and from time to time may prescribe the duties of each; and said inspectors shall be respectively required to make, at least once in two weeks, a report to said health-officer, in writing, of their inspections, which shall be preserved on file; and said health-officer shall report in writing annually to said Commissioners of the District of Columbia, and so much oftener as they shall require.

Clerks to health officer.

Ibid., sec. 10.

SEC. 4. The Commissioners may appoint, on the like recommendation of the health-officer, a reasonable number of clerks, but no greater number shall be appointed, and no more persons shall be employed under said health-officer, than the public interests demand and the appropriation shall justify.

Inspector of plumbing to be appointed.

1878, June 11,
ch. 180.

SEC. 5. There shall be appointed by the Commissioners of the District of Columbia an inspector of plumbing for said District, whose duty it shall be, to inspect all houses in course of erection, and pass upon the plumbing and sewerage of said houses. †

Jan. 25, 1881. 21 Stat., ch. 27, p. 318. 1 Sup. R. S., 590 2 Sup. R. S., 314.

* See Washington City ordinance in regard to nuisances. Webb's Dig., p. 309 and 211, secs. 3 and 6. Duty of health officer to keep register of dentists receiving required certificate of board of examiners. Act June 6 1892, ch. 89, sec. 6.

† For act of Congress for prevention and spread of scarlet fever and diphtheria. See act approved Dec. 20, 1890, 26 Stat., 692, ch. 25, 2 Sup. R. S., p. 885.

Health-officer may call on police to aid him. See sec. 390, R. S. D. C. See also in regard to preservation of health. Secs. 72 and 381 to 385, R. S. D. C., title, "Metropolitan Police."

Small-pox hospital. See ch. 23, Act Leg. Assem., Jan. 19, 1872, p. 20; also 1 Sup. R. S., p. 580.

† Act April 23, 1892, Stat. L., ch. 53, p. 21.

SEC. 6. And the health officer of the District of Columbia is hereby authorized, under direction of the Commissioners, to execute and enforce regulations governing plumbing, house drainage, and the ventilation of house sewers.

Plumbing regulations to be enforced by health officer.

1878, June 11, ch. 180, secs. 3, 8.

Ibid.

SEC. 7. And any person who shall neglect or refuse to comply with the requirements of the said regulations when promulgated shall be punishable by a fine of from twenty-five to two hundred dollars for each and every such offense, or in default of payment of fine to imprisonment for thirty days.

Penalty for violation of plumbing regulations.

Ibid.

SEC. 8. The ordinances of the late Board of Health of the District of Columbia, as revised, amended, and adopted, November nineteenth, eighteen hundred and seventy-five, entitled "An ordinance to revise, consolidate, and amend the ordinances of the Board of Health, to declare what shall be deemed nuisances* injurious to health, and to provide for the removal thereof", as printed in the report of said late Board of Health made to the first session of the Forty-fourth Congress, being executive document number one, part eight, be, and the same are hereby, legalized; and the respective penalties therein prescribed for violations thereof may be imposed and enforced for the respective offenses therein described, excepting the sections of said ordinance following, namely: Sections seven, nine, and fourteen, which said sections are not hereby legalized.†

Ordinances of board of health, District of Columbia, legalized.

Apr. 24, 1880.
21 Stat. 304.
1 Sup. R. S. 574.

SEC. 9. The ordinances, rules, and regulations of said late Board of Health contained in the report mentioned in the preceding section, and printed in the said executive document therein mentioned, namely:

First. "An ordinance to amend an ordinance to prevent domestic animals from running at large within the cities of Washington and Georgetown, passed by the Board of Health May nineteenth, eighteen hundred and seventy-one";

Second. "An ordinance to prevent the sale of unwholesome food, in the cities of Washington and Georgetown";

Third. "An ordinance to provide for the inspection of streets, food, live stock, fish and other marine products, in the cities of Washington and Georgetown, and to define the duties of inspectors and other officers of the Board of Health";

Fourth. "An ordinance to amend section ten of the code so as to read";

Fifth. An ordinance to amend an ordinance passed May thirteenth, eighteen hundred and seventy-three, to read as follows":

Sixth. "An ordinance to prevent committing or creating nuisances in or about public urinal or urinals located within the cities of Washington and Georgetown";

Seventh. "Rules and regulations in regard to small-pox";

Eighth. "Regulations to secure a full and correct record of vital statistics, including the registration of marriages, births, and deaths, the interment, disinterment, and removal of the dead in the District of Columbia", be, and the same are hereby, legalized and made valid; and the penalties therein provided respectively for violations thereof, may be imposed and enforced for the violations of the same respectively, as provided by section twenty-seven of the ordinances passed November nineteenth, eighteen hundred and seventy-five.‡

SEC. 10. It shall be the duty of the *Health Officer under the direction of the Commissioners* [Board of Health] of the District of Columbia to make and enforce regulations to secure a full and correct

Health officer to secure record of vital statistics, etc.

*3 Mackey Rep. 343, D. C. vs. Gaslight Co., 1 Sup. R. S., 575, ordinance Nov. 19, 1875.

†Congress may legalize acts of a municipality or officer, 37 U. S. Rep. 622 Mattingly, vs. D. C.

‡These ordinances appear in 1 Sup. R. S., p. 575 to 587; 2 Sup. R. S., p. 304 to 311.

June 23, 1874. record of vital statistics, including the registration of deaths and the
18 Stat. 283. interment of the dead in said District. *
1 Sup. R. S., 117.

Births to be reported to health officer within six days; penalty for neglect.

Leg. Assem., Aug. 18, 1871, sec. 1, p. 46.

SEC. 11. It shall be the duty of every physician, accoucheur, or midwife, who shall attend at the birth of any infant within the District of Columbia, to forward a report to the *Health Officer* [Board of Health] of said District within six days after such birth, stating distinctly the date of birth, the sex and color of the child thus born, its physical condition, whether stillborn or not, and the name and nativity of the parents of such child; and any such physician, accoucheur, or midwife, who shall fail to report as herein required shall be punished by a fine of not less than five nor more than ten dollars for each and every such offense.

Health officer, etc., to issue regulations with view to prevent or remove formidable epidemics and diseases.

Regulations to be advertised in newspapers.

And to be subject to modification and approval by the Commissioners.

Leg. Assem., June 19, 1872, ch. 4, sec. 1, p. 6.

SEC. 12. It shall be the duty of the *Health Officer under direction of the Commissioners* [Board of Health] of the District of Columbia, whenever in their judgment the said District is threatened with, or affected by, any formidable epidemic, infectious, or contagious disease, to issue, or cause to be issued, such orders, regulations, and instructions as may, in their judgment, be deemed effective for the prevention or removal of such disease; which orders, regulations, and instructions shall be advertised in at least two daily papers in the District of Columbia, for a period of thirty days; said orders, regulations and instructions to be, and remain in full force and effect, until by the said board revoked: *Provided*, That the same may, from time to time, be modified in such manner, as in the judgment of said board, shall be deemed necessary; said orders, regulations, and instructions to be subject to the approval of the *Commissioners* [Governor.]

And to include instructions for the speedy interment of the dead, house visitation, etc.

When infected clothing, bedding, etc., of poor persons shall be destroyed, pursuant to such regulations, compensation shall be paid.

Ibid., sec. 2.

SEC. 13. The orders, regulations, and instructions aforesaid shall include orders, regulations, and instructions for the speedy interment of the dead; for house to house visitation; for the dispensing of disinfectants to the poor, which may be calculated to prevent the spread of such disease; for vaccination; for the isolation of any person afflicted with such disease, and affording such persons afflicted or threatened with such disease, such aid or hospital accommodations as circumstances may require; said orders, regulations and instructions shall further include directions for cleansing and purifying, ventilating and disinfecting dwellings, alleys, gutters, privies, cess-pools, and the like; clothing, bedding, furniture, and the like, or, in case of necessity, in their judgment, the destruction of such clothing, bedding, or furniture of a textile nature: *Provided*, That in the event of the bedding, clothing, or furniture of poor persons, they shall be reasonably compensated for the loss of the same out of any moneys in the treasury [of the Board of Health,] not otherwise appropriated.

Removal of persons to public hospitals provided for.

Penalty prescribed for refusal

SEC. 14. Whenever, in their opinion, the complete isolation of any person suffering from any such disease (the same being an inmate of any tenement house, lodging-house, boarding-house, or hotel in the District of Columbia) cannot be secured by other means, such person shall be removed as expeditiously as possible under the direction of the *Health officer under direction of the Commissioners* [Board of Health] to the public hospital for treatment, and any person suffering from any dangerous, infectious, or contagious disease, or any person having the care, charge, or control of such diseased person who shall refuse to comply with the provisions of this section, or who shall resist the enforcement thereof by proper authority, shall be liable to a fine of not less than ten dollars nor more than fifty

* Reports of marriages to be made to the health office. See sec. second of health ordinances, Aug. 28, 1874, 1 Sup. R. S., p. 581.

dollars; and in case of the person having charge or control of such diseased person, to imprisonment in the District jail for a period of not more than thirty days, in addition to the fine aforesaid.

to comply with this section.

Ibid., sec. 3.

SEC. 15. The proprietor of any tenement house, lodging-house, boarding-house, or hotel in the District of Columbia, shall, in the event of any person living in such house becoming afflicted with any such disease, at once notify the *Health officer* [Board of Health] thereof in writing. For a refusal to give the notice herein provided, the person so offending shall be liable to a fine of not less than ten dollars nor more than fifty dollars for each offense.

Notice required from proprietor of tenement houses, etc., as to presence of an inmate afflicted with such disease; penalty for neglect.

Ibid., sec. 4.

SEC. 16. Any person suffering from any such infectious or contagious disease, who shall willfully expose himself in any street, public place or conveyance, or any person having the care, charge or control of such diseased person, or any owner or driver of any such conveyance who does not immediately provide for the disinfection of the same, after it has conveyed such diseased person; and any person who gives, lends, sells, transmits or exposes any clothing, bedding rags, or other things which have been exposed to infection, shall, on conviction, be liable to a penalty of not less than ten dollars nor more than one hundred dollars.

Penalty for not disinfecting vehicles, or selling etc., clothing, etc., of infectious persons; or exposing of such persons in streets, etc.

Ibid., sec. 5.

SEC. 17. Any person who shall let to any other person any house, room, or part of a house in which any patient has been confined by reason of such disease, without having such room, house, or part of a house completely disinfected to the satisfaction of the *Health officer* [Board of Health] as certified by him, such person shall be liable to a penalty of not less than ten dollars, nor more than fifty dollars for each offense.

Penalty for letting rooms without disinfection.

Ibid., sec. 6.

60 N. Y. Rep., 229, *Cesar vs. Karutz*; 112 Mass. Rep., 447, *Minor vs. Sharon*.

SEC. 18. That whenever any contagious, infectious, or communicable disease affecting domestic animals, and especially the disease known as pleuro-pneumonia, shall be brought into or shall break out in the District of Columbia, it shall be the duty of the Commissioners of said District to take measures to suppress the same promptly and to prevent the same from spreading; and for this purpose the said Commissioners are hereby empowered to order and require that any premises, farm, or farms where such disease exists, or has existed, be put in quarantine; to order all or any animals coming into the District to be detained at any place or places for the purpose of inspection and examination; to prescribe regulations for and to require the destruction of animals affected with contagious, infectious, or communicable disease, and for the proper disposition of their hides and carcasses; to prescribe regulations for disinfection, and such other regulations as they may deem necessary to prevent infection or contagion being communicated, and shall report to the Commissioner of Agriculture whatever they may do in pursuance of the provisions of this section.

Contagious diseases, etc., of animals; pleuro-pneumonia; duties of Commissioners in relation thereto.

May 29, 1884, 23 Stat., p. 33, sec. 8. 2 Sup. R. S., 437.

SEC. 19. That it shall be the duty of the several United States district attorneys to prosecute all violations of this act which shall be brought to their notice or knowledge by any person making the complaint under oath; and the same shall be heard before any district or circuit court of the United States or Territorial court holden within the district in which the violation of this act has been committed.

Duty of district attorneys under violations of act.

Ibid., sec. 9.

SEC. 20. The *Commissioners* [Governor] shall appoint for the said District three inspectors of flour who shall be competent judges of flour; said inspectors to hold said offices two years, unless sooner removed by the *Commissioners* [Governor].

Appointment of inspectors of flour. Term of office.

Leg. Assem..

Aug. 21, 1871, ch. 62, sec. 1, p. 69.

Oath of inspectors of flour.

Ibid., sec. 2.

SEC. 21. The said inspectors, before entering on the duties of their office, shall make oath or affirmation before a justice of the peace that without favor, affection, malice, partiality, or respect of person, they will diligently and carefully view, examine, and inspect, to the best of their skill and knowledge, all flour required by this act to be inspected by them; that they will not pass, or cause to be passed, any barrels or half-barrels of flour which are not, in their judgment, clean, sweet, and merchantable, according to the directions of this act; also, that they will not charge, ask, or take, or receive any other or larger fees for doing their duty as inspectors of flour than are mentioned and directed by this act, and will diligently and carefully view and examine all barrels and half-barrels containing flour; and that they will not mark or pass, or cause to be passed, any barrel or half-barrel of flour unless the barrel or half-barrel be of the size and quality required as by this act.

Description to which flour barrels must conform.

Miller's marks.

Inspector's duty.

Ibid., sec. 3.

SEC. 22. All barrels and half-barrels containing flour manufactured within the District of Columbia, or brought to the same for sale, shall be well made, of good, seasoned material, and tightened with ten hoops, sufficiently nailed, with four nails in each chime-hoop, and three nails in each upper bulge-hoop, and of the following dimensions, namely: The staves of all barrels to be in length not less than twenty-seven inches, the diameter at the head to be seventeen inches; the staves of all half-barrels to be twenty-two inches in length, and the diameter of the head thirteen inches. Flour barrels weighing not less than sixteen pounds, tared or marked on the branded head, shall be deemed merchantable. Every miller or bolter of flour shall provide and have a distinguished brand, or mark every barrel or half-barrel of flour before inspection, and the said inspectors are hereby directed to condemn any barrel or half-barrel which is not prepared agreeably to the directions of this act.

Inspection of flour and penalty for false packing, etc.

Ibid., sec. 4.

SEC. 23. All flour and every barrel and half-barrel of flour manufactured within the District of Columbia, or brought to the same for sale, shall, by the manufacturer, be made merchantable and of due fineness, without false packing or mixture, and if there is any false packing or mixture the manufacturers or persons offering the same for sale or inspection shall forfeit and pay the sum of five dollars for each and every such barrel and half-barrel.

Requirements as to quantity of flour.

Inspector's duty as to weight, etc.

Penalty for short weight.

Ibid., sec. 5.

SEC. 24. Every miller or bolter of flour shall put into barrels the quantity of one hundred and ninety-six pounds, and into half-barrels the quantity of ninety-eight pounds; and if any miller or bolter of flour shall pack any barrel or half-barrel with a less quantity of flour than by this act is required, he shall forfeit, if the deficiency be one pound, a sum not exceeding ten cents, and for every pound above one deficient twenty-five cents. And the inspector is hereby required, whenever he has any reason to suspect any barrel or half-barrel containing flour to be falsely tared, to cause the flour to be started, and the barrel or half-barrel weighed; and whenever it shall appear that the barrels and half-barrels weigh more than they are marked by the miller or owner, the said miller or owner shall forfeit and pay for every such offense at the rate of twenty-five cents for every pound after the first that the barrel or half-barrel may improperly weigh, and shall moreover pay twenty-five cents for each and every barrel or half-barrel, unless, on examination, the tare should prove correct; then, and in that case, the cost and charges shall be paid by the inspector.

Inspection of flour manufactured in District of Columbia.

SEC. 25. All and every barrel and half-barrel of flour manufactured in the District, or brought to the same for sale, shall be subject to the examination of the inspector, by boring, searching, and

trying it through with an instrument not exceeding five-eighths of an inch in diameter, to be provided by the inspector for that purpose, who shall afterwards plug up the hole with a round plug made of soft wood, so as to prevent the entrance of water, and if the inspector shall judge the same to be merchantable according to the direction of this act, he shall, at the time of inspecting, mark or brand on the head or quarter of every barrel and half-barrel of flour, in letters one-half inch in length, the word "Georgetown", if inspected in Georgetown, and "Washington", if inspected in Washington, together with the word or words designating the degree of fineness which he shall, at the time of inspection, determine said flour entitled to, with the exception of the degree of superfine, which he shall mark or brand over the quarter; and the several degrees in quality shall be distinguished as follows: Family, Extra, Superfine, Fine, and First Middlings.

And for the inspection of which the said inspector shall have and receive of the owner or agent of said flour, for each and every barrel and half-barrel, one cent and one drawing of flour for all inspected in Washington or Georgetown;

And every barrel or half-barrel of flour which shall prove, on examination thereof, to be unmerchantable, according to the true intent and meaning of this act, the said inspector shall mark on the head or quarter with a broad arrow.

And no barrel or half-barrel of flour, not examined and branded by the inspector as aforesaid, shall be sold within the District, under penalty of one dollar for each and every barrel or half-barrel, to be paid by the person or persons so offending. (See § 29 of this chapter.)

Pay of inspector.

Unmerchantable flour to be branded, etc.

Penalty for selling in violation of act.

June 4, 1878.
20 Stat., 91.
2 Sup. R. S., 169.

SEC. 26. The Commissioners are [Governor be and is] hereby, authorized to appoint three good and competent judges of flour—practical millers, bakers, or flour merchants—two of whom shall be residents of Georgetown, and one a resident of Washington, as commissioners of flour inspection, whose duty it shall be, on the first day of October, eighteen hundred and seventy-one, and monthly thereafter, to select a standard for each grade of flour named in the sixth and tenth sections of this act, and each commissioner shall keep a standard of each grade for the examination of the inspectors, for their government in inspecting.

Appointment of commissioners of flour inspection; their duties.

Leg. Assem.,
Aug. 21, 1871, sec.
7, p. 72.

SEC. 27. When any person shall think himself aggrieved by the judgment of the inspector, it shall be lawful for him, within six days, to apply to the commissioners of inspection, who shall immediately view and carefully examine the same, and if a majority of such commissioners declare the quality different from that adjudged by the inspector, the brand or broad arrow shall be erased, and the inspector required to put on such brand as they shall adjudge and determine, the cost of such review to be paid by the inspector; but should the judgment of the inspector be confirmed, then, and in that case, the owner shall pay the costs of the review, and each commissioner shall be entitled to receive the sum of five dollars for his services.

Remedy of aggrieved persons; appeal to commissioners of inspection; remedy.

Ibid., sec. 8.

SEC. 28. The inspector be, and is hereby, authorized to require the cooperation of any wet or light flour which he may inspect, in order to make it merchantable; and no inspector shall purchase, directly or indirectly, any flour other than for his own use, under a penalty of ten dollars for each barrel or half barrel purchased.

Inspectors to require cooperation when necessary.

Not to purchase except for their own use.

Penalty.

Ibid., sec. 9.

Additional grades of flour established.

Ibid., sec. 10.

Penalty for fraudulent marking or packing flour.

Ibid., sec. 11.

Bond of inspectors; how approved.

Ibid., sec. 12.

Repealing clause.

Ibid., sec. 14.

SEC. 29. In addition to the grades of flour established by the sixth section* of this act, there is hereby established two grades of rye flour, namely, first and second quality; and it shall be the duty of the inspector to brand or mark under the inspection mark, the words, "rye flour" on all flour made of this grain.

SEC. 30. Any person or persons who shall alter, erase, or deface the mark or brand made on any barrel or half-barrel of flour by the inspector, or shall mark or brand any barrel or half-barrel which has not been inspected, with any mark or brand similar to or in imitation of that made by the inspectors, or after the inspectors shall have passed any barrel or half-barrel of flour as merchantable, shall add any mark or brand designing a quality different from that determined upon and made by the inspector, or shall pack into said barrel or half-barrel of flour that shall be branded or marked with the broad arrow, shall unpack and repack the same in other barrels or half-barrels, or shall in any manner pack flour into barrels or half-barrels already branded, without erasing therefrom the marks or brands, such person or persons shall forfeit and pay the sum of five dollars for every such offense.

SEC. 31. Before the inspectors shall enter upon the execution of their office they shall each give bond, with security, to be approved by the *Commissioners* [Governor,] in the sum of two thousand dollars, for the faithful performance of the duties of their office.

SEC. 32. All laws of the corporation of Washington, and the corporation of Georgetown, applying to the inspection of flour, be, and the same are hereby, repealed.

* Sixth section, act Aug. 21, 1871; superseded by sec. 25 of this title.

CHAPTER TWENTY-NINE.

HIGHWAYS, ROADS, AND BRIDGES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. What are public highways. (NOTES.— Contracts for, regulated. Provision for permanent system of. Regulation and control of bridges.) 2. Jurisdiction over roads and bridges vested in Commissioners of the District of Columbia. 3. Survey of public highways, records, etc. 4. Boundaries of public highways to be marked. 5. Roads, their width and location regulated. 6. Roads, when fields, etc., not to be taken for. 7. Roads, when may be changed, laid out, or widened. 8. Same subject, notice of; and objections to be heard. 9. Same subject, when route objected to, etc. 10. Same subject, after notice and no objection made. 11. Same subject, when notice waived. 12. Same subject, when owners object and claim damages; how assessed. 13. Same subject, notice to claimants for damages. 14. Same subject, when minors own land objection presumed and damages assessed. 15. Same subject, jury to be summoned to assess damages; oath of. | <p>Sec.</p> <ol style="list-style-type: none"> 16. Same subject, what jury shall consider. 17. Same subject, verdict of jury and procedure. 18. Same subject, owners of land are dissatisfied with verdict, procedure. 19. Same subject, verdict of second jury conclusive. 20. Same subject, costs, by whom paid. 21. Same subject, fees of marshal and jurors. 22. Materials for use on public roads, how condemned. 23. Willful injury to public road, penalty for. 24. Obstructing free use of highways, penalty for. 25. Penalties prescribed in sections 23 and 24, how collected and disposed of. 26. Aqueduct bridge, control of. (NOTES.— Duties of Engineer Commissioner as to roads and bridges. Statute as to Eastern Branch bridge. Statute as to free bridge across Potomac. Ordinances of Washington City as to bridges.) 27. Bridge across Rock Creek at Woodley Lane road; free. 28. Free public highway from Georgetown toward Rockville, Md. 29. Proviso to previous section. |
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SEC. 1. All public roads within said District, outside the limits of Washington and Georgetown, which have been duly laid out or declared and recorded as such, are public highways. *
 2 Stat., 569. Sec. 246, R. S. D. C. 1 MacArthur Rep., 83, *Reeves vs. Hickey*.
 What are public highways.
 Mar. 30, 1810.

SEC. 2. The Commissioners [legislative assembly] shall have the care and charge of and the exclusive jurisdiction over, all the public roads and bridges, except such as belong to and are under the care of the United States, and except such as may be otherwise specially provided for by Congress.
 148 U. S. Rep., 92, *St. Louis vs. Telegraph Co.*; 149 U. S. Rep., 465, *ibid*.
 The Commissioners to have jurisdiction over roads and bridges.
 Sec. 247, R. S. D. C.

SEC. 3. Every public highway shall be surveyed and platted, and a certificate of the survey and plat shall be recorded among the records used for recording surveys and plots of highways.
 Public highways to be surveyed and recorded.
 Sec. 248, R. S. D. C.

SEC. 4. The boundaries of every public highway shall be permanently marked and fixed by the erection of stones or posts at the different angles thereof.
 Boundaries to be permanently marked.
 Sec. 249, R. S. D. C.

SEC. 5. In laying out new roads, the proper authorities charged therewith shall cause such roads to be of a width not less than fifty nor more than one hundred feet, and may also cause the width of any existing roads to be increased to not more than one hundred feet, and may change the location of any of them as may be deemed best for the public interest.
 Width and location of roads.
 Sec. 250, R. S. D. C.

SEC. 6. No field, garden, or yard in actual cultivation shall be laid open or used as a public highway until after the usual time of taking off the crops growing thereon.
 Fields, gardens, and yards, when not to be taken for roads.
 Sec. 251, R. S. D. C.

SEC. 7. Whenever application shall be made to the proper authorities, by residents of the District without the limits of Washington and Georgetown, to lay out a new or alter any existing road, and whenever such authorities shall deem it conducive to the public interests to open a new road, or widen or change the course of an old one, the route of such road shall be surveyed, and a plat or map of the same prepared. †
 Laying out or widening, or changing roads.
 Sec. 252, R. S. D. C.

SEC. 8. The proper authorities shall cause notice to be given, by advertisement twice a week for three weeks, of the proposed opening of the new road, or of the alteration of an existing one, calling upon all persons who may have any objections thereto to present them to such authorities at their next regular meeting, when, if any objections are made, such objections shall be heard.
 Notice to be given and objections heard.
 Sec. 253, R. S. D. C.

SEC. 9. If the route only is objected to, and another suggested as more advantageous, such route may be adopted, or five discreet, disinterested men, of whom the surveyor shall be one, may be appointed to examine all the proposed routes and report such one as they shall deem most feasible and advantageous to the District, and such report shall be made to the authorities at their next meeting.
 Proceedings when route objected to and others proposed.
 Sec. 254, R. S. D. C.

* Contracts for highways, etc., regulated. 30 Stat., ch. 180, sec. 5, p. 1060 1 Sup. R. S., p. 343. Provision for permanent system of highways outside of cities; Stat. L., ch. 114; Mar. 2, 1863. The Commissioners vested with the regulation and control of bridges. See Stat. L., ch. 115; Mar. 3, 1863.
 † For general condemnation law, see act approved Aug. 30, 1890; 26 Stat. L., 412, sec. 3; *ibid.*, p. 157, opening of Thirty-seventh street. The Washington City Post-Office site was condemned under the act approved June 25, 1890; 26 Stat. L., 174, and as amended, *ibid.*, secs. 3, 5, pp. 412, 413, Aug. 30, 1890. The Rock Creek Park act was passed Sept. 27, 1890; 26 Stat. L., 492; see also 147 U. S. Rep., 282, *Shoemaker*, 9 Mackey Rep., 104, U. S. vs. Cooper; 98 U. S. Rep., 403, *Boom Co. vs. Patterson*.

When no objection is made after notice. SEC. 10. If no objection to opening or altering a road is made by the owners of the land through which it must pass, after such notice, it shall be taken for granted that no damages are or will be claimed, and the road may be recorded and opened, and shall then be a public road or highway.

Sec. 255, R. S. D. C.

When parties in interest are agreed. SEC. 11. The notice required to be given by section two hundred and fifty-three need not be given when all the parties interested are agreed, and all roads laid out under such agreement without notice being given are lawful highways.

Sec. 256, R. S. D. C.

When owners of land object and claim damages. SEC. 12. If any owner of land shall object and claim damages, and the amount cannot be agreed upon, the proper authorities shall direct the marshal of the District to summon a jury of seven judicious, disinterested men, not related to any party interested, to be and appear on the premises on a day specified to assess the damages, if any, which each owner of land through which the road is to pass may sustain by reason thereof.

Sec. 257, R. S. D. C.

Marshal to give notice to owners. SEC. 13. It shall be the duty of the marshal, upon receiving the order mentioned in the preceding section, to give the owners not less than ten days' notice of the time and place of the meeting of the jury to assess their damages.

Sec. 258, R. S. D. C.

When objection shall be presumed. SEC. 14. In cases where notice cannot be served on the owner, and in all cases where the land through which it is proposed to run a road shall belong to a minor or minors, it is presumed that objection is made, and damages shall be assessed accordingly.

Sec. 259, R. S. D. C.

Marshal to summon jury and administer oath. SEC. 15. The marshal shall summon a jury and administer an oath or affirmation to them that they will, without favor or partiality to any one, to the best of their judgment, decide what damage, if any, each owner may sustain by reason of running the road through his premises.

Sec. 260, R. S. D. C.

What the jury shall consider. SEC. 16. In making their decision the jury shall take into consideration the benefit such road may be to each owner by enhancing the value of his land, or otherwise, and shall give their verdict accordingly.

Sec. 261, R. S. D. C.

Proceedings upon rendering verdict. SEC. 17. The jury, having been upon the premises and assessed the damages, shall make out a written verdict, to be signed by them, or a majority of them, and attested by the marshal, which the marshal shall transmit to the proper authorities at their next meeting, and which shall be recorded.

Sec. 262, R. S. D. C.

When a second jury may be summoned; proceedings. SEC. 18. If the proper authorities or any owners of the land are dissatisfied with the verdict thus rendered, and no arrangement being made between them, the marshal shall be ordered to summon a second jury of twelve judicious, disinterested men, not related to any one interested, to meet and view the premises, giving the parties interested at least ten days' notice of the time and place of meeting. And the marshal and jury shall proceed as before directed in regard to the first jury.

Sec. 263, R. S. D. C.

Verdict of second jury conclusive. SEC. 19. The verdict of the second jury, signed by each of the jurors, or a majority of them, shall be returned to the proper authorities at their next meeting and recorded as final and conclusive, and the road shall then be declared a public road, and opened as such.

Sec. 264, R. S. D. C.

SEC. 20. In all cases where it becomes necessary to summon a second jury to assess damages, if the amount assessed by the second jury shall not be greater than the amount assessed by the first, the costs of the second jury shall be paid by the parties objecting to the first verdict; but if greater, they shall be paid by the District. All expenses up to the second jury shall be paid by the District.

Costs, by whom paid.
Sec. 265, R. S. D. C.

SEC. 21. The following fees are payable under the provisions of this chapter:

Fees of marshal and jurors.

For summoning each juror the marshal shall be entitled to fifty cents.

Sec. 266, R. S. D. C.

For travel, per mile, going and coming to the premises to be examined, twelve and a half cents.

For each day's attendance, two dollars and fifty cents.

For each day's attendance of each juror, two dollars.

SEC. 22. In any case where materials of any kind shall be deemed necessary for making or repairing a public road, if the proper authorities cannot agree with the owner as to their purchase, such materials may be condemned in the manner as provided for in this chapter in cases of condemnation of land for the purposes of a public road.

Materials, how may be condemned.
Sec. 267, R. S. D. C.

SEC. 23. If any person shall alter or in any manner obstruct or encroach on a public road, or cut, destroy, deface, or remove any mile-stones set up on such road, or place any rubbish, dirt, logs, or make any pit or hole therein, such person may be indicted, and upon conviction thereof before the proper court, shall be fined or imprisoned, in the discretion of the court, according to the nature of the offense.

Penalty for willful injury to public road.
Sec. 268, R. S. D. C.

SEC. 24. Any person who, without lawful authority, shall obstruct the free use of any of the public highways, which had been used and recognized as public county roads for twenty-five years prior to May third, eighteen hundred and sixty-two, and which were thereafter duly surveyed, recorded, and declared public highways according to law, shall be subject to a fine for each offense of not less than one hundred nor more than two hundred and fifty dollars, and be imprisoned till the fine and costs of suit and collection of the same are paid.

Penalty for obstructing free use of highways.
Sec. 269, R. S. D. C.

SEC. 25. The fines provided for in the preceding section shall be collected in the name of the United States [for the use of that portion of the District outside of the limits of Washington and Georgetown]. [See § 310, R. S. D. C.]

Fines, how collected and disposed of.
Sec. 270, R. S. D. C.

SEC. 26. The new free bridge across the Potomac [Aqueduct], is hereby placed under the jurisdiction of the Commissioners of the District of Columbia.*

Aqueduct bridge under control of Commissioners District Columbia.

July 18, 1888. 25 Stat., 319.

SEC. 27. The Commissioners of the District of Columbia, are hereby authorized and directed to cause to be constructed across Rock Creek, on the Woodley Lane Road, in the District of Columbia, a substantial stone or iron bridge, with necessary approaches; and the sum of thirty-five thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, which said sum shall be available immediately upon the passage of this act, for

Bridge across Rock Creek at Woodley Lane Road, District of Columbia, to be built, and a free bridge.
June 19, 1888.

* For duties of Engineer Commissioner in regard to roads and bridges, see 2 Sup. R. S., p. 23, sec. 3, ch. 337; 18 Stat., 117.
Statutes in regard to Eastern Branch bridge, 25 Stat., 138; 18 Stat., 196.
Free bridge across Potomac, 21 Stat., 328; 24 Stat., 84.
Washington City ordinances as to bridges. Webb's Dig., p. 53.

25 Stat., 197, ch. 423, sec. 1.

The act authorizing this compilation required act included in 25 Statutes.

Free public highway from Georgetown toward Rockville, Md.

Jan. 19, 1883,
22 Stat., ch. 341
408.

the construction of said bridge and approaches, and for such investigation and surveys and such contingencies as the Commissioners of the District of Columbia shall deem necessary, the same to be maintained as a free bridge for travel.

SEC. 28. The Commissioners of the District of Columbia are hereby authorized and directed to locate, construct, and maintain a free public highway on and over that part of the turnpike road of the company incorporated by the name of "The President, Managers, and Company of the Washington Turnpike Company" which leads from the boundary of the city of Georgetown to the boundary of the District of Columbia, towards Rockville, Montgomery County, Maryland; said company being the same described in the act of Congress, approved February twenty-seventh, eighteen hundred and thirteen (volume two of the Statutes at Large, page eight hundred and eight), authorizing said company to construct and maintain said turnpike road from the boundary of Georgetown to the boundary of the District of Columbia; and for the purpose aforesaid the said Commissioners of the District of Columbia shall have power to purchase, at the price of three thousand dollars, all real estate and franchises of said turnpike company necessary for the construction and maintenance of a free public highway.

SEC. 29. The said purchase-money shall be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, upon the order of the Commissioners of the District of Columbia; and such payment shall be in full of all the real estate, rights and franchises of the said company within the District of Columbia, and shall operate as a surrender and release of said real estate, rights, and franchises to the Government of the United States: *Provided*, That the toll-house at Tennallytown is not to be included in said purchase, and the said company shall remove the same after reasonable notice: *And provided further*, That one-half of the said three thousand dollars shall be paid out of revenues derived from taxation in the District of Columbia.

Provisos.

Ibid., sec. 2.

CHAPTER THIRTY.

HUSBAND AND WIFE.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Marriage of lunatics void. Lunacy, how declared. 2. Marriages within certain degrees void. Table of degrees of kindred and affinity. Marriages to be reported to health officer. 3. Penalty for marrying within certain degrees, etc. 4. Marriage, by whom to be celebrated. Penalty for violation of this act. 5. Penalty for ministers marrying persons related, etc. 6. No person to marry without license or bans being published. The penalty. 7. Persons may not avoid the penalty of this act (Md. act 1777, ch. 12) by going out of District to marry. 8. Churches, etc., to be recorded, or can not publish bans. 9. Ministers to return annually list of marriages by license. Penalty for noncompliance. | <p>Sec.</p> <ol style="list-style-type: none"> 10. Penalty on ministers for marrying persons under age without consent of parent or guardian, etc. 11. Alimony, all causes for to be determined by equity court. 12. Bigamous or marriages contrary to the table in section 2 of this chapter, the court may declare void. 13. Who may be licensed to perform marriage ceremony. 14. License, by whom to be issued. 15. License, form of. 16. License, record of, where kept. 17. Certificate of minister as to marriage: form of. 18. Copy of license record to be competent evidence of marriage. (See note.) 19. Marriages in foreign countries in presence of consular officers; evidence of, how authenticated. 20. Certain colored persons to be deemed husband and wife, etc. |
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| <p>Sec.
21. Their children legitimate.
22. Children of those who have ceased to cohabit.
23. When right of married women to property is absolute, etc.
24. Powers of married women over their property.
25. Married women may contract, sue, and be sued.
26. Husband not liable, when.
27. Divorce, application for, how made.
28. Divorce, proceedings in.
29. Divorce, what petition for must specify.
30. Divorce, summons to respondent.
31. Divorce, notice to respondent by publication, when.
32. Divorce, when causes shall be heard.
33. Divorce, no judgment without proof; admissions in answer not evidence.
34. Divorce, from bond of marriage, causes for.
35. Divorce, from bed and board, causes for.</p> | <p>Sec.
36. Divorce, when granted for causes occurred out of District.
37. Divorce, when dissolved on account of former marriage, what decree must state.
38. Divorce, legitimacy of issue, how affected by section 37.
39. Divorce, legitimacy of issue after, on ground of lunacy.
40. Divorce, legitimacy of issue, how otherwise affected and determined.
41. Divorce, rights of wife to dower and alimony.
42. Divorce, award of alimony <i>pendente lite</i>.
43. Divorce, custody and maintenance of children may be decreed.
44. Divorce, maiden or previous name of wife may be restored.
45. Divorce, from bed and board, adultery of wife after, power of court as to alimony, dower, etc.</p> |
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SEC. 1. In case any person who now is, or at any time hereafter shall be found a lunatic, by any inquisition taken or to be taken * * * or any lunatic or person under a phrenzy, whose person and estate * * * hereafter shall be committed to the care and custody of particular trustees, shall marry before he or she shall be declared of sane mind * * * every such marriage shall be, and is hereby declared to be null and void to all intents and purposes whatsoever.*

Marriage of lunatics void.

15 George II, ch. 30, sec. 1, A. D. 1742.
Alex. Brit. Stat., 757.
Kilty's Rep., 251.

SEC. 2. If any person within this *District* [state] shall hereafter marry with any person related within any of the degrees of kindred or affinity expressed in the following table, such marriage shall be void.

Marriages within certain degrees to be void.

A table of the degrees of kindred and affinity within which no person related shall marry together. †

Md. act 1777, ch. 12, sec. 1.
Thomp. Dig., 297.

<p>A man shall not marry his Grandmother, Grandfather's wife, Wife's grandmother, Father's sister, Mother's sister, Mother, Step-mother, Wife's mother, Daughter, Wife's daughter, Son's wife, Sister, Son's daughter, Daughter's daughter, Son's son's wife, Daughter's son's wife, Wife's son's daughter, Wife's daughter's daughter, Brother's daughter, Sister's daughter.</p>	<p>A woman shall not marry her Grandfather, Grandmother's husband, Husband's grandfather, Father's brother, Mother's brother, Father, Step-father, Husband's father, Son, Husband's son, Daughter's husband, Brother, Son's son, Daughter's son, Son's daughter's husband, Daughter's daughter's husband, Husband's son's son, Husband's daughter's son, Brother's son, Sister's son.</p>
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1 Dorsey, 130.
1 Kilty, 445, 446.

* Trial by jury required, 3 Mackey Rep., 491. *In re Bryant*.
† This table presents the table of degrees of kindred as corrected and modified by the acts of 1785, ch. 35, and 1790, ch. 20.
Marriages shall be reported within forty-eight hours to the health officer under penalty of from \$25 to \$200. See ordinance of board of health, sec. 2, p. 581, vol. 1, Sup. R. S., as amended by act of Congress, June 20, 1878, 20 Stat., 102, sec. 8. See also, 1 Sup. R. S., pp. 345, 574; 35 Md. Rep., 361, *Dennison vs. Dennison*; 22 Md. Rep., 468, *Harrison vs. Harrison*.

Penalty on marrying within certain degrees, etc.

Ibid., sec. 2.

SEC. 3. If any person within this *District* [state] shall hereafter marry with any person related within the three degrees of lineal direct consanguinity, or within the first degree of collateral consanguinity, each of the parties, on conviction thereof in the general court, shall forfeit and pay five hundred pounds current money [\$1333.33 $\frac{1}{3}$]; and if any person within this *District* [state] shall hereafter marry with any person related within any other of the degrees of kindred, or within any of the degrees of affinity expressed in the said table, each of the parties so offending shall forfeit and pay two hundred pounds current money [\$533.33 $\frac{1}{3}$].*

Marriages, by whom to be celebrated.

Penalty for violation of this act.

Ibid., sec. 3.
96 U. S. Rep., 76,
Meister vs. Moore;
35 Md. Rep., 361,
Dennison vs. Dennison.

¹See sec. 718, R. S. D. C.

SEC. 4. The rites of marriage between any white persons, subjects or inhabitants of this *District* [state,] shall not be celebrated by any person within this *District* [state,] unless by ministers¹ of the church of England, ministers dissenting from that church, or Romish priests, appointed or ordained according to the rites and ceremonies of their respective churches, or in such manner as hath been heretofore used and practised in this *District* [state] by the society of people called Quakers; and if any persons shall celebrate the rites of marriage between any white persons as aforesaid, contrary to the true intent and meaning hereof, he shall forfeit and pay for every offence five hundred pounds current money. [\$1333.33 $\frac{1}{3}$].†

Penalty for ministers marrying persons related, etc.

Ibid., sec. 4.

SEC. 5. If any minister within this *District* [state] shall knowingly celebrate the rites of marriage between any persons related within the degrees of kindred or affinity in the said table expressed, (to avoid which offence he is to make diligent inquiry,) he shall forfeit and pay for every offence five hundred pounds current money [\$1333.33 $\frac{1}{3}$].†

No person to marry without license, etc.; the penalty.

Ibid., sec. 5.
96 U. S. Rep., 76,
Meister vs. Moore;
35 Md. Rep., 361,
Dennison vs. Dennison.

¹See sec. 15 of this chapter.

SEC. 6. No person within this *District* [state] shall marry without such license¹ as by this act is directed, or before the names of the parties intending to marry shall be thrice published in some parish church or chapel, meeting house, Romish chapel, or other house of religious worship, in the county where the woman shall have her usual residence, on three several Sundays, by some minister residing within the same county where the woman to be married usually lives, (or if a Quaker, before publication of his marriage shall be made in such manner as hath been heretofore used and practised in this state by the people of his society,) under the penalty of five hundred pounds current money; and if any minister shall marry any person without such license or publication as aforesaid, he shall forfeit five hundred pounds current money; and if any minister shall go out of the county where he resides, and there join together in matrimony any persons belonging to this *District* [state,] and if any minister shall go out of this *District* [state] and there celebrate the rights of marriage between any persons belonging to this *District* [state,] without such license or publication as above prescribed, he shall forfeit and pay five hundred pounds current money [\$1333.33 $\frac{1}{3}$]. †

Penalty for persons going out of this *District* and marrying contrary to this act.

Ibid., sec. 6.

SEC. 7. If any person belonging to this *District* [state] shall go out of this *District* [state,] and there marry with any person belonging to this *District* [state,] contrary to this act, each of the said parties shall be liable to the same punishment or penalty as if the offence had been committed within this *District* [state.]

Churches, etc., to be recorded.

SEC. 8. That every parish church or chapel belonging to the church of England, and every meeting-house, Romish chapel, or

* The fine collected, see sec. 837, R. S. D. C.

† The fine, how recovered. See sec. 837, R. S. D. C.

other house of religious worship, belonging to and used by any sect or denomination of christians, shall be recorded in the records of the county court of the county wherein such church, chapel, or house of worship shall be, and none shall be esteemed as such for the publication of marriage agreeable to this act, unless recorded as aforesaid.

Ibid., sec. 7.
35 Md. Rep., 379,
Dennison vs. Den-
nison.

SEC. 9. That every minister celebrating a marriage by license aforesaid, shall annually, in the month of November, return on oath a list of the names of the persons, and the time when married, [to the treasurer of his shore]* under the penalty of two hundred pounds current money [\$533.33‡].

Lists to be re-
turned.

Ibid., sec. 8.

SEC. 10. If any minister shall join in marriage any male under the age of twenty-one years, or any female under the age of sixteen years, and not before married, without the consent of the parent or guardian of every such person, personally given, or signified under the hand and seal of the said parent or guardian, and attested by two witnesses, he shall forfeit and pay five hundred pounds current money [\$1333.33‡].†

Penalty for mar-
rying persons un-
der age, etc.

Ibid., sec. 9.
1 Cranch, Ct.
Rep., 593, U. S. vs.
McCormick.

SEC. 11. The *Supreme Court of the District of Columbia* [chancellor] shall and may hear and determine all causes for alimony, in as full and ample manner as such causes could be heard and determined by the laws of England in the ecclesiastical courts there.

Chancellor to
determine all
causes for ali-
mony.

Ibid., sec. 14. 21 Wash. Law Rep., 771, Tolman vs. Tolman; 34 Md. Rep., 21, Keerl vs. Keerl; 33 Md. Rep., 401; 12 Md. Rep., 294, Schindel vs. Schindel; Court in Gen. Term, Pelz vs. Pelz; Eq. No. 8306, Doc. 22, Mar. 9, 1891.

SEC. 12. The [general] court may inquire into, hear and determine, either on indictment or petition of either of the parties, the validity of any marriage, and may declare any marriage, contrary to the table in this act, or any second marriage, the first subsisting, null and void; and on appeal the depositions and evidence given in the cause shall be transmitted with the record to the court of appeals, and thereupon such cause shall be heard, determined and adjudged *de novo*. [See § 739, R. S. D. C.]

Court may de-
clare certain mar-
riages void.

Ibid., sec. 15.

SEC. 13. For the purpose of preserving the evidence of marriages in the District, every minister of the gospel, appointed or ordained according to the rites and ceremonies of his church, whether his residence be in the District or elsewhere in the United States or its Territories, may be licensed to celebrate marriages in the District.‡

Who may be
licensed to per-
form marriage
ceremony.

Sec. 718, R. S. D. C. 1 June, 1870, ch. 115, sec. 4, v. 16, p. 147. 3 Wall., 175, Blackburn vs. Crawford; 1 Cranch, C. C., 593, U. S. vs. McCormick; 2 Cranch, C. C., 137, U. S. vs. Lambert; 96 U. S. Rep., 76, Meister vs. Moore.

SEC. 14. Such license shall be issued by the clerk of the supreme court of the District.

Licenses; by
whom issued.

Sec. 719, R. S. D. C. Ibid.

SEC. 15. Licenses shall be in the following form:§

Form of license.

“To any minister of the Gospel authorized to celebrate marriages in the District of Columbia, greeting:

Sec. 720, R. S. D. C.

“You are hereby licensed to solemnize the rites of marriage between _____, of _____, and _____, of _____, if you find no lawful impediment thereto; and having so done, you are

Ibid.

* The clerk of the supreme court, District of Columbia, takes the place of the treasurer. See sec. 721, R. S. D. C., sec. 16, this chapter.

† The fine, how recovered. See sec. 837, R. S. D. C.

‡ Who may lawfully contract marriage. See sec. 2 of this chapter.

§ See sec. 12 of Md. act, 1777, ch. 12, as to license, etc., 1 Kilty, 447; 1 Dorsey, 130; 112 U. S. Rep., 495, Md. vs. Baldwin.

commanded to appear in the clerk's office of the supreme court of said District and certify the same.

"Witness my hand and the seal of said court.

"_____, Clerk."

Record of licenses.

Sec. 721, R. S. D. C.
Ibid., sec. 5.

SEC. 16. The clerk shall provide a record-book of his office, consisting of licenses in the form prescribed in the preceding section, printed in blank, one of which he shall fill up with the names of the parties for whose union any license has been issued, and beneath it shall be printed a certificate to be made by the minister who solemnized the marriage. [See § 9 ante of this chapter.]

Minister's certificate; form.

Sec. 722, R. S. D. C.
3 Wallace Rep., 175, Blackburn vs. Crawford.

SEC. 17. The minister's certificate shall be in the following form :*
"I, _____, minister of _____ church in _____, hereby certify that, by authority of a license of the same tenor as the foregoing, I solemnized the marriage of the parties aforesaid, on the _____ day of _____, eighteen hundred and _____, at _____, in the District of Columbia.

"_____."

Copy of record to be evidence.

Sec. 723, R. S. D. C.

SEC. 18. A copy of any license and certificate, recorded in the record-book of the clerk's office, and certified by the clerk, under his hand and the seal of the court, shall be competent evidence of the marriage.†

Power of United States consular officers to solemnize marriages.

Foreign marriages, where recorded.

Sec. 4082, R. S. U. S.

SEC. 19. Marriages in presence of any consular officer of the United States in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall be valid to all intents and purposes, and shall have the same effect as if solemnized within the United States. And such consular officers shall, in all cases, give to the parties married before them a certificate of such marriage, and shall send another certificate thereof to the Department of State, there to be kept; such certificates shall specify the names of the parties, their ages, places of birth, and residence.

Certain persons to be deemed husband and wife.

Sec. 724, R. S. D. C.
25 July, 1866, ch. 240, v. 14, p. 236.
5 Mackey Rep., 80, Green vs. Norment; 3 Wallace Rep., 176, Blackburn vs. Crawfords.

SEC. 20. All colored persons in the District, who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife, and were cohabiting together as such, or in any way recognizing the relation as existing on the twenty-fifth day of July, eighteen hundred and sixty-six, whether the rites of marriage have been celebrated between them or not, are deemed husband and wife, and are entitled to all the rights and privileges, and subject to the duties and obligations of that relation, in like manner as if they had been duly married according to law.

Their children legitimate.

Sec. 725, R. S. D. C.

SEC. 21. All the children of such persons shall be deemed legitimate, whether born before or after the date mentioned in the preceding section.

Children of those who have ceased to cohabit.

Sec. 726, R. S. D. C.

SEC. 22. When such parties have ceased to cohabit before such date, in consequence of the death of the woman, or from any other cause, all the children of the woman recognized by the man to be his shall be deemed legitimate.

PROPERTY-RIGHTS OF MARRIED WOMEN.

Rights of married women to property absolute.

SEC. 23. In the District the right of any married woman to any property, personal or real, belonging to her at the time of marriage, or acquired during marriage in any other way than by gift or con-

* Ministers and others shall keep a record of marriages, under penalty of \$20. See Webb's Digest, secs. 2, 3, pp. 48, 49.

† Evidence of marriage of colored soldiers. See sec. 2037, R. S. U. S.

veyance from her husband, shall be as absolute as if she were unmarried, and shall not be subject to the disposal of her husband, nor be liable for his debts.

Sec. 727, R. S. D. C.
10 Apr., 1869, ch. 23, sec. 1, v. 16, p. 45. 8 Mackey Rep., 46, Williams vs. Reid; 18 Wall Rep., 141, Sykes vs. Chadwick; 94 U. S. Rep., 580, Seitz vs. Mitchell; 111 U. S. Rep., 723, Hitz vs. The Bank; 2 Mackey Rep., 344, White vs. Hilton; 5 Mackey Rep., 522, Emmons vs. Harlan; 5 Mackey Rep., 313, Offutt vs. Dangler; 1 Mackey Rep., 1, Harnon vs. Garland; 1 Mackey Rep., 66, Knowles vs. Dodge; 114 U. S. Rep., 430, *ibid.*; 3 MacArthur Rep., 349, Darby vs. Freedman's Co.; 1 Mackey Rep., 350, Schneider vs. Garland; 1 Mackey Rep., 496, McDermott vs. Garland; 2 Mackey Rep., 113, Solomon vs. Garland; 2 MacArthur Rep., 427, Fisk vs. Bigelow; 3 MacArthur Rep., 118, Kaiser vs. Stickney; 3 MacArthur Rep., 536, Ritch vs. Hyatt; 18 Wallace Rep., 436, Lucas vs. Brooks.

SEC. 24. Any married woman may convey, devise, and bequeath her property, or any interest therein, in the same manner and with like effect as if she were unmarried. [See §§ 450-452, R. S. D. C.]*

Full power of disposal.
Sec. 728, R. S. D. C. 10 Apr., 1869, ch. 23, sec. 1, v. 16, p. 45.

SEC. 25. Any married woman may contract, and sue and be sued in her own name, in all matters having relation to her sole and separate property, in the same manner as if she were unmarried.

Right to contract, sue, and be sued.

Sec. 729, R. S. D. C. 94 U. S. Rep., 584, Seitz vs. Mitchell.

SEC. 26. Neither the husband nor his property shall be bound by any such contract, made by a married woman, nor liable for any recovery against her in any such suit, but judgment may be enforced by execution against her sole and separate estate in the same manner as if she were unmarried.

Husband not liable, when.

Sec. 730, R. S. D. C. 133 U. S. Rep., 138, Keyser vs. Emmons vs. Harlan.

Hitz; 6 Mackey Rep., 548, Jackson vs. Hulse; 5 Mackey Rep., 523, Emmons vs. Harlan.

DIVORCE.

SEC. 27. All applications for divorce shall be made by petition to the supreme court of the District. [See § 766, R. S. D. C.]

Applications for divorce.

Sec. 731, R. S. D. C. 19 June, 1860, ch. 158, sec. 1, v. 12, p. 59.

SEC. 28. The proceedings upon a petition for divorce shall be the same as are had in other cases, except so far as otherwise provided in this chapter.

Proceedings; general rule.

Sec. 732, R. S. D. C.

SEC. 29. The petition for a divorce shall specify the causes therefor with certainty.

What petition must specify.

Sec. 733, R. S. D. C.

SEC. 30. Upon the petition being filed, the clerk shall issue summons for the defendant to appear and answer.

Summons to respondent.

Sec. 734, R. S. D. C.

SEC. 31. If it shall appear by the affidavit of a disinterested witness that the defendant is a non-resident of the District, or has been absent therefrom for the space of six months, the court, after the return of one summons not found, may authorize notice of the pendency of the petition, to be given by publication, in such manner as it shall direct.

Notice by publication, when.

Sec. 735, R. S. D. C. 8 Mackey Rep., 431, Richards vs. Richards.

SEC. 32. The court shall proceed to hear and determine such cause, whenever such summons shall have been served twenty days, or such publication made forty days before the commencement of the term.

When causes shall be heard.

Sec. 736, R. S. D. C. 8 Mackey Rep., 432, Richards vs. Richards.

* 111 U. S. Rep., 723, reversing 1 Mackey Rep., 111. Alien white woman marrying a citizen thereby becomes a citizen. 6 D. C. Rep., 191, Owen vs. Kelly; *ibid.*, 7 Wall. Rep., 496.

No judgment without proof.

Sec. 737, R. S. D. C.

2 Mackey Rep., 471, *Burdette vs. Burdette*.

Divorce from bond of marriage; causes.

Sec. 738, R. S. D. C.

19 June, 1860, ch. 158, sec. 3, v. 12, p. 59.

1 June, 1870, ch. 116, v. 16, p. 147.

1 MacArthur Rep., 505, *Steele vs. Steele*; 1 MacArthur Rep., 630, *Secor vs. Secor*; 2 MacArthur Rep., 35, *Farr vs. Farr*; 3 MacArthur Rep., 415, *Strait vs. Strait*; 2 Mackey Rep., 469, *Burdette vs. Burdette*; 6 Mackey Rep., 309, *Caton vs. Caton*; 1

SEC. 33. No judgment for a divorce shall be rendered on default without proof; nor shall any admissions contained in the answer of the defendant be taken as proof of the facts charged as the ground of the application, but the same shall in all cases be proved by other evidence.*

SEC. 34. A divorce from the bond of marriage may be granted in any of the following cases, namely:

First. Where such marriage was contracted while either of the parties thereto had a former wife or husband living, unless the former marriage had been lawfully dissolved and no restraint imposed on the party contracting such second marriage.†

Second. Where such marriage was contracted during the lunacy of either party.

Third. Where either party was matrimonially incapacitated at the time of the marriage.

Fourth. Where either party has committed adultery during the marriage.

Fifth. For habitual drunkenness for a period of three years of the party complained against.

Sixth. For cruelty of treatment, endangering the life or health of the party complaining.

Seventh. For willful desertion and abandonment by the party complained of against the party complaining for the full uninterrupted space of two years.

MacArthur Rep., 34, *Jackson vs. Jackson*.

Divorce from bed and board; causes.

Sec. 739, R. S. D. C.

19 June, 1860, ch. 158, sec. 4, v. 12, pp. 59, 60.

When causes occur out of the District.

Sec. 740, R. S. D. C.

Ibid., sec. 5, p. 60.

SEC. 35. A divorce from bed and board may be granted for either of the following causes, namely:

First. Cruelty of treatment, endangering the life or health of one of the parties.

Second. Reasonable apprehension, to the satisfaction of the court, of bodily harm.

SEC. 36. No divorce shall be granted for any cause which shall have occurred out of the District, unless the party applying for the same shall have resided within the District for two years next preceding the application.

8 Mackey Rep., 432, *Richards vs. Richards*

Dissolution of marriage on account of a former marriage.

Sec. 741, R. S. D. C.

SEC. 37. Upon the dissolution of a marriage on account of either of the parties having a former wife or husband living, if it shall appear that the second marriage was contracted in good faith by the party whose second marriage has been thus dissolved, and with the full belief on his or her part that the former wife or husband was dead, that fact shall be stated in the judgment or sentence of divorce.

Legitimacy of issue.

Sec. 742, R. S. D. C.

SEC. 38. The issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

Dissolution on account of lunacy; issue legitimate.

Sec. 743, R. S. D. C.

SEC. 39. Upon the dissolution of a marriage on account of the lunacy of either party at the time of such marriage, the issue of the marriage shall be deemed to be legitimate.

* Divorce bars dower, 111 U. S. Rep., 523 *Barrett vs. Failing*.

No dower in an equity of redemption, 12 Peters' Rep., 301; *Stelle vs. Carroll*, 6 Mackey Rep., 536 *Thompson's estate*.

† The statute in force relating to bigamy is: 1 James I., ch. 11; 3 Brit. Stat. L., p. 9; 4 Cranch Ct. Rep., 188, U. S. vs. *Jennegen*.

SEC. 40. A divorce for causes not specially provided for in the two preceding sections shall not affect the legitimacy of the issue of the marriage; but the legitimacy of such issue, if questioned, shall be tried and determined according to the course of the common law. Legitimacy, how otherwise affected and determined.
Sec. 744, R. S. D. C.

SEC. 41. In all cases where a divorce is granted, the court allowing the same shall have power, if it see fit, to award alimony to the wife, and to retain her right of dower. Alimony and right of dower.
Sec. 745, R. S. D. C.

D. C. 91 U. S. Rep., 122, Jackson *vs.* Jackson; 1 MacArthur Rep., 291, Fries *vs.* Fries; 6 Mackey Rep., 502, Bradstreet *vs.* Bradstreet.

SEC. 42. The court may also award alimony to the wife for her sustenance during the pendency of a petition for a divorce filed for any of the causes mentioned in this chapter. Alimony pending petition.
Sec. 746, R. S. D. C.

SEC. 43. The court shall also have power to order and direct, in every case of divorce, who shall have the guardianship and custody of the children of the marriage so divorced, and who shall be charged with their maintenance. Custody and maintenance of children.
Sec. 747, R. S. D. C.

SEC. 44. The court may also, in granting a divorce from the bond of marriage, restore to the wife her maiden or other previous name. Maiden name may be restored.
Sec. 748, R. S. D. C.

SEC. 45. In case of adultery by the wife, committed after judgment or sentence of divorce from bed and board, the court may, on the petition of the husband setting forth and accompanied by legal proof of such adultery, deprive the wife of alimony from the date of her said criminal act, and rescind her right of dower, as well as dispossess her, if the court judge fit, of the care, custody, and guardianship of any child which, under the original judgment of the court in granting the divorce, may have been assigned to her. Adultery of wife after divorce from bed and board.
Sec. 749, R. S. D. C.
19 June, 1860, ch. 158, sec. 12, v. 12, p. 60.

CHAPTER THIRTY-ONE.

INSANE, THE HOSPITAL FOR.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Establishment of hospital. 2. The superintendent, his appointment, bond, qualifications, and duties. 3. Salary of superintendent. 4. Board of visitors. 5. President of board of visitors. 6. Powers and duties of the board of visitors. 7. Admission of insane persons of the Army, Navy, Marine Corps, etc. 8. Insane inmates of National Home for Disabled Volunteer Soldiers to be admitted, etc. 9. Admission of insane of Soldiers' Home, etc. 10. Admission of insane patients of Marine Hospital, etc. 11. Indigent insane of District, how admitted; expenses of, how paid. 12. Such expenses to be reported, etc. 13. Surplus products and material, how disposed of. 14. Indigent insane of the District of Columbia, how admitted. 15. Order of admission. | <p>Sec.</p> <ol style="list-style-type: none"> 16. Certificate, requirements of. 17. Application by visitor. 18. Conveyance to hospital. 19. Insane persons having property. 20. Admission of nonresidents. 21. Admission of persons accused of crime. 22. Insane convicts. 23. Private patients. 24. Pay patients. 25. Delivery of criminals restored to sanity. 26. Discharge of patients on bond. 27. Insane not to be confined in jail. 28. Appropriations for the insane, how disbursed. 29. Persons insane before or after conviction, how admitted. 30. Care of insane; Attorney-General of United States may contract with State asylums for. 31. Compensation of State asylums. 32. Convicts restored to sanity to be returned to prison. 33. Sanity, how determined. |
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Establishment of the Government Hospital for the Insane.

Sec. 4838, R. S. U. S.

The superintendent, his appointment, bond qualifications and duties.

Sec. 4839, R. S. U. S.

Salary of superintendent, \$4,000.

Mar. 3, 1881.
21 Stat. L., 414.
1 Sup. R. S., 602.

Board of visitors.

Sec. 4840, R. S. U. S.

President of board of visitors.

Sec. 4841, R. S. U. S.

Powers and duties of the board of visitors.

Sec. 4842, R. S. U. S.

Admission of insane persons of the Army, Navy, Marine Corps, etc.

Sec. 4843, R. S. U. S.

SEC. 1. There shall be in the District of Columbia a Government Hospital for the Insane, and its objects shall be the most humane care and enlightened curative treatment of the insane of the Army and Navy of the United States and of the District of Columbia.*

SEC. 2. The chief executive officer of the Hospital for the Insane shall be a superintendent, who shall be appointed by the Secretary of the Interior, * * * and shall give bond for the faithful performance of his duties, in such sum and with such securities as may be required by the Secretary of the Interior. The superintendent shall be a well-educated physician, possessing competent experience in the care and treatment of the insane; he shall reside on the premises, and devote his whole time to the welfare of the institution; he shall, subject to the approval of the visitors, engage and discharge all needful and usual employes in the care of the insane, and all laborers on the farm, and determine their wages and duties; he shall be the responsible disbursing agent of the institution, and shall be ex-officio secretary of the board of visitors.†

SEC. 3. The salary of the said superintendent [of the *Government Hospital for the Insane*] is hereby fixed at four thousand dollars per annum as originally provided in act of March second, eighteen hundred and sixty-seven.

SEC. 4. Nine citizens of the District of Columbia, to be appointed by the President, shall constitute a board of visitors of the Hospital for the Insane. The term of office of three visitors shall expire biennially on the thirtieth day of June in every alternate year, dating from the thirtieth day of June, eighteen hundred and fifty-seven. Should any vacancy occur by death, resignation, or otherwise, it shall be filled by appointment for the unexpired term of such visitor. The office of visitor shall be honorary and without compensation.

SEC. 5. The board of visitors shall select from their number a president, to preside at their meetings for one year, or until a successor is elected.

SEC. 6. The board of visitors, subject to the approval of the Secretary of the Interior, may make any needful by-laws for the government of themselves, and of the superintendent and his employes, and of the patients, not inconsistent with law; they shall visit the hospital at stated periods, and exercise so careful a supervision over its expenditures and general operations that the Government and community may have confidence in the correctness of its management; they shall make annually to the Secretary of the Interior a report of the preceding fiscal year setting forth the condition and wants of the institution.

SEC. 7. The superintendent, upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, respectively, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

First. Insane persons belonging to the Army, Navy, Marine Corps, and revenue-cutter service.

Second. Civilians employed in the Quartermaster's and Subsistence Departments of the Army who may be, or may hereafter become, insane while in such employment.

* No person can be confined *in invitam* as an insane person, until he has been found to be insane by verdict of a jury. 3 Mackey Rep., 489, *in re Bryant*.

† Marriage of insane person void by statute of 15 George II, ch. 30. A. D. 1742. Alex. Brit. Stat., 757.

Third. Men who, while in the service of the United States, in the Army, Navy, or Marine Corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

Fourth. Indigent insane persons who have been in either of the said services and been discharged therefrom on account of disability arising from such insanity.

Fifth. Indigent insane persons who have become insane within three years after their discharge from such service, from causes which arose during and were produced by said service.

SEC. 8. In addition to the persons now entitled to admission to said hospital, any inmate of the National Home for Disabled Volunteer Soldiers, who is now or may hereafter become insane shall, upon an order of the president of the board of managers of the said National Home, be admitted to said hospital and treated therein; and if any inmate so admitted from said National Home is or thereafter becomes a pensioner, and has neither wife, minor child, nor parent dependent on him, in whole or in part, for support, his arrears of pension and his pension money accruing during the period he shall remain in said hospital shall be applied to his support in said hospital, and be paid over to the proper officer of said institution for the general uses thereof.

Insane persons from National Home for Disabled Volunteer Soldiers to be admitted, etc.

Aug. 7, 1882.
22 Stat., ch. 433,
p. 330.

SEC. 9. In addition to the persons now entitled to admission to the Government Hospital for the Insane, any inmate of the Soldiers' Home who is now or may hereafter become insane shall, upon an order of the president of the Board of Commissioners of the Soldiers' Home, be admitted to said hospital and treated therein; and the expenses of maintaining any such person shall be paid from the Soldiers' Home fund.*

Admission of insane of Soldiers' Home; expense of maintenance to be paid.

July 7, 1884.
23 Stat., ch. 332,
p. 213.

SEC. 10. That insane patients of said [*marine-hospital*] service shall be admitted into the Government Hospital for the Insane upon the order of the Secretary of the Treasury, and shall be cared for therein until cured or until removed by the same authority; and the charge for each such patient shall not exceed four dollars and fifty cents a week, which charge shall be paid out of the marine-hospital fund.

In marine-hospital service patients may be admitted to Government Hospital for Insane; charge therefor.

Mar. 3, 1875. 18 Stat., ch. 156, sec. 5, p. 486.

1 Sup. R. S., 191.

SEC. 11. One half of the expense of the indigent persons who may be hereafter admitted [*to the Government Hospital for the Insane*] from the District of Columbia shall be paid from the treasury of said District *Provided*, That hereafter such indigent persons shall be admitted only upon order of the executive authority of the said District.

District Columbia to pay half expense of indigent insane committed to hospital.

Mar. 3, 1877.
19 Stat., ch. 105,
p. 347. 1 Sup. R. S., 289.

SEC. 12. One half of the expense of the indigent patients from the District of Columbia shall be reported to the Treasury Department, and charged against the appropriations to be paid toward the expenses of the District by the general government, without regard to the date of their admission.

How such expense reported and charged.

Mar. 3, 1879.
20 Stat., ch. 182,
p. 395. 1 Sup. R. S., par. 11, p. 461.

SEC. 13. The surplus products and waste material of the hospital may be sold or exchanged for the benefit of the hospital, and proceeds to be used and accounted for the same as its other funds.

Surplus material, how disposed of.

Aug. 7, 1882.
22 Stat., ch. 433, p. 330. 2 Sup. R. S., 381.

* All inmates shall be vaccinated immediately on their admission to the hospital Health ordinance of Feb 14, 1873. 1 Sup. R. S., p. 580, par. 2.

Admission of the indigent insane of the District of Columbia.

Sec. 4844, R. S. U. S.

SEC. 14. All indigent insane persons residing in the District of Columbia at the time they became insane shall be entitled to the benefits of the Hospital for the Insane and shall be admitted on the authority of the Secretary of the Interior, which he may grant after due process of law showing the person to be insane and unable to support himself and family, or himself, if he has no family, under the visitation of insanity.

Order of admission.

Sec. 4845, R. S. U. S.

SEC. 15. The Secretary of the Interior may grant an order for the admission into the hospital of any insane person not charged with a breach of the peace, when he shall receive the certificate, as provided in the next section, of any judge of the supreme court for the District of Columbia, or of any justice of the peace of the District, and an application in writing, as provided in the next section, by a member of the board of visitors, requesting that such order may be issued.

Certificate of judge or justice.

Sec. 4846, R. S. U. S.

SEC. 16. It must appear by the certificate aforesaid that two respectable physicians, residents of the District, appeared before said judge or justice and deposed, in writing sworn to and subscribed by them, that they knew the person alleged to be insane; that, from personal examination, they believe such person to be in fact insane, and a fit subject for treatment in said hospital, and that said person was a resident of the District at the time he or she was seized with the mental disorder under which he or she then labored. And it must further appear by such certificate that two respectable householders, resident of the District, appeared before said judge or justice and deposed, in writing sworn to and subscribed by them, that they knew the person alleged to be insane, and that, from a personal examination of his or her affairs, they believed said person to be unable, under the visitation of insanity, to support himself, or herself, and family, in case such person have a family, or to support himself or herself alone, in case such person have no family, and unable to pay his or her board and other expenses in the hospital. The affidavits of said physicians and householders shall accompany the certificate of said judge or justice of the peace.*

Application by visitor.

Sec. 4847, R. S. U. S.

SEC. 17. The application by a member of the board of visitors must be made within five days after the date of the affidavits aforesaid, and it must appear therein that the visitor made the application after an inspection of the affidavits and certificate. It shall be the duty of such visitor to withhold his application, if he has reason to doubt the indigence of the party in whose behalf the application is desired, until his doubt is removed by satisfactory testimony.

Conveyance to hospital.

Sec. 4848, R. S. U. S.

SEC. 18. The order of the Secretary of the Interior, granted upon the certificate of a judge or justice and the application of a member of the board of visitors, shall authorize any police officer or constable to assist in carrying such indigent insane person to the hospital, whenever such assistance is represented to be necessary by the person holding the order; but all the expenses of witnesses before the judge or justice of the peace, and of carrying such patient to the hospital, shall be borne by his friends, or by the local authorities of the District.

Admission of insane persons having property.

Sec. 4849, R. S. U. S.

SEC. 19. Whenever it appears in the case of any insane person whose insanity commenced while he was a resident of the District of Columbia that he is able to defray a portion, but not the whole of the expenses of his support and treatment in the Government Hospital for the Insane, the board of visitors of the hospital is

*Trial by jury required. 3 Mackey Rep., 489, in re Bryant

authorized to inquire into the facts of the case; and if it appears to the board, upon such inquiry, that such insane person has property and no family, or has more property than is required for the support of his family, then, as a condition upon which such insane person, admitted or to be admitted upon the order of the Secretary of the Interior, shall receive or continue to receive the benefits of the hospital, there shall be paid to the superintendent from the income, property, or estate of such insane person such portion of his expenses in the hospital as a majority of the board shall determine to be just and reasonable, under all the circumstances.

SEC. 20. Any indigent insane person who did not reside in the District at the time he became insane may, in like manner, upon the certificate of a judge or justice and the application of a member of the board of visitors, be admitted into the hospital upon the application of the *Commissioners* [governor] of the District, and at the expense of the District during the continuance of such insane person therein, it being hereby designed to give the superintendent thereof authority to take charge of such insane person until the *Commissioners* [governor] can discover who his friends are, or whence he came, with a view to the return of such person to such friends, or to the place of his residence, and thus relieve the District of the expense and charge of such indigent insane non-resident.*

Admission of
nonresidents of
District.

Sec. 4850, R. S.
U. S.

SEC. 21. If any person, charged with crime, be found, in the court before which he is so charged, to be an insane person, such court shall certify the same to the Secretary of the Interior, who may order such person to be confined in the Hospital for the Insane, and, if he be not indigent, he and his estate shall be charged with expenses of his support in the hospital.

Admission of
insane persons ac-
cused of crime.

Sec. 4851, R. S.
U. S.

SEC. 22. Any person becoming insane during the continuance of his sentence in the United States penitentiary shall have the same privilege of treatment in the hospital during the continuance of his mental disorder as is granted in the preceding section to persons who escape the consequences of criminal acts by reason of insanity, unless it be the opinion, both of the physician to the penitentiary and the superintendent of the hospital, that such insane convict is so depraved and furious in his character as to render his custody in the hospital insecure, and his example pernicious.

Insane convicts.

Sec. 4852, R. S.
U. S.

SEC. 23. Whenever there are vacancies, private patients from the District may be received at a rate of board to be determined by the visitors, to be in no case less than the actual cost of their support.

Private patients.

Sec. 4853, R. S.
U. S.

SEC. 24. The independent or pay patients may be received into the hospital for the insane on the certificate of two respectable physicians of the District, stating that they have personally examined the patient, and believe him to be insane at the time of giving the certificate, and a fit subject for treatment in the institution, accompanied by a written request for the admission from the nearest relatives, legal guardian, or friend of the patient, where he may remain until restored to reason. The friends of the patient shall comply with the regulations of the hospital in respect to payment of board, and in all other respects. The request for admission must be made within five days of the date of the certificate of insanity.

Admission of
pay patients.

Sec. 4854, R. S.
U. S.

SEC. 25. When any person confined in the Hospital for the Insane charged with crime and subject to be tried therefor, or convicted of crime and undergoing sentence therefor, shall be restored to sanity,

Delivery of in-
sane criminals re-
stored to sanity.

* By statute of 20 June, 1874, ch. 337, sec. 2, v. 18, p. 116, the office of governor was abolished, and the powers theretofore exercised by that officer were conferred upon the Commissioners whose appointment was therein authorized, subject only to the limitations contained in the statute of 1874.

Sec. 4855, R. S. U. S. the superintendent of the hospital shall give notice thereof to the judge of the criminal court, and deliver him to the court in obedience to the proper precept.

Discharge of patients upon bond. SEC. 26. If any person will give bond with sufficient security, to be approved by the supreme court of the District of Columbia, or by any judge thereof in vacation, payable to the United States, with condition to restrain and take care of any independent or indigent insane person not charged with a breach of the peace, whether in the hospital or not, until the insane person is restored to sanity, such court or judge thereof may deliver such insane person to the party giving such bond.

Insane persons not to be confined in jail. SEC. 27. No insane person not charged with any breach of the peace shall ever be confined in the United States jail in the District of Columbia.

Sec. 4857, R. S. U. S.

Disbursement of appropriations for the insane. SEC. 28. All appropriations of money by Congress for the support of the Hospital for the Insane shall be drawn from the Treasury on the requisition of the Secretary of the Interior, and shall be disbursed and accounted for in all respects according to the laws regulating ordinary disbursements of public money.

Sec. 4858, R. S. U. S.

Admission of persons becoming insane, before and after conviction. SEC. 29. Upon the application of the Attorney-General the Secretary of the Interior be, and he is hereby, authorized and directed to transfer to the Government Hospital for the Insane in the District of Columbia all persons who, having been charged with offenses against the United States, are in the actual custody of its officers, and all persons who have been or shall be convicted of any offense in a court of the United States and are imprisoned in any State prison or penitentiary of any State or Territory, and who during the term of their imprisonment have or shall become and be insane.

Aug. 7, 1882, 22 Stat., 380.
2 Sup. R. S., 382.

Attorney-General may contract with State asylums for care of. SEC. 30. In all cases where any person convicted in a court of the United States shall, while imprisoned under such conviction in any State prison or penitentiary, become and be insane, and there shall not be accommodation for such insane person at the Insane Asylum of the District of Columbia, or if for other reasons the Attorney-General is of opinion that such insane person should be placed at a State insane asylum rather than at said District Asylum, then the Attorney-General shall have power in his discretion to contract with any State insane or lunatic asylum, within the State in which such convict is imprisoned, for his care and custody while remaining so insane.

June 23, 1874.
18 Stat. 251, sec. 2.
1 Sup. R. S., 104.

To compensate asylums therefor. SEC. 31. In all cases where such convicts shall have heretofore been, or shall hereafter be, transferred to a State asylum for insane convicts, in accordance with the laws of such State, the Attorney-General is hereby authorized and directed to compensate the said asylum, or the proper authorities controlling the same, for the care and custody of such insane convicts, until their removal or discharge, in such amounts as he shall deem just and reasonable; but no contract shall be made or compensation paid for the care of such insane person beyond their respective terms of imprisonment.

Ibid., sec. 2.

Convicts restored to sanity to be returned to prison. SEC. 32. Whenever such insane convict shall be restored to sanity, after he or she shall have been transferred under the provisions of this act, he or she shall be returned to the prison or penitentiary from which the transfer was made, provided the term of imprisonment shall not have expired.

Ibid., sec. 3.

Sanity, how determined. SEC. 33. The questions of sanity in all cases arising under this act shall be determined in accordance with the rules and regulations of existing laws, State or national, on that subject, applicable to the prison, penitentiary, or asylum where such convict shall be confined.

Ibid., sec. 3.

CHAPTER THIRTY-TWO.

INTEREST AND USURY.

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| <p>Sec.
1. Rate of interest allowed; exception next section.
2. Rate of interest allowed on special contracts; limit to.
3. Unlawful contracts relating to interest; illegal interest can not be recovered.</p> | <p>Sec.
4. Recovery of unlawful interest paid or taken.
5. Banking laws generally not changed by previous sections.</p> |
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SEC. 1. The rate of interest upon judgments or decrees, and upon the loan or forbearance of any money, goods, or things in action, shall continue to be six dollars upon one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, except as provided in this chapter. [See § 823, R. S. D. C.]

Rate of interest allowed.

Sec. 713, R. S. D. C.

22 Apr. 1870, ch. 58, sec. 1, v. 16, p. 91.

5 Cranch, C. C., 385, U. S. *vs.* Kendall; 5 Cranch, C. C., 506, *Burr vs. Burch*; 5 Cranch, C. C., 298, *Bradley vs. McKee*; 5 Cranch, C. C., 518, *Bank of Metropolis vs. Moore*; 5 Cranch, C. C., 523, *Hill vs. Scott*; 2 Mackey Rep., 150, *Kendall vs. Vanderlip*; 3 Mackey Rep., 495, *B. and O. Ry. vs. Hetzel*; 4 Mackey Rep., 519, *Hellen vs. Railroad*; 112 U. S. Rep., 478, *Carter vs. Carusi*; 133, U. S. Rep., 653, *Shepherd vs. Pepper*.

SEC. 2. In all contracts made it shall be lawful for the parties to stipulate or agree in writing that the rate of ten per centum per annum, or any less sum, of interest shall be taken and paid upon every one hundred dollars of money loaned, or in any manner due and owing from any person or corporation in the District.

Rate of interest allowed.

Special contracts; limit.

Sec. 714, R. S. D. C.

22 Apr. 1870, ch. 59, sec. 2, 16 Stat., 91.

SEC. 3. If any person or corporation shall contract to receive a greater rate of interest than ten per cent. upon any contract in writing, or six per cent. upon any verbal contract, such person or corporation shall forfeit the whole of the interest so contracted to be received, and shall be entitled only to recover the principal sum due to such person or corporation.

Unlawful contracts; forfeiture.

Sec. 715, R. S. D. C.

Ibid., sec. 3. 112 U. S. Rep., 478, *Carter vs. Carusi*.

SEC. 4. If any person or corporation within the District shall directly or indirectly take or receive any greater amount of interest than is provided for in this chapter, upon any contract or agreement whatever, it shall be lawful for the person, or his personal representative, or the corporation paying the same, to sue for and recover all the interest paid upon any such contract or agreement from the person or his personal representatives, or from the corporation receiving such unlawful interest; but the suit to recover back such interest shall be brought within one year after such unlawful interest shall have been paid or taken.

Recovery, when interest unlawfully taken.

Sec. 716, R. S. D. C.

Ibid., sec. 4. 1 Cranch C. C., 95, *Riddle vs. Mandeville*; 4 Cranch, C. C., 461, *Oliver vs. Decatur*; 1 Mackey Rep., 588,

Sullivan vs. Snell; 2 Mackey Rep., 105, *Kendall vs. Vanderlip*; 98 U. S. Rep., 555, *Barnet vs. National Bank*; 100 U. S. Rep., 72, *Holden vs. Trust Co.*; 104 U. S. Rep., 52, *Driesbach vs. National Bank*; 111 U. S. Rep., 36, *Walsh vs. Mayer*; 112 U. S. Rep., 478, *Carter vs. Carusi*; 116 U. S. Rep., 98, *Call vs. Palmer*; 121 U. S. Rep., 106, *Grant vs. Phoenix Co.*; 133 U. S. Rep., 653, *Shepherd vs. Pepper*.

SEC. 5. Nothing in this chapter shall be construed to change the general laws in force in relation to banking associations organized under the provisions of Title LXII, of the Revised Statutes, of the United States, "NATIONAL BANKS." [See R. S. U. S., §§ 5197, 5198.]

Banking laws not changed.

Sec. 717, R. S. D. C.

22 Apr. 1870, ch. 59, sec. 5, 16 Stat., 91. Amended, see Sup. R. S. 279, par. 9, 1877, Feb. 27.

* Judgments in actions of tort do not bear interest. 147 U. S. Rep., 571, *W. and R. Railroad vs. Harmon*.

CHAPTER THIRTY-THREE.

JAIL.

<p>Sec.</p> <p>1. Warden of, appointment and removal of.</p> <p>2. Warden's term of office.</p> <p>3. Warden's salary.</p> <p>4. Warden's bond.</p> <p>5. Warden, powers and duties of.</p> <p>6. Labor of prisoners, how regulated, etc.</p> <p>7. Commitments of marshal not to be interfered with by preceding sections.</p> <p>8. Delivery of prisoners to marshal, when.</p> <p>9. Subordinate officers, by whom and when appointed.</p> <p>10. Rules for government, etc., of prisoners, shall be made by supreme court.</p>	<p>Sec.</p> <p>11. Report. warden shall make annually.</p> <p>12. Judgment of death to be executed by warden.</p> <p>13. Death punishment shall be by hanging.</p> <p>14. Place of execution of condemned, where.</p> <p>15. Officers required to attend at executions.</p> <p>16. Who may be present at executions.</p> <p>17. Who shall not be present at executions.</p> <p>18. Subsistence of prisoners, by whom paid.</p> <p>19. Felons and prisoners for debt, shall not be lodged together. (NOTE.—<i>Ne exeat</i>; <i>capias</i>.)</p>
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Warden, appointment and removal. SEC. 1. The supreme court of the District has authority to appoint a suitable person to act as warden of the jail, and to remove such officer, whenever, in the opinion of the court, the public interests

Sec. 1081, R. S. D. C. may require his removal, and to fill all vacancies which may occur.*
Stat., 342. 3 Mar., 1869, ch. 151, sec. 4, 15 Stat., 342.

Warden's term of office. SEC. 2. The warden shall hold office for the term of four years, unless sooner removed, in accordance with the preceding section.

Sec. 1082, R. S. D. C. 29 Feb., 1864, ch. 16, sec. 1, 13 Stat., 12.

Salary of warden. SEC. 3. He shall receive an annual salary of sixteen hundred dollars, which shall include all fees and emoluments.

Sec. 1083, R. S. D. C.

Bond of warden. SEC. 4. The warden shall, before entering upon his office, execute to the United States a bond for the faithful performance of the duties thereof in the penal sum of five thousand dollars, with sureties to be approved by some judge of the supreme court of the District.

Ibid., sec. 4, p. 13.
Sec. 1084, R. S. D. C.

Powers and duties of warden. SEC. 5. The warden shall have the exclusive supervision and control of the jails in the District, and be accountable for the safe-keeping of all prisoners legally committed thereto, and shall have all the power and discharge all the duties legally exercised and discharged over said jails and the prisoners therein, prior to the twenty-ninth day of February, eighteen hundred and sixty-four, by the marshal of the District. (See R. S. U. S., §§ 5545-5550.)

Sec. 1085, R. S. D. C.
Ibid., sec. 2 p. 12.

Employment of prisoners at labor. SEC. 6. Persons sentenced to imprisonment in the jail may be employed at such labor, and under such regulations, as may be prescribed by the supreme court of the District, and the proceeds thereof applied to defray the expenses of the trial and conviction of any such person.

Sec. 1086, R. S. D. C.
22 Feb., 1867, ch. 65, sec. 9, 14 Stat., 407.

Commitment by marshal. SEC. 7. Nothing in the preceding sections of this chapter shall be construed to impart or interfere with the authority of the marshal

* See secs. 5545, 5546, R. S. U. S.; Sup R. S., 1 ed., p. 238. See also Penitentiary

of the District to commit persons to the jail, or to produce them in open court or before any judicial officer when thereto required. Sec. 1087, R. S. D. C.
[See §§ 794, 795, R. S. D. C.] 12 May, 1864, ch. 85, sec. 4, 13 Stat., 75. Sec. 1087, R. S. D. C.

SEC. 8. It shall be the duty of the warden to receive such prisoners, and to deliver them to the marshal or his duly-authorized deputy, on the written request of either, for the purpose of taking them before any court or judicial officer as provided in the preceding section. Delivery to marshal.
 Sec. 1088, R. S. D. C. Ibid.

SEC. 9. The warden shall have authority to appoint such subordinate officers, guards, and employes as are necessary for the proper management and safe-keeping of prisoners, which may be authorized by law, subject to the approval of the chief justice of the supreme court of the District. Appointment of subordinate officers.
[See § 1180, R. S. D. C.] Sec. 1089, R. S. D. C. 3 Mar., 1869, ch. 151, sec. 5, 15 Stat., 342.

SEC. 10. It shall be the duty of the supreme court of the District to make such rules for the government and discipline of the prisoners confined in the jail as shall be deemed necessary for the health, security, and the protection of such prisoners from cruel treatment by any person in charge thereof. Supreme court to make rules.
 Sec. 1090, R. S. D. C. 22 Feb., 1867, ch. 65, sec. 10, 14 Stat., 407.

SEC. 11. The warden shall annually, in the month of November, make a detailed report to the Secretary of the Interior. Warden's annual report.
 Sec. 1091, R. S. D. C. 29 Feb., 1864, ch. 16, sec. 1, 13 Stat., 12.

EXECUTION IN CAPITAL CASES.

SEC. 12. Whenever any person confined in the jail is adjudged to suffer death, it shall be the duty of the warden to carry such judgment into execution. Warden to execute judgment of death.
 Sec. 1092, R. S. D. C. 12 May, 1864, ch. 85, sec. 4. 13 Stat., 75.

SEC. 13. The manner of inflicting the punishment of death shall be by hanging. Punishment of death by hanging.
[See §§ 5340-5400, R. S. U. S.] Apr. 30, 1790. Sec. 5325, R. S. U. S., ch. 9, sec. 33. 1 Stat., 119.

SEC. 14. Persons adjudged to suffer death shall be executed within the walls of some prison in the District, or within a yard or inclosure adjoining such prison, and not elsewhere. Place of execution.
 Sec. 1093, R. S. D. C. 25 Jan., 1853, ch. 31, sec. 1. 10 Stat., 153.

SEC. 15. It shall be the duty of the warden, or one of his deputies, with such officers of the prison, constables, and other peace-officers as the warden or deputy may deem necessary and proper, to attend at such execution. Officers required to attend.
 Sec. 1094, R. S. D. C. Ibid.

SEC. 16. The warden, or his deputy, shall invite the district attorney, the counsel of the prisoner, two or more physicians, and twelve respectable citizens to be present at every such execution; and, at the request of the person to be executed, shall also allow any of his near relatives, and any ministers of the Gospel, not more than three, to be present thereat. Who may be present.
 Sec. 1095, R. S. D. C. Ibid., sec. 2.

SEC. 17. No persons other than those mentioned in the two preceding sections, and no person whatever under the age of twenty-one years, shall be allowed to witness any such execution. Who shall not be allowed to witness executions.
 Sec. 1096, R. S. D. C. Ibid.

SEC. 18. Hereafter there shall be allowed and paid by the Attorney-General, for the subsistence of prisoners in the custody of any Actual reasonable cost of sub-

sisting prisoners to be paid.

Sec. 5545, R. S. U. S.

12 May, 1864, ch. 85, sec. 3; 13 Stat., 75.

5 Mar., 1872, ch. 30, sec. 1. 17 Stat., 35.

Felons and prisoners for debt, not to be lodged together.

22, 23 Charles II, ch. 20, sec. 13, A. D. 1670.

Alex. Brit. Stat., 507-508.

marshal of the United States and the warden of the jail in the District of Columbia, such sum only as it reasonably and actually cost to subsist them. And it shall be the duty of the Attorney-General to prescribe such regulations for the government of the marshals and the warden of the jail in the District of Columbia, in relation to their duties under this chapter, as will enable him to determine the actual and reasonable expenses incurred.

SEC. 19. It shall not be lawful hereafter for any sheriff, gaoler, or keeper of any gaol or prison, to put, keep, or lodge prisoners for debt, and felons, together in one room or chamber; but that they shall be put, kept, and lodged separate and apart one from another, in distinct rooms; upon pain that he, she, or they which shall offend against this act, or the true intent and meaning thereof, or any part thereof, shall forfeit and lose his or her office, place or employment, and shall forfeit treble damages to the party grieved, to be recovered by virtue of this act; any law, statute, usage or custom to the contrary in any wise notwithstanding.*

* Secs. 795, 796, R. S. D. C., *capias*; sec. 717, R. S. U. S., *ne exeat*.

CHAPTER THIRTY-FOUR.

JUDGMENTS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Courts shall give judgments without regarding immaterial defects. (NOTE.—Judgments and records of sister States, how authenticated; when joint judgment is void against constables; assignment of judgment satisfied by surety; how kept alive.) 2. Proviso, as to prosecutions and penal statutes. 3. After verdict, judgments shall not be stayed or reversed for variance or defect of form. 4. Proviso, as to prosecutions and popular and penal statutes. 5. After verdict, judgments shall not be stayed or reversed for defect of form, etc. 6. Proviso, as to prosecutions and penal action. 7. When <i>scire facias</i> may be had on a judgment after the year. 8. When execution may issue on any judgment with stay of execution, etc. 9. In ejectment or dower, no judgment shall be stayed, unless bond executed. 10. Proviso to previous section: not to extend to executors or administrators, penal actions, etc. (NOTE.—This act extended to writs of mandamus.) 11. Death of either party to suit, between verdict and entry of judgment, not error, when. 12. After judgment, by or in name of executor, or administrator; administrator <i>de bonis non</i> may revive by <i>scire facias</i> or issue execution. 13. On power of attorney relating to | <p>Sec.</p> <ol style="list-style-type: none"> bond, judgment shall not be confessed. (NOTE.—Judgment confessed by partnership, when void.) 14. Final judgment may be entered on inquisition of damages, after interlocutory judgment. (NOTE.—Form of inquisition, etc.) 15. After interlocutory judgment, death of party shall not abate action; <i>scire facias</i>, writ of inquiry and final judgment. 16. Date of judgment must be entered on docket, etc. 17. Judgments as against purchasers of lands shall relate only to day of signing. 18. Recognizances to be enrolled and bind lands from date of enrollment. 19. To affect lands judgment must be docketed. 20. Judgment set aside for fraud, etc., cause may be reinstated, when. (NOTE.—Fraudulent judgment, void.) 21. Interest on judgments at common law on contracts, what and when it begins to run. (For interest generally, see title Interest and Usury.) (NOTE.—<i>In tort</i>, bear interest from date to satisfaction; how regulated on plea of set-off; For less than jurisdictional amount do not carry costs.) 22. Upon dissolution of injunction on judgments for money, 10 per cent damages awarded. 23. Interest included in judgment in case of forthcoming bond. 24. When injunction granted and partially enjoined, damages may be regulated by court. |
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SEC. 1. In all actions the justices of the several courts of law shall proceed and give judgment according as the very right of the cause, and matter in law, shall appear to them, without regarding any such omission, defects, advantages or pretences as aforesaid, so as sufficient matter shall appear in the proceedings, upon which the court may proceed to give judgment according to the very right of the cause and matter in law, and that it shall appear that the action shall be commenced after the cause thereof shall accrue, and that no such judgment shall be reversed or set aside, or execution thereon delayed, for or by reason of any such imperfection, omission or defect, any law, usage or custom, to the contrary notwithstanding.*

Judgment shall be given without regarding formal defects.

Md. act 1763, ch. 23, sec. 2.
1 Kilty, 334.
1 Dorsey, 106.
44 Md. Rep., 337, Gott vs. State.

[R. S. D. C., §§ 753, 825, 828.]

SEC. 2. That nothing in this act shall extend, or be construed to extend, to any writ, declaration, or suit of appeal of felony or murder, or to any indictment or presentment of treason, felony or murder, or other matter, or to any process upon any of them, or to any writ, bill, action or information, upon any penal statute.

Proviso as to prosecutions and penal actions.

Md. act 1763, ch. 23, sec. 3.
1 Kilty, 334.

[See § 1025, R. S. U. S.]

SEC. 3. That if any verdict of twelve men, or more, shall be given in any action, suit, bill, plaint, or demand, in any court of record, the judgment thereupon shall not be stayed or reversed by reason of any default in form, or lack of form, touching false Latin, or variance from the register, or other defaults in form, in any writ original or judicial, count, declaration, plaint, bill, suit or demand, or for want of any writ original or judicial, or by reason of any imperfect or insufficient return of any sheriff or other officer, or for want of any warrant of attorney, or by reason of any manner of default in process, upon or after any aid prier or voucher, nor any such record or judgment after verdict to be given hereafter, shall be reversed for any the defects or causes aforesaid; any law, statute or usage to the contrary notwithstanding.

Where judgments shall not be arrested or reversed for variance or defect of form.

18 Elizabeth, ch. 14, sec. 1, A. D. 1576.
Alex. Brit. Stat., 411, 412.
Kilty's Rep., 235.

SEC. 4. *Provided always, and be it further enacted by the authority aforesaid,* That this act, or any thing therein contained, shall not extend to any writ, declaration, or suit of appeal of felony or murder, nor to any indictment, or presentment of felony, murder, treason, or other matter, nor to any process upon any of them, nor to any writ, bill, action or information upon any popular or penal statute; any thing aforesaid to the contrary notwithstanding.

Proviso as to prosecutions and popular or penal statutes.

Ibid., sec. 2, p. 412.

SEC. 5. That if any verdict of twelve men shall be given in any action, suit, bill or demand, in any of the courts of record, judgment thereupon shall not be stayed or reversed, for default in form, or lack of form: (3) or by reason that there are not pledges, or but one pledge to prosecute, returned upon the original writ; (4) or because the name of the sheriff is not returned upon such original writ; (5) or for default of entering pledges upon any bill or declaration; (6) or for default of alledging the bringing into court of any bond, bill, indenture, or other deed whatsoever mentioned in the declaration, or other pleading; (7) or for default of allegation of bringing into court of letters testamentary, or letters of administration; (8) or by reason of the omission of *vi & armis*, or *contra pacem*; (9) or for or by reason of the mistaking of the christian name or surname of the plaintiff or defendant, demandant or tenant, sum or sums of money, day, month or year, by the clerk in any bill, declaration or pleading,

Where judgments shall not be arrested or reversed for defect of form, etc.

16 and 17 Charles II, ch. 8, sec. 1, A. D. 1664.
Alex. Brit. Stat., 484, 485.
Kilty's Rep., 239.

* Judgments and records of sister State, how authenticated. Sec. 905, R. S. U. S.

Mutual judgments may be set-off. Sec. 813, R. S. D. C.

A joint judgment void as to one party is void as to all. 6 Mackey Rep., 555, Jackson vs. Hulse; 59 Md. Rep., 238, Hanley vs. Donoghue.

Judgments, how rendered against constables. Sec. 1030, R. S. D. C.

Judgment satisfied by surety, assignment of. Md. act 1763, ch. 23, sec. 8; 1 Kilty, 334.

How a judgment may be kept alive. 35 Md. Rep., 511, Hagerstown Bank vs. Thomas.

where the right name, surname, sum, day, month or year, in any writ, plaint, roll, or record preceding, or in the same roll or record where the mistake is committed, is or are once truly and rightly alledged, whereunto the plaintiff might have demurred and shewn the same for cause; (10) nor for want of the averment of *hoc paratus est verificare*; (11) or for *hoc paratus est verificare per recordum*; (12) or for not alledging *prout patet per recordum*; (13) or for that there is no right *venue*, so as the cause were tried by a jury of the proper county or place where the action is laid; (14) nor any judgment after verdict, confession by *cognovit actionem*, or *relicta verificatione*, shall be reversed for want of *misericordia*, or *capiatur*; (15) or by reason that a *capiatur* is entred for a *misericordia*, or a *misericordia* is entred where a *capiatur* ought to have been entred; (16) nor for that *ideo concessum est per curiam* is entred for *ideo consideratum est per curiam*; (17) nor for that the increase of costs after a verdict in an action, or upon a non-suit in repleven are not entred to be at the request of the party for whom the judgment is given; (18) nor by reason that the costs in any judgment whatsoever are not entred to be by consent of the plaintiff; (19) but that all such omissions, variances, defects, and all other matters of like nature, not being against the right of the matter of the suit, nor whereby the issue or trial are altered, shall be amended by the justices or other judges of the courts where such judgments are or shall be given, or whereunto the record is or shall be removed by writ of error.

Proviso as to prosecutions and penal actions.

16 and 17 Charles II, ch. 8, sec. 2, A. D. 1664.

Alex. Brit. Stat., 485.

Kilty's Rep., 239.

SEC. 6. *Provided always, and it further be enacted by the authority aforesaid*, That this act, or any thing therein contained, shall not extend to any writ, declaration, or suit of appeal of felony or murder, nor to any indictment or presentment of felony, murder, treason, or other matter, nor to any process upon any of them; (2) nor to any writ, bill, action or information upon any penal statute, other than concerning customs and subsidies of tonnage and poundage; any thing in this act contained to the contrary thereof in any wise notwithstanding.

When *scire facias* may be had on a judgment after the year.

13 Edward I, ch. 45, A. D. 1285.

Alex. Brit. Stat., 143-145.

3 Mackey Rep., 171, Thompson vs. Beveridge; 4 Gill Rep., 265, Warfield vs. Brewer; 10 Gill and John. Rep., 373, Townsend vs. Townsend; 7 Gill and John. Rep., 355, Mulliken vs. Duval; 28 Md. Rep., 67, Hazlehurst vs. Morris; 1 Cranch. Ct. Rep., 149, McDonald vs. White; 61 Md. Rep., 426, Lambson vs. Moffett; 35 Md. Rep., 511, Hagerstown Bank vs. Thomas.

SEC. 7. Because that of such things as be recorded before the chancellor and the justices that have record, and be enrolled in their rolls, process of plea ought not to be made by summons, attachments, essoin, view of land, and other solemnities of the court, as hath been used to be done of bargains and covenants made out of the court; (2) from henceforth it is to be observed, that those things which are found enrolled before them that have record, or contained in fines, whether they be contracts, covenants, obligations, services, or customs knowledged, or other things whatsoever enrolled, wherein the King's court, without offence of the law and customs, may execute their authority, from henceforth they shall have such vigour, that hereafter it shall not need to plead for them. (3) But when the plaintiff cometh to the court, if the recognizance or fine be fresh, that is to say, levied within the year of the writ, he shall forthwith have a writ of execution of the same recognizance made. (4) And if the recognizance were made, or the fine levied of a further time passed, the sheriff shall be commanded, that he give knowledge to the party of whom it is complained, that he be afore the justices at a certain day, to shew if he have anything to say why such matters enrolled or contained in the fine ought not to have execution. (5) And if he do not come at the day, or peradventure do come, and can say nothing why execution ought not to be done, the sheriff shall be commanded to cause the thing inrolled or contained in the fine to be executed. (6) In like manner an ordinary shall be commanded in his case, observing nevertheless as before is said of a mean, which by recognizance or judgment is bound to acquit.

SEC. 8. That execution may be issued on any judgment rendered in the [provincial] court, or rendered or to be rendered in the general court, [or in any county court of this state,] with stay of execution, at any time within one year next after the expiration of such stay; provided that the stay of execution be entered upon the clerk of the court his docket, at the same court when the judgment shall be rendered; and also after the dissolution of any injunction of or from the court of chancery, or the discharge or expiration of any supersedeas, on appeal, or any writ of error, at any time within one year after dissolution of such injunction or discharge, or expiration of such supersedeas.

Execution may issue on any judgment with stay of execution, etc.

Md. act 1778, ch. 21, sec. 7.
1 Kilty, 479.
1 Dorsey, 142.
1 Harris and J. Rep., 488, Salmon vs. Yates.

SEC. 9. That in writs of error to be brought upon any judgment after verdict in any writ of dower, or in any action of *ejectione firmæ*, no execution shall be thereupon or thereby stayed, unless the plaintiff or plaintiffs in such writ of error shall be bound unto the plaintiff in such writ of dower, or action of *ejectione firmæ*, in such reasonable sum as the court to which such writ of error shall be directed shall think fit, with condition, that if the judgment shall be affirmed in the said writ of error, or that the said writ of error be discontinued in default of the plaintiff or plaintiffs therein, or that the said plaintiff or plaintiffs be nonsuit in such writs of error, that then the said plaintiff or plaintiffs, shall pay such costs, damages, and sum and sums of money as shall be awarded upon or after such judgment affirmed, discontinuance or nonsuit had.*

No judgment in ejection or dower shall be stayed unless bond executed.

16 and 17 Charles II, ch. 8, sec. 3, A. D. 1664.
Alex. Brit. Stat., 485.

SEC. 10. *Provided*, That this act, nor any thing therein contained, shall not extend to any writ of error to be brought by any executor or administrator; (2) nor unto any action popular, nor unto any other action which is, or hereafter shall be brought upon any penal law or statutes (except action of debt for not setting forth of tithes); (3) nor to any indictment, presentment, inquisition, information or appeal; any thing herein before expressed to the contrary thereof in any wise notwithstanding.†

Proviso as to executors or administrators penal actions, etc.

16 and 17 Charles II, ch. 8, sec. 5, A. D. 1664.
Alex. Brit. Stat., 485, 486.

SEC. 11. In all actions personal and real, or mixt, the death of either party between the verdict and the judgment, shall not hereafter be alledged for error; so as such judgment be entred within two terms after such verdict.

Death of either party between verdict and judgment.

ch. 8, sec. 1, A. D. 1665. Alex. Brit. Stat., 495. Kilty's Rep., 240. Trail vs. Snouffer.

17 Charles II, 6 Md. Rep., 308,

SEC. 12. And be it further enacted by the authority aforesaid, where any judgment after a verdict shall be had, by or in the name of any executor or administrator; in such case an administrator *de bonis non* may sue forth a *scire facias*, and take execution upon such judgment.

Judgment obtained by an executor or administrator, *scire facias*.

Ibid., sec. 2.

SEC. 13. It shall not be lawful for any attorney practising now, or who shall hereafter practise the law in any court of record within this *District* [province,] or any other person whatever, to confess a judgment either in court, or before one or more justices of such court or courts out of court, for any sum or sums of money, or other matter, by virtue of any power or powers of attorney, either separate or contained in any such bonds, commonly called judgment bonds, which shall be taken or executed after the end of this session of assembly; nor shall it be lawful for the justices of any court of record within this *District* [province] to give judgment upon any such bonds, by virtue of any such power or powers.‡

Judgment shall not be confessed on power of attorney relating to bond.

Md. act 1747, ch. 23, sec. 2.
1 Dorsey, 86.
1 Kilty, 271.

* See next section as to proviso.

† This act extended to writs of mandamus by 9 Anne, ch. 20, sec 7.

‡ Judgment confessed by partnership when void. Sec. 510, R. S. D. C; 20 Md. Rep., 305, Huston vs. Ditto.

Final judgment may be entered on inquisition of damages after interlocutory judgment.

Md. act 1794, ch. 46, sec. 2.

1 Dorsey, 305, 306.

2 Kilty, 496.

21 Md. Rep., 552,

Heffner vs. Lynch;

24 Md. Rep., 554,

Davidson vs.

Myers; 16 Md.

Rep., 317, Green

vs. Hamilton;

Frazier vs. Lomax,

1 Cranch, Ct. Rep.,

328; 29 Md. Rep.,

165, Smithson vs.

U. S. Tel. Co.; 29 Md. Rep.,

361, Stansbury vs.

Keady.

After interlocutory judgment,

death of party shall not abate

action; *scire facias*, writ of inquiry,

and final judgment.

8 and 9 William

III, ch. 11, sec. 6,

A. D. 1697.

Alex. Brit. Stat.,

603.

Kilty's Rep., 244.

SEC. 14. In all cases when an interlocutory judgment is entered in the general court, [or in any of the county courts,] whereby the right of the plaintiff is established, but the damages sustained by him cannot be ascertained without the intervention of a jury, the court where such judgment is given may and shall, on the motion of the plaintiff, or of his attorney, make an order, in the nature of a writ of inquiry, to charge the jury attending at the same, or at the next term, to inquire of the damages and costs sustained by the plaintiff in such action, which said inquiry shall be made, and the evidence given, in open court, in the same manner, and under the same regulations, as in other jury trials; and after the said jury, charged as aforesaid, shall have considered thereof, they shall forthwith return their inquisition, under their hands and seals, and thereupon the said court may and shall proceed to judgment, as upon inquisitions of that kind returned by the sheriff.*

[See § 961, R. S. U. S.]

328; 29 Md. Rep., 165, Smithson vs. U. S. Tel. Co.; 29 Md. Rep., 361, Stansbury vs. Keady.

After interlocutory judgment, death of party shall not abate action; *scire facias*, writ of inquiry, and final judgment.

SEC. 15. That in all actions to be commenced in any court of record, if any plaintiff happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant; and the plaintiff, or, if he be dead after such interlocutory judgment, his executors, or administrators, shall and may have a *scire facias* against the defendant, if living after such interlocutory judgment, or if he died after, then against his executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him or them; and if such defendant, his executors, or administrators, shall appear at the return of such writ, and not shew or alledge any matter sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned, that the defendant, his executors, or administrators, had nothing whereby to be summoned, or could not be found in the county, shall make default, that thereupon a writ of inquiry of damages shall be awarded, which being executed and returned, judgment final shall be given for the said plaintiff, his executors or administrators prosecuting such writ or writs of *scire facias* against such defendant, his executors, or administrators respectively.

Date of judgment must be entered on docket.

29 Charles II, ch. 3, sec. 14, A. D. 1676.

Alex. Brit. Stat., 511.

Judgments as against purchasers of land shall relate only to day of signing.

29 Charles II, ch. 3, sec. 15, A. D. 1676.

Alex. Brit. Stat., 511; 5 Peters Rep., 367, Tayloe vs. Thompson; 3 Gill and J., 359, Hanson vs. Barnes; 8 Gill and J., 35, Miller vs. Allison.

SEC. 16. That any judge or officer that shall sign any judgments, shall at the signing of the same, without fee for doing the same, set down the day of the month and year of his so doing, upon the paper, book, docket or record which he shall sign; which day of the month and year shall be also entred upon the margin of the roll of the record where the said judgment shall be entred.

SEC. 17. That such judgments as against purchasers bona fide for valuable consideration of lands, tenements or hereditaments to be charged thereby, shall in consideration of law, be judgments only from such time as they shall be so signed, and shall not relate to the first day of the term whereof they are entred, or the day of the return of the original, or filing the bail; any law, usage or course of any court to the contrary notwithstanding.

Alex. Brit. Stat., 511; 5 Peters Rep., 367, Tayloe vs. Thompson; 3 Gill and J., 359, Hanson vs. Barnes; 8 Gill and J., 35, Miller vs. Allison.

* For form of inquisition see 2 Evan's Harris, 321; 2 Harr. and Gill, Rep. 275, Hopewell vs. Price. See Bonds, Md. act 1785, ch. 20; sec. 13, 2 Kilty, 63.

SEC. 18. That the day of the month and year of the enrollment of the recognizances, shall be set down in the margin of the roll where the said recognizances are enrolled; and that no recognizance shall bind any lands, tenements or hereditaments, in the hands of any purchaser bona fide, and for valuable consideration, but from the time of such enrollment; any law, usage or course of any court to the contrary in any wise notwithstanding.

Recognizances to be enrolled, and bind lands from date of enrollment.

29 Charles II, ch. 3, sec. 18, A. D. 1676.

Alex. Brit. Stat., 512.

SEC. 19. Whereas great mischiefs and damages happen, and come, as well to persons in their life times, but more often to their heirs, executors, and administrators, and also to purchasers and mortgagees by judgments entered upon record against the persons defendants, by reason of the difficulty there is in finding out such judgments: For remedy whereof:

Judgments must be docketed to affect lands.

4 and 5, William and Mary, ch. 20, sec. 3, A. D. 1692.

Alex. Brit. Stat., 581.

Kilty's Rep., 243.

And be it further enacted by the authority aforesaid, That no judgment not docketed, and entred in the books as aforesaid, shall affect any lands or tenements as to purchasers or mortgagees, or have any preference against heirs, executors, or administrators, in their administration of their ancestors, testators, or intestates estates.

SEC. 20. In any case where a judgment shall be set aside for fraud, deceit, surprise or irregularity, in obtaining the same, the said courts respectively may direct the continuances to be entered from the court when such judgment was obtained, until the court such judgment shall be set aside, and may also continue such cause for so long a time as they shall judge necessary for the trial of the merits between the parties, not exceeding two courts after such cause hath been reinstated, unless evidence, or testimony or plots be wanting, as herein before provided, in which case the cause may still be continued, but under the limitations herein before made and provided.*

Judgment set aside for fraud, etc., cause may be reinstated.

Md. act 1787, ch. 9, sec. 6.

2 Kilty, 131.

1 Dorsey, 247.

8 Mackey Rep.,

3, Crumbaugh vs. Otterback; 104 U.

Negley; 18 Md.

S. Rep., 410, Bronson vs. Schulten; 117 U. S. Rep., 676, Phillips vs. Rep., 130, Kemp vs. Cook; 47 Md. Rep., 282, Craig vs. Worth.

SEC. 21. Upon all judgments rendered on the common-law side of the court in actions founded on contracts, interest at the rate of six per centum per annum shall be awarded on the principal sum due until the judgment shall be satisfied, and the amount which is to bear interest and the time from which it is to be paid shall be ascertained by the verdict of the jury sworn in the cause.†

Interest on judgments.

Sec. 829, R. S. D. C.

24 June, 1812, ch. 106, sec. 6, v. 2, p. 756.

[R. S. D. C., § 712. See title "Interest and Usury."]

SEC. 22. When an injunction is obtained to stay proceedings on any judgment rendered for money, and such injunction shall be dissolved, wholly or in part, damages, at the rate of ten per centum per annum from the time the injunction shall be awarded until dissolution, shall be paid by the party on whose behalf such injunction was obtained on such sum as appears to be due, including costs, and execution on the judgment enjoined shall be issued for the same.

Judgment enjoined upon dissolution ten per cent damages awarded.

Sec. 830, R. S. D. C.

1 Cranch, Ct.

R., 34, Love vs.

Fendall; 3 Cranch, Ct. R., 408, Mason vs. Muncaster.

SEC. 23. In cases where a forthcoming bond shall have been executed by the complainant, and no judgment shall have been rendered thereupon, the court in which execution shall be awarded shall direct the damages to be included in the judgment, and such damages shall in all cases be in full satisfaction of interest for the time for which they shall be allowed.

Judgment for interest included, in case of forthcoming bond.

Sec. 831, R. S. D. C.

*Fraudulent judgments void, 13 Eliz., ch. 5, Alex. Brit. Stat., p. 378.

† Judgments in tort do not bear interest. 147 U. S. Rep., 571; W. and G. Ry. vs. Harmon. Contra: 4 Mackey Rep. 519, Hellen vs. Met. Ry. Co. 3 Mackey Rep., 496, Railroad vs. Hetzel. 2 Mackey Rep., 458, Baptist Church vs. Ry. Co.

Judgment regulated when plea of set-off. Sec. 812, R. S. D. C.; see "Practice."

Judgments for less than jurisdictional amount, do not carry costs. Sec. 828, R. S. D. C. See "Practice."

Damages may be regulated by court where judgment partially enjoined.

Sec. 832, R. S. D. C.

SEC. 24. When the injunction is granted to obtain a discovery, or any part of the judgment shall remain enjoined, the court may, if it appear just, direct that such damages shall not be paid, or only such proportion thereof as they may deem expedient.

CHAPTER THIRTY-FIVE.

JUDICIARY.

SUPREME COURT.

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- Sec.
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12. Re-argument, when general term equally divided in opinion. (NOTE.)
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18. Justice holding circuit court may sit in criminal cases; how minutes recorded.

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19. Jurisdiction of supreme court, same as circuit courts of United States. (Note.)
20. Powers of justices.
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SUPREME COURT—continued.

Jurisdiction—Continued.

- Sec.
25. Any justice of the peace may arrest for crimes against the laws of the United States; recognizance to be returned to clerk's office; offender may be removed by warrant; bail admitted, when; bail, how taken.
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 27. Same in divorce cases.
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 29. Powers of court in common law and equity causes.
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 31. Court shall adopt rules.
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39. Same subject, when appellee fails to appear, procedure.
40. Same subject, when appellant fails to prosecute.
41. Same subject, when appeal shall not be dismissed.
42. Appeals from Commissioner of Patents. (Note.)
43. Writs of error and appeals. (Note.—Conviction of capital crimes.)

Removal of causes to Supreme Court of the United States.

44. Same subject, not allowed unless amount involved is more than \$5,000. (Note.)
45. Previous section not to apply to cases involving validity of a patent or copyright; treaty, statute or authority exercised under United States.
46. No supersedeas or stay of execution except, when. (Note.)

SUPREME COURT—continued.
Removal of causes to Supreme Court of the United States—Continued.
 Sec.
 47. Powers of orphans court shall be exercised by justice holding special term of supreme court. (Note.—Register of wills to record decrees and orders.)
 48. Orphans court abolished; laws relating thereto continued in force.
 49. Jurisdiction of court as to probate and administration.
 50. General jurisdiction and powers as an orphans court.
 51. Court may compel persons to attend and testify in special term for orphans court.

SUPREME COURT—continued.
Removal of causes to Supreme Court of the United States—Continued.
 Sec.
 52. Same subject, process to be served by marshal and coroner.
 53. Same subject, sequestration of goods where party fails to appear.
 54. Same subject, plenary proceedings regulated.
 55. Same subject, issues to be made up and jury trial.
 56. Same subject, when appeal shall not stay proceedings.
 57. Same subject, limitation upon jurisdiction; disposition of sequestered property.

SUPREME COURT.

Organization.

SEC. 1. There shall be a supreme court of the District, which shall consist of a chief justice and *five** [four] associate justices, who shall severally be appointed by the President, by and with the advice and consent of the Senate, and shall hold their offices during good behavior.

Supreme court.
 Sec. 750, R. S. D. C.
 Wash. Law-Rep., No. 46, p. 310, Noerr *et al.*, administrators, vs. Brewer.

SEC. 2. That there shall be appointed by the President, by and with the advice and consent of the Senate, one additional associate justice of the supreme court of the District of Columbia.

Supreme court to have a sixth judge.

That the said additional associate justice shall have the same power, authority, and jurisdiction as now or hereafter may be exercised by any of the associate justices of the said supreme court, and shall be entitled to receive the same salary, payable in the same manner.

Feb. 25, 1879.
 20 Stat., 320, sec. 1.
 Secs. 750, 751, R. S. D. C.

SEC. 3. The chief justice shall receive an annual salary of four thousand five hundred dollars, and the associate justices an annual salary of four thousand dollars each, payable *monthly* [quarterly] at the Treasury of the United States.

Salaries of justices.

1 June, 1866, ch. 103, sec. 2, v. 14, 55. 3 Mar., 1863, ch. 91, sec. 15, v. 12. 764.

Sec. 751, R. S. D. C.

SEC. 4. That hereafter the salaries appropriated for the United States judges * * * may be paid monthly.

Judges' salaries payable monthly.

Mar. 3, 1881. 21 Stat., 412, ch. 130.

SEC. 5. Each justice, before he enters upon the duties of his office, shall take the oath prescribed to be taken by judges of the courts of the United States. [See R. S. U. S., § 712.]

Oath of justices.

Sec. 752, R. S. D. C.

SEC. 6. It shall not be lawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the prohibition of this section shall be deemed guilty of a high misdemeanor.

Judges prohibited from practicing law.

Sec. 713, R. S. U. S.

SEC. 7. That no person related to any justice or judge of any court of the United States by affinity or consanguinity within the degree of first cousin shall hereafter be appointed by such court or judge to, or employed by such court or judge in, any office or duty in any court of which such justice or judge may be a member.

No relative of judge to be appointed officer of his court.

Aug. 13, 1888.
 25 Stat., 437, sec. 7.

SEC. 8. When any judge of any court of the United States resigns his office, after having held his commission as such at least ten years,

Judges resigning entitled, in

*One additional associate justice. 20 Stat., 320, Feb. 25, 1879. Sup. 418.

certain cases, to and having attained the age of seventy years, he shall during the salary for life. residue of his natural life, receive the same salary which was by law

Sec. 714, R. S. payable to him at the time of his resignation.
U. S. 2 Abb. U. S., 503, *Northrop vs. Gregory*.

Terms.

General and special terms; their proceedings. Right of appeal.

Sec. 753, R. S. D. C.

SEC. 9. The several general terms and special terms of the circuit courts, district courts, and criminal courts authorized by law, are declared to be, severally, terms of the supreme court of the District of Columbia; and the judgments, decrees, sentences, orders, proceedings, and acts of the general terms, special terms, circuit courts, district courts, and criminal courts rendered, made, or had, are and shall be deemed judgments, decrees, sentences, orders, proceedings, and acts of the supreme court; but nothing contained in this section shall affect the right of appeal as provided by law.*

Justices holding general and special terms.

Sec. 754, R. S. D. C.

SEC. 10. Any three of the justices of the supreme court may hold a general term, and any one of them may hold a special term.

General term may be held by two judges; proceedings on division of opinion.

Judge not to sit on hearing appeal from his own decision.

Feb. 25, 1879.
20 Stat., sec. 21, p. 320.

SEC. 11. Two of the justices, sitting at general term, shall constitute a quorum for the transaction of business; but when the two justices shall be divided in opinion, the same shall be noted upon the minutes of the court, and thereupon and within four days thereafter either party in such cause may file with the clerk of the court a motion in writing to have such cause re-argued before three or more justices;

But no justice shall sit in general term to hear an appeal from any judgment or decree or order which he may have rendered at the special term. [See note to § 9 of this chapter.]

Re-argument when in general term, equally divided in opinion.

Feb. 27, 1877.
19 Stat., 253.

SEC. 12. Whenever at a general term, held by four justices, the court shall be equally divided, such divisions shall be noted on the minutes; and within four days, either party may file with the clerk a motion to have the cause re-argued before five justices; and such re-argument shall be as soon as conveniently may be.

[See note to § 9 of this chapter.]

Regulation of terms amended.

Sec. 755, R. S. D. C.

Mar. 1, 1889.
25 Stat., 749, sec. 2.

SEC. 13. The supreme court in general term shall have power by rule of court to regulate the period of holding its terms, as also the periods of all the special terms, and to fix the number of such terms, and to alter the same from time to time as public convenience may require.

Number of terms required to be held annually.

Sec. 756, R. S. D. C.

Designation of justice to hold special term.

Sec. 757, R. S. D. C. 4 Cranch, C. C., 337; 4 Cranch, C. C., 372, U. S. *vs. Williams*; 4 Cranch, C. C., 552, U. S. *vs. Milburn*.

SEC. 14. At least three terms of the supreme court shall be held annually.

Two circuit court terms at same time.

SEC. 16. The general term may order two terms of the circuit court to be held at the same time, whenever, in their judgment the business therein shall require it; and they shall designate by an order

* The Court of Appeals of the District of Columbia established by act of Congress of Feb. 9, 1893, 27 Stat., ch. 74, p. 434.

of the court, the time and places of holding the same, and the justices by whom they shall, respectively, be held; and shall make all necessary orders for a division of the docket between the justices holding such term; Feb. 25, 1879.
20 Stat., 320,
sec. 3.

And petit juries shall be drawn therefor, in the same manner as is provided for in such circuit court, at least ten days before the commencement of any such sitting.

SEC. 17. That the justice of the supreme court of the District of Columbia, holding a criminal term for said District, may, when not engaged in the proper business of the criminal term, hold sittings of the circuit court, and employ the petit juries drawn for the criminal term in the trial of such cases depending in said circuit court as the justice presiding therein may assign to him for that purpose; and the business done at such sittings shall be recorded in the minutes of the circuit court. Justice holding term of criminal court, may also hold sittings of the circuit court.

June 23, 1874.
18 Stat., 204.
1863, ch. 91, v. xii, p. 762.

SEC. 18. That any justice of the supreme court of the District of Columbia holding a term of the circuit court for said District (whenever the condition of the business in such circuit court and in the criminal court, in the opinion of the general term of said supreme court, may render it proper and expedient so to do), may hold sittings for the trial of such criminal cases depending in the criminal court as the justice presiding therein may assign for that purpose, and may employ the petit juries drawn for such circuit court for such trials; and such sittings may be held during the regular sessions of the criminal court, or, in the recess thereof, during the term of such circuit court; and the business done at such sittings shall be recorded in the minutes of the criminal court. A judge holding circuit court may hold sittings for trial of criminal cases.
Secs. 753-759, R. S. D. C.

June 8, 1888.
21 Stat., 166.
Sup., 538.

Jurisdiction.

SEC. 19. The supreme court shall possess the same powers and exercise the same jurisdiction as the circuit courts of the United States. Jurisdiction of the supreme court as a circuit court. [See R. S. U. S., § 605, et seq.; also note to § 9 of this chapter.]

Sec. 760, R. S. D. C.

93 U. S. Rep., 548, *Stanton vs. Embrey*; 135 U. S. Rep., 314, *Willard vs. Wood*; 27 Feb., 1801, ch. 15, v. 2, p. 105; 3 Mar., 1863, ch. 91, sec. 3, v. 12, p. 763. 1 *Cranch, C. C.*, 50, *U. S. vs. Heinegan*; 6 *Wheat.*, 106, *Mechanics' Bank of Alexandria vs. Withers*; 17 *Peters*, 245, *McKenna vs. Fiske*; 1 *Howard*, 241, same case; 4 *Cranch, C. C.*, 682, *U. S. vs. Tarlton*; 12 *Peters*, 524, *Kendall vs. U. S.*; 14 *Peters*, 497, *Decatur vs. Paulding*; 2 *Cranch, C. C.*, 13, *Berry's Petition*; 6 *Cranch*, 233, *Custis vs. Alexandria and Georgetown Turnpike Co.*; 2 *Peters*, 157, *Thompson vs. Tolmie*; 1 *Cranch, C. C.*, 457, *Cannon vs. Davis*; 1 *Cranch, C. C.*, 123, *U. S. vs. Wright*; 5 *Cranch, C. C.*, 503, *Hard vs. Stone*; 1 *Cranch, C. C.*, 44, *U. S. vs. Jack*; 1 *Cranch, C. C.*, 103, *U. S. vs. Louder*; *Ex parte Magruder*, *Am. Law Reg.*, v. vi, N. S., p. 292; 13 *Wall.*, 336, *Bradley vs. Fisher*; 5 *Peters*, 263, *Cathcart vs. Robinson*; *Ex parte Watkins*, 7 *Peters*, 568; 1 *Cranch, C. C.*, 36, *Rutter vs. Merchant*; 1 *Cranch, C. C.*, 88, *Ridgway vs. Pancost*; 2 *Cranch, C. C.*, 60, *U. S. vs. Porter*; *Ex parte Levi S. Burr*, 2 *Cranch, C. C.*, 379; 9 *Wheaton*, 529, same case; 4 *Cranch, C. C.*, 372, *U. S. vs. Williams*; 5 *Cranch, C. C.*, 163, *U. S. ex rel. Stokes vs. Kendall*.

SEC. 20. The justices of the supreme court shall severally possess the powers and exercise the jurisdiction possessed and exercised by the judges of circuit courts. Power of justices.

Sec. 761, R. S. D. C.

13 *Peters*, 17, *Van Ness vs. Bank of U. S.*; 1 *Cranch, C. C.*, 331, *Voss vs. Luke*; 1 *Cranch, C. C.*, 346, *Woods vs. Young*; 1 *Cranch, C. C.*, 357, *Parks, administrator, vs. Willis*; 1 *Cranch, C. C.*, 360, *Lewis vs. Mandeville*; 1 *Cranch, C. C.*, 433, *Pierce vs. Turner*; 1 *Cranch, C. C.*, 471, *Barnes vs. Lee*; 1 *Cranch, C. C.*, 585, *Georgetown T. R. Co. vs. Custis*.

SEC. 21. Any one of the justices may hold a special term, with the same powers and jurisdiction possessed and exercised by district courts of the United States. Jurisdiction as a district court. [See R. S. U. S., § 551, et seq.]

Sec. 762, R. S. D. C.

General jurisdiction of the court; one justice may hold a criminal court.

Sec. 763, R. S. D. C., as amended Feb. 27, 1877. 19 Stat., 253. Sup. R. S., 279, par. 11.

6 D. C. Rep., 53, *U. S. vs. Griffin*; 1 Mackey Rep., 560, *U. S. vs. Guiteau*; 1 Mackey Rep., 590, *U. S. vs. Brady*; 6 Mackey Rep., 34, *U. S. vs. Marshall*; 7 Mackey Rep., 28, *Reynolds vs. Smith*.

Jurisdiction of the criminal court.

June 22, 1874. 18 Stat., 193, sec. 1.

Thirty-third section judiciary act applicable to courts created by Congress in this District.

June 22, 1874.

For crimes against United States; arrests by any justice of the peace.

Sept. 24, 1789. 1 Stat., 91, sec. 33.

Act Mar. 3, 1793, ch. 22.

Act July 16, 1798, ch. 83.

Recognizance to be returned to the clerk's office.

Offender may be removed by warrant.

Bail admitted; when.

Bail; how taken.

Jurisdiction under copyright and patent laws.

Sec. 764, R. S. D. C.

SEC. 22. Said courts shall have cognizance of all crimes and offenses committed within said district and of all cases in law and equity between parties, both or either of which shall be resident or be found within said district and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising or accruing under the laws of the United States; and any one of the justices may hold a criminal court for the trial of all crimes and offenses arising within the District.

SEC. 23. That the criminal court of the District of Columbia shall have jurisdiction of all crimes and misdemeanors committed in said District, not lawfully triable in any other court, and which are required by law to be prosecuted by indictment or information.

127 U. S. Rep., 540, *Callan vs. Wilson*.

SEC. 24. The provisions of the thirty-third section of the judiciary act of seventeen hundred and eighty-nine shall apply to courts created by act of Congress in the District of Columbia.*

18 Stat., 193, ch. 396, sec. 2.

SEC. 25. That for any crime or offense against the United States, the offender may, by any justice or judge of the United States, or by any justice of the peace, or other magistrate of any of the United States where he may be found agreeably to the usual mode of process against offenders in such state, and at the expense of the United States, be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States as by this act has cognizance of the offense. (b) And copies of the process shall be returned as speedily as may be into the clerk's office of such court, together with the recognizances of the witnesses for their appearance to testify in the case, which recognizances the magistrate before whom the examination shall be, may require on pain of imprisonment. And if such commitment of the offender, or the witnesses shall be in a district other than that in which the offense is to be tried, it shall be the duty of the judge of that district where the delinquent is imprisoned, seasonably to issue, and of the marshal of the same district to execute, a warrant for the removal of the offender, and the witnesses, or either of them, as the case may be, to the district in which the trial is to be had. And upon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death, in which cases it shall not be admitted but by the supreme or circuit court, or by a justice of the supreme court, or a judge of a district court, who shall exercise their discretion therein, regarding the nature and circumstances of the offense, and of the evidence, and the usages of law. And if a person committed by a justice of the supreme or a judge of a district court for an offence not punishable with death, shall afterwards procure bail, and there be no judge of the United States in the district to take the same, it may be taken by any judge of the supreme or superior court of law of such state.

SEC. 26. The supreme court has jurisdiction of actions, suits, controversies, and cases, as well in equity as at law, arising under the copyright and patent-laws, and for damages for the infringement of any patent, by action on the case, in accordance with the provisions of sections forty-nine hundred and nineteen, forty-nine hundred and

* The provisions here referred to, of the judiciary act of 1789, ch. 20, sec. 33 (1 Stat. L., 91), are incorporated into Revised Statutes, secs. 727, 879, 1014, 1015, 1016.

twenty, and forty-nine hundred and twenty-one, of chapter one, Title LX, of the Revised Statutes of the United States, "PATENTS, TRADE-MARKS, AND COPYRIGHTS." [See R. S. U. S., p. 960. See R. S. U. S., § 699.] 8 July, 1870, ch. 230, secs. 55, 56, 59, 106, v. 16. pp. 206, 207, 215.

2 Cranch C. C., 208, *King vs. Force*; 2 Cranch, C. C., 287, *Turner vs. Johnson*. Amended Feb. 27, 1877. 19 Stat., 254. Sup. R. S., 279, par. 12.

SEC. 27. The supreme court shall have jurisdiction of all applications for divorce. [See §§ 721-749, R. S. D. C.] Indivorce cases. Sec. 766, R. S.

D. C. 19 June, 1860, ch. 158, sec. 1, v. 12, p. 59.

SEC. 28. No action or suit shall be brought by original process against any person who shall not be an inhabitant of, or found within, the District, except as otherwise specially provided. [See R. S. D. C. § 737, R. S. U. S.] Original actions limited to District, except. Sec. 767, R. S. D. C.

27 Feb., 1801, ch. 15, sec. 6, v. 2, p. 106; 6 Mackey Rep., 509, *Gorham vs. Shepherd*; 2 Cranch, C. C., 564, *Vasse vs. Comegyss*; 5 Cranch, C. C., 496, *Vaughan vs. Northup*.

SEC. 29. The supreme court has power to proceed in all law and chancery causes instituted before it, in which either of the parties reside without the District, in the same way that non-residents were proceeded against in the general court or in the supreme court of chancery in the State of Maryland on the third day of May, eighteen hundred and two. Power of court in common law and chancery causes. Sec. 768, R. S. D. C.

SEC. 30. The justices of the supreme court shall not hold original plea of any debt or damage in cases within the jurisdiction given to justices of the peace, which shall not exceed fifty dollars, exclusive of costs. [See § 997, R. S. D. C.] Amount required to give jurisdiction. Sec. 769, R. S. D. C.

3 Mar. 1823, ch. 24, sec. 6, v. 3, p. 744. 6 Mackey Rep., 511, *Newmeyer vs. Cowling*.

SEC. 31. The supreme court, in general term, shall adopt such rules as it may think proper to regulate the time and manner of making appeals from the special term to the general term, and may prescribe the terms and conditions upon which such appeals may be made, and may also establish such other rules as it may deem necessary for regulating the practice of the court, and from time to time revise and alter such rules. It may also determine by rule what motions shall be heard at a special term, as non-enumerated motions, and what motions shall be heard at a general term in the first instance. [See § 9 of this chapter.] The court shall adopt rules. Sec. 770, R. S. D. C. 3 Mar. 1863, ch. 91, sec. 6, v. 12, p. 763. 7 Mackey Rep., 27, *Reynolds vs. Smith*.

SEC. 32. All official oaths required by law to be taken by officers of the United States, may, in the District, be administered and certified by any one of the justices of the supreme court of the District. Justices may administer oaths to United States officers. Sec. 771, R. S. D. C.

26 June, 1848; ch. 82, v. 9, p. 242.

SEC. 33. The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree or command of the said courts. Power to impose oaths and punish contempts. Sec. 725, R. S. U. S. 24 Sept., 1789, ch. 20, sec. 17, v. 1, p. 83. 2 Mar. 1831, ch. 99, sec. 1, v. 4, p. 487. 22 Wallace Rep.,

157, *in re Chiles*; 121 U. S. Rep., 26, *Worden vs. Terry*; 4 Wall., 378, *Ex parte Garland*; 19 Wall., 271, *Allen's Case*. rls; 128 U. S. Rep., 289, *Ex parte Robinson*; 13 Blatch.,

Jurisdiction—appellate.

Appeals from special to general term. SEC. 34. Any party aggrieved by any order, judgment, or decree, made or pronounced at any special term, may, if the same involve the merits of the action or proceeding, appeal therefrom to the general term of the supreme court, and upon such appeal the general term shall review such order, judgment, or decree, and affirm, reverse, or modify the same, as shall be just.

Sec. 772, R. S. D. C.
3 Mar. 1863, ch. 91, sec. 5, v. 12, p. 763.

[See § 846, R. S. D. C., post, §§ 43, 46. See also note to § 9 of this chapter.]

2 Cranch, C. C., 97, *Gitting vs. Burch*; 1 MacArthur Rep., 165, *Philip vs. Gardner*; *ibid.*, p. 241, *U. S. vs. Wood*; 3 MacArthur Rep., 402, *Bryan vs. Sanderson*; *ibid.*, p. 9, *Parson vs. Parker*; *ibid.*, 283, *Davis vs. Speiden*; *ibid.*, p. 73, *U. S. vs. Ottman*; 2 Mackey Rep., 254, *Phillips vs. Negley*; 3 Mackey Rep., 118, *in re Kirk*; 5 Mackey Rep., 250, *U. S. vs. Phillips*; 7 Mackey Rep., 150, *Fraser vs. D. C.*; 8 Mackey Rep., 85, *U. S. vs. Draper*; *ibid.*, p. 495, *in re Hoover*; 9 Mackey Rep., 97, *Smith vs. May*; 113 U. S. Rep., 540, *Richards vs. Mackall*; 115 U. S. Rep., 225, *Lancaster vs. Collins*; 2 Cranch, C. C., 200, *Deneale's Executrix vs. Young*.

Appeals from police court. SEC. 35. Appeals from the police court shall be tried on the information filed in the court below, certified to supreme court, by a jury in attendance thereat, as though the case had originated therein, and the judgment in the supreme court shall be final in the case.

Sec. 773, R. S. D. C.
17 July, 1870, ch. 133, secs. 3, 8, v. 16, pp. 154, 155.

[See 26 Stat. 848, Mar. 3, 1891, and note to § 9 of this chapter.]

Appeals from justices of the peace. SEC. 36. In cases of appeal from a justice of the peace, as soon as the appellant shall have made the deposit for costs required by law, or obtained leave from one of the justices, or from the court, to prosecute his appeal without a deposit, the clerk shall docket the cause and shall issue a summons for the appellee to appear at the next trial term of the court.

Sec. 774, R. S. D. C.
22 Feb., 1867, ch. 64, sec. 2, v. 14, p. 403.

1 MacArthur Rep., 345, *Luchs vs. Jones*; 3 MacArthur Rep., 6, *Fitzgergerald vs. Lisman*; 2 Cranch, C. C., 39, *Minifie vs. Duckworth*; 2 Cranch, C. C., 259, *Howard vs. U. S.*; 2 Cranch, C. C., 446, *Sherburne vs. Semmes*; 2 Cranch, C. C., 515, *Davidson vs. Burr*; 2 Cranch, C. C., 523, *Maddox vs. Stuart*; 2 Cranch, C. C., 676, *Coumbe vs. Nairn*; 2 Cranch, C. C., 677, *Cross vs. Blanford*; 2 Cranch, C. C., 459, *Delaney vs. Corporation*; 2 Cranch, C. C., 460, *McGunnigle vs. Corporation*; 4 Cranch, C. C., 252, *Butt vs. Stinger*; 4 Cranch, C. C., 232, *Ward vs. Corporation*; 4 Cranch, C. C., 90, *Chase vs. Smith*; 5 Cranch, C. C., 381, *Owner vs. Corporation*; 5 Cranch, C. C., 674, *Jeffers vs. Forrest*.

Such appeals shall have summary hearing. SEC. 37. The supreme court shall in a summary way hear the allegations and proofs of both parties, and determine upon the same according to law and the equity and right of the matter, at the same term, without further continuance or delay, unless it shall appear to the court that further time ought to be given to the party applying for the same.

Sec. 775, R. S. D. C.
1 Mar., 1823, ch. 24, sec. 7, v. 3, p. 744.

1 Cranch, C. C., 401, *Mead vs. Scott*; 4 Cranch, C. C., 232, *Ward vs. Corporation*.

Trial by jury at election of parties. SEC. 38. Either of the parties may demand a trial by jury, or leave the cause to be determined by the court, at their election.

Sec. 776, R. S. D. C.

When appellee fails to appear. SEC. 39. In any case of appeal from the decision of a justice of the peace, where two summonses against the appellee shall be returned non est, or one attachment returned non est, and the appellee shall not appear, the court may proceed to hear and determine the case in the same manner as if the appellee had regularly appeared.

Sec. 777, R. S. D. C.

When appellant fails to prosecute. SEC. 40. If the appellant fails to prosecute his appeal, the appellee may, upon making the deposit for costs, have the cause docketed, and move for affirmance of the justice's judgment, or he may have a trial of the cause upon its merits.

Sec. 778, R. S. D. C.

SEC. 41. No appeal from the judgment of any justice of the peace to the supreme court shall be dismissed because the same had not been prayed to the term next after the rendition of such judgment, unless the court shall be satisfied that the defendant had notice of such judgment at least ten days before the sitting of court.

When an appeal shall not be dismissed.

Sec. 779, R. S. D. C.

1 Mar. 1823, ch. 21, sec. 7, v. 3, p. 744

SEC. 42. The supreme court, sitting in banc, shall have jurisdiction of and shall hear and determine all appeals from the decisions of the Commissioner of Patents, in accordance with the provisions of sections forty-nine hundred and eleven to section forty-nine hundred and fifteen, inclusive, of chapter one, Title LX, of the Revised Statutes, of the United States "PATENTS, TRADE-MARKS, AND COPYRIGHTS."

Appeals from Commissioner of Patents.

Sec. 780, R. S. D. C.

8 July, 1870, ch. 230, secs. 48, 49, 50, 51, v. 16, p. 205.

[See R. S. U. S., p. 958. See R. S. U. S., § 699; also note to § 9 of this chapter.]

Amended Feb. 28, 1877; 19 Stat., 254; Sup. R. S., 280, par. 14. 22 Wash. Law Rep., 89, *Einstein vs. Sawhill*.

Removal of causes to the Supreme Court of the United States.

SEC. 43. Any final judgment, order, or decree of the supreme court of the District may be re-examined and reversed or affirmed in the Supreme Court of the United States, upon writ of error or appeal, in the same cases and in like manner as provided by law in reference to the final judgments, orders, and decrees of the circuit courts of the United States.* [See note to § 9 of this chapter.]

Writs of error and appeals.

Sec. 846, R. S. D. C.

3 Mar. 1863, ch. 91, sec. 11, v. 12, p. 764.

19 Wallace Rep., 62, *Railroad vs. Church*; 20 Wall. Rep., 387, *New Orleans vs. Steamship Co.*; 20 How. Rep., 135, *McMicken vs. Perin*; 134 U. S. Rep., 47, *Ormsby vs. Webb*; 148 U. S. Rep., 160, 162, *in re Schneider*; 149 U. S. Rep., 580, *Loeber vs. Schroeder*; 102 U. S. Rep., 121, *Hays vs. Fisher*; *Newport Light Co. vs. City of Newport*, 151, U. S. Rep., 527; 3 Wheat., p. 600, *Ross vs. Triplett*; 14 Wall., p. 419, *Smith vs. Mason*; 1 Cranch, 317, U. S. *vs. Hooe*; 4 Cranch, 384, *Young vs. Bank of Alexandria*; 6 Cranch, 233, *Custis vs. Georgetown and Alex. T. Co.*; 7 Wheat, 534, *Columbian Insurance Co. vs. Wheelright*; 3 Cranch, 159, U. S. *vs. More*; 8 Cranch, 251, *Carter vs. Cutting*; 1 Peters, 562, *Nicholls vs. Hodges*; 7 Cranch, 276, *Wise vs. Columbian Turnpike Co.*; 6 Peters, 349, *Scott vs. Lunt*; 8 Peters, 44, *Lee vs. Lee*; 1 Cranch, C. C., 108, *Thompson et al. vs. Voss*; 1 Cranch, C. C., 116, U. S. *vs. Hooe & Co.*; 1 Cranch, C. C., 180, *Moore et al. vs. Dunlop*; 1 Cranch, C. C., 443, *Grundy vs. Young*; 1 Cranch, C. C., 532, *Ex parte Negro Ben*; 2 Cranch, C. C., 8, *Marsteller vs. McClean*; 2 Cranch, C. C., 310, *Renner vs. Bank of Columbia*; 2 Cranch, C. C., 266, U. S. *vs. Columbian Ins. Co.*

SEC. 44. That no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the Territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars. [See note to § 9 of this chapter.]

Appeals or writs of error not allowed unless amount involved be more than \$5,000.

Mar. 3, 1885, 23 Stat., 443, ch. 355, sec. 1, 2 Sup. R. S., 485. 148 U. S. Rep., 157, *in re Schneider*; 130 U. S. Rep., 227, *District of Columbia vs. Gannon*; 133 U. S. Rep., 610, *Keller vs. Ashford*; 98 U. S. Rep., 401, *Railroad vs. Grant*; 134 U. S. Rep., 124, *Kenaday vs. Edwards*.

SEC. 45. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copy-right, or in which is drawn in question the validity of a treaty or statute of or an authority exercised under the United States; but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute.

Not to apply to cases involving validity of patent or copy right, treaty, statute, or authority exercised under United States.

Ibid., sec. 2.

130 U. S. Rep., 210, *B. and P. Railroad vs. Hopkins*; 137 U. S. Rep., 280, U. S. *vs. Lynch*; 151 U. S. Rep., 527, *Newport Light Co. vs. Newport*.

* An appeal does not lie from a judgment of conviction of a capital crime. 145 U. S. Rep. 571, *Cross vs. U. S.*; 144 U. S. Rep. 92, *in re Heath*.

No supersedeas. SEC. 46. There shall be no supersedeas or stay of execution except when. judgments of the supreme court of the District, otherwise than by injunction, or upon proceedings in error to the Supreme Court of the United States. [See note to § 9 of this chapter.]

Sec. 850, R. S. D. C. 22 Feb., 1867, ch. 64, sec. 4, v. 14, p. 403. 110 U. S. Rep., 227, *Peugh vs. Davis*.

Orphans court powers.

Powers of orphans' court shall be exercised by justice holding special term of supreme court, District of Columbia. SEC. 47. That all the powers and jurisdiction by law now held and exercised by the orphans court of Washington County, in the District of Columbia, shall hereafter be held and exercised by the justice holding the special term of said supreme court for that purpose, subject always to the same provisions as are contained in the fifth section of the act of Congress, entitled "An act to reorganize the courts in the District of Columbia, and for other purposes," approved March third, eighteen hundred and sixty-three.*

June 21, 1870.
16 Stat., ch. 161,
sec. 4.

[See § 772, R. S. D. C., Appeals to General Term.]

5 Mackey Rep., 293, *McIntire's estate*; 19 Wash. Law Rep., 241, *in re Talty's estate*; *ibid.*, 9 Mackey Rep., 32; 2 Mackey Rep., 332, *Keyser vs. Breitbarth*; 134 U. S. Rep., 47, *Ormsby vs. Webb*; 19 Wall Rep., 65, *Railroad vs. Church*.

Orphans' court abolished. SEC. 48. That the orphans court of Washington County, District of Columbia, be and the same is hereby abolished; and all laws and parts of laws relating to said orphans court, so far as the same are applicable to said supreme court, are hereby continued in force in respect to said supreme court; and all other laws and parts of laws relating to said orphans' court are hereby repealed: *Provided, however*, That nothing herein contained shall be construed to abolish the office of register of wills for said county.

Laws relating thereto continued in force.

Ibid., sec. 5.

Jurisdiction of courts as probate and administration. SEC. 49. [The governor, by and with the advice and consent of the council, shall have authority to appoint and commission three men of integrity and judgment in each county of the state, to be justices of the orphans court in such county,] for the purpose of taking the probat of wills, granting letters testamentary and of administration, directing the conduct and settling the accounts of executors and administrators, securing the rights of legatees, superintending the distribution of the estates of intestates, securing the rights of orphans and legatees, and administering justice in all matters relative to the affairs of deceased persons, according to law.

Md. act. 1798, ch. 101, sub. ch. 15, sec. 1.

2 Kilty, 852.

1 Dorsey, 410.

MacArthur & M. Rep., 278, *Wilson vs. Ames*.

General jurisdiction and powers as an orphans' court. SEC. 50. The orphans court [in each county] shall keep a seal for the said court, and for the office of register of wills; and each orphans court that hath not already a seal, shall provide the same [at the expense of the county,] and the said seal shall be fixed to all certificates of the court, or of the register, and to every process and writ of every kind issued from the court. The orphans court shall have full power, authority and jurisdiction to examine, hear and decree upon, all accounts, claims and demands, existing between wards and their guardians, and between legatees, or persons entitled to any distributable part of an intestate's estate, and executors and administrators, and may enforce obedience to, and execution of, their decrees, in the same ample manner as the court of chancery may; and the court may, upon the application of an infant, or any person on his behalf, suggesting improper conduct in any guardian whatever, either in relation to the care and management of the property or person of any infant, inquire into the same, and at their discretion remove such guardian and make choice of another, who shall give security, and conduct himself in the manner herein before prescribed, and shall receive the property and custody of the said ward.

Ibid., sec. 12.
4 Mackey Rep., 522, *Mercer vs. Hogan*; 22 Wash. Law Rep., 53, *James vs. Tappan*; *ibid.*, 54, *Bohrer vs. Otterback*.

* Decrees and orders of special term for orphans' court business shall be recorded by the register of wills. See sec. 930, R. S. D. C.

SEC. 51. The orphans court shall, in all cases, have power to issue a summons for any person concerned in the affairs of a deceased person, or for any witness or other person whose appearance in the said court, for any purpose, shall be deemed necessary or proper, and the said summons shall be returnable, at the discretion of the court, or as herein before directed; and if it be necessary or proper to enforce the appearance of the part, the court, on the return of the 'summoned,' and failure to appear, may issue an attachment; and when the party shall appear, or be brought in thereon, may find him or her, not exceeding thirty dollars; and if a witness before the court shall refuse to give evidence, the court may commit him or her to the custody of the *marshal* [sheriff] of his or her county, or coroner, (if the case may require,) there to remain until he give evidence, or be discharged according to law; or the court may attach and sequester the party's estate, or a part thereof, as hereafter directed.

Court may compel persons to attend, testify, etc.

Ibid., sec. 13.
1 Cranch, Ct. R., 456, *Ex parte* Burford.

SEC. 52. Every *marshal* [sheriff] and coroner, (as the case may require,) shall serve any summons or process to him directed by the orphans court [of his or any other county within the state,] and shall make return thereof according to its tenor, and on failure, he shall be liable to be proceeded against by attachment and fine as aforesaid, or otherwise, as any other person may be proceeded against.

Process to be served by marshal and coroner.

Ibid., sec. 14.

SEC. 53. In any case where two summonses shall be regularly returned non est by the *marshal* [sheriff,] or other officer of the county where the party last resided, and it shall be necessary to proceed further to compel the party's attendance, the court may order and issue an attachment against his or her lands, tenements, goods and chattels, and on return of such attachment, to which a schedule of the property, (if any,) attached shall be annexed, the court, by order, or commission under seal, may authorize some person or persons to take into his care and custody the lands, tenements, goods and chattels, returned in the schedule, or any part thereof, and receive the profits thereof, to be accounted for, until the party shall appear and obey the order of the court, or until further order, and the *marshal* [sheriff,] or other officer, shall deliver the property accordingly, or be liable to be proceeded against as aforesaid; *Provided*, That the person or persons so authorized shall first give bond to the *United States of America* [state,] with such security, and in such penalty, as the court shall direct, to be recorded, sued, and to be on a footing with an administration bond, conditioned for rendering a true account of the said estate or property, and of the profits thereof, and to deliver the same according to the court's order, deducting such allowance for loss, and such commission, not exceeding five per cent. on the whole, as the court shall think proper to grant; and whenever the purpose for which the said property was sequestered shall have been answered, the court shall direct the said estate or property, and profits, (deducting as aforesaid,) to be restored to the party; and on the death of the party, the court shall order the same to be delivered to his or her heirs, devisees or legal representatives, as soon as the said purpose shall be answered, or immediately, on application, and satisfying the court of the party's right, in case the said purpose, after the death of the original party, cannot be answered.

Sequestration where party fails to appear.

Ibid., sec. 15.

SEC. 54. Whenever either of the parties having a contest in the orphans court shall require, the said court may direct a plenary proceeding, by bill or petition, to which there shall be an answer, on oath, (or affirmation,) and if the party refuse to answer on oath, (or affirmation, as the case may require,) to any matter alleged in the bill or petition, and proper for the court to decide upon, the said party may be attached, fined and committed, or his property may be attached and sequestered as aforesaid.

Plenary proceedings how regulated.

Ibid., sec. 16.
134 U. S. Rep., 47, *Ormsby vs. Webb*; 7 Mackey Rep., 52, *Emmons vs. Garnett*; 8

Mackey Rep., 495, *in re Hoover*.

Issues to be made up and jury trial.

Ibid., sec. 17.
134 U. S. Rep., 47, Ormsby vs. Webb; 7 Mackey Rep., 52, Emmons vs. Garnett.

SEC. 55. And on such plenary proceeding all the depositions shall be taken in writing, and recorded; and in case either party shall require, the court shall direct an issue or issues to be made up, and sent to any court of law which may be most convenient, under all circumstances for trying the same; and the said issue or issues shall be tried in the said court of law as soon as may be, without any continuance longer than is necessary to procure the attendance of a witness or witnesses; and the power of the court of law, and proceedings thereto relative, shall be as herein before directed respecting the trial of issues; and the orphans court shall give judgment, or decree upon the bill and answer, or upon bill, answer, depositions, or finding of the jury; and in all cases of contest, the orphans court may award costs to the party in their opinion entitled thereto, and may compel payment, by attachment of the body, and fine, or attachment and sequestration, as aforesaid, of the property.

(Appeals regulated by § 772, R. S. D. C.)

When appeal shall not stay proceedings.

Ibid., sec. 19.

SEC. 56. An appeal from the orphans court shall not stay any proceedings therein which may with propriety be carried on before the appeal is decided, provided the said orphans court can provide for conforming to the decision of the court above, whether the said decision may eventually be for or against the appellant.

Limitation upon jurisdiction, disposition of sequestered property.

Ibid., sec. 20.
3 Cranch, Ct. Rep., 154, Mauro vs. Ritchie; 6 Mackey Rep., 536, *in re* Thompson's Estate.

SEC. 57. The said orphans court shall not, under pretext of incidental power, or constructive authority, exercise any jurisdiction whatever not expressly given by this act, or some other law; but every judgment, decree, decision or order, of the said court, may be enforced by attachment and sequestration as aforesaid; and if the said judgment, decree, decision or order, be for paying money, the property sequestered may, at the discretion of the court, be applied to the purpose for which such judgment, decree, decision or order, was given,

CHAPTER THIRTY-SIX.

JURY.

- | Sec. | Sec. |
|---|---|
| 1. Lists of jurors to be made, by whom, etc. (NOTE.—Penalty for intimidating or corrupting jurors.) | 16. When names in box all drawn out, etc.; grand and petit jurors, how obtained. |
| 2. Names for lists, how selected. | 17. Vacancies in grand and petit juries, how filled. |
| 3. Qualifications of jurors. | 18. Terms of service of jurors. |
| 4. Jury box, how names of jurors placed therein. | 19. Terms of service of grand jurors. |
| 5. When persons drawn as jurors do not serve, their names to be returned to jury box. | 20. Discharge of grand juries. |
| 6. Custody of the box. | 21. When and how grand jurors and petit jurors shall be drawn; proviso; jurors actually empaneled in a cause liable to serve until lawfully discharged. |
| 7. Jurors in capital cases. | 22. Foreman of grand jury, appointment and powers of. |
| 8. Notice to jurors of their selection, when and by whom served. | 23. Special oath of grand jurors. (NOTE.—For oath and additional oaths of grand and petit jurors.) |
| 9. Notice to jurors, how served. | 24. Jurors may be challenged (principal) who have served within a year before. |
| 10. Return of service of notice. | 25. Challenge of jurors. |
| 11. Juror failing to attend, after notice, penalty. | 26. When peremptory challenges exceed number allowed by law, excess disallowed, etc. |
| 12. Additional names, when drawn from box. | 27. Who may be excused from service as jurors; reasons for being excused. |
| 13. Resealing of jury box. | |
| 14. Selection of additional jurors, in cases of vacancies, persons not found, excused, or incompetent. | |
| 15. Completion of panel, except in capital cases, by drawing from box, or by talesmen in discretion of court. | |

<p>Sec. 28. Exemption for one year after service; proviso; limit of consecutive service. 29. Persons exempt from jury duty. 30. Persons exempt from jury duty. 31. No person having case pending at same court can act as juror. 32. Verdict can not be set aside because of preceding section. 33. Ground for challenge of juror (see preceding two sections). 34. Collusion with respect to drawing of jurors, penalty of officer.</p>	<p>Sec. 35. Collusion of clerk with respect to drawing of jurors, penalty. 36. Compensation of jurors. 37. Struck jury, twenty persons to be drawn. 38. Talesmen for struck jury. 39. <i>Venire facias</i>, writ of, how issued, served and returned. 40. Coroners jury, number and pay. 41. No indictor shall try the party indicted.</p>
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SEC. 1. The supreme court of the District may, by orders in general term, from time to time, designate necessary officers or persons to make the lists of jurors for service in said court.*

Lists of jurors.
Sec. 851, R. S. D. C.
As amended, 26. 17 Stat., 16.

[See chapter 15, E. S. U. S., title "Jurors."]
25 Stat., 750, Mar. 1, 1889; 2 Sup. R. S., 652. 20 Apr., 1871, ch.

SEC. 2. The names on the lists shall be selected, as near as may be, from among the citizens of the several wards or districts of the cities of Washington and Georgetown, and the three divisions of the District outside the limits of said cities, formed by the Eastern Branch of the Potomac River and Rock Creek, in proportion to the number of inhabitants residing therein respectively.

Names; how selected.
Sec. 852, R. S. D. C.
16 June, 1862, ch. 102.
12 Stat., 430.

SEC. 3. No person shall be competent to act as a juror unless he be a citizen of the United States, a resident of the District of Columbia, over twenty-one and under sixty-five years of age, and a good and lawful man, who has never been convicted of a felony or misdemeanor involving moral turpitude.

Qualifications of jurors.
Sec. 872, R. S. D. C.
As amended, Mar. 1, 1889, 25 Stat., 749, sec. 3. 6 Mackey Rep., 66, U. S. vs. Angney; 4 Mackey Rep., 503, U. S. vs. Nardello.

SEC. 4. The names selected shall be written on separate and similar pieces of paper, which shall be so folded or rolled up that the names cannot be seen, and placed in a box to be provided for that purpose.

How placed, jury-box.
Sec. 853, R. S. D. C.
16 June, 1862, ch. 102, sec. 4. 12 Stat., 428.

SEC. 5. Whenever a paper, on which is written the name of any person, shall be drawn from the jury-box, and such person by reason of being challenged, or for any other reason, shall not serve as a juror at the term for or at which he shall have been so drawn, the clerk of the supreme court of the District of Columbia (unless otherwise ordered by the justice presiding in the court for which such name was drawn) shall replace the said paper in the jury-box, folded or rolled up in the manner prescribed by section eight hundred and fifty-three of said chapter, subject to be drawn again from said jury-box with the other papers therein.

When persons drawn as jurors do not serve, their names to be returned to jury-box.
June 8, 1880.
21 Stat., 166 sec. 2.
1 Sup. R. S., 539.

SEC. 6. The box shall be sealed, and, after being thoroughly shaken, shall be delivered to the clerk of the supreme court for safe-keeping.

Custody of box.
Sec. 854, R. S. D. C.
12 Stat., 428, ch. 102, sec. 4.

SEC. 7. In a capital case where the panel shall be exhausted by reason of challenge or otherwise, the court may, in its discretion, order additional names to be drawn; and if all of the names in the box shall be drawn out and no jury found, the court may order the marshal to summon talesmen until a jury shall be found.

Jurors in capital cases.
Sec. 857, R. S. D. C.

* For the statute relating to corrupting or intimidating jurors, see secs. 5404 and 5405, R. S. U. S.

Notice to jurors of their selection. SEC. 8. It shall be the duty of the marshal of the District, at least five days before the beginning of the term of service for which a jury has been selected as provided by law, to notify each person drawn by serving on him a notice in writing of his selection as a juror, of the court he is to attend, and of the day and hour he is to appear.

Sec. 866, R. S. D. C.
Amended Mar. 1, 1889, 25 Stat., 749; 2 Sup. R. S., 651.

Notice, how served. SEC. 9. Such notice shall be given to each juror in person, or be left at his usual place of residence.

Sec. 867, R. S. D. C.

Marshal's return. SEC. 10. A copy of the notice, with his certificate stating when and in what manner the original was served, shall be returned by the marshal to the court before the commencement of the term for which the jurors were drawn.

Sec. 868, R. S. D. C.

Juror failing to attend; penalty. SEC. 11. If any person selected as a juror and duly notified to attend, shall, without sufficient cause, neglect to attend agreeably to notice, he shall be fined by the court in a sum not exceeding twenty dollars for every day he shall be absent during the sitting of the court.

Sec. 869, R. S. D. C.

Additional names, when drawn, in case of disability. SEC. 12. If any person whose name is drawn shall have died or removed from the district, or become otherwise disabled from serving as a juror, the clerk shall draw from the box another name, to serve instead.

Sec. 859, R. S. D. C.

Resealing jury-box. SEC. 13. After the requisite number of jurors shall have been drawn, the jury-box shall be again sealed, and remain in the custody of the clerk.

Sec. 860, R. S. D. C.

Selection of additional jurors. SEC. 14. If any persons selected as jurors can not be found, or shall prove to be incompetent, or shall be excused from service by the court, the clerk, under the direction of the court, shall draw from the box the names of other persons to take their places. And if after the organization of the jury any vacancies occur therein, they shall be filled in like manner.

Sec. 862, R. S. D. C.

As amended Mar. 1, 1889, 25 Stat., 750.

Completion of panel. SEC. 15. If at any time during the impaneling of a jury in any other than a capital case the regular panel, by reason of challenge or otherwise, shall be exhausted before the jury is complete, the court may in its discretion direct the clerk to draw from the box the names of other persons to serve as jurors and cause them to be summoned, or order the marshal to summon as many talesmen as may be necessary to complete the jury.

Sec. 863, R. S. D. C.

Amended Mar. 1, 1889, 25 Stat., 750, sec. 9; 2 Sup. R. S., 652.

How summoned when all names have been drawn. SEC. 16. If at any time it shall occur that all of the names in the box are drawn out at any term of the court before the first day of February, the court may order the marshal to summon from the body of the District twenty-three citizens, having the qualifications of jurors, to serve as grand jurors, and twenty-six citizens, having such qualifications, to act as petit jurors, or either, as may be needed at any subsequent term of the court to be held between the time of the happening of the contingency mentioned and the first day of February then next ensuing.

Sec. 864, R. S. D. C.

18 Dec., 1865, ch. 1, 14 Stat., 1.

Vacancies, how filled. SEC. 17. Vacancies in either grand or petit juries ordered to be summoned, as provided in the preceding section, may be filled by other persons summoned by the marshal upon the order of the court.

Sec. 865, R. S. D. C.

SEC. 18. The term of service of jurors drawn for service in the supreme court of the District of Columbia holding a special term as a circuit court, or to serve as petit jurors in the special term as a criminal court, shall begin on the first Tuesday in each and every month in which jury trials shall be had and (subject to the provisions of section eight hundred and seven) shall terminate on the Monday preceding the first Tuesday of the following month, except when the jury shall be discharged by the court at an earlier day.

Term for jurors.
Sec. 855, R. S. D. C.
As amended Mar. 1, 1889, 25 Stat., 749, sec. 4.
2 Sup. R. S., 651.

SEC. 19. The term of service of grand jurors in the special term as a criminal court shall begin with each term of that court as fixed from time to time by the supreme court of the District of Columbia in general term, and shall end with such term, unless the jury shall sooner be discharged by the court.

Term for grand jurors.
Mar. 1, 1889, 25 Stat., 749, pt. sec. 4.
2 Sup. R. S., 651.

SEC. 20. The supreme court of the District of Columbia, may discharge their grand juries whenever they deem a continuance of the sessions of such juries unnecessary.

Discharge of grand juries.
Sec. 811, R. S. U. S. 16 Aug., 1856, ch. 124, sec. 7, v. 11, p. 50.

SEC. 21. At least ten days before the first Tuesday in each month when jury trials are to be had, the clerk shall publicly break the seal of the jury-box, and proceed to draw therefrom the names of twenty-six persons to serve as jurors in such circuit court, and of twenty-six other persons to serve as petit jurors in such criminal court, and at least ten days before the commencement of each special term held as a criminal court the names of twenty-three persons required to serve as grand jurors in such criminal court shall be drawn in like manner: *Provided*, That when any jury shall have been actually empanelled for the trial of any cause the jurymen composing the same shall be liable to continue in service until they have been lawfully discharged from said cause.

Jurors, circuit and criminal courts, when and how drawn.
Proviso. Service.
Mar. 1, 1889, 25 Stat., 749, pt. sec. 4.
2 Sup. R. S., 651.

SEC. 22. From the persons summoned and accepted as grand jurors, the court shall appoint the foreman, who shall have power to administer oaths and affirmations to witnesses appearing before the grand jury.

Foreman of grand jury, appointment and powers of.
Sec. 809, R. S. U. S. 3 Mar., 1865, ch. 86, sec. 1, v. 13, p. 500.

SEC. 23. In addition to the oath now prescribed by law to be administered to the grand jury in the District, they shall be sworn faithfully and impartially to inquire into and true presentment make of all offenses against the laws prohibiting dueling.*

Special oath of grand jury.
Sec. 840, R. S. D. C. 20 Feb., 1839, ch. 30, sec. 7, 5 Stat., 319.

SEC. 24. It shall be good cause of principal challenge to any person called to serve as a talesman on a petit jury at any term of the criminal or circuit courts of the District of Columbia, that he has served as such juror in the trial of a cause in either of said courts at any time within one year next before his being so called and challenged.

Jurors may be challenged who have served within a year before.
Sec. 861, R. S. D. C. Mackey Rep., 503.

Amended, Sup. R. S., p. 539. June 9, 1880. 21 Stat., 166. 4 U. S. vs. Nardello.

SEC. 25. When the offense charged is treason or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges. On the trial of any other felony, the defendant shall be entitled to ten and the United States to three peremptory challenges; and in all other cases, civil and criminal,

Challenges.
Sec. 819, R. S. U. S. 8 June, 1872, ch. 333, sec. 2, v. 17, p. 282.

* For oaths of grand jurors and petit jurors, see 2 Harris Entries, 3; also 2 Evan's Harris, 282 and 283. For additional oaths of jurors, see secs. 821 and 822, R. S. U. S., 99 U. S. Rep., 183, Atwood vs. Weems.

3 Mackey Rep.,
152, U. S. vs. Dunn.

each party shall be entitled to three peremptory challenges; and in all cases where there are several defendants or several plaintiffs, the parties on each side shall be deemed a single party for the purposes of all challenges under this section. All challenges, whether to the array or panel, or to individual jurors for cause or favor, shall be tried by the court without the aid of triers.

When peremp-
tory challenges ex-
ceed the number
allowed by law.

SEC. 26. If, in the trial of a capital offense, the party indicted peremptorily challenges jurors above the number allowed him by law, such excess of challenges shall be disallowed by the court, and the cause shall proceed for trial in the same manner as if they had not been made.

Sec. 1031, R. S.
U. S.

8 Mar., 1835, ch. 40, sec. 4, v. 4, p. 777.

Who may be
excused.

SEC. 27. A person may be excused by the court from serving on a jury when, for any reason, his interests or those of the public will be materially injured by his attendance, or when he is a party in any action or proceeding to be tried or determined by the intervention of a jury at the term for which he may be summoned, or where his own health or the death or sickness of a member of his family requires his absence.

Sec. 874, R. S.
D. C.

June 18, 1862.

12 Stat., 429.

1 Cranch, C.
C., 151, Wilson

Bryan's case; 1 Cranch, C. C., 154, Offutt vs. Parrott; 1 Cranch, C. C., 157, McIntire's case; 2 Cranch, C. C., 3, Mima Queen vs. Hepburn; 7 Cranch, C. C., 290, same case.

Exemption for
one year after
service.

SEC. 28. Any person who shall have been regularly drawn as a juror, and shall thereupon have served as a juror for the period of twenty days or more, shall be exempt from further service as a juror in the District of Columbia for the period of one year from the beginning of his said term of service, but nothing herein contained shall render such juror ineligible to serve as a juror during said year: *Provided, however,* That no person shall be competent to serve as a juror for two consecutive terms.

2 Sup. R. S., 651.
Mar. 1, 1889.

25 Stat., 750, sec.

6.

Proviso.

Limit of consec-
utive service.

Persons exempt
from jury duty.

SEC. 29. All executive and judicial officers, salaried officers of the Government of the United States, commissioners of police, and those connected with the police or fire department, counselors and attorneys at law, ministers of the gospel and priests of every denomination, practicing physicians and surgeons, keepers of hospitals, asylums, almshouses, or other charitable institutions created by or under the laws relating to the District, captains and masters and other persons employed on vessels navigating the waters of the District, and keepers of public ferries, shall be exempt from jury duty, and their names shall not be placed on the jury-lists.

Sec. 875, R. S.
D. C.

June 16, 1862,
ch. 102.

12 Stat., 428.

Additional ex-
emptions from
jury duty.

SEC. 30. That all magistrates, delegates, coroners, schoolmasters, overseers of highways and constables, during their continuance in their respective stations or business, shall be exempt from any attendance as jurors. [Apothecaries exempt. See "Pharmacy."]

Md. act 1715, ch.
37, sec. 4.

1 Dorsey, 20.

No person hav-
ing case pending
at same court can
act as juror.

SEC. 31. No *marshal* [sheriff] shall summons any person to serve as a petit juror in any court whatsoever, where he hath knowledge such person hath any matter of fact depending for trial at the same court he is summoned to serve in, and that no person having such matter of fact depending for trial as aforesaid, shall be admitted as a qualified juror between party and party, during the sitting of such court that such matter of fact shall be, or expected to be tried in.*

Ibid., sec. 9.

1 Dorsey, 20.

Verdict can not
be set aside for
that cause.

SEC. 32. No verdict of a jury shall hereafter be set aside, nor judgment on any verdict stayed, arrested or reversed, by reason that any juror who tried the cause had a matter of fact depending for trial as aforesaid.

Md. act 1778, ch.
21, sec. 2. 1 Dorsey, 141.

* It is no cause for arrest of judgment, or for new trial, if they serve as jurors. October, 1778, ch. 21, sec. 2, Md. act.

SEC. 33. That it shall and may be lawful, to and for the plaintiff or defendant in any cause to be tried in any of the said courts, to challenge any juror by reason that such juror hath a matter of fact depending for trial as aforesaid, and that the having a matter of fact depending for trial as aforesaid, shall be held and allowed to be a good cause of challenge to any such juror.

It shall be a ground for challenge of juror.

Ibid., sec. 3.
1 Dorsey, 141.

SEC. 34. If any officer shall put on the list the name of any person at his own request, or on the request of any other person, or shall be guilty of any fraud or collusion with respect to the drawing of jurors, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, and imprisoned in the county jail not less than sixty days, for each offense.

Penalty of officer for collusion.

Sec. 870, R. S. D. C.

SEC. 35. If the clerk of the court shall draw from the box a greater number of names than is required by the court, in accordance with law, or shall put in the box any name after the same has been delivered to him, or shall be guilty of any fraud or collusion in respect to the drawing of jurors, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, and be imprisoned in the District jail not less than sixty days, for each offense.

Penalty of clerk for collusion.

Sec. 871, R. S. D. C.

SEC. 36. Jurors are entitled to the same compensation as received for their attendance in the circuit and District Courts of the United States, by the act of February twenty-sixth eighteen hundred and fifty-three, viz: For actual attendance at any court or courts, two dollars per day during such attendance.¹ For travelling from their residence to said court or courts, five cents per mile for going, and the same for returning.

Compensation of jurors.

Sec. 873, R. S. D. C.
As amended, 19 Stat., 240, Feb. 27, 1877; 2 Sup. R. S., 131. '10 Stat., 168.

SEC. 37. In all civil cases called for trial in the court, in which a jury shall be necessary, according to the laws and constitution of [this state] *Maryland*, twenty persons from the panel of petit jurors shall be drawn, by the clerk, under the direction of the said respective courts, and the names of the twenty persons shall be written upon two lists, and one of the said lists shall be forthwith delivered to the respective parties, or their counsel in the cause, and it shall and may be lawful for each of the said parties, or their counsel, to strike out four persons from the said lists, and the remaining twelve persons shall thereupon be immediately empanelled, and sworn as the petit jury in such cause; and if the said parties, or their counsel, or either of them, shall neglect or refuse to strike out from the said lists the number of persons hereby directed, it shall and may be lawful for the court to direct the clerk to strike out from the list of the party or parties so neglecting or refusing, the number of persons herein before mentioned, and the remaining twelve persons shall be empanelled, and sworn as aforesaid: *Provided, nevertheless*, That nothing herein contained shall be deemed or construed to take away the right of any person or persons to challenge the array or polls of any panel returned, in the manner always allowed by the laws of this state [*Maryland*.]

Struck jury: twenty persons to be drawn.

Md. act 1797, ch. 87, sec. 9.
1 Dorsey, 350.
2 Kilty, 732.
67 Md. Rep., 336, Hamlin vs. State.

SEC. 38. The court shall at all times have power to direct talismen to be summoned to serve on juries, where, without such talismen, there would not be twenty of the original pannel, exclusive of the jury charged, from whom a jury can be formed, and if the parties, or their counsel, agree, the drawing of a pannel of twenty jurors in any cause may be dispensed with.

Talismen for struck jury.

Md. act 1798, ch. 94, sec. 2.
2 Kilty, 823 a.

SEC. 39. Writs of *venire facias*, when directed by the court, shall issue from the clerk's office, and shall be served and returned by the marshal in person, or by his deputy; or, in case the marshal or his

Writ of venire, how issued and served.

Sec. 803, R. S. deputy is not an indifferent person, or is interested in the event of the cause, by such fit person as may be specially appointed for that purpose by the court, who shall administer to him an oath that he will truly and impartially serve and return the writ.

U. S.
24 Sept., 1789,
ch. 20, sec. 29.
1 Stat., 88.

Coroner's jury: SEC. 40. That hereafter a jury of inquest summoned by the coroner shall consist of six persons, and each of said jurors shall be paid one dollar a day for his services.

Mar. 3, 1881.
21 Stat., 458. 2 Sup. R. S., 322.

No indictor shall try the party indicted. SEC. 41. No indictor shall be put in inquests upon deliverance of the indictees of felonies or trespass, if he be challenged for that same cause by him which is so indicted.*

25 Edward III.
ch. 3, sec. 1, A. D. 1350. Alex. Brit. Stat., 171. Kilty's Rep., 37.

* By indictors were meant not only the jurors who presented, but those who were sworn to inform them or who, as it is termed now, preferred the indictment.

CHAPTER THIRTY-SEVEN.

JUSTICES OF THE PEACE.

Sec.		Sec.	
1.	President may appoint fifteen justices. Term of; jurisdiction of; unfinished business and transcripts of.	20.	Interest on judgments of.
2.	Expiration of term of certain justices: deposit of their dockets and transcripts of, by clerk supreme court.	21.	Judgments, renewal of, by <i>scire facias</i> .
3.	Bond of, form and amount of.	22.	Trial by jury, in case of parties may demand.
4.	Oath of office.	23.	Venire, when jury trial demanded.
5.	General powers and duties.	24.	Jurors, qualifications of.
6.	Rules and forms for, to be prescribed by supreme court.	25.	Talesmen.
7.	Jurisdiction of.	26.	Jurors, oath of.
8.	Criminal jurisdiction, not to exercise.	27.	Trial public.
9.	May issue warrants returnable to police court.	28.	Constables, oath of.
10.	Docket of, justice to keep.	29.	Verdict on trial by jury.
11.	Docketing of cases, liability of, for failure to.	30.	Judgment and execution in cases tried by jury.
12.	Nonresidents must first give security for costs before entering suit.	31.	<i>Fieri facias</i> , when empowered to issue.
13.	Original writs of, in civil cases, when to issue, etc.	32.	Execution, property subject to.
14.	Warrants shall be directed to constable.	33.	Execution upon copy of judgment of another justice of the peace.
15.	Warrants and executions issued by, when returnable.	34.	Plaintiffs receipt.
16.	Continuances of cases not to exceed fourteen days.	35.	Judgments of, when a lien.
17.	Removal of cases to other justices, how.	36.	Stay of execution.
18.	Witnesses, power to compel attendance of.	37.	Stay of execution, how entered.
19.	Trials and judgments. New trial, when; judgment by default, when. (See Note to this section.)	38.	When no stay shall be allowed.
		39.	Expirations of time of supersedeas, to enter judgment against whom.
		40.	Appeals to supreme court.
		41.	Bond on appeal.
		42.	Papers to be filed, where, on appeal.
		43.	Commission of, when void.
		44.	Removal of, by supreme court.
		45.	Fees of, fixed by supreme court.
		46.	When sued may plead general issue, etc.
		47.	May make tender in bar of action.

Justices of the peace.

June 7, 1878.
20 Stat., 100, ch.
162. 1 Sup. R. S.,
336.

Appointment.
Number.
Term.
Jurisdiction.

SEC. 1. The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint fifteen justices of the peace within and for the District of Columbia. Said justices of the peace shall be assigned as follows: two in the city of Georgetown, one in Tennallytown, one in Brightwood, one in Uniontown, and ten in the city of Washington. Their term of office shall be four years, subject to removal for cause. They shall respectively have the jurisdiction, exercise the powers and functions, and per-

form the duties as now provided by law for said officers respectively. Said justices of the peace, shall be the successors of the justices of the peace who now hold office in said District, and shall proceed in and close up all such unfinished business of their predecessors as may be brought to their attention by any party in interest, who shall present a transcript of the same, as hereinafter provided. And in like manner they shall proceed in and close up all unfinished business of any predecessor in office appointed under this act. Upon resignation or the expiration of the term of office, they shall make, certify, and deliver transcripts of any proceeding on their docket to any party in interest, or shall deliver said docket, together with all papers in all unfinished business, to their successors in office, at their option, and account for all moneys in their hands. Upon the death or removal¹ of any justice of the peace appointed under this act, his docket, books, and papers of office shall be delivered to his immediate successor in office.*

Unfinished business.

Transcripts of unfinished business.

Succession to dockets.

¹6 Mackey Rep., 47, U. S. vs. Oliver. [See § 1032, R. S. D. C.]

SEC. 2. The terms of office of all justices of the peace, now in office within and for the District of Columbia shall end on the thirtieth day after the approval of this act. They shall issue no process returnable on or after that day, and shall deposit their docket, books, papers, and records pertaining to their office in the office of the clerk of the supreme court of the District of Columbia, who shall, on demand of the parties in interest, deliver to them transcripts, duly certified, together with all papers left or filed with them by said parties in said case or proceeding.

Justices now in office.

Term.

Deposit of dockets.

Ibid., sec. 2.

SEC. 3. The supreme court of the District of Columbia shall have the power to fix the amount and form of the bonds, and approve the same, to be given by said justices of the peace.

Form and amount of bond.

June 7, 1878, 20 Stat., 100, sec. 4; Sup. R. S. 337.

SEC. 4. Justices of the peace shall take an oath for the faithful and impartial discharge of the duties of their office. [See §§ 62, 85.]

Oath of office.

D. C. Feb. 27, 1801, 2 Stat., 107. May 17, 1848, 9 Stat., 229; 3 Cranch, 330, *Wise vs. Withers*; 2 Cranch, C. C., 16, *Neale vs. Minifie*.

Sec. 994, R. S.

SEC. 5. They shall have all the powers vested in, and perform all the duties required of, justices of the peace, as individual magistrates, by the laws in force within the District.

General powers and duties.

Sec. 995, R. S.

D. C.

Ibid.

5 Cranch, C. C., 343, *Holmead vs. Smith*; 5 Cranch, C. C., 505, *Homans vs. Moore*.

SEC. 6. The supreme court of the District shall make and establish rules of practice, and prepare and publish forms of pleadings, for bringing all forms of actions, and the trial thereof, before justices of the peace.

Rules and forms to be prescribed by supreme court.

Sec. 996, R. S.

D. C.

Feb. 22, 1867, 14 Stat., 402.

Jurisdiction.

SEC. 7. Justices of the peace shall have jurisdiction in all civil cases where the amount claimed to be due for debt or damages arising out of contracts, express or implied, or damages for wrongs or injuries to persons or property, does not exceed one hundred dollars, except in cases involving the title to real estate, actions to recover damages for assault, or assault and battery, or for malicious prosecution, or actions against justices of the peace or other officers for misconduct in office, or in actions for slander, verbal or written.

Sec. 997, R. S.

D. C.

Ibid., sec. 1, pp. 401, 402.

6 Mackey Rep.,

504, *Newmeyer vs. Cowling*; 4 Mackey R., 126, *Gross vs. Goldsmith*; 2

vs. *Goldsmith*; 2

[See further jurisdiction, title "Landlord and Tenant."]

Cranch, Ct. R., 444, *Cazenove vs. Darrell*; 2 Cranch, Ct. R., 47, *Porter vs. Rapine*; 2 Cranch, Ct. R., 639, *Milburn vs. Burton*; 2 Cranch, Ct. R., 523, *Maddox vs. Stewart*; 1 Cranch, C. C., 36, *Rutter vs. Merchant*; 2 Cranch, C. C., 258, *Ritchie's admr. vs. Stone*; 2 Cranch, 422, *Adams vs. Kincaid*; 2 Cranch, C. C., 524, *O'Neil vs. Hogan*; 4 Cranch, C. C., 347, *Kennedy vs. Gorman*; 4 Cranch, C. C., 477, *Lenox vs. Arguelles*; 4 Cranch, C. C., 576, *Nicholls vs. Corporation*; 5 Cranch, C. C., 283, *Moore vs. Waters*.

* Is an officer of the United States, 3 Cranch, S. Ct. R., 331, *Wise vs. Withers*. No magistrate shall plead as attorney, 1 Dorsey, sec. 9, p. 25.

Not to exercise criminal jurisdiction. SEC. 8. They shall not exercise any jurisdiction over crimes and offenses, either for examination to commit or hold to bail, or for final judgment.

Sec. 998, R. S.
D. C. July 17, 1870, 16 Stat., 156.

May issue warrants returnable to police-court. SEC. 9. Any justice of the peace may, on complaint under oath or actual view, issue warrants, returnable to the police-court, against persons accused of crimes and offenses committed in the District, and he shall make a record of his proceedings in every case, in a book to be kept for that purpose.

Sec. 999, R. S.
D. C.
Ibid., pp. 156, 157.

Justices to keep docket, etc. SEC. 10. Justices of the peace shall keep a docket, and make regular entries therein of their proceedings in all cases, and shall furnish a copy of any judgment rendered by them, when required by either party to the suit.

Sec. 1000, R. S.
D. C.
Mar. 1, 1823, 3 Stat., 743.

Liability for failure to docket cases. SEC. 11. If any justice of the peace shall omit to keep a docket, or be guilty of any other negligence or omission, by which the plaintiff, having obtained a judgment before such justice, shall lose his debt, the justice shall pay and satisfy to the plaintiff the debt, interest, and costs, so lost, to be recovered against the defaulting justice for the amount, together with any interest that may have accrued thereon.

Sec. 1001, R. S.
D. C.
Ibid., sec. 4.

Non-residents must first give security for costs. SEC. 12. Non-residents of the District shall not commence suit before any justice of the peace without first giving sufficient security for costs.

Sec. 1002, R. S.
D. C. Feb. 22, 1867, 14 Stat., 402.

Original writs. SEC. 13. Justices of the peace may issue original writs in civil cases, returnable before themselves.

Sec. 1003, R. S.
D. C.
22 Feb., 1867, c. 63, 14 Stat., 402. 2 Cranch, Ct. R., 337, *White vs. Corporation*.

Warrants shall be directed to constable. SEC. 14. That all warrants issued by any justice of peace for the recovery of small debts, shall be directed to some constable [unless (at the request of such suitor,) it be directed to some friend who will serve it *gratis*, such suitor nevertheless being hereby made liable to pay the constable where such warrant is served his just fee.]*

Md. act 1719, ch. 12, sec. 4.
1 Kilty, 159.
1 Dorsey, 50.

Warrants and executions when returnable. SEC. 15. That all warrants and executions in virtue of this act shall be made returnable at a certain day, not exceeding forty days after the test thereof, before the justice issuing the same, or some other justice of the peace for the same county. [See § 1039, R. S. D. C.]

Md. act 1791, ch. 68, sec. 6.
1 Dorsey, 280. 2 Kilty, 335.

Continuances not exceeding fourteen days. SEC. 16. And, whereas frequently witnesses may be wanting, or the parties not prepared to make good their allegations immediately on the appearance of a defendant, so that a further time may be necessary to examine into the matter of controversy:

Md. act 1791, ch. 68, sec. 2.
1 Dorsey, 278.

Be it enacted, That when any defendant shall be brought on warrant before any justice of the peace, such justice may, if he in his discretion shall think fit, give and allow to such defendant a future certain day, not exceeding fourteen days, to appear before such justice.

Removal of causes on change of venue. SEC. 17. Any party to such suit, his agent or attorney, may have the cause removed to the nearest justice upon filing an affidavit with

*The words in brackets repealed by sec. 1038, R. S. D. C. See "Constables," sec. 6.

the justice issuing the writ, on the return-day or day of trial of the action, that he does not believe said justice will give him a fair and impartial trial on account of prejudice or other reasonable cause.

Sec. 1004, R. S. D. C. Ibid.; 2 Cranch, C. C., 356. *Boothe vs. Corporaton.*

WITNESSES.

SEC. 18. Justices of the peace have power to compel the attendance of witnesses by attachment, and to punish them by fine not exceeding ten dollars, or by imprisonment not exceeding ten days, for refusing obedience to a summons.

Witnesses. power to compel attendance of. Sec. 1005, R. S. D. C. 17 May, 1848, ch. 42, sec. 14, v. 9, p. 229.

TRIAL AND JUDGMENT.

SEC. 19. It shall be lawful for any justice of the peace in all cases within his jurisdiction to try, hear, and determine the matter in controversy between the creditor and debtor, their executors and administrators, and upon full hearing of the allegations and evidence of both parties, to give judgment, according to law and the equity and right of the matter.* [See § 825, R. S. D. C.]

Trials and judgments. Sec. 1006, R. S. D. C. 1 Mar., 1823, ch. 24, sec. 1, v. 3, p. 743.

6 Mackey Rep., 510, *Newmeyer vs. Cowling*; 5 Cranch, C. C., 124, *Foy vs. Talburt*; 5 Cranch, C. C., 509, *Ennis vs. Holmead*.

SEC. 20. Judgments shall bear interest from their date until paid or satisfied.

Interest on judgments. Sec. 1007, R. S. D. C. Ibid.

RENEWAL OF JUDGMENTS.

SEC. 21. Where a judgment shall have continued for more than one year, and shall not be paid or satisfied, it shall be lawful for the justice before whom the judgment shall have been obtained, or for any other justice of the peace, to revive the same by scire facias, which shall be made returnable on a certain day, not exceeding forty days from the time of issuing the same, to himself, or any other justice of the peace in the District.

Renewal of judgments by scire facias. Sec. 1008, R. S. D. C. Ibid., sec. 11, p. 745.

JURY TRIALS.

SEC. 22. In every action where the sum demanded shall exceed twenty dollars, it shall be lawful for either of the parties to the suit, after issue joined, and before the justice shall proceed to inquire into the merits of the cause, to demand of the justice that such action be tried by a jury.

Parties may demand a trial by jury. Sec. 1009, R. S. D. C. Ibid., sec. 15, p. 746.

SEC. 23. Upon such demand the justice shall issue a venire, under his hand and seal, directed to any constable in the District, commanding him to summon twelve jurors, to be and appear before the justice issuing such venire, at such time and place as shall be therein expressed.

Venire. Sec. 1010, R. S. D. C. Ibid.

SEC. 24. The jurors thus summoned shall possess the qualifications and be subject to the exceptions provided for jurors by law.

Qualification of jurors. Sec. 1011, R. S. D. C. Ibid.

[See §§ 872, 875, R. S. D. C.]

SEC. 25. If any of the persons summoned and returned as jurors shall not appear, or shall be challenged and set aside, the justice before whom the cause is to be tried shall direct the constable to summon, and return forthwith, talesmen, so as to make up the number of twelve, after all causes of challenge are disposed of by the justice.

Talesmen. Sec. 1012, R. S. D. C. Ibid., sec. 16.

* May in his discretion, within four days after judgment, open case and grant new trial. 20 Min. Genl. Term, p. 101. Oct. 25, 1872.

Oath of jurors. SEC. 26. The twelve persons shall be the jury who shall try the cause, each of whom shall be sworn by the justice, well and truly to try the matter in difference between the parties, and a true verdict to give, according to evidence.
 Sec. 1013, R. S. D. C.
 Ibid.

Trial public. SEC. 27. The jury being sworn, shall sit together, and hear the proofs and allegations of the parties in public.
 Sec. 1014, R. S. D. C. 1 Mar., 1823, ch. 24, sec. 16, v. 3, p. 746. 3 Cranch, C. C., 217, Denny vs. Queen; 3 Cranch, C. C., 348, Smith vs. Chase.

Constable's oath. SEC. 28. The justice shall then administer to the constable the following oath: "You do swear, that you will keep this jury together in some private room, without meat or drink, except water; that you will not suffer any person to speak to them, nor will you speak to them yourself unless by order of the justice, until they have agreed on their verdict."
 Sec. 1015, R. S. D. C.
 Ibid., pp. 746, 747.

Verdict. SEC. 29. When the jurors have agreed on their verdict, they shall deliver the same publicly to the justice.
 Sec. 1016, R. S. D. C. Ibid., p. 747.

Judgment and execution. SEC. 30. The justice shall give judgment thereon forthwith, and may issue execution accordingly.
 Sec. 1016, R. S. D. C. Ibid.

EXECUTIONS.

Fieri facias. SEC. 31. Justices of the peace are authorized to issue writs of execution in all cases in which they are empowered to render judgment.
 when empowered to issue. [See § 912, R. S. D. C.]
 Sec. 1018, R. S. D. C. Ibid., sec. 13, p. 746.

Property subject to execution. SEC. 32. The plaintiff is entitled to have his execution against the goods and chattels, lands and tenements, rights and credits of the defendant, subject to the exemptions mentioned in section seven hundred and ninety-seven.
 Sec. 1019, R. S. D. C. [See §§ 797, 802, 982, 1286, R. S. D. C. See 1 Sup. R. S. 373, ch. 321, § 1.]
 24 June, 1812, ch. 106, sec. 15, v. 2, p. 759. 5 Feb., 1867, ch. 30, v. 14, pp. 389, 390.

Execution upon copy of judgment of another justice of the peace. SEC. 33. Upon a copy of any judgment rendered by a justice of the peace, any other justice of the peace is authorized to issue execution in the same manner as executions are issued by the clerk of the supreme court of the District, which shall be returned within twenty days after being issued, to the justice who gave the judgment.
 Sec. 1020, R. S. D. C. 1 Mar., 1823, ch. 24, sec. 3, v. 3, p. 743.

Plaintiff's receipt. SEC. 34. No return, judgment, or execution, shall be received or recorded as satisfied, by justices of the peace, without the receipt of the plaintiff annexed thereto.
 Sec. 1021, R. S. D. C.
 Ibid., sec. 10, p. 745.

LIENS.

Judgments a lien, when. SEC. 35. After judgment for a debt amounting with interest to twenty dollars, exclusive of costs, before a justice of the peace, the judgment-creditor may, when execution is returned "No personal property found whereon to levy," file in the clerk's office of the supreme court of the District a certified copy of such judgment, which shall be docketed in the docket of law causes in said office, in the same manner as appeals from justices are docketed there; and when so docketed, the force and effect of the judgment shall be the same, as to lien and execution, as if it had been a judgment of the supreme court.
 Sec. 1022, R. S. D. C.
 1 June, 1870, ch. 115, sec. 2, v. 16, pp. 146, 147.

SUPERSEDEAS.

SEC. 36. On all judgments rendered by a justice of the peace, except as provided in section ten hundred and twenty-five, stay of execution may be had upon good and sufficient security being entered by a person who may be at the time the owner of sufficient property located in the District, above all liabilities and exemptions, to secure the debt, costs, and interest.

Stay of execution.

Sec. 1023, R. S. D. C.

22 Feb., 1867, ch. 63, sec. 3, v. 14, p. 402.

SEC. 37. In such cases stay of execution shall be entered as follows :

Stay of execution; how entered.

For the sum of five dollars, and not exceeding twenty dollars, one month;

Sec. 1024, R. S. D. C.

Ibid.

For all sums over twenty dollars, and not exceeding forty dollars, two months;

For all sums over forty dollars, and not exceeding seventy-five dollars, four months;

For all sums exceeding seventy-five dollars, six months.

SEC. 38. There shall be no stay of execution on any judgment for the wages of a servant or common laborer, nor upon any judgment for a less sum than five dollars; but in such cases execution may issue immediately, and judgments shall be entered within two days after the trial of the action.

When no stay shall be allowed.

Sec. 1025, R. S. D. C.

22 Feb., 1867, ch. 63, sec. 3, v. 14, p. 402.

SEC. 39. Any justice of the peace, before whom supersedeas may be taken, or any other justice of the peace, shall, at the request of the plaintiff, or any person authorized by, or on behalf of, the plaintiff, issue execution against the principal debtor and his sureties, or either of them, after the expiration of the time mentioned in the supersedeas.

Expiration of time of supersedeas, to enter judgment against whom.

Sec. 1026, R. S. D. C.

1 Mar., 1833, ch. 24, sec. 9, v. 3, p. 745.

APPEALS.

SEC. 40. Where the debt or demand exceeds five dollars, and either the plaintiff or defendant shall think himself aggrieved by the judgment of a justice of the peace, he shall be at liberty to appeal to the next term of the supreme court of the District, and the appeal shall be there heard and determined as provided in section seven hundred and seventy-four to section seven hundred and seventy-nine, inclusive.

Appeals to supreme court.

Sec. 1027, R. S. D. C.

Ibid., sec. 7, p. 744.

22 Feb., 1867, ch. 64, sec. 2, v. 14, p. 104.

[See §§ 774, 779, R. S. D. C.] 3 Cranch, C. C., 212, Thornton *vs.* Corporation; 5 Cranch, C. C., 381, Owner *vs.* Corporation.

SEC. 41. No appeal shall be allowed from a judgment of a justice of the peace, unless the appellant, with sufficient surety, approved by the justice, enters into an undertaking to satisfy and pay all intervening damages and costs arising on the appeal.

Bond on appeal.

Sec. 1028, R. S. D. C.

Ibid., sec. 1.

SEC. 42. When such undertaking has been entered into, the justice shall immediately file the original papers, including a copy of his docket-entries, in the office of the clerk of the supreme court of the District.

On appeal, papers to be filed where.

Sec. 1029, R. S. D. C. Ibid., sec. 2.

REMOVAL, RESIGNATION, ETC.

SEC. 43. Upon indictment and conviction of any justice of the peace of incompetency, habitual drunkenness, corruption in office, or of any other willful misconduct in the discharge of his official duties, his commission shall be void, and he shall cease to exercise the office and powers of justice of the peace.

Commission of justice void, when.

Sec. 1030, R. S. D. C.

17 May, 1848, ch. 42, sec. 15, v. 9, p. 229. 6 Mackey Rep., 47, U.S. *vs.* Oliver; 4 Cranch, C. C., 506, U.S. *vs.* Clark.

Removal by supreme court. SEC. 44. The supreme court has power, at a general term, to remove justices of the peace after due notice, and an opportunity to be heard in their defense, and for causes to be assigned in the order of removal.

Sec. 1031, R. S. D. C.
3 Mar., 1864, ch. 91, sec. 14, v. 12, p. 764.

FEES.

Fees, how established. SEC. 45. The supreme court shall fix and determine a bill of fees and costs to be taxed and charged by justices of the peace in all civil suits.

Sec. 1034, R. S. D. C.
22 Feb., 1867, ch. 63, sec. 2, v. 14, p. 402.

Justices and constables sued may plead general issue, etc. SEC. 46. That if any action, bill, plaint or suit upon the case, trespass, battery or false imprisonment shall be brought against any justice of peace, or constable, for or concerning any matter, cause or thing, by them or any of them done, by virtue or reason of their, or any of their office or offices, that it shall be lawful to and for every such justice of peace, or constable, and all others which in their aid or assistance, or by their commandment shall do any thing touching or concerning his or their office or offices, to plead the general issue, that he or they are not guilty, and to give such special matter in evidence to the jury which shall try the same, which special matter being pleaded, had been a good and sufficient matter in law to have discharged the said defendant or defendants of the trespass, or other matter laid to his or their charge.

7 James I, ch. 5, A. D. 1609.
Alex. Brit. Stat., 434, 435.
Kilty's Rep., 236.

Justice may make tender in bar of action. SEC. 47. That it shall and may be lawful to and for such justice of the peace, at any time within one calendar month after such notice given as aforesaid, to tender amends to the party complaining, or to his or her agent or attorney; and in case the same is not accepted, to plead such tender in bar to any action to be brought against him, grounded on such writ or process, together with the plea of not guilty, and any other plea, with the leave of the court; and if upon issue joined thereon the jury shall find the amends so tendered to have been sufficient, then they shall give a verdict for the defendant; and in such case, or in case the plaintiff shall become nonsuit, or shall discontinue his or her action, or in case judgment shall be given for such defendant or defendants upon demurrer, such justice shall be intitled to the like costs as he would have been intitled unto in case he had pleaded the general issue only; and if upon issue so joined the jury shall find that no amends were tendered, or that the same were not sufficient, and also against the defendant or defendants on such other plea or pleas, then they shall give a verdict for the plaintiff, and such damages as they shall think proper, which he or she shall recover, together with his or her costs of suit.

24 George II, ch. 44, sec. 2, A. D. 1751.
Alex. Brit. Stat., 780.
Kilty's Rep., 253.

CHAPTER THIRTY-EIGHT.

LANDLORD AND TENANT.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Power of seizure of chattels for rent by landlord in person abolished. 2. Landlord to have tacit lien on chattels on premises. 3. How tacit lien may be enforced. 4. Tenancy at will and by sufferance. 5. How determined. 6. Prior contracts not affected. 7. Attornment by tenant to stranger void. 8. Forceful entry and detainer, etc. Remedy and procedure. | <p>Sec.</p> <ol style="list-style-type: none"> 9. Summons to defendant, how served. 10. Trial and judgment; execution for costs. 11. When defendant pleads title, proceedings. 12. Appeals, how taken and tried. 13. Appeal by defendant, additional bond required. 14. If jury find for plaintiff, it shall assess damages; on default court shall assess. 15. Fees of justice and officer. |
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| <p>Sec.</p> <p>16. Government not to rent buildings except under appropriations.</p> <p>17. A distress shall not be driven out of the county, and it shall be reasonable.</p> <p>18. Agents to account; remedy for failure.</p> <p>19. Waste by tenants; answerable in damages.</p> <p>20. Damages and costs recoverable in several actions.</p> <p>21. Action of waste against several tenants.</p> <p>22. Process in action of waste; inquiry.</p> <p>23. Deeds and assignments by forcible entrymen void.</p> <p>24. Damages for forcible entry and detainer.</p> <p>25. Limitation as to preceding section.</p> <p>26. Lessees of owners liable for waste by assignees; proviso.</p> <p>27. Like process in every writ of annuity and covenant as an action of debt; action upon 5 Richard II like trespass.</p> <p>28. Leases by tenants in fee or for term of life, when valid. Lease for seven years or more must be recorded.</p> <p>29. Proviso to preceding section.</p> <p>30. Proviso to second next preceding section.</p> <p>31. Proviso to third next preceding section.</p> <p>32. Grantees of reversioners may take advantage of covenants, etc., against lessees.</p> <p>33. Lessees to have advantage of covenants against grantees of reversions.</p> <p>34. Executors or administrators of tenants in fee, etc., may recover arrearages of rent and distress of same.</p> <p>35. Husband's remedy for rent due in the right, and in the life and after death, of wife, etc.</p> <p>36. Executors or administrators of life tenant may sue lessee for rent due and distrain.</p> <p>37. Sale of goods distrained for rent.</p> <p>38. Corn, hay, etc., on leased premises may be seized and detained for rent due, and sold.</p> <p>39. Treble damages for pound breach.</p> <p>40. Damages and costs against wrongful distrainer.</p> <p>41. Goods taken in execution, subject to payment of rent due by plaintiff, to be refunded out of goods levied.</p> <p>42. Arrears of rent, action for against life tenant.</p> <p>43. Sale of goods distrained, etc.</p> <p>44. Arrears of rent on expired lease, how distrained.</p> <p>45. Double rent collected against tenants, etc., willfully holding over.</p> <p>46. Reentry of lessor when rent is six months in arrear; when lessor may recover in ejectment; rights of mortgagee of lease.</p> <p>47. Proceedings in ejectment not to be enjoined except by payment into court of money to cover arrearages of rent and costs, etc.</p> | <p>Sec.</p> <p>48. Ejectment suit to cease, tenant paying all rent due and costs.</p> <p>49. Recovery of seck, etc. rents, etc.; limitation.</p> <p>50. Chief leases may be renewed without surrender of all under leases.</p> <p>51. Goods fraudulently carried off leased premises may be distrained wherever found, within thirty days, for rent due; sale.</p> <p>52. Proviso to next preceding section, as to bona fide sales.</p> <p>53. Damages payable to landlord by tenant and those assisting for fraudulently removing goods, etc., from leased premises.</p> <p>54. Recourse of landlords to recover value of the goods fraudulently carried off the leased premises.</p> <p>55. Appeal by defendants.</p> <p>56. Landlords may break open house to seize goods fraudulently secured therein.</p> <p>57. Landlords may distrain stock, cattle, or crops of tenant on leased premises for arrears of rent.</p> <p>58. Notice of lodgment of property distrained; payment of rent due, crops not to be cut.</p> <p>59. Property distrained may be secured and sold on the premises; appraisal, selling, etc. Provision against pound rescue.</p> <p>60. Attornments by tenants void; exceptions.</p> <p>61. Tenant to notify landlord of ejectment notice served.</p> <p>62. In ejectment against tenant landlord may become party.</p> <p>63. Rent for use and occupation recovered where demise not by deed.</p> <p>64. Rents recoverable from under tenant where life tenant dies before expiration of lease.</p> <p>65. Tenant liable to pay double rent for holding after time they fixed for quitting.</p> <p>66. Tenant may recover damages for irregularities in lawful distraint.</p> <p>67. Proviso to preceding section.</p> <p>68. General issue pleadable in actions against persons entitled to rents; defendant, when may recover double costs.</p> <p>69. Landlord's plea in replevin of distress; costs on nonsuit, etc.</p> <p>70. Infants, lunatics, and <i>femmes covert</i> enabled to surrender leases in order to renew the same.</p> <p>71. Charges, etc., for renewing such leases to be paid out of estate of party benefited.</p> <p>72. Renewed leases to be subject to same trusts, etc., as surrendered leases.</p> <p>73. Surrenders and renewals valid, legal as if, etc.</p> <p>74. Lunatics entitled to renew leases, their guardians and committees to accept surrender of old and grant new leases.</p> <p>75. Such renewals to be valid, etc.</p> <p>76. Net moneys received for renewal of such leases to be paid to committee, etc. Distribution of unexpended balance on death of lunatic.</p> |
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Power of seizure of chattels for rent by landlord in person abolished.

SEC. 1. The power claimed and exercised as of common right by every landlord, of seizing, by his own authority, the personal chattels of his tenant for rent arrear, is abolished.*

Sec. 677, R. S. D. C. Feb. 22, 1867. 14 Stat., 404. 2 Mackey Rep., 36, Johnson *vs.* Douglass; 6 Mackey Rep., 330, Condon *vs.* Gray.

Landlord to have tacit lien of chattels on premises.

SEC. 2. The landlord shall have a tacit lien upon such of the tenant's personal chattels, on the premises,¹ as are subject to execution for debt, to commence with the tenancy and continue for three months after the rent is due, and until the termination of any action for such rent brought within the said three months.

Sec. 678, R. S. D. C.

Ibid.
2 Mackey Rep., 209, Wallach *vs.* Chesley; 15 Wallace Rep., 601, Holdane *vs.* Sumner. 1 MacArthur Rep., 567, Joyce *vs.* Wilkenning; 1 Mackey Rep., 35, Gibson *vs.* Ganter; 3 MacArthur Rep., 90, Hechtman *vs.* Sharp; 1 Mackey Rep., 102, Fox *vs.* Davidson; 2 Mackey Rep., 42, Johnson *vs.* Douglass; 3 Mackey Rep., 90, Harris *vs.* Dammann; 94 U. S. Rep., 382, Beall *vs.* White; 1 MacArthur Rep., 509, White *vs.* Freedman's Bank; 13 Wall., 14, Webb *vs.* Sharp; 15 Wall., 328, Fowler *vs.* Rapley.

How tacit lien may be enforced.

SEC. 3. This lien may be enforced:
First. By attachment, to be issued upon affidavit that the rent is due and unpaid; or, if not due, that the defendant is about to remove or sell all or some part of said chattels; or,

Sec. 679, R. S. D. C.

Feb. 22, 1867.
14 Stat., 404.

2 Mackey Rep., 216, Wallach *vs.* Chesley; 4 Mackey Rep., 126, Gross *vs.* Goldsmith; 1 MacArthur Rep., 509, White *vs.* Bank.

Second. By judgment against the tenant and execution, to be levied on said chattels or any of them, in whosoever hands they may be found; or,

Third. By action against any purchaser of any said chattels, with notice of the lien, in which action the plaintiff may have judgment for the value of the chattels purchased by the defendant, but not exceeding the rent, arrear, and damages. [See §§ 732, 808, R. S. D. C.]

Tenancy at will and by sufferance.

SEC. 4. A tenancy at will shall not arise or be created without an express contract or letting to that effect, and all occupation, possession, or holding of any messuage of real estate without express contract or lease, or by such contract or lease the terms of which have expired, shall be deemed and held to be tenancies by sufferance.

Sec. 680, R. S. D. C.

1 MacArthur Rep., 347, Luchs *vs.* Jones; 2 Mackey, 458, Waggaman *vs.* Bartlett; 22 W. L. Rep., 398, Loring *vs.* Bartlett; 9 Mackey Rep., 317, Jennings *vs.* Webb.

How determined.

SEC. 5. All estates at will and sufferance may be determined by a notice, in writing, to quit, of thirty days, delivered to the tenant in hand, or to some person of proper age upon the premises, or, in the absence of such tenant or person, then such notice may be served by affixing the same to a conspicuous part of the premises, where it may be conveniently read.

Sec. 681, R. S. D. C.

4 July, 1864, ch. 243, sec. 1, v. 13, p. 383.

2 Mackey Rep., 450, Waggaman *vs.* Bartlett; 6 D. C. Rep., 49, Adams *vs.* Horr; 6 Mackey Rep., 526, D. C. *vs.* Rapley; 14 Court of Claims Rep., 493, Semmes *vs.* U. S.

Provisions not applicable to prior contracts.

SEC. 6. The provisions of the two preceding sections shall not apply to contracts made, or to any tenancy existing prior to July fourth, eighteen hundred and sixty-four, except in cases of waste or refusal to pay rent.

Sec. 682, R. S. D. C.

6 Mackey Rep., 534, D. C. *vs.* Rapley.

Attornment to stranger void.

SEC. 7. The attornment of a tenant to a stranger shall be void, and shall not affect the rights of the landlord, unless it be made with the consent, express or implied, of the landlord.

Sec. 683, R. S. D. C.

[See § 60 of this chapter, 11 Geo. II, ch. 19, § 11.]

* Penalty for knowingly renting house or room for gambling purposes. See 1 Leg. Assem., ch. 16, p. 16, July 20, 1871. See *ante* Title "Gambling," sec. 8.

SEC. 8. When forcible entry is made, or when a peaceable entry is made and the possession unlawfully held by force, or when possession is held without right, after the estate is determined by the terms of the lease by its own limitation, or by notice to quit, or otherwise, on written complaint on oath of the person entitled to the premises, to a justice of the peace, charging such forcible entry or detainer of real estate, a summons may be issued to a proper officer, commanding the person complained of to appear and show cause why judgment should not be rendered against him.*

In case of forcible entry or detainer; complaint and summons.
 Sec. 684, R. S. D. C.
 Ibid., sec. 2, pp. 383, 384.
 6 D. C. Rep., 123, *Spalding vs. Hall*;
 2 MacArthur Rep., 427, *Fiske vs. Bigelow*; 129 U. S. Rep., 366, *Barber vs. Harris*; ibid., 6 Mackey Rep., 586; 22 W. Law Rep., 398, *Loring vs. Bartlett*; 9 Mackey Rep., 317, *Jennings vs. Webb*.

SEC. 9. The summons shall be served like other writs of summons at least seven days before the appearance of the party complained of, but in case such party has left the District of Columbia, or can not be found, said summons may be served by delivering a written or printed, or partly written and partly printed copy thereof to the tenant, or to the agent or attorney of the defendant if he be known, or leaving the same with some person of suitable discretion above the age of sixteen years residing on or in possession of the premises and in case no one is in actual possession of said premises or residing thereon, then by posting a copy of said summons on the premises where it may be conveniently read.

Serving summons.

Sec. 685, R. S. D. C.
 As amended July 9, 1888.
 25 Stat., 247.

SEC. 10. If it appears by default or upon trial that the complainant is entitled to the possession of the premises, he shall have judgment and execution for the possession and costs; if the complainant becomes nonsuit, and fails to prove his right to possession, the defendant shall have judgment and execution for his costs.

Trial and judgment.

Sec. 686, R. S. D. C.
 13 Stat., 384.
 July 4, 1864.
 Ibid.

SEC. 11. If, upon trial, defendant pleads title to the premises in himself, or in another person under whom he claims the premises, he shall recognize in a reasonable sum to the complainant, to be fixed by said justice, with sufficient sureties, conditioned to pay all intervening damages and costs and reasonable intervening rent for the premises; and the complainant shall in like manner recognize to the defendant conditioned to enter the suit at the next term of the supreme court of the District, and pay all costs adjudged against him; and thereupon the proceedings shall be certified to said court by the justice. If either party neglects so to recognize, judgment shall be rendered against him as on nonsuit or default, and execution shall issue accordingly.

When defendant pleads title; proceedings.

Sec. 687, R. S. D. C.
 Ibid., sec. 3, p. 384.
 2 MacArthur Rep., 427, *Fiske vs. Bigelow*; 2 Mackey Rep., 160, *Waggaman vs. Randall*; 9 Mackey Rep., 317, *Jennings vs. Webb*.

SEC. 12. Either party against which judgment is rendered by a justice of the peace, may appeal from such judgment to the supreme court of the District, in the same manner as appeals are taken to the court in other cases, and such appeals shall be tried in the same manner, and further proceedings had therein, according to the practice in appeals in other cases.

Appeals and how made.

Sec. 688, R. S. D. C.
 Ibid., sec. 4.

SEC. 13. In case of an appeal by a defendant, he shall, in addition to the bail required in other cases, recognize in a reasonable sum to the complainant, to be fixed by the justice, with sufficient sureties, conditioned to pay all intervening damages to the leased property resulting from waste and intervening rent for the premises.

Appeal by defendant; additional bond.

Sec. 689, R. S. D. C.
 Ibid.

3 MacArthur Rep., 72, *Kirk vs. Cole*.

*The offense of forcible entry punished by 5 Richard II, ch. 8. See authorities: 6 D. C. Rep., 45, *Adams vs. Horr*; 6 D. C. Rep., 53, *C. S. vs. Griffin*. See title "Crimes and offenses."

If jury find for complainant, damages. SEC. 14. On the trial of the suit in the supreme court of the District, if the jury find for complainant, they shall assess the damages and intervening rent; and in case of default the same shall be assessed by the court.

Sec. 690, R. S. D. C. July 4, 1864. 13 Stat., 374.

Fees of justice and officer. SEC. 15. The fees of the justice issuing the process, and hearing the issue, and making up the record, and certifying the same, and of the officer for serving the process, shall be those allowed in civil causes.

Sec. 691, R. S. D. C. Ibid.

Contracts for rent of buildings in District of Columbia not to be made without previous appropriations, etc. SEC. 16. Hereafter no contract shall be made for the rent of any building, or part of any building, to be used for the purposes of the Government in the District of Columbia, until an appropriation therefor shall have been made in terms by Congress, and that this clause be regarded as notice to all contractors or lessors of any such building or any part of building.

Mar. 3, 1877. 19 Stat., 370. R. S., secs. 3679, 3732. 1874, June 22, ch. 388. 1880, June 15, ch. 225, par. 3. 15 Opin. Att'y Gen., 274.

A distress shall not be driven out of the county and it shall be reasonable. SEC. 17. No one from henceforth shall cause any distress that he hath taken, to be driven out of the county where it was taken; (2) And if one neighbour do so to another of his own authority, and without judgment, he shall make fine (as above is said) as for a thing done against the peace; (3) Nevertheless, if the lord presume so to do against his tenant, he shall be grievously punished by americiament. (4) Moreover, distresses shall be reasonable, and not too great. (5) And he that taketh great and unreasonable distresses, shall be grievously amerced for the excess of such distresses.

52 Henry III, ch. 4, sec. 1, A. D. 1267. Alex. Brit. Stat., pp. 41, 42. Kilty's Rep., 209.

A remedy against accomptants; fermors shall make no waste.

Bailiffs to account; remedy for failure. SEC. 18. *It is provided also,* That if bailiffs, which ought to make accompt to their lords, do withdraw themselves, and have no lands nor tenements whereby they may be distrained; then they shall be attached by their bodies, so that the sheriff, in whose bailiwick they be found, shall cause them to come to make their accompt.

52 Henry III, ch. 23, sec. 1, A. D. 1267. Alex. Brit. Stat., 46. Kilty's Rep., 209. 1 Sup. R. S., 305, ch. 12.

Waste by tenants; damages recoverable. SEC. 19. Also fermors,* during their terms, shall not make waste, sale or exile of house, woods, and men, nor of any thing belonging to the tenements, that they have to ferm, without special license had by writing of covenant, making mention, that they may do it; which thing if they do, and thereof be convict, they shall yield full damage, and shall be punished by americiament grievously.

Ibid., sec. 2.

Damages recoverable in several actions. SEC. 20. And whereas before time damages were not taxed, but to the value of the issues of the land, (2) it is provided, that the demandant may recover against the tenant, the costs of his writ purchased, together with the damages abovesaid. (3) And this act shall hold place in all cases where the party is to recover damages. (4) And every person from henceforth shall be compelled to render damages, where the land is recovered against him, upon his own intrusion, or his own act.

6 Edward I, ch. 1, sec. 2, A. D. 1278. Alex. Brit. Stat., 78, 79. Kilty's Rep., 210.

* Fermors in this statute comprehend all who hold by lease for life or lives or for years with or without deed, and whether rent be reserved or not. 2 Inst. 145. Assignees of such tenants are included in the statutes against waste (Sanders vs. Norwood, Cro. Eliz. 683), and tenant from year to year (Co. Litt. 54 b.), or any less time, as half a year, or twenty weeks. 2 Inst., 302.

SEC. 21. *It is provided also*, That a man from henceforth shall have a writ of waste in the chancery against him that holdeth by law of England, or otherwise for term of life, or for term of years, or a woman in dower. (2) And he which shall be attainted of waste, shall leese the thing that he hath wasted, and moreover shall recompense thrice so much as the waste shall be taxed at. (3) And for waste made in the time of wardship, it shall be done as is contained in the Great Charter. (4) And where it is contained in the Great Charter, that he which did waste during the custody, shall lose [leese] the wardship, (5) it is agreed that he shall recompense the heir his damages for the waste, if so be that the wardship lost do not amount to the value of the damages before the age of the heir of the same wardship.

Action of waste maintainable against several tenants.

6 Edward I. ch. 5, sec. 1. A. D. 1278.
Alex. Brit. Stat., 83, 84.
Kilty's Rep., 211.
3 Cranch, Ct. Rep., 340, *Thurston vs. Mustin*.

SEC. 22. Whereas for waste done in the inheritance of any person, by guardians, tenants in dower, tenants by the courtesie of England, or otherwise for term of life, or years, a writ of prohibition of waste hath been used to be granted, by which writs many were deceived, thinking that such as had done the waste should not need to answer but only for waste done after the prohibition to them directed; (2) our lord the King, to remove from henceforth this error, hath ordained, that of all manner of waste done to the damage of any person, there shall from henceforth be no writ of prohibition awarded, but a writ of summons, so that he of whom complaint is shall answer for waste done at any time; (3) and if he come not after the summons, he shall be attached, and after the attachment he shall be distrained; (4) and if he come not after the distress, the sheriff shall be commanded that in proper person he shall take with him twelve, &c. and shall go to the place wasted, and shall enquire of the waste done, and shall return an inquest, and after the inquest returned, they shall pass unto judgment, like as is it contained in the statute of Gloucester.

Process in an action of waste; writ of inquiry.

13 Edward I, ch. 14, A. D. 1285, sec. 1.
Alex. Brit. Stat., 117, 118.
Kilty's Rep., 212.

20 Md. Rep., 165, *Hubbard vs. Mowbray*; 118 U. S. Rep., 537, *Erhardt vs. Boaro*; 27 Md. Rep., 36, *Baugher vs. Crane*; 1 Md. Chy. Dec., 483, *Childs vs. Smith*.

Sec. 23. * * * If any person, after [*forcible*] entry into lands or tenements holden with force, make a feoffment or other discontinuance to any lord or other person, to have maintenance, or to take away and defraud the possessor of his recovery in any wise, if after in an assise, or other action thereof to be taken or pursued before justices of assises, or other the King's justices whatsoever, by due inquiry thereof to be taken, the same feoffments and discontinuances may be duly proved to be made for maintenance, as afore is said, that then such feoffments, or other discontinuance, so as before made, shall be void, frustrate, and holden for none.

Deeds and assignments by forcible entrymen void.

8 Henry VI, ch. 9, part of sec. 3, A. D. 1429.
Alex. Brit. Stat., 228, 229.
Kilty's Rep., 227.

SEC. 24. And moreover, if any person be put out, or disseised of any lands or tenements in forcible manner, or put out peaceably, and after holden out with strong hand; or, after such entry, any feoffment or discontinuance in any wise thereof be made to defraud and take away the right of the possessor, that the party grieved in this behalf shall have assise of novel disseisin, or a writ of trespass against such disseisor. (2) And if the party grieved recover by assise, or by action of trespass, and it be found by verdict, or in other manner by due form in the law, that the party defendant entered with force into the lands and tenements, or them after his entry did hold with force, that the plaintiff shall recover his treble damages against the defendant; (3) and moreover, that he make fine and ransom to the King.

Damages for forcible entry and detainer.

Ibid., sec. 6.
Alex. Brit. Stat., 230, 231.

SEC. 25. *Provided always*, That they which keep their possessions with force in any lands and tenements, whereof they or their ancestors, or they whose estate they have in such lands or tenements, have continued their possessions in the same by three years or more, be not endamaged by force of this statute.

Limitation as to preceding section.

Ibid., sec. 7.

Lessees of owners liable for waste committed by assignees: proviso.

11 Henry VI. chap. 5, sec. 1, A. D. 1433.
Alex. Brit. Stat., 243.
Kilty's Rep., 227.

SEC. 26. Item, Because that divers people in times past have let their lands and tenements to divers persons, that is to say, some for term of life or of another man's life, and some for term of years, the said tenants have oftentimes let and granted their estate which they had in the same lands and tenements, to many persons, to the intent that they in the reversion, that is to say, their lessors, their heirs, or their assigns, might not have knowledge of their names, and after the said first tenants continually occupy the said lands and tenements, and thereof take the profits to their proper use, and in the said lands and tenements commit waste and destruction, to the disheritance of them in the reversion: (2) it is ordained and established, that they in the reversion in such case may have and maintain a writ of waste against the said tenants for term of life, of another's life, or for years, and so recover against them the place wasted, and their treble damages, for the waste by them done, as they ought to have done for the waste committed by them before the said grant and lease of their estate. (3) *Provided always*, That this ordnance hold not place, but where the first tenants before the lease and grant of their said estates, in the manner and form abovesaid, were punishable of waste; (4) and also where after the said grant and lease the said first tenants of the said lands and tenements take the profits at the time of the waste done, to their own proper use.

Like process in every writ of annuity and covenant as in action of debt: action upon 5 Richard II, like trespass.

23 Henry VIII. ch. 14, sec. 1, A. D. 1531.
Alex. Brit. Stat., 287.
Kilty's Rep., 231

SEC. 27. Forasmuch as there is great delay in actions of trespass brought upon the statute of Richard the Second, made in the fifth year of his reign, against them that make entries into any lands or tenements where there entry is not given by the law, (and also in actions of annuity, and actions of covenant, because there lieth no process of outlawry in such nature of actions:) (2) For reformation whereof, it may please the King's highness, by the advice of the lord's spiritual and temporal, and the commons, in this present Parliament assembled, and by authority of the same, to ordain and enact, that like process be had hereafter in every action from henceforth to be brought upon the said statute of *anno quinto*, as in a common action of trespass at the common-law, (3) and that also like process be had in every writ of annuity, and covenant hereafter to be sued, as is in an action of debt.

Leases by tenants in fee, etc., for term of years or for term of life; when valid.

32 Henry VIII. ch. 28, sec. 1, A. D. 1540.
Alex. Brit. Stat., 322.
Kilty's Rep., 232.
Ibid., sec. 2.

SEC. 28. All leases hereafter to be made of any manors, lands, tenements, or other hereditaments by writing indented under seal for term of years, or for term of life, by any person or persons being of full age of twenty one years, having any estate of inheritance either in fee-simple or in fee-tail, in their own right, or in the right of their wives, or jointly with their wives, of an estate of inheritance made before the coverture or after, shall be good and effectual in the law against the lessors, their wives, heirs and every of them, according to such estate as is comprised and specified in every such indenture of lease, in like manner and form as the same should have been, if the lessors thereof, and every of them, at the time of the making of such leases, had been lawfully seised of the same lands, tenements, and hereditaments comprised in such indenture, of a good, perfect, and pure estate of fee-simple thereof to their own only uses.*

[See §§ 727, 728, 729, R. S. D. C.]

Proviso to preceding section.

SEC. 29. *Provided always*, That this act, or any thing contained, shall not extend to any leases to be made of any manors, lands, tenements, or hereditaments being in the hands of any fermor or fermors by virtue of an old lease, unless the same old lease be expired, surrendered, or ended within one year next after the making of the said new lease; (2) nor shall extend to any new grant to be made of

* Lease for seven years or more must be recorded. Md. act 1791, ch. 45, sec. 8, Md. act 1766, ch. 14, sec. 2.

any reversion of any manors, lands, tenements, or hereditaments, (3) nor to any lease of any manors, lands, tenements, or hereditaments which have not most commonly been letten to ferm, or occupied by the fermors thereof by the space of twenty years next before such lease thereof made; (4) nor to any lease to be made, without impeachment of waste, (5) nor to any lease to be made above the number of twenty one years, or three lives at the most from the day of making thereof; (6) and that upon every such lease there be reserved yearly during the same lease, due and payable to the lessors, their heirs, and successors, to whom the same lands should have come after the deaths of the lessors, if no such lease had been thereof made, and to whom the reversion thereof shall appertain, according to their estates and interests, so much yearly ferm or rent, or more, as hath been most accustomedly yeelden or paid for the manors, lands, tenements, and hereditaments so to be letten within twenty years next before such lease thereof made; (7) and that every such person and persons, to whom the reversion of such manors, lands, tenements, or hereditaments so to be letten, shall appertain, as is aforesaid, after the deaths of such lessors, or their heirs, shall and may have such like remedy and advantage, to all intents and purposes, against the lessees thereof, their executors and assigns, as the same lessor should or might have had against the same lessees. (8) So that if the lessor were seised of any special estate tail of the same hereditaments at the time of such lease, that the issue or heir of that special estate shall have the reversion, rents, and services reserved upon such lease after the death of the said lessor, as the lessor himself might or ought to have had if he had lived.

SEC. 30. *Provided always*, That the wife be made party to every such lease which hereafter shall be made by her husband of any manors, lands, tenements, or hereditaments, being the inheritance of the wife; (2) and that every such lease be made by indenture in the name of the husband and his wife and she to seal to the same; (3) and that the ferm and rent be reserved to the husband and to the wife, and to the heirs of the wife, according to her estate of inheritance in the same; (4) and that the husband shall not in any wise aliene, discharge, grant, or give away the same rent reserved, nor any part thereof, longer than during the coverture, without it be by fine levied by the said husband and wife; (5) but the same rent shall remain, descend, revert, or come after the death of such husband, unto such person or persons, and their heirs, in such manner and sort as the lands so leased should have done, if no such lease had been thereof made. [See §§ 727, 728, 729, R. S. D. C.]

Proviso to two next preceding sections.

Ibid., sec. 8.

SEC. 31. *Provided also*, That this act extend not to give any liberty or power to any person or persons to take any more fermes, leases, or takings of any manors, lands, tenements, or other hereditaments, than he or they should or might lawfully have done before the making of this act; any thing contained in this act to the contrary notwithstanding.

Proviso to three next preceding sections.

Ibid., sec. 4, p. 323.

SEC. 32. Where before this time divers, as well temporal as ecclesiastical and religious persons, have made sundry leases, demises, and grants to divers other persons, of sundry manors, lordships, fermes, meases, lands, tenements, meadows, pastures, or other hereditaments, for term of life or lives, or for term of years, by writing under their seal or seals, containing certain conditions, covenants, and agreements to be performed, as well on the part and behalf of the said lessees and grantees, their executors and assigns, as on the behalf of the said lessors and grantors, their heirs and successors; (2)

Grantees of reversions may take advantage of covenants, etc., against lessees.

32 Henry VIII, ch. 34, sec. 1, A. D. 1540.

Alex. Brit. Stat., 335, 336.

Kilty's Rep., 232.
2 Wallace Rep.,
177, *Sheets vs.*
Selden.

and forasmuch as by the common law of this realm, no stranger to any covenant, action, or condition, shall take any advantage or benefit of the same, by any means or ways in the law, but only such as be parties or privies thereunto, by the reason whereof, as well all grantees of reversions, as also all grantees and patentees of the King our sovereign lord, of sundry manors, lordships, granges, farms, meases, lands, tenements, meadows, pastures, or other hereditaments late belonging to monasteries, and other religious and ecclesiastical houses dissolved, suppressed, renounced, relinquished, forfeited, given up, or by other means come to the hands and possession of the King since the fourth day of February, the seven and twentieth year of his most noble reign, be excluded to have any entry or action against the said lessees and grantees, their executors or assigns, which the lessors before that time might by the law have had against the same lessees for the breach of any condition, covenant, or agreement comprised in the indentures of their said leases, demises, and grants: (3) *Be it therefore enacted*, That as well all and every person and persons, and bodies politick, their heirs, successors, and assigns, which have or shall have any gift or grant of our said sovereign lord, by his letters patents of any lordships, manors, lands, tenements, rents, parsonages, tithes, portions, or any other hereditaments, or of any reversion or reversions of the same, which did belong or appertain to any of the said monasteries, and other religious and ecclesiastical houses, dissolved, suppressed, relinquished, forfeited, or by any other means come to the King's hands since the said fourth day of February, the seven and twentieth year of his most noble reign, or which at any time heretofore did belong or appertain to any other person or persons, and after came to the hands of our said sovereign lord, (4) as also all other persons being grantees or assignees to or by our said sovereign lord the King, or to or by any other person or persons than the King's highness, and the heirs, executors, successors, and assigns of every of them, (5) shall and may have and enjoy like advantages against the lessees, the executors, administrators, and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeiture; (6) and also shall and may have and enjoy all and every such like, and the same advantage, benefit and remedies by action only, for not performing of other conditions, covenants, or agreements contained and expressed in the indentures of their said leases, demises, or grants, against all and every the said lessees, and farmers, and grantees, their executors, administrators, and assigns, as the said lessors or grantors themselves, or their heirs, or successors, ought, should, or might have had and enjoyed at any time or times, (7) in like manner and form, as if the reversion of such lands, tenements, or hereditaments had not come to the hands of our said sovereign lord, or as our said sovereign lord, and his heirs, and successors, should or might have had and enjoyed in certain cases, by virtue of the act made at the first session of the present Parliament, if no such grant by letters patents had been made by his highness.

Lessees to have
advantage of cove-
nants against
grantees of rever-
sions.

Ibid., sec. 2.

SEC. 33. That all farmers, lessees, and grantees of lordships, manors, lands, tenements, rents, parsonages, tithes, portions, or any other hereditament for term of years, life or lives, their executors, administrators, and assigns, shall and may have like action, advantage, and remedy against all and every person and persons, and bodies politick, their heirs, successors, and assigns, which have, or shall have any gift or grant of the king our sovereign lord, or of any other person or persons, of the reversion of the same manors, lands, tenements, and other hereditaments so letten, or any parcel thereof, for any condition, covenant, or agreement contained or expressed in the indentures of their lease and leases, as the same

lessees, or any of them might and should have had against the said lessors and grantors, their heirs, and successors, (2) all benefits and advantages of recoveries in value, by reason of any warranty in deed, or law by voucher, or otherwise, only excepted.

SEC. 34. Forasmuch as by the order of the common law, the executors or administrators of tenants in fee-simple, tenants in fee-tail, and tenants for term of life, of rent services, rent charges, rents secks, and fee-farms, have no remedy to recover such arrearages of the said rents or fee-farms as were due unto their testators in their lives, (2) nor yet the heirs of such testator, nor any person having the reversion of his estate after his decease, may distrain, or have any lawful action to levy any such arrearages of rents, or fee-farms, due unto him in his life, as is aforesaid; (3) by reason whereof, the tenants of the demean of such lands, tenements, or hereditaments, out of the which such rents were due and payable, who of right ought to pay their rents and farms at such day and terms as they were due, do many times keep, hold, and retain such arrearages in their own hands, so that the executors and administrators of the persons to whom such rents or fee-farms were due, cannot have or come by the said arrearages of the same, towards the payment of the debts, and performance of the will of the said testators: (4) *For remedy whereof, be it enacted*, That the executors and administrators of every such person or persons unto whom any such rent, or fee-farm is or shall be due, and not paid at the time of his death, shall and may have an action of debt for all such arrearages, against the tenant or tenants that ought to have paid the said rent or fee-farms so being behind in the life of their testator, or against the executors and administrators of the said tenants; (5) and also furthermore, it shall be lawful to every such executor and administrator of any such person or persons unto whom such rent or fee-farm is or shall be due, and not paid at the time of his death, as is aforesaid, to distrain * for the arrearages of all such rents and fee-farms, upon the lands, tenements, and other hereditaments, which were charged with the payment of such rents or fee-farms, and chargeable to the distress of the said testator, (6) so long as the said lands, tenements, or hereditaments continue, remain, and be in the seisin or possession of the said tenant in demesne, who ought immediately to have paid the said rent or fee-farm, so being behind, to the said testator in his life, (7) or in the seisin or possession of any other person or persons claiming the said lands, tenements, and hereditaments, only by and from the same tenant by purchase, gift, or descent, (8) in like manner and form as their said testator might or ought to have done in his life time, and the said executors and administrators shall, for the same distress lawfully make avowry upon their matter aforesaid.

Executors or administrators of tenants in fee, etc., may recover arrearages of rent and distress of same.

32 Henry VIII, ch. 37, sec. 1, A. D. 1540.

Alex. Brit. Stat., 356, 357.

Kilty's Rep., 232.

SEC. 35. If any man which now hath, or hereafter shall have in the right of his wife, any estate in fee-simple, fee-tail, or for term of life, of or in any rents or fee-farms and the same rents or fee-farms now be, or hereafter shall be due, behind, and unpaid in the said wife's life; then the said husband, after the death of his said wife, his executors, and administrators, shall have an action of debt for the said arrearages against the tenant of the demesne that ought to have paid the same, his executors or administrators; (2) and also the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form, as he might have done if his said wife had been then living, and make avowry upon his matter, as is aforesaid. †

Husband's remedy for rent due in the right and in the life and after death of wife, etc.

Ibid., sec. 3.

* See secs. 677, 678, 679, 727, 728, 797, R. S. D. C.

† See secs. 677, 678, 679, 727-729, and 797, R. S. D. C.

Executors or administrators of life tenant may sue lessee for rent due and distrain.

Ibid., sec. 4.

SEC. 36. If any person or persons which now hath, or hereafter shall have any rents or fee-farms for term of life or lives, of any other person or persons, and the said rent or fee-farm now be, or hereafter shall be due and behind, and unpaid in the life of such person or persons for whose life or lives the estate of the said rent, or fee-farm did depend or continue, and after the said person or persons do die; then he unto whom the said rent or fee-farm was due in form aforesaid, his executors or administrators shall and may have an action of debt against the tenant in demesne, that ought to have paid the same when it was first due, his executors and administrators, (2) and also distrain* for the same arrearages upon such lands and tenements, out of the which the said rents or fee-farms were issuing, and payable, (3) in such like manner and form as he ought or might have done, if such person or persons by whose death the aforesaid estate in the said rents and fee-farms was determined and expired, had been in full life, and not dead; and the avowry for the taking of the same distress to be made in manner and form aforesaid.

Sale of goods distrained for rent.

2 William and Mary, ch. 5, sec. 1, A. D 1690.

Alex. Brit. Stat., 567, 568.

Kilty's Rep., 242.

SEC. 37. Where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained shall not within five days next after such distress taken, and notice thereof (with the cause of such taking) left at the chief mansion-house, or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the sheriff, according to law, that then in such case, after such distress and notice, as aforesaid, and expiration of the said five days, the person distraining shall and may, with the sheriff or under sheriff of the county, or with the constable of the hundred, parish, or place where such distress shall be taken (who are hereby required to be aiding and assisting therein) cause the goods and chattels so distrained to be appraised by two sworn appraisers (whom such sheriff, under sheriff, or constable, are hereby empowered to swear) to appraise the same truly, according to the best of their understandings; and after such appraisement shall and may lawfully sell the goods and chattels so distrained for the best price can be gotten for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement, and sale, leaving the overplus (if any) in the hands of the said sheriff, under sheriff, or constable, for the owners use.

[See §§ 678, 797, R. S. D. C.]

Corn and hay on leased premises may be seized and detained for rent due and sold.

Ibid., sec. 3.

SEC. 38. And whereas no sheaves or cocks of corn loose or in the straw, or hay in any barn or granary, or in any hovel, stack, or rick, can by the law be distrained, or otherwise secured for rent, whereby landlords are oftentimes censured and deceived by their tenants, who sell their corn, grain, and hay to strangers, and remove the same from the premises chargeable with such rent, and thereby avoid the payment of the same: *Be it further enacted*, That for remedying the said practice, and deceit, it shall and may, from and after the said first day of June, be lawful to and for any person or persons having rent, arrear, and due upon any such demise, lease, or contract as aforesaid, to seize and secure any sheaves or cocks of corn, or corn loose or in the straw, or hay lying or being in any barn or granary, or upon any hovel, stack, or rick, or otherwise upon any part of the land or pound (ground) charged with such rent, and to lock up or detain the same in the place where the same shall be found, for or in the nature of a distress, until the same shall be replevied upon such security to be given as aforesaid; and in default of replevying the same as aforesaid, within the time aforesaid, to

* See secs. 677, 678, 679, 727-729, and 797, R. S. D. C.

sell the same after such appraisalment thereof to be made; so as nevertheless such corn, grain, or hay so distrained, as aforesaid, be not removed by the person or persons distraining, to the damage of the owner thereof, out of the place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied, or sold, in default of replevying the same within the time aforesaid. [See §§ 678, 797, R. S. D. C.]

SEC. 39. *And be it further enacted.* That upon any pound-breach or rescous of goods or chattels distrained for rent, the person or persons grieved thereby shall, in a special action upon the case for the wrong thereby sustained, recover his and their treble damages and costs of suit against the offender or offenders in any such rescous or pound-breach, any or either of them, or against the owners of the goods distrained, in case the same be afterwards found to have come to his use or possession. [See §§ 678, 797, R. S. D. C.]

Treble damages for pound breach.
Ibid., sec. 4.

SEC. 40. *Provided always, and be it further enacted,* That in case any such distress and sale, as aforesaid, shall be made by virtue or colour of this present act for rent pretended to be arrear and due, where in truth no rent is arrear or due to the person or persons distraining, or to him or them in whose name, or names, or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattels distrained and sold as aforesaid, his executors or administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, any or either of them, his or their executors or administrators, recover double of the value of the goods or chattels so distrained and sold, together with full costs of suit. [See §§ 678, 797, R. S. D. C.]

Damages and costs against wrongful distrainor.
Ibid., sec. 5.

SEC. 41. For the more easy and effectual recovery of rents reserved on leases for life or lives, term of years, at will, or otherwise:

Be it enacted, That no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall before the removal of such goods from off the said premises, by virtue of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking such goods or chattels by virtue of such execution: *Provided,* The said arrears of rent do not amount to more than one year's rent, and in case the said arrears shall exceed one year's rent, then the said party, at whose suit such execution is sued out, paying the said landlord, or his bailiff, one year's rent, may proceed to execute his judgment as he might have done before the making of this act; and the sheriff or other officer is hereby impowered and required to levy and pay to the plaintiff as well the money so paid for rent, as the execution-money. [See § 678, R. S. D. C.]

Goods taken in execution subject to payment of rent due by plaintiff to be refunded out of goods levied.

8 Anne, ch. 14, sec. 1, A. D. 1709.
Alex. Brit.Stat., 680, 681.
Kilty's Rep., 248.
1 Mackey Rep., 42, Gibson vs. Gautier; 3 Mackey Rep., 90, Harris vs. Damman; 23 Md. Rep., 252, Washington vs. Williamson; 67 Md. Rep., 228, Gaither vs. Stockbridge.

SEC. 42. And whereas no action of debt lies against a tenant for life or lives, for any arrears of rent, during the continuance of such estate for life or lives:

Be it enacted, That it shall and may be lawful for any person or persons, having any rent in arrear, or due upon any lease or demise for life or lives, to bring an action or actions of debt for such arrears of rent, in the same manner they might have done, in case such rent were due, and reserved upon a lease for years.

Arrears of rent action for against life tenant.

Ibid., sec. 4.

SEC. 43. All distresses hereby impowered to be made, as aforesaid, shall be liable to such sales, and in such manner, and the monies arising by such sales to be distributed in like manner as by an act

Sale of goods distrained, etc.

Ibid., sec. 5.

made in the second year of the reign of their late majesties King William and Queen Mary, [intituled, An act for enabling the sale of goods distrained for rent, in case the rent be not paid in reasonable time,] in that behalf directed and appointed.

Arrears of rent on expired lease how distrained.

Ibid., sec. 6.

¹See secs. 678, 797, R. S. D. C.

SEC. 44. Also whereas tenants *per auter vie* and lessees for years, or at will, frequently hold over the tenements to them demised, after the determination of such leases: And whereas after the determination of such, or any other leases, no distress can by law be made for any arrears of rent that grew due on such respective leases before the determination thereof:

It is hereby further enacted, That it shall and may be lawful, for any person or persons, having any rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to¹ distrain for such arrears, after the determination of the said respective leases, in the same manner as they might have done, if such lease or leases had not been ended or determined.

Double rent collectable against tenants, etc., wilfully holding over.

4 George II, ch. 28, sec. 1, A. D. 1731.

Alex. Brit. Stat., 704, 705.

Kilty's Rep., 249.
15 Wallace Rep., 476, Prout vs. Roby; 1 How Rep., 217, Connor vs. Bradley.

¹See sec. 997, R. S. D. C.

SEC. 45. For securing to lessors and land owners their just rights, and to prevent frauds frequently committed by tenants:

Be it enacted, That in case any tenant or tenants for any term of life, lives, or years, or other person or persons, who are or shall come into possession of any lands, tenements, or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall wilfully hold over any lands, tenements, or hereditaments, after the determination of such term or terms, and after demand made, and notice in writing given, for delivering the possession thereof, by his or their landlords or lessors, or the person or persons, to whom the remainder or reversion of such lands, tenements, or hereditaments shall belong, his or their agent or agents thereunto lawfully authorized; then, and in such case, such person or persons, so holding over, shall, for and during the time he, she, and they shall so hold over, or keep the person or persons intitled, out of possession of the said lands, tenements and hereditaments, as aforesaid, pay to the person or persons so kept out of possession, their executors, administrators, or assigns, at the rate of double the yearly value of the lands, tenements, and hereditaments, so detained, for so long time as the same are detained, to be recovered in court of record,¹ by action of debt, [whereunto the defendant or defendants, shall be obliged to give special bail,] against the recovering of which said penalty there shall be no relief in equity.

Reentry of lessor when rent six months in arrear.

When lessor may recover in ejectment. Rights of mortgagee of lease.

Ibid., sec. 2.

7 D. C. Rep., 82, Robey vs. Prout; 55 Md. Rep., 291 Mackenzie vs. Renshaw.

SEC. 46. And whereas great inconveniencies do frequently happen to lessors and landlords, in cases of re-entry for nonpayment of rent, by reason of the many niceties that attend re-entries at common law; and forasmuch as when a legal re-entry is made, the landlord or lessor must be at the expense, charge, and delay of recovering in ejectment, before he can obtain the actual possession of the demised premisses; and it often happens that after such a re-entry made, the lessee or his assignee, upon one or more bills filed in the court of equity, not only holds out the lessor or landlord, by an injunction, from recovering the possession, but likewise, pending the said suit, do run much more in arrear, without giving any security for the rents due, when the said re-entry was made, or which shall and do afterwards incur: For remedy whereof:

Be it enacted, That in all cases between landlord and tenant, as often as it shall happen that one half year's rent shall be in arrear, and the landlord or lessor, to whom the same is due, hath right by law to re-enter for the nonpayment thereof, such landlord or lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premisses, or in case the same cannot be legally served, or no tenant be in actual

possession of the premisses, then to affix the same upon the door of any demised messuage, or in case such ejection shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements, or hereditaments, comprized in such declaration in ejection, and such affixing shall be deemed legal service thereof, which service, or affixing such declaration in ejection, shall stand in the place and stead of a demand and re-entry; and in case of judgment against the casual ejector, or nonsuit for not confessing lease, entry, and ouster, it shall be made appear to the court where the said suit is depending, by affidavit, or be proved upon the trial, in case the defendant appears, that half a year's rent was due before the said declaration was served, and that no sufficient distress was to be found on the demised premisses, countervailing the arrears then due, and that the lessor or lessors in ejection had power to re-enter; then, and in every such case, the lessor or lessors in ejection shall recover judgment and execution, in the same manner as if the rent in arrear had been legally demanded, and a re-entry made; and in case the lessee or lessees, his, her, or their assignee or assignees, or other person or persons claiming or deriving under the said leases, shall permit and suffer judgment to be had and recovered on such ejection, and execution to be executed thereon, without paying the rent and arrears, together with full costs, and without filing any bill or bills for relief in equity, within six calendar months after such execution executed; then, and in such case, the said lessee or lessees, his, her, or their assignee or assignees, and all other persons claiming and deriving under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, other than by writ of error, for reversal of such judgment, in case the same shall be erroneous, and the said landlord or lessor shall from thenceforth hold the said demised premisses discharged from such lease; and if on such ejection verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited therein, except for the defendant or defendants not confessing lease, entry, and ouster, then in every such case such defendant or defendants shall have and recover his, her, and their full costs: *Provided always*, That nothing herein contained shall extend to bar the right of any mortgagee or mortgagees of such lease, or any part thereof, who shall not be in possession, so as such mortgagee or mortgagees shall and do, within six calendar months after such judgment obtained, and execution executed, pay all rent in arrear, and all costs and damages sustained by such lessor, person or persons intitled to the remainder or reversion, as aforesaid, and perform all the covenants and agreements, which on the part and behalf of the first lessee or lessees are and ought to be performed.

SEC. 47. *And be it further enacted*, That in case the said lessee or lessees, his, her, or their assignee or assignees, or other person or persons, claiming any right, title, or interest, in law or equity, of, in, or to the said lease, shall, within the time aforesaid, file one or more bill or bills, for relief in any court of equity, such person or persons shall not have or continue any injunction, against the proceedings at law on such ejection, unless he, she, or they do or shall within forty days next after a full and perfect answer shall be filed by the lessor or lessors of the plaintiff in such ejection, bring into court, and lodge with the proper officer such sum and sums of money, as the lessor or lessors of the plaintiff in the said ejection shall, in his, her, or their answer, swear to be due and in arrear, over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessor or landlord, on good security, subject to the decree of the court; and in case such bill or bills shall be filed within the time aforesaid, and after execution is executed, the lessor or lessors of the

Proceedings in ejection not to be enjoined except by payment into court of money to cover arrearages of rent and costs, etc.

Ibid., sec. 3.

plaintiff shall be accountable only for so much, and no more, as he, she, or they shall really and bona fide, without fraud, deceit, or wilful neglect, make of the demised premises, from the time of his, her, or their entering into the actual possession thereof, and if what shall be so made by the lessor or lessors of the plaintiff, happen to be less than the rent reserved in the said lease, then the said lessee or lessees, his, her, or their assignee or assignees, before he, she, or they shall be restored to his, her, or their possession or possessions, shall pay such lessor or lessors, or landlord or landlords, what the money so by them made, fell short of the reserved rent, for the time such lessor or lessors of the plaintiff, landlord or landlords, held the said lands.

Ejectment suit to cease, tenant paying all rent and costs.

Ibid., sec. 4.

SEC. 48. *Provided always, and be it further enacted*, That if the tenant or tenants, his, her, or their assignee or assignees, do or shall, at any time before the trial in such ejectment, pay or tender to the lessor or landlord, his executors or administrators, or his, her, or their attorney in that cause, or pay into the court where the same cause is depending, all the rent and arrears, together with the costs, then, and in such case, all further proceedings on the said ejectment shall cease, and be discontinued; and if such lessee or lessees, his, her, or their executors, administrators, or assigns, shall, upon such bill filed as aforesaid, be relieved in equity, he, she, and they, shall have, hold, and enjoy the demised lands, according to the lease thereof made, without any new lease to be thereof made to him, her, or them.

Method of recovering seck, etc.: rents, etc.; limitation.

Ibid., sec. 5.

¹See sec. 678, 797, R. S. D. C.

SEC. 49. And whereas the remedy for recovering rents, seck rents of assize and chief rents, are tedious and difficult:

Be it therefore enacted, That all and every person or persons, bodies politick or corporate, shall and may have the like remedy by distress,¹ and by impounding and selling the same, in cases of rents, seck rents of assize and chief rents, which have been duly answered or paid for the space of three years, within the space of twenty years before the first day of this present session of Parliament, or shall be hereafter created, as in case of rent reserved upon lease; any law or usage to the contrary notwithstanding.

Chief leases may be renewed without surrender of all under leases.

Ibid., sec. 6.

¹See secs. 677, 678, 679, R. S. D. C.

SEC. 50. And whereas many persons hold considerable estates by leases for lives or years, and lease out the same in parcels to several under tenants: And whereas many of those leases cannot by law be renewed without a surrender of all the under leases derived out of the same, so that it is in the power of any such under tenant to prevent or delay the renewing of the principal lease, by refusing to surrender their under leases, notwithstanding they have covenanted so to do, to the great prejudice of their immediate landlords, the first lessees: For preventing such inconveniencies, and for making the renewal of leases more easy for the future:

Be it enacted, That in case any lease shall be duly surrendered, in order to be renewed, and a new lease made and executed by the chief landlord or landlords, the same new lease shall, without a surrender of all the under leases, be as good and valid, to all intents and purposes, as if all the under leases derived thereout had been likewise surrendered at or before the taking of such new lease; and all and every person or persons in whom any estate for life or lives, or for years, shall, from time to time, be vested by virtue of such new lease, and his, her, and their executors and administrators, shall be intitled to the rents, covenants, and duties, and have like remedy for recovery thereof, and the under lessees shall hold and enjoy the messuages, lands, and tenements, in the respective under leases comprised, as if the original leases, out of which the respective under leases are derived, had been still kept on foot and continued, and the

chief landlord or landlords shall have, and be intitled to, such and the same remedy, by distress¹ or entry in and upon the messuages, lands, tenements, and hereditaments comprised in any such under lease, for the rents and duties reserved by such new lease, so far as the same exceed not the rents and duties reserved in the lease, out of which such under lease was derived, as they would have had in case such former lease had been still continued, or as they would have had, in case the respective under leases had been renewed under such new principal lease; any law, custom, or usage to the contrary hereof notwithstanding.

AN ACT for the more effectual securing the payment of rents, and preventing frauds by tenants.

SEC. 51. In case any tenant or tenants, lessee or lessees for life or lives, term of years, at will, sufferance, or otherwise, of any messuages, lands, tenements, or hereditaments, upon the demise or holding whereof any rent is or shall be reserved, due, or made payable, shall fraudulently or clandestinely convey away, or carry off from such premisses, his, her, or their goods or chattels, to prevent the landlord or lessor, landlords or lessors, from distraining the same for arrears of rent so reserved, due, or made payable; it shall and may be lawful to and for every landlord or lessor, landlords or lessors, * * * or any person or persons by him, her, or them for that purpose lawfully empowered, within the space of thirty days next ensuing such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels, wherever the same shall be found, as a distress¹ for the said arrears of rent; and the same to sell or otherwise dispose of in such manner, as if the said goods and chattels had actually been distrained by such lessor or landlord, lessors or landlords in and upon such premisses for such arrears of rent; any law, custom, or usage to the contrary in any wise notwithstanding.

Goods fraudulently carried off leased premises may be distrained wherever found within thirty days for rent due, etc.

11 George II, ch. 19, sec. 1, A. D. 1738.

Alex. Brit. Stat., 731, 732.

Kilty's Rep., 251. 2 Mackey Rep., 215, Wallach vs. Chesley.

¹ Secs. 677, 678, 679, R. S. D. C.

SEC. 52. *Provided always*, That no landlord or lessor, or other person entitled to such arrears of rent, shall take or seize any such goods or chattels as a distress for the same, which shall be sold bona fide, and for a valuable consideration, before such seizure made, to any person or persons not privy to such fraud as aforesaid; anything herein contained to the contrary notwithstanding. [See § 677, R. S. D. C.]

Proviso to next preceding section as to bona fide sales.

Ibid., sec. 2.

SEC. 53. And to deter tenants from such fraudulent conveying away their goods and chattels, and others from wilfully aiding or assisting therein, or concealing the same:

Be it further enacted, That if any such tenant or lessee shall fraudulently remove and convey away his or her goods or chattels, as aforesaid, or if any person or persons shall wilfully and knowingly aid or assist any such tenant or lessee in such fraudulent conveying away or carrying off of any part of his or her goods or chattels, or in concealing the same; all and every person or persons so offending shall forfeit and pay to the landlord or landlords, lessor or lessors, from whose estate such goods and chattels were fraudulently carried off as aforesaid, double the value of the goods by him, her or them respectively carried off or concealed as aforesaid; to be recovered by action of debt.

Damages payable to landlord by tenant and those assisting for fraudulently removing goods, etc., from leased premises.

Ibid., sec. 3.

SEC. 54. *Provided always, and be it enacted*, That where the goods or chattels so fraudulently carried off or concealed shall not exceed the value of fifty pounds, it shall and may be lawful for the landlord or landlords, from whose estate such goods or chattels were removed, his, her, or their bailiff, servant, or agent, in his, her, or their behalf, to exhibit a complaint in writing against such offender

Recourse of landlords to recover value of goods fraudulently carried off the leased premises.

Ibid., sec. 4.
See sec. 997, R.
S. D. C.

or offenders before¹ two or more justices of the peace of the same county, riding, or division of such county, residing near the place whence such goods or chattels were removed, or near the place where the same were found, not being interested in the lands or tenements whence such goods were removed; who may summon the parties concerned, examine the fact, and all proper witnesses upon oath, or if any such witness be one of the people called Quakers, upon affirmation required by law; and in a summary way determine, whether such person or persons be guilty of the offence, with which he or they are charged; and to enquire in like manner of the value of the goods and chattels by him, her, or them respectively so fraudulently carried off or concealed as aforesaid; and, upon full proof of the offence, by order under their hands and seals, the said justices of peace may and shall adjudge the offender or offenders to pay double the value of the said goods and chattels to such landlord or landlords, his, her or their bailiff, servant, or agent, at such time as the said justices shall appoint: And in case the offender or offenders having notice of such order, shall refuse or neglect so to do, may and shall, by warrant under their hands and seals levy the same by distress and sale of the goods and chattels of the offender or offenders; (and for want of such distress may commit the offender or offenders to the house of correction, there to be kept to hard labor without bail or mainprize for the space of six months, unless the money so ordered to be paid as aforesaid shall be sooner satisfied.)

Appeal by de-
fendants.

Ibid., sec. 5.

SEC. 55. *Provided also*, That it shall and may be lawful for any person who thinks himself aggrieved by such order of the said two justices to appeal to the justices of the peace at their next general or quarter sessions to be held for the same county, riding, or division of such county, who may and shall hear and determine such appeal, and give such costs to either party as they shall think reasonable, whose determination therein shall be final.

Landlords may
break open house
to seize goods
fraudulently se-
cured therein.

Ibid., sec. 7.
Alex. Brit. Stat.,
734.

¹See sec. 1, this
chapter.

SEC. 56.¹ That where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or tenants, lessee or lessees, his, her, or their servant or servants, agent or agents, or other person or persons aiding or assisting therein, shall be put, placed, or kept in any house, barn, stable, out-house, yard, close, or place locked up, fastened, or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her, or their steward, bailiff, receiver, or other person or persons empowered, to take and seize, as a distress for rent, such goods and chattels (first calling to his, her, or their assistance the constable, headborough, borsholder, or other peace officer of the hundred, borough, parish, district, or place where the same shall be suspected to be concealed, who are hereby required to aid and assist therein; and in case of a dwelling-house, oath being also first made before some justice of the peace of a reasonable ground to suspect that such goods or chattels are therein) in the day-time, to break open and enter into such house, barn, stable, out-house, yard, close, and place; and to take and seize such goods and chattels for the said arrears of rent, as he, she, or they might have done by virtue of this or any former act, if such goods and chattels had been put in any open field or place.

Landlords may
distrain stock,
cattle or crops of
tenant on leased
premises for ar-
rears of rent.

SEC. 57. That it shall and may be lawful to and for every lessor or landlord, lessors or landlords, or his, her, or their steward, bailiff, receiver, or other person or persons empowered by him, her, or them, to take and seize as a distress for arrears of rent, any cattle or stock of their respective tenant or tenants, feeding or depasturing upon any common, appurtenant or appurtenant, or any ways

belonging to all or any part of the premises demised or holden; and also to take and seize all sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever, which shall be growing on any part of the estates so demised or holden, as a distress for arrears of rent; and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the barns, or other place on the premises so demised or holden; and in case there shall be no barn or proper place on the premises so demised or holden, then in any other barn or proper place which such lessor or landlord, lessors or landlords shall hire or otherwise procure for that purpose, and as near as may be to the premises; and in convenient time to appraise, sell, or otherwise dispose of the same, towards satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress, appraisement, and sale, in the same manner as other goods and chattels may be seized, distrained and disposed of; and the appraisement thereof to be taken when cut, gathered, cured and made, and not before.

Ibid., sec. 8.
See secs. 678,
797, R. S. D. C.
¹See secs. 678,
797, R. S. D. C.

SEC. 58. *Provided always*, That notice of the place where the goods and chattels so distrained shall be lodged or deposited, shall, within the space of one week after the lodging or depositing thereof in such place, be given to such lessee or tenant, or left at the last place of his or her abode; and that if after any distress for arrears of rent so taken, of corn, grass, hops, roots, fruits, pulse, or other product which shall be growing as aforesaid, and at any time before the same shall be ripe and cut, cured, or gathered, the tenant or lessee, his or her executors, administrators, or assigns, shall pay or cause to be paid to the lessor or landlord, lessors or landlords, for whom such distress shall be taken, or to the steward or other person usually employed to receive the rent of such lessor or lessors, landlord or landlords, the whole rent which shall be then in arrear, together with the full costs and charges of making such distress, and which shall have been occasioned thereby; that then, and upon such payment, or lawful tender thereof actually made, whereby the end of such distress will be fully answered, the same and every part thereof shall cease; and the corn, grass, hops, roots, fruits, pulse, or other product so distrained, shall be delivered up to the lessee or tenant his or her executors, administrators or assigns; any thing herein before contained to the contrary notwithstanding.

Notice of lodg-
ment of property
distrained. Pay-
ment of rent due,
crops not to be cut.

Ibid., sec. 9.
Alex. Brit. Stat.,
735, 736.

SEC. 59. And whereas great difficulties and inconveniencies frequently arise to landlords and lessors and other persons taking distresses for rents, in removing the goods and chattels or stock distrained, off the premises, in cases where by law they may not be impounded and secured thereupon; and also to the tenants themselves many times, by the damage unavoidably done to such goods and chattels, or stock, in the removal thereof:

Property dis-
trained may be
secured and sold
on the premises;
appraisement,
selling, etc.

Be it enacted, That it shall and may be lawful to and for any person or persons lawfully taking any distress for any kind of rent, to impound, or otherwise secure the distress so made, of what nature or kind soever it may be, in such place, or on such part of the premises chargeable with the rent, as shall be most fit and convenient for the impounding and securing such distress; and to appraise, sell, and dispose of the same upon the premises, in like manner, and under the like directions and restrictions to all intents and purposes, as any person taking a distress for rent may now do off the premises, by virtue of an act made in the second year of the reign of King William and Queen Mary, intituled, An act for enabling the sale of goods distrained for rent, in case the rent be not paid in a reasonable time; or of another act made in the fourth year of his present Majesty, intituled, An act for the more effectual preventing frauds committed by tenants, and for the more easy recovery of rents, and

renewal of leases; and that it shall and may be lawful to and for any person or persons whatsoever to come and go to and from such place or part of the said premises, where any distress for rent shall be impounded and secured as aforesaid, in order to view, appraise, and buy, and also in order to carry off or remove the same, on account of the purchaser thereof; and that if any pound-breach or rescous shall be made of any goods and chattels, or stock distrained for rent, and impounded or otherwise secured by virtue of this act, the person or persons aggrieved thereby shall have the like remedy, as in cases of pound-breach or rescous is given and provided by the said statute.

Provision
against pound res-
cue.

Ibid., sec. 10.

Attornments by
tenants void.

SEC. 60. And whereas the possession of estates in lands, tenements, and hereditaments is rendered very precarious by the frequent and fraudulent practice of tenants, in attorning to strangers, who claim title to the estates of their respective landlord or landlords, lessor or lessors, who by that means are turned out of possession of their respective estates, and put to the difficulty and expence of recovering the possession thereof by actions or suits at law; for remedy thereof:

Be it enacted, That all and every such attornment and attornments of any tenant or tenants of any messuages, lands, tenements, or hereditaments, shall be absolutely null and void to all intents and purposes whatsoever; and the possession of their respective landlord or landlords, lessor or lessors, shall not be deemed or construed to be any wise changed, altered, or affected by any such attornment or attornments: *Provided always*, That nothing herein contained shall extend to vacate or affect any attornment made pursuant to and in consequence of some judgment at law, or decree or order of a court of equity, or made with the privity and consent of the landlord or landlords, lessor or lessors, or to any mortgage after the mortgage is become forfeited. [See § 688, R. S. D. C.]

Exceptions.

Ibid., sec. 11.

Tenant to notify
landlord of eject-
ment notice
served.

Ibid., sec. 12.

SEC. 61. And whereas great inconveniencies have frequently happened to landlords by their tenants secreting declarations in ejectment, which have been delivered to them, or by refusing to appear to such ejectments, or to suffer their landlords to take upon them the defence thereof:

Be it further enacted, That every tenant, to whom any declaration in ejectment shall be delivered for any lands, tenements, or hereditaments, shall forthwith give notice thereof to his or her landlord or landlords, or his, her, or their bailiff or receiver, under penalty of forfeiting the value of three years improved or rack rent of the premises so demised or holden in the possession of such tenant, to the person of whom he or she holds; to be recovered by action of debt.

In ejectment
against tenant
landlord may be-
come party.

Ibid., sec. 13.
Alex. Brit. Stat.,
738.

SEC. 62. It shall and may be lawful for the court where such ejectment shall be brought, to suffer the landlord or landlords to make him, her, or themselves defendant or defendants, by joining with the tenant or tenants, to whom such declaration in ejectment shall be delivered, in case he or they shall appear; but in case such tenant or tenants shall refuse or neglect to appear, judgement shall be signed against the casual ejector for want of such appearance; but if the landlord or landlords of any part of the lands, tenements, or hereditaments, for which such ejectment was brought, shall desire to appear by himself or themselves, and consent to enter into the like rule that by the course of the court the tenant in possession, in case he or she had appeared, ought to have done; then the court, where such ejectment shall be brought, shall and may permit such landlord or landlords so to do, and order a stay of execution upon such judgment against the casual ejector, until they shall make further order therein.

SEC. 63. And to obviate some difficulties that many times occur in the recovery of rents, where the demises are not by deed:

Be it further enacted, That it shall and may be lawful to and for the landlord or landlords, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements or hereditaments, held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held or enjoyed; and if in evidence on the trial of such action any parol demise or any agreement (not being by deed) whereon a certain rent was reserved shall appear, the plaintiff in such action shall not therefor be nonsuited, but may make use thereof as an evidence of the *quantum* of the damages to be recovered.

Rent for use and occupation recoverable where demise not by deed.

Ibid., sec. 14.

SEC. 64. And whereas where any lessor or landlord, having only an estate for life in the lands, tenements, or hereditaments demised, happens to die before or on the day, on which any rent is reserved, or made payable, such rent or any part thereof, is not by law recoverable by the executors or administrators of such lessor or landlord; nor is the person in reversion entitled thereto, any other than for the use and occupation of such lands, tenements or hereditaments, from the death of the tenant for life; of which, advantage hath been often taken by the under-tenants, who thereby avoid paying anything for the same; for remedy whereof

Rents recoverable from under tenant, where life tenant die before expiration of lease.

Ibid., sec. 15.

Be it enacted, That where any tenants for life shall happen to die before or on the day, on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments, which determined on the death of such tenant for life, that the executors or administrators of such tenant for life shall and may in an action on the case recover of and from such under-tenant or under-tenants of such lands, tenements, or hereditaments, if such tenant for life die on the day on which the same was made payable the whole, or if before such day then a proportion, of such rent according to the time such tenant for life lived, of the last year, or quarter of a year or other time in which the said rent was growing due as aforesaid, making all just allowances or a proportionable part thereof respectively.

SEC. 65. And whereas great inconveniencies have happened, and may happen to landlords, whose tenants have power to determine their leases, by giving notice to quit the premises by them holden, and yet refusing to deliver up the possession, when the landlord hath agreed with another tenant for the same:

Tenants liable to pay double rent for holding after time they fixed for quitting.

Be it further enacted by the authority aforesaid, That in case any tenant or tenants shall give notice of his, her, or their intention to quit the premisses by him, her, or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained; that then the said tenant or tenants, his, her, or their executors or administrators, shall from thenceforward pay to the landlord or landlords, lessor or lessors, double the rent or sum, which he, she, or they should otherwise have paid; to be levied, sued for, and recovered at the same times, and in the same manner, as the single rent or sum before the giving such notice could be levied, sued for, or recovered; and such double rent or sum shall continue to be paid, during all the time such tenant or tenants shall continue in possession as aforesaid.

Ibid., sec. 18.
Alex. Brit. Stat.,
740, 741.

SEC. 66. And whereas it hath sometimes happened, that upon any distress made for rent justly due the directions of the statute made in the second year of the reign of King William and Queen Mary, intituled, An act for enabling the sale of goods distrained for rent, in case the rent be not paid in a reasonable time, have not been strictly pursued, but through the mistake or inadvertency of the landlord

Tenant may recover damages for irregularities in lawful distrains.

Ibid., sec. 19.

or other person entitled to such rent and distraining for the same, or of the bailiff or agent of such landlord or other person, some irregularity or tortious act hath been afterwards done in the disposition of the distress so seized or taken, as aforesaid; for which irregularity or tortious act the party distraining hath been deemed a trespasser *ab initio*, and in an action brought against him as such the plaintiff hath been entitled to recover, and has actually recovered, the full value of the rent, for which such distress was taken: And whereas it is a very great hardship upon landlords and other persons entitled to rents, that a distress duly made should be thus in effect avoided for any subsequent irregularity:

Be it enacted, That where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party or parties distraining, or by his, her, or their agents; the distress itself shall not be therefore deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers *ab initio*; but the party or parties aggrieved by such unlawful act or irregularity shall or may recover full satisfaction for the special damage he, she, or they shall have sustained thereby, and no more, in an action of trespass or on the case at the election of the plaintiff or plaintiffs: *Provided always*, That where the plaintiff or plaintiffs shall recover in such action, he, she, or they shall be paid his, her, or their full costs of suit, and have all the like remedies for the same as in other cases of costs.

Proviso to preceding section.

Ibid., sec. 20.
Alex. Brit. Stat., 742.

SEC. 67. *Provided, nevertheless*, That no tenant or tenants, lessee or lessees, shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends hath been made by the party or parties distraining, his, her, or their agent or agents, before such action brought.

General issue pleadable in actions against persons entitled to rents; defendant when may recover double costs.

Ibid., sec. 21.

SEC. 68. From and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, in all actions of trespass or upon the case to be brought against any person or persons intitled to rents or services of any kind, his, her, or their bailiff or receiver, or other person or persons, relating to any entry by virtue of this act, or otherwise, upon the premisses chargeable with such rents or services, or to any distress or seizure, sale or disposal of any goods or chattels thereupon; it shall and may be lawful to and for the defendant or defendants in such actions to plead the general issue, and give the special matter in evidence; any law or usage to the contrary notwithstanding: And in case the plaintiff or plaintiffs in such action shall become nonsuit, discontinue his, her, or their action, or have judgement against him, her, or them, the defendant or defendants shall recover double costs of suit.

Landlord's plea in replevin of distress.

Costs on nonsuit, etc.

Ibid., sec. 22.

SEC. 69. And whereas great difficulties often arise in making avowries or conuzance upon distresses for rent, quit-rents, reliefs, heriots, and other services:

Be it further enacted, That it shall and may be lawful to and for all defendants in replevin to avow or make conuzance generally, that the plaintiff in replevin, or other tenant of the lands and tenements whereon such distress was made, enjoyed the same under a grant or demise at such a certain rent, during the time wherein the rent distrained for incurred, which rent was then and still remains due; or that the place where the distress was taken was parcel of such certain tenements, held of such honor, lordship, or manor, for which tenements the rent, relief, heriot, or other service distrained for, was, at the time of such distress and still remains due; without further setting forth the grant, tenure, demise, or title of such landlord or landlords, lessor or lessors, owner or owners of such manor; any law or usage to the contrary notwithstanding: and if the plaintiff or

plaintiffs in such action shall become nonsuit, discontinue his, her, or their action, or have judgement given against him, her, or them, the defendant or defendants in such replevin shall recover double costs of suit. [See § 820, R. S. D. C.]

SEC. 70. Whereas divers lands, tenements and hereditaments have been, and may be, granted by lease for the life of one or more person or persons, or for terms of years absolute, or determinable upon the death of one or more person or persons or otherwise; and whereas in order to obtain a renewal of such leases, it is in many cases necessary to surrender up the estates thereby granted; which surrenders cannot be effectually made by persons under the age of twenty-one years, nor lunaticks, nor by *femes covert* without levying a fine, to the manifest detriment of them and their families:

Be it enacted, That in all cases where any person under the age of twenty-one years, or any lunatick or *feme covert*, is or shall become interested in or intitled to any lease or leases made or granted, or to be made or granted, by any person or persons, bodies politick, corporate or collegiate, aggregate or sole, for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons or otherwise, it shall and may be lawful for such person under the age of twenty-one years, or for his or her guardian or guardians, or other person or persons on his or her behalf, and for such lunatick, or his or her guardian or guardians, committee or committees of the estate, or other person or persons on his or her behalf, and for such *feme covert*, or any other person or persons on her behalf, to apply to the court of equity by petition or motion, in a summary way, and by the order and direction of the court made, upon hearing all parties concerned, such person under the age of twenty-one years, and such lunaticks, or person or persons appointed by the said courts respectively, and also such *feme covert*, by deed or deeds only, without levying any fine, shall and may be enabled, from time to time, to surrender such lease or leases, and accept and take, in the name and for the benefit of such person under the age of twenty-one years, or lunatick, or *feme covert*, one or more new lease or leases of the premisses comprised in such lease or leases surrendered by virtue of this act, for and during such number of lives, or for such term or terms of years, determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in such lease or leases so surrendered at the making thereof respectively, or otherwise as the court shall direct.

SEC. 71. All and every sum and sums of money and other consideration, paid or advanced by any such guardian, trustee, committee or other person, as and for a fine or income, or in the nature of a fine or income, for or on account of the renewal of any such lease or leases, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant or lunatick for whose benefit the said lease or leases shall be renewed, or shall be a charge and incumbrance upon the leasehold premises, together with interest for the same, as the said courts respectively shall direct and determine; and as for and concerning leases to be made upon surrenders by *femes covert*, unless the fine or consideration of such lease, and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge or incumbrance upon such leasehold premises, for the use and benefit of such person or persons who shall advance the same.

SEC. 72. The respective leases to be so renewed, shall operate, and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devises, and conditions, as the leases to be,

Infants, lunatics, and *femes covert* enabled to surrender leases in order to renew the same.

29 George II, ch. 31, sec. 1, A. D. 1756.

Alex. Brit. Stat., 788, 789.
Kilty's Rep., 253.

Charges, etc., for renewing such leases to be paid out of estate of party benefited.

Ibid., sec. 2.

Renewed leases to be subject to same trusts, etc., as surrendered leases.

Ibid., sec. 3. from time to time, surrendered as aforesaid, were or would have
 Alex. Brit. Stat., been subject to, in case such surrender had not been made; any-
 790. thing in this or any former law to the contrary notwithstanding.

Surrenders and SEC. 73. Every such surrender, and such lease or leases granted
 renewals valid, thereupon, shall be, and be deemed as valid and legal, to all intents
 legal as if, etc. and purposes, as if such surrender had been made by and on the
 Ibid., sec. 4. behalf of a person of full age, sane mind or not married; any thing
 in this or any former law to the contrary notwithstanding.

Lunatics entitled SEC. 74. In all cases where any lunatic is or shall be intitled, or
 to renew leases, has right to renew any lease or leases made or granted, or to be made
 their guardians or granted, for the life or lives of one or more person or persons, or
 and committees to for any term or number of years, absolute or determinable on the
 accept surrenders death of one or more person or persons, or otherwise; it shall and
 of old leases and grant new ones. may be lawful to and for such lunatic, or his or her guardian or
 guardians, committee or committees, of his estate, in his, her, or
 11 George III, their name or names, by the direction of the chancellor signified by
 ch. 20, sec. 1, A. D. an order made on hearing all parties concerned, upon petition, in a
 1771. summary way, from time to time, to accept of a surrender or sur-
 Alex. Brit. Stat., renders of such lease or leases; and to make and execute to any
 790, 791. person or persons bodies politic, or corporate or collegiate, aggregate
 Kilty's Rep., 253. or sole, a new lease or leases of the premises comprised in such lease
 or leases so to be surrendered by virtue of this act, for and during
 such number of lives, or for such term or terms of years, determin-
 able upon such number of lives, or for such term or terms of years
 absolute, as was or were mentioned or contained in such lease or
 leases so surrendered, at the making thereof, or otherwise, as the
 chancellor by any such order, so to be obtained as aforesaid, shall
 direct.

Such renewals SEC. 75. That all and every such lease or leases so to be made or
 to be valid, etc. executed as aforesaid, shall be and be deemed as good and valid, and
 Ibid., sec. 2. effectual in the law, to all intents and purposes, as if such lunatic
 was at the time of making or executing thereof of sane mind, and
 had executed the same in his or her own proper person; any thing
 in this act, or any former law, to the contrary thereof in any wise
 notwithstanding.

Net moneys re- SEC. 76. *Provided always,* That all fines, premiums, foregifts, and
 ceived for renewal sums of money, which shall or may be had, received, or paid for, or
 of such leases to on account of the renewing of any such lease or leases as aforesaid,
 be paid to com- shall (after a deduction of all necessary incident charges and
 mittee, etc. expenses) be paid to the guardian or guardians, committee or com-
 Distribution of mittees, of the said lunatic, and be applied and disposed of for the
 unexpended bal- benefit of such lunatic, in such manner as the chancellor shall direct:
 ance at lunatic's But, upon the death of such lunatic or lunatics, all such sum and
 death. sums of money as shall arise by such fines, premiums, or foregifts,
 Ibid., sec. 3. or so much as shall remain unapplied for the benefit of such luna-
 Alex. Brit. Stat., tic or lunatics, at his, her or their death, shall, as between the repre-
 792. sentatives of the real and personal estates of all such lunatics, be
 considered as real estate, unless such lunatic or lunatics shall be
 tenant for life only; and then the same shall be considered as per-
 sonal estate.

CHAPTER THIRTY-NINE.

LAWS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. All laws of the United States not locally inapplicable. 2. Certain laws of Maryland continued in force. 3. Temporary statutes of Maryland adopted for District of Columbia continued in force. 4. Laws and ordinances of Washington, Georgetown and levy court continued in force. 5. Definitions, number, gender, insane person, officer and oath. 6. Definition of "vessel." 7. Definition of "vehicle." 8. Definition of "company" or "association." | <p>Sec.</p> <ol style="list-style-type: none"> 9. Commission to compile the laws of the District of Columbia. 10. Compensation to the commissioners and for incidental expenses. 11. Compilation to be printed; price. 12. Repeal of certain acts of Congress passed prior to December 1, 1873. 13. Repeal of laws of Maryland Assembly passed prior to April 26, 1704. 14. Repeal of all prior laws inconsistent with Maryland statute of wills and duties of personal representatives, guardians, and rights of orphans. |
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SEC. 1. The Constitution and all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the District as elsewhere within the United States.*

[See §§ 722, 1891, R. S. U. S.] Laws of United States not locally inapplicable.
Sec. 98, R. S. D. C.

Feb. 21, 1871. 16 Stat., 426. Mackey Rep., 153, U. S. vs. Dunn; 1 Mackey Rep., 580, 585, U. S. vs. Guiteau; 3 Mackey Rep., 118, *in re* Kirk; 14 Wall. Rep., 431, Smith vs. Mason; 6 Mackey Rep., 819, 828, U. S. vs. Crawford; 2 Cranch, Ct., 197, U. S. vs. Black; 102 U. S. Rep., 667, Page vs. Burnstine; 95 U. S. Rep., 91, Good vs. Martin; 18 Wall. Rep., 649, Hornbuckle vs. Toombs.

SEC. 2. The laws of the State of Maryland not inconsistent with this Title, as the same existed on the twenty-seventh day of February, eighteen hundred and one, except as since modified or repealed by Congress or by authority thereof, or until so modified or repealed, continue in force within the District. †

[See § 827, R. S. D. C.] Certain laws of Maryland continued in force.
Sec. 92, R. S. D. C.

Feb. 27, 1801.
2 Stat., 103, 104, ch. 15, sec. 1; 133 U. S. Rep., 265, Geofroy vs. Riggs; 91 U. S. Rep., 359, Morsell vs. Bank.

SEC. 3. That all temporary statutes of the State of Maryland which by the first section of the act concerning the District of Columbia, passed on the twenty-seventh of February, one thousand eight hundred and one, were adopted for the said District, shall not expire within the said District, by virtue of any limitation in said statutes contained; but shall remain in force as at the time of their adoption, unless other provision has been or shall be made by Congress respecting the same.

Temporary statutes of Maryland adopted for District of Columbia continued in force.
Mar. 3, 1807.
2 Stat., p. 431, sec. 6.

* The Constitution of the United States, in Art. 1. sec. 8, par. 18, declares that Congress shall have power to exercise exclusive legislation over this District.

Also the ordinances of the Board of Health legalized by Congress. 1 Sup. R. S. 575, 582; and the Acts of Leg. Assem., 1871, 1872, and 1873.

† The common law was a part of the laws so adopted. 91 U. S. Rep., 359. Morsell vs. First Nat. Bank; 13 Peters Rep., 236, Van Ness vs. Hyatt; 12 Peters Rep., 622, Kendall vs. U. S.; 3 Cranch, Ct. Rep., 441, U. S. vs. Watkins.

Also certain British statutes in force in Maryland. 1 Mackey Rep., 566, U. S. vs. Guiteau; 4 Cranch, Ct. Rep., 130, U. S. vs. Jennegeen.

The laws of Maryland "were considered as having been re-enacted by Congress *totidem verbis*." 1 Cranch Rep., 258, U. S. vs. Simms; see also Md. act 1791, ch. 45, sec. 2. 1 Dorsey, 369, 2 Kilty, 319.

The sovereignty of Maryland over Washington County in this District, terminated February 27, 1801. 13 Peters Rep., 19, Van Ness vs. Bank of United States.

The Maryland laws can not be enforced in this District if repugnant to the Constitution or laws of the United States. 1 Mackey Rep., 529-579, U. S. vs. Guiteau; 8 Cranch Rep., 129, Fletcher vs. Peck; 2 Cranch, Ct. R., 197, U. S. vs. Black.

Laws and ordinances of Washington and Georgetown and of the levy court to remain in force until, etc.

Sec. 91, R. S. D. C.

SEC. 4. All laws and ordinances of the cities of Washington* and Georgetown, respectively, and of the levy court of the District of Columbia, not inconsistent with this chapter, and except as modified or repealed by Congress or the legislative assembly of the District since the first day of June, eighteen hundred and seventy-one, or until so modified or repealed, remain in full force.

CONSTRUCTION OF LAWS.

Definitions.

Sec. 1, R. S. U. S.

SEC. 5. In determining the meaning of the revised statutes, or of any act or resolution of Congress passed subsequent to February twenty-fifth, eighteen hundred and seventy-one, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; the words "insane person" and "lunatic" shall include every idiot, *non compos*, lunatic, and insane person; the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by affirmation in judicial form.

Vessel.

Sec. 3, R. S. U. S.

SEC. 6. The word "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

Vehicle.

Sec. 4, R. S. U. S.

SEC. 7. The word "vehicle" includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land.

Company, association.
Seal.

Sec. 5, R. S. U. S.

SEC. 8. The word "company" or "association," when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association," in like manner as if these last-named words, or words of similar import, were expressed.

COMPILATION OF LAWS.

Commission to compile laws relating to the District of Columbia.

Mar. 2, 1889.
25 Stat., 872,
sec. 1, ch. 392.

SEC. 9. That the supreme court of the District of Columbia be, and is hereby, authorized and directed to appoint two persons learned in the law as Commissioners to compile, arrange, and classify, with a proper index, all statutes and parts of statutes in force in the said District, including the acts of the second session of the Fiftieth Congress, and relating to all such matters as would properly come within the scope of a civil and criminal code; and the said court shall have power to fill any vacancies occurring in said commission.

Compensation.

SEC. 10. That each of the said commissioners shall receive for his services such sum, not exceeding one thousand five hundred dollars, as said court shall deem reasonable; said sum to be paid upon the completion of the work and the approval thereof in writing by the court; which sums, together with the reasonable costs, incurred by the commission for clerical assistance and incidental expenses, not exceeding the sum of one thousand dollars, shall be paid by the Secretary of the Treasury out of any moneys not otherwise appropriated, one half to be paid out of the revenues of the District of Columbia.

Expenses.

Ibid., sec. 2.

Printing.

Ibid., sec. 3.

SEC. 11. That of said compilation, when completed, upon the order of the supreme court of the District of Columbia, there shall be printed five thousand copies at the Government Printing Office, said copies to be sold at ten per centum above cost.

*The Commissioners have no authority to set aside an ordinance of the city of Washington establishing a hackstand. 3 McArthur Rep., 267, *Dennison vs. Gavin*.

REPEAL PROVISIONS.

SEC. 12. All acts of Congress passed prior to the first day of December, one thousand eight hundred and seventy-three, relating to the District of Columbia, any portion of which is embraced in the foregoing revision are hereby repealed; and the section applicable thereto shall be in force in lieu thereof; and this revision of the acts of Congress relating to the District of Columbia shall be subject to, and governed by the provisions of chapter seventy-four of the Revised Statutes of the United States, entitled "Repeal Provisions."

[See R. S. U. S., §§ 12, 13, 5595-5601.]

Rep., 552, U. S. vs. Clafin; 11 Wallace Rep., 88, U. S. vs. Tynen; 3 Howard Rep., 645, Davies vs. Fairbairn; 16 Peters Rep., 342, U. S. vs. Peters; 1 Mackey Rep., 529, U. S. vs. Guiteau; 2 Mackey Rep., 394, U. S. vs. Wyman; 3 Mackey Rep., 153, U. S. vs. Dunn; 6 Mackey Rep., 117, Chadsey vs. Fuller; 6 Mackey Rep., 157, Moore vs. Shannon; 48 Md. Rep., 292, Strauss vs. Heiss; 6 Mackey Rep., 510, Newmeyer vs. Cowling; 106 U. S. Rep., 395, King vs. Cornell; 107 U. S. Rep., 451, Cook County Bank vs. U. S.; 109 U. S. Rep., 556, Crow Dog; 112 U. S. Rep., 536, Chew Heong vs. U. S.; 118 U. S. Rep., 389, U. S. vs. Langston.

Repeal provisions of Revised Statutes of District of Columbia.

Sec. 1296, R. S. D. C., p. 149. June 22, 1874.

102 U. S. Rep., 669, Page vs. Burnstine; 97 U. S.

SEC. 13. That all and every act and acts of assembly of Maryland [this province] made or enacted at any time before the session of assembly begun and held at the port of Annapolis, the twenty-sixth day of April, one thousand seven hundred and four, except the act, entitled, An act for the establishment of religious worship in this province, according to the church of England, and for the maintenance of ministers, and except the act for keeping good rules and orders in the port of Annapolis, and which are not revived, saved, and enacted this present session of assembly, be and are hereby repealed and made void. [See 1 Kilty 141, ch. 49, § 2.]

Repeal of laws of Maryland assembly passed prior to Apr. 26, 1704.

Md. act 1704, ch. 77, sec. 1. 1 Kilty, 80.

SEC. 14. That every provision, rule or regulation, contained in any act of assembly [of Maryland] heretofore passed, or in any English statute introduced, used or practised under, in this District [state], which is inconsistent with, or repugnant to, any thing contained in this act, be and it is hereby repealed and rendered utterly void and of no effect.*

Repeal of all laws inconsistent with Maryland statute of wills, etc.

Md. act 1798, ch. 101, sec. 2. 2 Kilty, 831. * Dorsey, 370.

CHAPTER FORTY.

LICENSE.

Sec.

1. Licenses required by following sections.
2. Oath of applicant for; certificate for, how obtained; form of; transfer of. (NOTE.—Refunding of deposit money.)
3. Time from which licenses shall run.
4. Penalty for not taking out license.
5. Each pursuit to be licensed.
6. Only good for location named, when.
7. Penalty for nonresident using license issued to resident.
8. No license required for selling wood, etc., brought in carts, etc.
9. When livery stables and wood, coal and lumber yards may be licensed.
10. License to sell liquor by the drink, how obtained.

Sec.

11. Same sold in mineral or other waters.
12. Apothecaries may sell liquors as medicine without license; oath of.
13. Business places not to be kept open on Sundays.
14. No license for sale of liquor within a mile of Soldiers' Home.
15. Undertakers, when to take out license.
16. Auctioneers and real estate agents; penalty for noncompliance.
17. "Capital invested" defined.
18. Tax on sales, etc., how collected, etc.
19. Carts, etc., to be numbered; penalty for noncompliance.
20. Lists of licensees of hacks, etc., to be kept.
21. License for each insurance company.

* The act referred to is entitled as follows: "An act for amending, and reducing into system, the laws and regulations concerning last wills and testaments, the duties of executors, administrators, and guardians, and the rights of orphans and other representatives of deceased persons."

Sec.	Sec.
22. Apothecaries, license.	64. Recovery of fines; informer's share.
23. Auctioneers, license.	65. Intelligence offices, license; penalty for not obtaining license.
24. Commercial agents, license.	66. Recovery of fines, etc.
25. Bankers, license.	67. Carriages and other vehicles for hire, to be numbered; drivers to wear number; penalty for noncompliance.
26. Bill posters, license.	68. Hack stands, requirements, etc.; penalty for noncompliance.
27. Bar and sample rooms, etc., license.	69. Vehicles not to stand on streets, etc.
28. Beer gardens, license.	70. Police to regulate vehicles when more than ten are at one place; penalty for obstructing police.
29. Billiard and other tables, license.	71. When private carriages subject to same regulations.
30. Bowling alleys, license.	72. Rates of fare, baggage, etc.
31. Brewers, license.	73. Contracts for fare; penalty when more is demanded by driver.
32. Brokers, license.	74. Penalty for refusing to pay fare.
33. Commission merchants, license.	75. Regulating fares by trip.
34. Cattle and horse brokers, license; pawnbrokers, license.	76. Speed of vehicles regulated.
35. Butchers to pay rent.	77. Disposition of property left in vehicles; penalty for nonreturn.
36. Concerts, exhibitions, and balls for gain, license.	78. How vehicles may be engaged.
37. Circuses, license.	79. Tickets to be furnished drivers.
38. Distillers, license.	80. Penalty for not handing ticket to passenger.
39. Dealers in distilled liquors, etc., license.	81. Penalty for not posting rate-card in conspicuous place.
40. Produce dealers, license.	82. Drivers and owners of vehicles for hire must not refuse to carry passengers; must demand only legal fare, etc.
41. Hacks, cabs, omnibuses, etc., license.	83. Penalty for demanding illegal fare.
42. Hotels, license.	84. Police to regulate vehicles at wharves and railroad stations.
43. Intelligence offices, license.	85. Collection of fines and penalties.
44. Fire insurance companies, license.	86. Policemen as hack inspectors: powers of; appeal.
45. Life insurance companies, license.	87. Copies of law to be furnished owners and drivers.
46. Insurance agents, license.	88. Penalty for two convictions under this act.
47. Junk shop, license.	89. Stages and omnibuses, regulations concerning.
48. Livery stables, license.	90. Definition of hackney carriage.
49. Grounds used for horse racing and tournaments; license.	91. Fares for light vehicles.
50. Peddler's license; definition of peddler.	
51. Real estate agents, license.	
52. Rectifiers, license.	
53. Restaurants and eating-houses, license.	
54. Theaters, license.	
55. Variety theaters, license.	
56. Contractors, license; definition of contractor.	
57. Book agents, license.	
58. Illuminating gas, license.	
59. Claim agents, license.	
60. Patent agents, license.	
61. Ice dealers.	
62. Definitions of persons and gender.	
63. Provisions for police regulations continued in force.	

Licenses required of all persons engaged in any trade, etc., hereinafter mentioned.

SEC. 1. No person shall be engaged in any trade, business, or profession hereinafter mentioned until he shall have obtained a license therefor, as hereinafter provided.

¹ Leg. Assem., Aug. 23, 1871, sec. 1, p. 87.

Oath of applicant for license.

SEC. 2. Every person engaged in any trade, occupation, or profession for which a license tax is imposed by the laws of the District of Columbia, shall, at the time for procuring the same, make application to the *assessor* [register] and shall state, under oath or affirmation, such facts as may be applicable to licenses as apothecaries, commercial agents, bankers, banks, bar-rooms, sample-rooms, and tippling-houses: billiard, bagatelle, and Jenny Lind tables; bowling alleys, brokers, dealers in merchandise; distilled and fermented liquors, wines, and cordials; hacks, carriages, cabs, omnibuses, and street cars; hotels, fire and life insurance companies; livery stables, manufacturers, peddlers, resident or otherwise. The *assessor* [register] shall then issue to the applicant a certificate stating the particular kind of license for which application has been made, and the amount of money required by law to be paid therefor. Said certifi-

Certificate to be given by register.

cate shall be delivered to the collector, who shall, upon the receipt of the sum of money stated therein, give a certificate of deposit, stating the amount of money paid and the kind of license required, and it shall be the duty of the *assessor* [register] to issue said license. Every license shall state the name of the person to whom granted, and the number of the house and street where it is desired to carry on such business or occupation when such business or occupation has an established location, and the kind of business for which it is required, and shall be signed by the register, and impressed with the seal of his office. Licenses may be transferred to persons to continue the same business in the same house, or to remove a place of business, under the same regulations as the original license. All transfers shall be certified by the *assessor* [register].*

Upon receipt of certificate and sum of money therein named collector to issue license.

Form of license.

Transfer of license.

Ibid., sec. 2, pp. 87, 88.

9 Mackey Rep., 547, D. C. vs. Nau.

SEC. 3. All licenses for produce brokers, peddlers, and commercial agents shall date from the first of April of each year, and expire on the thirty-first of March following. All licenses for hacks, carriages, cabs, omnibuses, and street cars shall date from the first of July of each year, and expire on the thirtieth of June following; and all other annual licenses shall date from the first of November of each year, and expire on the thirty-first of October following. And the license of every person liable for license tax after the first of April, July, and November, aforesaid, shall date from the first of the month in which the liability began, and payment shall be made for a proportionate amount.

Time of year from which licenses shall run.

Ibid., sec. 3, p. 88.

SEC. 4. Every person liable for license tax, who may fail to pay the same before engaging in the business for which the license may be required, shall, in addition to the license tax imposed, pay a fine or penalty of not less than five nor more than fifty dollars for each offense, to be imposed and collected as provided in this act. Commercial agents, managers of theatrical performances, exhibitions, and concerts for gain, (not including exhibitions and concerts given by or for the benefit of religious or charitable institutions or societies,) beer gardens, circuses, gift enterprises, and race courses, one-half to the use of the informer.

Penalty for not taking out license.

Leg. Assem., June 20, 1872, sec. 4, p. 61.

SEC. 5. In every case where more than one of the pursuits or occupations hereinafter described shall be pursued or carried on in the same place, by the same person, at the same time, except as hereinafter provided, the tax shall be paid for each according to the rates severally prescribed.

One person engaged in two or more pursuits to take out license for each.

1 Leg. Assem.,

Aug. 23, 1871, sec. 5, pp. 88, 89.

SEC. 6. Except in the case of *commercial agents*, peddlers, and insurance agents, licenses granted by the District of Columbia shall only be good for the conducting of business at the location named therein.

Licenses, with certain exceptions, to be good only for location named.

Ibid., sec. 6, p. 89.

SEC. 7. If any person, resident or non-resident of the District of Columbia, who may have obtained license to sell merchandise, shall permit any *commercial agent*, without license as such, to sell under his license or to occupy any portion of his premises for the purpose of offering for sale merchandise under his license, the person so offending shall be fined not less than one hundred dollars for each offense, to be imposed and collected as other fines.

Penalty for allowing nonresident to use license obtained for another.

Ibid., sec. 7.

*When pro rata of deposit shall be refunded. Sec. 2, act of Leg. Assem., Jan. 19, 1872, p. 52, sec. Chapter on Taxes.

Country produce not to pay. SEC. 8. No license shall be required of any person bringing to the city wood, lumber, building materials, or produce of any kind, to be sold by the car, cargo, or wagon load, or to persons bringing marketing to the District, or to regular dealers whose residence may be beyond the limits of said District.

Ibid., sec. 8. p. 89.
June 3, 1892.
27 Stat. L., ch. 87, p. 41.

Keepers of livery stables and of wood, coal, and lumber yards, not to have license except by consent of majority of persons living, or owning real estate, in vicinity of proposed location. SEC. 9. The keeper of every livery stable, wood, coal, or lumber yard shall, before engaging in such business, obtain the consent in writing of a majority of the persons owning real estate, and a majority of the residents keeping house on the same side of the square on which is the principal front of the stable or yard about to be built or kept, and the side of the square fronting immediately opposite, for him to enter upon and engage in such business, the assessor [register] to determine which is the principal front; and without such permit being first obtained, it shall be unlawful to grant such license.

Ibid., sec. 9.

License to sell liquors by the drink; how obtained. SEC. 10. That every place where distilled or fermented liquors are sold in less quantity than one pint, to be drank on the premises shall, unless kept by apothecaries, be known as a bar-room, sample-room, or tipping-house as the case may be; and it shall be the duty of the proprietor of every such place to present, with his application for license, the written permission of a majority of the owners of real estate, and a majority of the residents keeping house on the same side of the square where it is desired to locate such business, and the side of the square fronting opposite the same, which permission shall be certified to by the assessor, and such license shall not be issued until approved by the Board of District Commissioners: *Provided*, That the failure of any keeper of a hotel, eating-house, tavern, or restaurant to obtain license to sell distilled or fermented liquors in quantity of less than one pint, shall not otherwise affect said business of keeping a hotel, eating-house, tavern, or restaurant, he having a license for the same.*

Ibid., sec. 10.

Preceding section to include persons who sell liquors in mineral or soda water. SEC. 11. Any person selling distilled or fermented liquors or wines in mineral or soda water, or other like beverage, shall be liable for the same license and under the same restrictions as provided in the preceding section.†

Ibid., sec. 11, p. 90.

Apothecaries may sell liquors for medicinal purposes without license. SEC. 12. Every apothecary having a license as such shall be allowed to sell distilled, fermented, or vinous liquors, for medical purposes only, in quantity not to exceed one-half pint at one time to the same purchaser, without the taking of an additional license therefor. In addition to other regulations governing the granting of licenses to apothecaries, which may be imposed by law, regulating the sale of medicines and poisons, apothecaries shall include in their affidavits, at the time of making application for license, the words: "And will not sell, or cause to be sold, any distilled, fermented, or vinous liquors, except alcohol, in quantities exceeding half a pint at any one time to the same purchaser, and then only when deponent has reason to believe the same will be used for medical purposes." †

Oath to be taken by apothecaries.
Ibid., sec. 12, p. 90.

No authority in this act for doing business on Sunday, except selling medicines. SEC. 13. Nothing contained in this act shall authorize any person to keep his place of business open on Sunday for the sale of any merchandise whatever, except medicines in cases of necessity.

Ibid., sec. 13, p. 90.

* Repealed by act of Congress, Mar. 3, 1893, ch. 204, 27 Stat., 563.

† See act of Congress, Mar. 3, 1893, ch. 204, 27 Stat., 563.

SEC. 14. That on and after the passage of this act no license for the sale of intoxicating liquor at any place within one mile of the Soldiers' Home property, in the District of Columbia, shall be granted.

Mile limit.

Feb. 28, 1891.
26 Stat., 797.
2 Sup. R. S., 900.

SEC. 15. Every undertaker selling coffins, caskets, or burial cases, not of his own manufacture, shall be liable for license as a dealer.

Undertakers.

Leg. Assem.,
Aug. 23, 1871, sec. 14, p. 91.

SEC. 16. No person whatsoever shall sell, or expose for sale, at auction, any property, real or personal, within the District of Columbia, without having first obtained a license as auctioneer. Every person who may offer to sell at auction any property or merchandise, without license, shall be fined not less than one hundred dollars for each offense. Every licensed auctioneer shall give bond to the secretary of the District of Columbia in the sum of five thousand dollars, with two good and sufficient sureties, to be approved by the *Commissioners* [Governor,] for the honest and due performance of all duties required by law. Every auctioneer failing to comply with the provisions of this section, or the laws of the District of Columbia governing such sales, shall, on conviction, forfeit his license and be fined not less than one hundred dollars.*

Auctioneers.

Ibid., sec. 15, p. 91.

As amended by
24 Stat., ch. 48, p. 368, Jan. 26, 1887.

Penalty.

SEC. 17. Wherever in this act a license tax is levied on capital invested, it shall be taken to mean the average capital invested, cash and credit, during the preceding year; or, if the business is just begun, the actual capital at the time.

What is meant
by "capital invest-
ed."

Ibid., sec. 16, p. 91.
Ibid., sec. 17.

SEC. 18. That wherever in this act a tax is imposed semi-annually on sales or receipts, returns for the same shall be made to the assessor, under oath or affirmation, on or before the tenth of January and July of each year, and the same shall be due and payable to the collector, on or before the thirtieth of said months, and on all such taxes remaining unpaid after the thirtieth of each month, a penalty of five per centum shall be added, and it shall be the duty of the collector to make demand for the payment of the same. For this purpose said collector is hereby authorized to employ some suitable person who shall be entitled to a commission of ten per centum on the amount collected; and if unpaid for three months after the same has become due and payable, the collector shall transmit the account for the same to the attorney of the District of Columbia, for collection by due process of law. If, in the opinion of the assessor, the returns required by law are underestimated, he shall have power to examine, either in person or by deputy, the books and accounts of the person making such returns; and if he shall find that the returns made are less in amount than that shown by said books and accounts, he shall make an assessment for a correct sum to which he shall add a penalty of twenty-five per centum on amount of tax due.

As amended by
act 1872, ch. 49, p. 61, 2 Leg. Assem.

SEC. 19. [All carts, wagons, and drays licensed by the District of Columbia, shall, at the time of receiving the license, be furnished with a number of the same, legibly painted on tin or some other suitable material, with the letters "D. C." and the year, which the owner or agent shall attach to said cart, wagon, or dray in some conspicuous place and] In like manner a number shall be furnished, painted on tin or some other material, in the form of a badge, which shall be worn conspicuously on the person of the driver of each hack, carriage, cab, or other licensed vehicle for the transportation of passengers for hire, except street cars, when in service; and any person offending against this section shall be fined not less than five dollars for each offense.

Hack drivers to
wear badge.

Ibid., sec. 18, p. 92.

Part in brackets
repealed by 19
Stat., 83, ch. 180:
1 Sup. R. S., 227.

* Real estate agents omitted from above section, by 24 Stat., p. 368.

Assessor to keep list of names of drivers and their numbers.

Ibid., sec. 19.

SEC. 20. It shall be the duty of the Assessor [register] to keep, in books prepared for the purpose, a list of the names of all persons obtaining licenses for hacks, carriages, and cabs, and other vehicles for the transportation of passengers, numbered to correspond with the number of the license.

Insurance agents to obtain license for each company they represent.

Proviso.

Ibid., sec. 20.

SEC. 21. Every agent for life or fire insurance companies, whose principal office is beyond the limits of the District of Columbia, shall obtain a separate license for each company he may be agent for: *Provided*, That licensed insurance agents may employ solicitors of insurance without the payment of an additional license.

License tax imposed on apothecaries.

Ibid., sec. 21, pp. 92, 93.

Amended June 20, 1872, p. 62.

SEC. 22. A license tax shall be, and hereby is, imposed as follows, that is to say:

First. Apothecaries shall pay annually four dollars on each thousand dollars or fractional part thereof of capital invested. Every person whose business it is to manufacture, compound, and dispense medicines shall be regarded as an apothecary; but apothecaries shall not be liable for an additional license for selling other merchandise, or for the sale of alcohol in any quantity, or for the sale of distilled or fermented liquors or wines, for medicinal purposes, in quantities not exceeding half a pint at one time to the same purchaser.

Auctioneers.

Ibid.

Amended June 20, 1872, p. 62, by Leg. Assem.

SEC. 23. *Second*. Auctioneers shall pay one hundred dollars annually and *semiannually* a tax on gross receipts of one-fourth of one per centum, except sales made by order or decree of any court; and the rates of charges on the sale of real estate at public auction shall be five per cent. on the first two hundred dollars, two per cent. on the next one thousand dollars, and one per cent. on all amounts in excess of that sum.

Commercial agents.

Ibid.

Amended June 20, 1872, p. 62.

SEC. 24. *Third*. Commercial agents shall pay two hundred dollars annually. Every person whose business it is, as agent, to offer for sale goods, wares, or merchandise by sample, catalogue, or otherwise, shall be regarded as a commercial agent.

Banks.

Ibid.

As amended by Leg. Assem. June 20, 1872, p. 62.

SEC. 25. *Fourth*. Banks and bankers shall pay annually fifty cents on each thousand dollars of capital invested. Every incorporated or other bank, and every person having a place of business, where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale shall be regarded as a bank or banker: *Provided*, That savings banks having no capital stock and whose business is confined to receiving deposits, and loaning or investing the same, shall pay semi-annually a tax of one-fortieth of one per centum on the amount of deposits received during the previous six months; but associations or companies known as provident institutions, savings banks, savings funds or savings institutions having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits without profit to the association or company shall pay annually fifty dollars.

Bill-posters.

Proviso.

Ibid.

SEC. 26. *Fifth*. Bill-posters shall pay twenty dollars annually. Every person whose business it is to post advertising bills or distribute circulars shall be regarded as a bill-poster: *Provided*, That no license shall be required of any dealer who may post or distribute advertisements of his own business.*

* See Webb's Digest, p. 46. The Washington city ordinances in regard to bill posting extended to the entire District. See 1 Leg. Assem., July 3, 1871, ch. 8, p. 9.

SEC. 27. *Sixth.* The proprietors of bar-rooms, sample-rooms, and tipping-houses shall pay one hundred dollars annually. Every place, except an apothecary store, where distilled or fermented liquors, wines, or cordials are sold in less quantities than one pint at a time to the same purchaser, shall be regarded as a bar-room, sample-room, or tipping-house.*

Bar-rooms, sample rooms, and tipping-houses.

Ibid.

SEC. 28. *Seventh.* The proprietors of beer gardens shall pay five dollars per day. Every place known as a pleasure garden or park, where an admission fee is charged, shall be known as a beer garden. But no tax shall be required for days when no admission fee is charged to such garden: *Provided*, That a license as beer garden shall not authorize the sale of distilled or fermented liquors, wines, or cordials.

Beer gardens.

Proviso.

Ibid., p. 94.

SEC. 29. *Eighth.* The proprietors of billiard tables, bagatelle, Jenny Lind tables, for public hire or gain, and shuffle-boards, shall pay ten dollars annually for each table or board.

Billiard tables, etc.

Ibid., p. 94.

SEC. 30. *Ninth.* The proprietors of bowling alleys shall pay annually for each alley ten dollars.

Bowling alleys.

Ibid.

SEC. 31. *Tenth.* Brewers shall pay twenty-five dollars annually. Every person who manufactures fermented liquors of any name or description for sale from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer: *Provided*, That a license as brewer shall not authorize the sale of fermented liquors in quantities of less than one pint.

Brewers.

Proviso.

Ibid.

SEC. 32. *Eleventh.* Brokers shall pay annually one hundred dollars. Every person whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coin, money, bank notes, promissory notes, or other securities, for himself or others, shall be regarded as a broker: *Provided*, That any person having paid a license tax as banker shall not be required to pay a license tax as broker.

Brokers.

Proviso.

Ibid.

SEC. 33. *Twelfth.* Commission merchants shall pay forty dollars annually. Every person except commercial agents, whose business it is, as agent for others, to negotiate sales or purchases of goods, wares, or merchandise of any kind whatever, or to negotiate freights for owners of ships or vessels, or for the shipper, or consignee or consignees of freight carried by ships or vessels, shall be regarded as a commission merchant, or to make sales for or to aid any commercial agent or dealer by sample, who has not taken out a license in accordance with this act: *Provided, however*, That license as commission merchant shall not be construed to grant the right to buy and sell goods as dealers, or to allow said merchant, his agent, or employee, to buy and sell goods as dealers, or to allow said merchant, his agent, or employee, to solicit orders or offer for sale merchandise of any kind whatever by sample or catalogue outside of the office or store of said commission merchant.†

Commission merchants.

2 Leg. Assem., June 20, 1872, p. 62.

SEC. 34. *Thirteenth.* Cattle brokers shall pay twenty dollars annually. Every person whose business it is to buy and sell, for himself or another, cattle, sheep, hogs, or horses, shall be regarded as a cattle broker.‡

Cattle brokers.

Leg. Assem., Aug. 23, 1871, p. 95.

* Repealed by act of Congress, Mar. 3, 1863, ch. 204: 27 Stat., 563.

† Frauds by commission merchants, how punished, 27 Stats. L., ch. 19, p. 10, Mar. 31, 1892.

‡ See in regard to "horse dealers," Webb's Dig., p. 454. For pawnbroker's license, see title "Pawnbroker's" *post*, and 25 Stat., 1006, Mar. 2, 1889.

- Butchers.** **SEC. 35. Fifteenth.** Butchers shall pay annually rental—in Northern market, fifty dollars; Western market, twenty dollars; Eastern market, twenty dollars; Georgetown, twenty dollars, each. Every person whose business it is to sell meat from market stalls shall be regarded as a butcher: *Provided*, That the rental herein imposed may be revoked at any time by refunding to the party holding it the amount corresponding to the unexpired portion of the time it is to run, and shall not operate to prevent the District of Columbia at any time from disposing of the stand or stall occupied by such party.
- Proviso.*
Ibid., p. 95.
Amended June 20, 1872, 2 Leg. Assem., p. 63.
- Concerts, exhibitions, and balls for gain.** **SEC. 36. Seventeenth.** The managers of concerts, exhibitions, and balls for gain, not otherwise enumerated, or games of any kind, where an admission fee is charged, shall pay for each day five dollars.
- Ibid., p. 95.
Circuses.
- SEC. 37. Eighteenth.** Circuses shall pay two hundred dollars for each week or part thereof. Every building, tent, space, area, where feats of horsemanship or acrobatic sports, or theatrical performances pertaining to or being a part thereof, are exhibited, shall be regarded as a circus. Exhibitors of wild animals shall pay twenty-five dollars per week: *Provided*, That proprietors of circuses, having license as such, shall not be taxed for license for exhibiting wild animals.
- Proviso.*
Ibid., p. 95
- Distillers.** **SEC. 38. Nineteenth.** Distillers shall pay fifty dollars. Every person who distills or manufactures spirits shall be deemed a distiller.
- Ibid.
- Dealers in liquors, wines, and cordials.** **SEC. 39. Twenty-first.** Dealers in distilled and fermented liquors, wines, and cordials shall pay annually ten dollars for each thousand dollars of capital invested: *Provided*, That no license shall be for a less sum than twenty-five dollars: *And provided further*, That this license shall not authorize any persons to sell any distilled or fermented liquors, wines, or cordials in less quantities than one pint.
- Proviso.*
Proviso.
Ibid., p. 96.
- Produce dealers.** **SEC. 40. Twenty-second.** Produce dealers shall pay annually twenty-five dollars. Every person whose business it is to buy and sell produce, fish, meats, or fruits, from wagons or carts, stalls or stands, shall be regarded as a produce dealer. No additional license shall be required of a produce dealer for selling meat when the capital invested is less than one thousand dollars: *Provided*, That any person selling produce of his own raising shall not be liable for license for selling the same. Produce dealers having stands in the several markets shall pay a license for each; the same selling from wagons shall be liable for each. Persons selling fruit, cakes, sweetmeats, or other eatables from baskets or stands, whose average capital does not exceed twenty dollars, shall not be liable for license tax.*
- 1 Leg. Assem., 1 ses., ch. 69, Aug. 23, 1871, sec. 22, p. 96; amended 2 Leg. Assem., June 20, 1872, p. 62.
- Hacks, cabs, omnibuses, etc.** **SEC. 41. Twenty-sixth.** The proprietors of hacks, cabs, omnibuses and other vehicles for transporting passengers, for hire, shall pay annually as follows: Hacks and carriages, ten dollars; one-horse cabs, six dollars; omnibuses, ten dollars; street cars drawn by one horse, three dollars, and by two horses, six dollars; other vehicles capable of carrying ten passengers or more at one time, ten dollars.
- Ibid; and as amended, 2 Leg. Assem., ch. 49, p. 63.
- Hotels.** **SEC. 42. Twenty-seventh.** The proprietors of hotels shall pay, annually, as follows: Hotels containing twenty rooms or less, suitable for the accommodation of guests, twenty-five dollars; the same, containing more than twenty rooms, suitable for the accommodation of guests, one dollar for each room over twenty. Every place where food and lodging are provided for and furnished to travelers and sojourners for pay, shall be regarded as a hotel: *Provided*, That a hotel license shall not authorize the sale of distilled or fermented liquors, wines, or cordials.
- Proviso.*
Leg. Assem., ch. 69, Aug. 23, 1871, p. 97.

* Repealed. See act of Congress June 3, 1892, 27 Stat. L., ch. 57, p. 41.

SEC. 43. *Twenty-eighth.* Proprietors of intelligence offices, who charge for services, shall pay annually ten dollars. (See § 65 of this chapter.)

Intelligence offices.

Ibid.

SEC. 44. *Twenty-ninth.* Fire insurance companies shall pay annually fifty cents on each thousand dollars of capital invested. Every company, firm, or corporation whose business it is to grant policies of insurance for buildings of any kind, boats, vessels, and ships, furniture, or merchandise, against loss by fire, shall be regarded as a fire insurance company.

Fire insurance companies.

Ibid.

SEC. 45. *Thirtieth.* Life insurance companies shall pay annually fifty cents on each thousand dollars of capital invested. Every company, firm, or corporation, whose business it is to insure the life of any person, or who may agree to pay to the person insured any sum of money, in case of accident to said person, or who may agree, on conditions, to pay to the person insured an annuity, shall be regarded as a life insurance company.

Life insurance companies.

Ibid., pp. 97, 98.

SEC. 46. *Thirty-first.* Insurance agents shall pay annually fifteen dollars, and, in addition semi-annually a tax of one per centum on the gross receipts of such agency, whether such receipts are in cash or notes for the part payment of premium. Every person whose business it is to act as agent for any life or fire insurance company, whose principal office is located beyond the District of Columbia, shall be regarded as insurance agents: *Provided*, That in case where any person is agent for more than one company, the license tax of fifteen dollars shall be paid for each company: *Provided further*, That non-resident insurance agents shall pay two hundred and fifty dollars annually. Every agent or solicitor of insurance, whose office and residence is beyond the limits of the District of Columbia, shall be regarded as a non-resident insurance agent.

Insurance agents.

Proviso.

Proviso.

Ibid., p. 98; as amended June 30, 1872, p. 63. Leg. Assem., ch. 49.

SEC. 47. *Thirty-second.* The proprietors of junk-shops shall pay forty dollars annually. Every person whose business it is to keep a store or office for buying and selling old iron, rags, paper, second-hand clothing, or like old material, shall be deemed the keeper of a junk-shop. Dealers in old barrels shall pay a license of ten dollars.*

Junk shops.

Ibid.

SEC. 48. *Thirty-third.* The proprietors of livery stables shall pay as follows: Not exceeding ten stalls, twenty-five dollars, and two dollars for each additional stall more than ten. Any person whose business it is to keep horses for hire, or to keep, board, or feed horses for others, shall be regarded as a livery-stable keeper: *Provided*, That nothing contained in this clause shall be so construed as to exempt livery-stable keepers from procuring additional license for running cabs, hacks, or hackney carriages.

Livery stables.

Proviso.

Ibid., p. 98.

SEC. 49. *Thirty-fourth.* Proprietors of grounds used for horse-racing or tournaments shall be required to pay a weekly tax of twenty-five dollars or five dollars per day, when so used.

Grounds used for horse-racing or tournaments.

Ibid.

SEC. 50. *Thirty-sixth.* Peddlers shall pay fifty dollars annually. Any person who may offer for sale from house to house, or from a wagon, dry goods, fancy goods, notions, toys, and similar articles, delivered at the time of sale, shall be known as a peddler.

Peddlers: who is a peddler.

Ibid.

Amended.

2 Leg. Assem., June 20, 1872, p. 63.

SEC. 51. *Thirty-eighth.* Real estate agents in the District of Columbia shall pay a license-fee of fifty dollars per annum, to be collected as any other licenses are collected in said District. Every

Real estate agents.

Ibid.

* See act March 3, 1891, 26 Stat. 841.

- Amended. person whose business it is to sell or offer for sale real estate for
24 Stat., ch. 48, others, or to rent houses, stores, other buildings or real estate, or to
p. 368. collect rents for others, shall be regarded as real estate agents: *Pro-*
2 Sup. R. S., 522. *vided*, That license as real estate agents shall not authorize any
4 Mackey Rep., person to act as auctioneer without license as such.
328, D. C. vs. Wag-
gaman.
- Rectifiers. SEC. 52. *Thirty-ninth*. Rectifiers shall pay twenty-five dollars
annually. Every person who rectifies, purifies, or refines distilled
spirits or wines by any process, or who, by mixing distilled spirits
Ibid. or wine with any materials, manufactures any spurious, imitation,
Amended June 20, 1872, or compound liquors for sale, under the name of whisky, brandy,
2 Leg. Assem., gin, rum, wine, "spirits," or "wine bitters," or any other name, shall
p. 64. be regarded as a rectifier.
- Restaurants and eating houses. SEC. 53. *Fortieth*. Proprietors of restaurants and eating-houses
shall pay twenty-five dollars annually. Every place, the business of
Ibid. which is to provide meals and refreshments, except distilled or fer-
mented liquors, wines, and cordials, for casual visitors, shall be
regarded as a restaurant or eating-house.
- Theaters. SEC. 54. *Forty-first*. The proprietors of theaters shall pay annu-
ally one hundred dollars: *Provided*, That license may be granted for
Ibid., pp. 99, 100, theatrical performances for one week on the payment of twenty
Amended. dollars. Every edifice used for the purpose of dramatic, operatic, or
2 Leg. Assem., other representations, plays, performances, or burlesques, for admis-
June 20, 1872, p. sion to which entrance money is received, but not including hall
63. rented or occasionally used for concerts or theatrical representations,
shall be regarded as a theater: *Provided*, That nothing herein con-
tained shall be so construed as to include a license for the sale of
liquors.*
- Variety theaters. SEC. 55. *Forty-second*. The proprietors of variety theaters shall
pay five hundred dollars annually. Every hall or building used for
burlesque, dramatic, and operatic representations, or other funny
Ibid. plays or performances, shall be known as a variety theater, and shall
include also places where liquors are sold, dispensed, or given to
Proviso. persons in the audience: *Provided*, That nothing herein contained
shall be so construed as to include a license for the sale of liquors:
Proviso. *Provided further*, That a license may be granted for one week on
Ibid., p. 100. the payment of twenty-five dollars.
- Contractors. SEC. 56. *Forty-third*. Contractors, whose gross receipts are in ex-
cess of five thousand a year, shall pay twenty-five dollars annually.
Ibid. Every person who contracts for building railroads, bridges, ships,
or buildings, or for paving or grading streets or sidewalks, or for
building sewers and other work of a like character, shall be regarded
as a contractor.
- Book agents. SEC. 57. *Forty-fourth*. Book agents shall pay ten dollars annually.
Every person whose business it is to solicit subscriptions for or
Proviso. deliver books or maps, shall be regarded as a book agent: *Provided*,
Ibid. That only one person shall be authorized to solicit orders or deliver
books, maps, or engravings under one license.
- Illuminating gas. SEC. 58. *Forty-fifth*. Manufacturers of illuminating gas shall pay
an annual tax of five cents on every one hundred dollars of capital
stock: *Provided*, That the tax hereby required for a license shall
Leg. Assem., not be construed as exempting any company engaged in the manu-
special session, Dec. 21, 1871, ch. facture of illuminating gas from such general taxes as may be
8, p. 12. assessed upon its capital or other property under existing laws.
- Claim agents. SEC. 59. *Forty-sixth*. Claim agents shall pay fifteen dollars annu-
ally. Every person whose business it is to prosecute claims before
Leg. Assem., the executive departments of the General Government or the District
Aug. 23, 1871, p. of Columbia shall be regarded as a claim agent.
100.

* For Joint Resolutions with regard to safety in theaters, see 27 Stat., p. 394.

SEC. 60. *Forty-seventh.* Patent agents shall pay twenty-five dollars annually. Every person whose business it is to procure patents shall be regarded as a patent agent.

Patent agents.
Ibid.

SEC. 61. *Forty-eighth.* Ice dealers shall pay annually four dollars on each thousand dollars of capital invested. Every person, firm, company, or corporation whose business it is to sell ice, shall be regarded as ice dealers: *Provided*, That persons who may sell or peddle ice from house to house, and not acting as the agent or employé of any person, firm, or corporation, shall not be liable for any license, except on the wagon used for the purpose.

Ice dealers.
Proviso.
Ibid.

SEC. 62. For the purposes of this act, the word person shall signify and include firms, corporations, or company. Words of one number shall signify and include words of both numbers, respectively. Words of one gender shall signify and include words of every gender, respectively. The word agent shall signify and include every person acting for another. The word merchandise shall signify and include every article of commerce, whether sold in bulk, by sample, catalogue, or otherwise. Dealers shall signify and include every person engaged in selling or offering for sale by sample, catalogue, or otherwise.

Definitions.
Ibid., sec. 22, p. 101.

SEC. 63. All laws and ordinances of the corporations of Washington and Georgetown and the Levy Court, providing police regulations for the several businesses of the citizens of the District of Columbia, are hereby continued in force; and all acts and ordinances, or parts of the same, of the said corporations of Washington and Georgetown and the Levy Court and the District of Columbia, inconsistent with the provisions of this act, are hereby repealed.

Laws and ordinances providing police regulations continued in force.
Repealing clause.
Ibid., sec. 24, p. 101.

SEC. 64. All the penalties or fines imposed or in any manner created by this act or the act of the Legislative Assembly entitled "An act imposing a license on trades, business and professions practiced or carried on in the District of Columbia," approved August twenty-three, eighteen hundred and seventy-one, shall be recovered in the police court of said District, on information under oath, filed therein by the Attorney of the District, or his assistant, in the name of the District of Columbia, and in the same manner as was provided for in section sixteen of an act of Congress of the United States, entitled "An act to establish a police court for the District of Columbia," approved June seventeen, eighteen hundred and seventy, for the recovery of fines and penalties for the violation of ordinances of the late corporations of Washington, Georgetown, and the Levy Court: *Provided*, That when any penalty shall be allowed in part to the informer, the judgment or finding of the court shall set forth that it is for the District, and indicate the amount or proportion thereof which shall go to and be for the informer.

Manner of recovering fines by prosecutions in police court.
2 Leg. Assem.. June 20, 1872, sec. 2, p. 64.

Informer's share of penalty shall appear in the judgment.

SEC. 65. Licenses may be granted, in the same manner as licenses are now granted in Washington city, for one year, unless sooner revoked after notice and cause, to suitable persons, upon payment by them of five dollars each, to keep offices for the purpose of obtaining employment for domestics, servants, or other laborers, except seamen, or of giving information in relation thereto, or of doing the usual business of intelligence offices, and said licenses shall be signed and the fees therefor received by the same officer or officers as perform those offices in the city of Washington; and no person shall keep such an office without a license, under a penalty not exceeding twenty dollars for every day it is so kept. [See § 45 of this chapter.]

Licenses may be granted intelligence offices.

Penalty for keeping such office without license.

Leg. Assem.. Aug. 10., 1871, ch. 26, sec. 1, p. 33.

Fine to be recovered by police court and applied as other fines. SEC. 66. The penalty provided in this act may be recovered by complaint before the police court of the District of Columbia, and said sum to be collected and applied as other fines.

Ibid., sec. 2, p. 33.

Hackney carriages and other vehicles for hire to be numbered. SEC. 67. Every licensed hackney carriage, or other vehicle for hire, shall carry a number in silver figures upon a black ground, on the center of each side of the driver's box; such number to be always kept exposed and uncovered; and for each and every violation thereof

Penalty.

Drivers to wear number of license.

Penalty.

Leg. Assem., Aug. 23, 1871, sec. 1, p. 79.

Location of hack-stands.

Position of vehicle when at stand.

Driver to be near.

And to be quiet.

Penalty.

Ibid., sec. 2, p. 79.

Vehicles not to stand upon street or avenue except as herein provided.

Ibid., sec. 3, p. 80.

Police to regulate vehicles when more than ten are at one place.

Penalty for obstructing police.

Ibid., sec. 4, p. 80.

On public occasions private carriages to be subject to same regulations.

Ibid., sec. 5, p. 80.

Rates of fare or charges.

Between 5 a. m. and 12.30 a. m.

SEC. 68. The location of hack-stands shall be designated by the *Commissioners* [Board of Public Works,] as in their opinion the interests and convenience of the public demand; and whenever any hackney coach or other vehicle for the conveyance of passengers for hire is upon such stand, it shall be placed lengthwise the street or the avenue, at least fifteen feet from the curbstone, and not in contact with the street crossings, and the driver of said vehicle shall, at all times, be in the immediate vicinity thereof, where he can have full control over his horses, that is to say, within five feet of the curb-line, and shall not annoy any person by boisterous or riotous conduct, or create any unnecessary noise or tumult; and that at all railroad stations, wharves, theaters, and other public places, drivers of hackney carriages, and other vehicles for hire, shall remain upon their box, or within five feet thereof, and shall take up passengers upon the line assigned to them, under penalty of a fine not exceeding ten dollars, nor less than one dollar for each and every offense.

SEC. 69. Except as provided for in section four, and the necessary time consumed in putting down or waiting for a passenger, no hackney coach or other vehicle, as aforesaid, shall be permitted to stand upon any street or avenue except at the places designated from time to time as hack-stands by the *Commissioners* [Board of Public Works.]

SEC. 70. When more than ten hackney coaches or other vehicles are assembling or assembled together, and a police officer be present, it shall be the duty of such officer to regulate the manner of the arrival and departure of the same, and their position while standing, and the peaceable and quiet demeanor of the drivers thereof; and any driver who shall obstruct the officer in the performance of his duties, or who shall refuse to obey the orders so given by him, shall be fined not exceeding ten dollars.

SEC. 71. On all public occasions the owners or drivers of private carriages shall be placed under the same regulations and subject to the same penalties as the drivers of hackney coaches under the provisions of the preceding section.

SEC. 72. The rates of fares or charges for the conveyance of passengers from one place to another in the District of Columbia shall not exceed the following: Any time between the hours of five o'clock a. m. and twelve o'clock and thirty minutes a. m., for one or two

passengers in a one-horse vehicle, excepting buggies and phaetons, seventy-five cents per hour; and by the trip, that is to say, from one given point to any other given point within the limits of the District of Columbia, and not extending into the county, in a one-horse vehicle, for one or two passengers, seventy-five cents for the trip; and from one given point to any other given point within the limits of Washington exceeding one mile, one dollar, and for each additional passenger fifty cents; when the distance is one mile or less, one-half these rates; for one or two passengers from one given point to any other given point from Washington to or from Georgetown exceeding one mile, two dollars, and for each additional passenger fifty cents; when the distance is one mile or less, one-half these rates. In all cases where a vehicle is not engaged by the hour it shall be considered as being engaged by the trip. Any time between the hours of twelve o'clock and thirty minutes a. m. and five o'clock a. m., fifty per centum over the rates before named may be charged and collected. The fare to any point outside the limits of Washington and Georgetown, and within the District of Columbia, shall in all cases, except where an agreement is otherwise made, be by the hour and any portion thereof, the same as provided for within said cities. Each passenger shall be entitled to have conveyed, without extra charge, one trunk or other traveling-box or bag: *Provided*, That if any passenger or passengers have for conveyance more than two trunks or other traveling-box at any time, then for each trunk or other traveling-box above the said number of two the driver shall be entitled to twenty-five cents extra. Each passenger shall also be entitled to have conveyed bandboxes, canes, umbrellas, or such other small packages as can be conveniently carried within the vehicle wherein the passenger is seated without extra charge. The driver shall load and unload all luggage, and so forth without any extra charge whatever.* [See § 91 of this chapter.]

Between 12:30 a. m. and 5 a. m.

Each passenger allowed to have one trunk.
Proviso.

Small packages to be conveyed without extra charge.
Driver not to charge extra for loading or unloading.

Ibid., sec. 6, pp. 80, 81.

SEC. 73. If any driver or owner of a hackney carriage, cab, or other vehicle for the conveyance of passengers for hire, agrees beforehand to take any sum less than the legal fare, he shall be subjected to a penalty of ten dollars if he demand more than the amount previously agreed upon.

If driver agree to take less than legal fare, can not demand more.

Penalty.

Ibid., sec. 7, p. 81.

SEC. 74. Any person hiring a vehicle as before named, and who shall refuse to pay the legal fare for the same, except as provided for in section seven, shall, upon proper evidence, be arrested without warrant by any police officer, and be compelled to pay the full amount, together with one dollar and fifty cents per hour, or such part thereof, for all time lost by said driver.

Penalty for refusing to pay fare.

Ibid., sec. 8, p. 81.

SEC. 75. When a vehicle, as before named, is engaged by the trip, and the passenger reaches his destination, the driver shall stop, if required, ten minutes without extra charge, but if beyond that time he shall be entitled to receive the legal fare per hour, counting from the expiration of the before-mentioned ten minutes.

Vehicle engaged by the trip shall, if required, stop ten minutes at destination without extra charge.

Ibid., sec. 9, p. 81.

SEC. 76. Drivers of all vehicles, as before named, shall, when conveying passengers, drive at a reasonable and proper speed, not less than five miles an hour, unless in cases of unavoidable delay, or when required by the hirer to drive slower.

Speed.

Ibid., sec. 10, p. 82.

SEC. 77. Any property left in any vehicle, as before mentioned, shall be deposited by the driver or owner at police headquarters within four hours after being so left, if not sooner claimed by the

Disposition of property left in vehicle.

* Regulated by the Police Regulations of the Commissioners.

owner, such property to be returned to the person who shall prove to the satisfaction of the officer in charge at the police headquarters that the same belongs to him, on payment of all expenses incurred and of such reasonable sum to the driver as the officer may award; but if the driver fail to comply with the before-mentioned conditions, he shall be liable to a fine of twenty-five dollars for each and every offense, and to restore the money value of the article or articles so left in his vehicle. In default of prompt payment thereof, he shall forfeit his license, and be prosecuted as for any other debt made and contracted.

Penalty.

Ibid., sec. 11, p. 82.

Vehicle to be engaged by the hour or by trip.

If by hour, time of engagement may be noted on ticket hereinafter described.

In the event of supposed imposition police to be appealed to.

Ibid., sec. 12, p. 82.

SEC. 78. When a person engages a hackney coach, cab, or other vehicle for the conveyance of passengers for hire, he shall state whether it be by the hour or by the trip; and if by the hour the time of engagement may be properly noted by the passenger and written upon the back of the ticket hereinafter named and described, and in the event of any supposed imposition on the part of the driver, the passenger may hand the ticket to a police officer or deliver it to the officer in charge of any police station, when the complainant and the driver complained of shall be summoned to appear before said officer, which officer is hereby authorized and empowered to dispose of the case without delay; or that, in a case where a passenger is about to leave by railroad, stage, or steamboat, and a dispute arises as to the amount of fare, he will have the right to call upon any police officer on duty at such place, and the said police officer shall settle the claim in accordance with this act, subject to an appeal to the superintendent of police.

Description of tickets to be furnished drivers by the register.

SEC. 79. The printed form of ticket which shall be furnished to each driver, as aforesaid, by the register, at the actual cost of production, shall be of paper, and measure five inches long and two inches wide, and shall embrace the words following, to wit, and such other additional information as may be deemed necessary:

(Number of license in distinct figures.)

“Keep this ticket in case of need.

“Rates of fare established by law for hacks, cabs, or other vehicle for hire in the District of Columbia.

	Between the hours and of 5 a. m. 12.30 a. m.	Between the hours of 12.30 a. m., and 5. a. m.
For one or two passengers in a one-horse vehicle.	By the hour, 75c. By the trip, 75c.	By the hour, \$1 12 By the trip, \$1 12
For one or two passengers, four-seated vehicle, drawn by two horses, within the limits of the city of Washington.	By the hour, \$1 50 By the trip, exceeding one mile, \$1 00	By the hour, \$2 25 By the trip, exceeding one mile, \$1 50
For one or two passengers, in a four-seated vehicle, drawn by two horses, from Washington to or from Georgetown.	By the hour, \$1 50 By the trip, exceeding one mile, \$2 00.	By the hour, \$2 25 By the trip, exceeding one mile, \$3 00.

And for each additional passenger, fifty cents.

One mile or less, one-half these rates.

And for each additional passenger, fifty cents.

One mile or less, one-half these rates.

“In all cases where a vehicle is not engaged by the hour, it shall be considered as being engaged by the trip. It is expressly understood that in all cases the fare for two passengers, together with the articles herein provided for to be carried by each, shall be the same as for one only.

“The fare to any point outside of Washington and Georgetown, and within the District of Columbia, shall, in all cases, be charged by the hour, and at the same rate as within these cities, and if the vehicle is dismissed outside of the cities of Washington and Georgetown, a fare of fifty cents additional may be charged.

“Each passenger is entitled to have conveyed, without extra charge, one trunk, or other traveling-box or bag: *Providing*, There be not more than two trunks or other traveling-boxes to be conveyed at one time for the person or persons hiring the conveyance. If there be more than two trunks, the driver shall be entitled to twenty-five cents for each additional one. Each passenger shall also be entitled to have conveyed such other small packages as can be conveniently carried within the vehicle.

“The driver shall load and unload all baggage without additional charge.

“If a passenger claims to be overcharged by a driver, the driver is compelled to drive the passenger to the nearest police station, where the officer in charge will immediately decide the case. In case where a passenger is about to leave by railroad, stage or steamboat, the officer on duty at such place shall promptly settle the claim in accordance with law.”

On the obverse side of this ticket the following shall appear, to wit, and such additional matters as may hereafter be deemed necessary for information:

Obverse side of ticket.

Ibid., sec. 13., pp. 82, 83.

“The driver must present this to every passenger before or upon entering his vehicle:

Remarks made by _____.
Residing at _____, 187-.

If by the hour:

When engaged, — h, — m, — M.
When discharged, — h, — m, — M.
One or two-horse vehicle, _____ horse.

If by the trip:

Where from, _____.
Where to, _____.
One or two-horse vehicle, _____ horse.

Number of extra pieces.

Trunks.....
Other parcels.....
Offered dollars.....
Demanded dollars.....

SEC. 80. If any driver of a hackney carriage, cab, or other vehicle for the conveyance of passengers for hire, fails to hand the before-mentioned ticket to each and every passenger before or upon entering their vehicle, he shall be liable to a fine of one dollar for each and every offense.

Penalty for not handing ticket to passenger.

Ibid., sec. 14, p. 85.

SEC. 81. If any driver or owner of a hackney carriage, cab, or other vehicle for the conveyance of passengers for hire, fails to have placed in a conspicuous place in his vehicle a printed card of not less than ten inches in length and six inches in breadth, containing the matter set forth in section thirteen, and signed by the register, he shall be fined ten dollars for each and every time he conveys a passenger or passengers without displaying the printed card before named.

Penalty for not placing conspicuously in vehicle card containing section 13 of this act.

Ibid., sec. 15.

Drivers or owners not to refuse to take passengers.

Nor to demand more than legal fare.

Nor to take up additional passengers without consent of first passenger.

Ibid., sec. 16.

Penalty for demanding illegal fare.

Ibid., sec. 17.

Police to regulate vehicles at ferries, wharves, and railroad stations.

Ibid., sec. 18.

Collection of fines.

Ibid., sec. 19.

Policeman to be detailed as inspector of hacks.

Powers.

Appeal.

Ibid., sec. 20.

Copies of this law to be furnished owners and drivers.

Ibid., sec. 21, p. 86.

Penalty for two convictions under this act.

Ibid., sec. 22.

Regulations concerning stages and omnibuses.

Ibid., sec. 23.

SEC. 82. No owner or driver of a hackney carriage or other vehicle for hire, as before named, shall refuse to carry a passenger at the foregoing rates, or demand any greater sum than the rates of fare established; nor shall he, when engaged, take up an additional passenger or passengers without the consent of the person or persons who first engaged him.

SEC. 83. When any driver of a hackney carriage or other vehicle, as before named, shall demand an amount in excess of his lawful fare, he shall forfeit the whole amount due, and be liable to a fine of not over ten dollars for each and every offense.

SEC. 84. At all ferries, steamboat wharves, and railroad stations the police shall regulate the position of hackney carriages and other vehicles.

SEC. 85. All fines and penalties under this act shall be collected as other fines and penalties are collected and applied.

SEC. 86. The superintendent of police is hereby authorized and requested to detail one of his force, without additional compensation, who shall be known as inspector of hacks, and who shall have power to make arrest, without warrant, for any infringement of this act. He shall further have power to condemn for public hire any vehicle which is unclean, very badly worn, or is in an unsafe condition. An appeal from his decision may be made to the superintendent of police, whose decision (which shall be in writing) shall be final.

SEC. 87. For the information of the owners and drivers of hackney carriages and other vehicles for hire, as aforesaid, the register shall cause to be published and distributed free, to the said owners and drivers, copies of this law.

SEC. 88. Any driver of a vehicle, as before named, who shall be twice convicted of a violation of the provisions of this law, shall be deprived of his license for six months, and shall not be eligible to drive any vehicle for hire during that time.

SEC. 89. Any hackney stage or omnibus, the dimensions of which shall be sufficient for the comfortable accommodation and conveyance of six passengers or more, running between the hotels and residences to or from any railroad station or steamboat landing within the District of Columbia, and not in the county, shall be permitted to charge twenty-five cents for each passenger, and twenty-five cents for each trunk and traveling-box. Small valises, traveling-bags, bandboxes, canes, and umbrellas, which can be taken inside of such vehicles, will not be liable to extra charge. The driver or owner or owners of hackney stages or omnibuses shall take out license the same as provided for hackney coaches, and the register shall supply him or them, at first cost, with a printed slip of paper, containing the licensed number of said omnibus and the main provisions of this section, to be used as provided for the drivers of hackney coaches in section fourteen of this act; and so much of section fifteen as relates to the hanging up of a printed card shall apply to hackney stages and omnibuses also.

All regulations, penalties, forfeiture, and so forth, in this act, applying to drivers or owners of hackney carriages or other vehicles for hire, shall apply to the drivers or owners of hackney stages and omnibuses.

SEC. 90. Hackney carriages shall be held to mean that every carriage or other vehicle owned by proprietors of livery stables, or by other persons, and kept for hire, shall be subject to all the provisions of this act. Definition of hackney carriage. Ibid., sec. 24.

SEC. 91. Persons who may drive light vehicles, known as bretts, cabriolets, handsome cabs, and the like, may receive for transportation of any passenger within the corporate limits of Washington and Georgetown twenty-five cents, and from any point within said corporate limits and the boundaries of the District, fifty cents. Drivers of light vehicles may transport passengers at certain rates. Ibid., sec. 27, p. 87.

CHAPTER FORTY-ONE.

LIFE ESTATES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Sale of estates of tenants for life when there are limitations over. 2. Same subject, application and proof. 3. Same subject, parties defendants, who are. 4. Same subject, evidence, how taken. 5. Same subject, disposal of proceeds. 6. Same subject, procedure when death of life tenant is believed; when guardians, etc., refuse to produce minor, etc.; party concealed may be taken for dead, etc. 7. Same subject, when minor is beyond the sea, how viewed. (NOTE.—Seven years presumption of death.) | <p>Sec.</p> <ol style="list-style-type: none"> 8. Same subject, when infant proved living, after order made, reentry by infants, etc. (NOTE.—Posthumous children.) 9. Same subject, if guardian show effort made to produce infant and that infant is living, guardian to continue in possession. 10. Same subject, guardian, etc., holding estates after death of life tenant, a trespasser; heir may recover damages. |
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SEC. 1. Where real estate is limited by deed or will to one or more for life or lives, with a contingent limitation over to such issue of one or more of the tenants for life as shall be living at the death of their parent or parents, and the deed or will does not prohibit a sale, the supreme court of the District may, upon the application of the tenants for life, and if the court shall be of the opinion that it is expedient to do so, order a sale of such estate, and decree to the purchaser an absolute and complete title in fee-simple. Sale of estate of tenants for life when there are limitations over. Sec. 969, R. S. D. C. Aug. 18, 1856, 11 Stat., 118, 119, ch. 163.

SEC. 2. Application for the sale of such real estate shall be by bill in equity, verified by the oath of the party or parties, in which all the facts shall be distinctly set forth, upon the existence of which it is claimed to be expedient that such sale should be decreed; which facts shall be proven by competent testimony. Application and proof. Ibid. Sec. 970, R. S. D. C.

SEC. 3. Such of the issue contemplated by the limitation as shall be in existence at the time of the application for the sale of the real estate shall be made parties defendant to the bill, and if minors, by guardian ad litem, together with all who would take the estate in case the limitation over should never vest; and such of the parties defendant as shall be of the age of fourteen years or more shall answer in proper person, on oath. Parties defendant, who are. Ibid. Sec. 971, R. S. D. C.

SEC. 4. And all evidence shall be taken upon notice to the parties and to the guardian ad litem. Evidence, how taken. Ibid. Sec. 972, R. S. D. C.

Disposal of proceeds.

Ibid.
Sec. 973, R. S.
D. C.

SEC. 5. The proceeds of the sale of such real estate shall be held under the control and subject to the order of the court, and shall be vested, under its order and supervision, upon real and personal security, or in Government securities; and the same shall, to all intents and purposes, be deemed real estate and stand in the place of the real estate from the sale of which such proceeds have arisen, and, as such real estate, be subject to the limitations of the deed or will.

Person claiming estate in remainder, etc., after death of minor, married woman, etc., on affidavit, etc., of belief in death of such minor, etc. Court to cause such minor, etc., to be produced etc. When guardian, etc., refuses to produce minor, etc. Party so concealed to be taken for dead and claimant may enter on land, etc.

6 Anne, ch. 18,
sec. 1, A. D. 1707.
Alex. Brit. Stat.,
674, 675.
Kilty's Rep., 247.

SEC. 6. Any person or persons who hath or shall have any claim or demand in or to any remainder, reversion or expectancy in or to any estate, after the death of any person within age, married woman, or any other person whatsoever, upon affidavit made in the High Court of Chancery, by the persons so claiming such estate, of his or her title, and that he or she hath cause to believe that such minor, married woman, or other person is dead, and that his or her death is concealed by such guardian, trustee, husband, or any other person, shall and may once a year, if the person aggrieved shall think fit, move the * * * chancellor * * * for the time being, to order, and they are hereby authorized and required to order such guardian, trustee, husband, or other person, concealing or suspected to conceal such person, at such time and place as the said court shall direct, on personal or other due service of such order, to produce and show to such person and persons, (not exceeding two) as shall in such order be named by the party or parties prosecuting such order, such minor, married woman, or other persons aforesaid; and if such guardian, trustee, husband, or such other person, as aforesaid, shall refuse or neglect to produce or shew such infant, married woman, or such other person, on whose life any such estate doth depend, according to the directions of the said order, that then the Court of Chancery is hereby authorized and required to order such guardian, trustee, husband, or other person, to produce such minor, married woman, or other person concealed, in the said Court of Chancery, or otherwise, before commissioners to be appointed by the said court, at such time and place as the court shall direct, two of which commissioners shall be nominated by the party or parties prosecuting such order, at his, her or their costs and charges; and in case such guardian, trustee, husband, or other person, shall refuse or neglect to produce such infant, married woman, or other person so concealed, in the Court of Chancery, or before such commissioners, whereof return shall be made by such commissioners, and that return filed [in the petty-bag-office.] in either or any of the said cases, the said minor, married woman, or such other person so concealed, shall be taken to be dead, and it shall be lawful for any person claiming any right, title or interest in remainder or reversion, or otherwise, after the death of such infant, married woman, or such other persons so concealed, as aforesaid, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person, so concealed, were actually dead.*

On affidavit that minor, etc., is beyond sea, claimant may send over persons to view such minor, etc.

Ibid., sec. 2.

SEC. 7. If it shall appear to the said court by affidavit, that such minor, married woman, or other persons, for whose life such estate is holden, is, or lately was at some certain place beyond the seas in the said affidavit to be mentioned, it shall and may be lawful for the party or parties prosecuting such order, as aforesaid, at his, her, or their costs and charges, to send over one or both the said persons appointed by the said order, to view such minor, married woman, or other person, for whose life any such estate is holden; and in case such guardian, trustee, husband or other person concealing or suspected to conceal such persons, as aforesaid, shall refuse or neglect to

* 36 Md. Rep., 129, *Crisfield vs. Storr*. The seven years' presumption of death. See 19 Charles II, ch. 6, sec 1; Alex. Brit. Stat., 490; 7 Mackey Rep., 271, *Baden vs. McKenny*.

produce or procure to be produced to such person or persons, a personal view of such infant, married woman or other person, for whose life any such estate is holden, that then and in such case such person or persons are hereby required to make a true return of such refusal or neglect to the Court of Chancery, which return shall be filed [in the petty-bag-office,] and thereupon such minor, married woman, or other person, for whose life any such estate is holden, shall be taken to be dead; and it shall be lawful for any person claiming any right, title or interest, in remainder, reversion or otherwise, after the death of such infant, married woman, or other person, for whose life any such estate is holden, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person, for whose life any such estate is holden, were actually dead.

SEC. 8. If it shall afterwards appear upon proof, in any action to be brought, that such infant, married woman, or other person, for whose life any such estate is holden, were alive at the time of such order made, that then it shall be lawful for such infant, married woman, guardian or trustee, or other person having any estate or interest, determinable upon such life, to re-enter upon the said lands, tenements or hereditaments, and for such infant, married woman, or other person, having any estate or interest determinable upon such life, their executors, administrators or assigns, to maintain an action against those who, since the said order, received the profits of such lands, tenements or hereditaments, or their executors or administrators, and therein to recover full damages for the profits of the same received, from the time that such infant, married woman, or other person, having any estate or interest determinable upon such life, were ousted of the possession of such lands, tenements or hereditaments.*

If infant be proved to be alive, after order made, such infant, etc., may reenter upon lands, etc.

Ibid., sec. 3.
Alex. Brit. Stat.,
676, 677.

SEC. 9. If any guardian, trustee, husband or other person or persons, holding or having any estate or interest, determinable upon the life or lives of any other person or persons, shall by affidavit or otherwise, to the satisfaction of the said Court of Chancery, make appear, that he, she or they have used his, her, or their utmost endeavors to procure such infant, married woman, or other person or persons, on whose life or lives such estate or interest doth depend, to appear in said Court of Chancery, or elsewhere, according to the order of the said court in that behalf made; and that he, she or they cannot procure or compel such infant, married woman, or other person or persons so to appear, and that such infant, married woman, or other person or persons, on whose life or lives such estate or interest doth depend, is, are or were living at the time of such return made and filed, as aforesaid, then it shall be lawful for such person or persons to continue in the possession of such estate, and receive the rents and profits thereof for and during the infancy of such infant, and the life or lives of such married woman, or other person or persons, on whose life or lives such estate or interest doth or shall depend, as fully as he, she or they might have done if this act had not been made.

If guardian, etc., show that he endeavored to procure infant to appear and that infant is living, etc., guardian to continue in possession, etc.

Ibid., sec. 4.
Alex. Brit. Stat.,
677.

SEC. 10. Every person who, as guardian or trustee for any infant, and every husband seized in right of his wife only, and every other person having any estate determinable upon any life or lives, who after the determination of such particular estates or interests, without the express consent of him, her or them, who are or shall be next, and immediately entitled, upon and after the determination of such particular estates or interests, shall hold over and continue in

Guardian, etc., holding estates after death of minor an adjudged trespasser, etc., heirs, etc., may recover damages.

* Posthumous children take estates as if born in their father's lifetime. See "Descents"; 10 and 11 William III, ch. 16; Alex. Brit. Stat., p. 641.

Ibid., sec. 5.
Alex. Brit. Stat.,
677, 678.

possession of any manors, messuages, lands, tenements or hereditaments, shall be and are hereby adjudged to be trespassers; and that every person and persons, his, her and their executors and administrators, who are or shall be entitled to any such manors, messuages, lands, tenements and hereditaments, upon or after the determination of such particular estates or interests, shall and may recover in damages against every such person or persons so holding over, as aforesaid, and against his, her or their executors or administrators, the full value of the profits received during such wrongful possession, as aforesaid.

CHAPTER FORTY-TWO.

LIMITATION OF ACTIONS.

Sec.	Sec.
1. Suits for recovery of land barred after twenty years. Proviso, in succeeding section in favor of infants and others. Of prosecutions. (See secs. 1043 to 1048, inclusive, R. S. U. S.)	unless suit be brought within one year after disability is removed. What is meant by possession under this section. Proviso as to commencement of possession. (See note to this section.)
2. Proviso as to suits to recover lands of infants, etc.	6. What actions shall be brought within three years: within one year.
3. When plaintiff may commence new suit within one year, for the recovery of land.	7. Removal of bar in favor of <i>feme covert</i> , persons <i>non compos mentis</i> , etc.
4. When plaintiff barred from renewing suit in trespass, <i>quare clausum fregit</i> .	8. On bill, bond, specialty, judgments, etc., limited to twelve years.
5. Possession of land for fifteen years uninterrupted to vest fee simple. Exception, as to claimants disabled from suing; and in such case	9. On testamentary bonds, limited to twelve years. (See proviso, next section.)
	10. Proviso to previous section, in favor of infants and others.

Suits for recovery of land barred after twenty years.

Proviso in succeeding section in favor of infants and others.

21 James I. ch. 16, sec. 1, A. D. 1623.

Alex. Brit. Stat., 446, 447.

Kilty's Rep., 237.

3 Mackey Rep., 569, Keefe vs. Bramhall; 144 U. S. Rep., 533, Sharon vs. Tucker.

SEC. 1. That all writs of *formedon in descender*, *formedon in remainder*, and *formedon in reverter*, at any time hereafter to be sued or brought, of, or for any manors, lands, tenements or hereditaments, whereunto any person or persons now hath, or have any title, or cause to have or pursue any such writ, shall be sued and taken within twenty years next after the end of this present session of Parliament: And after the said twenty years expired, no person or persons, or any of their heirs, shall have or maintain any such writ, of or for any of the said manors, lands, tenements, or hereditaments; (2) and that all writs of *formedon in descender*, *formedon in remainder*, *formedon in reverter*, of any manors, lands, tenements, or other hereditaments whatsoever, at any time hereafter to be sued or brought by occasion or means of any title or cause hereafter happening, shall be sued and taken within twenty years next after the title and cause of action first descended or fallen, and at no time after the said twenty years; (3) and that no person or persons that now hath any right or title of entry into any manors, lands, tenements, or hereditaments now held from him or them, shall thereinto enter, but within twenty years next after the end of this present session of Parliament, or within twenty years next after any other title of entry accrued; (4) and that no person or persons shall at any time hereafter, make any entry into any lands, tenements or hereditaments, but within twenty years next after his or their right or title, which shall hereafter first descend or accrue to the same; and in default thereof, such persons so not entering, and their heirs, shall be utterly excluded and disabled from such entry after to be made; any former law or statute to the contrary notwithstanding.*

* For limitation of prosecutions, see secs. 1043 to 1048, inclusive, R. S. U. S.

SEC. 2. *Provided nevertheless*, That if any person or persons that is or shall be entitled to such writ or writs, or that hath or shall have such right or title of entry, be, or shall be at the time of the said right or title first descended, accrued, come or fallen, within the age of one and twenty years, *feme covert, non compos mentis*, imprisoned, that then such person and persons, and his and their heir and heirs, shall or may, notwithstanding the said twenty years be expired, bring his action, or make his entry as he might have done before this act; (2) so as such person and persons, or his or their heir or heirs, shall within ten years next after his and their full age, discovery, coming of sound mind, enlargement out of prison, or death, take benefit of, and sue forth the same, and at no time after the said ten years.

Proviso, as to suits to recover lands of infants, *feme covert*, etc.

21 James I, ch. 16, sec. 2, A. D. 1623.

Alex. Brit. Stat., 447.

Kilty's Rep., 237.

SEC. 3. That if in any the said actions or suits, judgment be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill; that in all such cases the party plaintiff, his heirs, executors or administrators, as the case shall require, may commence a new action or suit, from time to time, within a year after such judgment reversed, or such judgment given against the plaintiff, or outlawry reversed, and not after.

When plaintiff may commence new suit, within one year for the recovery of land.

21 James I, ch. 16, sec. 4, A. D. 1623.

Alex. Brit. Stat., 448.

Kilty's Rep., 237.

SEC. 4. That in all actions of trespass, *quare clausum fregit*, hereafter to be brought, wherein the defendant or defendants shall disclaim in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence, or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass before the action brought, whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue; (2) and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited, the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

When plaintiff barred from renewing suit in trespass, *quare clausum fregit*.

21 James I, ch. 16, sec. 5, A. D. 1623.

Alex. Brit. Stat., 448, 449.

Kilty's Rep., 237.

SEC. 5. That possession of land heretofore or hereafter commenced and continued fifteen years without interruption, shall be deemed and held to vest the possessor with a fee-simple title therein against every claimant unless such claimant was, or shall be, at the time the right to sue first accrued, disabled from suing by infancy, coverture, or insanity; and in such case the claimant shall be barred from suing unless he sues within one year after the disability or disabilities existing at the time the right first accrued is or are removed. The possession intended to be protected by this section is actual or constructive, and a bona fide purchaser of land for value in whom the title has been or shall be vested by a registered decree or deed, and which has been or shall be assessed to him on the tax books of the cities of Washington or Georgetown, or county of Washington, as the case may be, where the land is situated, shall be deemed to have constructive possession from the time of the registration of the decree or deed, in the absence of actual possession by an adverse claimant, and to make out the aforesaid period the defendant may add the time of his own possession, actual or constructive, to the time of the similar possession of another preceding possessor or other successive preceding possessors, through whom he claims: *Provided*, That no such possession, commenced before the date of this act, and having continued for less than twenty years, shall be a bar to any suit begun within one year from the passage of this act.*

Fifteen years uninterrupted possession of land to vest fee simple.

Leg. Assem., Aug. 23, 1871, ch. 102, sec. 11, pp. 124, 125.

Except as to claimants disabled from suing.

And in such case unless suit be brought within one year after disability is removed.

What is meant by possession under this section.

Proviso.

* It is questionable if the legislative assembly had power to enact this section.

Actions to be brought within three years; within one year.

Md. act 1715, ch. 23, sec. 2, 1 Dorsey, 10.

1 Kilty, 111.
19 Wash. Law Rep., 262, Gains vs. Engle, Ibid., 8 Mackey Rep., 221; 122 U. S. Rep., 234, Shepherd vs. Thompson; 132 U. S. Rep., 10, Metropolitan Ry. vs. D. C.; 1 Appeal Cases D. C., 59, Willard vs. Wood.

SEC. 6. All actions of trespass *quare clausum fregit*, all actions of trespass, detinue, sur-trover, or replevin for taking away goods or chattels, all actions of account, contract, debt, book, or upon the case, other than such accounts as concerns the trade or merchandise between merchant and merchant, their factors and servants which are not residents within this province, all actions of debt for lending, or contract without specialty, all actions of debt for arrearages of rent, all actions of assault, menaces, battery, wounding and imprisonment, or any of them, shall be sued or brought by any person or persons within this province, at any time after the end of this present session of assembly, shall be commenced or sued within the time and limitation hereafter expressed, and not after; that is to say, the said actions of account, and the said actions upon the case, upon simple contract, book debt, or account, and the said actions for debt, detinue and replevin for goods and chattels, and the said actions for trespass *quare clausum fregit*, within three years ensuing the cause of such action, and not after; and the said actions on the case for words, and actions of trespass of assault, battery, wounding and imprisonment, or any of them, within one year from the time of the cause of such action accruing, and not after.

Removal of bar in favor of *feme covert, non compos mentis*, etc.

Md. act 1715, ch. 23, sec. 3.

1 Kilty, 111.
1 Dorsey, 10.
19 Wash. Law Rep., 707, Pickering vs. Arrick; Ibid., 9 Mackey Rep., 169; 94 U. S. Rep., 778, Hogan vs. Kurtz.

SEC. 7. If any person entitled to any the action or actions aforesaid shall be, at the time of any such cause of action accruing, within the age of one and twenty years, *feme-covert, non compos mentis*, imprisoned [or beyond the seas], that then such person or persons shall be at liberty to bring the said action or actions within the respective times before limited, after their coming to, or being of, full age, sound memory, at large, [or returned from beyond the seas.] as other persons having no such impediment might or should have done.*

Twelve years limitation as to bill, bond, specialty, judgment, etc.

Md. act 1715, ch. 23, sec. 6.

1 Kilty, 111.
1 Dorsey, 11.
22 Wash. Law Rep., 99, Mann vs. MacDonald; 7 Mackey Rep., 320, Gibbons vs. Duley; 3 Mackey Rep., 170, Thompson vs. Beveridge; 1 Cranch Ct. Rep., 149, McDonald vs. White; 2 Cranch Ct. Rep., 54, Gilpin vs. Plummer; 2 Cranch Ct. Rep., 614, Farmers Bank vs. Melvin; 4 Cranch Ct. Rep., 619, Digges vs. Eliason; 5 Cranch Ct. Rep., 1 Jackson vs. Bank of U. S.; 4 Gill Rep., 1 Doub vs. Barnes; 4 Gill Rep., 265, Warfield vs. Brewer; 7 Gill and John Rep., 355, Mullikin vs. Duvall; 20 Md. Rep., 305, Huston vs. Ditto; 35 Md. Rep., 511, Hagerstown Bank vs. Thomas; 28 Md. Rep., 68, Hazlehurst vs. Morris; 58 Md. Rep., 110, Weikel vs. Cate; 61 Md. Rep., 426, Lambson vs. Moffett.

SEC. 8. No bill, bond, judgment, recognizance, statute merchant, or of the staple, or other specialty whatsoever, except such as shall be taken in the name or for the use of our sovereign lord the king, his heirs and successors, shall be good and pleadable, or admitted in evidence against any person or persons of this province, after the principal debtor and creditor have been both dead twelve years, or the debt or thing in action above twelve years standing; saving to all persons that shall be under the afore-mentioned impediments of infancy, coverture, insanity of mind, imprisonment, or being beyond the sea, the full benefit of all such bills, bonds, judgments, recognizances, statutes merchant, or of the staple, or other specialties, for the space of five years after such impediment removed, any thing in this act before mentioned to the contrary notwithstanding.

Twelve years limitation as to testamentary bonds.

Md. act 1729, ch. 24, sec. 21. 1 Kilty, 212. 1 Dorsey, 76.

SEC. 9. All actions upon administration and testamentary bonds shall be commenced within twelve years after the passing of the said bonds, and not after.

* Words in brackets repealed. See § 406, R. S. D. C.; reenacted 24 Stat., 431, Feb. 28, 1887.

SEC. 10. Nothing in this act shall be construed to bar any person within the age of twenty-one years, *feme covert, non compos mentis*, or imprisoned, [or persons beyond seas,] from bringing an action or actions within six years after their coming to or being of full age, uncovert, sound memory, at large, [or returned from beyond seas,] upon any administration or testamentary bond.*

Proviso to previous section in favor of infants and others.

Md. act 1729, ch. 24, sec. 22.
1 Dorsey. 76.

CHAPTER FORTY-THREE.

LIMITED PARTNERSHIP.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. By whom and how formed. 2. May consist of general and special partners: their several and joint liabilities and contributions. 3. Limit to number of special partners. 4. Limit to liability of special partners. 5. Certificate of partnership, what it shall contain. 6. Certificate of partnership to be acknowledged, certified, and recorded. 7. Affidavit of general partner as to sums contributed by special partner. 8. When partnership to be deemed formed. 9. Liability of all partners for false statements. 10. Terms of partnership to be published. 11. Partnership to be general if no terms are published. 12. Evidence of publication. 13. Renewal or continuance of partnership, how effected. 14. Renewed and continued partnerships deemed general, when. 15. Alteration of terms to be deemed a dissolution. 16. If carried on after alteration, how deemed. 17. Under what name partnership may be conducted. | <p>Sec.</p> <ol style="list-style-type: none"> 18. In suits, who to be defendants, effect of judgments, executions, etc. 19. Liability of special partner when his name is used, with his privity. 20. General partners to transact business; privileges of special partners. 21. Contributions to business of special partner not to be withdrawn, etc. 22. Special partner to restore payments of interest or profits to him, when. 23. Sales, assignments, preferences, etc., when void as against creditors. 24. Further liability of special partners for violation of two preceding sections. 25. Special partner cannot claim as creditor, when. 26. Suits by and against, how brought. 27. When special partners appear not liable in suits, how judgment is entered, liability of plaintiffs to special partners. 28. When special partners may be sued after judgment had against general partners. 29. Judgments in suits under two preceding sections, how considered as to partnership. 30. Dissolution of partnership, when and how effected. 31. Liability of general partners to special partners. |
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SEC. 1. Limited partnerships for the transaction of any mercantile, mechanical, or manufacturing business within the District may be formed by two or more persons upon the terms, with the rights and powers, and subject to the conditions and liabilities prescribed in this chapter.

Limited partnership, how formed.
Sec. 488, R. S. D. C.
Mar. 2, 1867.
14 Stat., 435.

SEC. 2. Such partnership may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible as general partners are by law, and of one or more persons, who shall contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners.

General and special partners.
Sec. 489, R. S. D. C.
Ibid., sec. 2, p. 435.

SEC. 3. The number of special partners shall in no partnership exceed six.

Limit to number of special partners.
Sec. 490, R. S. D. C. Ibid.

SEC. 4. Special partners are not liable for the debts of the partnership beyond the fund contributed by them to the capital.

Limit to their liability.
Sec. 491, R. S. D. C. Ibid.

* Words in brackets repealed; 3 Mackey Rep., 255. Groot vs. Hitz.

- Certificate of partnership.** SEC. 5. Persons desirous of forming a limited partnership shall make and severally sign a certificate, which shall contain—
 Sec. 492, R. S. First. The name or firm under which such partnership is to be
 D. C. conducted.
 Ibid., sec. 3, pp. Second. The general nature of the business intended to be trans-
 435, 436. acted.
 Third. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their respective places of residence.
 Fourth. The amount of capital which each special partner shall have contributed to the common stock.
 Fifth. The period at which the partnership is to commence, and the period at which it is to terminate.
- To be acknowledged, certified, and recorded.** SEC. 6. The certificate shall be acknowledged by the several persons signing the same before a notary public or a judge of any court in the District, and such acknowledgments shall be made and certified in the same manner as the acknowledgments of deeds of land, and when so acknowledged and certified shall be filed in the office of the clerk of the supreme court of the District, and shall be recorded by him at large in a book kept for that purpose, open to public inspection.
 Sec. 493, R. S. D. C. Ibid., sec. 4, p. 436.
- Affidavit of general partner.** SEC. 7. At the time of filing the original certificate, with the evidence of the acknowledgment thereof, as directed in the preceding section, an affidavit of one or more of the general partners shall also be filed therewith in the same office, stating that the sums, specified in the certificate to have been contributed by each of the special partners to the common stock, have been actually and in good faith paid in cash.
 Sec. 494, R. S. D. C. Ibid., sec. 5, p. 436.
- When partnership to be deemed formed.** SEC. 8. No such partnership shall be deemed to have been formed until a certificate shall have been made, acknowledged, filed, and recorded, nor until an affidavit shall have been made and filed, as directed by the three preceding sections.
 Sec. 495, R. S. D. C. Ibid., sec. 6, p. 436.
- Liability for false statements.** SEC. 9. If any false statement, not the result of accident or mistake, shall be made in the certificate or affidavit required by the preceding sections of this chapter, all the persons interested in the partnership shall be liable for all the engagements of such partnership as general partners.
 Sec. 496, R. S. D. C. Ibid.
- Terms of partnership to be published.** SEC. 10. The partners shall publish the terms of the partnership, when registered, three times a week for at least four weeks, immediately after such registry, in two newspapers to be designated by the clerk of the supreme court of the District, the first publication to appear within one week after registry.
 Sec. 497, R. S. D. C. 2 Mar., 1867, ch. 161, sec. 7, v. 14, p. 436.
- Otherwise partnership to be general.** SEC. 11. If the publication prescribed in the preceding section be not made, the partnership shall be deemed general.
 Sec. 498, R. S. D. C. Ibid.
- Affidavit of publication.** SEC. 12. The affidavits of the publication of the notice required by section four hundred and ninety-seven, by the editors or publishers of the newspapers in which the same shall have been published, shall be filed with the clerk directing the same, and shall be prima-facie evidence of the facts therein contained; the affidavit of any one editor or publisher of each newspaper being sufficient.
 Sec. 499, R. S. D. C. Ibid.
- Renewal or continuance.** SEC. 13. Every renewal or continuance of a partnership beyond the time originally fixed for its duration shall be certified, acknowledged, and recorded, and an affidavit of a general partner be made and filed, and notice be given in the manner required by the provisions of this chapter for its original formation.
 Sec. 500, R. S. D. C. Ibid., sec. 8, p. 436.

SEC. 14. Every partnership which shall be renewed and continued otherwise as provided in this chapter shall be deemed a general partnership.

When renewed to be deemed general.
Sec. 501, R. S. D. C. Ibid.

SEC. 15. Every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership.

Alteration of terms to be deemed a dissolution.
Sec. 502, R. S. D. C. Ibid., sec. 9, p. 436.

SEC. 16. Every partnership which shall in any manner be carried on after any such alteration shall have been made shall be deemed a general partnership, unless renewed as a special partnership, under the provisions of section five hundred.

If carried on after alteration.
Sec. 503, R. S. D. C. Ibid.

SEC. 17. The business of the partnership may be conducted under the name of any one or more of the general partners, and with or without the addition of the word Co., or company, as the parties may determine.

How partnership business may be conducted.
Sec. 504, R. S. D. C. Ibid., sec. 10, pp. 436, 437.

SEC. 18. In any action or suit brought on any contract or engagement of the partnership, or to enforce any liability of the same, the general partners whose names shall be used in the firm or business shall be the only necessary defendants; and any judgment or decree recovered against such defendant shall have the same legal effect and operation, and execution thereon shall be enforced and have like effect against the partnership assets, as if the judgment or decree had been recovered against the general partners.

In suits who to be defendants.
Sec. 505, R. S. D. C. Ibid.

SEC. 19. If the name of any special partner shall be used in the firm with his privity, he shall be deemed a general partner.

When name of a special partner used, liability.
Sec. 506, R. S. D. C.

SEC. 20. The general partners only shall transact the business, and if a special partner shall interfere, contrary to this provision, he shall be deemed a general partner, but he may from time to time examine into the state and progress of the partnership concerns and advise as to their management.

General partners to transact the business.
Sec. 507, R. S. D. C. Ibid., sec. 11, p. 437.

SEC. 21. No part of the sum which any special partner shall have contributed to the capital stock shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits, or otherwise, during the continuance of the partnership, but any partner may annually receive lawful interest on the sum so contributed by him if the payment of such interest shall not reduce the original amount of such capital; and if, after payment of such interest, any profits shall remain to be divided, he may also receive his portion of such profits.

Interest and profits.
Sec. 508, R. S. D. C. Ibid., sec. 12, p. 437.

SEC. 22. If it shall appear that, by the payment of interest or profits to any special partner, the original capital has been reduced the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital, with interest, on being notified thereof.

When capital reduced by payments to special partner.
Sec. 509, R. S. D. C. 2 Mar., 1867, ch. 161, sec. 13, v. 14, p. 437.

SEC. 23. Every sale, assignment, or transfer of any property or effects of a partnership, or of any general partner, made by such partnership or general partner when insolvent or in contemplation of insolvency, or after or in contemplation of the insolvency of any general partner, with the intent of giving a preference to any cred-

Sales, assignments, and preferences: when void.
Sec. 510, R. S. D. C.

Ibid., sec. 14, p. 437. itor of such partnership or insolvent partner, and every judgment confessed, lien created, or security given by such partnership or general partner under the like circumstances and with the like intent, shall be void as against the creditors of such partnership.

Further liability of special partners. SEC. 24. Every special partner who shall violate any of the provisions of the two preceding sections, or who shall concur in or assent to any such violation by the partnership or by any individual partner, shall be liable as a general partner.
Sec. 511, R. S. D. C.
Ibid., sec. 15, p. 437.

Special partner not to claim as creditor: when. SEC. 25. In case of the insolvency or bankruptcy of a partnership no special partner shall, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership shall be satisfied. [See R. S. U. S., § 5121.]
Sec. 512, R. S. D. C.
Ibid., sec. 16, p. 437.

Suits: how brought. SEC. 26. All suits respecting the business of the partnership shall be brought by and against the general partners only, subject to the provisions of section five hundred and five, except in those cases in which provision is made in this chapter, that special partners shall be deemed general partners and special partnerships general partnerships, in which cases all persons so becoming general partners may be joined with those originally general partners in any suit brought against such partnerships.
Sec. 513, R. S. D. C.
Ibid., sec. 17, p. 437.

When special partners appear not liable. SEC. 27. If, in any case or suit brought against general and special partners, it shall appear at the trial of the case that the special partners or any one of them are not liable to the writ of the plaintiff, the court may proceed to judgment or decree against the partners who may appear to be liable, in the same manner as if such partners were the only parties defendant to the writ, excepting that the partners who may be deemed not liable shall recover their legal costs against the plaintiffs.
Sec. 514, R. S. D. C.
Ibid., sec. 18, pp. 437, 438.

When special partners are discovered to be liable. SEC. 28. If, in any case or suit brought against general and special partners, the creditor shall recover a judgment or obtain a decree against general partners only, and shall afterward discover that special partners, or some one or more of them, have become liable as general partners, he may bring a new suit against such special partner or partners.
Sec. 515, R. S. D. C.
Ibid.

Judgments. SEC. 29. In the suits mentioned in the two preceding sections the judgment recovered shall be prima-facie evidence of the amount due by the partnership, and the partnership debt shall not be merged in any judgment or decree recovered or obtained against any partner or partners, as against any other partner or partners.
Sec. 516, R. S. D. C.
Ibid.

Dissolution of partnership. SEC. 30. No dissolution of such partnership by act of the partners shall take place previous to the time specified in the certificate of its formation, or in the certificate of its renewal, unless in consequence of the death of one of the partners, or insolvency of the partnership, or of one of the general partners, nor until a notice of such dissolution shall have been filed and recorded in the office of the clerk of the Supreme Court of the District, and published once a week for four weeks in two newspapers, to be designated by the clerk, which publication may be proved by affidavit, and recorded as hereinbefore prescribed for the publication of the certificate for the formation of such partnership.
Sec. 517, R. S. D. C.
Ibid., sec. 19, p. 438.

Liability of general partners. SEC. 31. The general partners shall be liable to account to each other and to the special partners for the management of the concern, both in law and equity.
Sec. 518, R. S. D. C.
Ibid., sec. 20, p. 438.

CHAPTER FORTY-FOUR.

MANDAMUS.

Sec.

1. Returns shall be made to first writ.
2. After return made, proceedings regulated.
3. When damages recovered, no further action can be brought.

Sec.

4. Time may be granted for return and pleading.
5. Statutes of jeofail in nature of *quo warranto* applied to mandamus.

SEC. 1. That from and after the first day of Trinity term in the year of our Lord one thousand seven hundred and eleven, where any writ of mandamus shall issue out of the Court of Queen's Bench, the Courts of Sessions of Counties Palatine, or out of any the Courts of Grand Sessions in Wales, in any of the cases aforesaid, such person or persons, who by the laws of this realm are required to make a return to such writ of mandamus, shall make his or their return to the first writ of mandamus.

Returns shall be made to the first writ of mandamus.

9 Anne, ch. 20, sec. 1, A. D. 1710. Alex. Brit. Stat., 693, 694.

Kilty's Rep., 248.

8 Mackey Rep., 99 U. S., etc., vs. Douglass; 5 Mackey Rep., 389 Commissioners; 6 Mackey Rep., 409, U. S. vs. Commissioners; 22 Wash. Law. Rep., 111, U. S., etc., vs. Seymour.

SEC. 2. *And be it further enacted by the authority aforesaid.* That from and after the said first day of Trinity term, as often as in any of the cases aforesaid, any writ of mandamus shall issue out of any of the said courts, and a return shall be made thereunto, it shall and may be lawful to and for the person or persons suing or prosecuting such writ of mandamus, to plead to, or traverse all or any the material facts contained within the said return: to which the person or persons making such return shall reply, take issue, or demur; and such further proceedings, and in such manner shall be had therein, for the determination thereof, as might have been had if the person or persons suing such writ had brought his or their action on the case for a false return; and if any issue shall be joined on such proceedings, the person or persons suing such writ shall and may try the same in such place as an issue joined in such action on the case should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by *nil dicit*, or for want of a replication or other pleading, he or they shall recover his or their damages and costs, in such manner as he or they might have done in such action on the case as aforesaid; such costs and damages to be levied by *capias ad satisfaciendum, fieri facias, or elegit*; and a peremptory writ of mandamus shall be granted without delay, for him or them for whom judgment shall be given, as might have been, if such return had been adjudged insufficient; and in case judgment shall be given for the person or persons, making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

After return made, proceedings regulated.

Alex. Brit. Stat.,

p. 694.

Ibid., sec. 2.

Kilty's Rep., 248.

SEC. 3. *Provided always.* That if any damages shall be recovered by virtue of this act against any such person or persons making such return to such writ, as aforesaid, he or they shall not be liable to be sued in any other action or suit for the making such return; any law, usage or custom to the contrary thereof in any wise notwithstanding.

When damages recovered, no further action can be brought.

Alex. Brit. Stat.,

p. 694.

Ibid., sec. 3.

Kilty's Rep., 248.

Time may be granted for return and pleading.

Alex. Brit. Stat., 694, 695.
Ibid., sec. 6.

SEC. 4. *And be it further enacted and declared by the authority aforesaid*, That it shall and may be lawful, to and for the said courts respectively, to allow to such person or persons respectively, to whom any writ of mandamus shall be directed, or against whom any information, in the nature of a quo warranto, in any of the cases aforesaid, shall be sued or prosecuted, or to the person or persons who shall sue or prosecute the same, such convenient time respectively, to make a return, plead, reply, rejoin or demur, as to the said courts respectively shall seem just and reasonable; any thing herein contained to the contrary thereof in any wise notwithstanding.

Statutes of jeofail in nature of quo warranto applied to mandamus.

Ibid., sec. 7.

SEC. 5. That after the said first day of Trinity term, an act made in the fourth year of her majesty's reign, [intituled An act for the amendment of the law, and the better advancement of justice,] and all the statutes of jeofayles, shall be extended to all writs of mandamus and information, in nature of quo warranto, and proceedings thereon, for any the matters in this act mentioned.

CHAPTER FORTY-FIVE.

MECHANICS' LIENS.

Sec.

1. Who may have extent of lien.
2. Notice must be filed in clerk's office and recorded.
3. Priority of liens; exceptions.
4. When lien to have priority; extent of.
5. Proceedings to enforce lien; service of summons; decree of sale, when; distribution of proceeds; judgments; interest.
6. Decree of court in case of more than one building, etc.; joint claimants.
7. Time of commencing suit; right of parties to be heard.
8. Consolidation of actions.

Sec.

9. Extent of lien outside of Washington and Georgetown.
10. Satisfaction, when to be entered; forfeiture.
11. Discharge of lien; application for charge.
12. Liens, etc., on lot, wharf, etc.
13. Liens on personal property.
14. Repeal provisions.
15. When liens expire unless action brought.
16. When owner held responsible for claims against contractor, etc., and same be recovered by action.
17. Amount recovered may be a set-off.

Who may have mechanic's lien.

July 2, 1884.
23 Stat., 64.
2 Sup. R. S. 447.

SEC. 1. Every building hereafter erected or repaired by the owner or his agent in the District of Columbia, and the lot or lots of ground of the owner upon which the same is being erected or repaired, shall be subject to a lien in favor of the contractor, subcontractor, material-man, journeyman, and laborer, respectively, for the payment for work or materials contracted for or furnished for or about the erection, construction, or repairing of such building, and also for any engine, machinery, or other thing placed in said building or connected therewith so as to be a fixture: *Provided*, That the person claiming the lien shall file the notice prescribed in the second section of this act: *Provided further*, That the said lien shall not exceed or be enforced for a greater sum than the amount of the original contract for the erection or repair of said building or buildings.*

Lien not to exceed amount of original contract.

1 Appeal Cases, D. C. 36 Lefler vs. Forsberg; Ibid., 378, Brown vs. Waring; 76 Md. Rep., 337, Md. Brick Co. vs. Spilman. 20 Wash. Law Rep., 40, Wheelan vs. Young; 7 Mackey Rep., 197, Monroe vs. Hannan; 3 MacA. Rep., 189, Burn vs. Whittlesey.

Notice must be filed in clerk's office by claimant and recorded.

Ibid., sec. 2.

SEC. 2. Any person wishing to avail himself of the provisions of this act, whether his claim be due or not, shall file in the office of the clerk of the supreme court of the District of Columbia, during the construction or within three months after the completion of such

* By sec. 692, R. S. D. C., any person may have a lien, etc., when the amount exceeds \$20.

building or repairs, or the placing therein or adjacent thereto of any engine, machinery, or other thing as aforesaid, a notice of his intention to hold a lien upon the property declared by this act liable to such lien for the amount due or to become due to him, specifically setting forth the amount claimed. The clerk aforesaid shall file and record such notice in a book provided for that purpose.

6 Mackey, 289. *Spalding vs. Dodge*; 2 MacA. Rep., 481, *Smith vs. Johnson*; 2 MacA. Rep., 184. *McLean vs. Young*; 3 MacA. Rep., 273, *Basshor vs. Kilbourn*; 1 Appeal Cases, D. C., 378, *Brown vs. Waring*.

SEC. 3. The lien hereby given shall be preferred to all judgments, mortgages, deeds of trust, liens, and incumbrances which attach upon the said building or the ground aforesaid subsequent to the commencement of work on said building; and all incumbrances and liens (other than those which attached thereto prior to the commencement of said building or repairs) which by the laws of this District are required to be recorded shall be postponed to said liens unless recorded prior to the commencement of such building or repairs.

Priority of liens; exceptions.

Ibid., sec. 3.

SEC. 4. When an owner of lands contracts with a builder for the sale of lots and the erection of buildings thereon, and agrees to advance moneys toward the erection of such buildings, the lien herebefore authorized shall have priority to all advances made after the filing of said notices of lien, and the lien shall attach to the right, title, and interest of the owner in said building and land to the extent of all advances which shall have become due after the filing of such notice of such lien, and shall also attach to and be a lien on the right, title, and interest of the person so agreeing to purchase said land at the time of the filing of said notices of lien. When a building shall be erected or repaired by a lessee or tenant for life or years, or a person having an equitable estate or interest in such building or the land on which it stands, the lien created by this act shall only extend to and cover the interest or estate of such lessee, tenant, or equitable owner.

When lien to have priority; extent of.

Ibid., sec. 4.

SEC. 5. The proceedings to enforce the lien created by this act shall be by bill in equity, which shall contain a brief statement of the contract on which the claim is founded, the amount due thereon, the time when the notice was filed with the clerk as aforesaid, in case such notice is required by this act, the time when the building was completed, with a description of the premises, and any other material facts; and all persons who are interested in the premises, so far as they are known, shall be made parties complainants or defendants; and said bill shall pray that the premises may be sold and the proceeds of the sale applied to the discharge of the lien. The summons shall be served as in other cases in equity. If judgment be rendered for the complainant, the court shall decree the sale of said land and premises, and shall declare the proper distribution of the fund arising from such sale; and if upon sale the proceeds be insufficient to pay all liens under this act, they shall stand as a judgment against the party who incurred the debt, if he be made or become a party to the suit, but not otherwise; and such judgment shall bear interest, and have the same force and effect, and be enforced in the same manner as in cases of judgment at law.

Proceedings in action.

Service of summons.

Decree of sale, when.

Distribution of proceeds; judgments; interest.

Ibid., sec. 5.

SEC. 6. In the case of labor done or materials furnished for the erection or repair of two or more buildings joined together and owned by the same person or persons, it shall not be necessary to determine the amount of work done or materials furnished for each particular building, but only the aggregate amount upon all the buildings so joined; and the decree of the court shall pass against all the buildings, and the land on which they are erected, as one building, but they may be sold separately if the court so decree. If

Decree of court in case of more than one building, etc.

76 Md. Rep., 337, *Md. Brick Co. vs. Spilman*.

- Joint claimants.** a joint claim be filed, and the proof shows a separate right of action, it shall not defeat the claim, but the court may require the pleadings to be amended, if necessary, upon such terms as it shall prescribe, and proceed to adjudicate the rights of the parties as to law and justice shall appertain.
- Ibid.*, sec. 6.
- Time of commencing suit.** **SEC. 7.** Any person entitled to a lien under this act may commence his suit to enforce the same at any time within one year from and after filing the notice aforesaid or the completion of said building or repairs, but no final adjudication shall be had until all persons who shall become interested in the building subject to such lien under the provisions of this act shall have an opportunity to be heard in said suit, providing such interest was vested at the time said suit was brought, or be acquired within three months thereafter, and such persons shall intervene in said suit within said term of three months.
- Right of parties to suit to be heard, etc.**
- Ibid.*, sec. 7.
1 Appeal Cases, 43, *Lefler vs. Forsberg.*
- Consolidation of actions.** **SEC. 8.** All or any number of persons having liens on the same building pursuant to the provisions of this act may join in one suit, but their respective claims may be stated distinctly in separate paragraphs, and the judgment shall show the amount to which they are respectively entitled. If several suits shall be brought by different claimants, and be pending at the same time, the court may order them to be consolidated.
- Ibid.*, sec. 8.
- Extent of lien outside of Washington and Georgetown.** **SEC. 9.** If said building be on any land lying outside the cities of Washington and Georgetown, and there is any contest as to the dimensions of the ground claimed to be subjected to the lien declared by this act, it shall be the duty of the court to issue an order to the surveyor of said district, or some other surveyor, to examine the said building, or the place at which said building is being or has been erected or repaired, and to make a report to the court, in which he shall sufficiently designate and describe by metes and bounds, and by a draught if necessary, the limits and extent of ground; and if approved by the court such report shall be conclusive upon all parties concerned; and the land so designated in such report shall, together with said buildings, be subjected to and charged with said lien.
- Ibid.*, sec. 9.
- Satisfaction to be entered, when; forfeiture.** **SEC. 10.** Whenever any person having a lien by virtue of the provisions of this act shall have received satisfaction for his claim and the cost of his proceedings therein, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction, within two days after such payment or tender, enter satisfaction of his demand in the office of the clerk aforesaid; and upon failure to do so he shall forfeit fifty dollars to the party aggrieved, and all damages which he may have sustained by reason of such failure or neglect.
- Ibid.*, sec. 10.
- How lien may be discharged.** **SEC. 11.** In all proceedings under this act the defendant may file a written undertaking, with two or more sureties, to be approved by the court, to the effect that he and they will pay the judgment that may be recovered, and costs, which judgment shall be rendered against all persons so undertaking, and thereby release his property from the lien hereby created. No such undertaking shall be approved by the court until the complainants shall have had at least two days' notice of the defendant's intention to apply to the court therefor, which notice shall give the names and residences of the persons to be offered as sureties, and the time when the motion for such approval will be made; and such sureties shall make oath, if required, that they are worth, over and above all debts and liabilities, double the amount of said lien. The complainants, or any of them, may appear in open court and make their objection to such approval, or
- Notice of application for discharge of lien; terms of.**
- Ibid.*, sec. 11.

file in the office of the clerk of the court their or his objections in writing to such approval. If such undertaking be approved before the filing of the aforesaid bill in equity to enforce said lien, the said sureties shall be made parties thereto; and if after the filing of said bill, said sureties, upon the approval of said undertaking, shall ipso facto become parties thereto; and in either case the decree of the court shall run against them as well as the principal on such undertaking.

SEC. 12. Any person or persons who shall furnish, at the request of the owner or his agent, materials to do any work on or labor in filling up any lot, or in erecting or constructing any wharf or other permanent fixtures thereon, or in dredging out the channel in front of any wharf, under contract with the owner or his agent, shall be entitled to enforce a lien therefor upon the lots or wharves.

Liens, etc., on lot, wharf, etc.

Ibid., sec. 12.

SEC. 13. Any mechanic or artisan who shall make, alter, or repair any article of personal property, at the request of the owner, shall have a lien thereon for his just and reasonable charges for his work done and materials furnished, and he may retain the same in his possession until such charges shall be paid; [but if possession pass from such person by his consent the lien shall cease, part of sec. 711, R. S. D. C.] and if not paid at the end of six months after the work is done, he may proceed to sell the property at public auction, by giving notice once a week for three consecutive weeks in some daily newspaper published in the District of Columbia; and the proceeds of such sale shall be applied first in the discharge of such lien and the expense of selling such property, and the remainder, if any, shall be paid over to the owner thereof.

Liens upon personal property.

Ibid., sec. 13.

SEC. 14. So much and such parts of chapter twenty of the Revised Statutes relating to the District of Columbia, and all other acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed; and this act shall take effect from the date of its passage.

Repeal provisions.

Ibid., sec. 14.

SEC. 15. The lien shall cease to exist at the expiration of one year after the completion of the building or repairs, unless, before that time, an action to enforce the same shall have been commenced in the supreme court of the District by the person having such lien against the owner with whom or with whose agent the contract was made, unless such claim be not due at the expiration of one year after such completion, in which case the action shall be commenced within three months after the same shall have become due.

When liens expire unless action brought.

Sec. 696, R. S. D. C., Feb. 2, 1859, 11 Stat., 376.

1 Appeal Cases, D. C., 41 Lefler vs. Forsberg.

[See § 808, R. S. D. C.]

SEC. 16. Any sub-contractor, journeyman, or laborer employed in the construction or repair of any building, or in furnishing any materials or machinery for the same, may give, at any time, the owner thereof notice in writing, particularly setting forth the amount of his claim and the service rendered, for which his employer is indebted to him, and that he holds the owner responsible, and the owner of the building shall be liable for the claim, but not to exceed the amount due from him to the employer at the time of notice, or subsequently, which may be recovered in an action.

When owner held responsible for claims against contractor, etc., and same be recovered by action.

Sec. 709, R. S. D. C., May 6, 1870, 16 Stat., 119, ch. 89, sec. 1.

SEC. 17. Whenever any sub-contractor, journeyman, or laborer shall recover any such claim from the owner of the building, the same may be set off by the owner in any action brought against him by the person who otherwise would be entitled to recover the same under the contract.

Amount recovered may be a set off.

Sec. 710, R. S. D. C.

Ibid., sec. 2.

CHAPTER FORTY-SIX.

METROPOLITAN POLICE.

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 - 78. Record of lost, etc., property to be kept.
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- 93. Private detectives, who may be.
 - 94. Private detectives to give bond, etc.
 - 95. Private detectives to report to Commissioners, etc.
 - 96. Private detectives; when bond forfeited; duty of United States attorney.
 - 97. Duty of private detective making arrests.
 - 98. All police laws applicable to private detectives.
 - 99. It is unlawful to compromise felony, fail to give facts, withhold information, receive money from persons arrested or liable to arrest, or permit such persons to escape; penalty for violations of this section.
 - 100. Penalty for assaulting an officer in discharge of his duty; when.
 - 101. Penalty for falsely pretending to be a member of the police force.
 - 102. Unnecessary severity by officer of police; punishable.
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 - 104. Police code and rules of Commissioners shall be the law upon the matters therein contained, etc.
 - 105. Police matrons; how appointed, pay, etc.
 - 106. Police matrons, duties of.
 - 107. Police matrons, qualifications of.

SEC. 1. The District is constituted a police district, to be called "The Metropolitan Police district of the District of Columbia." Establishment of metropolitan police district.

Sec. 321, R. S. D. C.; Aug. 6, 1861; 12 Stat., 320, ch. 62, sec. 1.

SEC. 2. That from and after the first day of July, eighteen hundred and seventy-eight, the board of metropolitan police and the board of school trustees shall be abolished; and all the powers and duties now exercised by them shall be transferred to the said Commissioners of the District of Columbia, who shall have authority to employ such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act. Board of police abolished and their powers vested in Commissioners of the District Columbia.
June 11, 1878.
20 Stat., 107, sec. 6.
1 Sup. R. S., 344.

SEC. 3. That the duties devolved and the authority conferred upon the *Commissioners* [board of metropolitan police] by law, for police purposes, in said District, shall extend to and include all public squares or places; and said board are hereby authorized and required to make appropriate rules and regulations in relation thereto. Public squares and places subject to rules, etc., of Commissioners for police purposes.
July 31, 1876.
19 Stat., 102.

SEC. 4. The *Commissioners* are [board of police is] invested with all the powers conferred by law upon the mayors of Washington or of Georgetown, prior to August sixth, eighteen hundred and sixty-one, in respect to ordering military assistance in aid of the civil authorities to quell riots, suppress insurrection, protect property, and preserve the public tranquillity.¹ And the *Commissioners* [board of police] shall also possess all the power and authority so conferred by law upon the auxiliary guard of the city of Washington and upon the mayor or other officer of the cities of Washington and Georgetown respectively, as the heads therein of the respective police departments or organizations of those cities, which power or authority relates to or is in any way connected with the police government or police discipline within either of said cities. General powers conferred upon Commissioners.
Sec. 334, R. S. D. C.
6 Aug., 1861, ch. 62, secs. 20, 23, v. 12, pp. 324, 325.
¹ See sec. 45, chapter "Militia."

Duties of the Commissioners. SEC. 5. It shall be the duty of the *Commissioners* [board of police] at all times of the day and night within the boundaries of said police district—

Sec. 335, R. S. D. C.
Ibid., sec. 5, p. 321.
3 Mar., 1863, ch. 106, sec. 10, v. 12, p. 803.

First. To preserve the public peace ;
Second. To prevent crime and arrest offenders ;
Third. To protect the rights of persons and of property ;
Fourth. To guard the public health ;
Fifth. To preserve order at every public election ;
Sixth. To remove nuisances existing in the public streets, roads, alleys, highways, and other places ;
Seventh. To provide a proper police force at every fire, in order that thereby the firemen and property may be protected ;
Eighth. To protect strangers and travelers at steamboat and ship landings and railway-stations ;
Ninth. To see that all laws relating to the observance of Sunday, and regarding—
Pawnbrokers,
Mock auctions,
[Elections,]
Gambling,
Intemperance,
Lottery dealers,
Vagrants,
Disorderly persons, and
The public health, are promptly enforced ; and
Tenth. To enforce and obey all laws and ordinances in force in the District, or any part thereof, which are properly applicable to police or health, and not inconsistent with the provisions of this chapter.

Jurisdiction. SEC. 6. The duties of the *Commissioners* [board of police] shall be more especially executed, under the direction and control of the *Commissioners* [board] by a police force for the whole of said police district, authorized to do duty in any part thereof without regard to residence or corporation lines. [See R. S. U. S., § 1819.]

Sec. 336, R. S. D. C.
6 Aug., 1861, ch. 62, sec. 6, v. 12, p. 321.

Rules and regulations. SEC. 7. The *Commissioners* are [board of police] authorized to pass, from time to time, rules and regulations for the proper government and discipline of its subordinate officers, and the duties of the police force shall be executed in accordance therewith.

Sec. 337, R. S. D. C.
Ibid.

Annual report. SEC. 8. The *Commissioners* [board of police] shall annually, on or before the first Monday in November, report in writing the condition of the police within said district to the Attorney-General.

Sec. 339, R. S. D. C.

THE POLICE FORCE.

Increase of police force in District of Columbia. SEC. 9. The police force shall consist of the following officers, namely: One major, one captain, ten lieutenants, twenty sergeants, such number of privates not exceeding two hundred and fifty for the regular service, as the *Commissioners* may deem necessary, and all promotions to the positions of captain, lieutenant, and sergeant shall be made from the next succeeding grade or rank on the force.

Sec. 340, R. S. D. C.
Substitute.
Jan. 31, 1883.
2 Sup. R. S., 397.

22 Stat., 412; 340 R. S. D. C.; Amended.

Appointment of additional policemen. SEC. 10. That the *Commissioners* may, and they are hereby, authorized to appoint not more than six privates, to be members of the police force, from among citizens of the United States who have or have not served in the Army and Navy of the United States, but who shall possess all the other qualifications prescribed by section three hundred and fifty-four of the Revised Statutes of the United States relating to the District of Columbia.

Jan. 31, 1883.
22 Stat., 412,
sec. 4.
Amendment to
R. S. 354, D. C., 42.

SEC. 11. The officers of the police force shall be severally appointed by the *Commissioners* [board of police,] and each person so appointed shall hold office only during such time as he shall faithfully observe and execute all the rules and regulations of the *Commissioners* [board,] the laws of the United States, and the laws or ordinances existing within the District, and which apply to any part of the district where the members of the force may be on duty.

Appointment and tenure of office.
 Sec. 341, R. S. D. C.
 6 Aug., 1861, ch. 62, sec. 7, v. 12, p. 321.

SEC. 12. The qualifications, enumeration, and distribution of duties, mode of trial, and removal from office, of each officer of the police force, shall be particularly defined and prescribed by rules and regulations of the *Commissioners* [board of police,] in accordance with the Constitution and laws of the United States applicable thereto.

Qualifications, duties, etc.; how prescribed.
 Sec. 342, R. S. D. C.
 Ibid., sec. 8, p. 321.

SEC. 13. The major of police shall take the place of the mayors of the cities of Washington and Georgetown as the head of the police departments of those cities respectively, but always subject to the orders and regulations of the *Commissioners* [board of police.]

Authority of major of police.
 Sec. 343, R. S. D. C.
 Ibid., sec. 10, p. 322; 23 July, 1866, ch. 215, sec. 1, v. 14, p. 212.

SEC. 14. It shall be the duty of the police force to respect and obey the major of police as the head and chief of the police force, subject to the rules, regulations, and general orders of the *Commissioners* [board of police.]

To be respected and obeyed.
 Sec. 344, R. S. D. C.
 Ibid.

SEC. 15. All regulations and orders of the *Commissioners* [board of police] shall be promulgated through the major of police.

Regulations and orders of the *Commissioners*; how promulgated.
 Sec. 345, R. S. D. C.; Ibid.

SEC. 16. The major of police shall make to the *Commissioners* [board of police] quarterly reports in writing of the state of the police district, with such statistics and suggestions as he may deem advisable for the improvement of the police government and discipline of said District.

Major's quarterly reports.
 Sec. 346, R. S. D. C.
 6 Aug., 1861, ch. 62, sec. 24, v. 12, p. 325; 23 July, 1866, ch. 215, sec. 1, v. 14, p. 212.

SEC. 17. The captain shall be the inspector of the police force, command it in the sickness or absence of the major, and perform such other duties as the commissioners may direct.

Duties of captain.
 Sec. 347, R. S. D. C.
 Ibid.

SEC. 18. There shall be in the office of the major of police one clerk, who shall be appointed by the *Commissioners*, and who shall have charge of the records of the sanitary company provided for in section three hundred and eighty-one, and who shall perform such other duties as the major, by the direction or with the approval of the commissioners, may prescribe, and who shall receive a salary of one thousand dollars per annum.

Clerk in office of major.
 Sec. 348, R. S. D. C.
 Dec. 20, 1866, 14 Stat., 374.
 Ibid., pp. 212, 213.
 20 Dec., 1866, ch. 4, v. 14, p. 374.

SEC. 19. The *Commissioners* [board of police] may also appoint not exceeding three surgeons of police, who shall perform such duties as may be required of them by the *Commissioners* [board,] and who shall receive an annual compensation of three hundred dollars each.*

Surgeons of police.
 Sec. 349, R. S. D. C.
 16 July, 1862, ch. 181, sec. 2, v. 12, p. 579.

SEC. 20. The *Commissioners* [board of police] shall require security to be entered into by the major and lieutenants, and shall make suitable provisions therefor.

Major and lieutenants to give security.

Sec. 350, R. S. D. C. 6 Aug., 1861, ch. 62, sec. 27, v. 12, p. 325; 23 July, 1866, ch. 215, sec. 1, v. 14, p. 212.

Forty dollars per month by annual appropriation.

- Oath of office. SEC. 21. The *Commissioners* [board of police] shall also require an oath of office to be taken by members of the police force, and shall make suitable provisions respecting the same, and for the registry thereof, and such oath may be taken before one of the commissioners, any of whom are empowered to administer the same.
- Sec. 351, R. S. D. C.
Ibid.
- The Commissioners and major to have powers of notaries public and justices of the peace. SEC. 22. The *Commissioners* [members of the board of police,] and the major of police are vested with all the powers conferred by law upon notaries public and justices of the peace in the District.
- Sec. 352, R. S. D. C.
- Privileges and exemptions of police. SEC. 23. No person holding office under this chapter shall be liable to military or jury duty, nor to arrest on civil process, nor to service of subpoenas from civil courts while actually on duty.
- Sec. 353, R. S. D. C.
- Members of police force not to resign without notice. SEC. 24. No member of the police force, under penalty of forfeiting the salary or pay which may be due him, shall withdraw or resign, except by permission of the *Commissioners* [board,] unless he shall have given to the major one month's notice, in writing, of such intention.
- Sec. 356, R. S. D. C.
- Presents, etc., not to be received without consent. SEC. 25. No member of the police force shall receive or share in, for his own benefit, under any pretense whatever, any present, fee, or emolument, for police services, other than the regular salary and pay provided by this chapter, except by consent of the *Commissioners* [board of police.]
- Sec. 357, R. S. D. C.
- When rewards may be permitted. SEC. 26. The *Commissioners* [board of police,] for meritorious and extraordinary services rendered by any member of the police force, in the due discharge of his duty, may permit such member to retain for his own benefit any reward or present tendered him therefor.
- Sec. 358, R. S. D. C.
16 July, 1862, ch. 181, sec. 9, v. 12, p. 581.
- Regulations. SEC. 27. Upon notice to the *Commissioners* [board of police] from any member of the police force, of the receipt by such member of any reward or present, the *Commissioners* [board] may order the member to retain the same, or shall dispose thereof for the benefit of the policeman's fund.
- Sec. 359, R. S. D. C.
- Penalty for receiving reward without notice. SEC. 28. It shall be cause of removal from the police force for any member to receive rewards or presents without giving notice of the same to the *Commissioners* [board of police.]
- Sec. 360, R. S. D. C.
- Disposal of fines and rewards. SEC. 29. All fines imposed by the *Commissioners* [board of police] upon members of the police force, by way of discipline, and collectible from pay or salary, and all rewards, fees, proceeds of gifts, and emoluments, that may be paid and given for extraordinary services of any member of the police force, except when allowed to be retained by such member, shall be paid to the treasurer of the board of police, *Commissioners* unless otherwise appropriated by the *Commissioners* [board.]
- Sec. 361, R. S. D. C.
July 16, 1862.
- Policeman's fund. SEC. 30. The rewards, fees, proceeds of gifts, and emoluments mentioned in the preceding section, and all moneys arising from the sale of unclaimed goods, shall constitute the "policeman's fund."
- Sec. 362, R. S. D. C.
6 Aug., 186 ch. 62, sec. 26. 12 Stat., 325.
- Additional police relief fund. SEC. 31. Hereafter the Commissioners shall deduct one dollar each month from the pay of each policeman, which sum so deducted shall be added to and form a part of the present police fund, to be invested in United States or District bonds by the Treasurer of the United States, and be held by him subject to the drafts of the Commissioners
- Feb. 25, 1885.
23 Stat., 310.
2 Sup. R. S., 476.

for expenditures made in pursuance of law, and such expenditures shall be accounted for as required by law for other expenditures of the District; and said police fund shall be used for the relief of any policeman who, by injury received or disease contracted in line of duty, or having served not less than fifteen years, shall become so permanently disabled as to be discharged from service therefor; and in case of his death from such injury or disease, leaving a widow or children under sixteen years, for their relief: *Provided further*, That such relief shall not exceed for any one policeman or his family the sum of fifty dollars per month; and a sum not exceeding seventy-five dollars may be allowed from said fund to defray the funeral expenses of any policeman dying in the service of the District.

SEC. 32. Whenever any member of the police force, in the actual discharge of his duty, shall become actually disabled, his necessary expenses, during the time of such disability, on the certificate of a competent surgeon, stating the manner, cause, and condition of the injury, and approved by the *Commissioners* [board of police] may become a charge upon the policeman's fund. But the *Commissioners* [board] may discontinue such allowance for any satisfactory reason.

Who may have benefit of the fund.

Sec. 364, R. S. D. C. Ibid.

SEC. 33. The *Commissioners* [board of police] shall provide specific rules for uniform clothing of the police force, which shall be procured by each of the members thereof respectively, strictly in conformity with such rules, at his own expense and risk, and any member shall be removed from the force for not complying with such rules.

Uniforms.

Sec. 365, R. S. D. C. 23 July, 1866, ch. 215, sec. 4, v. 14, p. 213

SEC. 34. The detective force established by the aforesaid section of the Revised Statutes of the United States, relating to the District of Columbia, be and the same is hereby abolished.

Detective force abolished, etc. Detail of men from police, authorized.

Jan. 31, 1883. 22 Stat., 412, sec. 2.

SEC. 35. The *Commissioners* of the District of Columbia are hereby authorized to detail, from time to time, from the privates of the police, such number of privates, not exceeding six, as may in their judgment be necessary, for special service in the detection and prevention of crime; and such privates so specially detailed shall be entitled to receive and shall be paid the compensation now allowed by law to the detective force abolished by this act, during such time as they shall continue so detailed by the order of the *Commissioners*.*

Compensation for detectives.

2 Sup. R. S., 397. Ibid., sec. 3.

SEC. 36. The said *Commissioners* are hereby authorized to fix the salaries to be paid to the officers and privates of the metropolitan police until otherwise provided by law.†

Commissioners to fix pay of police.

June 20, 1878. 1 Sup. R. S., 382.

SEC. 37. That all new appointments [for the metropolitan police] shall be made to class one.

Appointments to class 1.

Mar. 3, 1879. 20 Stat., 377. 2 Sup. R. S., 253.

PRECINCTS AND STATIONS.

SEC. 38. The *Commissioners* [board of police] may divide the district into precincts, not exceeding ten, and may assign one lieutenant of police to each precinct.

Precincts.

Sec. 369, R. S. D. C.

6 Aug., 1861, ch. 62, sec. 10. 13 Stat., 322.

* At rate of \$90 per month. See sec. 365, R. S. D. C.

† These salaries are fixed by the annual appropriation acts.

- Stations and substations.** SEC. 39. The *Commissioners* [board of police] may, from time to time, [but without expense to the United States,] establish stations and station-houses, or sub-stations and sub-station houses, at least one to each precinct, for the accommodation thereof of members of the police force, and as temporary places of detention for persons arrested and property taken within the precinct.
- Sec. 370, R. S. D. C.
16 July, 1862, ch. 181, sec. 5.
12 Stat., 580.
- Proper station-houses to be provided by local authorities.** SEC. 40. It shall be the duty of the proper authorities of the District to provide, at the expense [of the cities] of *the District of Columbia* [Washington and Georgetown, respectively,] all necessary accommodations [within their respective limits] for the station-houses required by the *Commissioners* [board of police,] for the accommodation of the police force, for the lodging of vagrants and disorderly persons, and for the temporary detention of persons arrested for offenses, and to suitably warm and light the same.
- Sec. 371, R. S. D. C.
6 Aug., 1861, ch. 62, sec. 15.
12 Stat., 323.
- Residence of members of police force.** SEC. 41. There shall be no limitation or restriction of place of residence to any member of the police force, other than residents within the metropolitan police district.
- Sec. 373, R. S. D. C.
- Details for duty.** SEC. 42. The *Commissioners* [board of police] may, from time to time, detail and change, without regard to or limitation of residence, the lieutenants, sergeants, or privates to such parts of the District, or to such of the police or criminal courts, and to the public offices of the Government of the United States and of the District, as the *Commissioners* [board] may deem advisable; and it shall be the duty of the *Commissioners* [board] to cause the location of privates to be changed, from time to time, as the efficiency of the force shall require.
- Sec. 374, R. S. D. C.
- Special privates, how appointed.** SEC. 43. The *Commissioners* [board of police] may, on the application of any person showing the necessity thereof, appoint any additional number of privates to duty at any place within the District, at the charge and expense of the person by whom the application is made, but not to exceed the yearly sum provided for privates of the general police force.
- Sec. 375, R. S. D. C.
8 Mackey Rep., 385, *Wells vs. Market Co.*
- Powers and duties of special officers.** SEC. 44. The privates appointed as provided in the preceding section shall be subject to the orders of the *Commissioners* [board of police] and shall obey the rules and regulations of the *Commissioners* [board,] and conform to its general discipline and to such other special regulations as may be made, and shall wear such dress or emblem as the *Commissioners* [board] may direct, and shall, during the term of their holding appointment, possess all the powers, privileges, and duties of the police force.
- Sec. 376, R. S. D. C.
- How removed.** SEC. 45. The persons employed, as provided in the two preceding sections, may be removed at any time by the *Commissioners* [board of police] without assigning cause thereof, [upon one month's notice of the intention so to do, given to the person who applied for the appointment.]*
- Sec. 377, R. S. D. C.
- Special policemen without pay.** SEC. 46. The *Commissioners* [board of police] may also, upon any emergency of riot, pestilence, invasion, insurrection, or during any day of public election, ceremony, or celebration, appoint as many special privates without pay, from among the citizens, as it may deem advisable, and for a specified time.
- Sec. 378, R. S. D. C.
- Powers and duties; badge.** SEC. 47. During the term of service of such special privates, they shall possess all the powers and privileges, and perform all the duties of the privates of the standing police force of the District. And such special privates shall wear an emblem, to be presented by the commissioners.
- Sec. 379, R. S. D. C.

* 185 U. S. Rep., 240, *Eckloff vs. D. C.*

SEC. 48. All watchmen provided for by the United States Government for service in any of the public squares and reservations in the District of Columbia shall have and perform the same powers and duties as the metropolitan police of said District.

U. S. watchmen have same duties and powers as police.

22 Stat., 243, Aug. 5, 1882; 2 Sup. R. S., 374.

SANITARY COMPANY.

SEC. 49. The health-officer of the District shall have power to call upon any of the police force, to a number not exceeding six, to aid upon any necessary emergency in enforcing the powers and duties conferred [upon their office] by law; and it shall be the duty of any such number of police so called upon to obey such call, but such service shall not continue longer than twenty-four hours.

Aid to be given to board of health.

Sec. 380, R. S. D. C. June 8, 1878. 20 Stat., 102, sec. 8.

SEC. 50. It shall be the duty of the *Commissioners* [board of police] to set apart a sanitary police company, to consist of not exceeding ten persons, who shall be selected from among the police, and to assign to said company such especial duties, by the rules and regulations, as may be publicly advantageous.

Sanitary police company.

Sec. 381, R. S. D. C.

SEC. 51. The sanitary police company is empowered, under such distribution of power and duty as may be made by the rules and regulations, to visit and make inspection of all ferry-boats, manufactories, slaughter-houses, tenement-houses, and edifices suspected of or charged with being unsafe, and to attend to such other matters relating to health as are complained of and entered upon the complaint-book, and to take all necessary legal measures for promoting the security of life or health generally upon or in said boats, manufactories, houses, and edifices, and to make report of inspection and action in the premises to the *Commissioners* [board of police].

Powers of sanitary company.

Sec. 382, R. S. D. C.

SEC. 52. Whenever the *Commissioners* [board of police] are satisfied by such report that any ferry-boat, manufactory, slaughter-house, tenement-house, or edifice is maintained, or that any other act is about to be committed, in a manner prejudicial to the lives or health of the public, they shall, after due entry upon their minutes of the circumstances, cause complaint to be made, founded upon such report and circumstances, before the proper court of the District.

Reports and complaints.

Sec. 383, R. S. D. C.

SEC. 53. Upon such complaint being made, under oath, the court shall, in a summary way, issue the proper warrant, reciting therein the name of the member or members of the sanitary police company, for the arrest of the person in charge of such ferry-boat, manufactory, slaughter-house, tenement-house, or edifice, or otherwise committing any act that may be derogatory to the public health, to the end that he may be brought before the court and the complaint of insecurity of the life or health of the public so made be duly investigated according to the law of examination into misdemeanors.

Proceedings of court on complaint.

Sec. 384, R. S. D. C.

SEC. 54. If satisfied, on a summary hearing of the case, that such charge of insecurity of the lives or health of the public is founded on reasonable and probable cause, the court may, by an order in writing, command any such ferry-boat to cease running, or any business in such manufactory or slaughter-house to cease, or impose such fine as by law may be attached to such offense upon the person so offending, until the cause of complaint shall be removed to the satisfaction of the *Commissioners* [board of police].

Proceedings upon hearing.

Sec. 385, R. S. D. C.

BOOKS AND RECORDS.

SEC. 55. The *Commissioners* [board of police] shall cause to be kept the following books and records, namely:

Books and records, what to be kept.

Sec. 386, R. S. D. C.

General complaint book.

First. General complaint-books, in which shall be entered every complaint preferred upon personal knowledge of the circumstances thereof, with the name and residence of the complainant.

Registry of lost, missing, or stolen property.

Second. Books of registry of lost, missing, or stolen property, for the general convenience of the public and of the police of the District.

Records of the police.

Third. Books of records of the police, wherein shall be entered the name of every member of the police-force, with the time and place of his nativity, and the time when he became a citizen if he was born out of the United States; his age; his former occupation; number and residence of family; the date of appointment or dismissal from office, with the cause of the latter. And in every such record sufficient space shall be left against all such entries wherein to make record of the number of arrests made by such member of the police-force, or of any special services deemed meritorious by the commissioners.

Record of services.

Treasurer's accounts.

SEC. 56. The *Commissioners* [board of police] shall also cause to be kept in proper books the accounts of the treasurer of the board; and all receipts of moneys, or warrants or checks for moneys, shall be written in books kept for the purpose, and the receipts shall be signed in every case by the person receiving money, warrants, or checks from the treasurer.

Sec. 387, R. S. D. C.

Books to be open to public inspection.

SEC. 57. All the books mentioned in the two preceding sections shall be, at all business hours, and when not in actual use, open to public inspection.

Sec. 389, R. S. D. C.

Public returns and reports.

SEC. 58. The *Commissioners* [board of police] shall also cause to be kept and bound all police returns and reports of the District.

Sec. 390, R. S. D. C.

POLICE HEARINGS.

Power to compel attendance of witnesses.

SEC. 59. The *Commissioners* [board of police] shall have power to issue subpoenas, attested in the name of its president, to compel before it the attendance of witnesses upon any proceeding authorized by its rules and regulations.

Sec. 391, R. S. D. C.

Who may administer oaths to witnesses.

SEC. 60. Each commissioner and the major of police have power to administer, take, receive, and subscribe all affirmations and oaths to any witnesses summoned and appearing in any matter or proceeding authorized by the preceding section, and to any depositions necessary by the rules and regulations of the board of police.

Sec. 392, R. S. D. C.

Perjury in such cases; penalty.

SEC. 61. Any willful and corrupt false swearing by any witness or person making deposition before any of the officers mentioned in the preceding section, to any material fact in any necessary proceeding under the rules and regulations of the board of police, shall be deemed perjury, and shall be punished in the manner prescribed by law for such offense.

Sec. 393, R. S. D. C.

ARRESTS AND SEARCHES.

Police to have powers of constables.

SEC. 62. The *Commissioners* [members of the board of police,] and the police force, shall possess in every part of the District all the common law and statutory powers of constables, except for the service of civil process and for the collection of strictly private debts, in which designation fines imposed for the breach of the ordinances in force in the District, shall not be included. [See §§ 1065-1067, R. S. D. C.]

Sec. 394, R. S. D. C.
16 July, 1862, ch. 181, sec. 5, v. 12, p. 580.

SEC. 63. Any warrant for search or arrest, issued by any magistrate of the District, may be executed in any part of the District by any member of the police force, without any backing or indorsement of the warrant, and according to the terms thereof; and all provisions of law in relation to bail in the District shall apply to this chapter.

Execution of warrants.

Sec. 395, R. S. D. C.
6 Aug., 1861, ch. 62, sec. 9, v. 12, p. 322.

SEC. 64. The *Commissioners* [said board of police] shall not enforce any law or ordinance discriminating between persons in the administration of justice.

Discriminating laws not to be enforced.

Sec. 396, R. S. D. C.

SEC. 65. The several members of the police-force, including the commissioners [of police,] shall have power and authority to immediately arrest, without warrant, and to take into custody any person who shall commit, or threaten or attempt to commit, in the presence of such member, or within his view, any breach of the peace or offense directly prohibited by act of Congress, or by any law or ordinance in force in the District, but such member of the police-force shall immediately, and without delay, upon such arrest convey in person such offender before the proper court, that he may be dealt with according to law.

Arrests without warrant: when.

Sec. 397, R. S. D. C.

SEC. 66. The major of police and the lieutenants of police, having just cause to suspect that any felony has been, or is being, or is about to be, committed within any building, or on board of any ship, boat, or vessel within the said District, may enter upon the same at all hours of day or night, to take all necessary measures for the effectual prevention or detection of all felonies, and may take then and there into custody all persons suspected of being concerned in such felonies, and also may take charge of all property which he or they shall have then and there just cause to suspect has been stolen.

Powers of officers in case of suspected felonies.

Sec. 398, R. S. D. C.

SEC. 67. Every case of arrest shall be made known within six hours thereafter to the lieutenant of police on duty in the precinct in which the arrest is made, by the person making the same: and it shall be the duty of the lieutenant within twelve hours after such notice, to make written return thereof, according to the rules and regulations of the *Commissioners* [board of police,] together with the name of the party arrested, the offense, the place of arrest, and the place of detention.

Information and return of arrests.

Sec. 399, R. S. D. C.

SEC. 68. If any member of the police-force shall neglect making any arrest for an offense against the laws of the United States committed in his presence, he shall be deemed guilty of a misdemeanor and shall be punishable by imprisonment in the District jail or penitentiary not exceeding two years, or by a fine not exceeding five hundred dollars.

Penalty for neglect to make arrests.

Sec. 400, R. S. D. C.

SEC. 69. The *Commissioners* [board of police] shall provide suitable accommodations within the district for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings, and such accommodations shall be in premises other than those employed for the confinement of persons charged with crime, fraud, or disorderly conduct; and it shall be the duty of all magistrates in committing witnesses to have regard to the rules and regulations of the *Commissioners* [board of police] in reference to their detention.

Detention of witnesses.

Sec. 401, R. S. D. C.

SEC. 70. If any member of the police force, or if any two or more house-holders shall report in writing, under his or their signature, to the major of police that there are good grounds, stating the same,

Authority of search and arrest in certain cases.

Sec. 402, R. S. for believing any house, room, or premises within the police-district
D. C. to be kept or used for any of the following purposes, namely :

First. As a common gaming-house, common gaming-room, or common gaming-premises, for therein playing for wagers of money at any game of chance ; or,

Second. As a bawdy-house, or as a house of prostitution, or for purposes of prostitution ; or,

Third. For lewd and obscene public amusement or entertainment ; or,

Fourth. For the deposit or sale of lottery-tickets or lottery-policies, it shall be lawful for the major of police to authorize any member or members of the police force to enter the same, who shall forthwith arrest all persons there found offending against law, and seize all implements of gaming, or lottery-tickets, or lottery-policies, and convey any person so arrested before the proper court, and bring the articles so seized to the office of the *Commissioners* [board of police].

[See § 1174, R. S. D. C.]

Duty of major to prosecute, etc.

Sec. 403, R. S.
D. C.

SEC. 71. It shall be the duty of the major of police to cause all persons arrested in pursuance of the provisions of the preceding section to be rigorously prosecuted, the articles seized to be destroyed, and such room or house to be closed, and not again used for such unlawful purpose.

LICENSED PAWNBROKERS, ETC..

Supervision of doubtful establishments.

Sec. 404, R. S.
D. C.

SEC. 72. The *Commissioners* [board of police] shall possess powers of general police supervision and inspection over all—

Licensed pawnbrokers.

Licensed venders.

Licensed hackmen and cartmen.

Dealers in second-hand merchandise.

Intelligence-office keepers.

Auctioneers of watches and jewelry.

Suspected private banking-houses, and other doubtful establishments within the metropolitan police district ; and in the exercise and furtherance of said supervision may, from time to time, empower members of the police-force to fulfill such special duties in the premises, as may be ordained by the *Commissioners* [board of police].

Examination of books and premises.

Sec. 405, R. S.
D. C.

SEC. 73. The *Commissioners* [board of police] may direct the major to empower any member of the police-force, whenever such member shall be in search of property feloniously obtained, or in search of suspected offenders, to examine the books of any pawnbroker or his business premises, or the business premises of any licensed vender or dealer in second-hand merchandise, or intelligence-office keeper, or auctioneer of watches and jewelry, or suspected private banking-house, or other doubtful establishment.

Examination of property.

Sec. 406, R. S.
D. C.

SEC. 74. Any member of the police-force, when thereto authorized in writing by the major of police, and having in his possession a pawnbroker's receipt or ticket, shall be allowed to examine the property purporting to be pawned or pledged, or deposited upon said receipt or ticket, in whosoever possession said property may be ; but no such property shall be taken from the possessor thereof without due process or authority of law.

Interference punishable as a misdemeanor.

Sec. 407, R. S.
D. C.

SEC. 75. Any willfull interference with the major of police, or with any member of the police-force, by any of the persons named in section four hundred and four, while in official and due discharge of duty, shall be punishable as a misdemeanor.

STOLEN, LOST, AND ABANDONED PROPERTY.

SEC. 76. There shall be an officer known as "property clerk" of the metropolitan police-district, who shall be appointed and may be removed by the *Commissioners* [board of police,] and who shall receive an annual compensation of twelve hundred dollars, payable monthly.

Property clerk.
Sec. 408, R. S. D. C.
Ibid., sec. 1, pp. 578, 579.

SEC. 77. All property, or money alleged or supposed to have been feloniously obtained, or which shall be lost or abandoned, and which shall be thereafter taken into the custody of any member of the police force, or the police or criminal court of the district, or which shall come into such custody, shall be, by such member, or by order of the court, given into the custody of the property clerk and kept by him.

Custody of stolen, lost, or abandoned property.
Sec. 409, R. S. D. C.

SEC. 78. All such property and money shall be particularly registered by the property clerk in a book kept for that purpose, which shall contain also a record of the names of the persons from whom such property or money was taken, the names of all claimants thereto, the place where found, the time of the seizure, the date of the receipt, the general circumstances connected therewith, and any final disposal of such property and money.

Record to be kept.
Sec. 410, R. S. D. C.

SEC. 79. The property clerk is vested with all the powers conferred by law upon notaries public in the district.

Property clerk to have powers of notary public.
Sec. 411, R. S. D. C.

SEC. 80. He may administer oaths and certify depositions which may be necessary to establish the ownership of any property or money lost, abandoned, or returned to him under the directions of the *Commissioners* [board of police,] other than such as may be so returned as the proceeds of crime.

Oaths and depositions.
Sec. 412, R. S. D. C.

SEC. 81. Upon satisfactory evidence of the ownership of property described in the preceding section he shall deliver the same to the owner, his heirs and legal representatives, and to him or them only, except it be proven impracticable for such owner, heir, or representatives to appear, when the same may be delivered and receipted for upon such proof of ownership and the filing in the office of the property clerk of a duly executed power of attorney from the owner or his heirs or legal representatives.

May return certain property to owners; how.
Sec. 413, R. S. D. C.

SEC. 82. Whenever property or money shall be taken from persons arrested, and shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and whenever so brought with such claimant and the person arrested before any court for trial, and the court shall be satisfied from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, said court may, in writing, order such property or money to be returned, and the property clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent, or clerk of such accused person.

Property taken from arrested persons; how restored.
Sec. 414, R. S. D. C.

SEC. 83. If any claim to the ownership of such property or money shall be made on oath before the court, by or in behalf of any other persons than the persons arrested, and the accused person shall be held for trial or examination, such property or money shall remain in the custody of the property clerk until the discharge or conviction of the persons accused.

Retention, when claimed by other than accused person.
Sec. 415, R. S. D. C.

Taken on suspicion, etc.; how disposed of. SEC. 84. All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom such property was taken, and all lost property coming into the possession of any member of the police force, and all property and money taken from pawnbrokers as the proceeds of crime, or from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves, shall be transmitted as soon as practicable to the property clerk, to be duly registered and advertised for the benefit of all parties interested, and for the information of the public as to the amount and disposition of the property so taken into custody by the police.

Sec. 416, R. S.
D. C.

Sale of unclaimed property.

Sec. 417, R. S.
D. C.

SEC. 85. All property, except perishable property and animals, and all money that shall remain in the custody of the property clerk for the period of six months without any lawful claimant thereto, after having been three times advertised in public newspapers, shall be sold at public auction, and the proceeds of such sale shall be paid into the policemen's fund.

Of unclaimed animals.

Sec. 418, R. S.
D. C.

SEC. 86. Horses and other animals taken by the police and remaining unclaimed for twenty days may be advertised and sold upon ten days' public notice.

Sale of perishable property.

Sec. 419, R. S. D. C.

SEC. 87. All perishable property so taken and unclaimed shall be sold at once.

When animals, etc., may be placed in custody of owners.

Sec. 420, R. S.
D. C.

SEC. 88. When animals or articles of property, (except perishable property,) other than money, returned to the property clerk as the proceeds of crime, are shown by sufficient evidence to be necessary for the current use of the owner and not for sale, the *Commissioners* have [board of police has] power, in *their* [its] discretion, to authorize the property clerk to place the same in the custody of the owner, upon sufficient bonds being given by the owner in the sum of twice the value of the property, conditioned for the production of the same at any time within one year, when required for use in court as evidence in any proceedings thereon.

When perishable property may be delivered to owner.

Sec. 421, R. S. D. C.

SEC. 89. Perishable property, returned to the property clerk as the proceeds of crime, may be delivered to the owner on ample security being taken by the court for his appearance to prosecute the case.

When large quantities of goods held for sale may be delivered to owner.

Sec. 422, R. S.
D. C.

SEC. 90. When large quantities of goods held for sale by the owner, come into the possession of the property clerk as the proceeds of crime, the same may be delivered to the owner, his heirs or representatives, as provided in section four hundred and thirteen, upon ample security to prosecute the case. But in such cases goods to the estimated value of fifty dollars shall be retained by the property clerk until the discharge or conviction of the accused.

Property desired as evidence in court.

Sec. 423, R. S.
D. C.

SEC. 91. If any property or money placed in the custody of the property clerk shall be desired as evidence in any police or other criminal court, such property shall be delivered to any officer who shall present an order to that effect from such court; but such property shall not be retained in the court, but shall be returned to the property clerk, to be disposed of according to the provisions of this chapter.

Unclaimed property not called for.

SEC. 92. Any property or money returned to the property clerk as the proceeds of crime, and which shall not be called for as evidence by any proceeding in the courts of the District within one year from

the date of such return, may, unless specially claimed by the owner within that time, be thereafter treated as other unclaimed, abandoned, or lost property or money, as provided in this chapter. Sec. 423, R. S. D. C.

PRIVATE DETECTIVES.

SEC. 93. No person shall assume or practice the occupation of detective within the limits of the District who shall not first receive a specific appointment for that purpose, unless pursuing the detection of criminals as a private business outside of such authority, and not otherwise specifically authorized by law. Private detectives, who may practice as.
Sec. 425, R. S. D. C.

SEC. 94. Any person practicing as a private detective shall enter into bonds to the *Commissioners* [board of police], with surety, in a sum not less than ten thousand dollars, to be approved by the *Commissioners* [board], for a faithful and correct return to the *Commissioners* [the board], in such manner and at such times as the *Commissioners* [board] shall direct, of all business transacted by such private detective. To give bond.
Sec. 426, R. S. D. C.

SEC. 95. Upon the execution of a private detective's bond, it shall be the duty of such private detective to report to the *Commissioners* [board of police], who shall file such bond and record the name, age, description, nationality, and residence of such private detective. To report to Commissioners
Sec. 427, R. S. D. C.

SEC. 96. In every case of a forfeiture of a private detective's bond for failure to make such returns to the *Commissioners* [board of police] as required, or for failure of persons accused by bonded private detective to appear to answer charges in court, it shall be the duty of the attorney of the United States for the District to immediately prosecute the sureties upon such bond to the full extent of a recovery of the forfeitures. Forfeiture of bond; duty of United States attorney.
Sec. 428, R. S. D. C.

SEC. 97. It shall be the duty of every person prosecuting the business of a private detective, who may arrest a person for crime, to bring the person arrested, with all evidence of the alleged crime, including property or money which may become evidence, immediately to the office of the major of police, or to the proper court, where the case shall undergo an examination. Duty of private detective making arrests.
Sec. 429, R. S. D. C.

SEC. 98. All laws which govern the police force in the matters of persons, property, or money shall be applicable to all private detectives, (or to persons practicing as detectives, whatever other name they may assume,) and such detectives or persons shall make like returns and dispositions of such matters as required by law and the rules of the *Commissioners* [board of police] governing the police force. All police laws applicable to private detectives.
Sec. 430, R. S. D. C.

COMPROMISE OF FELONY, ETC.

SEC. 99. It is unlawful for any private detective, or any member of the police force, or for any other person to compromise a felony or any other unlawful act, or to participate in, assent to, aid or assist any person suspected of crime to escape a full judicial examination by failing to give known facts or reasonable causes of suspicion, or withholding any information relative to the charge or suspicion from the proper judicial authorities; Compromise of felony, etc., prohibited.
Failing to give facts.
Withholding information
Receiving money from persons arrested or liable to arrest.
Penalty for violation of this section.
Or in any manner to receive any money, property, favor, or other compensation from, or on account of, any person arrested or subject to arrest for any crime or supposed crime;
Or to permit any such person to go at large without due effort to secure an investigation of such supposed crime.
And for any violation of the provisions of this section, or either of them, such member of the police force, or private detective, or

Sec. 431, R. S. other person guilty thereof, shall be deemed as having compromised
D. C. a felony, and shall thereafter be prohibited from acting as an officer
of said police force, or as a private detective, and shall be prosecuted
to the extent of the law for aiding criminals to escape the ends of
justice.

MISCELLANEOUS PROVISIONS.

Penalty for using personal violence on officer in discharge of his duty. SEC. 100. If any person, without justifiable and excusable cause, shall use personal violence upon any member of the police force, when in the discharge of his duty, such person shall be deemed guilty of a misdemeanor, and shall be punishable by imprisonment in the district jail or penitentiary not exceeding two years, or by a fine not exceeding five hundred dollars.

Sec. 432, R. S. D. C. Penalty for falsely pretending to be member of police force. SEC. 101. It shall be a misdemeanor, punishable as provided in the preceding section, for any person, not a member of the police force, to falsely represent himself as being such member, with a fraudulent design.

Sec. 433, R. S. D. C. Unnecessary severity punishable. SEC. 102. Any officer who uses unnecessary and wanton severity in arresting or imprisoning any person shall be deemed guilty of assault and battery, and, upon conviction, punished therefor.

Police code. SEC. 103. The *Commissioners are* [board of police is] authorized, from time to time, without expense to the United States, to cause to be collected into compact form all the laws and ordinances in force in the District having relation and applicable to police and health, and to publish the same in a form easily accessible to all members of the community as the police code of the District.

Its authority. SEC. 104. The police code, prepared in accordance with the preceding section, and such rules as the *Commissioners* [board of police] may from time to time adopt for the purpose of enforcing and carrying out the provisions thereof, shall constitute the law of the District upon the matters therein contained.

POLICE MATRONS.

Police matrons to be appointed, District of Columbia. SEC. 105. That the Commissioners of the District of Columbia be, and they are hereby, authorized to appoint three matrons for the police department of said District, at a salary of six hundred dollars per annum, as soon as the necessary accommodations may be authorized and provided by Congress, and the work completed.

July 23, 1888, 25 Stat., 340, sec. 1; Sup. R. S., 2 ed., 599.

Duties. SEC. 106. That it shall be the duty of said police matrons to search, when necessary, examine, and care for the female prisoners who may be taken into custody by the police, and to take charge of lost or abandoned children while detained at a station-house to which a matron may be assigned, under such rules and regulations as the Commissioners of the District of Columbia may from time to time make.

Qualifications. SEC. 107. That no woman shall be appointed a police matron unless suitable for the position, and recommended therefor in writing by at least ten women of good standing, residents of the District.

Ibid., sec. 3.

CHAPTER FORTY-SEVEN.

MILITIA.

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62. Regulations to be made and published, how; by whom, and for what.
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District of Columbia militia organized.

SEC. 1. Every able-bodied male citizen resident within the District of Columbia, of the age of eighteen years and under the age of forty-five years, excepting persons exempted by section two, and idiots, lunatics, common drunkards, vagabonds, paupers, and persons convicted of any infamous crime, shall be enrolled in the militia. Persons so convicted after enrollment shall forthwith be disenrolled; and in all cases of doubt respecting the age of a person enrolled, the burden of proof shall be upon him.

Persons to be enrolled.

Mar. 1, 1889.
25 Stat., 772, ch. 328.
2 Sup. R. S., 661.

Exemptions.

Ibid., sec. 2.

SEC. 2. In addition to the persons exempted from enrollment in the militia by the general laws of the United States, the following persons shall also be exempted from enrollment in the militia of the District of Columbia, namely: Officers of the government of the District of Columbia; judges and officers of the courts of the District of Columbia; officers who have held commissions in the Regular or Volunteer Army or Navy of the United States; officers who have served for a period of five years in the militia of the District of Columbia or of any State of the United States; ministers of the gospel; practicing physicians; conductors and engine-drivers of railroad trains; members of the paid police and fire department.

Assessors to enroll.

Ibid., sec. 3.

SEC. 3. The Commissioners of the District of Columbia shall provide for the enrollment of the militia, and for this purpose may require the assessors of taxes, at the same time they are engaged in taking the assessment of valuation of real and personal property, to make a list of persons liable to enrollment; and such record shall be deemed a sufficient notification to all persons whose names are thus recorded that they have been enrolled in the militia. Immediately after the completion of each enrollment they shall furnish the commanding-general of the militia with a copy of the same.

Duty.

Ibid., sec. 4.

SEC. 4. The enrolled militia shall not be subject to any duty except when called into the service of the United States, or to aid the civil authorities in the execution of the laws or suppression of riots.

Ordering into service.

Ibid., sec. 5.

SEC. 5. Whenever it shall be necessary to call out any portion of the enrolled militia the commander-in-chief shall order out, by draft or otherwise, or accept as volunteers as many as required. Every member of the enrolled militia who volunteers, or who is ordered out or drafted under the provisions of this act, who does not appear at the time and place designated, may be arrested by order of the commanding general and be tried and punished by a court-martial. The portion of the enrolled militia ordered out or accepted shall be mustered into service for such period as may be required, and the commanding general may assign them to existing organizations of the active militia, or may organize them as the exigencies of the occasion may require.

SEC. 6. The President of the United States shall be the commander-in-chief of the militia of the District of Columbia.

Commander-in-chief.

Ibid., sec. 6.

SEC. 7. There shall be appointed and commissioned by the President of the United States a commanding general of the militia of the District of Columbia, with the rank of brigadier-general, who shall hold office until his successor is appointed and qualified, but may be removed at any time by the President.

Commanding general.

Ibid., sec. 7.

SEC. 8. The staff of the militia of the District of Columbia shall be appointed and commissioned by the President, and hold office until their successors are appointed and qualified, but may be removed at any time by the President. It shall consist of one adjutant-general, with the rank of lieutenant-colonel; one inspector-general, one quartermaster-general, one commissary-general, one chief of ordnance, one chief engineer, one surgeon-general, one judge-advocate-general, and one inspector-general of rifle practice, each with the rank of major; and four aids-de-camp, each with the rank of captain. The commanding general may appoint a non-commissioned staff of the militia, to consist of one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, one ordnance sergeant, two staff sergeants, one hospital-steward, one color-sergeant, and one sergeant-bugler.

Staff officers.

Non-commissioned staff.

Ibid., sec. 8.

SEC. 9. The President may assign an officer of the Army to act as adjutant-general of the militia of the District of Columbia, who, while so assigned, shall be commissioned as such and be subject to the orders of the commanding general and the provisions of this act: *Provided, however,* That the officer so assigned shall receive no other pay or emolument than that to which his rank in the Army entitles him when on detached service.

Detail for adjutant-general.

Proviso.

Pay.

Ibid., sec. 9.

THE ACTIVE MILITIA: ITS ORGANIZATION.

SEC. 10. The active militia shall be composed of volunteers, and shall be designated the National Guard of the District of Columbia; and in case the militia of the District of Columbia are called into the service of the United States, or required for the suppression of riots, or to aid civil officers in the execution of the laws, shall be the first to be ordered into service.

Active militia.

Organization of National Guard.

Ibid., sec. 10.

SEC. 11. In time of peace the National Guard shall consist of not more than twenty-eight companies of infantry, which shall be arranged by the commanding general into such regiments, battalions, and unattached companies as he may deem expedient; one battery of light artillery; one signal corps; one ambulance corps; one engineer corps; one band of music, and one corps of field musicians.

Strength on peace basis.

Ibid., sec. 11.

SEC. 12. Regiments of infantry shall consist of three battalions; and to each regiment there shall be one colonel and one lieutenant-colonel, and a staff to consist of one surgeon, one adjutant, one quartermaster, one inspector of rifle practice, and one chaplain, each with the rank of captain; and a non-commissioned staff, consisting of one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, and one hospital-steward.

Regiments of infantry.

Ibid., sec. 12.

SEC. 13. Battalions of infantry shall consist of four companies; and to each battalion there shall be one major; and a staff consisting of one surgeon, one adjutant, one quartermaster, and one inspector of rifle practice, each with the rank of first lieutenant, and a non-commissioned staff, consisting one sergeant-major, one quartermaster-sergeant, and one hospital steward.

Infantry battalions.

Ibid., sec. 13.

- Infantry companies.** SEC. 14. To each company of infantry there shall be one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, one corporal to each ten privates, and not more than eighty-seven privates; and the minimum number of enlisted men shall be forty.
Ibid., sec. 14.
- Artillery battery.** SEC. 15. The battery of light artillery shall have not less than four nor more than six guns. To four guns there shall be one captain, two first lieutenants, one second lieutenant, one first sergeant, one quartermaster-sergeant, five sergeants, eight corporals, two buglers, and not more than eighty-two privates; and the minimum number of enlisted men shall be fifty-seven. To more than four guns there shall be, for each additional gun, one sergeant, two corporals, and not more than twenty nor less than ten privates; for two additional guns there shall be one additional second lieutenant.
Ibid., sec. 15.
- Signal, ambulance, and engineer corps.** SEC. 16. To each signal corps, ambulance corps, and engineer corps, there shall be one first lieutenant, two sergeants, two corporals, and not more than thirty-two nor less than fourteen privates.
Ibid., sec. 16.
- Band.** SEC. 17. The band of music shall consist of one chief musician two sergeants, two corporals, and thirty-two privates, and the corps of field music of one principal musician, two sergeants, two corporals, and thirty-two privates. The chief musician, principal musician, and other non-commissioned officers of the band and field music shall be appointed by the commanding general.
Ibid., sec. 17.
- Disbanding of companies below minimum strength.** SEC. 18. When any company of the National Guard shall, for a period of not less than ninety days, contain less than the minimum number of enlisted men prescribed by this act, or upon a duly ordered inspection, shall be found to have fallen below a proper standard of efficiency, the commanding general may either disband such company or consolidate it with any other company of the National Guard, and grant an honorable discharge to the supernumerary officers and non-commissioned officers produced by such consolidation. Officers and enlisted men discharged by reason of such disbanding or consolidation and at any time thereafter re-entering the service shall have allowed to them, as part of their term of service, the time already served.
Ibid., sec. 18.
- Commissioned officers.** ELECTION, APPOINTMENT, AND DISCHARGE OF COMMISSIONED OFFICERS.
- Commission.** SEC. 19. All officers shall be commissioned by the President of the United States. In time of peace, or when not in the service of the United States, they shall previously be elected or nominated as herein provided. No person commissioned as an officer shall assume such rank, or enter upon the duties of the office to which he may be commissioned, until he has accepted such commission and taken such oath or affirmation as may be prescribed.
Oath.
Ibid., sec. 19.
- Staff officers.** SEC. 20. The staff officers of a regiment or battalion shall be nominated by the permanent commander thereof.
Ibid., sec. 20.
- Field officers.** SEC. 21. Field officers of regiments or battallions shall be nominated by the commanding general. Captains and lieutenants of companies shall be elected by the written votes of the enlisted men of the respective companies.
Company of officers.
Ibid., sec. 21.
- Elections.** SEC. 22. Elections of officers shall be ordered and held under such regulations as may be prescribed by the commanding general.
Ibid., sec. 22.

SEC. 23. Every person accepting an election or nomination as an officer shall appear before an examining board, to be appointed by the commanding general, which board shall examine said officer as to his military and other qualifications. If any officer shall fail to appear before the board of examination within thirty days after being notified, or shall fail to pass a satisfactory examination, the fact shall be certified by the board to the commanding general, who shall thereupon declare the election or nomination of such officer null and void. If, in the opinion of the board such officer is competent, and otherwise qualified, they shall certify the fact to the commanding general, who shall thereupon recommend him to the President for commission.

Examinations.
Ibid., sec. 23.

SEC. 24. A commissioned officer may be honorably discharged—
Upon tender of resignation;
Upon disbandment of the organization to which he belongs;
Upon report of a board of examination, or for failure to appear before such board when ordered.
He may be dismissed upon the sentence of a court-martial; conviction in a court of justice of an infamous offense.

Discharges.
Ibid., sec. 24.

THE APPOINTMENT AND REDUCTION OF NON-COMMISSIONED OFFICERS.

Non commissioned officers.

SEC. 25. Non-commissioned staff officers shall be appointed by the permanent commander of the organization to which they belong; and permanent commanders of battalions shall appoint the non-commissioned officers of companies, upon the written nomination of the respective captains; but they may withhold such appointment if, in their judgment, there be proper cause; non-commissioned officers of unattached companies shall be appointed by their respective captains.

Appointment.
Ibid., sec. 25.

The permanent commander of any battalion or unattached company may reduce to the ranks any company non-commissioned officers of his command.

ENLISTMENT AND DISCHARGE OF SOLDIERS.

SEC. 26. Enlistment in the National Guard shall be for the term of three years: *Provided, however,* That any soldier who may have received an honorable discharge, by reason of the expiration of his term of service, may, within thirty days thereafter, re-enlist for a term of one, two, or three years, to date from the expiration of his previous term. All terms of service, except in case of re-enlistment, shall commence at noon on the day of enlistment, and expire at noon on the day of discharge.

Enlistment.
Term.
Proviso.
Re-enlistment.
Ibid., sec. 26.

SEC. 27. Every person enlisting in the National Guard shall sign an enlistment paper which shall contain an oath of allegiance to the United States. The requisites and regulations for enlistment and the form of enlistment paper and oath for enlisting men, shall be prescribed by the commanding general.

Oath, etc.
Ibid., sec. 27.

SEC. 28. No enlisted man shall be honorably discharged before the expiration of his term of service, except by order of the commanding general, and for the following reasons:

Discharges:
Honorable.
Ibid., sec. 28.

Upon his own application, approved by the commanding officer of his company, and by superior commanders;
Upon removal from the District;
Upon disability, established by certificate of medical officer;
To accept promotion by commission;
Whenever, in the opinion of the commanding general, the interest of the service demand such discharge.

Dishonorable.
Ibid., sec. 29. SEC. 29. Enlisted men shall be dishonorably discharged by order of the commanding general:
To carry out the sentence of a court-martial;
Upon conviction of felony in a civil court;
Upon expulsion from his company, in accordance with its by-laws or regulations;
Upon discovery of re-enlistment after previous dishonorable discharge.

Certificate of discharge.
Ibid., sec. 30. SEC. 30. Every soldier discharged from the service of the District shall be furnished with a certificate of such discharge, which shall state clearly the reasons therefor. Dishonorable discharges will have the word "dishonorable" written or printed diagonally across their faces, in large characters, with red ink, and the re-enlistment clause will be erased by a line.

Arms, etc.

ARMS, UNIFORMS, AND EQUIPMENTS.

To be issued by Secretary of War.
Ibid., sec. 31. SEC. 31. The uniforms, arms, and equipments of the National Guard shall be the same as prescribed and furnished to the army of the United States. Every organization of the National Guard shall be provided with such ordnance and ordnance stores, clothing, camp and garrison equipage, quartermaster's stores, medical supplies, and other military stores, as may be necessary for the proper training and instruction of the force and for the proper performance of the duties required under this act. Such property shall be issued from the stores and supplies appropriated for the use of the Army, upon the approval and by the direction of the Secretary of War, to the commanding general, upon his requisitions for the same. The property so issued shall remain and continue to be the property of the United States, and shall be accounted for by the commanding general at such times, in manner, and on such forms, as the Secretary of War may require.

Regulations for issue, care, etc.
Ibid., sec. 32. SEC. 32. The commanding general may transfer all public property, received by him for the use of the National Guard under the provision of this act, to the several departmental officers of the general staff, and may make and prescribe regulations for its issue by them, and for its care and preservation by the officers or soldiers to whom issued.

Returns, etc.
Ibid., sec. 33. SEC. 33. Every officer receiving public property for military use shall be accountable for the articles so received by him, and shall make returns of such property at such times, in such manner, and on such forms as may be prescribed. He shall be liable to trial by court-martial for neglect of duty, and also make good to the United States the value of all such property defaced, injured, destroyed or lost, by any neglect or default on his part, to be recovered in an action of tort, or by any other action at law, to be instituted by the judge-advocate-general of the militia at the order of the commanding general. All money received on account of loss or damages shall be paid in the Treasury of the United States, and shall be accounted for by the commanding general in his returns to the Secretary of War.

Punishment for selling, etc., public property.
Ibid., sec. 34. SEC. 34. Any officer or soldier who shall sell, dispose of pawn or pledge, willfully destroy or injure, or retain after proper demand made, any public property issued under the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not exceeding two months, or by a fine not exceeding one hundred dollars, or by both; and it is hereby made the duty of the judge of the police court of the District of Columbia, upon

information filed or complaint, made under oath, to issue process for the arrest of the offender, and to cause him to be brought before the police court to be dealt with according to the provisions of this section.

SEC. 35. Until an officer, or his legal representative shall have received notice that the property accounts of such officer have been examined and found correct, the liability of such officer, or of his estate, for public property for which he is or may have been responsible shall be in no way affected by resignation, discharge, change in official position, or death. Upon the death or desertion of an officer responsible for public property his immediate commander shall at once cause the property for which such officer was responsible to be collected, and a correct inventory made by actual count and examination; which inventory shall be forwarded to the commanding general, in order that any deficiency may be made good from the estate of the deceased or deserting officer; compensation for such deficiency may be recovered in the manner provided in section thirty-four.

Liability of officers.
Ibid., sec. 35.

SEC. 36. Property issued or provided under the provisions of this act which becomes unfit for use, and is condemned as unserviceable shall be reported by the commanding general to the Secretary of War, and shall be disposed of as may be directed by him.

Unserviceable property.
Ibid., sec. 36.

SEC. 37. Any organization of the active militia may, with the approval of the commanding general, and at its own expense, adopt any other uniform than that issued to it; but such uniform shall not be worn when such organization is on duty under the orders of the commanding general except by his permission.

Distinctive uniforms.
Ibid., sec. 37.

SEC. 38. Organizations of the National Guard shall have the right to own and keep personal property, which shall belong to and be under the control of the active members thereof; and the commanding officer of any organization may recover for its use any debts or effects belonging to it, or damages for injury to such property; action for such recovery to be brought, in the name of such commanding officer, before any justice of the peace, with the right of appeal to the supreme court of the District of Columbia, or before the supreme court of the District of Columbia; and no suit or complaint pending in his name shall be abated by his ceasing to be commanding officer of the organization; but, upon the motion of the commander succeeding him, such commander shall be admitted to prosecute the suit or complaint in like manner and with like effect as if it had been originally commenced by him.

Right to own personal property.

Actions for injuries to.
Ibid., sec. 38.

SEC. 39. The quartermaster-general of the militia shall provide, by rental or otherwise, such armories for the National Guard as may be allowed and directed by the commanding general. He shall also provide each organization with such lockers, closets, gun-racks, and cases or desks, as may be necessary for the care, preservation, and safe-keeping of the arms, equipments, uniforms, records, and other military property in their possession. He shall also provide suitable rooms for the offices of the commanding general and staff, for the keeping of books, the transaction of business, and the instruction of officers, and also suitable places for the storage and safe-keeping of public property.

Armories to be provided.
Ibid., sec. 39.

MILITARY DUTIES.

Duties.

SEC. 40. Any drill, parade, encampment, or duty that is required, ordered, or authorized to be performed under the provisions of this act, shall be deemed to be a military duty, and while on such duty

Drills, etc., to be a military duty.
Ibid., sec. 40.

every officer and enlisted man of the National Guard shall be subject to the lawful orders of his superior officers, and for any military offense may be put and kept under arrest or under guard for a time not extending beyond the term of service for which he is then ordered.

Prescribing drills, etc.

Ibid., sec. 41.

SEC. 41. The commanding general shall prescribe such stated drills and parades as he may deem necessary for the instruction of the National Guard, and may order out any portion of the National Guard for such drills, inspections, parades, escort, or other duties, as he may deem proper. The commanding officer of any regiment, battalion, or company may also assemble his command, or any part thereof, in the evening for drill, instruction, or other business, as he may deem expedient; but no parade shall be performed by any regiment, battalion, company, or part thereof, without the permission of the commanding general.

Annual inspection.

Ibid., sec. 42.

SEC. 42. An annual inspection and muster of each organization of the National Guard, and an inspection of their armories and of public property in their possession, shall be made at such times and places as the commanding general may order and direct.

Camp duty.

Ibid., sec. 43.

SEC. 43. The National Guard shall perform not less than six consecutive days of camp duty in each year, at such time as may be ordered by the commanding general; and the quartermaster-general of the militia, subject to the approval of the commanding general, shall provide, by rental or otherwise, a suitable camp ground for the annual encampment of the militia, make the necessary provisions thereon for the encampment, and provide necessary transportation to and from the same for baggage and supplies.

Use of Washington Barracks.

Ibid., sec. 44.

SEC. 44. The National Guard shall have the use of the drill grounds and rifle-range at the Washington Barracks, subject to the approval of the Secretary of War, and the commanding general of the militia shall provide such additional targets and accessories as may be necessary for the use of the militia.

Suppression of riots, etc.

Ibid., sec. 45.

¹ See sec. 4, ch.—, Metropolitan Police.

SEC. 45. When there is in the District of Columbia a tumult, riot,¹ mob, or a body of men acting together by force with attempt to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws, or when such tumult, riot, or mob is threatened, it shall be lawful for the commissioners of the District of Columbia, or for the United States marshal for the District of Columbia, to call on the commander-in-chief to aid them in suppressing such violence and enforcing the laws; the commander-in-chief shall thereupon order out so much and such portion of the militia as he may deem necessary to suppress the same, and no member thereof who shall be thus ordered out by proper authority for any such duty shall be liable to civil or criminal prosecution for any act done in the discharge of his military duty.

Excuses from duty.

Ibid., sec. 46.

SEC. 46. No officer or soldier of the National Guard, when ordered on duty to aid the civil authorities, or when ordered into the services of the United States in obedience to the call or order of the President, shall be excused from such duty except upon the certificate of the surgeon of his command of physical disability, such certificate to be presented to the commanding general in case of an officer, or to his company commander in case of a soldier. If such officer or soldier fail to furnish such excuse he shall be tried and punished by a court-martial. For absence from any other military duty required or ordered under the provisions of this act the penalty shall be such as may be prescribed by the commanding general, or the by-laws of the organization to which the officer or soldier belongs.

SEC. 47. The United States forces or troops, or any portion of the militia, parading, or performing any duty according to law, shall have the right of way in any street or highway through which they may pass: *Provided*, That the carriage of the United States mails, the legitimate functions of the police, and the progress and operations of fire-engines and fire departments shall not be interfered with thereby.

Parade, etc., to have right of way.
Ibid., sec. 47.
Proviso.
Mail, fire department, etc.

SEC. 48. Every commanding officer, when on duty, may ascertain and fix necessary bounds and limits to his parade or encampment. Whoever intrudes within the limits of the parade or encampment after being forbidden, or whoever shall interrupt, molest, or obstruct any officer or soldier while on duty, may be put and kept under guard until the parade, encampment, or duty be concluded: and the commanding officer may turn over such person to any police officer, and said police officer is required to detain him in custody for examination or trial before the police court, and the judge thereof may punish such offense by a fine not exceeding twenty-five dollars.

Rules for parades and encampments.
Ibid., sec. 48.

SEC. 49. All officers and employees of the United States and of the District of Columbia who are members of the National Guard shall be entitled to leave of absence from their respective duties, without loss of pay or time, on all days of any parade or encampment ordered or authorized under the provisions of this act.

Governmental employees.
Ibid., sec. 49.

MILITARY COURTS.

SEC. 50. Courts of inquiry, to consist of not more than three officers, may be ordered by the commanding general, for the purpose of investigating the conduct of any officer, either at his own request or on a complaint or charge of conduct unbecoming an officer. Such court of inquiry shall report the evidence adduced, a statement of facts, and an opinion thereon, when required, to the commanding general, who may, in his discretion, thereupon order a court-martial for the trial of the officer whose conduct has been inquired into.

Military courts.
Courts of inquiry.
Ibid., sec. 50.

SEC. 51. General courts-martial for the trial of commissioned officers or enlisted men shall be ordered by the commanding general at such times as the interests of the service may require, and shall consist of not less than five nor more than thirteen officers, and a judge-advocate, none of whom shall be of less rank than the accused, when it can be avoided.

Courts-martial.
Ibid., sec. 51.

SEC. 52. For the trial of enlisted men for all minor offenses the commanding officer of each battalion and unattached company shall, at such times as may be necessary, appoint courts-martial. Such battalion and company courts-martial shall consist, for a battalion, of one officer, whose rank is not below that of captain; and for a company, of a lieutenant. Such courts shall have power, subject to the approval of the officer ordering the court, to sentence to be reprimanded by said officer in battalion or company orders; or, in case of a company non-commissioned officers, to be reduced to the ranks, or to pay such fines as may be imposed and allowed by the regulations or by-laws of the organization to which the accused belongs; and such court may, with the approval of the commanding general, sentence to be reprimanded in general orders or to be dishonorably discharged.

Trials of enlisted men.
Ibid., sec. 52.

SEC. 53. The president of a general court-martial or court of inquiry, and the officer constituting a battalion or company court-martial, shall have power to administer the usual oath to witnesses, and may issue summonses for all witnesses whose attendance at

Proceedings in trials.
Ibid., sec. 53.

such court may, in his opinion, be necessary, and any officer or soldier failing to serve such summons, and any witness failing to appear and testify when so summoned, shall be liable to trial by court-martial.

To conform to Army trials. SEC. 54. In all courts-martial and courts of inquiry the arraignment of the accused, the proceedings, trial, and record shall in all respects conform as nearly as practicable to the regulations for the same in the Army of the United States.
Ibid., sec. 54.

EXPENSES AND ALLOWANCES.

General expenses. SEC. 55. There shall be allowed for the general expenses of the militia such sums as may be necessary for the rental and furnishing of offices for headquarters, stationery, postage, printing and issuing orders, advertising orders, providing necessary blanks for the use of the militia, the cost of storing, caring for, and issuing all public property, and such other contingent expenses, not herein specially provided for, as may be estimated and appropriated for; the accounts for which shall be certified to by the officer receiving the service or property charged for, approved by the commanding general, and paid in the manner provided in section sixty.
Ibid., sec. 55.

Payment to band, etc. SEC. 56. During the annual encampment, and on every duty or parade ordered by the commanding general, there shall be allowed and paid for each day of service: To each member of the regularly enlisted band, four dollars; to each member of the regularly enlisted corps of field music, two dollars; to the chief musician, eight dollars, and to the principal musician, six dollars. In event there is no enlisted band or field music, or not a sufficient number of either, the commanding general may authorize the employment of such as he may deem necessary for the occasion. The payments for bands of music and drum corps shall be made in the manner provided in section sixty.
Ibid., sec. 56.

Subsistence while on duty. SEC. 57. During the annual encampment, or when ordered on duty to aid the civil authorities, the National Guard shall be furnished with subsistence stores, of the kind, quality, and amount allowed and prescribed by the Army. Such stores shall be issued from the stores and supplies appropriated for the use of the Army, upon the approval and by the direction of the Secretary of War, to the commanding general upon his requisitions for the same.
Ibid., sec. 57.

Estimates. SEC. 58. The commanding general shall annually transmit to the Commissioners of the District of Columbia an estimate of the amount of money required for the next ensuing fiscal year to pay the expenses authorized by this act, and the said Commissioners shall include the same in their annual estimates of appropriations for the District; and all money appropriated to pay the expenses authorized by this act shall be disbursed by the Commissioners of the District of Columbia, upon vouchers duly certified and approved by the commanding general, and accounted for by them in the same manner as all other moneys appropriated for the expenses of the District.
Disbursements.
Ibid., sec. 58.

GENERAL PROVISIONS.

Regulations. SEC. 59. Companies, battalions, or regiments may adopt constitutional articles of agreement or by-laws, subject to the approval of the commander-in-chief, for the government of matters relating to the civic affairs of their respective organizations, the regulation of fines for non-performance of duty, and the determination of causes upon which excuses from fines may be based: *Provided, however,*
Provisos.

That such articles or rules shall not be repugnant to law or the regulations for the government of the militia: *And provided further*, That the articles or rules adopted by any company or battalion shall not be repugnant to the articles or rules adopted for the general government of the regiment or battalion to which it belongs. Certified copies of such articles or rules, with like copies of all alterations, as finally approved by the commanding general, shall be deposited in the office of the adjutant-general.

Not to be repugnant to law, etc.

Company and battalion rules.

Ibid., sec. 59.

SEC. 60. The departmental and military duties of the officers provided for in this act shall be correlative with those discharged by similarly designated officers in the Army of the United States.

Duties of officers.

Ibid., sec. 60.

SEC. 61. The system of discipline and field-exercise ordered to be observed by the Army of the United States, or such other system as may hereafter be directed for the militia by-laws of the United States, shall be observed by the National Guard.

Discipline.

Ibid., 61.

SEC. 62. The commanding general, subject to the approval of the commander-in-chief, is authorized to make and publish regulations for the government of the militia in all matters not specifically provided for by law, conforming the same to the practice and regulations of the Army so far as they may be applicable.

Commanding general to make regulations.

Ibid., sec. 62.

SEC. 63. The act "more effectually to provide for the organization of the militia of the District of Columbia," approved March third, eighteen hundred and three, is hereby repealed.

Repeal.

Vol. 2, p. 215.

R. S. D. C., ch.

37, p. 138.

Ibid., sec. 63.

SEC. 64. That the Secretary of War be, and he is hereby, authorized to issue from the stores of the Army such arms, ordnance stores, quartermasters' stores, and camp equipage, to the militia of the District of Columbia as he may deem necessary for their proper equipment and instruction. The property so issued shall remain and continue to be the property of the United States, and shall be annually accounted for in such manner as the Secretary of War may require.

District of Columbia.

Arms, etc., to be issued to militia.

July 23, 1888.

25 Stat., 627.

CHAPTER FORTY-EIGHT.

MORTGAGES.

Sec.

1. In suits to foreclose mortgages, tender in court by mortgagor of principal, interest, and costs deemed full satisfaction; mortgagee to surrender possession.

2. In suits to foreclose decree may be

Sec.

entered at defendant's request, and all parties be bound thereby.

3. Proviso to preceding two sections; when right to redeem is forfeited; money due not adjusted or when prejudicial to subsequent mortgage.

SEC. 1. Whereas mortgagees frequently bring actions of ejectment for the recovery of lands and estates to them mortgaged, and bring actions on bonds given by mortgagors to pay the money secured by such mortgages, and for performing the covenants therein contained, and likewise commence suits in [His Majesty's] courts of equity, to foreclose their mortgagors from redeeming their estates; and the courts of law, where such ejectments are brought, have not power to compel such mortgagees to accept the principal monies and interests due on such mortgages, and costs, or to stay such mortgagees from proceeding to judgment and execution in such actions; but such mortgagors must have recourse to a court of equity for that purpose,

In suits to foreclose mortgage, tender in court by mortgagor of principal, interest, and costs deemed full satisfaction; mortgagee to surrender premises.

7 George II, ch. 20, sec. 1, A. D. 1734.

Alex. Brit. Stat.,
725, 726, 727.
Kilty's Rep., 285.

in which case likewise the courts of equity do not give relief until the hearing of the cause: For remedy thereof, and to obviate all objections relating to the same:

Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That [from and after the first day of Easter term, one thousand seven hundred and thirty four,] where any action shall be brought on any bond for payment of the money secured by such mortgage, or performance of the covenants therein contained, or where any action of ejectment shall be brought in any [of His Majesty's] courts of record at [Westminster, or in the Court of Great Sessions in Wales, or in any of the superior courts in the counties Palatine of Chester, Lancaster or Durham,] by any mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns, for the recovery of the possession of any mortgaged lands, tenements, or hereditaments, and no suit shall be then depending in any of [His Majesty's] courts of equity, [in that part of Great Britain called England,] for or touching the foreclosing or redeeming of such mortgaged lands, tenements, or hereditaments; if the person or persons having right to redeem such mortgaged lands, tenements, or hereditaments, and who shall appear and become defendant or defendants in such action, shall at any time, pending such action, pay unto such mortgagee or mortgagees, or, in case of his, her, or their refusal, shall bring into court, where such action shall be depending, all the principal monies and interest due on such mortgage, and also all such costs as have been expended in any suit or suits at law or in equity upon such mortgage (such money for principal, interest, and costs to be ascertained and computed by the court where such action is or shall be depending, or by the proper officer by such court to be appointed for that purpose) the monies so paid to such mortgagee or mortgagees, or brought into such court, shall be deemed and taken to be in full satisfaction and discharge of such mortgage, and the court shall and may discharge every such mortgagor, or defendant, of and from the same accordingly; and shall and may, by rule or rules of the same court, compel such mortgagee or mortgagees, at the costs and charges of such mortgagor or mortgagors, to assign, surrender, or reconvey such mortgaged lands, tenements, and hereditaments, and such estate and interest, as such mortgagee or mortgagees have or hath therein, and deliver up all deeds, evidences, and writings, in his, her, or their custody, relating to the title of such mortgaged lands, tenements, and hereditaments, unto such mortgagor or mortgagors, who shall have paid or brought such monies into the court, his, her, or their heirs, executors, or administrators, or to such other person or persons, as he, she, or they, shall for that purpose nominate or appoint.

In suits to fore-
close decree may
be entered at de-
fendant's request,
and all parties be
bound thereby.

Ibid., sec. 2.
Alex. Brit. Stat.,
727, 728.
Kilty's Rep., 285.

SEC. 2. *And be it further enacted by the authority aforesaid, That from and after the said first day of Easter term, one thousand seven hundred and thirty four, where any bill or bills, suit or suits, shall be filed, commenced, or brought in any [of His Majesty's] courts of equity, [in that part of Great Britain called England,] by any person or persons having or claiming any estate, right, or interest, in any lands, tenements, or hereditaments, under or by virtue of any mortgage or mortgages thereof, to compel the defendant or defendants in such suit or suits (having or claiming a right to redeem the same) to pay the plaintiff or plaintiffs in such suit or suits, the principal money and interest due on any such mortgage, or the principal money and interest due on such mortgage, together with any sum or sums of money due on any incumbrance or specialty, charged or chargeable on the equity of redemption thereof, and in default of payment thereof, to foreclose such defendant or defendants of his,*

her, or their right or equity of redeeming such mortgaged lands, tenements, or hereditaments; such court and courts of equity, where such suit or suits shall be depending, upon application made to such court by the defendant or defendants in such suit, having a right to redeem such mortgaged lands, tenements, or hereditaments, and upon his or their admitting the right and title of the plaintiff or plaintiffs in such suit, may and shall at any time or times, before such suit or cause shall be brought to hearing, make such order or decree therein, as such court or courts might or could have made therein, in case such suit or cause had then been regularly brought to hearing before such court or courts; and all parties to such suit or suits shall be bound by such order or decree so made, to all intents and purposes, as if such order or decree had been made, by such court, at or subsequent to the hearing of such cause or suit; any usage to the contrary thereof in any wise notwithstanding.

SEC. 3. *Provided always*, That this act, or anything herein contained, shall not extend to any case where the person or persons against whom the redemption is or shall be prayed, shall (by writing under his, her, or their hands, or the hand of his, her, or their attorney, agent, or solicitor, to be delivered before the money shall be brought into such court at law, to the attorney or solicitor for the other side) insist, either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums, than what appear on the face of the mortgage, or shall be admitted on the other side; nor to any case where the right of redemption to the mortgaged lands and premises in question in any cause or suit shall be controverted or questioned by or between different defendants in the same cause or suit; nor shall be any prejudice to any subsequent mortgagee or mortgagees, or subsequent incumbrancer; any thing in this act contained to the contrary thereof in any wise notwithstanding.*

Proviso to preceding two sections; when, right to redeem is controverted; money due not adjusted or when prejudicial to subsequent mortgage.

7 George II, ch. 20, sec. 3, A. D. 1734.
Alex. Brit. Stat., 728.

CHAPTER FORTY-NINE.

NEGLIGENCE CAUSING DEATH.

Sec.

1. Actions for damages where death caused by negligence or wrongful act of person or corporation; extent of damages; no action if damages have been recovered during life.

Sec.

2. Action in such cases must be brought within one year, by personal representative.
3. Damages recovered inure to family of deceased.

AN ACT to authorize suits for damages where death results from the wrongful act or neglect of any person or corporation in the District of Columbia.

SEC. 1. That whenever, by an injury done or happening within the limits of the District of Columbia, the death of a person shall be caused by the wrongful act, neglect, or default of any person or corporation, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured, or, if the person injured be a married woman, have entitled her husband, either separately or by joining with the wife, to maintain an action and recover damages, the person who or corporation which would have been liable if death had not ensued shall be liable to an action for damages for such death, notwithstanding the death of the person injured, even though the death shall have been caused under circumstances which constitute a felony: and such damages shall be assessed with reference to the injury resulting from such act, neglect, or

Person or corporation causing death by wrongful act, neglect, or default, to be liable for damages, notwithstanding death of the person injured.

Feb. 17, 1885.
23 Stat., 307, ch. 126, sec. 1.
Proviso.

Damages in no case to exceed \$10,000.

* For clandestine mortgages, see chapter "Fraud and Fraudulent Conveyances," ante, secs. 24, 25.

Proviso. default causing such death, to the widow and next of kin of such deceased person. *Provided*, That in no case shall the recovery under this act exceed the sum of ten thousand dollars. *And provided further*, That no action shall be maintained under this act, in any case when the party injured by such wrongful act, neglect, or default, has recovered damages therefor during the life of such party.

6 Mackey Rep., 335, Kent *vs.* Penna. Ry.; 70 Md. Rep., 319, Harvey *vs.* B. and O. Ry.; 21 Wash. Law Rep., 179, Weaver *vs.* B. and O. Ry.; 152 U. S. Rep. 230, Louisville Ry *vs.* Clark.

Suit to be brought within one year by personal representatives of deceased.

SEC. 2. Every such action shall be brought by and in the name of the personal representative of such deceased person, and within one year after the death of the party injured.

Ibid., sec. 2. 6 Mackey Rep., 335, Kent *vs.* Penna. Ry.; 18 Wash. Law Rep., 767, Mackey *vs.* B. and P. Ry.

Damages recovered to be for benefit of family.

SEC. 3. The damages recovered in such action shall not be appropriated to the payment of the debts or liabilities of such deceased person, but shall inure to the benefit of his or her family, and be distributed according to the provisions of the statute of distributions in force in the said District of Columbia.

Ibid., sec. 3.

CHAPTER FIFTY.

OFFICERS OF COURTS, FEES AND COSTS.

- | Sec. | Sec. |
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| 1. Fees of clerk, marshal, and attorney for United States. | 22. Pay of deputies, clerk hire, office rent, etc., out of fees of office. |
| 2. Per diem of marshal and clerk. | 23. Fees of District attorney, how payable. |
| 3. Table of fees of marshal and clerk. | 24. Compensation of District attorney limited. |
| 4. Fee bills must not be abbreviated; penalty. | 25. Prosecution of frauds on the revenue. |
| 5. Defendants entitled to full copies of costs from clerk. | 26. Allowance to District attorney for clerk hire; compensation of District attorney. |
| 6. Accounts of officers' fees shall be made out in full when required. | 27. Fees of District attorney in revenue cases and in suits on official bonds. |
| 7. Costs recovered payable only in money. | 28. Fees of District attorney on bonds, when allowed. |
| 8. Attendance of officers at criminal term. | 29. Fees of District attorney for defense of revenue cases. |
| 9. Fees of coroner, jurors, and witnesses at inquests. | 30. Accounts of District attorney, how settled, etc. |
| 10. Pay of bailiffs and criers. | 31. Attorneys, admission to practice and disbarments. |
| 11. Two additional criers appointed. | 32. Attorneys, misconduct of, how punished. |
| 12. No relation of judge to be appointed as officer of his court. | 33. Attorneys, women to be admitted as in U. S. Supreme Court. |
| 13. U. S. attorney, appointment and duties; vacancy in office of, how filled. | 34. Attorneys, fees to be taxed. |
| 14. U. S. attorney, term and oath of. | 35. Fees allowed attorneys, solicitors, and proctors. |
| 15. U. S. attorney, duties of. | 36. Auditor, appointment, oath, duties, and compensation; auditor required to adjust accounts of clerk. |
| 16. Statement of suits for fines, penalties, and forfeitures. | 37. Auditor, payment of his fees, how enforced. |
| 17. Returns by District attorneys to Solicitor of Treasury. | 38. Auditor, special auditor may be appointed by court. |
| 18. Returns by District attorney to Commissioner of Internal Revenue. | 39. Marshal, appointment and duties of. |
| 19. Reports by District attorney to Department of Justice. | 40. Marshal, term of office. |
| 20. District attorney and deputy can administer oaths, etc. | |
| 21. District attorney not allowed for pay of deputy or office expenses. | |

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| <p>Sec.</p> <p>41. Marshal, deputies, appointment and removal of.</p> <p>42. Marshal, oath of marshal and deputies.</p> <p>43. Marshal, bond of.</p> <p>44. Suits on marshal's bond; costs.</p> <p>45. Bond of marshal to remain after judgment as further security.</p> <p>46. Limitation of suit on marshal's bond.</p> <p>47. Marshal, his duties.</p> <p>48. When marshal or deputy party to suit, process to be executed by special appointee.</p> <p>49. Census to be taken by marshal.</p> <p>50. Death of marshal, deputies to perform his duties in his name; his bond liable, when; remedy against deputies.</p> <p>51. Marshals and deputies, when removed or term expires, may execute writs, etc., in hands.</p> <p>52. Returns of marshal to Solicitor of Treasury.</p> <p>53. Returns of marshal to Auditor of Post-Office Department.</p> <p>54. Process against foreign ministers and their domestics, void.</p> <p>55. Penalty for suing out or executing such process.</p> <p>56. When process may issue against persons in service of foreign ministers.</p> <p>57. List of names of servants of ministers, access to.</p> <p>58. Vacancies in office of marshal and District attorney, how filled.</p> <p>59. Fees of marshal in certain cases.</p> <p>60. Marshals and deputies may execute writs issued by justices of the peace; fees for same.</p> <p>61. When marshal fails to pay over money received under section 60, proceedings.</p> <p>62. Prepayment of marshal's fees.</p> <p>63. Marshal's fees.</p> <p>64. Poundage fees of marshal.</p> <p>65. Certain fees and expenses to be paid to marshal.</p> <p>66. Fees not allowed certain officers for attendance on rule days, etc.</p> <p>67. Semiannual returns of fees by District attorney, marshal, and clerk.</p> <p>68. Semiannual returns to include, etc.</p> <p>69. Marshal's compensation, expenses, pay of deputies, etc.</p> <p>70. Additional compensation in prize causes to clerk and marshal.</p> <p>71. Allowances to clerk, marshal, and District attorney shall come out of fees for each year.</p> <p>72. Surplus fees to be paid into Treasury.</p> | <p>Sec.</p> <p>73. Accounts of clerk, marshal, and district attorney to be audited, etc.</p> <p>74. Accounts to be certified by judge, etc.</p> <p>75. Clerk of supreme court, appointment, oath, and bond, clerk prohibited from delivering any blank writ.</p> <p>76. Oath of clerk.</p> <p>77. Bond of clerk.</p> <p>78. Assistant clerks, powers of.</p> <p>79. Assistant clerks, bond of; liability of clerk for acts of assistants.</p> <p>80. Clerk to forward to Solicitor of Treasury list of judgments for or against United States.</p> <p>81. Account of payment and moneys in court to be stated by the clerk.</p> <p>82. When clerks may administer oaths as to papers in admiralty cases.</p> <p>83. Plaintiff at commencement of suit to make deposit for costs; refund, when.</p> <p>84. Poor persons; when not required to make deposit for costs.</p> <p>85. Copies from justice of peace dockets, clerk shall furnish, etc.</p> <p>86. Effect of such copies.</p> <p>87. Fees of clerk; when payable.</p> <p>88. Fees of clerk.</p> <p>89. Fees of clerk in certain cases.</p> <p>90. Semiannual return of fees of clerk.</p> <p>91. Limit of salary, etc., of clerk; excess, after paying expenses of office, to be paid into Treasury.</p> <p>92. Adjustment of clerk's account.</p> <p>93. Decree of court on same.</p> <p>94. Account of clerk; how settled.</p> <p>95. Copy of decree of court on clerk's account.</p> <p>96. Security for costs in actions brought.</p> <p>97. Usee's liability for costs.</p> <p>98. Usee, when liable for costs, name to be indorsed on writs.</p> <p>99. Costs on appeals.</p> <p>100. Costs in slander limited.</p> <p>101. Each defendant; when entitled to recover costs.</p> <p>102. Defendant recovers costs where demurrer sustained or appeal affirmed, etc.</p> <p>103. No distress shall be taken except by bailiffs known and sworn.</p> <p>104. Defendants shall not recover costs against the United States.</p> <p>105. On nonsuit plaintiff shall pay damages to defendant in personal actions.</p> <p>106. Costs given to defendant when verdict in his favor.</p> <p>107. Defendant shall recover costs on quashing writ of error.</p> |
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Addenda 1. Fees of justices of the peace.
2. Fees of constables.

SEC. 1. The fees of the clerk, of the marshal, and of the United States district attorney, except, in each case, so far as differently specified in this chapter, shall be the same as the fees respectively allowed to clerks of the district and circuit courts, marshals, attorneys, solicitors, and proctors, by chapter sixteen, "Fees," of Title XIII, "The Judiciary," of the Revised Statutes.

[See *B. S. U. S.*, pp. 153-161.]

Fees of clerk, marshal, and attorney.

Sec. 897, R. S. D. C.

Per diem of marshal and clerk. SEC. 2. The marshal and clerk shall receive their daily compensation for attending court.

Sec. 898, R. S. D. C.

Table of fees of marshal and clerk. SEC. 3. It shall be the duty of the marshal and clerk to make a table of their respective fees, in dollars and cents, according to law, and to keep a copy thereof, at all times, exposed to public view in their respective offices.

Sec. 899, R. S. D. C.

Fee bills must not be abbreviated; penalty. SEC. 4. All the several and respective officers within this *District* [province] shall be, and are by virtue of this act, obliged to draw out the particulars of their fees in a fair legible hand, and in words at full length, and on failure thereof, such officer to lose such fees so expressed in words cut off or abbreviated.

Md. act 1731, ch. 15, sec. 2.

Jamison vs. State. 1 Dorsey, 78. 1 Kilty, 219. 55 Md. Rep., 103.

Defendants entitled to full copies of cost from clerk. SEC. 5. The several clerks of the several courts of record, and register of the court of chancery, within this *District* [province,] shall be and they are hereby obliged to deliver to the defendants, if required, full copies, in a fair legible hand, of all the costs of suit recovered against such defendant; and that if any clerk or register shall refuse so to do, he shall forfeit and pay the sum of two thousand pounds of tobacco [\$33.33 $\frac{1}{3}$]. [See § 837, R. S. D. C.]

Ibid., sec. 2.
1 Kilty, 220.
1 Dorsey, 79.

Accounts of officers' fees shall be made out in full when required. SEC. 6. Accounts of all officers' fees in this act mentioned,* shall be made out in a fair and clear manner, and in words at length; and whenever any person or persons interested in them, or to whom the same shall be charged, shall require a copy of such account, the several officers shall and are hereby required to give such person so applying therefor, in as short a time as may be convenient, an account of such charge in words at length.

Md. act 1779, ch. 25, sec. 9.
1 Kilty, 504.
1 Dorsey, 153.

Costs recovered payable only in money. SEC. 7. All costs recovered by judgment, or decree, shall hereafter be payable and paid in money, and not otherwise.

Ibid., sec. 15. 1 Kilty, 550.

Attendance at criminal term. SEC. 8. The district attorney, marshal, and clerk shall attend the special term sitting as a criminal court, and perform all the duties required of them by law in relation to the criminal business of the court.

Sec. 900, R. S. D. C.

Fees of coroner, etc. SEC. 9. There shall be paid to the coroner of the District, and to the jurors and witnesses who may be lawfully summoned in any inquest, the same fees and compensation as paid to the marshal and the jurors attending the supreme court.

Sec. 901, R. S. D. C.

2 Wall., 501, Levy Court vs. Coroner.

Pay of bailiffs and criers. SEC. 10. The marshal shall pay to each bailiff and crier who shall be required to attend upon the district, circuit, and criminal terms of the supreme court, three dollars and fifty cents for each day's attendance, respectively.

Sec. 902, R. S. D. C.

Two additional criers, supreme court of the District of Columbia. SEC. 11. That the supreme court of the District of Columbia be, and is hereby, authorized and empowered to appoint two additional criers to attend the sessions of the said court in its different branches to which they may be severally assigned by the chief justice thereof. The compensation of the said criers shall be each four dollars per day during actual attendance upon the said court, payable as the other officers of the court are paid.

July 1, 1882.
22 Stat., 127.

* Clerk, crier, coroner, notary, register of wills, [marshal,] and surveyor.

SEC. 12. That no person related to any justice or judge of any court of the United States by affinity or consanguinity, within the degree of first cousin, shall hereafter be appointed by such court or judge to or employed by such court or judge in any office or duty in any court of which such justice or judge may be a member.

No relation of judge to be appointed as officer of his court.

Mar. 3, 1887.
24 Stat., 555, sec. 7.

UNITED STATES DISTRICT ATTORNEY.

SEC. 13. There shall be appointed an attorney of the United States for the District, who shall take the oath and perform all the duties required of district attorneys of the United States.*

United States attorney; appointment and duties.

[See §§ 90, 1069-1071, R. S. D. C.] Sec. 904, R. S. D. C.

2 Cranch, C. C., 659, *Levy Court vs. Ringgold*.

SEC. 14. District attorneys shall be appointed for a term of four years, and their commissions shall cease and expire at the expiration of four years from their respective dates. And every district attorney, before entering upon his office, shall be sworn to a faithful execution thereof.

Term and oath of district attorney.

Sec. 769, R. S. U. S.

SEC. 15. It shall be the duty of every district attorney to prosecute, in his district, all delinquents for crimes and offenses cognizable under the authority of the United States, and all civil actions in which the United States are concerned, and, unless otherwise instructed by the Secretary of the Treasury, to appear in behalf of the defendants in all suits or proceedings pending in his district against collectors, or other officers of the revenue, for any act done by them or for the recovery of any money exacted by or paid to such officers, and by them paid into the Treasury.

Duties of district attorneys.

Sec. 771, R. S. U. S.

8 Mackey Rep., 85, U. S. *vs. Draper*; 8 Fed. Rep., 261, U. S. *vs. Stone*; 7 Blatch. Rep., 424, U. S.

vs. Doughty; 5 Pet., 451, *Levy Court vs. Ringgold*; 23 Law Rep., 145, U. S. *vs. Corrie*; 4 Blatch., 418, U. S. *vs. McAvoy*; 2 Curt. C. C., 153, U. S. *vs. Stowell*; *The Anna Blatch*. Pr. Cas., 337; *The Peterhoff, Blatch*. Pr. Cas., 463; *Crabbe*, 135, U. S. *vs. Ingersoll*.

SEC. 16. Every district attorney shall, on instituting any suit for the recovery of any fine, penalty, or forfeiture, immediately transmit to the Solicitor of the Treasury a statement thereof.

Statement of suits for fines, penalties, and forfeitures.

Sec. 772, R. S. U. S.

SEC. 17. Every district attorney shall, immediately after the end of every term of the circuit and district courts for his district, forward to the Solicitor of the Treasury, except in the cases provided for in the next section, a full and particular statement, accompanied by the certificate of the clerks of said courts, respectively, of all causes pending in said courts, and of all causes decided therein during such term, in which the United States are party. He shall also, on the first day of October in each year, make a return to said Solicitor of the number of suits and proceedings commenced, pending, and determined within his district during the fiscal year next preceding the date of such return, showing the date when such proceeding or suit in each case was commenced. If the determination thereof has been delayed or continued beyond the usual or reasonable period, the reasons must be set forth, and a statement must be made of the measures taken by the district attorney to press such proceedings or suits to a close.

Returns of district attorneys to Solicitor of the Treasury.

Sec. 773, R. S. U. S.

SEC. 18. When any suit or proceeding arising under the internal-revenue laws, to which the United States are party, or any suit or proceeding against a collector or other officer of the internal revenue, wherein a district attorney appears, is commenced, the attorney for

Returns of district attorneys to Commissioner of Internal Revenue.

*Vacancy in office of district attorney, how filled. See sec. 783, R. S. U. S.

Sec. 774, R. S. U. S. the district in which it is brought shall immediately report to the Commissioner of Internal Revenue the full particulars relating to the same; and he shall, immediately after the end of each term of the court in which such suit or proceeding is pending, forward to the said Commissioner a full and particular statement of its condition.

Reports by district attorney to Department of Justice. SEC. 19. Each district attorney shall, immediately after the end of every term in which any suit for moneys due on account of the Post-Office Department has been pending in his district, forward to the Department of Justice a statement of any judgment or order made, or step taken in the same, during such term, accompanied by a certificate of the clerk, showing the parties to and amount of every such judgment, with such other information as the Department of Justice may require. And the said attorney shall direct speedy and effectual execution upon said judgment, and the United States marshal to whom the same is directed shall make returns of the proceedings thereon to the Department of Justice, at such times as it may direct.

Sec. 775, R. S. U. S. 2 July, 1836, ch. 170, sec. 16, v. 5, p. 83.
8 June, 1872, ch. 335, sec. 309, v. 17, p. 324.

Oaths and affirmations. SEC. 20. The district attorney, and every assistant or deputy duly appointed by him, is empowered to administer oaths or affirmations to witnesses in criminal cases, and in all cases where a justice of the peace is authorized to do so; and if any person to whom such oath or affirmation shall be administered shall willfully and falsely swear or affirm touching any matter or thing material to the point in question whereto he shall be examined, he shall be deemed guilty of perjury, and upon conviction thereof shall be sentenced to suffer imprisonment and labor in the penitentiary, for the first offense for a period of not less than two nor more than ten years, and for the second offense for not less than five nor more than fifteen years.

Sec. 905, R. S. D. C.

No allowance for deputy, or for office expenses. SEC. 21. There shall not be allowed to the district attorney any compensation for any permanent assistant or deputy, nor any sum for office expenses, clerk-hire, fuel, stationery, or other incidental expenses.

Sec. 906, R. S. D. C.

To pay his deputies, etc. SEC. 22. He shall pay to his deputies or assistants not exceeding, in all, four thousand dollars per annum, also his clerk-hire, not exceeding twelve hundred dollars per annum, office-rent, fuel, stationery, printing, and other incidental expenses, out of the fees of his office.

Sec. 907, R. S. D. C.

Fees, how payable. SEC. 23. Such fees shall be paid to him quarterly at the Treasury of the United States, on the first days of January, April, July, and October, in each year, upon a return in writing made to the Secretary of the Treasury, in such form as the Secretary shall prescribe, embracing all the fees and emoluments of his office, under the oath of the district attorney, and the certificate of a judge or justice of the court wherein the services may have been rendered, that the services for which fees are charged have been performed.

Sec. 908, R. S. D. C.

Limit to compensation. SEC. 24. The compensation of the district attorney shall not exceed six thousand dollars per annum.

Sec. 909, R. S. D. C.

Prosecution of frauds on the revenue. SEC. 25. It shall be [the] duty of every district attorney to whom any collector of customs, or of internal revenue, shall report, according to law, any case in which any fine, penalty, or forfeiture has been incurred in the district of such attorney for the violation of any law of the United States relating to the revenue, to cause the proper proceedings to be commenced and prosecuted without delay, for the fines, penalties, and forfeitures in such case provided, unless, upon inquiry and examination, he shall decide that such proceedings can not probably be sustained, or that the ends of public jus-

Sec. 838, R. S. U. S. 23 Fed. Rep., 26, re Dist. attorney.

tice do not require that such proceedings should be instituted; in which case he shall report the facts in customs cases to the Secretary of the Treasury, and in internal-revenue cases to the Commissioner of Internal Revenue for their direction. And for the expenses incurred and services rendered in all such cases, the district attorney shall receive and be paid from the Treasury such sum as the Secretary of the Treasury shall deem just and reasonable, upon the certificate of the judge before whom such cases are tried or disposed of: *Provided*, That the annual compensation of such district attorney shall not exceed the maximum amount prescribed by law, by reason of such allowance and payment.

SEC. 26. No district attorney shall be allowed by the Attorney-General to retain of the fees and emoluments of his office which he is required to include in his semi-annual return, for his personal compensation, over and above the necessary expenses of his office, including necessary clerk-hire, to be audited and allowed by the proper accounting officers of the Treasury Department, a sum exceeding six thousand dollars a year, or exceeding that rate for any time less than a year.

Allowed for clerk hire.
Sec. 835, R. S. U. S.
11 Atty. Gen. Opinions, 433; 12 Atty. Gen. Opinions, 284.

SEC. 27. There shall be taxed and paid to every district attorney two per centum upon all moneys collected or realized in any suit or proceeding arising under the revenue laws, and conducted by him, in which the United States is a party, which shall be in lieu of all costs and fees in such proceeding.

Fees in revenue cases, and in suits on official bonds.
Sec. 825, R. S. U. S.

SEC. 28. No fee shall accrue to any district attorney on any bond left with him for collection, or in a suit commenced on any bond for the renewal of which provision is made by law, unless the party neglects to apply for such renewal for more than twenty days after the maturity of the bond.

Fees on bonds, when not allowed.
Sec. 826, R. S. U. S.

SEC. 29. When a district attorney appears by direction of the Secretary or Solicitor of the Treasury, on behalf of any officer of the revenue in any suit against such officer, for any act done by him, or for the recovery of any money received by him and paid into the Treasury in the performance of his official duty, he shall receive such compensation as may be certified to be proper by the court in which the suit is brought, and approved by the Secretary of the Treasury.

Fees of district attorney for defense of revenue officers.
Sec. 827, R. S. U. S.

SEC. 30. The emolument returns of the Attorney of the United States for the District of Columbia shall be returned to the Attorney-General, and the accounts of the said Attorney shall be rendered, audited, and paid in the same manner as accounts of all other district attorneys are rendered, audited, and paid.

Settlement of accounts of U. S. attorney and emolument returns.
Dec. 14, 1877, 20 Stat., 7.

ATTORNEYS AT LAW.

SEC. 31. No attorney, or other person whatsoever, shall practise the law in any of the courts of this *District* [province] without being admitted thereto by the justices of the several courts, who are hereby empowered to admit and suspend them. (See Md. act 1719, ch. 4, sec. 2.)

Admission and disbarring of attorneys.
Md. act 1715, ch. 48, sec. 12.
1 Kilty, 140.
1 Dorsey, 44.

7 Wallace Rep., 364, *Ex parte* Bradley; 2 Har. and McH. Rep., 162, *State vs. Johnston*; 2 Cranch, Ct. Rep., 379, 385; *Ex parte* Levi S. Burr; Ct. Rep. *ibid.*, 9 Wheaton, Rep. 529; 107 U. S. Rep., 265. *Ex parte* Wall; 13 Wallace Rep., 335, *Bradley vs. Fisher*; 19 Wall Rep., 506, *Ex parte* Robinson; 8 Mackey Rep., 570. *Dean vs. Bigelow*; 4 Wall. Rep., 333. *Ex parte* Garland.

Misconduct of attorneys, how punished.

Md. act 1719, ch. 4, secs. 2, 4.
1 Kilty, 158.
1 Dorsey, 49.
Ex parte Levi S. Burr, 2 Cranch, Ct. Rep., 385.

SEC. 32. The several magistrates; judges of the several courts within this *District* [province,] are hereby authorized and strictly required, to observe the demeanor of all practitioners of the law before them, as well as all ministerial officers, or other persons who shall use any indecent liberties to the lessening the grandeur and authority of their respective courts, and to discountenance and punish the same, according to the nature of the offence, either by suspending such practitioner of the law from their practice, perpetually, or for a time, or to punish such practitioners, or ministerial officers or other persons, by fine, at the discretion of such court before whom such offence shall be committed, not exceeding four thousand pounds of tobacco [$\$66.66\frac{2}{3}$] in the superior courts, nor two thousand pounds of tobacco [$\$33.33\frac{1}{3}$] in the several county courts, within this *District* [province,] on each offender, for any one offence: *Provided always*, That nothing in this act shall be construed to lessen the authorities vested by law in the several courts, or in any of the magistrates, before the making of this act.

Women may be admitted to practice in U. S. Supreme Court.

Feb. 15, 1870,
20 Stat.: ch. 81, p. 292.

SEC. 33. Any woman who shall have been a member of the bar of the highest court of any State or Territory or of the Supreme Court of the District of Columbia for the space of three years, and shall have maintained a good standing before such court, and who shall be a person of good moral character, shall, on motion, and the production of such record, be admitted to practice before the Supreme Court of the United States.

Fees to be taxed.

Sec. 823, R. S. U. S.
26 Feb., 1853, ch. 80, sec. 1, v. 10, p. 161.
3 Mar., 1855, ch. 155, sec. 12, v. 10, pp. 670, 671.
21 Wash. Law Rep., 246, *Robertson vs. Stahl*; 13 How. Rep., 363, *Day vs. Woodworth*; 15 Wall. Rep., 453, *Flanders vs. Tweed*; 120 U. S. Rep., 177, *U. S. vs. Hill*; 96 U. S. Rep., 594, *Railroad vs. Collector*; 3 Fed. Rep., 47, *The Bay City*; 15 Fed. Rep., 620, *The Alert*; 17 Fed. Rep., 2, *Goodyear vs. Sawyer*; 1 Lowell, 321, *Ex parte Jaffrey*; 11 Ct. of Claims, 570, *Phillips' case*; 8 Blatchf. Rep., 79, *Jones vs. Schell*; 110 U. S. Rep., 42, *Taylor vs. Bemiss*; 93 U. S. Rep., 548, *Stanton vs. Embrey*; 2 Mackey Rep., 502, *Lamont vs. Ry.*; 1 Appeal Cases, D. C., 411, *Willoughby vs. Mackall*.

SEC. 34. The following and no other compensation shall be taxed and allowed to attorneys, solicitors, and proctors in the courts of the United States, to district attorneys, clerks of the circuit and district courts, marshals, commissioners, witnesses, jurors, and printers in the several States and Territories, except in cases otherwise expressly provided by law. But nothing herein shall be construed to prohibit attorneys, solicitors, and proctors from charging to and receiving from their clients, other than the Government, such reasonable compensation for their services, in addition to the taxable costs, as may be in accordance with general usage in their respective States, or may be agreed upon between the parties.

FEES OF ATTORNEYS, SOLICITORS, AND PROCTORS.

Attorneys, solicitors, and proctors.

Sec. 824, R. S. U. S.
13 Wash. Law Rep., 290, *B. and O. Ry. vs. Hetzel*; 21 Wash. Law Rep., 246, *Robertson vs. Stahl*; 133 U. S. Rep., 208, *U. S. vs. Waters*.

SEC. 35. On a trial before a jury, in civil or criminal causes or before referees, or on a final hearing in equity or admiralty, a docket fee of twenty dollars: *Provided*, That in cases of admiralty and maritime jurisdiction, where the libellant recovers less than fifty dollars, the docket fee of his proctor shall be but ten dollars.

In cases at law, when judgment is rendered without a jury, ten dollars.

In cases at law, when the cause is discontinued, five dollars.

For scire facias, and other proceedings on recognizances, five dollars.

For each deposition taken and admitted in evidence in a cause, two dollars and fifty cents.

For services rendered in cases removed from a district to a circuit court by writ of error or appeal, five dollars.

For examination by a district attorney, before a judge or commissioner, of persons charged with crime, five dollars a day for the time necessarily employed.

For each day of his necessary attendance in a court of the United States on the business of the United States, when the court is held at the place of his abode, five dollars; and for his attendance when the court is held elsewhere, five dollars for each day of the term.

For traveling from the place of his abode to the place of holding any court of the United States in his district, or to the place of any examination before a judge or commissioner, of a person charged with crime, ten cents a mile for going and ten cents a mile for returning.

When an indictment for crime is tried before a jury and a conviction is had, the district attorney may be allowed, in addition to the attorney's fees herein provided, a counsel fee, in proportion to the importance and difficulty of the cause, not exceeding thirty dollars.

[Repealed. See § 905, R. S. D. C.]

AUDITOR.

SEC. 36. That the Supreme Court of the District of Columbia [chancellor] shall have full power and authority to appoint, during his pleasure, a person of integrity, judgment and skill in accounts, to be auditor for the [chancery] court, who shall, before he enters upon the duties of his appointment, take an oath, to be administered by the said court [chancellor,] well and faithfully to execute the duties of his office, without favour, affection, partiality or prejudice; and all accounts directed to be stated, audited or settled, by order of the court [chancellor,] shall be referred for such purpose to the auditor, who shall have power and authority to administer an oath to all witnesses and persons proper to be examined upon such account, and shall audit, state and settle, such accounts agreeably to the order of the court [chancellor,] and shall return the same to the court [chancellor,] to be done with as the court [chancellor] shall think just; and the said auditor shall be allowed thirty-five shillings [\$1.66] current money per day for every day he shall reasonably be employed in stating, auditing and settling, any account, to be paid by the party desiring such account to be stated, audited and settled, and taxed in the bill of costs as aforesaid.*

Auditor may be appointed; his oath, duties, and compensation.

Md. act 1785, ch. 72, sec. 17.
2 Kilty, 51.
1 Dorsey, 217.

SEC. 37. Payment of the allowances to the auditor aforesaid, may be compelled by order of the chancellor, and process of contempt for disobedience to such order may be issued as in other cases.

Payment of auditor's fees enforceable by process of contempt.

Ibid., sec. 18. 2 Kilty, 52.

SEC. 38. In all actions brought, or hereafter to be brought, in any court of law grounded upon an account, or in which it may be necessary to examine and determine on accounts between the parties, it shall and may be lawful for the court where such action may be or remain for trial to order the accounts and dealings between the parties to be audited and stated by an auditor or auditors to be appointed by such court, and there shall be such proceedings thereon as in cases of actions of accounts.†

Court may order accounts to be stated by special auditor.

Md. act 1785, ch. 80, sec. 12.
2 Kilty, 63.
1 Dorsey, 234.
3 Mac Arthur Rep., 567, U. S. vs. 633. Hamilton vs.

Rep., 30, Ames; 3 Cranch, Ct. Rep., 120, 228, 240; 2 Cranch, Ct. Rep., 567, U. S. vs. 633. Hamilton vs. Conirie; 48 Md. Rep., 1, Wisner vs. Wilhelm.

* By sec. 925, R. S. D. C., the auditor is required to adjust clerk's accounts.

† See also Md. act 1784, chap. 101, subchap. 8, sec. 9. 2 Kilty, 842, included. ante in the title "Administration"

MARSHAL.*

Marshal, appointment and duties.

Sec. 910, R. S. D. C.

1 Cranch, C. C., 434, Brent *vs.* Justices of the Peace:

Marshal's term.

Sec. 779, R. S. U. S.

Deputy marshals.

Sec. 780, R. S. U. S. McA. and Mackey Rep., 433, Spencer.

Oath of marshals and deputy marshals.

Sec. 782, R. S. U. S.

122 U. S. Rep., 325, Walter *vs.* Bickham; 22 Fed. Rep., 153, *in re* Deputy; 28 Fed. Rep., 445, *in re* Yancey.

Marshal's bond.

Sec. 783, R. S. U. S.

4 Cranch, Ct. Rep., 255, Jackson *vs.* Simonton; 13 Fed. Rep., 1, Lawrence *vs.* Norton; 9 Wh., 720, U. S. *vs.* Kirkpatrick; 11 Wh., 184, U. S. *vs.* Van Zandt; 1 Pet., 325, Dox *vs.* Gwyn *vs.* Barton;

Suits on marshal's bond: costs.

Sec. 784, R. S. U. S.

111 U. S. Rep., 17, Lammon *vs.* Feusier; 1 Wall Rep., 644, Rogers *vs.* Marshal; 109 U. S. Rep., 421, Feibelman *vs.* Packard; 1 How. Rep., 290, Williams *vs.* U. S.; 9 Cr., 212, U. S. *vs.* Giles; 10 Wh., 246, U. S. *vs.* Morris; 1 How., 290, Williams *vs.* U. S.; 2 How., 29, Gwyn *vs.* Breedlove; 4 How., 1, Gwyn *vs.* Buchanan; 6 How., 7, Gwyn *vs.* Barton; 1 Wall., 644, Rogers *vs.* The Marshal.

SEC. 39. There shall be a marshal for the District, who shall be appointed for the same term, take the same oath, give a bond with sureties in the same manner, and have generally, within the District, the same powers, and perform the same duties, as provided for marshals of the United States

[See §§ 63, 90, 257, 288, 1063, 1066, 1070, 1087. See R. S. U. S., § 4065.]

5 Peters, 451, The Levy Court *vs.* Tench Ringgold.

SEC. 40. Marshals shall be appointed for a term of four years.

SEC. 41. Every marshal may appoint one or more deputies, who shall be removable from office by the judge of the district court, or by the circuit court for the District, at the pleasure of either.

SEC. 42. Every marshal and deputy marshal shall, before he enters upon the duties of his appointment, take, before the district judge of the district, an oath or affirmation in the following form: "I, A. B., do solemnly swear (or affirm) that I will faithfully execute all lawful precepts directed to the marshal of the district of —, under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of marshal (or marshal's deputy, as the case may be) of the district of —, during my continuance in said office, and take only my lawful fees. So help me God." The words "so help me God" shall be omitted in all cases where an affirmation is admitted instead of an oath: *Provided*, That when any person who is appointed deputy marshal resides and is more than twenty miles from the place where the district judge resides and is, the said oath of office may be taken by him before any judge or justice of any State court within the same district, or before any justice of the peace having authority therein, or before any notary public duly appointed in such State, or before any commissioner of a circuit court for such district, and shall, when certified by such officer to the said district judge, be as effectual as if taken before such district judge.

SEC. 43. Every marshal, before he enters on the duties of his office, shall give bond before the district judge of the district, jointly and severally with two good and sufficient sureties, inhabitants and freeholders of such district, to be approved by said judge, in the sum of twenty thousand dollars, for the faithful performance of said duties by himself and his deputies. Said bond shall be filed and recorded in the office of the clerk of the district court or circuit court sitting within the district, and copies thereof, certified by the clerk, under the seal of the said court, shall be competent evidence in any court of justice.

Postmaster-General; 2 How., 29, Gwyn *vs.* Breedlove. 6 How., 7, Gwyn *vs.* Barton; 2 Dill, 45, Adler *vs.* Newcomb.

SEC. 44. In case of a breach of the condition of a marshal's bond, any person thereby injured may institute in his own name and for his sole use a suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue for him in due form. If such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant; and the United States shall in no case be liable for the same.

U. S. Rep., 421, Feibelman *vs.* Packard; 1 How. Rep., 290, Williams *vs.* U. S.; 9 Cr., 212, U. S. *vs.* Giles; 10 Wh., 246, U. S. *vs.* Morris; 1 How., 290, Williams *vs.* U. S.; 2 How., 29, Gwyn *vs.* Breedlove; 4 How., 1, Gwyn *vs.* Buchanan; 6 How., 7, Gwyn *vs.* Barton; 1 Wall., 644, Rogers *vs.* The Marshal.

* May call upon the militia to suppress riot. See sec. 45, chapter on "Militia."

SEC. 45. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by breach of the condition of the same, until the whole penalty has been recovered; and the proceedings shall always be as directed in the preceding section.

Marshal's bond to remain after judgment as further security.

Sec. 785, R. S. U. S.

SEC. 46. No suit on a marshal's bond shall be maintained unless it is commenced within six years after the right of action accrues, saving, nevertheless, the rights of infants, married women, and insane persons, so that they sue within three years after their disabilities are removed.

Limitation of suit on marshal's bonds.

Sec. 786, R. S. U. S.

12 Wh., 133, *Montgomery vs. Hernandez*: 91 U. S. Rep., 113, *Long vs. Converse*: 3 Woods Rep., 559, U. S. *vs. Godbold*: 4 Sawyer Rep., 272 U. S. *vs. Rand*: 20 Wall. Rep., 251, U. S. *vs. Herron*: 1 Pet. Rep., 318, *Dox vs. Postmaster-General*.

SEC. 47. It shall be the duty of the marshal of each district to attend the district and circuit courts when sitting therein, and to execute, throughout the district, all lawful precepts directed to him, and issued under the authority of the United States; and he shall have power to command all necessary assistance in the execution of his duty. [See § 4299, R. S.]

Duties of marshal.

Sec. 787, R. S. U. S.

9 Cranch Rep., 212, U. S. *vs. Giles*; 5 Pet. Rep., 451,

Levy Court vs. Ringgold; 2 Dill. Rep., 127, *Schwabacker vs. Reily*.

SEC. 48. When the marshal or his deputy is a party in any cause, the writs and precepts therein shall be directed to such disinterested person as the court or any justice or judge thereof may appoint, and the person so appointed may execute and return them.

Process to be executed by special appointee when marshal or deputy a party.

Sec. 922, R. S. U. S. 3 Cranch Rep., 496, *Knox vs. Summers*.

SEC. 49. The marshals of the several judicial districts of the United States, and of the District of Columbia and the Territories, are required to cause all the inhabitants to be enumerated, and to collect all the other statistical information within their respective districts, in the manner provided for by law, and specified in the instructions which may be given by the Secretary of the Interior, and in the tables annexed, and to return the same to the Secretary on or before the first day of November next ensuing such enumeration, omitting from the enumeration of the inhabitants Indians not taxed; and omitting, also, at the discretion of the Secretary, any part or all of the statistics of the Territories except those of population; but if the time assigned for making the returns from the Territories proves inadequate, the Secretary may extend the same. And if there be any district or Territory of the United States in which there is no marshal, the President shall appoint some suitable person to discharge the duties assigned herein to marshals.*

Marshals to take the census.

Sec. 2176, R. S. U. S.

23 May, 1850, ch. 11, sec. 1, v. 9, p. 428.

SEC. 50. In case of the death of any marshal, his deputy or deputies shall continue in office, unless otherwise specially removed, and shall execute the same in the name of the deceased, until another marshal is appointed, as provided in this chapter, and duly qualified. The defaults or misfeasances in office of such deputies in the mean time shall be adjudged a breach of the condition of the bond given by the marshal who appointed them; and the executor or administrator of the deceased marshal shall have like remedy for the defaults and misfeasances in office of such deputies, during such interval, as he would be entitled to if the marshal had continued in life and in the exercise of his said office until his successor was appointed and duly qualified.

In case of death of the marshals, deputies to continue.

Sec. 789, R. S. U. S.

* For oath and other duties in relation to the census, see ch. 31, p. 381, R. S. U. S.

Marshals and deputy marshals, when removed, or office expires, may execute process in their hands.

Sec. 790, R. S. U. S.

4 McLean, 534, *Stewart vs. Hamilton*; 1 Fed. Rep., 775, *Phoenix Ins. Co. vs. Wulf*; 19 Fed. Rep., 586, *Ex parte Worley*; 14 How., 563, *Doolittle vs. Bryan*.

SEC. 51. Every marshal or his deputy, when removed from office, or when the term for which the marshal is appointed expires, shall have power, notwithstanding, to execute all such precepts as may be in their hands respectively at the time of such removal or expiration of office; and the marshal shall be held responsible for the delivery to his successor of all prisoners who may be in his custody at the time of his removal, or when the term for which he is appointed expires; and for that purpose he may retain such prisoners in his custody until his successor is appointed and duly qualified.

Marshal's returns to the Solicitor of the Treasury.

Sec. 791, R. S. U. S.

SEC. 52. Every marshal shall, within thirty days before the commencement of each term of the circuit and district courts in his district, make returns to the Solicitor of the Treasury of the proceedings had upon all writs of execution, or other process which have been placed in his hands, for the collection of moneys adjudged and decreed to the United States in the said courts, respectively.

Returns of marshals to Auditor of Post-Office Department.

Sec. 792, R. S. U. S.

SEC. 53. Every marshal to whom any execution upon a judgment in any suit for moneys due on account of the Post-Office Department has been directed, shall make returns to the Sixth Auditor, at such times as he may direct, of the proceedings which have taken place upon the said process of execution.

Process against foreign ministers and their domestics void.

Sec. 4063, R. S. U. S.

7 Peters Rep., 276, *Davis vs. Packard*; 4 Cranch, Ct., 173, *U. S. vs. Lafontaine*; 11 Wheat. Rep., 467, *U. S. vs. Ortegan*; 13 Wall. Rep., 594, *Blyew vs. U. S.*

SEC. 54. Whenever any writ or process is sued out or prosecuted by any person in any court of the United States, or of a State, or by any judge or justice, whereby the person of any public minister of any foreign province or state, authorized and received as such by the President, or any domestic or domestic servant of any such minister, is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, such writ or process shall be deemed void.

Penalty for suing out or executing such process.

Sec. 4064, R. S. U. S.

Bald., 234, *U. S. vs. Benner*.

SEC. 55. Whenever any writ or process is sued out in violation of the preceding section, every person by whom the same is obtained or prosecuted, whether as party or as attorney or solicitor, and every officer concerned in executing it, shall be deemed a violator of the laws of nations, and a disturber of the public repose, and shall be imprisoned for not more than three years, and fined at the discretion of the court.

When process may be issued against persons in service of ministers.

Sec. 4065, R. S. U. S.

SEC. 56. The two preceding sections shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States, in the service of a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall the preceding section apply to any case where the person against whom the process is issued is a domestic servant of a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of State, and transmitted by the Secretary of State to the marshal of the District of Columbia, who shall upon receipt thereof post the same in some public place in his office.

Public access to list of names of ministers' servants.

Sec. 4066, R. S. U. S.

SEC. 57. All persons shall have resort to the list of names so posted in the marshal's office, and may take copies without fee.

SEC. 58. In case of a vacancy in the office of the district attorney or marshal within any circuit, the circuit justice of such circuit may fill the same, and the person appointed by him shall serve until an appointment is made by the President, and the appointee is duly qualified, and no longer. The appointment made by such justice shall be in writing, which shall be filed in the clerk's office of the circuit court, and a copy thereof shall be entered upon the journal of said court. Any marshal so appointed shall give bond, as if appointed by the President, and the bond shall be approved by said justice. It shall then be filed in the clerk's office of said court, and a copy shall be entered on the journal of the court. A certified copy of such entry shall be prima-facie proof of the execution of such bond, and of the contents thereof.

Vacancies in office of district attorney and marshal, how filled temporarily.

Sec. 793, R. S. U. S.
3 Fed. Rep., 112; 4 Woods, 491, Farrow; 20 Fed. Rep., 379, Alabama Marshalship; 28 Fed. Rep., 445, Yancey; 16 Atty. Gen. Opin., 538.

SEC. 59. For the service of any warrant, attachment, summons, capias, or other writ, (except execution, venire, or a summons or subpoena for a witness,) the marshal shall be allowed one dollar, and no more, for each person on whom such service may be made.

Fees in certain cases.

Sec. 911, R. S. D. C.

[See § 1068, R. S. D. C.]

1 Cranch, C. C., 78, U. S. *vs.* McDonald; 1 Cranch, C. C., 484, Brent *vs.* Justices of the Peace.

SEC. 60. The marshal, or his deputies, may execute and levy executions issued by justices of the peace, for small debts, out of court, when the same are put into their hands for that purpose, and for executing or levying such executions are entitled to the same commission, and no more, as allowed to constables in such cases.

Executions issued by justices of the peace.

Sec. 912, R. S. D. C.

[See § 1040, R. S. D. C.]

SEC. 61. When the marshal shall have received money on any judgment or execution, not exceeding twenty dollars, by virtue of the preceding section, and shall fail or omit to pay the same to the plaintiff, or his agent, when thereto demanded, or shall omit or fail to return any execution within the time limited for such return, it shall be lawful for the supreme court of the District, on motion made, five days previous notice being given to the marshal, to enter up judgment, instant, against him for the amount so received, with interest and costs.

Failure of marshal to pay over small sums, etc.: proceedings.

Sec. 913, R. S. D. C.

SEC. 62. The marshal, in all civil cases, may demand and receive payment of his fees before serving any process, except in cases in which the United States may be a party, or of fieri facias, or where the court or any justice thereof may order suit to be instituted without prepayment of costs.

Prepayment of marshal's fees.

Sec. 914, R. S. D. C.

MARSHALS' FEES.

SEC. 63. * * * For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.

Marshal's fees.

For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one-third cents each. * * *

Sec. 829, R. S. U. S.

146 U. S. Rep., 360, McMullen *vs.* U. S.; 14 Fed. Rep., 107, Duy *vs.* Knowlton; 19 Court of Claims Rep., 629, Turner *vs.* U. S.; 18 Fed. Rep., 456, The J. E. Mulford.

For holding a court of inquiry or other proceedings before a jury, including the summoning of a jury, five dollars.

For serving a writ of subpoena on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for a witness.

For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property,

13 Cranch, Ct. Rep., 403, 411, Mason *vs.* Muncas-

ter; 8 Peters Rep. 150, U. S. vs. Ringgold.

advertising and disposing of the same by sale, set off, or otherwise according to law receiving and paying over the money, the same fees and poundage¹ as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered.

For each bail-bond, fifty cents.

For summoning appraisers, fifty cents each.

For executing a deed prepared by a party or his attorney, one dollar.

For drawing and executing a deed, five dollars.

For copies of writs or papers furnished at the request of any party, ten cents a folio.

For every proclamation in admiralty, thirty cents.

For serving an attachment in rem or a libel in admiralty, two dollars.

For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, not exceeding two dollars and fifty cents a day.

When the debt or claim in admiralty is settled by the parties without a sale of the property, the marshal shall be entitled to a commission of one per centum on the first five hundred dollars of the claim or decree, and one-half of one per centum on the excess of any sum thereof over five hundred dollars: *Provided*, That, when the value of the property is less than the claim, such commission shall be allowed only on the appraised value thereof.

For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money, two and one-half per centum on any sum under five hundred dollars, and one and one-quarter per centum on the excess of any sum over five hundred dollars.

For disbursing money to jurors and witnesses, and for other expenses, two per centum.

For expenses while employed in endeavoring to arrest, under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed two dollars a day, in addition to his compensation for service and travel.

For every commitment or discharge of a prisoner, fifty cents.

For transporting criminals, ten cents a mile for himself and for each prisoner and necessary guard; except in the case provided for in the next paragraph.*

For attending the circuit and district courts, when both are in session, or either of them when only one is in session, and for bringing in and committing prisoners and witnesses during the term, five dollars a day.

For attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day; and for each deputy not exceeding two, necessarily attending, two dollars a day.

For traveling from his residence to the place of holding court, to attend a term thereof, ten cents a mile for going only.

For travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpoena in civil or criminal cases, six cents a mile, to be computed from the place where the process is returned to the place of service, or, when more than one person is served therewith, to the place of service which is most remote, adding thereto the extra travel which is necessary to serve it on the others. But when more than two writs of any kind required to be served in behalf of the same party on the same person might be served at the same time, the marshal shall be entitled to compensa-

* Section relating to transporting criminals was amended July 12, 1876; 1 Sup. R. S., p. 228. See title "Penitentiary," sec. 5546, R. S.

tion for travel on only two of such writs; and to save unnecessary expense, it shall be the duty of the clerk to insert the names of as many witnesses in a cause in such subpoena as convenience in serving the same will permit.

In all cases where mileage is allowed to the marshal he may elect to receive the same or his actual traveling expenses, to be proved on his oath, to the satisfaction of the court. [See § 1660, R. S. U. S.]

SEC. 64. That instead of the poundage fees allowed to the *marshal* [sheriff] by the first mentioned act, he be allowed only at the rate of seven and a half per cent. for the first ten pounds in money [\$26.66 $\frac{2}{3}$] or one thousand pounds of tobacco, and the rate of three per cent. for the residue, in the same species the execution shall issue for; and that where execution or attachment shall be made on lands held for years, or a greater estate, only one-half of the poundage fees, but if the estate in the land shall not be chargeable by appraisement, and delivered to the plaintiff, or by sale of the *marshal* [sheriff,] one-quarter part of the poundage fees only shall be chargeable.*

Poundage fees ascertained, etc.

Md. act 1790, ch. 59, sec. 2.

1 Dorsey, 267.

2 Kilty, 297.

18 Peters Rep., 150, U. S. vs. Ringgold; 5 Cranch, Ct. Rep., 400, U. S. vs. Williams; 3 Cranch, Ct. Rep., 403, 411, Mason vs. Muncaster.

SEC. 65. There shall be paid to the marshal his fees for services rendered for the United States, for summoning jurors and witnesses in behalf of the United States, and in behalf of any prisoner to be tried for a capital offense, for the maintenance of prisoners of the United States confined in jail for any criminal offense; also, for his reasonable actual expense for the transportation of criminals, and of the marshal and guards, to prisons designated by the Attorney-General, and for hire and subsistence in that behalf, as hereinbefore provided; also, his fees for the commitment or discharge of prisoners; his expenses necessarily incurred for fuel, lights, and other contingencies that may accrue in holding the courts within this district, and providing the books necessary to record the proceedings thereof: *Provided*, That he shall not incur, or be allowed, an expense of more than twenty dollars in any one year for furniture, or fifty dollars for rent of a building and making improvements thereon without first submitting a statement and estimates to the Attorney-General and getting his instructions in the premises.

What fees to be paid to marshals.

Sec. 830, R. S. U. S.

12 Wheaton Rep., 546, The Antelope; 3 Sumner Rep., 204, U. S. vs. Cogswell; 18 Fed. Rep., 458, The J. E. Mulford; 1 Story Rep., 153, Bottomley vs. U. S.; 1 Wood and M., 184, U. S. vs. Smith.

SEC. 66. No per diem or other allowance shall be made to any district attorney, clerk of a circuit court, clerk of a district court, marshal or deputy marshal, for attendance at rule-days of a circuit or district court; and when the circuit and district courts sit at the same time no greater per diem or other allowance shall be made to any such officer than for an attendance on one court.

Attendance on rule-days, and when circuit and district courts sit at same time.

Sec. 831, R. S. U. S.

SEC. 67. Every district attorney, clerk of a district court, clerk of a circuit court, and marshal, shall, on the first days of January and July, in each year, or within thirty days thereafter, make to the Attorney-General, in such form as he may prescribe, a written return for the half year ending on said days, respectively, of all the fees and emoluments of his office, of every name and character, and of all the necessary expenses of his office, including necessary clerk-hire, together with the vouchers for the payment of the same for such last half year. He shall state separately in such returns the fees and emoluments received or payable under the bankrupt act; and every marshal shall state separately therein the fees and emoluments received or payable for services rendered by himself personally, those received or payable for services rendered by each of his deputies, naming him, and the proportion of such fees and emoluments which, by the terms of his service, each deputy is to receive. Said returns shall be verified by the oath of the officer making them.

Semiannual returns of fees by district attorneys, marshals, and clerks.

Sec. 833, R. S. U. S.

[See §§ 3055, 4644, 4647, R. S. U. S.]

*This section refers to the Md. act of 1787, ch. 11, which was repealed by 1791, ch. 51.

What to be included in the semi-annual returns of district attorneys and marshals.

Sec. 834, R. S. U. S.

SEC. 68. The preceding section shall not apply to the fees and compensation allowed to district attorneys by sections eight hundred and twenty-five and eight hundred and twenty-seven. All other fees, charges, and emoluments to which a district attorney or a marshal may be entitled, by reason of the discharge of the duties of his office, as now or hereafter prescribed by law, or in any case in which the United States will be bound by the judgment rendered therein, whether prescribed by statute or allowed by a court, or any judge thereof, shall be included in the semi-annual return required of said officers by the preceding section.

Compensation of marshal.

Sec. 841, R. S. U. S.

SEC. 69. No marshal shall be allowed by the Attorney-General, except as provided in the next section, to retain of the fees and emoluments which he is required to include in his semi-annual return, as aforesaid, for his personal compensation, over and above the necessary expenses of his office, including necessary clerk-hire, to be audited and allowed by the proper accounting officers of the Treasury Department, and a proper allowance to his deputies, any sum exceeding six thousand dollars a year, or exceeding that rate for any time less than a year. The allowance to any deputy shall in no case exceed three-fourths of the fees and emoluments received or payable for the services rendered by him, and may be reduced below that rate by the Attorney-General, whenever the returns show such rate to be unreasonable.

Additional compensation in prize causes.

Sec. 842, R. S. U. S.

SEC. 70. Clerks and marshals may be allowed to retain, for all official services in prize causes, an additional compensation not exceeding in amount one-half of the maximum compensation allowed to them, respectively, by the three preceding sections.

2 Fed. Rep., 494, U. S. vs. Cigars.

Allowances for each year made from the fees thereof.

Sec. 843, R. S. U. S.

SEC. 71. The allowances for personal compensation of district attorneys, clerks, and marshals, for each calendar year, shall be made from the fees and emoluments of that year, and not otherwise.

2 Story Rep., 839, U. S. vs. Bassett; 15 Court of Claims R., 22, Collins vs. U. S.; 16 Court of Claims R., 88, Hendrick vs. U. S.

Payment of surplus fees into the Treasury.

Sec. 844, R. S. U. S.

123 U. S. Rep., 681, U. S. vs. Hill.

SEC. 72. Every district attorney, clerk, and marshal shall, at the time of making his half-yearly return to the Attorney-General, pay into the Treasury, or deposit to the credit of the Treasurer, as he may be directed by the Attorney-General, any surplus of the fees and emoluments of his office, which said return shows to exist over and above the compensation and allowances authorized by law to be retained by him.

Auditing of accounts of district attorney, etc., in Department of Justice.

Sec. 845, R. S. U. S.

SEC. 73. In every case where the return of a district attorney, clerk, or marshal shows that a surplus may exist, the Attorney-General shall cause such returns to be carefully examined, and the accounts of disbursements to be regularly audited by the proper officer of his Department, and an account to be opened with such officer in proper books to be provided for that purpose.

Accounts of district attorneys, etc., to be certified by district judge.

Sec. 846, R. S. U. S.

SEC. 74. The accounts of district attorneys, clerks, marshals, and commissioners of circuit courts shall be examined and certified by the district judge of the district for which they are appointed, before they are presented to the accounting officers of the Treasury Department for settlement. They shall then be subject to revision upon their merits by said accounting officers, as in the case of other public accounts: *Provided*, That no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so re-examined as to charge any marshal for an erroneous taxa-

tion of such fees or costs. [That where any ministerial officers of the United States have or shall incur extraordinary expense in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof under the special taxation of the district or circuit court of the district in which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary.]

CLERK OF THE SUPREME COURT.

SEC. 75. The supreme court shall have power to appoint a clerk, who shall take the oath, and give a bond with sureties, in the manner prescribed by law for clerks of district courts of the United States.* [See §§ 794-799, R. S. U. S.]

Appointment,
oath, and bond of
clerk.

Sec. 915, R. S.
D. C.

1 Cranch, C. C., 12, *Foster vs. Hanson*; 2 Cranch, C. C., 646, *Patons vs. Lee*.

SEC. 76. The clerk [of the Supreme Court], and every clerk and deputy clerk of a circuit or district court, shall, before he enters upon the execution of his office, take an oath or affirmation in the following form: "I, A B, being appointed a clerk of ———, do solemnly swear (or affirm) that I will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court, and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding. So help me God." The words "so help me God" shall be omitted in all cases where an affirmation is admitted instead of an oath.

Oath of clerks.

Sec. 794, R. S.
U. S.

SEC. 77. The clerk of every court shall give bond, in a sum to be fixed and with sureties to be approved by the court which appoints him, faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments, and determinations of the court of which he is clerk; and a new bond may be required whenever the court deems it proper that such bond should be given. A copy of every bond given by a clerk shall be entered on the journal of the court for which he is appointed, and the bond shall be deposited for safe-keeping as the court may direct. A certified copy of such entry shall be prima-facie proof of the execution of such bond and of the contents thereof.

Clerk's bond.

Sec. 795, R. S.
U. S.

SEC. 78. Any of the duties of the clerk may be performed, in his name, by any of the assistant clerks in his office; and such assistants may sign the name of the clerk to any process, certificate, or other official act required by law or by the practice of the court to be performed by the clerk, and may authenticate said signature by affixing the seal of the court thereto, when the impress of the seal is necessary to its authentication. In such cases the signature shall be, "———, Clerk, by ———, Assistant Clerk."

Assistant clerks.

Sec. 916, R. S.
D. C.

SEC. 79. Any circuit or district court may require any deputy clerk thereof to give bond to the United States for the faithful discharge of his duty as such deputy, in the same penalty, and with surety in the same manner, as is required by law of clerks; and such bond shall be recorded and preserved in like manner. But the taking of such bond shall not affect the legal responsibility of the clerk for the acts of such deputy.

Bond of deputy
clerks.

Sec. 796, R. S.
U. S.

* The clerk prohibited from delivering any blank writ to any person; the penalty fixed by Md. act 1785, ch. 48, sec. 11. See title "Crimes."

Clerk to forward to Solicitor of the Treasury a list of judgments. SEC. 80. Every clerk of a circuit or district court shall, within thirty days after the adjournment of each term thereof, forward to the Solicitor of the Treasury a list of all judgments and decrees, to which the United States are parties, which have been entered in said court, respectively, during such term, showing the amount adjudged or decreed, in each case, for or against the United States, and the term to which execution thereon will be returnable.

Sec. 797, R. S. U. S.

Account of payments and moneys in court to be stated by the clerk. SEC. 81. At each regular session of any court of the United States, the clerk shall present to the court an account of all moneys remaining therein, or subject to its order, stating in detail in what causes they are deposited, and in what causes payments have been made; and said account and the vouchers thereof shall be filed in the court.

Sec. 798, R. S. U. S.

124 U. S. Rep. 340, *State Bank vs. Dodge*.

Oaths to persons identifying papers in admiralty causes, when administered by clerks. SEC. 82. The clerks of the district and circuit courts may, in the absence or in case of the disability of the judges, administer oaths to all persons identifying papers found on board of vessels or elsewhere, to be used on trials in admiralty causes.

Sec. 799, R. S. U. S.

Plaintiff to make deposit with clerk. SEC. 83. At the commencement of every suit in the supreme court of the District, the plaintiff shall deposit at least eight dollars with the clerk, to be appropriated toward the costs of the suit; and if the plaintiff recover against the defendant a judgment with costs, and the costs do not amount to eight dollars, the overplus shall be paid back to the plaintiff by the clerk.

Sec. 917, R. S. D. C.

4 Cranch, Ct. Rep., 197 Lee.

Poor persons not required to make deposit. SEC. 84. Suits may be prosecuted by poor persons upon the order of the court, or of one of the justices, without making the deposit prescribed by the preceding section.

Sec. 918, R. S. D. C.

Alex. Brit. Stat., 262, 288.

Clerk shall furnish copies from justices' dockets. SEC. 85. The clerk shall furnish copies of all entries in any docket of justices of the peace in his custody, to persons applying therefor who may be entitled to receive them.

Sec. 919, R. S. D. C.

How made, their effect. SEC. 86. Such copies shall be furnished in the same manner and shall have the same effect, as if made by the justices of the peace.

Sec. 920, R. S. D. C.

Fees from private parties, when payable. SEC. 87. All costs and fees for services rendered by the clerk, and chargeable to others than the United States, shall be payable immediately after the services are performed, and shall be collected by such rules and regulations, not incompatible with law, as may be prescribed by the court, but shall in no case be paid by the United States.

Sec. 921, R. S. D. C.

Clerks' fees. SEC. 88. For issuing and entering every process, commission, summons, capias, execution, warrant, attachment, or other writ, except a writ of venire, or a summons or subpoena for a witness, one dollar.

Sec. 828, R. S. U. S.

For issuing a writ of summons or subpoena, twenty-five cents. For filing and entering every declaration, plea, or other paper, ten cents.

109 U. S. Rep., 74, *Steever vs. Rickman*; 110 U. S. Rep., 402, *Bean vs. Patterson*; 3 Mc Crary Rep., 383, *Cavender vs. Cavender*; 3 Att'y Gen. Opin., 575.

For administering an oath or affirmation, except to a juror, ten cents.

For taking an acknowledgment, twenty-five cents.

For taking and certifying depositions to file, twenty cents for each folio of one hundred words.

For a copy of such deposition furnished to a party on request, ten cents a folio.

For entering any return, rule, order, continuance, judgment, decree, or recognizance, or drawing any bond, or making any record, certificate, return, or report, for each folio, fifteen cents.

For a copy of any entry or record, or of any paper on file, for each folio, ten cents.

For making dockets and indexes, issuing venire, taxing costs, and all other services, on the trial or argument of a cause where issue is joined and testimony given, three dollars.

For making dockets and indexes, taxing costs, and all other services, in a cause where issue is joined, but no testimony is given, two dollars.

For making dockets and indexes, taxing costs, and other services, in a cause which is dismissed or discontinued, or where judgment or decree is made or rendered without issue, one dollar.

For making dockets and taxing costs, in cases removed by writ of error or appeal, one dollar.

For affixing the seal of the court to any instrument, when required, twenty cents.

For every search for any particular mortgage, judgment, or other lien, fifteen cents.

For searching the records of the court for judgments, decrees, or other instruments constituting a general lien on real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

For receiving, keeping, and paying out money, in pursuance of any statute or order of court, one per centum on the amount so received, kept, and paid.

For traveling from the office of the clerk, where he is required to reside, to the place of holding any court required by law to be held, five cents a mile for going and five cents for returning, and five dollars a day for his attendance on the court while actually in session.

All books in the offices of the clerks of the circuit and district courts, containing the docket or minute of the judgments, or decrees thereof, shall, during office hours, be open to the inspection of any person desiring to examine the same, without any fees or charge therefor. [See next section.]

SEC. 89. The fees specified in this section, and no more, shall be allowed to the clerk for the following services: Fees allowed in certain cases.

For all services rendered to the United States, in cases in which the United States is a party of record, five dollars. Sec. 922, R. S. D. C.

For each marriage license, one dollar.

For each certificate of official character, including the seal, fifty cents.

SEC. 90. The clerk shall make semi-annual returns of the amount of fees received by him to the Secretary of the Treasury. Semi-annual return of fees.

Sec. 923, R. S. D. C.

SEC. 91. The salary, emoluments, and fees of the clerk shall not exceed the sum of six thousand dollars per annum, and the excess of fees collected by him, after defraying the necessary expenses of his office, shall be paid into the Treasury of the United States. Limit to salary.

Sec. 924, R. S. D. C.

SEC. 92. The clerk's accounts of his earnings and expenses shall be adjusted by the regular auditor of the court, or by a special auditor to be appointed by the court for the purpose, within thirty days after the first day of January and July, every year; and the auditor shall immediately report his adjustment to the court, with such exceptions thereto as the clerk shall, within four days after the adjustment reported, take and file with the auditor. Adjustment of accounts.

Sec. 925, R. S. D. C.

Decree of the court. SEC. 93. The court shall pronounce such decree upon the report and exceptions as may seem to it equitable and just; and such decree shall be final, and be binding upon the United States and the clerk.

Sec. 926, R. S. D. C.

Accounts, how settled.

Sec. 927, R. S. D. C.

SEC. 94. If, upon such account, a balance be found due from the clerk to the United States, the court shall order payment by the clerk into the Treasury, and enforce its order by execution, process of contempt, or otherwise; and if the clerk refuse to pay the money, shall remove him from office. If a balance be found due from the United States to the clerk, the same shall be paid upon presenting to the Treasurer a copy of the decree, duly certified.

Copy of decree.

Sec. 928, R. S. D. C.

SEC. 95. The clerk shall, as in other cases of judgments to which the United States is a party, furnish the solicitor of the Treasury a copy of the decree, immediately after it is pronounced.

Security for costs.

Md. act 1796, ch. 43, sec. 12.

2 Kilty, 618.
2 Mackey Rep., 2. Anderson vs. Smith; 1 Har. and J. Rep., 440, Berry vs. Griffith; 3 Gill and J. Rep., 285, Stimmel vs. Underwood; 9 Md. Rep., 194, Haney vs. Marshall; 42 Md. Rep., 1, Spencer vs. Trafford; 46 Md. Rep., 190, State vs. Layman.

SEC. 96. That in all cases where suits may hereafter be brought by any person or persons, nonresidents of this *District* [state,] or who may remove out of the *District* [state] after the bringing of such suit or suits, the defendant or defendants against whom such suit may be commenced, or his, her or their attorney, may lay a rule, at or before the trial court, on such plaintiff or plaintiffs, or his, her or their attorney, to give security for all costs and charges that the said defendant or defendants may be put to in case such plaintiff or plaintiffs shall be nonsuited, or judgment be given against them, and in case of non-compliance with such rule, judgment of nonsuit shall be entered: *Provided, nevertheless,* That if any defendant or defendants shall lay a rule on any plaintiff or plaintiffs for security for costs at the trial court, that then and in such case the court granting said rule, may, at the instance or motion of the plaintiff or plaintiffs, by his, her or their counsel, in their discretion, continue said cause until the next term.

Usee's liability for costs.

Ibid., sec. 13.
2 Kilty, 618.
2 Mackey Rep., 66. Keyser vs. Shepherd; 46 Md. Rep., 190, State vs. Layman; 20 Md. Rep., 247, Groshon vs. Thomas; 7 Gill Rep., 242, Selby vs. Clayton; 8 Gill and J. Rep., 125, State vs. Turner; 4 Gill and J. Rep., 407, Charlott Hall vs. Greenwell.

SEC. 97. That when any action shall be brought, and it shall be entered upon the record that such suit is brought for the use of any other person or persons, and the plaintiff or plaintiffs in such action shall discontinue or strike off his, her or their said action, or be nonsuit thereon, or in case there shall be a judgment or verdict in favour of the defendant or defendants, the party or parties for whose use the action was instituted shall be answerable for the legal costs of the suit, and may be proceeded against by attachment against the person or property of such party or parties for the recovery of the same, in the same manner as if he, she or they, had been entered by rule of court the security for such costs of suit.

Usee when liable for costs, name to be indorsed on writs.

Md. act 1794, ch. 54, sec. 10.
1 Kilty, 509.
1 Dorsey, 314.

SEC. 98. That in every suit which shall or may hereafter be ordered or directed on any administration, testamentary, inspector's collector's or *Marshal's* [sheriff's] bond, the clerk shall, and he is hereby directed, before the issuing of the writ, to endorse thereon the name or names of the party or parties at whose instance, and for whose use, the said suit was instituted; and in case the said action shall or may be struck off, discontinued or *non prossed*, or in case there be a judgment on verdict in favour of the defendant, the party or parties at whose instance the action was instituted shall be answerable for the legal costs of suit, and may be proceeded against by attachment against the person or property of such party or parties for the recovery of the same, in the same manner as if he, she or they, had been entered by a rule of court the security for such costs of suit: *Provided,* That nothing in this act shall be construed to alter the present existing laws of this *District* [state] relative to the payment of costs by executors or administrators.

SEC. 99. That in all cases of appeals, or writs of error, hereafter brought or prosecuted by any defendant or person grieved by any judgment, and the judgment of the inferior court, upon the merits of the question between the parties, and not upon the form of proceeding, be reversed, the court reversing such judgment shall award costs incurred by the defendant, or person grieved by such judgment, both in the superior and inferior courts, to be paid by the plaintiff or person against whom such writ of error or appeal be prosecuted, and judgment shall be entered in the court determining such appeal or writ of error for the costs aforesaid, and execution may issue for the same from such court.

On appeals, etc., court may award costs, etc.

Md. act 1785, ch. 80, sec. 6.
2 Kilty, 61.
1 Dorsey, 238.

SEC. 100. That in all actions upon the case for slanderous words, to be sued or prosecuted by any person or persons in any the courts of record [at Westminster] or in any court whatsoever that hath power to hold plea of the same, if the jury upon the trial of the issue in such action, or the jury that shall enquire of the damages, do find or assess the damages under forty shillings [$\$5.33\frac{1}{3}$], then the plaintiff or plaintiffs in such action, shall have and recover only so much costs as the damages so given or assessed amount unto, without any further increase of the same; any law, statute, custom or usage to the contrary in any wise notwithstanding.

Costs in slander limited.

James I, ch. 16, sec. 6, A. D. 1623.
Alex. Brit. Stat., 449.
Kilty's Rep., 237.

SEC. 101. Where several persons shall be made defendants to any action or plaint of trespass, assault, false imprisonment, or *ejectione firmæ*, and any one or more of them shall be upon the trial thereof acquitted by verdict, every person or persons so acquitted shall have and recover his costs of suit in like manner as if a verdict had been given against the plaintiff or plaintiffs, and acquitted all the defendants, unless the judge, before whom such cause shall be tried, shall, immediately after the trial thereof, in open court, certify upon the record, under his hand, that there was a reasonable cause for the making such person or persons a defendant or defendants to such action or plaint.

Each defendant when entitled to recover costs.

8 and 9 William III, ch. 11, sec. 1, A. D. 1697.
Alex. Brit. Stat., 602, 603.
Kilty's Rep., 243.

SEC. 102. If any person or persons shall commence or prosecute in any court of record, any action, plaint, or suit, wherein upon any demurrer, either by plaintiff or defendant, demandant or tenant, judgment shall be given by the court against such plaintiff or defendant, or if at any time after judgment given for the defendant in any such action, plaint, or suit, the plaintiff or demandant shall sue any writ or writs of error to annul the said judgment, and the said judgment shall be afterwards affirmed to be good, or the said writ of error shall be discontinued, or the plaintiff shall be nonsuit therein, the defendant or tenant, in every such action, plaint, suit, or writ of error, shall have judgment to recover his costs against every such plaintiff or plaintiffs, demandant or demandants, and have execution for the same by *capias ad satisfaciendum*, *fieri facias*, or *elegit*.

Defendant recovers costs where demurrer sustained or appeal affirmed, etc.

Ibid., sec. 2, p. 603.

SEC. 103. Forasmuch also as bailiffs, to whose office it belongeth to take distresses, intending to grieve their inferiors, that they may exact money of them, do send strangers to take distresses, to the intent that they might grieve their inferiors, by reason that the parties so distrained, not knowing such persons, will not suffer the distresses to be taken; (2) it is provided, that no distress shall be taken, but by bailiffs sworn and known. (3) And if they which do distrain do otherwise, and thereof be convict (if the parties grieved will purchase a writ of trespass) they shall restore damages to the parties grieved, and besides, shall be grievously punished towards the King [the United States of America].

No distress shall be taken but by bailiffs known and sworn.

13 Edward I, ch. 37, sec. 1, A. D. 1285.
Alex. Brit. Stat., 142.
Kilty's Rep., 213.

Defendants shall not recover costs against the United States.

24 Henry VIII, ch. 8, sec. 1, A. D. 1532.

Alex. Brit. Stat., 290, 291.

Kilty's Rep., 231.

Plaintiff, being nonsuited, shall yield damages to the defendants in actions personal.

23 Henry VIII, ch. 15, sec. 1, A. D. 1531.

Alex. Brit. Stat., 287, 288.

Kilty's Rep., 231.

Costs given to defendant when verdict in his favor.

4 James I, ch. 3, sec. 2, A. D., 1606.

Alex. Brit. Stat., 432.

Kilty's Rep., 236.

On quashing writ of error defendant shall recover costs.

4 Anne, ch. 16, sec. 25, A. D. 1705.

Alex. Brit. Stat., pp. 663, 664; Kilty's Rep., 247.

SEC. 104. Albeit that the plaintiff or plaintiffs be or shall be nonsuited in any whatsoever action, suit, bill or plaint, commenced, or to be commenced, sued, or to be sued, to the use [of the United States of America] or that it shall happen any verdict to pass against any such plaintiff or plaintiffs, in any action, suit, bill or plaint, sued, or to be sued to the use [of the United States of America]; the defendant or defendants shall not recover any cost against any such plaintiff or plaintiffs, any act or statute, or any other thing to the contrary being in any wise notwithstanding.

SEC. 105. If any person or persons, at any time commence, or sue in any court of record, or elsewhere in any other court, any action, bill, or plaint of trespass upon the statute of King Richard the Second, made in the fifth year of his reign, for entries into lands, and tenements, where none entry is given by the law, (2) or any action, bill, or plaint of debt or covenant, upon any especialty made to the plaintiff or plaintiffs, (3) or upon any contract supposed to be made between the plaintiff or plaintiffs, and any other person or persons, (4) or any action, bill, or plaint of detinue of any goods or chattels, whereof the plaintiff or plaintiffs shall suppose that the property belongeth to them, or to any of them, (5) or any action, bill, or plaint of account, in the which the plaintiff or plaintiffs suppose the defendant or defendants to be their bailiff or bailiffs, receiver or receivers of their manor, mese, money, or goods, to yield account, (6) or any action, bill, or plaint upon the case, or upon any statute, for any offence or wrong personal immediately supposed to be done to the plaintiff or plaintiffs, (7) and the plaintiff or plaintiffs in any such kind of action, bill, or plaint, after appearance of the defendant or defendants be nonsuited, or that any verdict happen to pass, by lawful trial, against the plaintiff or plaintiffs in any such action, bill, or plaint, that then the defendant or defendants in every such action, bill, or plaint, shall have judgment to recover his costs against every such plaintiff or plaintiffs; (8) and that to be assessed and taxed by the discretion of the judge or judges of the court where any such action, bill, or plaint shall be commenced, sued, or taken; (9) and also that every defendant in such action, bill, or plaint shall have such process and execution for the recovery and having of his costs against the plaintiff or plaintiffs, as the same plaintiff or plaintiffs should or might have had against the defendant or defendants, in case that judgment had been given for the part of the said plaintiff or plaintiffs, in any such action, bill or plaint.

SEC. 106. If any person or persons shall commence or sue in any court of record, or in any other court, any action, bill, or plaint of trespass, or *ejectione firmæ*, or any other action whatsoever, wherein the plaintiff or defendant might have costs (if in case judgment should be given for him) and the plaintiff or plaintiffs, demandant or demandants, in any such action, bill or plaint, after appearance of the defendant or defendants, be nonsuited, or that any verdict happen to pass by any lawful trial against the plaintiff or plaintiffs, demandant or demandants, in any such action, bill or plaint, then the defendant and defendants, in every such action, bill or plaint, shall have judgment to recover his costs against every such plaintiff and plaintiffs, demandant and demandants, (3) to be assessed, taxed and levied in manner and form as costs in the said recited actions are to be assessed, taxed and levied in and by the said law of the three and twentieth year of King Henry the Eighth. Coke, 29.

SEC. 107. That upon the quashing any writ of error to be sued out, for variance from the original record or other defect, the defendants in such error shall recover against the plaintiff or plaintiffs, issuing out such writ, his costs, as he should have had if the judgment had been affirmed, and to be recovered in the same manner.

FEES OF JUSTICES OF THE PEACE.

Prescribed the 19th day of July, 1878, by the Supreme Court of the District of Columbia.

For issuing every summons to commence a suit	\$0.25
For every additional name, if there be more than one defendant . . . . .	.05
For each subpoena for witness . . . . .	.25
For copy of each summons or subpoena . . . . .	.10
For administering any oath or affirmation at trial . . . . .	.05
For oath to any account . . . . .	.25
For trial fee . . . . .	.50
For continuance of trial . . . . .	.15
For entering judgment . . . . .	.25
For issuing <i>fiert facias</i> . . . . .	.25
For entering satisfaction or discontinuance . . . . .	.25
For supersedeas bond . . . . .	.25
For appeal bond, certificate of appeal, and transmission of record	1.00
For <i>scire facias</i> . . . . .	.25
For writ between landlord and tenant, including affidavit and complaint	1.00
For writ of restitution . . . . .	.50
For issuing United States warrant, writing information, etc . . . . .	.50
For warrant issued in the name of the District of Columbia, including affidavit and complaint . . . . .	.50
For affidavit or affirmation written out . . . . .	.25
For warrant against witness for contempt in disobeying subpoena . . . . .	.25
For certifying papers to court where no property found whereon to levy, and on certiorari . . . . .	.50
For duplicate or exemplification of judgment . . . . .	.50
For attachment on judgment and interrogatories and copies	1.00
For bond for costs by non-resident before entering suit . . . . .	.25
For order of publication . . . . .	.25
For certificates . . . . .	.25
For attachment for rent, with declaration, bond, affidavit, and copies	1.00
For issuing <i>venire facias</i> . . . . .	.25
For swearing jury . . . . .	.12
For taking recognizances, in any case . . . . .	.25
For commitment . . . . .	.25
For discharge from goal . . . . .	.25
For receiving amount of judgment before execution, two per cent. on the amount paid over . . . . .	.25
For entering amicable suit . . . . .	.25
For opening judgment for re-hearing . . . . .	.25
For bail-piece and return or supersedeas . . . . .	.50
For trial with jury, in addition to other fees, or in forcible entry and detainer, for each day . . . . .	.50
For recording proceedings therein . . . . .	.50
For entering rule to take depositions . . . . .	.10
For entering return of same . . . . .	.10
For entering return of execution on stay of plaintiff, or nulla bona, or otherwise . . . . .	.10
For every acknowledgment of a deed or other instrument of writing, for each party signing . . . . .	.25
For issuing <i>venditio exponas</i> . . . . .	.25

I certify that the foregoing is truly copied from the record, 3 Minutes, General Term, page 230.

J. R. YOUNG,
Clerk.

FEES OF CONSTABLES.

Prescribed the 19th day of July, 1878, by the Supreme Court of the District of Columbia.

For serving every summons	\$0.50
For serving copy on each defendant . . . . .	.50
For serving warrant against witness for contempt in disobeying subpoena . . . . .	.50
For serving seven days' summons in case of landlord and tenant . . . . .	.50
For serving every subpoena . . . . .	.50
For serving attachment in case of landlord and tenant, same fees allowed marshal	
For collecting and paying over on execution, whether a sale has been made or otherwise, a commission of five per centum	

For serving attachment on judgment.....	.50
For transfer of papers from one justice to another, in case of change of venue.....	.25
For summoning each juror accepted in case of trial by jury.....	.25
For taking charge of jury.....	1.00
For conveying each person to jail upon commitment, by a justice of the peace, in addition to the actual expense incurred by the constable.....	1.00
For return on writ of fieri facias.....	.50

I certify that the foregoing is truly copied from the record, 3 Minutes, General Term, page 230.

J. R. YOUNG,
Clerk.

CHAPTER FIFTY-ONE.

PARTITION.

Sec.	Sec.
1. Partition of lands among tenants in common; how made.	7. Allowances to commissioners in making sales of land, etc.
2. Court may decree sale and division of proceeds in partition of lands among tenants in common.	8. In cases of sales by commissioners, deeds to purchasers, etc.
3. Payments; how made in case of sale of land in partition proceedings.	9. When estate sold on credit, bond to secure unpaid purchase money.
4. Where parties entitled to land can not agree upon a division, and in cases of minors, application may be made to the court, etc., for partition.	10. Widow's dower may be laid off.
5. Proceedings in partition regulated where lands are under a certain value.	11. Widow may consent to sale, receiving her share of proceeds.
6. Proceedings, sales of land descended, not susceptible of division in kind; encumbrances; election by any of heirs to take, etc.	12. Joint tenants and tenants in common of their own or their wives' rights may make partition.
	13. Proviso, to preceding section, as to recovery, etc.
	14. When tenants for life may have partition.
	15. Partition to be prejudicial to parties only.

Partition of lands among tenants in common in District of Columbia; how made.

Aug. 15, 1876.
19 Stat., 202.
Sup. R. S., 247.

SEC. 1. That all tenants in common and coparceners of any estate in lands tenements, or hereditaments, equitable as well as legal, within the District of Columbia, may, in the discretion of the Court, be compelled in any court of competent jurisdiction, to make, or suffer partition of such estate or estates.

In proceedings for partition all persons in interest shall be made parties in the same manner as in cases of equity jurisdiction.

And in proceedings for partition under this act, the court may in addition to the powers herein conferred, exercise such powers as are or may be conferred by virtue of the general equity jurisdiction of the court.

Court may decree sale and division of proceeds.

Ibid., sec. 2.

SEC. 2. The court, in all cases, in decreeing partition, may, if it satisfactorily appears that said lands and tenements, or any estate or interest therein, cannot be divided without loss or injury to the parties interested, decree a sale thereof, and a division of the money arising from such sale among the parties, according to their respective rights and interests.

In case of sale, how payments to be made.

Ibid., sec. 3.
145 U. S. Rep.,
116 Willard vs.
Willard; 1 Appeal
Cases, D. C., 418,
Mudd vs. Grinder.

SEC. 3. In all such sales, unless the court shall by special order direct or require on good cause shown, that the sale be made for cash, the purchase money shall be payable, one-third on day of sale, one-third in one year, and one-third in two years thereafter, with interest, the deferred payments to be secured to the parties, according to their respective interests, by good and sufficient mortgage upon the premises so sold, which shall be subject to the approval of the court.

SEC. 4. In case the parties entitled to the intestate's estate cannot agree upon the division thereof, or in case any person entitled to any part be a minor, an application may be made to the court of the county where the estate lies, and the court shall appoint and issue a commission to five discreet sensible men, who before they act shall take an oath, to be annexed to the commission, well and truly, and without favour, partiality or prejudice, to adjudge and determine whether the estate will admit of being divided without injury and loss to all the parties entitled, and to ascertain the value of such estate in current money, and if the estate can, in the opinion and judgment of the commissioners, or a majority of them, be divided without loss and injury to all the parties entitled, that they will then divide and make partition of the same fairly and equally in value between all the parties interested, according to their several just proportions; and if the said commissioners, or a majority of them, shall determine that the estate can not be divided without loss to all the parties, then they shall make return to the county court of their judgment, and the reasons upon which the same is formed, and the real value of the estate in current money, (a) and if the judgement of the commissioners shall be confirmed by the county court, then the eldest son,¹ child or person entitled, if of age, shall have the election to take the whole estate, and pay to the others their just proportions of the value in money; and if the eldest child or person entitled refuses to take the estate, and pay to the others money for their proportions, then the next eldest child or person entitled, being of age, shall have the same election, and so on to the youngest child or person entitled, (b) and if all refuse, then the estate shall be sold under the direction of the said commissioners, (c) or a majority of them, for money or upon credit, as they, with a majority of the persons interested, who are of age, and the guardians of such as may be minors, shall determine to be most advantageous to all concerned, and the purchase money shall be justly divided among the several persons interested according to their respective titles to the estate; but if all the parties entitled shall be minors at the death of the intestate, the estate shall not be sold until the eldest arrives to age, and the profits of the estate shall be equally divided in the mean-time; and if the commissioners, or a majority of them, shall determine that the land or estate can be divided without loss and injury to all the parties, they shall cause the lands to be surveyed and laid out by the county surveyor, or such other person as they may think qualified, for the several parties, in case the estate consists of lands; and the commissioners appointed as aforesaid, or a majority of them, shall allot to the several parties their respective shares of the said land; and in case the estate shall consist of houses, the commissioners shall make allotment and partition between the parties; and the commissioners appointed, after having made partition or allotment in manner aforesaid, shall return their proceedings to the next county court to happen thereafter, which shall be ratified or rejected as justice shall dictate, and if ratified, and no appeal by either party, the partition made as aforesaid shall be recorded and remain, and be binding; and if rejected, a new partition shall be made and returned as aforesaid, and either party may appeal to the chancellor from the judgment of the county court; and if the intestate has died possessed of more tracts of land than one, then the division shall be made so as not to split the several tracts of lands, if it can be done consistently with equality, and if it can not be exactly done by this mode, then so much of the larger or more valuable tracts of land shall be taken and added to the less valuable as will make the portion equal in value; and if lands or other estate lie in different counties, then an application may be made to the chancellor, who shall appoint commissioners to make the whole examination and division, or commis-

Where parties can not agree, application may be made to the court, etc., for partition.

Md. act 1786, ch. 45, sec. 8.

2 Kilty, 99.

Thomp. Dig., 182.

2 Peters Rep.,

157, Thompson vs.

Tolmie; 3 Cranch,

Ct., 123, Tolmie vs.

Thompson; 3

Cranch, Ct., 319,

Hastings vs. Gran-

berry; 4 Cranch

Ct., 715, Shaw vs.

Shaw; 6 Md. Rep.,

435, Hames vs.

Hames; 5 Gill

Rep., 463, Bennett

vs. Bennett; 60

Md. Rep., 573, Cat-

lin vs. Catlin; 45

Md. Rep., 532,

Jenkins vs.

Simms; 168 Md.

Rep., 606, B. & O.

Ry. vs. Patterson.

sioners for each county where the lands or other estate lie, as to him may seem most convenient; and the commissioners by him appointed shall proceed in the same manner as directed for commissioners appointed by the county courts, and shall make returns to the chancellor for his confirmation or rejection, and similar proceedings shall be had in the chancery court upon a commission issued from that court, as are before directed upon commission issued from the county court, and in case of commission issued from the chancery court, either party may appeal to the court of appeals, but there shall be no appeal from the decision of the chancellor in cases where the commission issues from the county court] and in the execution of this act, reasonable notice shall always be given by the commissioners to all parties concerned before any proceeding is had, and if any minor shall be interested who hath not a guardian, then the court from which the commission issues shall appoint a guardian for the purpose. and no proceedings of the commissioners shall be set aside for matter of form; and if the estate consists of things indivisible in their nature, then the rule of the common law as to the enjoyment thereof shall take place between the parties entitled.

Partition proceedings regulated where lands under certain value.

Ibid., sec. 9.
2 Kilty, 100.
Thomp. Dig., 185.

SEC. 5. If the inheritance consists of land not worth more than fifty pounds ready current money [\$133.33 $\frac{1}{3}$] per acre, to be ascertained by the commissioners aforesaid, then the same shall not be divided into any shares less than fifty acres each, and if the land shall not be above the value aforesaid, and there be not sufficient to distribute to each person entitled fifty acres, and the land is determined to admit of division without loss to all the parties as aforesaid, then the land shall be equally divided among such number of the persons entitled as the quantity of land left by the intestate, divided by fifty, will give; and the land so divided shall be offered, and, if accepted, belong to the eldest male person entitled by the course of descent, as by this act is settled, if the number of males entitled be sufficient to take the whole, and if not, to the eldest females to make the number sufficient to take the whole, and if there be no males, then to the eldest females; and if any person refuses to accept the land as aforesaid, then the same shall be offered to the persons entitled next in seniority, pursuing the rule between males and females as is above directed; and upon such division and acceptance, the persons entitled under the course of descent aforesaid, who may be left without a share of land, shall in lieu thereof have in money the reasonable and moderate value of the land which would have fallen to their share upon a division among all the persons entitled, to be ascertained by the commissioners aforesaid, and returned to the [county] court for their confirmation or rejection, which money shall be paid to the persons entitled out of such part of the personal estate left by the intestate, as would, upon a distribution thereof belong to the persons provided for by accepting a share of land as aforesaid, if the same be sufficient, and if not, the deficiency shall be paid equally by the persons having land as aforesaid, and the same shall be a lien and incumbrance on such land until paid, and may be recovered by an action upon the case brought by the parties respectively entitled, wherein it shall be only necessary to charge the person or persons holding the land with money had and received to the use of the plaintiff or plaintiffs, and the sum justly due shall be ascertained and recovered.

Proceedings regulating sales of land descended: encumbrances: election.

SEC. 6. All sales by the act to direct descents directed to be made of lands which will not admit of division amongst the heirs, shall be made agreeably to the order of the court from which the commissions issued, and shall not be valid until ratified by the said court; and the commissioners for valuing such lands as in their judgment

will not admit of a division, shall take into consideration any incumbrance on the lands, and report the value of the lands, subject to the incumbrance; and the election of any of the heirs to take the lands, and pay the others their proportions, shall be made in the said court, before the expiration of the term next succeeding the term on which the return of the commissioners shall have been confirmed.

Md. act 1797, ch. 114, sec. 6.
2 Kilty, 758.
1 Dorsey, 358.
Thomp. Dig., 186.
3 Cranch, Ct. Rep., 321, *Hastings vs. Granberry*.

SEC. 7. That the chancellor shall be and they are hereby authorized and empowered to allow to each commissioner, for every day he shall necessarily attend in the execution of such commission, a sum not exceeding two dollars per day, and to the surveyor employed by them, (when necessary,) a sum not exceeding four dollars per day for himself and chain-carriers, and such other expences as they may deem reasonable and proper; all which allowances and expences, together with the fees on the issuing and return of such commission, shall be paid by the representative or representatives, as the case may be, applying for the commission, when the lands or estate are divided, or by the representative making his or her election to take the estate pursuant to the original act. and such representative or representatives, as the case may be, may charge the other representatives with their respective proportions of the whole sum so paid, and each other representative, or his or her guardian, shall be obliged to repay or allow him his or her part thereof respectively; and in case the lands or estate shall be sold by the commissioners agreeably to the provisions of the said act they shall then pay, out of the money arising from the sale, the whole of the expences attending the execution of their commission, to be allowed as above by the chancellor.

Chancellor, etc., may make allowance to commissioners, etc.

Md. act 1799, ch. 49, sec. 2.
2 Kilty, 889.
Thomp. Dig., 186.

SEC. 8. In all cases of sale made by the said commissioners, after the same shall be ratified by the respective county courts, or chancellor, and the terms of sale shall have been complied with by the purchaser or purchasers having paid the purchase money agreeably to the said terms of sale, it shall then be the duty of the commissioners, or a majority of them, or the survivors or survivor of them, to make over unto the purchaser or purchasers, by deed duly executed and acknowledged according to law, all the right, title, claim, interest and estate, of the deceased intestate to the lands and premises sold by them in virtue of their commission, and the commission, and proceedings thereon, shall be recited in the preamble of the respective deeds; and every such deed shall be recorded within the time now limited by law.

When commissioners shall make deed to purchaser.

Ibid., sec. 3.
2 Kilty, 889.
Thomp. Dig., 187.

SEC. 9. When the estate of an intestate shall be sold on a credit, bonds shall be taken for the purchase money from the purchaser or purchasers by the commissioners, with *security if required*, and made payable to each representative respectively, according to his or her proportional part of the net amount of sales.

Bonds to be taken when estate sold on credit.

54 Md. Rep., 102, *B. & O. Ry. vs. Trimble*; 4 Gill Rep., 163, *Thompson vs. State*; 6 Gill and J. Rep., 49, *Ridgely vs. Iglehart*.

Ibid., sec. 4.
2 Kilty, 889.

SEC. 10. The commissioners shall be and they are hereby empowered and directed to ascertain and lay off the widow's dower in and to the lands and tenements of the intestate, by virtue of their commission, before they shall proceed to divide or value the same; and the said commissioners shall make the ascertainment and location of such dower a part of their return to such commission; and the chancellor shall determine thereon, and confirm or reject the same, as in other cases under the said act.

Widow's dower may be laid off, etc.

Ibid., sec. 5.
2 Kilty, 889.
17 Md. Rep., 231, *Phelps vs. Stewart*.

Widow may consent to sale, receiving her share of proceeds.

Ibid., sec. 6.
2 Kilty, 889.
Thomp. Dig.,
188.

SEC. 11. In case of sale of the intestate's real estate by the commissioners, if the widow will consent to the sale of the whole estate, she shall signify and subscribe her consent in writing, and the same shall be filed with the clerk of the county court, or with the register in chancery, as the case may be, and thereupon the said commissioners shall proceed to sell the whole real estate agreeably to the terms prescribed to them, disincumbered by any right or title of dower, and in consideration thereof the chancellor, or the county court, respectively, shall award to the widow such proportion of the purchase money as he or they shall think just and equitable, not exceeding more than one-seventh part, nor less than one-tenth part of the net amount of sales, according to the age, health and condition of such widow; and such award of payment shall be a sufficient bar to all and every right or title of dower which such widow may claim to the lands and tenements of such intestate.

Joint tenants and tenants in common, of their own or their wives' rights, shall make partition.

31 Henry VIII,
ch. 1, sec. 2, A. D.
1539.
Alex. Brit. Stat.,
812.
Kilty's Rep., 231.

SEC. 12. That all joint tenants and tenants in common, that now be, or hereafter shall be, of any estate or estates of inheritance in their own rights, or in the right of their wives, of any manors, lands, tenements, or hereditaments, or the marches of the same, shall and may be coacted and compelled, by virtue of this present act, to make partition between them of all such manors, lands, tenements, and hereditaments, as they now hold, or hereafter shall hold as joint tenants, or tenants in common, by writ *de participatione facienda*, in that case to be devised in the Court of Chancery, in like manner and form as coparceners by the common laws have been and are compellable to do, and the same writ to be pursued at the common law.

Proviso to preceding section as to recovery, etc.

Ibid., sec. 3.

SEC. 13. *Provided always, and be it enacted*, That every of the said joint tenants, or tenants in common, and their heirs, after such partition made, shall and may have aid of the other, or of their heirs, to the intent to dereign the warranty paramount, and to recover for the rate, as is used between coparceners after partition made by the order of the common law; anything in this act contained to the contrary notwithstanding.

Where some hold as tenants for life, may have partition.

32 Henry VIII,
ch. 32, sec. 1.
Alex. Brit. Stat.,
338.

SEC. 14. That all joint tenants, and tenants in common, and every of them, which now hold, or hereafter shall hold, jointly or in common for term of life, year or years, or joint tenants, or tenants in common, where one or some of them have, or shall have estate or estates for term of life or years, with the other that have or shall have estate or estates of inheritance or freehold in any manors, lands, tenements, or hereditaments, shall and may be compellable from henceforth, by writ of partition to be pursued out of the Court of Chancery, upon his or their case or cases, to make severance and partition of all such manors, lands, tenements, and hereditaments which they hold jointly or in common for term of life or lives, year or years, or where one or some of them hold jointly or in common for term of life or years with other, or that have an estate or estates of inheritance of freehold.

Partition to be prejudicial to parties only.

Ibid., sec. 2.

SEC. 15. *Provided always, and be it enacted*, That no such partition or severance hereafter to be made by force of this act, be, nor shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such which be parties unto the said partition, their executors, or assigns.

CHAPTER FIFTY-TWO.

PAWNBROKERS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. License of, by whom granted; penalty for doing business unlicensed. Definition of "pawnbroker." 2. Cost of license, yearly renewal, etc. 3. Bond for due observance of lawsuits against; how brought. 4. Books to be kept with accurate description of goods pawned and of pawnee. 5. Descriptive receipt of article pawned to be delivered to pawnee free of charge. 6. Books of description of pawned goods to be open to inspection of authorities. 7. Maximum rate of interest on loans; penalty for exceeding such rate. | <p>Sec.</p> <ol style="list-style-type: none"> 8. Sales of pawned goods; when and how made. 9. Notice of sale to contain description of articles sold, etc.; how published. 10. Surplus of proceeds of sale in excess of amount loaned; to whom to be paid. 11. What loans prohibited. 12. Purchases of goods; when prohibited. 13. Penalty for violation of any of provisions of this act; how recovered. 14. Repeal of acts and parts of acts inconsistent herewith. |
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SEC. 1. The Commissioners of the District of Columbia may from time to time grant licenses, under their hands and seal, to such persons citizens of the United States as shall produce to them satisfactory evidence of their good character, to exercise or carry on the business of a pawnbroker, which license shall designate the building in which said person shall carry on said business; and no person shall exercise or carry on the business of a pawnbroker without being duly licensed by the Commissioners of the District of Columbia, nor in any other building than the one designated in said license, except by the consent in writing of the said commissioners, under the penalty of fifty dollars for each day he or she shall exercise or carry on said business without such license, or in any other building than the one so designated, except by the consent of the Commissioners as aforesaid. Any person, corporation, member, or members of a corporation or firm who loans money on deposits or pledge on personal property, or other valuable thing, other than securities or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, is hereby declared and defined to be a pawnbroker.*

Pawnbrokers,
D. C.

To be licensed by
Commissioners.

Penalty for
carrying on busi-
ness without li-
cense.

Definition of
pawnbroker.

Mar. 2, 1889.
25 Stat., 1006.
2 Sup. R. S., 699.

SEC. 2. Every person receiving such license shall pay therefor the sum of one hundred dollars for the use of the District of Columbia yearly, and every such license shall expire one year from the date thereof, and may be renewed on application to the Commissioners of the District each and every year on payment of the same sum, and upon performance of the other conditions herein contained.

Cost of license.

Term of license.

Ibid., sec. 2.

SEC. 3. Every person so licensed shall at the time of receiving such license, and before the same shall be operative, enter, with two sufficient sureties, into a joint and several recognizance to the Commissioners of the District of Columbia, in the penal sum of three thousand dollars, conditioned for the due observance of all such acts of the Congress of the United States as may be passed or in force respecting pawnbrokers at any time during the continuance of such license. If any person shall be aggrieved by the misconduct of any

Bond for due ob-
servance of law.

* See also act of Congress, Mar. 3, 1891; 26 Stat., L. 841; Sup. R. S., 2 Ed., 910.

Recovery against surety.
Ibid., sec. 3.

such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or part, of any execution issued upon said judgment, maintain an action in his own name upon the bond of said pawnbroker in any court having jurisdiction of the amount claimed, provided such court shall, upon application made for the purpose, grant such leave to prosecute.

Book of entries of goods, etc., pawned. Particulars.
Ibid., sec. 4.

SEC. 4. Every pawnbroker shall keep a book in which shall be fairly written, at the time of each loan, an accurate account and description of the goods, article, or thing pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging the said goods, article, or thing, together with a particular description of such person, including complexion, color of eyes and hair, and his or her height and general appearance.

Memorandum of receipt.
Ibid., p. 107, sec. 5.

SEC. 5. Every pawnbroker, shall, at the time of each loan deliver to the person pawning or pledging any goods, article, or thing a memorandum or note, signed by him or her, containing the substance of the entry required to be made in his or her book by the last preceding section, excepting as to the description of the person, and no charge shall be made or received by any pawnbroker for any such entry, memorandum or note.

Book to be open to the authorities.
Ibid., sec. 6.

SEC. 6. That the said book shall at all reasonable times be open to the inspection of the Commissioners of the District of Columbia, all judges of criminal courts, major and superintendent of police, captains of police of the city of Washington, District of Columbia, or any or either of them, or of any policeman who shall be duly authorized in writing for that purpose by any or either of them, and who shall exhibit such written authority to such pawnbroker.

Maximum rate of interest on loans.
Ibid., p. 107, sec. 7.

SEC. 7. No pawnbroker shall ask, demand, or receive any greater rate of interest than twenty-four per centum per annum upon any loan not exceeding the sum of twenty-five dollars, or more than twelve per centum per annum upon any loan exceeding the sum of twenty-five dollars, under the penalty of one hundred dollars for every such offense.

Goods to remain in pawn one year before sale.
Ibid., p. 107, sec. 8.

SEC. 8. No pawnbroker shall sell any pawn or pledge until the same shall have remained one year in his or her possession, unless by consent in writing of the pawner; and all such sales shall be made at public auction and not otherwise, and shall be made or conducted by such auctioneers as shall be designated and approved of for that purpose by the Commissioners of the District of Columbia.

Notice of sale, etc.
Ibid., sec. 9.

SEC. 9. Notice of every such sale shall be published for at least six days previous thereto, in one or more of the daily newspapers of general circulation printed in the city of Washington, District of Columbia, and such notice shall specify the time and place at which such sale is to take place, the name of the auctioneer by whom the same is to be conducted, and a description of the articles to be sold.

Disposal of surplus of sale.
Ibid., sec. 10.

SEC. 10. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same, and the expenses of the advertisement and sale, shall be paid over by the pawnbroker to the person who would be entitled to redeem the pledge in case no such sale had taken place.

SEC. 11. No pawnbroker shall make any loan on the separate or divided part or parts of any one article or thing, and which article or thing shall have been offered entire or collectively to him or her by way of pawn or pledge.

Loans forbidden.
Ibid., sec. 11.

SEC. 12. No pawnbroker shall, under any pretense whatever, purchase or buy any second-hand furniture, metals, or clothes, or any other article or thing whatever offered to him or her as a pawn or pledge, except at sale by public auction, as hereinbefore provided.

Purchases forbidden.
Ibid., sec. 12.

SEC. 13. Any pawnbroker who shall violate or neglect or refuse to comply with any or either of the provisions of this act, except those contained in sections one and seven, shall, for every such offense, upon conviction before a court of competent jurisdiction, pay a fine of not more than one hundred dollars, for the use of the District of Columbia.

Penalty for violations.
Ibid., 107, 108, sec. 13.

SEC. 14. That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed.

CHAPTER FIFTY-THREE.

PENITENTIARY.

Sec.	Sec.
1. Transfer of prisoners to District penitentiary; when.	28. Power of warden to punish.
2. Use of penitentiary.	29. Mode of punishment.
3. Inspectors.	30. All punishments to be reported.
4. Warden.	31. Regulation of punishments; report to Congress.
5. First meeting of inspectors.	32. Deduction from term for good conduct.
6. Regular meetings of board.	33. Physician and surgeon.
7. Quorum.	34. Infirmary.
8. Secretary of board.	35. Removed to infirmary.
9. Inspections.	36. Return to employment.
10. Labor of convicts.	37. Government of infirmary.
11. Proceeds of their labor.	38. Relaxation of discipline in favor of the sick.
12. Rules and regulations.	39. Religious and moral instruction.
13. Attention to cleanliness.	40. Admission of visitors.
14. Appointment of keepers, etc.	41. Penalty of officers for certain violations.
15. Inspection of accounts.	42. Protection of convicts and preservation of order.
16. Annual report to Congress.	43. Suits affecting penitentiary; how brought.
17. Inspectors not to be interested in contracts.	44. Allowance to prisoners upon discharge.
18. Bond of warden.	45. Designation of penitentiary by Attorney-General. (Insane convicts may be transferred to hospital for insane.)
19. How sued; limitation.	46. Attorney-General to contract for subsistence.
20. Salary of warden.	47. Confinement of juvenile offenders.
21. Duties of warden.	48. Attorney-General to contract for their subsistence.
22. Warden's monthly account.	49. Clothes and money furnished to prisoner on discharge.
23. Warden's quarterly accounts.	
24. Warden not to be interested in contracts; penalty.	
25. Who to act in absence of warden.	
26. Manufacture of shoes for Army and Navy.	
27. Prison regulations, sanitary precautions, descriptive list, confinement in separate cells, except, etc.; separation of the sexes, clothing, bedding, etc.; food, kind of labor at which to be kept, not to converse without permission, method of labor.	

- Transfer of prisoners to District penitentiary, when.** SEC. 1. Whenever a suitable penitentiary shall be erected in the District and completed for the reception of prisoners, it shall be the duty of the Attorney-General to cause to be transferred to such penitentiary all persons who shall then be imprisoned outside of the District, under sentence of any court of the District.
 Sec. 1100, R. S. D. C. 12 Stat., 636. 16 Jan., 1863, ch. 10, sec. 6.
- Use of penitentiary.** SEC. 2. The penitentiary shall be exclusively appropriated to the confinement of such persons as may be convicted of offenses punishable with imprisonment and labor, under the laws of the United States, or of the District.
 Sec. 1101, R. S. D. C. Mar. 3, 1829. 4 Stat., 36, 5, ch. 75, sec. 1.
- Inspectors.** SEC. 3. The President shall annually appoint five respectable inhabitants of the District to be inspectors of the penitentiary, who shall severally hold their offices for one year from the date of their appointment.
 Sec. 1102, R. S. D. C. Mar. 3, 1829. 4 Stat., 365, sec. 2.
- Warden.** SEC. 4. The President shall appoint one warden of the penitentiary, who shall hold his office during the pleasure of the President, but the office of warden shall be suspended and the salary and emolument thereof cease, during the time in which there shall be no penitentiary used in the District.
 Sec. 1103, R. S. D. C. Mar. 3, 1829. 4 Stat., 365. May 12, 1864. 13 Stat., 75, sec. 5.
- First meeting of inspectors.** SEC. 5. The inspectors shall hold their first meeting within ten days after their appointment.
 Sec. 1104, R. S. D. C. Mar. 3, 1829. 4 Stat., 365, sec. 4.
- Regular meetings of board.** SEC. 6. They shall hold meetings of the board at least once in every month, and oftener, if necessary.
 Sec. 1105, R. S. D. C. Ibid.
- Quorum.** SEC. 7. A majority shall be a quorum for the transaction of business, and all questions shall be decided by a majority of those present.
 Sec. 1106, R. S. D. C. Ibid.
- Secretary of board.** SEC. 8. They shall appoint one of their number as secretary, who shall keep regular records of their proceedings.
 Sec. 1107, R. S. D. C. Ibid.
- Inspections.** SEC. 9. The inspectors shall singly, in turn, visit and inspect the penitentiary at least once in each week, upon some stated day, to be fixed by their by-laws.
 Sec. 1108, R. S. D. C. Ibid.
- Labor of convicts.** SEC. 10. The inspectors shall direct in what labor the convicts shall be employed, subject to the provisions of section eleven hundred and twenty-five. [See § 1125, R. S. D. C., § 26 post.]
 Sec. 1109, R. S. D. C. Ibid., pp. 365, 366.
- Proceeds of their labor.** SEC. 11. It shall be the duty of the inspectors so to manage the affairs of the penitentiary, if it be possible, that the proceeds of the labor of the convicts shall pay all the expenses of the penitentiary and more; but nothing contained in this section shall prevent the inspectors from employing the convicts in labor for the United States.
 Sec. 1110, R. S. D. C. Ibid.
- Rules and regulations.** SEC. 12. It shall be the duty of the inspectors to prepare a system of rules and regulations, minutely providing for the discipline, health, and cleanliness of the penitentiary, the hours of labor, meals, and confinement, the government and behavior of the officers and convicts, so as best to carry into effect the provisions of this chapter; and they shall take care that such rules and regulations are made known to the officers of the prison, and the convicts, and that the strictest obedience is paid thereto.
 Sec. 1111, R. S. D. C. Ibid.

- SEC. 13. The inspectors shall provide that the strictest attention be paid to preserve cleanliness throughout the buildings, kitchens, cells, bedding, and, as far as may be, in the persons and clothing of the convicts. Attention to cleanliness.
Sec. 1112, R. S. D. C.
Ibid., p. 366.
- SEC. 14. The inspectors shall appoint, and at their pleasure remove, such keepers, and other inferior officers and servants, as may be required for the service and government of the penitentiary. Appointment of keepers, etc.
Sec. 1113, R. S. D. C. Ibid.
- SEC. 15. The inspectors shall, from time to time, inspect the accounts of the penitentiary, and shall see that the affairs thereof are conducted with economy and integrity. Inspection of accounts.
Sec. 1114, R. S. D. C. Ibid.
- SEC. 16. The inspectors shall, in the month of January, in every year, report to Congress a detailed account of the expenses and income of the penitentiary, the number of convicts received, discharged, or deceased, during the year, the rules and by-laws passed, altered, or repealed, within the year, and such other matters relating to the discipline and management of the prison as may be proper to make known its state and condition; and if the penitentiary shall fail to support itself, it shall be the duty of the inspectors to state, in such report, what they suppose to be the reason of such failure. Annual report to Congress.
Sec. 1115, R. S. D. C. Ibid.
- SEC. 17. The inspectors shall not be concerned in any contract touching the affairs of the penitentiary; but, if any such contract shall be at any time made, in which the inspectors, or any of them, have, directly or indirectly, any interest, the same, so far as relates to that interest, shall be null and void. Inspectors not to be interested in contracts.
Sec. 1116, R. S. D. C.
Ibid., sec. 9, p. 367.
- SEC. 18. The warden, before entering upon the duties of his office, shall give bond to the United States, with sufficient security, to be approved by the inspectors of the penitentiary, in such sum as they shall direct, conditioned that he will faithfully perform the duties of his office, and truly account for all goods, money, or other articles belonging to the United States, or to individuals, which may, in the discharge of the duties and trusts of his office, come into his custody, and pay or deliver the same over to the United States, or such persons as may be legally entitled thereto, whenever he shall be lawfully required. Bond of warden.
Sec. 1117, R. S. D. C.
Ibid., sec. 7, p. 366.
- SEC. 19. The warden's bond may be sued in the name of the United States, for the use of the United States, or any individual who may have a claim thereon, as often as the condition may be broken; but such suit shall be brought against the security within six years of the time when the cause of action accrued. How sued; limitation.
Sec. 1118, R. S. D. C.
8 Mar., 1829.
4 Stat., sec. 7, p. 366.
- SEC. 20. The warden shall receive a salary of twelve hundred dollars a year. The other officers and servants of the penitentiary shall receive such annual or monthly pay as the inspectors shall direct. Salary of warden, etc.
Sec. 1119, R. S. D. C.
Ibid., sec. 5, p. 366.
- SEC. 21. It shall be the duty of the warden to keep accurate accounts of all materials bought or furnished for the use or labor of the convicts, and also of the proceeds of their labor; he shall make all contracts and purchases for the supplies necessary for the penitentiary; he shall have power to let out the labor of the convicts by contract, subject always, however, to the rules and discipline of the penitentiary; he shall, under the superintendence and inspection of the inspectors, oversee and manage all the affairs of the penitentiary, and shall be responsible for the due enforcement of its rules, by-laws, and discipline. Duties of warden.
Sec. 1120, R. S. D. C.
Ibid., sec. 6, p. 366.

- Warden's monthly accounts.** SEC. 22. The warden shall make out and deliver to the inspectors, at each of their monthly meetings, an account of all moneys received and expended by him on account of the penitentiary, during the preceding month, specifying from whom received, and to whom paid, and for what; which account shall be sworn to by the warden, and carefully filed and preserved among the papers of the board of inspectors.
 Sec. 1121, R. S. D. C.
 Ibid.
- Warden's quarterly accounts.** SEC. 23. The warden shall, on the first Monday of January, April, July, and October, in each year, make out and exhibit to the proper accounting officer of the Treasury Department, an account of all moneys received and paid on account of the penitentiary for the preceding three months, specifying from whom received, to whom paid, and for what, and shall settle the same with the Treasury Department. [See R. S. U. S., § 1828].
 Sec. 1122, R. S. D. C.
 Ibid.
- Warden not to be interested in contracts; penalty.** SEC. 24. If the warden shall have any interest in any contract made by him touching the affairs of the penitentiary, with a view of gaining for himself, either directly or indirectly, any profit or advantage thereby, he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and be dismissed from office, and every such contract may be declared void by the inspectors.
 Sec. 1123, R. S. D. C.
 Ibid., sec. 8, p. 367.
- Who to act in absence of warden.** SEC. 25. In case of the death of the warden, or the temporary vacancy of his office, or his absence, sickness, or other disability, such keeper or other officer, as may be especially designated by the inspectors, shall have power to exercise the authority and discharge the several duties of the warden, as prescribed by this chapter and the rules of the penitentiary.
 Sec. 1124, R. S. D. C.
 Ibid., sec. 18, p. 369.
- Manufacture of shoes for Army and Navy.** SEC. 26. The warden shall, so far as practicable, employ the convicts in the manufacture of shoes for the use of the Army and Navy, to be made as the War and Navy Departments shall direct; orders for which shall be, by said Departments, given to the warden from time to time upon his request; the shoes to be paid for by the Departments ordering the same at the customary rate for shoes of like quality.
 Sec. 1125, R. S. D. C.
 17 July, 1862, Res. No. 62, sec. 1, v. 12.
 Stat., 626.
- Prison regulations. Sanitary precautions.** SEC. 27. The following are prison regulations:
 First. Each convict, immediately upon being received into the penitentiary, shall be thoroughly cleansed with warm water and soap, and shall have the hair cut close; and the warden and other officers shall take the strictest precautions to guard against the introduction of any infectious or contagious disease, from the persons or clothing of such convicts; which precautions it shall be the duty of the inspectors to regulate, and prescribe in their by-laws.
 Descriptive list. Second. A descriptive list of the names, ages, persons, crimes, and sentences of the convicts shall be kept by the warden, and such description shall be entered immediately upon the reception of each convict.
 Confinement in separate cells, except, etc. Third. Every convict shall be confined singly in a separate cell at night, and at such times of the day as he may be unemployed in labor, except at such hours and places as may be specially assigned, by the rules of the penitentiary, for religious or other instruction, or for meals, or when transferred to the infirmary on account of sickness, upon the recommendation of the physician.
 Separation of the sexes. Fourth. The male and female convicts confined in the penitentiary shall be kept, and shall labor, wholly separate and apart from each other.

Fifth. The convicts shall be clothed at the public expense during the whole term of their confinement, in habits of coarse and cheap materials, uniform in color and make, and so striped, or otherwise conspicuously marked, as may clearly distinguish them from the ordinary dress of other persons. Clothing.

Sixth. Their bedding and other personal accommodations shall be of the cheapest and coarsest kind consistent with use and durability. Bedding, etc.

Seventh. The convicts shall be fed on the cheapest food which will support health and strength, with as little change or variety in diet as may be consistent with the health of the convicts and the economy of the penitentiary. Food.

Eighth. They shall be kept, as far as may be consistent with their age, health, sex, and ability, to labor of the hardest and most servile kind, and, as far as may be, uniform in its nature, and of a kind where the work is least liable to be spoiled by ignorance, neglect, or obstinacy, or the materials to be injured, stolen, or destroyed. Kind of labor at which to be kept.

Ninth. They shall not at any time be permitted to converse with one another, or with strangers, except by the special permission and in presence of some officer of the prison, as may be regulated by the by-laws. Not to converse without permission.

Tenth. They shall be made to labor diligently, in silence, and with strict obedience. Method of labor.

Sec. 1126, R. S.
D. C. Mar. 3, 1829. 4 Stat., 367.

SEC. 28. The warden shall have the power to punish any convict in the penitentiary— Power of warden to punish.

First. Who willfully violates or refuses to obey the rules of the penitentiary; or, Sec. 1127, R. S.
D. C.

Second. Who willfully refuses to perform the work assigned to him; or, Mar. 3, 1829.
4 Stat., 367, sec. 12.

Third. Who resists by violence any of the officers of the penitentiary in the exercise of their lawful authority; or,

Fourth. Who willfully destroys any property, tools, or materials.

SEC. 29. It shall be the duty of the warden to inflict such punishment either by confinement in solitary cells, by diet on bread and water, or by putting such convict in irons or in the stocks. Mode of punishment.

[See R. S. U. S., 5327.] Sec. 1128, R. S.
D. C. Ibid., pp. 367, 368.

SEC. 30. All such punishments shall be regularly reported to the visiting inspectors at the next weekly visitation, and to the board of inspectors at their monthly meeting. All punishments to be reported.

Sec. 1129, R. S.
D. C. Ibid., p. 368.

SEC. 31. It shall be the duty of the inspectors to adopt and enforce special rules and by-laws regulating the times, measure, extent, and mode of such punishments in relation to the several offenses against the discipline of the penitentiary, and to report the same in their annual report to Congress whenever such regulations shall be adopted, altered, or repealed. Regulation of punishments: report to Congress.

Sec. 1130, R. S.
D. C. Ibid.

SEC. 32. All prisoners confined in the penitentiary for a term of years, who conduct themselves so that no charge for misconduct shall be sustained against them, shall have a deduction of one month in each year made from the term of their sentence, and shall be entitled to their discharge so much the sooner, upon the certificate of the warden of their good conduct, with the approval of the Attorney-General. Deduction from term for good conduct.

Sec. 1131, R. S.
D. C.
July 17, 1862.
12 Stat., 626, sec. 2.

Physician and surgeon. SEC. 33. The inspectors shall appoint one regularly practicing physician, to be the physician and surgeon of the penitentiary, whose duty it shall be to visit the penitentiary at such times as may be prescribed by the inspectors, and to render all medical and surgical aid which may be necessary.

Sec. 1132, R. S. D. C.
Mar. 3, 1829,
4 Stat., 368, sec. 18.

Infirmary. SEC. 34. One apartment, or more, as may be needed, shall be fitted up as an infirmary.

Sec. 1133, R. S. D. C. Ibid.

Removal to infirmary. SEC. 35. In case of sickness of any convict, he shall, upon the examination and order of the physician, be removed to the infirmary, and the name of such convict shall be entered in a hospital-book to be kept for that purpose.

Sec. 1134, R. S. D. C.
Ibid.

Return. SEC. 36. Whenever the physician shall report to the warden that such convict is in a proper state to return to the ordinary employment of the prison, such report shall be duly entered in the hospital-book, and the convict shall return to the ordinary discipline of the penitentiary, so far as may be consistent with his health and strength.

Sec. 1135, R. S. D. C.
Ibid.

Government of infirmary. SEC. 37. Special rules for the order and government of the infirmary shall be made and enforced by the inspectors.

Sec. 1136, R. S. D. C.

Relaxation of discipline in favor of the sick. SEC. 38. Nothing contained in this chapter shall be construed to prevent any such relaxation of the general discipline of the penitentiary as may be required for the sick.

Sec. 1137, R. S. D. C. Ibid.

Religious and moral instruction. SEC. 39. The inspectors have power, and it is their duty to provide for all the convicts the means of religious worship, and religious and moral instruction, subject, however, to general rules not inconsistent with the discipline prescribed by this chapter.

Sec. 1138, R. S. D. C.
Ibid., sec. 14, p. 368.

Admission of visitors. SEC. 40. No person shall be permitted to visit the penitentiary, without a written order from one or more of the inspectors, except the President of the United States, the Secretaries of the several Departments of the Government, members of Congress, and the judges of the courts of the United States.

Sec. 1139, R. S. D. C.
Ibid., sec. 15, p. 368.

Penalty of officers for certain violations. SEC. 41. If any keeper, assistant keeper, or other officer, or servant, employed in or about the penitentiary, shall convey out of, or bring into, the penitentiary, to or from any convict confined there, any letter or writing, or shall bring into the penitentiary, to sell or give away, any spirituous or vinous liquors, or any other thing whatsoever, without the consent, in writing, previously obtained of the inspectors, every such person so offending shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by fine not exceeding five hundred dollars and imprisonment in the District jail for any time not exceeding one year.

Sec. 1140, R. S. D. C.
Ibid., sec. 16, p. 368.

Protection of convicts and preservation of order. SEC. 42. The inspectors shall prescribe, and it shall be the duty of the warden, rigidly to enforce such rules for the government of the subordinate officers of the penitentiary as may prevent all tyrannical or violent behavior to the convicts, or all conversation between them and the convicts, or with each other, within their hearing, except for necessary purposes, and may best preserve order, silence, sobriety, and gravity of deportment throughout the establishment.

Sec. 1141, R. S. D. C.
Ibid., sec. 17, p. 368.

SEC. 43. All suits that may be necessary to be brought for any matter or thing relating to the affairs of the penitentiary shall be brought in the name of the United States, whether the contract on which such suit is founded be made in their name or not.

Suits affecting penitentiary; how brought.

Sec. 1143, R. S. D. C. *Ibid.*, sec. 10, p. 367.

SEC. 44. The Attorney-General shall cause to be paid from the appropriations available therefor the sum of ten dollars to each prisoner when he shall be legally discharged, to enable such prisoner to reach the point he may wish to go to. [See 18 Stat., ch. 145, p. 479. Mar. 3, 1875.]

Allowance to prisoners upon discharge.

Sec. 1143, R. S. D. C. Jan. 16, 1863. 12 Stat., 635, 636, sec. 5.

SEC. 45. [All persons who have been, or who may hereafter be, convicted of crime, by any court of the United States, whose punishment is imprisonment, in a district or Territory where, at the time of conviction, there may be no penitentiary or jail suitable for the confinement of convicts, or available therefor, shall be confined during the term for which they have been or may be sentenced in some suitable jail or penitentiary in a convenient State or Territory, to be designated by the Attorney-General, and shall be transported and delivered to the warden or keeper of such jail or penitentiary by the marshal of the district or Territory where the conviction has occurred; and if the conviction be had in the District of Columbia, in such case the transportation and delivery shall be by the warden of the jail of that District; the reasonable actual expense of transportation, necessary subsistence and hire, and transportation of guards and the marshal, or the warden of the jail in the District of Columbia, only, to be paid by the Attorney-General, out of the judiciary fund. But if, in the opinion of the Attorney-General, the expense of transportation from any State, Territory, or the District of Columbia, in which there is no penitentiary, will exceed the cost of maintaining them in jail in the State, Territory, or the District of Columbia during the period of their sentence, then it shall be lawful so to confine them therein for the period designated in their respective sentences.]

Designation of penitentiary by Attorney-General.

Sec. 5546, R. S. U. S. 12 May, 1864, ch. 85, sec. 1, v. 13, p. 74. 5 Mar., 1872, ch. 30, sec. 1, v. 17, p. 35. 12 July, 1876, ch. 183, v. 19, p. 88.

19 Stat., p. 88. July 2, 1876.

[All persons who have been, or who may hereafter be, convicted of crime by any court of the United States whose punishment is imprisonment in a District or Territory where, at the time of conviction, or at any time during the term of imprisonment, there may be no penitentiary or jail suitable for the confinement of convicts or available therefor, shall be confined during the term for which they have been or may be sentenced, or during the residue of said term, in some suitable jail or penitentiary in a convenient State or Territory, to be designated by the Attorney-General, and shall be transported and delivered to the warden or keeper of such jail or penitentiary by the marshal of the District or Territory where the conviction has occurred; and if the conviction be had in the District of Columbia, the transportation and delivery shall be by the warden of the jail of that District; the reasonable actual expense of transportation, necessary subsistence, and hire and transportation of guards and the marshal, or the warden of the jail in the District of Columbia, only, to be paid by the Attorney-General, out of the judiciary fund. But if, in the opinion of the Attorney-General, the expense of transportation from any State, Territory, or the District of Columbia, in which there is no penitentiary, will exceed the cost of maintaining them in jail in the State, Territory, or the District of Columbia during the period of their sentence, then it shall be lawful so to confine them therein for the period designated in their respective sentences. And the place of imprisonment may be changed in any case, when, in the opinion of the Attorney-General, it is necessary for the preservation of the health of the prisoner,

or when, in his opinion, the place of confinement is not sufficient to secure the custody of the prisoner, or because of cruel or improper treatment: *Provided, however,* That no change shall be made in the case of any prisoner on the ground of the unhealthiness of the prisoner, or because of his treatment, after his conviction and during his term of imprisonment, unless such change shall be applied for by such prisoner, or some one in his behalf.]* [See § 5536, R. S. U. S.]

Attorney-General to contract for subsistence, etc.

SEC. 46. The Attorney-General shall contract with the managers or proper authorities having control of such prisoners, for the imprisonment, subsistence, and proper employment of them, and shall give the court having jurisdiction of such offenses notice of the jail or penitentiary where such prisoners will be confined.

Sec. 5547, R. S. U. S. 12 May, 1864, ch. 85, sec. 2, v. 13, p. 75. 5 Mar., 1872, ch. 30, sec. 1, v. 17, p. 35.

Confinement of juvenile offenders.

SEC. 47. Juvenile offenders against the laws of the United States, being under the age of sixteen years, and who may hereafter be convicted of crime, the punishment whereof is imprisonment, shall be confined during the term of sentence in some house of refuge to be designated by the Attorney-General, and shall be transported and delivered to the warden or keeper of such house of refuge by the marshal of the district where such conviction has occurred; or if such conviction be had in the District of Columbia, then the transportation and delivery shall be by the warden of the jail of that district, and the reasonable actual expense of the transportation, necessary subsistence, and hire, and transportation of assistants and the marshal or warden, only, shall be paid by the Attorney-General, out of the judiciary fund.

[See secs. 12, 13 and 33, Reform Schools.]

Attorney-General to contract for their subsistence, etc.

SEC. 48. The Attorney-General shall contract with the managers or persons having control of such houses of refuge for the imprisonment, subsistence, and proper employment of all such juvenile offenders, and shall give the several courts of the United States and of the District of Columbia notice of the places so provided for the confinement of such offenders; and they shall be sentenced to confinement in the house of refuge nearest the place of conviction so designated by the Attorney-General.

Sec. 5540, R. S. U. S. 3 Mar., 1865, ch. 121, sec. 2, v. 13, p. 538. 5 Mar., 1872, ch. 30, sec. 1, v. 17, p. 35.

Clothes and money furnished to prisoner on discharge.

SEC. 49. On the discharge from any prison of any person convicted under the laws of the United States on indictment, he or she shall be provided by the warden or keeper of said prison with one plain suit of clothes and five dollars in money, for which charge shall be made and allowed in the accounts of said prison with the United States: *Provided,* That this section shall not apply to persons sentenced for a term of imprisonment of less than six months.

Proviso.
1 Sup. R. S. U. S., 184. Mar. 3, 1875. 18 Stat., 479, sec. 2.

* Insane convicts may be transferred to Hospital for Insane in District of Columbia. 18 Stat. L., ch. 465, p. 251, June 23, 1874, Sup. R. S., 1 ed., p. 104; 67 Md. R., 524; 66 Md., 288, Lamb vs. State; 2 MacArthur Rep., 514, U. S. vs. May.

CHAPTER FIFTY-FOUR.

PHARMACY.

Sec.	Sec.
1. Unregistered persons not to conduct pharmacies. Sale of adulterated drugs prohibited (see note to this section); penalty for sale of in administration of medicines or drugs, etc., to produce abortion. (See note to this section.)	10. Graduates in, when to be registered.
2. Proprietors of stores, etc., not to allow unregistered pharmacists to compound, etc.	11. Fees of commissioners of, for examination; reexamination, when; expenses.
3. Commissioners of pharmacy to be appointed.	12. Oath of registered pharmacists; criminal liability in certain cases; penalty for.
4. Commissioners of pharmacy to take oath.	13. Shall not sell certain poisons in Schedules A and B; Schedule A; Schedule B; alcoholic liquors, shall not sell, when; penalty for selling alcoholic liquors, when.
5. Vacancies in commissioners, how filled, etc.	14. License for itinerant vendors of drugs, etc.
6. Commissioners of pharmacy to keep register of pharmacists, etc.	15. Registration by false representation, criminal liability for and penalty; conducting pharmacy without registry; criminal liability for and penalty.
7. Commissioners of pharmacy to register existing druggists, etc., without examination; proviso.	16. Fines; how collected.
8. Examination of sellers at retail, compounders, etc., by commissioners; registry of competent persons by commissioners.	17. Repeal of inconsistent acts, etc.
9. Age and series of applicants for examination.	18. Exemptions of apothecaries from service as jurors, etc.
	19. Exemption of apothecary's apprentices from service as jurors, etc.

SEC. 1. That from and after the passage of this act, it shall be unlawful for any person, not a registered pharmacist within the meaning of this act, to conduct any pharmacy or store for the purpose of retailing, compounding, or dispensing medicines or poisons, for medical use, in the District of Columbia, except as hereinafter provided.*

In District of Columbia unregistered persons not to conduct pharmacies.

June 15, 1878.
20 Stat., 137,
Sup. R. S., 2 ed., 183.

SEC. 2. It shall be unlawful for the proprietor of any store or pharmacy to allow any person, except a registered pharmacist, to compound or dispense the prescriptions of physicians, or to retail or dispense poisons for medical use, except as an aid to, and under the immediate supervision of, a registered pharmacist.

Proprietors of stores, etc., not to allow unregistered pharmacists to compound, etc.

Ibid., sec. 2.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every such offense.

SEC. 3. Immediately after the passage of this act, and biennially thereafter, or as often as necessary, the Commissioners of the District of Columbia shall appoint three pharmacists and two physicians, all of whom shall have been residents of the District of Columbia for five years and of at least five years' practical experience in their respective professions, who shall be known and styled as Commissioners of Pharmacy for the District of Columbia, who shall serve without compensation, and who shall hold office for two years, and until their successors are appointed and qualified.

Commissioners of pharmacy to be appointed.

Ibid., sec. 3.

* For act prohibiting sale of adulterated drugs see 26 Stat. L., 549, Oct. 12, 1888; Sup. R. S., 2 ed. 627, see title, "Crimes and Offenses."
For act punishing the sale or administration of medicines, drugs, etc., to produce abortion, see act of Leg. Ass., Jan. 18, 1872, ch. 27, pp. 26-29. See title "Crimes and Offenses."

- to take oath. SEC. 4. Said commissioners shall, within thirty days after the notification of their appointment, each take and subscribe to an oath to impartially and faithfully discharge their duties as prescribed by this act.
- vacancies, how filled, etc. SEC. 5. The position of any commissioner who shall fail to so qualify within the time named shall be vacant, and the vacancy or vacancies so occurring, or any vacancy or vacancies that may occur, shall be filled by the Commissioners of the District of Columbia.
- Ibid.
- to keep register of pharmacists, etc. SEC. 6. The commissioners of pharmacy shall keep a book of registration open at some convenient place within the city of Washington, of which due notice shall be given through the public press, and shall record therein the name and place of business of every person registered under this act.
- Ibid., sec. 4.
- to register existing druggists, etc., without examination. SEC. 7. It shall be the duty of said commissioners of pharmacy to register, without examination, as registered pharmacists, all pharmacists and druggists who are engaged in business in the District of Columbia at the passage of this act as owners or principles of stores of pharmacies for selling at retail, compounding, or dispensing drugs, medicines, or chemicals for medicinal use, or for compounding, and dispensing physicians' prescriptions, and all assistant pharmacists, twenty-one years of age, engaged in said stores or pharmacies in the District of Columbia at the passage of this act, and who have been engaged as such in some store or pharmacy where physicians' prescriptions were compounded and dispensed for not less than five years prior to the passage of this act: *Provided, however,* That in case of failure or neglect on the part of any such person or persons to present themselves for registration within sixty days after said public notice, they shall undergo an examination such as is provided for in section five of this act.
- Proviso.*
- Ibid., sec. 4.
- Examinations. SEC. 8. The said commissioners of pharmacy shall, upon application and at such time and place as they may determine, examine each and every person who shall desire to conduct the business of selling at retail, compounding, or dispensing drugs, medicines, or chemicals for medicinal use, or compounding and dispensing physicians' prescriptions within the District of Columbia as pharmacists; and if a majority of said commissioners shall be satisfied that said person is competent and fully qualified to conduct said business of compounding or dispensing drugs, medicines, or chemicals for medicinal use, or to compound and dispense physicians' prescriptions, they shall enter the name of such person as a registered pharmacist in the book provided for in section four of this act.
- Registry.
- Ibid., sec. 5.
- Age and service of applicant. SEC. 9. No person shall be entitled to an examination by said commissioners of pharmacy for registration as pharmacist unless he present satisfactory evidence of being twenty-one years of age, and having served not less than four years in a store or pharmacy where physicians' prescriptions were compounded and dispensed, or is a graduate of some respectable medical college or university.
- Ibid., sec. 6.
- Graduates in pharmacy. SEC. 10. All graduates in pharmacy having a diploma from an incorporated college or school of pharmacy that requires a practical experience in pharmacy of not less than four years before granting a diploma shall be entitled to have their names registered as pharmacists by said commissioners of pharmacy.
- Ibid., sec. 7.
- Fees of commissioners of pharmacy for examination. SEC. 11. The commissioners of pharmacy shall be entitled to demand and receive from each person whom they register as pharmacists, without examination, the sum of three dollars, and from each

person whom they examine the sum of ten dollars. And in case the examination of said person should prove defective and unsatisfactory, and his name not be registered, he shall be permitted to present himself for re-examination within any period not exceeding twelve months next thereafter, and no charge shall be made for such re-examination. The money received under the provisions of this section shall be applied to payment of such expenses as the commissioners may incur in executing the provisions of this act.

Re examination,
when.
Expenses.
Ibid., sec. 8.

SEC. 12. Every registered pharmacist shall be held responsible for the quality of all drugs, chemicals, and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer, and also those known as "patent medicines"; and should he knowingly, intentionally, and fraudulently adulterate, or cause to be adulterated, such drugs, chemicals, or medical preparations, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be liable to a penalty not exceeding one hundred dollars, and, in addition thereto, his name shall be stricken from the register.

Oath of registered pharmacist.
Criminal liability in certain cases, penalty for.
Ibid., sec. 9.

SEC. 13. It shall be unlawful for any person, from and after the passage of this act, to retail any poisons enumerated in Schedules A and B, as follows, to wit:

Precautions in selling certain poisons.

SCHEDULE A.

Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia and all other poisonous vegetable alkaloids, and their salts, essential oil of bitter almonds, opium and its preparations, except paragoric and other preparations of opium containing less than two grains to the ounce;

SCHEDULE B.

Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton-root, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton-oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, and oxalic acid, without distinctly labeling the box, vessel, or paper in which the said poison is contained, and also the outside wrapper or cover, with the name of the article, the word "poison", and the name and place of business of the seller. Nor shall it be lawful for any person to sell or deliver any poisons enumerated in Schedules A and B, unless, upon due inquiry, it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for a legitimate purpose. Nor shall it be lawful for any registered pharmacist to sell any poisons included in Schedule A without, before delivering the same to the purchaser, causing an entry to be made, in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quality of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser; such book to be always open for inspection by the proper authorities, and to be preserved for reference for at least five years. The provisions of this section shall not apply to the dispensing of poisons, in not unusual quantities or doses, upon the prescriptions of practitioners of medicine. Nor shall it be lawful for any licensed or registered druggist or pharmacist in the District of Columbia to retail, or sell, or give away any alcoholic liquors or compounds, as a beverage, to be drunk or consumed upon the premises. And any violation of the provisions of this section shall make

Selling alcoholic liquors as beverages.

- Penalty.** the owner or principal of said store or pharmacy liable to a fine of not less than twenty-five and not more than one hundred dollars, to be collected in the usual manner.
Ibid., sec. 10.
- License for itinerant vendors.** **SEC. 14.** Any itinerant vender of any drug, nostrum, ointment, or appliance of any kind, intended for the treatment of diseases or injury, or who shall, by writing, or printing, or any other method, publicly profess to care or treat diseases, injury, or deformity, by any drug, nostrum, manipulation, or other expedient, shall pay a license of two hundred dollars per annum into the treasury of the District of Columbia, to be collected in the usual way.
Ibid., sec. 11.
- Registration by false representations.** **SEC. 15.** Any person who shall procure or attempt to procure registration for himself or for another under this act, by making or causing to be made any false representation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty of not less than twenty-five nor more than one hundred dollars, and the name of the person so fraudulently registered shall be stricken from the register. Any person, not a registered pharmacist as provided for in this act, who shall conduct a store, pharmacy, or place for retailing, compounding, or dispensing drugs, medicines, or chemicals, for medicinal use, or for compounding or dispensing physicians' prescriptions, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a penalty of not less than fifty dollars.
Penalty for.
Conducting pharmacy without registry.
Penalty for.
Ibid., sec. 12.
- Collection of fines, etc.** **SEC. 16.** All fines and penalties under this act shall be collected in the same manner that other fines and penalties are collected in the District of Columbia; and it shall be the duty of the United States district attorney for the District of Columbia to prosecute all violations of this act.
Ibid., sec. 13.
- Repeals.** **SEC. 17.** All acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.
Ibid., sec. 14.
- Apothecaries exempt from serving as jurors, constables, etc.** **SEC. 18.** That all and every person and persons, using and exercising, or that hereafter shall use and exercise, the art of an apothecary, and who already have been, or hereafter shall be duly examined of his skill in the said mystery, and shall be approved of for the same, and every of them, for so long as he or they shall use and exercise the said art, and no longer, shall and may at all times hereafter be freed and exempted from the several offices of constable, scavenger, overseer of the poor, and of and from the being put into or serving upon any juries or inquests; and if at any time hereafter any such person or persons using the said art, and being qualified, as aforesaid, shall be chosen into any of the said offices, or returned, required, or appointed to serve in any jury, or inquest, or be disquieted or disturbed by reason thereof, that then such person or persons, producing a testimonial of such his examination, approbation, and freedom, to the person or persons, by whom he shall be so appointed, or by or before whom he shall be summoned, returned, or required to serve or hold any of the said offices or duties, shall be absolutely discharged from the same, and such return, and appointment shall be utterly void, and of none effect; any order, custom, law, or statute, to the contrary in any wise notwithstanding.
6 and 7 William and Mary, ch. 4, sec. 2, A. D. 1694.
Alex. Brit. Stat., pp. 594, 595, A. D. 1694.
Kilty's Rep., 243.
- Apothecaries' apprentices having served seven years likewise exempt.** **SEC. 19.** That all persons using and exercising, or that hereafter shall use and exercise, the said art of an apothecary, and who have been brought up and served, or hereafter shall be brought up and serve in the said art as an apprentice, by the space of seven years, according to the statute of the Fifth of Queen Elizabeth, shall likewise from henceforth be freed and exempted from all and singular
Ibid., sec. 3.

the offices and duties aforesaid, for so long as he or they shall use and exercise the said art, and no longer; and if any person or persons so qualified shall be chosen into any of the said offices, or returned to serve in any jury, or inquest, such nomination, return, and appointment, shall be void, unless such person or persons shall voluntarily consent and agree to hold such office, or serve upon such jury, or inquest.

CHAPTER FIFTY-FIVE.

PLEADING AND PRACTICE.*

Sec.

PRACTICE—CIVIL.

1. Motions—non-enumerated, law and equity, first heard at special term; suits in equity to be heard, etc., at special term; order for hearing in first instance in general term. (Note.)
2. Issues of fact tried before a single justice.
3. Issues of law tried at special term; notice of trial; calendar of causes.
4. Exceptions; how taken and settled.
5. Exception to plea to be sealed by justice.
6. New trial, when may be granted; time of motion for limited.
7. Appeal; how taken from ruling on motion for new trial.
8. Motion for new trial, when heard in general term in the first instance.
9. Trials by jury when another term intervenes.
10. Fictions in pleading abolished.
11. Set-offs regulated.
12. Plea of set-off.
13. Plea of set-off, judgment in.
14. Set-off, mutual judgments may be.
15. Set-off; judgment must be for jurisdictional amount.
16. Judgments by default in suits on open account.
17. Judgment by default, affidavit of plaintiff in suit; how verified.
18. Actions against two or more persons jointly or severally liable; action against one, when bar as to others.
19. Verdict for less than jurisdictional sum does not carry costs.
20. Petition for changing name of a person.
21. Same subject; notice of to be published.
22. Same subject; procedure.
23. Notice by publication in lieu of personal service.
24. Same subject; order of publication.
25. Same subject; form of the order.
26. Process against foreign corporations. (NOTE.—Foreign insurance companies.)
27. Pleadings shall be in English.
28. All proceedings in courts shall be in English and in words at length; penalty.

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29. Process, etc., to be written or printed in English; penalty, limitation of.
30. Non-residents shall give security for costs.
31. Infants may sue by next friend.
32. Poor persons may sue without paying fees.
33. Same subject; when not liable for costs.
34. Actions of account against executors of guardians, etc. of guardians, bailiffs, etc.; by joint tenants against each other reference to auditor; his powers, etc. (NOTE.—Auditor may examine all witnesses.)
35. Several defenses may be pleaded.
36. Judgments on demurrer regardless of defects in writ, etc.
37. After verdict judgment shall be given notwithstanding defects.
38. Judgment on verdict shall not be stayed or reversed for variance.
39. Exceptions to section 38, as to certain felonies and penal actions.
40. When tender bars costs in actions on insurance contracts.
41. Plea of *non est factum* shall be verified.
42. All statutes of jeofails extended to judgments.
43. Payment may be pleaded in bar of action in debt, *sciro facias* on judgment and actions on bonds.
44. Payment into court of principal, interest, etc., in actions on bond, defendant discharged.
45. Dilatory plea must be verified.
46. Persons absent for seven years, when presumed to be dead in actions by reversioners, etc.
47. Persons interested in the land may be challenged as jurors in trial of lives in being.
48. Persons evicted by this act, living; when damages may be recovered.
49. Waste maintainable by one tenant in common against another.
50. Mesne process; teste of writs.
51. Same subject; sealing and testing writs.
52. Same subject; day of teste of process.
53. Persons may order process and appear without attorney; may confess judgment security for costs by non-residents.

* See Mackey's Practice and Procedure, by Franklin H. Mackey, 1888.

- Sec.
54. Service of process on Sunday void.
 55. Process final; validity of sales in cases under process by publication.
 56. No person to be held to bail on account of debt or contract.
 57. In actions of trover and detinue defendant required to give bail or be committed.
 58. Special bail, how to be given: recognizance, how to be taken.
 59. When special bail ordered, defendant must comply or be retained in arrest.
 60. Same subject; who may receive.
 61. Same subject; form of recognizance.
 62. Same subject; court shall make rules and orders respecting.
 63. Same subject, and inquire into sufficiency of bail.
 64. Same subject; judgment and execution on bail bond.
 65. Same subject; any justice of court may take bail as provided by this act.
 66. *Capias ad satisfaciendum*; when issued.
 67. Same subject; proceedings under.
 68. Same subject; what persons exempt from its operation.
 69. Liability of marshal, etc., for escapes; retaking regulated.
 70. Same subject, if prisoner retaken and escape; marshal's liability.
 71. Bailor may surrender prisoner retaken; subsequent liability of officer.
 72. At request of bail, officer shall return writ for keeping prisoner; penalty for neglect.
 73. Construction of this act (sections 69-73); pleadings regulated; treble costs to defendant.
 74. Persons arrested under Stat. 1 Anne, ch. 6 (secs. 69-73 of this title), to be held in custody; marshal's liability for escapes.
 75. Escape warrant granted by judge on affidavit.
 76. Same subject, it may be executed on Sunday.
 77. Where person escaping was in custody for not performing a decree, liability of officer.
 78. This act (secs. 74-78 of this title) general law, and need not be pleaded.
 79. Evidence in action of escape regulated; punishment for false oath as to retaking prisoner.
 80. Creditor may retake escaped prisoner or have other execution.

ABATEMENT.

81. No action shall abate by death of parties; by whom may be revived; when not revived, etc.
82. Infants not compelled to revive real actions, when not for their benefit. (NOTE.—When death of arbitrator or party shall not abate, death of party between verdict and judgment shall not abate action; death after interlocutory judgment, no abatement.)

- Sec.
83. Where writs, indictments, etc., shall abate for want of the defendant's names; penalty of clerk for omissions in such writs, etc.
 84. When one or more of several plaintiffs or defendants die, and cause of action survive to a surviving, the action shall not abate.
 85. No abatement in partition suits.
 86. Plea in abatement must be verified.

AMENDMENT.

87. Actions at law, court may order and allow amendments, when, how, and conditions of. (NOTE.—Amendment of process, same; defects of form.)
88. Record defective by misprision (mistake) of clerk shall be amended. (See Sec. 90 of this title.)
89. Records shall not be amended or impaired after the term when judgment rendered.
90. Record or process defective by mistake of clerk may be amended after judgment given.
91. Records may be amended in certain cases. (Secs. 88 and 90 of this title perpetuated.)
92. Judgments and records shall not be reversed nor avoided for any process, etc., erased or interlined.
93. Defects by misprision of clerk in records may be reformed; what defects in records may be not amended.
94. Record exemplified, etc., when not to be reversed.
95. Defaults in records may be amended in certain cases.
96. After demurrer joined, judgment shall be given without regarding defects, etc.
97. Same subject; amendments in form.
98. Same subject; exceptions as to certain felonies and penal actions.
99. Amendment of writs of error; when judgment on verdict shall not be stayed or reversed for defect in form or substance, etc.
100. Proviso as to exceptions to section 99.

ATTACHMENT.

101. Writs of attachment and garnishment issued by clerk, when; requirements. (NOTE.—Attachment first served has priority; marshal's duty where several attachments.)
102. How writs of attachment or garnishment may be quashed.
103. Discharge of attached property.
104. Sale of attached property.
105. Final judgments; where attachment issued.
106. Attachment not to issue until after second return of *non est*.
107. Attachment after return of *non est* against nonresidents, may issue by order of justice; proceedings regulated. (NOTE.—Modifications of parts of this section.)

- Sec.
108. No attachment against garnishee shall exceed plaintiff's debt and costs.
109. When absent, defendants shall have no favorable interpretation of this law.
110. After judgment, attachment may be taken out instead of execution; proceedings regulated.
111. Attachment allowed against lands of nonresident heir for debt of ancestor.
112. Attachment may issue against nonresident or absconding debtors.
113. Clerk's certificate necessary when affidavit required by section 112, made before nonresident judge.
114. Garnishee may plead in behalf of defendant. (NOTE.—Garnishee; when entitled to compensation.)
115. Garnishee required to take interrogatories; judgment and execution if he neglect.

CONTINUANCE.

116. Where new parties are made, etc., continuances may be granted.
117. Continuances discretionary with court where verdict shall be set aside; new trial granted or commission issued to take testimony.
118. Same subject; where surveyor neglects to return plats, etc., in actions of ejectment.
119. On application for continuance, causes for may be inquired into and also the alleged required testimony, etc. (NOTE.—Continuance is matter of sound discretion.)
120. Continuance to procure testimony of absent witness.
121. Actions at law may be continued four terms at discretion of court; costs, how taxed on continuance; liability of attorneys for neglect to prosecute; exceptions.
122. Continuance; where a witness to material facts can not be procured, etc.
123. Continuance on special verdict or case stated.
124. Causes may be continued for return of testimony when commission issued.
125. How long actions shall continue.
126. Continuance; where judgment shall be set aside, etc.

REPLEVIN.

127. Form of declaration in replevin.
128. Plaintiff's affidavit. what to state.
129. Plaintiff to give security.
130. Return of writ by officer; proceedings.
131. When defendant can not be found; notice by publication.
132. Proceedings in default after publication.
133. Appearance of defendant; his pleas.
134. Plaintiff's damages; how determined.

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135. When judgment shall be for defendant.
136. Damages when things eloigned.
137. Judgment; damages for detention.
138. Certain property not liable to replevin.
139. Oath prescribed for person applying for writ of replevin against public officer.
140. Liability of clerk for neglect of previous section.
141. Marshal, etc., not to execute writ of replevin issued contrary to this act; penalty.
142. Writ issued contrary to sections 138-142, shall be quashed, plaintiff nonsuited and mulcted in treble costs.
143. When court may refuse return of property taken on writ of replevin until after judgment.

CRIMINAL PRACTICE.

144. Form of indictments. (NOTE.—See Chapter on "Criminal Procedure," R. S. U. S., secs. 1014 to 1042. See Limitations as to prosecutions, secs. 1043-1048, R. S. U. S.)
145. Indictments for perjury and subornation of perjury shall aver substance of offense.
146. Collection of fines and penalties for violation of laws of District of Columbia.
147. Informations shall clearly set forth the nature of the charge, and shall not be quashed on account of technicality or clerical error, and may be amended in police court.
148. On appeal to criminal court, execution shall be by clerk of said court; penalty for nonpayment of fines; proviso, as to liability of sureties; proviso, as to taxing attorney fee.
149. Recovery and distribution of certain fines; informer's share.
150. Liability of persons making false claims against United States.
151. Same subject; suits for same, how prosecuted and discontinued; costs.
152. Same subject; duty of district attorney in such cases.
153. Same subject; rights of persons presenting such suits.
154. Same subject; limitation of such suits.
155. Witnesses for defendant in criminal trials; number to be allowed; fees and costs, etc.
156. Special oath of grand jury.
157. Special charge to grand jury.
158. Libels, truth may be given in evidence under general issue, when; if libel true, defendant may be acquitted.
159. Extradition of fugitives from justice.
160. Criminals deemed pardoned, etc.; when time served out.
161. Remission of forfeitures by President.

<p>Sec. 162. Execution of sentence may be postponed.</p> <p>163. Poor convicts sentenced and imprisoned for fines, how may be discharged. (NOTE.—Juvenile offenders; where confined.)</p>	<p>Sec. 164. Fines in tobacco; how discharged in money. (See Notes to this section.)</p> <p>165. Value fixed for certain coins.</p> <p>166. Fines, judgments, etc., can only be tendered in money; value of pounds sterling fixed.</p>
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PRACTICE—CIVIL.

Motions and suits at special terms. SEC. 1. Non-enumerated motions in all suits and proceedings at law and in equity shall first be heard and determined at special terms.

Sec. 800, R. S. D. C. Suits in equity, not triable by jury, shall also be heard and determined at special terms. But the justice holding such special term
8 Mar., 1863, ch. may, in his discretion, order any such motion or suit to be heard, in
91. sec. 5, v. 12, p. the first instance, at a general term.
763.

6 Mackey Rep., 531, D.C., *vs. Rapley*; 4 Wallace Rep., 167, *Brown vs. Wiley*; 135 U. S. Rep., 314, *Willard vs. Wood*.

Issues of fact, how triable. SEC. 2. All issues of fact triable by a jury or by the court shall be tried before a single justice.

Sec. 801, R. S. D. C. 6 Mackey Rep., 488, *Cunkle vs. Heald*.

Issues at law, how tried. SEC. 3. Issues of law may be tried at a special term. At any time after issue, and at least ten days before the sitting of the court, either party may give notice of trial. The party giving the notice shall furnish the clerk, at least four days before the sitting of the court, with a note of the issue, containing the title of the action, the names of the attorneys, and the time when the last pleading was served; and the clerk shall thereupon enter the cause upon the calendar, according to the date of the issue.

Sec. 802, R. S. D. C.

Exceptions. SEC. 4. If upon the trial of a cause, an exception be taken, it may be reduced to writing at the time, or it may be entered on the minutes of the justice, and afterward settled in such manner as may be provided by the rules of the court, and then stated in writing in a case or bill of exceptions, with so much of the evidence as may be material to the questions to be raised, but such case or bill of exceptions need not be sealed or signed.

Sec. 803, R. S. D. C. 1 MacArthur, Rep., 339; 2 Mackey Rep., 311; MacA. and Mackey Rep., 70; 122 U. S. Rep., 232, *Shepherd vs. Thompson*; 151 U. S. Rep., 607, *Shauer vs. Alterton*.

An exception to a plea shall be sealed by the justices. SEC. 5. When one that is impleaded before any of the justices doth alledge an exception, praying that the justices will allow it, which if they will not allow, if he that alledged the exception, do write the same exception, and require that the justices will put to their seals for a witness, the justices shall so do; and if one will not another of the company shall: (2) And if the King, upon complaint made of the justices, cause the record to come before him, and the same exception be not found in the roll, and the plaintiff shew the exception written, with the seal of a justice put to, the justice shall be commanded that he appear at a certain day, either to confess or deny his seal. (3) And if the justice cannot deny his seal, they shall proceed to judgment according to the same exception, as it ought to be allowed or disallowed.

13 Edward I, ch. 31. sec. 1, A. D. 1285.
Alex. Brit. Stat., 126, 127.
Kilty's Rep., 212.

New trials. SEC. 6. The justice who tries the cause may, in his discretion, entertain a motion, to be made on his minutes, to set aside a verdict and grant a new trial upon exceptions, or for insufficient evidence, or for excessive damages; but such motion shall be made at the same term at which the trial was had.

Sec. 804, R. S. D. C. 121 U. S. Rep., 562, *Metropolitan Ry. vs. Moore*; 122 U. S. Rep., 232, *Shepherd vs. Thompson*. 1 Cranch, C. C., 128, *Brooke vs. Peyton*; 1 Cranch, C. C., 152, *Ingle vs. Collard*; 2 Cranch, C. C., 348, *Brent vs. Coyle*; Wash. Law Rep., v. 1, No. 25, p. 142, *U. S. vs. Wood*.

SEC. 7. When such motion is made and heard upon the minutes, an appeal to the general term may be taken from the decision, in which case a bill of exceptions or case shall be settled in the usual manner.

On motion for new trial, appeal to general term.

Sec. 805, R. S. D. C.

121 U. S. Rep., 563, *Metropolitan Ry. vs. Moore*; 2 Cranch, C. C., 221, *Swann vs. Bowie*; 2 Cranch, C. C., 324, *Turner vs. Foxall*; 4 Cranch, C. C., 206, *Lloyd vs. Scott*;

SEC. 8. A motion for a new trial on a case or bill of exceptions, and an application for judgment on a special verdict or a verdict taken subject to the opinion of the court, shall be heard in the first instance at a general term.

Motion for new trial to be heard at general term.

Sec. 806, R. S. D. C.

121 U. S. Rep., 563, *Metropolitan Ry. vs. Moore*; 1 Mackey R., 46, *Lewis vs. Shepherd*; 2 Cranch, C. C., 361, *Bank of Metropolis vs. Walker*.

SEC. 9. When, at any term of the court, a jury shall be impaneled to try any cause or any issue or issues joined in any cause, and it shall happen that no verdict shall be found, nor the jury otherwise discharged before the day appointed by law for the commencement of the next succeeding term, the court shall proceed with the trial by the same jury in every respect as if such term had not commenced; and all subsequent proceedings to final judgment, if such judgment shall be rendered, shall be entered and have legal effect and operation as of the term at which the jury shall have been impaneled.

Trials when another term intervenes.

Sec. 807, R. S. D. C.

133 U. S. Rep., 652, *Shepherd vs. Pepper*.

SEC. 10. All fictions in the pleadings in the action of ejectment within the District are abolished; and all actions for the recovery of real estate shall be commenced in the name of the real party in interest, and against the party claiming to own or be possessed thereof.

Fictions in pleadings abolished.

Sec. 809, R. S. D. C.

94 U. S. Rep., 775, *Hogan vs. Kurtz*; 2 Cranch, C. C., 227, *McCormick's Lessee vs. Magruder*; 2 Cranch, C. C., 52, *Lynn vs. Hull*; 2 Cranch, C. C., 96, *Whetcroft vs. Burford*; 2 Cranch, C. C., 226, *Waters vs. Bassord*; 2 Cranch, C. C., 418, *Deneale vs. Young*; 2 Cranch, C. C., 499, *Janney vs. Smith*.

SEC. 11. Mutual debts between the parties to an action, or between the testator or intestate of both parties, or either party, may be set off against each other by plea in bar, whether the said debts be of the same or a different nature; and if either debt arose by reason of a penalty, the exact sum to be set off shall be stated in the plea.

Set-offs.

Sec. 810, R. S. D. C.

SEC. 12. The plea of set-off may be: "That the plaintiff, at the commencement of the suit, was, and still is, indebted to the defendant in * the sum of _____ dollars, for _____, as appears by the particulars of said debt, hereunto annexed; and he is willing that the same may be set off against the plaintiff's demand."

Form of plea of set-off.

Sec. 811, R. S. D. C.

SEC. 13. And upon the trial of an issue upon a plea of set-off, judgment shall be for the balance found due, whether to the plaintiff or defendant, with costs.

On plea of set-off, judgment for balance due.

Sec. 812, R. S. D. C.

SEC. 14. Mutual judgments recovered in the court may be set off against each other, on motion of either party; and the court shall award execution for the balance found due against the party chargeable therewith.

Mutual judgments, set-off.

Sec. 813, R. S. D. C.

SEC. 15. In case any suit shall hereafter be brought on any judgment, or on any bond, or other writing sealed by the party, and the defendants shall have any demand or claim against the plaintiff, upon judgment, bond, or other instrument under seal, or upon note,

Where set-off pleaded plaintiff's judgment must be for jurisdictional amount.

* As amended Feb. 27, 1877. 1 Sup. R. S., 280, par. 15.

Md. act 1785, ch. 46, sec. 7. agreement, assumpsit, or account proved, as by this act is allowed the defendant, or otherwise according to law, shall be at liberty to file his account in bar, or plead discount to the plaintiff's claim, and judgment shall be given for the plaintiff for the sum only which remains due after just discount made; provided the sum which shall remain due after such discount be sufficient to support a judgment in the court where the cause may be tried, according to its established jurisdiction; and in all cases of suits upon simple contracts, the defendant may file an account in bar, or plead discount of any claim he may have against the plaintiff, proved as aforesaid, or otherwise proved according to law, which may be of an equal or superior nature to the plaintiff's claim, and judgment shall be given as aforesaid.

Judgment by default in suits on open account. SEC. 16. Where a suit is brought upon an open account, verified by the plaintiff's or his agent's affidavit, that the amount claimed by the plaintiff is justly payable by the defendant to the plaintiff, and the defendant fails to defend the suit, the plaintiff may have judgment final by default for the amount, with interest from the day specified in the declaration, without an inquiry of damages.

Sec. 825, R. S. D. C.

Verification of authority of officer taking affidavit. SEC. 17. If the affidavit of the plaintiff or his agent be made before an officer, of whose authority to administer oaths the court cannot take notice, his authority must be verified by the certificate under official seal, if he have one, of the officer having authority to give such certificate.

Sec. 826, R. S. D. C.

Where money is payable by joint obligors; proceedings. SEC. 18. Where money is payable by two or more persons jointly or severally, as by joint obligors, covenantors, makers, drawers, or indorsers, one action may be sustained and judgment recovered against all or any of the parties by whom the money is payable. at the option of the plaintiff. But an action against one or some of the parties by whom the money is payable may, while the litigation therein continues, be pleaded in bar of another action against another or others of said parties.

Sec. 827, R. S. D. C. 95 U. S. Rep., 637, *Burdett vs. Bartlett*; 5 Mackey Rep., 47, *Keyser vs. Fendall*; 2 MacArthur Rep., 348, *Abrams vs. De Wandalaer*.

Plaintiff not entitled to costs, when. SEC. 19. If the declaration state a cause of action of which the court has jurisdiction, but the verdict finds the money payable by the defendant to the plaintiff to be less than the lowest sum of which the court has jurisdiction, the plaintiff shall have judgment for the amount found due to him from the defendant, but without costs.

Sec. 828, R. S. D. C. 1 Cranch, C. C., 33, *Goddard vs. Davis*; 1 Cranch, C. C., 40, *McKnight vs. Ramsay*.

Petition for change of name. SEC. 20. Any person being a resident of the District, and desirous to have his name changed, may file a petition in the supreme court setting forth the reasons therefor, and also the name desired to be assumed.

Sec. 833, R. S. D. C.

Notice of petition to change name to be published. SEC. 21. Notice of the filing of such petition, containing the substance and prayer thereof, shall be published for three consecutive weeks in some newspaper in general circulation published in the District, prior to the hearing of the petition.

Sec. 834, R. S. D. C.

Name changed. SEC. 22. The court, or the justice holding a civil term thereof, on proof of such notice, and upon such showing as may be deemed satisfactory, may change the name of the applicant according to the prayer of the petition.

Sec. 835, R. S. D. C.

Notice by publication in lieu of personal service. SEC. 23. Publication may be substituted for personal service of process upon any defendant who cannot be found, in suits for partition, divorce, by attachment, for the foreclosure of mortgages and

deeds of trust, and for the enforcement of mechanic's liens and all other liens against real or personal property, and in all actions at law or in equity which have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

Rep., 478, *Harkness vs. Hyde*; 95 U. S. Rep., 714.

Sec. 787, R. S. D. C.
101 U. S. Rep., 413, 422, *Livingston vs. Darlington*; 99 U. S. Rep., 370, *Brooklyn vs. Ins. Co.*; 89 U. S. *Pennoyer vs. Neff*.

SEC. 24. No order for the substitution of publication for personal service shall be made till a summons for the defendant shall have been issued and returned "not to be found."

Order of publication.

Sec. 788, R. S. D. C.

SEC. 25. The order for publication shall be in the following or equivalent form :

Order of publication, form of.

"In the supreme court of the District of Columbia, the ——— day of ———, 18—.

Sec. 789, R. S. D. C.

"A. B., plaintiff, }
v. } (At law,) (In equity,) No. —.
"C. D., defendant, }

"On motion of the plaintiff, by Mr. ———, his attorney, it is ordered that the defendant cause his appearance to be entered herein on or before the first rule-day occurring forty days after this day; otherwise the cause will be proceeded with as in case of default."

SEC. 26. In actions against foreign corporations doing business in the District, all process may be served on the agent of such corporation or person conducting its business, or, in case he is absent or can not be found, by leaving a copy at the principal place of business in the District, and such service shall be effectual to bring the corporation before the court.*

Process against foreign corporations.

Sec. 790, R. S. D. C.

2 *MacArthur Rep.*, 146, *Dallas vs. Ry.*; 106 U. S. Rep., 355, *St. Clair vs. Cox*.

SEC. 27. All pleas which shall be pleaded in any courts whatsoever, before any of his justices whatsoever, or in his other places, or before any of his other ministers whatsoever, or in the courts and places whatsoever, shall be pleaded, shewed, defended, answered, debated, and judged in the English tongue.

Pleadings shall be in English.

36 *Edward III.*, ch. 15, sec. 1, A. D. 1362.

Alex. Brit. Stat., 177. *Kilty's Rep.*, 41.

SEC. 28. All writs, process, and returns thereof, and proceedings thereon, and all pleadings, rules, orders, indictments, informations, inquisitions, presentments, verdicts, prohibitions, certificates, and all patents, charters, pardons, commissions, records, judgments, statutes, recognizances, bonds, rolls, entries, fines and recoveries, and all proceedings relating thereunto, and all proceedings of courts, and all copies thereof, and all proceedings whatsoever in any courts of justice and which concern the law, and administration of justice, shall be in the English tongue and language only, and not in Latin or French, or any other tongue or language whatsoever, and shall be written in such a common legible hand and character, as the acts of Parliament are usually engrossed in, and the lines and words of the same to be written at least as close as the said acts usually are, and not in any hand commonly called court hand, and in words at length, and not abbreviated; any law, custom, or usage heretofore to the contrary thereof notwithstanding; and all and every person or persons offending against this act, shall for every such offence forfeit and pay the sum of fifty pounds to any person, who shall sue for the same, by action of debt, bill, plaint, or information in any courts of record.

All proceedings in courts shall be in English, and in words at length; penalty.

4 *George II.*, ch. 26, A. D. 1731.

Alex. Brit. Stat., 702, 703.

Kilty's Rep., 249.

* Foreign insurance companies must appoint agent upon whom process may be served. 25 *Stat.*, ch. 46, p. 367, sec. 4.

Process, etc., to be written or printed in English; limitation as to penalty.

6 George II, ch. 14, sec. 5, A. D. 1733.

Alex. Brit. Stat., 720, 721.

Kilty's Rep., 250.

SEC. 29. All writs, process, and returns thereof, and proceedings thereon, and all pleadings, rules, orders, indictments, informations, inquisitions, presentments, verdicts, prohibitions, certificates, patents, charters, pardons, commissions, records, judgments, statutes, recognizances, bonds, rolls, entries, fines and recoveries, and all proceedings relating thereunto, and all proceedings of courts, and all copies thereof, and all proceedings whatsoever, in any courts of justice, and which concern the law and administration of justice, may be written or printed in a common legible hand and character, and with the like way of writing or printing, and with the like manner of expressing numbers by figures, as have been heretofore or are now commonly used in the said courts respectively, and with such abbreviations as are now commonly used in the English language, and that no penalty or punishment shall be incurred, by virtue of the said recited act, for any other offence than for writing or printing any of the proceedings, or other the matters and things above mentioned, in any hand commonly called court hand, or in any language except the English language, nor shall any such penalty or punishment be extended to the expressing the proper or known names of writs or other process or technical words in the same language, as hath been commonly used, so as the same be written or printed in a common legible hand and character, and not in any hand commonly called court hand; and that all prosecutions for offences against the said act shall be commenced within three months after the same shall be committed.

Nonresidents shall give security for costs.

Md. act 1715, ch. 48, pt. sec. 12.

1 Kilty, 140.

1 Dorsey, 45.

SEC. 30. Any attorney, or any other person practising the law in this province, or the plaintiff that shall sue in any county court where he does not reside, shall be obliged to give security for the payment of all the officers' fees that shall accrue upon any suit by him to be commenced, either at the time of the issuing of the writ in the action, or during the continuance of the court to which such writ shall be returned, on pain of paying such fees himself, or suffering his client to be non-suited, in default of such security to be given, or of such attorney signifying his intention to pay such fees, any law, statute, usage, custom, rule of court, or order from any persons to the contrary notwithstanding.*

An infant may sue by next friend.

13 Edward I, ch. 15, sec. 1, A. D. 1285.

SEC. 31. In every case whereas such as be within age may sue, it is ordained, that if such within age be eloined, so that they cannot sue personally, their next friends shall be admitted to sue for them.

Alex. Brit. Stat., 121.

Kilty's Rep., 212.

Poor persons may sue without paying fees.

11 Henry VII, ch. 12, sec. 1, A. D. 1494.

Alex. Brit. Stat., 262, 263.

Kilty's Rep., 229.

SEC. 32. Every poor person or persons, which have, or hereafter shall have cause of action or actions against any person or persons within this realm, shall have, by the discretion of the chancellor of this realm for the time being, writ or writs original, and writs of subpoena, according to the nature of their causes, therefore nothing paying to your highness for the seals of the same, nor to any person for the writing of the same writs to be hereafter sued; (3) and that the said chancellor for the time being shall assign such of the clerks which shall do and use the making and writing of the same writs, to write the same ready to be sealed, and also learned counsel and attorneys for the same, without any reward taking therefore: (4) And after the said writ or writs be returned, if it be afore the King in his bench, the justices there shall assign to the same poor person or persons, counsel learned, by their discretions, which shall give their counsels, nothing taking for the same: (5) And likewise the justices

* Sec. 917, R. S. D. C. See also Md. act 1790, ch. 43 sec. 12; 2 Kilty, 618; 2 Mackey Rep., 1, Anderson vs. Smith.

shall appoint attorney and attornies for the same poor person or persons, and all other officers requisite and necessary to be had for the speed of the said suits to be had and made, which shall do their duties without any reward for their counsels, help, and business in the same: (6) And the same law and order shall be observed and kept of all such suits to be made afore the King's justice of his common place, and barons of his exchequer, and all other justices in the courts of record where any such suits shall be.*

SEC. 33. *Provided always*, That all and every such poor person or persons being plaintiff or plaintiffs in any of the said actions, bills, or plaints, which at the commencement of their suits or actions be admitted by discretion of the judge or judges, where such suits or actions shall be pursued or taken, to have their process, and counsel of charity without any money or fee paying for the same, shall not be compelled to pay any costs by vertue and force of this statute, but shall suffer other punishment, as by the discretion of the justices or judge, afore whom such suits shall depend, shall be thought reasonable, anything afore rehearsed to the contrary hereof notwithstanding.

When poor persons not liable to pay costs.

23 Henry VIII, ch. 15, sec. 2, A. D. 1531.

Alex. Brit. Stat., 288, 289.
Kilty's Rep., 231.

SEC. 34. Actions of account shall and may be brought and maintained against the executors and administrators of every guardian, bailiff and receiver; and also by one joint-tenant and tenant in common, his executors and administrators, against the other, as bailiff for receiving more than comes to his just share or proportion, and against the executor and administrator of such joint-tenant or tenant in common; and the auditors appointed by the court, where such action shall be depending, shall be, and are hereby empowered to administer an oath, and examine the parties touching the matters in question, † and for their pains and trouble in auditing and taking such account, have such allowance as the court shall adjudge to be reasonable to be paid by the party, on whose side the balance of the account shall appear to be.

Actions of account against executors, etc., of guardians, bailiffs, etc.; also by joint tenants, etc., against each other, etc. Reference to auditor; auditor's powers, etc.

4 Anne, ch. 16, sec. 27, A. D. 1705.
Alex. Brit. Stat., 664.

Kilty's Rep., 247.

28 Md. Rep., 635, *Hamilton vs. Conine*; 48 Md. Rep., 1, *Wisner vs. Wilhelm*.

SEC. 35. It shall and may be lawful for any defendant or tenant in any action or suit, or for any plaintiff in replevin in any court of record, with the leave of the same court, to plead as many several matters thereto as he shall think necessary for his defence.

Parties may plead many several defenses.

Ibid., sec. 4.
Alex. Brit. Stat., 660.

Kilty's Rep., 246.

SEC. 36. Where any demurrer shall be joyned, and entered in any action or suit in any court of record within this realm, the judges shall proceed and give judgment, according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission or defect in any writ, return, plaint, declaration, or other pleading, process or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer, as causes of the same, notwithstanding that such imperfection, omission or defect might have heretofore been taken to be matter of substance, and not aided by the statute made in the twenty-seventh year of Queen Elizabeth, intituled, An act for the furtherance of justice in case of demurrer and pleadings, so as sufficient matter appear in the said pleadings, upon which the court may give judgment according to the very right of the cause; and therefore from and after the said first day of Trinity-term no advantage or exception shall be taken of or for an immaterial travers; or of or for the

Judges shall give judgment on demurrer without regarding defects in writ, etc.

Ibid., sec. 1.

* See secs. 917 and 918, R. S. D. C. See act of Congress, July 20, 1892, 27 Stat., ch. 209, p. 252.

† Auditor may examine all witnesses. Md. act 1785, ch. 72, sec. 17. 2 Kilty, 51.

default of entring pledges upon any bill or declaration ; or of or for the default of alledging the bringing into court any bond, bill, indenture or other deed whatsoever mentioned in the declaration or other pleading ; or of or for the default of alledging of the bringing into court letters testamentary, or letters of administration ; or of or for the omission of *vi & armis & contra pacem*, or either of them ; or of or for the want of averment of *hoc paratus est verificare*, or *hoc paratus est verificare per recordum* ; or of or for not alledging *prout patet per recordum* ; but the court shall give judgment according to the very right of the cause, as aforesaid, without regarding any such imperfections, omissions and defects, or any other matter of like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer.

After verdict judgment shall be given, notwithstanding defects.

32 Henry VIII, ch. 30, sec. 2, A. D. 1540.

Alex. Brit. Stat., 327, 328.

Kilty's Rep., 232.

SEC. 37. If any issue be tried by the oath of twelve or more indifferent men, for the party plaintiff or demandant, or for the party tenant or defendant, in any manner of action or suit at the common law [of this realm,] in any of the [King's] courts of record, that then the justice or justices by whom judgment thereof ought to be given, shall proceed and give judgment in the same ; (4) any mispleading, lack of colour, insufficient pleading, or jeofail, (5) any miscontinuance or discontinuance, or misconveying of process, (6) misjoining of the issue, lack of warrant of attorney for the party against whom the same issue shall happen to be tried, (7) or any other default or negligence of any of the parties, their counsellors, or attorneys, had or made to the contrary notwithstanding ; (8) and the said judgments thereof, so to be had and given, shall stand in full strength and force to all intents and purposes, according to the said verdict, without any reversal or undoing of the same by writ of error, or of false judgment, in like form as though no such default or negligence had never been had or committed.

Judgment on verdict shall not be stayed or reversed for variance.

21 James I, ch. 13, sec. 2, A. D. 1623.

Alex. Brit. Stat., 442, 443.

Kilty's Rep., 237.

SEC. 38. If any verdict of twelve men or more, shall nereafter be given for the plaintiff or demandant, or for the defendant, or tenant, bailiff in assize, vouchee, pray in aid, or tenant by receipt, in any action, suit, bill, plaint or demand in any court of record, the judgment thereupon shall not be stayed nor reversed by reason of any variance in form only, between the original writ or bill, and the declaration, plaint or demand ; (2) or for lack of an averment of any life or lives of any person or persons, so as upon examination, the said person be proved to be in life ; (3) or by reason that the *venire facias*, *habeas corpora* or *distringas* is awarded to a wrong officer, upon any insufficient suggestion ; (4) or by reason the *visne* is in some part misawarded or sued out of more places, or of fewer places than it ought to be, so as some one place be right named ; (5) or by reason that any of the jury which tried the said issue is misnamed, either in the surname or addition in any of the said writs, or in any return upon any of the said writs, so as upon examination it be proved to be the same man that was meant to be returned ; (6) or by reason that there is no return upon any of the said writs, so as a pannel of the names of jurors be returned and annexed to the said writ ; (7) or for that the sheriff's name or other officer's name having the return thereof, is not set to the return of any such writ, so as upon examination it be proved that the said writ was returned by the sheriff or under-sheriff, or any such other officer ; (8) or by reason that the plaintiff in an *ejectione firme*, or in any personal action or suit (being an infant under the age of one and twenty years) did appear by attorney therein, and the verdict pass for him ; any law, custom or usage to the contrary notwithstanding.

Exception as to certain felonies and penal actions.

SEC. 39. *Provided always, and be it further enacted*, That this act, or any thing therein contained, shall not extend to any writ, declaration or suit of appeal of felony or murder ; (2) nor to any indictment

or presentment of felony, murder or treason, nor to any process upon any of them; (3) nor to any writ, bill, action or information upon any popular or penal statute; any thing therein contained to the contrary notwithstanding. 5 Geo. I, ch. 13.

Ibid., sec. 8.

SEC. 40. It shall and may be lawful for any person or persons, body or bodies corporate, sued in any action or actions of debt, covenant, or any other action or actions, on any policy or policies of assurance, to bring into court any sum or sums of money; and if any such plaintiff or plaintiffs shall refuse to accept such sum or sums of money, so brought into court as aforesaid, with costs to be taxed, in full discharge of such action or actions, and shall afterwards proceed to trial in such action or actions, and the jury shall not assess damages to such plaintiff or plaintiffs, exceeding the sum or sums of money so brought into court, such plaintiff or plaintiffs, in every such case and cases, shall pay to such defendant or defendants, in every such action or actions, costs to be taxed; any law, custom or usage to the contrary notwithstanding.

When tender bars costs in actions on insurance contracts.

19 George II, ch. 37, sec. 7, A. D. 1746.

Alex. Brit. Stat., 762.

Kilty's Rep., 252.

[See § 4 of this act, sub-title "Insurance," ante.]

SEC. 41. The plea of *non est factum* shall not be received in any action brought, or hereafter to be brought, unless the party for whom such plea shall be tendered verify the same by affidavit, or affirmation, as the case may be, to the truth thereof, or unless the defendant, being heir, executor or administrator, of the person alleged to have made the deed, obtain leave from the court, upon shewing just cause, to put in such plea.

Plea of *non est factum* shall be verified.

Md. act 1785, ch. 80, sec. 3.

1 Dorsey, 232.

SEC. 42. All the statutes of jeofails shall be extended to judgments which shall at any time afterwards be entered upon confession, *nihil dicit*, or *non sum informatus*, in any court of record; and no such judgment shall be reversed, nor any judgment upon any writ of enquiry of damages executed thereon be staid or reversed for or by reason of any imperfection, omission, defect, matter or thing whatsoever, which would have been aided and cured by any of the said statutes of jeofails in case a verdict of twelve men had been given in the said action or suit, so as there be an original writ or bill, and warrants of attorney duly filed according to the law as is now used.

All statutes of jeofails extended to judgments.

4 Anne, ch. 16, sec. 2, A. D. 1705.

Alex. Brit. Stat., 660.

Kilty's Rep., 245.

SEC. 43. Where any action for debt shall be brought upon any single bill, or where action of debt or *scire facias* shall be brought upon any judgment, if the defendant hath paid the money due upon such bill or judgment, such payment shall and may be pleaded in bar of such action or suit, and where an action of debt is brought upon any bond which hath a condition or defeazance to make void the same upon payment of a lesser sum at a day or place certain, if the obligor, his heirs, executors, or administrators have, before the action brought, paid to the obligee, his executors or administrators, the principal and interest due by the defeazance or condition of such bond, though such payment was not made strictly according to the condition or defeazance; yet it shall and may nevertheless be pleaded in bar of such action, and shall be as effectual a bar thereof, as if the money had been paid at the day and place, according to the condition or defeazance, and had been so pleaded.

Payment may be pleaded in bar of action in debt, *scire facias* on judgment and actions on bonds.

Ibid., sec. 12.

3 Har. and McHenry Rep., 85, McHard vs. Whetcroft.

SEC. 44. If at any time, pending an action upon any such bond with a penalty, the defendant shall bring into the court where the action shall be depending, all the principal money, and interest due on such bond, and also all such costs as have been expended in any suit or suits in law or equity upon such bond, the said money so

Payment into court of principal and interest, etc., in actions on bond, defendants discharged.

Ibid., sec. 13.

brought in shall be deemed and taken to be in full satisfaction and discharge of the said bond, and the court shall and may give judgment to discharge every such defendant of and from the same accordingly.

Dilatory plea must be verified.

Ibid., sec. 11.
Kilty's Rep., 246.

SEC. 45. No dilatory plea shall be received in any court of record, unless the party offering such plea, do, by affidavit, prove the truth thereof, or shew some probable matter to the court to induce them to believe that the fact of such dilatory plea is true.

Persons absent for seven years, when presumed to be dead, in actions by reversioners, etc.

19 Charles II, ch. 6, sec. 2, A. D. 1687.

Alex. Brit. Stat., 499, 500.
Kilty's Rep., 240.

SEC. 46. If such person or persons, for whose life or lives such estates have been, or shall be granted, as aforesaid, shall remain beyond the seas, or elsewhere absent themselves in this realm by the space of seven years together, and no sufficient and evident proof be made of the lives of such person or persons respectively, in any action commenced for recovery of such tenements by the lessors or reversioners, in every such case the person or persons upon whose life or life such estate depended, shall be accounted as naturally dead; (2) and in every action brought for the recovery of the said tenements by the lessors or reversioners, their heirs or assigns, the judges before whom such action shall be brought, shall direct the jury to give their verdict, as if the person so remaining beyond the seas, or otherwise absenting himself, were dead.

Persons interested in the land may be challenged as jurors in trial of lives in being.

Ibid., sec. 3.
Alex. Brit. Stat., 500, 501.

SEC. 47. In any such action wherein the life or death of any such person or persons shall come in question between the lessor or reversioner, and the tenant in possession, it shall and may be lawful for the lessor or reversioner to take exception to any of the jurors returned for the trial of that cause, that the greatest part of the real estate of any of such jurors is held by lease or copy for lives, who upon proof thereof shall be set aside as in case of other legal challenges.

Persons evicted by this act living, when damages may be recovered.

Ibid., sec. 5.

SEC. 48. If any person or persons shall be evicted out of any lands or tenements by virtue of this act, and afterwards if such person or persons upon whose life or lives such estate or estates depend, shall return again from beyond the seas or shall on proof in any action to be brought for recovery of the same, be made appear to be living, or to have been living at the time of the eviction, that then, and from thenceforth the tenant or lessee, who was outed of the same, his or their executors, administrators or assigns, shall or may re-enter, repossess, have, hold and enjoy the said lands or tenements in his or their former estate, for and during the life or lives, or so long term as the said person or persons upon whose life or lives the said estate or estates depend, shall be living; (2) and also shall upon action or actions to be brought by him or them against the lessors, reversioners or tenants in possession, or other persons respectively, which since the time of the said eviction received the profits of the said lands or tenements, recover for damages the full profits of the said lands or tenements respectively, with lawful interest for and from the time that he or they were outed of the said lands or tenements, and kept and held out of the same by the said lessors, reversioners, tenants, or other persons, who after the said eviction received the profits of the said lands or tenements, or any of them respectively, as well in the case when the said person or persons upon whose life or lives such estate or estates did depend, are or shall be dead at the time of bringing of the said action or actions, as if the said person or persons were then living.

Waste maintainable by one tenant in common against another.

SEC. 49. Whereas two or more do hold wood, turf land, or fishing, or other such thing in common, wherein none knoweth his several, and some of them do waste against the minds of the other, an action may lie by a writ of waste; (2) and when it is come unto judgment,

the defendant shall choose either to take his part in a place certain, by the sheriff, and by the view, oath, and assignment of his neighbours, sworn and tried for the same intent, or else he shall grant to take nothing from henceforth in the same wood, turf land, and such other, but as his partners will take. (3) And if he do choose to take his part in a place certain, the part wasted shall be assigned for his part, as it was before he committed the waste. (4) And there is such a writ in this case, that is to say. *Cum A & B tenent boscum pro indiviso, B fecit vastum, &c.*

13 Edward I, ch. 22, A. D. 1285.
Alex. Brit. Stat., 123, 124.
Kilty's Rep., 212.

SEC. 50. Writs and process issued out of the supreme court may be tested in the name of any justice of the court.*

Mesne process, teste of writs.

D. C. 3 Mar., 1863, ch. 91, sec. 10, v. 12, p. 764.

Sec. 781, R. S. *Ex parte Watkins.*

SEC. 51. All writs and processes issuing from the courts of the United States shall be under the seal of the court from which they issue, and shall be signed by the clerk thereof.

Sealing and testing of writs.

Sec. 911, R. S. U. S.

SEC. 52. All process issued from the courts of the United States shall bear teste from the day of such issue.

Teste of process, day of.

Sec. 912, R. S. U. S. 91 U. S., 143, *Atherton et al. vs. Fowler et al.*

SEC. 53. It shall and may be lawful for any person or persons whatsoever, to order out process in their own proper names, without any titling from an attorney for the same, and the several and respective clerks of the several offices of the [provincial and county] courts are hereby obliged, upon application to them made by any person or persons as aforesaid, to issue such writs as shall be by them demanded, the party or parties suing out the same, if non-residents, securing to the secretary, or the clerks of the several [county] courts, and all other officers, their lawful fees; and that any person or persons whatsoever that shall hereafter be sued or impleaded in [the provincial court, or] any of the [county] courts within this *District* [province] shall and may, in his or their own proper persons, come into court, and [after special bail by him or them given, if adjudged so to do, to] appear and imparle till next court, or to confess judgment, to any action or actions, in any of the courts aforesaid, commenced against him, her or them, any law, statute or custom to the contrary notwithstanding.

Persons may order process and appear without attorney, and may confess judgment; security for costs by nonresidents.

Md. act 1716, ch. 20, sec. 2.
1 Kilty, 148.
1 Dorsey, 46.

SEC. 54. No person or persons, upon the Lord's Day, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree (except in cases of treason, felony, or breach of the peace) but that the service of every such writ, process, warrant, order, judgment or decree, shall be void to all intents and purposes whatsoever: (2) And the person or persons so serving or executing the same, shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree at all. [See 5 Anne, ch. 9, § 8; Alex. Brit. Stat., 673.]

Service of process on Sunday void.

29 Charles II, ch. 7, sec. 6, A. D. 1676.
Alex. Brit. Stat., 562.
Kilty's Rep., 242.

SEC. 55. All sales duly made in cases in which publication is substituted for personal service of process shall be good and valid, and vest any purchaser with a perfect title.

Process final; validity of sales in cases under process by publication.

Sec. 792, R. S. D. C.

*Penalty for obstructing officer in the execution of process. Sec. 5398, R. S. U. S.

No person to be held to bail on action of debt or contract.

Sec. 791, R. S. D. C.

SEC. 56. No person shall be held to bail in the District in any action of debt, assumpsit, or other action founded on or arising out of any contract or agreement, or in any suit or proceeding in equity brought or prosecuted for enforcing the payment of any debt, or of any sum or sums of money due or claimed to be due by reason of any contract or agreement.

In actions of trover and detinue defendant required to give bail or committed to custody.

Md. act 1753, ch. 17, sec. 2.

1 Dorsey, 100.

SEC. 57. In all actions of trover and conversion, and actions of detinue, to be commenced after the first day of December next, in any of the courts in this province, it shall and may be lawful for the justices of the court in which such action shall be commenced, or such of them as shall be present, upon the affidavit of the plaintiff, or other evidence of his cause of action given to the satisfaction of such court, to award special bail against any defendant or defendants in such action, and for default of such bail to commit such defendant or defendants to the custody of the sheriff, or coroner, as the case may require, until he, she, or they, shall put in such bail as is usual in other cases, any law, usage or custom, to the contrary notwithstanding.

Special bail, how to be given; recognizance, how to be taken.

Md. act 1715, ch. 28, sec. 2.

1 Dorsey, 15.

SEC. 58. That it shall and may be lawful to and for the defendant in any writ issued, or to be issued, out of the provincial court, after arrest and bail given to the sheriff for his appearance, and before the return of such writs, to go before one of the justices of the [provincial court, or before the president or any two justices of the county] court where such defendant shall be arrested, with two sufficient freeholders of this *District* [province,] such as the justice or justices before whom such defendant shall go shall approve of, and then and there give special bail to any action wherein he shall be so arrested by virtue of such writ, which bail, so taken, shall be delivered to the sheriff of such county where the same is taken, to be by him returned, with such writ, to the [provincial] court.

When special bail ordered, defendant must comply or be retained in arrest.

Ibid., sec. 3.

1 Kilty, 116.

SEC. 59. That when special bail is required in the [provincial] court by the plaintiff's attorney, at the calling over the appearance docket, and that the court does rule special bail shall be given, and the party, against whom the rule is given that he shall give special bail, be present, the party defendant shall then and there give special bail in open court, and shall be deemed to be in the custody of the sheriff that arrested him in that action till he give special bail as aforesaid; but if the said party defendant be not able, at the provincial court, to procure such special bail, then the said party shall be and remain in the custody of the same *Marshal* [sheriff] that arrested him, and by him in safe custody kept, guarded, and carried back into the county where the defendant was arrested, and there in safe custody kept, till he can procure such special bail.

Who may receive bail.

Ibid., sec. 4.

1 Dorsey, 16.

SEC. 60. And for the greater ease of making and taking recognizances of such special bail, it shall and may be lawful for one of the justices of the [provincial] court of this *District* [province,] or for the president, or any two justices of the county court, to take and receive every such recognizance of bail as any person or persons, who shall be deemed by him or them sufficient sureties, shall be willing or desirous to acknowledge or make before him or them in the county, in any action or suit depending, or hereafter to be depending, in the said [provincial] court, which recognizances, so required to be taken, as well before as after the return of the writ, shall be taken in such manner and form as followeth, viz:

Form of recognizance of bail.

Md. act 1778, ch. 21, sec. 4.

SEC. 61. That instead of the form of recognizance of bail prescribed by the act, entitled, *An act for taking special bail in [the several counties in] this *District* [state,] upon actions or suits depend-

*1715, ch. 28.

ing in the *Supreme Court of the District of Columbia* [general court, and in the several county courts] of this *District* [state,] the following form shall be observed and used in all actions to be commenced from and after the end of this present session of assembly; that is to say, John Doe, plaintiff, against Richard Roe, defendant. You, A. B. and C. D. do jointly and severally acknowledge yourselves special bail for the said Richard Roe, at the suit of the said John Doe, in an action of debt brought by the said John Doe against the said Richard Roe, in the *said* [general] court. They acknowledge themselves to be content therewith, this — day of —, before —. To the honourable the judges of the *said* [general] court. Varying nevertheless the said form, according as the nature of the action may require; and that the said recognizance shall have the same force and effect as any recognizance of bail acknowledged and taken in open court.

SEC. 62. That the justices of the *said* [provincial] court shall make such rules and orders for the justifying of such bails, and making the same absolute, as to them shall seem meet, so as the cognizor or cognizors of such bail or bails be not compelled to appear in person in the *said* [provincial] court to justify him or themselves.

Court shall make rules and orders respecting taking bail.

Md. act 1715, ch. 28, sec. 5.

1 Dorsey, 16.

SEC. 63. That the judge or justices by and before whom any such recognizance of bail shall be taken and acknowledged, shall and they are hereby required, carefully to examine into the circumstances and sufficiency of the bail so to be taken as aforesaid, and to be careful that they do not take any recognizance of bail of persons that shall not appear to them to have sufficient estate within this *District* [state] to answer the same at the time of taking and acknowledging thereof; *Provided*, That nothing herein shall be construed to abridge or take away the power of the justices of the [general or county] courts within this *District* [state] to make rules and orders for the justifying bails and making the same absolute, or to examine the sureties upon oath, touching the value of their estates, as by the said recited act they are required to do.

Court to inquire into sufficiency of bail.

Md. act 1778, ch. 21, sec. 5.

1 Dorsey, 142.

SEC. 64. That upon any judgment hereafter to be rendered upon any recognizance of bail, it shall and may be lawful for the plaintiff or plaintiffs therein to issue execution against the body, goods or chattels, lands or tenements, of the defendant, as if the said judgment were for his own proper debt, any law, usage or custom, to the contrary thereof in anywise notwithstanding.

Judgment and execution on bail bond.

Ibid., sec. 6.

1 Dorsey, 142.

SEC. 65. That any justice or justices of *said* [any county] court shall and may, on application to them made by any person or persons whatsoever, on any action brought, or hereafter to be brought, in any [county] court of this *District* [province] take any special bail, according to the rules before directed for taking special bail to any actions brought in the *said* [provincial] court, for the taking of which said recognizance of bail in the county court, and the said justices of the several county courts, upon receiving the bail to be given as aforesaid, shall act and do in all things according to the power by this act given to the justices of the [provincial] court aforesaid, and the bail so by them taken, shall be as effectual to all intents and purposes in the county court, as the bails before directed shall be in the [provincial] court, any law, statute, usage, custom or practice to the contrary notwithstanding.

Any justice of court may take bail as provided by this act.

Md. act 1715, ch. 28, sec. 7.

1 Dorsey, 16

SEC. 66. If any plaintiff in a civil action, after judgment shall have been obtained by him, makes oath, according to law, that the defendant has conveyed away, lessened, or disposed of his property, rights, or credits, or is about to remove, or has removed, his prop-

Capias ad satisfaciendum.

Sec. 794, R. S. D. C.

17 June, 1844, ch. 100, v. 5, pp. 678, 679.

4 Feb., 1845, ch. 2, v. 5, pp. 721, 722.

erty from the District, as the plaintiff believes, with intent thereby to hinder or delay the recovery or payment of his debts, the clerk of the court shall thereupon issue a *capias ad satisfaciendum*.

4 Mackey Rep., 259, *Wallace vs. Prot*t.

Proceedings on arrest under *capias ad satisfaciendum*.

Sec. 795, R. S. D. C.

4 Mackey Rep., 259, *Wallace vs. Prot*t.

SEC. 67. Upon the arrest of any such defendant under a *capias ad satisfaciendum*, he may be brought by the habeas corpus before the court, if in term time, and before one of the judges thereof in vacation, and may call upon the plaintiff to show cause why he, the defendant, shall not be discharged from imprisonment; and upon such notice, either party may demand a trial by jury; and thereupon the court or judge shall direct an issue or issues to be framed upon the affidavit so filed, and shall cause a jury to be impaneled and sworn to try such issue or issues, and if the finding of the jury shall be for the plaintiff, the defendant shall be thereupon remanded to prison.

Who exempted from arrest on civil process *capias ad satisfaciendum*.

SEC. 68. Nothing in the two preceding sections shall be construed to authorize the custody or imprisonment of any female person on civil process, nor any non-resident for any debt contracted out of the District. [See § 791, R. S. D. C.]

Sec. 796, R. S. D. C. Ibid. 1 Cranch, C. C., 37, *Henry vs. Cornelius*; 2 Cranch, C. C., 524, *O'Neil vs. Hogan*.

Liability of marshal or other officer for escapes; re-taking regulated.

1 Anne, ch. 6, sec. 1, A. D. 1701. Alex. Brit. Stat., 646, 647.

Kilty's Rep., 245.

SEC. 69. If any person or persons already committed, rendred, or charged, or who shall hereafter be committed, or rendred to, or charged in the custody of the marshal * * * for the time being, or to or in the prison, either in execution, or upon mesne process, or upon any contempt in not performing such order or decree of court, and such person or persons shall, at any time after such commitment, render, charge, or being in execution, and before he, she, or they shall have made payment or satisfaction to the respective plaintiff or plaintiffs, creditor or creditors, or shall have cleared him, her, or themselves of such contempts, as he, she, or they were, or shall be charged with at the time of such their commitment, render, charge, or being in execution, as aforesaid, make any escape from the custody of the marshal, for the time being, or from the prison, or shall go at large, at any time after the three and twentieth day of January, which shall be in the year of our Lord one thousand seven hundred and two, it shall and may be lawful upon oath thereof in writing, to be made by one or more credible person or persons, before any one of the judges of that court where such action was entred, or judgment and execution were obtained, or where the party was so committed or charged, as aforesaid, to and for such judge, before whom such oath shall be made, as abovesaid, and such judge is hereby authorized and required, from time to time, to grant unto any person whatsoever, who shall demand the same, one or more warrant or warrants under his hand and seal, therein reciting the action or actions, execution or executions, contempt or contempts, with which such person or persons so escaping, or going at large, stood charged, or were committed at the suit of any person or persons, on whose behalf such warrant or warrants shall be demanded at the time of such escape, or going at large (which said warrant or warrants shall be in force in all places whatsoever), directed to all *marshals* [sheriffs, mayors, bailiffs, constables,] therein and thereby commanding them, and every of them, in their respective counties, cities, towns, and precincts, to seize and re-take such person or persons so escaped, or going at large; and such person or persons so re-taken upon such warrant forthwith to convey and commit to the common gaol of such county where such person or persons so escaped,

or going at large, shall be re-taken, there to remain without bail or mainprize, or being thence upon any account whatsoever delivered or removed, until he, she, or they shall have made full payment or satisfaction to the respective plaintiff or plaintiffs, creditor or creditors, in such action or actions, execution or executions, named, or until the judgment or judgments, on which such execution or executions was or were sued out against such person or persons, shall be reversed or discharged by due course of law, or until judgment in such action or actions be given for such person or persons so committed, as aforesaid, or until the said contempt or contempts, for which such person or persons were or shall be committed, be cleared and discharged; except such person or persons be charged with treason or felony, or any other crime, matter, or cause; and if he or she, for any such cause, be removed to any other gaol or prison, he or she shall be, in the custody of such gaol charged, with all the clauses with which he or she is or shall be charged in the gaol from whence he or she shall be removed; and every officer, as aforesaid, after delivery of such prisoner so re-taken, together with such warrant to the *marshal* [sheriff], shall take a note in writing from such *marshal* [sheriff], testifying the receipt of such prisoner, which said *marshal* [sheriff] is hereby required to receive such prisoner and give such note: And every such *marshal* [sheriff], as aforesaid, after the execution of such warrant, shall forthwith make a return thereof to the court where the action shall be depending, or judgment, order, or decree had or obtained; which shall be entred and filed upon record.

SEC. 70. If any such person or persons so re-taken by warrant, as aforesaid, shall at any time make any escape out of the gaol to which he, she, or they shall be so conveyed and committed, as aforesaid, the *marshal* [sheriff], in whose custody he, she, or they was or were, shall be liable to answer for such escape, as in the case of any other escape; any law, usage, or custom to the contrary in any wise notwithstanding.

If retaken, prisoner escape, the marshal liable therefor.

Ibid., sec. 2.
Alex. Brit. Stat., 647.

SEC. 71. It shall and may be lawful to and for any person or persons that are or shall be bail in any suit or action in any court of record for any such person or persons that shall be re-taken and conveyed to such gaol, as aforesaid, by virtue of such warrant, as aforesaid, to have and prosecute, out of such court, where he or they are or shall be bail, a writ directed to the *marshal* [sheriff of the county,] to the gaol whereof such prisoner so re-taken shall be committed and detained, commanding such *marshal* [sheriff] to detain and keep such prisoner in custody in discharge of his bail; which writ, with an account whether he hath the said prisoner in his custody, shall be returned by the said *marshal* [sheriff] into court, at a day therein to be mentioned, and the delivery of every such writ, to the *marshal* [sheriff], or his deputy, shall be deemed and taken to be an effectual render of such prisoner, to all intents and purposes whatsoever, in discharge of the said bail; and that in case such sheriff, his deputy, or other his inferior officer, shall thereafter suffer the person or persons so rendered, in discharge of his, her, or their bail, to escape, they and every of them so offending shall be liable to such action and actions, as the marshal or warden of the prison, is or are liable to, for permitting any person to escape out of his or their custody or prison, who was committed to such custody or prison, upon render, in discharge of his, her, or their bail.

How bail of persons retaken may surrender them; subsequent liability of officer.

Ibid., sec. 3.
Alex. Brit. Stat., 648.

SEC. 72. All and every such *marshal* [sheriffs,] upon request of such person or persons, being bail, as aforesaid, who shall deliver such writ for keeping and detaining such prisoner, as aforesaid, and for the usual fees, of returns of actions, shall make, return, and certify, under his hand, the receipt of such writ, and the time thereof,

At request of bail, officer shall return writ for keeping prisoner; penalty for neglect.

Ibid., sec. 4.
Alex. Brit. Stat.,
648, 649.

and whether the said person so re-taken was then in his custody, and in default thereof shall, for every such default, neglect, or refusal, forfeit the sum of fifty pounds, to be recovered in any court of record, by action of debt, bill, plaint, or information: And that upon producing such return or certificate to the court where such bail shall be taken, such court shall direct and cause a *reddidit se* to be entred upon the bail-piece, which shall be as effectual to all intents and purposes as if the said bail had then actually rendred the person of the said defendant to such court, or before any judge or judges of the same. [See § 887, R. S. D. C.]

Construction of this act; pleadings regulated, treble costs to defendant.

Ibid., sec. 5.
Alex. Brit. Stat.,
648, 649.

SEC. 73. *And for the prevention of disputes touching this act, be it enacted by the authority aforesaid.* That the same, and every clause and thing therein contained, shall be adjudged and taken to be a general law, and that it shall not be needful to set forth the same in pleading, or any part thereof; and that the same, and every clause therein, shall be construed most beneficially for the preventing of all the mischiefs, abuses, escapes, and other inconveniencies herein provided against: And further, that if any person or persons shall at any time be sued for putting in execution any power or authority given by this act, such person or persons shall and may plead the general issue, and give in evidence the special matter, and if the plaintiff or plaintiffs in such action or actions shall be nonsuit, or discontinue his, her, or their action or actions, or a verdict shall be given for the defendant or defendants, or that judgment upon demurrer shall be given for the defendant or defendants, every such defendant or defendants shall have his or their treble costs of suit.

Persons arrested by virtue of Stat. 1 Anne, ch. 6, to be imprisoned; marshal's liability for their escape.

5 Anne, ch. 9,
sec. 1, A. D. 1706.
Alex. Brit. Stat.,
672, 673.
Kilty's Rep., 247.

SEC. 74. All and every person and persons, who from and after the five and twentieth day of March, in the year of our Lord one thousand seven hundred and seven, shall be seized or taken by virtue or authority of the said act,* shall instead of being committed to the common gaol of the county wherein such person or persons shall be taken, be conveyed and committed to the prison or place where the sheriff of such county detains or keeps the debtors or prisoners for debt or damage, there to remain in the custody of the sheriff of such county, subject to the same rules and directions, and under the same restrictions, regulations and penalties, and in such manner and form in all and every respect, as if the said person or persons had been committed to the common gaol of the county; and if any person or persons so taken and committed, as aforesaid, shall at any time make any escape out of the said prison or place to which he, she, or they be so committed, as aforesaid, the sheriff in whose custody, he, she, or they was or were, shall be answerable for such escape to the party grieved, in like manner as in the case of any other escape.

Escape warrant granted by judge on affidavit.

Ibid., sec. 2.
Alex. Brit. Stat.,
673.

SEC. 75. It shall and may be lawful to and for any one of the judges of the respective courts in the said former act mentioned, to grant like warrant and warrants upon oath in writing, to be made before any person commissioned under the seal of the same court to take affidavits in the country, (the same oath being first duly filed) as by the said former act he is empowered to do upon like oath made before himself.

Warrant may be executed on Sunday.

Ibid., sec. 3.

SEC. 76. It is and shall be lawful to apprehend and take, upon the Lord's Day, any person or persons by virtue of any warrant or warrants granted in pursuance of this or of the said former act.

Where person escaping was in custody for not performing a decree, the officer is liable therefor.

SEC. 77. If any person or persons is, are or shall be in custody of any sheriff or other officer, either by virtue of the said act, or of this present act, or otherwise, for not performing any decree of the

* 1 Anne, ch. 6 (secs. 69-73 of this chapter.)

court of chancery, [or court of exchequer,] whereby any sum or sums of money is ordered or decreed to be paid, and shall afterwards make any escape from the said sheriff or other officer, that then and in such case the person and persons, their executors or administrators to whom the money was to be paid by the said decree, shall have the same remedy against the said sheriff, as if such person or persons so escaping had been in custody upon an execution at law, and shall and may recover the several sum and sums of money decreed to be paid to him, her or them in and by such decree against such sheriff or other officer, together with his, her or their costs of suit, in any action or actions of debt, or upon the case to be brought or commenced against such sheriff or other officer in any court of record; any law, usage or custom to the contrary in any wise notwithstanding.

Ibid., sec. 4, pp. 673, 674.

SEC. 78. *And for the prevention of disputes touching this present act, be it enacted by the authority aforesaid,* That the same and every clause and thing therein contained, shall be adjudged and taken to be a general law, and that it shall not be needful to set forth the same in pleading, or any part thereof.

This act general law and need not be pleaded.

Ibid., sec. 5, p. 674.

SEC. 79. That no retaking on fresh pursuit shall be given in evidence on the trial of any issue in any action of escape against the said marshal or warden, or their respective deputy or deputies, or against any other keeper or keepers of any other prison or prisons as aforesaid, unless the same be specially pleaded, nor shall any special plea be taken, received, or allowed, unless oath be first made in writing by the marshal or warden, or their respective deputy or deputies, or by such other keeper or keepers of any other prison or prisons as aforesaid, against whom such action shall be brought and filed in the proper office of the respective courts, that the prisoner for whose escape such action is brought did without his consent, privity, or knowledge make such escape; and if such affidavit shall at any times afterwards appear to be false, and the marshal or warden, or other keeper or keepers of any other prison or prisons shall be convicted thereof by due course of law, such marshal or warden, or other keeper or keepers of any other prison or prisons, shall forfeit the sum of five hundred pounds.

Evidence in actions of escape regulated; punishment for false oath as to retaking prisoner.

8 and 9 William III, ch. 27, sec. 6, A. D. 1697.

Alex. Brit. Stat., 610.

Kilty's Rep., 244.

SEC. 80. If at any time any prisoner who is or who shall be committed in execution to either or any of the said respective prisons, shall escape from thence by any ways or means howsoever, the creditor or creditors, at whose suit such prisoner was charged in execution at the time of his escape, shall or may retake such prisoner by any new *capias*, or *capias ad satisfaciendum*, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution.

Creditor may retake escaped prisoner; or have other execution.

Ibid., sec. 7, p. 610.

ABATEMENT.

SEC. 81. No action, brought or to be brought, in any court of law in this *District* [state,] shall abate by the death of either of the parties to such action, but upon the death of any defendant, in a case where the action by such death would have abated before this act, the action shall be continued, and the heir, devisee, executor or administrator, of the defendant, as the case may require, or other person interested on the part of the defendant, may appear to such action; and in case the action be brought to recover possession of any lands, tenements or hereditaments, and the proper person to defend doth not appear at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the heir or devisee of the deceased, or tenant in possession, or other proper person to defend in such action, as the case may require, or in case the action

No action shall abate by death of parties; by whom may be revived; when not revived, etc.

Md. act 1785, ch. 80, sec. 1.

2 Kilty, 59.

1 Dorsey, 229.

6 D. C. Rep., 79.

Roche vs. Carroll;

5 Mackey Rep., 47.

Keyer vs. Fendall;

70 Md. Rep., 319.

Harvy vs. B. & O.
 Ry. '68 Md. Rep., 1
 Tice vs. Shaw.

be brought to recover personal chattels, debt or damages, and the executor, administrator, or other proper person to defend, doth not appear to such action at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the executor or administrator of the deceased, or other proper person to defend such action, to appear; and upon any summon, issued as aforesaid, being served, the person or persons summoned shall appear to such action, either in proper person or by attorney, and if it shall appear to the court that a summon to appear and defend, taken out as aforesaid, hath been served upon the proper person or persons to defend such suit, and that such person or persons neglect or refuse to appear, the court may and shall issue an attachment of contempt against such person or persons, and compel him, her or them, to appear to such suit; and if any person, being summoned as aforesaid, shall refuse or neglect to enter an appearance to such suit by the fourth day of the court next after the court to which such defendant may be summoned to appear, then the court shall and may cause the appearance of such person to be entered to such action, and there shall therein be the same proceedings as if such person or persons had voluntarily appeared, and the court may also fine such person for not appearing a sum not exceeding ten pounds current money [\$26.66 $\frac{2}{3}$]; and in all cases aforesaid, all proceedings had before the death of the party shall be considered as proceedings in the action, and such further proceedings shall be had as may by the court be judged necessary and proper to bring the cause fairly to trial; and the court shall have full power and authority, upon just cause being shewn, to suffer any pleas put in by the deceased to be withdrawn and other pleas to be put in, and shall have full power and authority to make, and cause to be executed, such rules and orders in the case, and to direct such proceedings therein, as may be judged proper and necessary to bring the merits of the question between the parties fairly to trial; and in all such cases the same judgment shall be given as if the action had been originally commenced against the person or persons appearing or summoned to appear as aforesaid, and the costs accruing before the death shall be taxed as part of the costs in the action: *Provided*, That no person so summoned to appear shall be burthened with debt, damages or costs, further than property or assets have descended or come to his, her or their hands, from the deceased; and if the person or persons so summoned shall die before a trial and judgment had in the case, then there may be similar proceedings to bring the cause to trial and judgment against the person or persons claiming or in possession of the property for which the action is or may be brought, or representing the first deceased, and judgment shall be given and costs taxed as aforesaid, and so *toties quoties* until a trial and judgment shall be had; and in case the plaintiff or plaintiffs, in any action aforesaid, shall die before the same may be tried and judgment given, and such death would abate the action before this act, the appearance of the heir, devisee, executor or administrator, as the case may require, or other proper person to prosecute such suits, shall be admitted to be entered to the same; and if the heir, devisee, executor or administrator, as the case may require, or other proper person to prosecute such action, do not appear at the court at which the death shall be suggested, then the defendant or defendants may issue summon, returnable to the next court, to the heir, devisee, executor or administrator of the deceased, as the case may require, or other proper person to prosecute such suit, directed, and upon such summon being served, the person or persons upon whom served shall appear according to such summon, and the court shall and may, upon its being made appear to their satisfaction that such summon was duly served, and that the person or persons so summoned are the proper person or persons to prosecute such suit, issue attachment of contempt to compel an appearance of such

person or persons to prosecute such action, and if the person or persons so summoned do not appear to prosecute such action, either in proper person or by attorney, by the fourth day of the court next after the court to which such summon may be returned served, judgment of non-suit shall be entered, and such judgment, when entered, shall be of the same validity, and have every legal consequence, to all intents, purposes and effects, as if the same had been entered against the original plaintiff in the case, and the court may fine such person for not appearing a sum not exceeding ten pounds current money; and if the person or persons so summoned to prosecute the action aforesaid shall appear to such action at any time before judgment of non-suit entered as aforesaid, all proceedings in the action had before the death shall be considered as proceedings in the cause, and such other proceedings shall be had as may by the court be judged necessary and proper to bring the case fairly to trial; and the court shall have full power and authority, upon just cause being shewn, to suffer any proceeding by the plaintiff or the defendant to be corrected or altered, and also shall have full power and authority to make, and cause to be executed, such rules and orders in the case, and to direct such proceedings therein, as may be judged necessary and proper to bring the merits of the question between the parties fairly to trial; and in all such cases such judgment shall be given as if the action had been originally brought by the plaintiff or plaintiffs so appearing, or summoned to appear, as aforesaid, and the costs accruing before the death shall be taxed as part of the costs in the action; and if the person appearing as aforesaid shall die before trial and judgment had in the case, the heir, devisee, executor or administrator, of the person so appearing as aforesaid, or the executor or administrator of the deceased, as the case may require, or other proper person to prosecute such suit, may appear or be compelled to appear as aforesaid, and there shall be such proceeding, judgment and costs taxed as aforesaid, and so *toties quoties* until there be a trial and judgment had in the case; and in all cases of death of the plaintiff, after the appearance of the defendant's heir, devisee, executor or administrator, or other proper person to defend as aforesaid, and all cases of death of the defendant after appearance of the plaintiff's heir, devisee, executor, administrator, or other proper person to prosecute such suit, shall be taken and considered as within the meaning and provision of this act; and in case there be no appearance or proceeding by either party in any case aforesaid before the tenth day of the second court after the death shall be suggested, then the action shall be struck off the docket and discontinued.

SEC. 82. In case any action be brought to recover any lands, tenements or hereditaments, or involve the title thereof, and upon the death of either plaintiff or defendant as aforesaid the heir or devisee of the deceased, or other person interested in such lands, tenements or hereditaments, be an infant under the age of twenty-one years, and it shall so appear to the court, such action shall not be tried during such minority, unless the guardian, or next friend of such infant, satisfy the court that it will be for the benefit of the infant to have such action tried during such minority, but such action may be continued at the instance and request of the surviving party until such infant arrives to the age of twenty-one years, and then such proceedings may be had to bring such action to trial and judgment, according to the nature of the case, as are herein before mentioned, or such surviving party may order the said action to be entered abated, if the court are not satisfied as aforesaid that it ought to be tried during the minority aforesaid.*

Infants not compelled to revive real actions when not for their benefit.

Ibid., sec. 2.
2 Kilty, 61.
1 Dorsey, 232.
68 Md. Rep., 1
Tice vs. Shaw.

* When death of arbitrator or party shall not abate, etc. See Md. act 1785, ch. 80, sec. 11; 1 Dorsey, 233; 2 Kilty, 63. See "Arbitration."

Death of party between verdict and judgment shall not abate action. 17 Charles II, ch. 8. See "Judgments."

Death after interlocutory judgment no abatement. 8 and 9 William III, ch. 11, sec. 6. See "Judgments."

Where writs, indictments, etc., shall abate for want of the defendants' names.

1 Henry V, ch. 5, sec. 1, A. D. 1413.

Alex. Brit. Stat., 214, 216.

Kilty's Rep., 226.

14 Md. Rep., 135, Hammond vs. State.

SEC. 83. That in every original writ of actions personals, appeals, and indictments, and in which the exigent shall be awarded in the names of the defendants in such writs original, appeals and indictments, additions shall be made of their estate or degree, or mystery, and of the towns, or hamlets, or places, and counties, of the which they were, or be, or in which they be or were conversant; (2) and if by process upon the said original writs, appeals, or indictments, in the which the said additions be omitted, any utlagaries be pronounced, that they be void, frustrate, and holden for none; (3) and that before the utlagaries pronounced, the said writs and indictments shall be abated by the exception of the party, where in the same the said additions be omitted. (4) *Provided always*, That though the said writs of additions personals be not according to the records and deeds, by the surplusage of the additions aforesaid, that for that cause they be not abated; (5) and that the clerks of the chancery, under whose omission of the said additions as is afore said, upon pain to be punished, and to make a fine [to the king,] by the discretion of the chancellor. (6) and this ordinance shall begin to hold place at the suit of the party, from the feast of St. Michael next ensuing forward.

When one or more of several plaintiffs or defendants die and cause of action survive to a party surviving, action shall not abate.

SEC. 84. That if there be two or more plaintiffs or defendants, and one or more of them should die if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

8 and 9 William III, ch. 11, sec. 7,

A. D. 1697. Alex. Brit. Stat., 604. Kilty's Rep., 244.

No abatement in partition suits.

SEC. 85. That no plea in abatement shall be admitted or received in any suit for partition, nor shall the same be abated by reason of the death of any tenant.

8 and 9 William III, ch. 31, sec. 3.

Alex. Brit. Stat., 618. Kilty's Rep., 244.

Plea in abatement must be verified.

SEC. 86. No dilatory plea shall be received in any court of record unless the party offering such plea, do, by affidavit, prove the truth thereof, or show some probable matter to the court to induce them to believe that the fact of such dilatory plea is true.

4 Anne, ch. 16, sec. 11, A. D. 1705.

Alex. Brit. Stat., 661.

AMENDMENT.

Actions at law, court may allow and order amendments, when, how and conditions of.

SEC. 87. The courts of law shall have full power and authority to order and allow amendments to be made in all proceedings whatsoever before verdict, so as to bring the merits of the question between the parties fairly to trial; and if amendment is made after the jury is sworn, a juror shall be withdrawn; and in all cases where amendments are made, the adverse party shall have time allowed him, in the discretion of the court, to prepare to support his case upon the state of the proceeding so amended, and such costs shall be allowed the party against whom such amendment may be made as the court shall think just.*

Md. act 1785, ch. 80, sec. 4.

2 Kilty, 61.

1 Dorsey, 233.

3 MacArthur Rep., 503, Strong vs. D. C.

A record which is defective by misprision of a clerk, shall be amended.

SEC. 88. That by the misprision of a clerk in any place wheresoever it be, no process shall be adnulled, or discontinued, by mistaking in writing one syllable, or one letter too much or too little; (2) but as soon as the thing is perceived, by challenge of the party, or in other manner, it shall be hastily amended in due form, without giving advantage to the party that challengeth the same because of such misprision. [See § 90 of this title.]

14 Edward III, ch. 6, sec. 1, A. D. 1340.

Alex. Brit. Stat., 167. Kilty's Rep.,

35. 117 U. S. Rep., 665, Phillips vs. Negley.

* For amendment of process, see sec. 948, R. S. U. S.; defects of form, amendments, sec. 964, R. S. U. S.

SEC. 89. The records and process of pleas real and personal, and of assises of *novel disseisin*, or *mortdancer*, and certifications, and of others, whereof judgment is given and enrolled, or things touching such plea, shall in no wise be amended nor impaired by new entering of the clerks, or by the record or thing certified in witness or commandment of any justice, in no term after that such judgment in such pleas is given and enrolled.

Records shall not be amended or impaired after the term when judgment rendered.

2 Henry IV, ch. 3, sec. 1, A. D. 1409.

Alex. Brit. Stat., 211. Kilty's Rep., 52. 104 U. S. Rep., 410, *Bronson vs. Schulten*; 117 U. S. Rep., 665, *Phillips vs. Negley*; 143 U. S. Rep., 293, *Michigan Bank vs. Eldred*.

SEC. 90. Whereas it was ordained and stablished in the statute made the fourteenth year of King Edward the third after the conquest, that for misprision of the clerk in any place wheresoever it be, the process of the plea should not be avoided nor discontinued by mistaking in writing one letter or syllable too much or too little, (2) but as soon as the thing is perceived, by challenge of the party, or in other manner, it should hastily be amended in a due form, without giving advantage to the party that challengeth the same because of such misprision; (3) the King, our sovereign lord, considering the diversity of opinions which have been upon the said statute, and to put the thing in more open knowledge, hath declared and ordained at this time, by authority of this present Parliament, that the justices before whom such plea or record is made, or shall be depending, as well by adjournment, as by way of error, or otherwise, shall have power and authority to amend such record and process, as afore said, according to the form of the same statute, as well after judgment in any such plea, record, or process given, as before judgment given in any such plea, record, or process, as long as the same record and process is before them, in the same manner as the justices had power to amend such record and process before judgment given by force of the said statute made in the time of the said King Edward.

The justices may amend defaults in records or process after judgment given.

9 Henry V, ch. 4, sec. 1, A. D. 1421.

Alex. Brit. Stat., 221, 222. Kilty's Rep., 226.

[See § 88 of this title.]

SEC. 91. Whereas at the Parliament holden at Westminster the second day of May, the ninth year of the reign of King Henry, father of our lord the King that now is, it was rehearsed, how that at the Parliament holden at Westminster the XIV year of King Edward the Third, it was ordained by the authority of the said Parliament, That for misprision of a clerk, in whatsoever place it be, no process or plea should be undone nor discontinued by oversight in writing a letter or syllable too much or too little; (2) but as soon as the thing were perceived by challenge of the parties, or in other manner, it should be hastily amended in due form, without giving advantage to the party that challengeth the same because of such misprision; (3) the said late King Henry, considering the diversities of opinions which men had upon the said statute, and to put the thing in more open knowledge, did declare and ordain by authority of the said Parliament holden the said ninth year, That the justices before whom such plea or record is made, or shall be depending, as well by adjournment, as by way of error or otherwise, shall have power and authority to amend such record and process, as well after judgment given as before, by force of the said statute made in the time of the said King Edward, which ordinance should endure till the next Parliament, which should be first holden after the return of the said King Henry the father into England from beyond the sea, and which now is determined by the death of the said late King Henry the father; (4) our sovereign lord, by the advice and assent aforesaid, hath ordained and established, That the said statute, and the effect of the same, made the said ninth year, shall hold strength, force and effect, in every record and process of the same, as well after judgment given upon a verdict passed, as upon a matter in law pleaded, as a statute available and effectual in law to endure forever. [See §§ 88, 90 of this title, made perpetual.]

Justices in certain cases may amend records.

4 Henry VI, ch. 3, sec. 1, A. D. 1425.

Alex. Brit. Stat., 222, 224. Kilty's Rep., 226.

Judgments and records shall not be reversed nor avoided for any process, etc., erased or interlined.

8 Henry VI, ch. 12, sec. 1, A. D. 1429.

Alex. Brit. Stat., 232, 233.

Kilty's Rep., 227.

What defects in records may not be amended; clerical misprisions.

Ibid., sec. 2.
4 H. and McH. Rep., 164, Duvall vs. Wells.

SEC. 92. That for error assigned, or to be assigned, in any record, process, or warrant of attorney, original writ or judicial, panel or return, in any places of the same rased or interlined, or in any addition, subtraction, or diminution of words, letters, titles, or parcel of letters found in any such record, process, warrant of attorney, writ, panel, or return, which rasings, interlinings, addition, subtraction, or diminution, at the discretion of the [King's] judges of the courts and places, in which the said records or process by writ of error, or otherwise, be certified, do appear suspected, no judgment nor record shall be reversed nor annulled.

SEC. 93. The [King's] judges of the courts and places in which any record, process, word, plea, warrant of attorney, writ, panel, or return, which for the time shall be, shall have power to examine such records, process, words, pleas, warrants of attorney, writs, panels, or return, by them and their clerks, and to reform and amend (in affirmance of the judgments of such records and processes) all that which to them in their discretion seemeth to be misprision of the clerks in such record, processes, word, plea, warrant of attorney, writ, panel, and return; (2) except appeals, indictments of treason and of felonies, and the outlawries of the same, and the substance of the proper names, surnames, and additions left out in original writs and writs of exigent, according to the statute another time made the first year of King Henry, father to our lord the King that now is, and in other writs containing proclamation; (3) so that by such misprision of the clerk no judgment shall be reversed nor annulled. (4) And if any record, process, writ, warrant of attorney, return, or panel be certified defective, otherwise than according to the writing which thereof remaineth in the treasury, courts, or places from whence they be certified, the parties in affirmance of the judgments of such record and process shall have advantage to alledge, that the same writing is variant from the said certificate, and that found and certified, the same variance shall be by the said judges reformed and amended according to the first writing.

Record exemplified, etc., when not to be reversed.

Ibid., sec. 4.

SEC. 94. If any such record, process, writ, or warrant of attorney, panel, or return, or parcel of the same, be now, or hereafter shall be exemplified in the King's chancery under the great seal, and such exemplification there of record inrolled without any rasings in the same place in the exemplification and the inrollment of the same, that another time for any error assigned, or to be assigned in the said record, process, writ, warrant of attorney, panel, or return, in any letter, word, clause, or matter of the same varying, or contrary to the said exemplification and the inrollment, there shall be no judgment of the said records and process reversed nor annulled.

The justices may in certain cases amend defaults in records.

8 Henry VI, ch. 15, sec. 1, A. D. 1429.

Alex. Brit. Stat., 242.

Kilty's Rep., 227.

SEC. 95. The justices, before whom any misprision or default is or shall be found, be it in any records and processes which now be, or shall be depending before them, as well by way of error as otherwise, or in the returns of the same, made or to be made by sheriffs, coroners, bailifs of franchises, or any other, by misprision of the clerks of any of the said courts or by misprision of the sheriffs, under-sheriffs, coroners, their clerks, or other officers clerks, or other ministers whatsoever, in writing one letter or one syllable too much or too little, shall have power to amend such defaults and misprisions according to their discretion, and by examination thereof by the said justices to be taken where they shall think needful.

After demurrer joined, judgment shall be given without regarding defects, etc.

SEC. 96. Forasmuch as excessive charges and expences, and great delay and hindrance of justice hath grown in actions and suits between the subjects of this realm, by reason that upon some small mistaking, or want of form in pleading, judgments are often reversed

by writs of error, and oftentimes upon demurrers in law, given otherwise than the matter in law and very right of the cause doth require, whereby the parties are constrained either utterly to lose their right, or else after long time and great trouble and expences, to renew again their suits; (2) for remedy thereof:

Be it enacted by the Queen's most excellent majesty, the lords spiritual and temporal, and the commons in this present Parliament assembled, and by the authority of the same, That from henceforth, after demurrer joined and entred in any action or suit in any court of record within this realm, the judges shall proceed and give judgment according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, defect or want of form in any writ, return, plaint, declaration, or other pleading, process or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express together with his demurrer; (3) and that no judgment to be given shall be reversed by any writ of error, for any such imperfection, defect, or want of form, as is aforesaid, except such only as is before excepted.

SEC. 97. That after demurrers joined and entred, the court where the same shall be, shall and may by virtue of this act from time to time amend all and every such imperfections, defects, and wants of form, as is beforementioned, other than those only which the party demurring shall specially and particularly express and set down together with his demurrer, as is aforesaid.

Amendments in form after demurrer joined.

Ibid., sec. 2.

SEC. 98. *Provided always, and be it further enacted by the authority aforesaid, That this act, or anything therein contained, shall not extend to any writ, declaration, or suit of appeal of felony or murder, (2) nor to any indictment or presentment of felony, murder, treason, or other matter, nor to any process upon any of them, (3) nor to any writ, bill, action, or information upon any popular or penal statute; anything aforesaid to the contrary notwithstanding. This act extended to writs of mandamus. &c., by 9 Annæ, ch. 20, sec. 7. [See §§ 1025, 1026, R. S. U. S.]*

Exception as to certain felonies and penal actions.

Ibid., sec. 3.

SEC. 99. Whereas great delay of justice hath of late years been occasioned by defective writs of error, which, as the law now stands, are not amendable: For remedy thereof:

Be it enacted [by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present Parliament assembled, and by the authority of the same,] That all writs of error, wherein there shall be any variance from the original record, or other defect, may and shall be amended and made agreeable to such record, by the respective courts where such writ or writs of error shall be made returnable; and that where any verdict hath been or shall be given in any action, suit, bill, plaint, or demand, in any [of his majesty's courts of record at Westminster, or in any other] court of record [within England or Wales,] the judgment thereupon shall not be stayed or reversed for any defect or fault, either in form or substance, in any bill, writ, original or judicial, or for any variance in such writs from the declaration or other proceedings.

Amendment of writs of error; and for the further preventing the arresting or reversing of judgments after verdict.

5 George I, ch. 13, sec. 1, A. D. 1718.

Alex. Brit. Stat., 697.
Kilty's Rep., 268.

SEC. 100. *Provided nevertheless, That nothing in this act contained shall extend, or be construed to extend, to any appeal of felony or murder, or to any process upon any indictment, presentment, or information, of or for any offence or misdemeanor whatsoever.*

Proviso as to exceptions to previous section.

Ibid., sec. 2.

ATTACHMENT.

Writs of attachment and garnishment issued by clerk.

Sec. 782, R. S. D. C.

1 June, 1866, ch. 103, sec. 1.

14 Stat., 54.

22 Wash. Law Rep., 33, Barber vs. Paige Hotel Co.; MacArthur and M. Rep., 88, Newman vs. Hexter; 1 MacArthur Rep., 187, Derr vs. Luby; 3 MacArthur Rep., 4, Potter vs. Taylor; 3 MacArthur Rep.,

73, U. S. vs. Ottman; 3 MacArthur Rep., 77, Brown vs. Finley; 2 Mackey Rep., 408, U. S. vs. Howgate; 3 Mackey Rep., 220, Webster vs. Harkness; 4 Mackey Rep., 63, Barnard vs. Life Ins. Co.; 6 Mackey Rep., 221, Wallace vs. Maroney; 7 Mackey Rep., 348, Duncauson vs. Bank; 8 Wheaton Rep., 217, Goldsborough vs. Orr; 73 Md. Rep., 312, Summers vs. Oberndorf.

SEC. 101. Writs of attachment and garnishment shall be issued by the clerk without any authority or warrant from any judge or justice, whenever the plaintiff, his agent or attorney, shall file in the clerk's office, whether at the commencement or during the pendency of the suit, an affidavit, supported by the testimony of one or more witnesses, showing the grounds upon which he bases his affidavit, and also setting forth that the plaintiff has a just right to recover against the defendant what he claims in the declaration, and also stating either, first, that the defendant is a non-resident of the District; or, second, that the defendant evades the service of ordinary process by concealing himself or by withdrawing from the District temporarily; or, third, that he has removed or is about to remove some of his property from the District, so as to defeat just demands against him; and shall also file his (the plaintiff's) undertaking, with sufficient surety, to be approved by the clerk, to make good all costs and damages which the defendant may sustain by reason of the wrongful suing out of the attachment.*

[See §§ 781, 912, R. S. D. C.]

How writs of attachment may be quashed.

Sec. 783, R. S. D. C.

22 Wash. Law Rep., 35, Robinson vs. Morrison.

SEC. 102. If the defendant, his agent or attorney, shall file an affidavit traversing the plaintiff's affidavit, the court shall determine whether the facts set forth in the plaintiff's affidavit are true, and whether there was just ground for issuing the writ of attachment; and if the facts do not sustain the affidavit, the court shall quash the writ of attachment or garnishment; and this issue may be tried by a judge at chambers on three days' notice.

Discharge of attached property.

Sec. 784, R. S. D. C.

SEC. 103. The thing attached shall not be discharged from the custody of the officer seizing it until the defendant shall deliver, either to the officer or to the clerk, to be filed in the cause, his undertaking, with sufficient surety, to satisfy and pay the final judgment of the court against him.

Sale of attached property.

Sec. 785, R. S. D. C.

SEC. 104. If the defendant fail to execute such undertaking, the court may sell the thing attached whenever it is satisfied that it is in the interest of the parties it should be sold before final judgment.

Final judgment.

Sec. 786, R. S. D. C.

SEC. 105. In case the defendant be found liable to the plaintiff's claim, in whole or in part, the final judgment shall be that the plaintiff recover against the defendant and his sureties.

Justices shall not issue attachment until after second return of non est.

Md. act 1715, ch. 40, sec. 2.

1 Dorsey, 21, 22.

1 Kilty, 124.

3 Gill Rep., 313, Barr vs. Perry; 6

Har. and John. Rep., 198, Barney vs. Patterson; 1 Cranch, Ct. Rep., 88, Camilloz vs. Johns.

SEC. 106. No attachment shall issue out of any court of this District [province] before a writ or summons be first made out, upon which writ, if the party defendant be an inhabitant, or resident within this District [province,] and the marshal [sheriff] shall return a non est inventus, one other writ or summons shall thereupon, in manner aforesaid, issue forth against the said defendant; and if the marshal [sheriff] shall, upon the second writ or summons, return a non est inventus likewise, an attachment shall and may, in manner and form hereafter set down, be awarded. [See § 101 of this title.]

*The attachment first served on garnishee has priority. 2 Cranch, Ct. Rep., 188, McCobb vs. Tyler. Marshal's duty where several attachments. 2 Cranch, Ct. Rep., 200, English vs. Tyler; 124 U. S. Rep., 131, Gumbel vs. Pitkin.

SEC. 107. In case any writ or summons shall issue forth of any [his majesty's] courts within this *District* [province,] against any person or persons absent out of this *District* [province,] in such case, upon the return of a *non est inventus* by the *marshal* [sheriff] on such writ or summons, and the party plaintiff his leaving with the attorney of such absent defendant (if he hath left any attorney) a copy of his declaration, or short note, expressing the cause of action, or if he hath left no attorney, then the plaintiff leaving a copy of the said declaration or short note, expressing the true cause of action, at the house where the said defendant absent did last reside or dwell, and making such proof of his action as the said respective courts shall think fit, it shall and may be lawful for the justices of the said courts to award an attachment against the goods, chattels and credits of the said absent defendant, so as aforesaid prosecuted, and not appearing to the said action, which are or shall be in the hands and possessions of any person or persons whatsoever, yea, even in the plaintiff's own hands, for the defendant's use, in this *District* [province,] in which said attachment there shall be a clause, commanding the *marshal* [sheriff of the respective counties,] at the time of the executing the said attachments, to make known to each person or persons in whose hands or possessions the said goods, chattels and credits so attached are, if to him or them it shall seem meet, to be and appear, on the return of such attachments, before the justices of the respective courts out of which such attachments are issued, to shew cause why such goods, chattels or credits, so attached as aforesaid, should not be condemned, and execution thereof had and made, as in other cases of recoveries and judgments given in courts of record; at which day of return of the said attachment, if the said defendant shall not then appear, nor the garnishee, in whose hands the aforesaid goods, chattels and credits of the defendant were attached, to shew cause to the contrary, the respective courts shall and may condemn the said goods, chattels and credits so as aforesaid attached, and award execution thereof to be had and made by [*capias ad satisfaciendum,*] *feri facias*, or otherwise, as in other judgments, he, the said plaintiff, so prosecuting as aforesaid, giving good and sufficient security before the justices of each respective court, to and for the use of the said defendant, so as aforesaid being not found within this *District* [province,] to make restitution of the said goods, chattels or credits, so as aforesaid condemned, or the value thereof, if the defendant so as aforesaid prosecuted shall, at any time within one year and a day, to be accounted from the said attachment awarded, come in, and either in person or by attorney appear to the said original action, and make it appear that the said plaintiff hath been and is satisfied and paid the debt or demand in the said action, or shall otherwise in court discount or bar the said plaintiff of the same, or any part thereof; which said condemnation and execution of the said goods, chattels or credits, of the said defendant, in the hands of garnishee or garnishees as aforesaid had and made, shall be sufficient and pleadable in bar, by the said garnishee or garnishees, in any action brought against him or them by the said defendant for the same.*

Justices may order attachment after return of *non est* against absent defendant; proceedings regulated.

Ibid., sec. 3.
1 Cranch, Ct. Rep., 319, *Stephenson vs. Giberson*; 8 Md. Rep., 444, *Brown vs. Summerville*; 57 Md. Rep., 228, *Savin vs. Moore*.

SEC. 108. That no *marshal* [sheriff] shall levy, by way of execution as aforesaid, against the said garnishee or garnishees, any more than the plaintiff's debt and cost, nor against any garnishee or garnishees than what the said plaintiff in the said action shall make appear to the said respective courts to be of the said goods, chattels and credits of the said defendant in each respective garnishee or

No attachment against garnishee shall exceed plaintiff's debt and costs.

Ibid., sec. 4.

* Portions of the foregoing section modified. See secs. 787, 788, 789, "Publication" when substituted for personal service.

garnishees' hands, together with such costs only as the garnishee or garnishees shall put the plaintiff to, by denying him or themselves to be indebted to such defendant, and contesting the same.

When absent defendants shall have no favorable interpretation of this law.

Ibid., sec. 6.

SEC. 109. Such as shall be found by positive proof, or other circumstances, wilfully to absent themselves, or abscond in the woods or elsewhere from the *marshal's* [sheriff's] sight, whereby they cannot be found to be brought to trial, and such also as shall be absent by flight or proscription out of this *District* [province,] to be averred upon oath, shall have no benefit of any favourable interpretation of this law.

After judgment, attachment may be taken out instead of execution; proceedings thereon.

Ibid., sec. 7.

5 Cranch, Ct. Rep., 517, *Allen vs. Croghan*; 3 Har. and McH. Rep., 557, *Campbell vs. Morris*; 1 Har. and McH. Rep., 407, *Waters vs. Caton*; 2 Gill Rep., 246, *Baldwin vs. Wright*; 7 Har. and John. Rep., 4, *Harder vs. Moores*; 10 Md. Rep., 125, *Robertson vs. Beall*; 37 Md. Rep., 336, *Johnson vs. Lemon*; 47 Md. Rep., 312, *Cole vs. Flitcraft*; 53 Md. Rep., 497, *Bartlett vs. Wilbur*; 73 Md. Rep., 312, *Summers vs. Oberndorf*.

SEC. 110. Any person or persons having obtained a judgment in any court of this *District* [province,] or that shall hereafter obtain any judgment in any court of this *District* [province,] against any person or persons, it shall and may be lawful to and for the said plaintiff in the said judgment, at his will and pleasure, instead of any other execution, without those previous requisites as above in this act prescribed and directed, to take out an attachment against the goods, chattels and credits of the said defendant in the said judgment, in the said plaintiff's own hands, or in the hands of any other person or persons whatsoever; which said attachment shall likewise have the clause aforesaid, commanding the *marshal* [sheriff of the said county] to whom it shall be directed, at the time of executing the said attachment, "to make known to such person or persons in whose hands or possession the said goods, chattels and credits of the absent defendant shall be attached, that he or they be and appear at the respective courts at the day of the return of the said attachment, to shew cause, (if they have any,) why the said goods, chattels and credits, so as above said in their hands attached, should not be condemned, and execution thereof had and made, as in other cases of recoveries and judgments given in courts of record;" at which day of the return of the said attachment, if the said defendant shall not then appear, nor the said garnishee in whose hands the said goods, chattels and credits of the said defendant were attached, to shew sufficient cause to the contrary, the said respective courts shall and may condemn the said goods, chattels and credits aforesaid, so as aforesaid attached, and award execution thereof to be had and made, either by [*capias ad satisfaciendum*,] *feri facias*, or otherwise, as the said plaintiff might have had against the defendant himself on the judgment aforesaid; which said condemnation and execution of such goods, chattels and credits of the said garnishee as aforesaid, had and made, shall be sufficient and pleadable in bar by the said garnishee or garnishees in any action against him or them by the said defendant for the same.*

Attachment allowed against lands of nonresident heir for debt of ancestor.

Md. act 1794, ch. 54, sec. 7.

2 Kilty, 505.

1 Dorsey, 312, 313.

SEC. 111. In case any person of full age, residing out of this *District* [state] is or shall be entitled to any lands or tenements lying in this *District* [state] by hereditary descent, or by devise, and the person from whom such lands descended, or by whom the same were devised, was in his life-time indebted to any person or persons whatsoever, it shall and may be lawful for the court in which any suit against such heir or heirs at law, or devisee, may be instituted, to award attachment against the lands and tenements of such heir or heirs, devisee or devisees, holden by descent or devise from the person or persons so indebted, in the same manner as attachments are prosecuted against other persons residing out of the *District* [state,] any act of assembly to the contrary notwithstanding.

* Equitable interest in lands not attachable. 3 Cranch, Ct. Rep., 331, *Sawyer vs. Mort*.

SEC. 112. That if any person whatsoever, not being a citizen of this *District* [state,] and not residing therein, shall or may be indebted unto a citizen of this *District* [state,] or of any other of the United States, or if any citizen of this *District* [state,] being indebted unto another citizen thereof, shall actually run away, abscond or fly from justice, or secretly remove him or herself from his or her place of abode, with intent to evade the payment of his or her just debts, such creditor may, in either case, make application to any judge of the general court, [justice of the county court, or justice of the peace;] and on the oath or affirmation of such creditor, made before any judge of the general court, [justice of the county court, or justice of the peace,] of this *District* [state,] or before any judge of any other of the United States, that the said debtor is bona fide indebted to him or her in the sum of ———, over and above all discounts, and at the same time producing the bond or bonds, bill or bills, protested bill or bills of exchange, promissory note or notes, or other instrument or instruments of writing, account or accounts, by which the said debtor is so indebted, and also, (in the case of the debtor not being a citizen of this state,) on the oath or affirmation of the said creditor made as aforesaid, that he or she doth know, or is credibly informed and verily believes, that the said debtor is not a citizen of this *District* [state,] and that he or she doth not reside therein, and also, (in the case of the debtor being a citizen of this *District* [state,] on the oath or affirmation of the said creditor made as aforesaid, that he or she doth know, or is credibly informed and verily believes, that the said debtor is actually run away or fled from justice, or removed from his or her place of abode, with intent to injure and defraud his or her creditor or creditors, the said judge of the general court, [justice of the county court, or justice of the peace,] shall be and he is hereby fully authorized and required forthwith to issue his warrant to the clerk of the general [or of the county] court, as the case may require, to issue an attachment or attachments against the lands, tenements, goods, chattels and credits, of the said debtor; upon the receipt of which warrant, together with the proofs on which the same was granted, and not otherwise, the clerk of the general [or of the county] court, (as the case may require,) shall issue such attachment or attachments, in which there shall be the same clause of *scire facias* as by the act to which this is a supplement is directed to be inserted in attachments awarded by either of the said courts, and the like process and proceedings shall and may be had thereon as are required and prescribed by the said act upon attachments awarded as aforesaid. [See § 101 of the title.]

SEC. 113. The oath or affirmation of such creditor, made as aforesaid before a judge of any other of the United States, shall not be good and sufficient evidence, unless there be thereto annexed a certificate of the clerk of the court of which he is a judge, or certificate of the governor, chief magistrate or notary public, of such state, that the said judge hath authority to administer such oath or affirmation.

SEC. 114. To every attachment issued in pursuance of this act, the garnishee may plead in behalf of the defendant such plea or pleas as the said defendant might or could do if he had been taken by the *marshal* [sheriff] under the writ of *capias ad respondendum* issued as aforesaid and had accordingly appeared to the same.*

3 Gill Rep., 313, Barr vs. Perry; 2 Md. Rep., 334, Lambden vs. Bowie; 19 Md. Rep., 82, Risewick vs. Davis; 23 Md. Rep., 418, Spear vs. Griffin.

SEC. 115. In all cases of attachments, it shall and may be lawful for the plaintiff to exhibit interrogatories, in writing, to the garnishee aforesaid, who shall, by rule of court, answer each and every

Judge may grant attachment against nonresident or absconding debtors.

Md. act 1795, ch. 56, sec. 1.

2 Kilty, 555.

1 Dorsey, 320, 321.

1 Cranch. Ct. Rep., 319, Stephen-son vs. Giberson; *ibid.*, p. 319, Birch vs. Butler; 8 Wheaton Rep., 217, Goldsborough vs. Orr; 5 Cr., Ct. R., 503, Heard vs. Stone; 19 Md. Rep., 95, Risewick vs. Davis.

Where oath made before nonresident judge, clerk's certificate necessary.

Ibid., sec. 2.

Garnishee may plead, etc., in behalf of defendant.

Ibid., sec. 4.

Garnishee required to answer interrogatories, if he neglects judgment and execution allowed.

* Garnishee when entitled to compensation 5 Cranch. Ct. Rep., 551. Noyes vs. Brent.

Ibid., sec. 5.
10 Md. Rep., 214,
Devries vs. Buch-
anan; 17 Md. Rep.,
195, *Boyd vs. Canal*
Co.; 63 Md. Rep.,
76, *Lafin vs. B. &*
O. Ry. Co.

of the interrogatories aforesaid, touching or concerning the property of the defendant in his possession or charge, or by him due or owing, at the time of serving of such writ of attachment, or at any other time, and if such garnishee shall neglect or refuse so to do, the court are hereby directed to adjudge that such garnishee hath in his possession property of the defendant, or is indebted to such defendant, to an amount and value sufficient to pay the debt, damages and interest, of said plaintiff, and costs, and execution shall issue as in other cases of condemnation in the hands of garnishees.

CONTINUANCE.

Where new parties are made, etc., continuances may be granted.

Md. act 1787, ch. 9, sec. 7.
2 Kilty, 131.
1 Dorsey, 247,
248.

Continuance discretionary where verdict set aside, new trial granted, or commission issued to take testimony.

Ibid., sec. 5.
2 Kilty, 130.
1 Dorsey, 247.

Continuances granted where surveyor neglects to return plats, etc.

Ibid., sec. 4.

Party seeking continuance may be examined by the court.

Ibid., sec. 3

Continuance to procure testimony of absent witness.

Ibid., sec. 2.
3 Md. Rep., 61,
Bryan vs. Conway.

SEC. 116. In all actions where, by the death of the plaintiff or defendant, new parties are made or to be made to such actions, the said courts respectively shall have a discretionary power to continue such actions as long as they shall think necessary for the due administration of justice, not exceeding the end of the third court after the appearance court of such new party, unless evidence, or testimony or plots be wanting, as herein before provided.

SEC. 117. In any case where a verdict shall be set aside and a new trial granted, and also in any case where commission shall issue for taking the depositions of witnesses residing or living out of this *District* [state,] the said courts respectively shall have a discretionary power to continue such cause for so long a time as they shall judge necessary, not exceeding four courts after the usual time of continuance limited by law, and on such terms as they may think just and reasonable.*

SEC. 118. In any action of trespass or ejection, if plots returned in any cause are defective, or if plots are not returned from the neglect of the surveyor, or if he is prevented by sickness, or other accident, from returning the same, and the said courts shall think a continuance of such cause necessary for the trial of the merits between the parties, they may continue such cause for such time as they shall judge necessary, not exceeding three courts after the usual time of continuance limited by law, and on such terms as they may think just and reasonable; and if plots are not returned from the neglect of any surveyor, the court may order him to pay the costs of the term, and they may impose on him such fine as the circumstances of his neglect may require.

SEC. 119. And, to enable the said courts respectively to guard as far as possible against the continuance of any cause for delay only: *Be it enacted*, That they may examine into the nature of the action, and the ground or cause of delay, and also into the proof alleged to be material, competent and proper, in such suit, and really wanting from the trial of the merits between the parties; and the said courts respectively may also examine the party applying for a continuance on oath, or affirmation, as to any fact he shall allege that he expects to prove by the evidence or testimony declared to be wanting. †

SEC. 120. No action shall be continued beyond the time limited by law on the suggestion that evidence is wanting from some other of the United States, or from beyond sea, but the general court, and any county court, may, in their discretion, continue any action depending in their respective courts, on its appearing to their full satisfaction, by the oath or affirmation of the party, or some other

* By 1794, ch. 6, where commissions issue to parts without the United States, the cause may be continued, (for want of the return thereof,) as long as the court, under all circumstances, shall, in their discretion, think reasonable.

† The question of continuance is a matter of sound discretion, 146 U. S. Rep., 629, *Means vs. Bank*.

credible person, in writing, that a witness, (who shall be named,) or testimony material, competent and proper in such suit, is really wanting from some other of the United States, or from beyond sea, and that the party alleging the same to be wanting, or his attorney or agent, hath used his proper and reasonable endeavours to procure the same, and that the party, or such other credible person, verily believes that the cause cannot be tried with justice to the party without such evidence or testimony, and that he has a reasonable expectation and belief than the same can be thereafter procured in some reasonable time, of which time the said courts shall determine, unless the court, on examination of the party or parties shall be of opinion that the fact to be proved by such testimony is immaterial, or the adverse party will admit the truth of such allegation or fact thought material, or necessary to be proved, in either of which cases the trial shall proceed, or the cause be discontinued with costs to the party requiring no delay.

SEC. 121. All actions [now depending in any of the courts of law within this province, as well as all other actions to be commenced,] may be continued to the end of the fourth court, after the appearance court, in any of the courts aforesaid, and no longer, (except in causes where evidences are wanted from beyond sea,) which is left to the discretion of the court where such case shall happen; and that it shall and may be lawful for the several courts aforesaid, upon the discontinuance of any action or actions aforesaid, (if by the act or default of the plaintiff,) to award him to pay the costs, but if by the act or default of the defendant, then to give judgment for the plaintiff, and if through the default of any attorneys neglecting their duty in bringing causes to a decision within the time limited by this act, in all and every such case, every attorney so neglecting his duty to the prejudice of his or their client, shall, for every such neglect in the provincial court, forfeit the sum of five thousand pounds of tobacco, and for every neglect in the county court, the sum of two thousand pounds of tobacco, and all costs of suit accrued on any action discontinued by default of such attorney, one-half of the aforesaid fines to the party grieved, the other half to his lordship the lord proprietary, to be appropriated to and for the use and benefit of a public or free school of the county where such fines arise, to be recovered (in his lordship's name) in any of the courts of record within this province, by action of debt, bill, plaint or information, wherein no esson, protection or wager of law to be allowed, and but one imparlance; *Provided*, That the time of continuance of any such suits in the courts of law, by injunction in chancery, or by allowing infants the benefit of the parole demur, be not accounted as part of the time of limitations aforesaid.

Actions at law may be continued four terms, at discretion of court; costs taxed on discontinuance, how; liability of attorneys for neglect to prosecute; exceptions.

Md. act 1721, ch. 14, sec. 2.
1 Dorsey, 56, 57.
1 Kilty, 169.
3 Md. Rep., 61.
Bryan vs. Conway.

SEC. 122. In any case where the attendance of a witness residing within this state to a material fact cannot be procured, the said courts respectively may continue such cause as long as they may think proper, if the adverse party will not admit the facts, or consent to the taking the deposition of such witness on interrogatories before some justice of the peace where such witness resides.

Continuance where a witness can not be procured, etc.

Md. act 1787, ch. 9, sec. 8.
1 Dorsey, 248.

SEC. 123. On a special verdict, or case stated, the said courts respectively shall not continue any cause on a *curia advisare vult* longer than to the end of the third court after verdict taken, or case stated.

Continuance on a special verdict or case stated.

Ibid., sec. 9.
1 Dorsey, 248.

SEC. 124. In all cases where commissions have been or shall be hereafter issued to obtain testimony in any cause, which commission is or shall be issued to parts without the United States of America,

Causes may be continued, for return of testimony when commission issued.

Md. act 1794, ch. 6, sec. 2.
1 Dorsey, 304.
2 Kilty, 471.

the cause on which such commission is or shall be issued may be continued for want of the return of such commission as long as the court, under all circumstances, shall in their discretion think reasonable, any thing in the aforesaid act to the contrary notwithstanding.

How long actions shall continue.

Md. act 1796, ch. 43, sec. 11.
2 Kilty, 618.

SEC. 125. No action, [to be commenced in any county court appointed in virtue of this act,] shall continue longer than the end of the first court after the imparlance court, unless by consent of the parties, at the discretion of the court, or such cause as the law may allow for the continuance of suits beyond the time limited shall appear to the satisfaction of the court.

Continuance where judgment shall be set aside, etc.

Md. act 1787, ch. 9, sec. 6.
1 Dorsey, 247.

SEC. 126. In any case where a judgment shall be set aside for fraud, deceit, surprise or irregularity, in obtaining the same, the said courts respectively may direct the continuances to be entered from the court when such judgment was obtained, until the court such judgment shall be set aside, and may also continue such cause for so long a time as they shall judge necessary for the trial of the merits between the parties, not exceeding two courts after such cause hath been reinstated, unless evidence, or testimony or plots be wanting, as herein before provided, in which case the cause may still be continued, but under the limitations herein before made and provided.

REPLEVIN.

Replevin; form of declaration.

Sec. 814, R. S. D. C.
22 Feb., 1867, ch. 64, sec. 13, 14 Stat., 404.

SEC. 127. The declaration in replevin shall be in the following or equivalent form: "The plaintiff sues the defendant for (wrongly taking and detaining) (unjustly detaining) his, said plaintiff's, goods and chattels, to wit: (describe them) of the value of \$—. And the plaintiff claims that the same be taken from the defendant and delivered to him; or, if they are elojned, that he may have judgment of their said value, and all mesne profits and damages which he estimates at \$—, besides costs."*

Plaintiff's affidavit, to state what.

Sec. 815, R. S. D. C.
Ibid.
6 D. C. Rep., 273, *Selling vs. Kiramell*.

SEC. 128. At the time of filing the declaration in replevin, the plaintiff, his agent or attorney, shall file an affidavit, sworn to before the clerk, stating—
First. That, according to affiant's information and belief, the plaintiff is entitled to recover possession of chattels proposed to be replevied, being the same described in the declaration;
Second. That the defendant has seized and detains, or detains the same;
Third. That said chattels were not subject to such seizure or detention, and were not taken upon any writ of replevin.

Plaintiff to give security.

Sec. 816, R. S. D. C. Ibid., p. 405.

SEC. 129. The plaintiff shall, at the same time, enter into an undertaking with surety, approved by the clerk, to abide by and perform the judgment of the court in the premises.

Officer's return; proceedings.

Sec. 817, R. S. D. C.
Ibid., sec. 14.

SEC. 130. If the officer's return of the writ of replevin be, that he has served the defendant with copies of the declaration, notice to plead and summons, but that he could not get possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the same and damages for detention; or he may renew the writ in order to get possession of the goods and chattels themselves.

When defendant can not be found; order and notice.

SEC. 131. If the officer's return be, that he has taken possession of the goods and chattels sued for, but that the defendant is not to be found, the court may order that the defendant appear to the action

* When demand unnecessary in order to maintain replevin. *Sanders & Stayman vs. Wilson*, 8 Mackey Rep., 555.

by some fixed day; and of this order the plaintiff shall cause notice to be given by publication in some newspaper of the District at least three times, the first of which shall be at least twenty days before the day fixed for the defendant's appearance.

Sec. 818, R. S.
D. C.
Ibid.

SEC. 132. If the defendant fails to appear, the court may proceed as in case of default after personal service.

Proceedings in
default after pub-
lication.

Sec. 819, R. S. D. C. Ibid.

SEC. 133. If the defendant appear, he may plead not guilty, in which case all special matters of defense may be given in evidence, or he may plead specially.

Appearance of
defendant; plea.

Sec. 820, R. S.
D. C. Ibid., sec. 15.

SEC. 134. Whether the defendant plead, and the issue thereon joined is found against him; or his plea is held bad on demurrer; or he make default after personal service, or after publication, the plaintiff's damages shall be ascertained by the jury trying the issue, where one is joined, or by a jury of inquest, where there is no issue of fact; and the damages shall be the full value of the goods, if eloiigned by the defendant, including, in every case, the loss sustained by the plaintiff by reason of the detention; and judgment shall pass for the plaintiff accordingly.

Plaintiff's dam-
ages.

Sec. 821 R. S.
D. C.
Ibid., sec. 16.

SEC. 135. If the issue be found for the defendant, or the plaintiff dismiss or fail to prosecute his suit, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant with damages, or on failure, that the defendant recover against the plaintiff and his surety the damages by him sustained, to be assessed by the jury trying the issue; or, where the plaintiff dismisses or fails to prosecute his suit, by the jury of inquest.

When judgment,
is for defendant.

Sec. 822, R. S.
D. C.
Ibid., sec. 17.

SEC. 136. If the defendant has eloiigned the things sued for, the court may instruct the jury, if they find for the plaintiff, to assess such damages as may compel the defendant to return the things.

Damages when
things eloiigned.

Sec. 823, R. S.
D. C. Ibid., sec. 18.

SEC. 137. The judgment in such cases shall be that the plaintiff recover against the defendant the value of the goods as found, to be discharged by the return of the things, with damages for detention, which the jury shall also assess.

Judgment;
damages for de-
tention.

Sec. 824, R. S.
D. C. Ibid. 2 Cranch, C. C., 39, *Thompson vs. Carbery*; 3 Cranch, C. C., 172, *Wood vs. May*.

SEC. 138. In every case of money, or other thing, due the public, for satisfaction of which there shall be any distress or execution of property, by any officer or person authorized by law so to do, no writ of replevin shall issue, or be maintainable in law.

Certain property
not liable to re-
plevin.

Md. act 1785, ch.
34, sec. 2. 1 *Dorsey*, 195. 2 *Kilty*, 24. 1 *Mackey Rep.*, 303, *Wallingsford vs. Bennett*.

SEC. 139. Every person applying for a writ of replevin to a clerk of the general court, [or the clerk of any county court,] against any collector, public officer, or person authorized by law to collect any public dues or taxes, shall, if required so to do by the clerk applied to, make oath or affirmation, as the case may require, that the property, for the delivery of which he demands the said writ of replevin, hath not been distrained or taken in execution on account of any public dues or taxes.

Oath of person
applying for writ
of replevin against
public officer.

Ibid., sec. 3.

Liability of clerk for neglect of previous section.

Ibid., sec. 4.

SEC. 140. If any clerk shall neglect to inquire as aforesaid, or after the party applying has refused to make such oath or affirmation shall issue a writ of replevin upon such application, such clerk shall forfeit and pay one hundred pounds current money [\$266.66 $\frac{2}{3}$].

Marshals, etc., not to execute writ of replevin issued contrary to this act; penalty.

Ibid., sec. 5.

SEC. 141. No *marshal* [sheriff,] coroner, or other public officer, shall serve or execute any writ of replevin issued contrary to the directions of this act; and if any *marshal* [sheriff,] coroner, or other public officer, after the first day of March next, shall serve or execute any writ of replevin, knowing that the property mentioned and specified in such writ hath been taken and remains in execution for public dues or taxes, such *marshal* [sheriff,] coroner, or other public officer, so offending, shall forfeit and pay one hundred pounds current money [\$266.66 $\frac{2}{3}$].

Writ quashed, plaintiff nonsuited and mulcted in treble costs on writ, if issued contrary to this act (secs. 138-142).

Ibid., sec. 6. 1 Dorsey, 196.

SEC. 142. If any writ of replevin, issued or to be issued contrary to the directions of this act, be served, the court to which such writ shall be returned shall, at the first court, upon motion and inquiry in a summary manner, quash such writ, and non-suit the plaintiff, and shall give judgment for treble costs to be paid by such plaintiff to the defendant.

When court may refuse to return property to defendant taken on writ of replevin until after judgment.

Md. act 1785, ch. 80, sec. 14.

1 Dorsey, 235.

2 Cranch, Ct. Rep., 66, *Birch vs. Gittings*; 3 Cranch Ct. Rep., 7, *Greenwell vs. Boteler*; 20 Wash. Law Rep., 197, *Worthington vs. Sylvester*; 4 Harr. and McH. Rep., 391, *Montgomery vs. Block*; 6 Harr. and John. Rep., 471, *Cullum vs. Beavans*; 8 Gill and John. Rep., 340, *Glenn vs. Fowler*; 21 Wallace Rep., 98, *Douglass vs. Douglass*; 1 Mackey Rep., 303, *Wallingsford vs. Bennett*.

SEC. 143. In all cases of replevins hereafter to be issued and executed, the court to which such replevins are returned, respectively, shall have full power and authority, upon a motion being made by the defendant for a return of the property taken in consequence of such replevins, to inquire into the circumstances and manner of the defendant's obtaining possession of such property, and if it shall appear that such possession was forcibly or fraudulently obtained, or that the possession first being in the plaintiff was got or retained by the defendant without proper authority or right derived from the plaintiff, then the court may refuse to order a return to the defendant until a judgment is given in the action. [See § 934, R. S. U. S.]

PRACTICE—CRIMINAL.

Form of indictments.

Sec. 836, R. S. D. C. 1 Cranch, Ct. Rep., 215, *U. S. vs. Peacock*.

SEC. 144. All indictments shall run in the name of the United States, and conclude, against the peace and government thereof.*

Indictments for perjury and subornation shall aver substance of offense.

23 George II, ch. 11, sec. 2, A. D. 1750.

Alex. Brit. Stat., 766, 767.

Kilty's Rep., 252.

SEC. 145. In every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed; any law, usage or custom to the contrary notwithstanding. [See § 1023, R. S. U. S.]

Collection of fines and penalties for violation of laws of District of Columbia.

SEC. 146. That fines and penalties for the violation of any or all laws of the District of Columbia, passed by the Legislative Assembly, or of ordinances or regulations of the late corporations of Washington, Georgetown, and the Levy Court, shall be by information

* See chapter on "Criminal Procedure," R. S. U. S., secs. 1014-1042. For "Limitation as to Prosecutions" see secs. 1043 to 1048, R. S. U. S.

filed in the Police Court, on behalf of the District of Columbia, by the Attorney of the District, or by his regular or special assistant, as near as possible in the mode prescribed in the act of Congress entitled "An act to establish a Police Court for the District of Columbia, and for other purposes," approved June seventeenth, eighteen hundred and seventy, for the prosecution of offences against the ordinances of the late corporations aforesaid: *Provided*, That in informations connected with transactions of the Board of Public Works and the [Board of] Health *Officer*, the information shall state that it is filed at the instance of said boards, respectively.

SEC. 147. In all informations it shall be sufficient to set forth, in brief and clear terms the nature of the charge which may be preferred against any individual or individuals; and no information shall be quashed on account of technicality or mere clerical errors where the matter complained of is stated so as to clearly indicate to the party accused the matter or thing which he is called on to answer, but all such errors may be amended in the Police Court, on motion, at the time of trial, or on appeal to the Criminal Court.

SEC. 148. In any case of appeal from the decision of the Police Court to the Criminal Court of said District for the violation of any law or ordinance of the District, in which the defendant or defendants may on appeal be convicted, or judgment be rendered against him, her, or them, and execution shall be, by the clerk of the said Criminal Court, and under the seal thereof, issued for the amount of the fine or penalty imposed by the said Criminal Court, with a clause or warrant of commitment if the fine or penalty aforesaid shall not be paid, and any defendant or defendants, in case of a neglect or refusal to pay the fine or penalty, as aforesaid, shall be arrested and committed to the jail of the District until the same shall be fully paid: *Provided*, That the commitment aforesaid shall not in any manner interfere or affect the liability of the surety or sureties on the appeal bond given in the Police Court: *And provided further*, That in all cases of appeal as aforesaid, on conviction or judgment, an attorney fee shall be taxed by the clerk of the said Criminal Court as part of the costs, as was formerly done in cases of appeal for violations of the ordinances of the late corporation of the Mayor, Board of Aldermen, and Board of Common Council of the city of Washington.

SEC. 149. All fines, penalties, and forfeitures accruing under the laws of the State of Maryland, which, by adoption, have become the laws of the District, shall be recovered with costs, by indictment or information, in the name of the United States, or by action of debt, in the name of the United States and of the informer; one-half of which fine shall accrue to the United States, and the other half to the informer; and such fines shall be collected by or paid to the marshal, and one-half thereof shall be by him paid over to the District of Columbia, and the other half to the informer; and the marshal shall have the same power regarding their collection, and be subject to the same rules and regulations as to the payment thereof, as the sheriffs of the State of Maryland are subject to in relation to the same.*

SEC. 150. Any person not in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States, who shall do or commit any of the acts prohibited by any of the provisions of section fifty-four hun-

Proviso.

3 Leg. Assem.,
ch. 23, sec. 1, p. 64.
June 25, 1873.

Informations shall clearly set forth the nature of the charge.

And shall not be quashed on account of technicality or clerical error.

But may be amended in the police court.

Ibid., sec. 2.

In case of appeal to criminal court, execution shall be by clerk of said court.

Penalty for non-payment of fines.

Proviso.

Further proviso.

Ibid., sec. 3.

Recovery and distribution of certain fines, etc.

Sec. 837, R. S. D. C.

3 Mar., 1801, ch. 24, sec. 2, v. 2, p. 115.

5 Peters, 451, Levy Court vs. Ringgold.

Liability of persons making false claims against United States.

* Sec. 638, R. S. D. C., repealed by sec. 819, R. S. U. S. 3 Mackey Rep., 152, U. S. vs. Duun.

Sec. 3490, R. S. U. S. 2 Mar., 1863, ch. 67, sec. 3, v. 12, p. 698. dred and thirty-eight, Title "CRIMES," shall forfeit and pay to the United States the sum of two thousand dollars, and, in addition, double the amount of damages which the United States may have sustained by reason of the doing or committing such act, together with the costs of suit; and such forfeiture and damages shall be sued for in the same suit.

Suits for same, how prosecuted and discontinued; costs. SEC. 151. The several district courts of the United States, the supreme court of the District of Columbia, the several district courts of the Territories of the United States, within whose jurisdictional limits the person doing or committing such act shall be found, shall, wheresoever such act may have been done or committed, have full power and jurisdiction to hear, try, and determine such suit. Such suit may be brought and carried on by any person, as well for himself as for the United States; the same shall be at the sole cost and charge of such person, and shall be in the name of the United States, but shall not be withdrawn or discontinued without the consent, in writing, of the judge of the court and the district attorney, first filed in the case, setting forth their reasons for such consent.

Sec. 3491, R. S. U. S. 2 Mar., 1863, ch. 67, sec. 4, v. 12, p. 698. 8 MacArthur Rep., 226, U. S. vs. Moore; 8 Sawyer Rep., 322, Bush vs. U. S.

Duty of district attorney in such cases. SEC. 152. It shall be the duty of the several district attorneys of the United States for the respective districts, for the District of Columbia, and for the several Territories, to be diligent in inquiring into any violation of the provisions of section thirty-four hundred and ninety by persons liable to such suit, and found within their respective districts or Territories, and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages. And such person may be arrested and held to bail in such sum as the district judge may order, not exceeding the sum of two thousand dollars, and twice the amount of the damages sworn to in the affidavit of the person bringing the suit.

Sec. 3492, R. S. U. S.

Rights of persons presenting such suits. SEC. 153. The person bringing said suit and prosecuting it to final judgment shall be entitled to receive one-half the amount of such forfeiture, as well as one-half the amount of the damages he shall recover and collect; and the other half thereof shall belong to and be paid over to the United States; and such person shall be entitled to receive to his own use all costs the court may award against the defendant, to be allowed and taxed according to any provision of law or rule of court in force, or that shall be in force in suits between private parties in said court: *Provided*, That such person shall be liable for all costs incurred by himself in the case, and shall have no claim therefor on the United States.

Sec. 3493, R. S. U. S.

Limitation of suit. SEC. 154. Every such suit shall be commenced within six years from the commission of the act, and not afterward.

Sec. 3494, R. S. U. S.

Witnesses for defendant in criminal trials. SEC. 155. In all criminal trials the supreme court, or the judge trying the case, may allow such number of witnesses on behalf of the defendant as may appear necessary; the fees thereof, with the costs of service, to be paid in the same manner as Government witnesses are paid.

Sec. 839, R. S. D. C.

Special oath of grand jury. SEC. 156. In addition to the oath now prescribed by law to be administered to the grand jury in the District, they shall be sworn faithfully and impartially to inquire into and true presentment make of all offenses against the laws prohibiting dueling.

Sec. 840, R. S. D. C.

[See §§ 1164-1168, R. S. D. C.]

SEC. 157. The court shall also give in charge to the grand jury at the commencement of each term next preceding an election in the District, the provisions of section one hundred and four, respecting interference with an elector in the exercise of the elective franchise. Special charge to grand jury.
Sec. 841, R. S. D. C.
(See §§ 98-108, R. S. D. C.) 8 Jan., 1867, ch. 6, sec. 4, v. 14, p. 375.

SEC. 158. In all prosecutions or indictments for libel instituted in the District, the truth thereof may be given in evidence under the general issue as a justification of the alleged libel; and if it appear that the matter charged as libellous was true, and was written or published with good motives and for justifiable ends, the defendant shall be acquitted. Libels; truth may be given in evidence, etc.
Sec. 842, R. S. D. C.
25 Feb., 1865, ch. 58, v. 13, p. 439.

SEC. 159. In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief-justice of the supreme court shall cause to be apprehended and delivered up such fugitive from justice who shall be found within the District, in the same manner and under the same regulations as the executive authority of the several States are required to do by the provisions of sections fifty-two hundred and seventy-eight and fifty-two hundred and seventy-nine, Title LXVI, of the Revised Statutes of the United States, "EXTRADITION;" and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in such delivery. Fugitives from justice.
Sec. 843, R. S. D. C.
Amended Feb. 27, 1877.
19 Stat., 254, 1 Sup. R. S., 280.
3 Mar., 1801, ch. 24, sec. 6, v. 2, p. 116.
[See §§ 1027-1027, R. S. U. S.]

SEC. 160. If any criminal shall actually serve and labour the full time appointed, such service and labour shall have the effect of a pardon, to all intents and purposes, for the crime for which such criminal was convicted. Criminal's time served out deemed a pardon, etc.
Md. act 1793, ch. 57, sec. 15. 2 Kilty, 447.

SEC. 161. The President of the United States has power to grant remissions of the forfeitures of all recognizances acknowledged and taken before any court, judge, justice of the peace, or other magistrate within the District, either in the course of any criminal prosecution, or for surety of the peace. Remission of forfeitures by the President.
Sec. 844, R. S. D. C.
13 June, 1812, ch. 100, v. 2, p. 752.

SEC. 162. To enable any person convicted by the judgment of the court, to apply for a writ of error, in all cases when the judgment shall be death, or confinement in the penitentiary, the court shall, on application of the party accused, postpone the final execution thereof to a reasonable time beyond the next term of the court, not exceeding in any case thirty days after the end of such term. When execution of sentence may be postponed.
Sec. 845, R. S. D. C.
7 July, 1838, ch. 192, sec. 6, v. 5, p. 307.

SEC. 163. When a poor convict, sentenced by any court of the United States to pay a fine, or fine and cost, whether with or without imprisonment, has been confined in prison thirty days, solely for the non-payment of such fine, or fine and cost, he may make application in writing to any commissioner of the United States court in the district where he is imprisoned, setting forth his inability to pay such fine, or fine and cost, and after notice to the district attorney of the United States, who may appear, offer evidence, and be heard, the commissioner shall proceed to hear and determine the matter; and if on examination it shall appear to him that such convict is unable to pay such fine, or fine and cost, and that he has not any property exceeding twenty dollars in value, except such as is by law exempt from being taken on execution for debt, the commissioner When poor convicts sentenced and imprisoned for fines may be discharged.
Sec. 1042, R. S. U. S.
1 June, 1872, ch. 255, sec. 14, v. 17, p. 198; 9 Mackey Rep., 348, ex parte Norvell.

shall administer to him the following oath: "I do solemnly swear that I have not any property, real or personal, to the amount of twenty dollars, except such as is by law exempt from being taken on civil precept for debt by the laws of (State where oath is administered); and that I have no property in any way conveyed or concealed, or in any way disposed of, for my future use or benefit. So help me God." And thereupon such convict shall be discharged, the commissioner giving to the jailor or keeper of the jail a certificate setting forth the facts.* [See §§ 847, 5296, R. S. U. S.]

Fines in tobacco,
how discharged in
money.

Md. act 1780, ch.
23, sec. 3.
1 Kilty, 541.

SEC. 164. All fines, forfeitures and penalties, imposed or inflicted, and set in tobacco, by any act of assembly [of Maryland] made before the fourth day of July, seventeen hundred and seventy-six, and now subsisting and in force, and all fees and allowances to officers or others, given by any such laws, and all fines, forfeitures and penalties, fees and allowances, to be imposed, created, inflicted, given or made, in tobacco, by this or any act of assembly hereafter to be made or be in force during the continuance of this act, shall be paid and discharged in tobacco, at the rate of twelve shillings and sixpence per hundred, or in specie, valuing Spanish dollars at seven shillings and sixpence, and gold and other silver in proportion, or in new bills at the passing value, at the election of the person charged therewith; which said value shall be ascertained and fixed at each term by the court by whom such fines, penalties and forfeitures, shall be imposed, and where such fees and allowances shall accrue and become due, and so on until paid and discharged. †

Value fixed for
foreign gold and
silver coin.

Md. act 1781, ch.
16, sec. 1.
1 Kilty, 593.

SEC. 165. The foreign gold and silver coin hereinafter mentioned shall pass current within this state at the following rates, to wit:

Johannes's, weighing eighteen pennyweight,	£6	0	0
Half johannes's, weighing nine pennyweight,	3	0	0
Moidores, weighing six pennyweight eighteen grains,	2	5	0
English guineas, weighing five pennyweight six grains,	1	15	0
French guineas, weighing five pennyweight five grains,	1	14	6
Doubloons, weighing seventeen pennyweight,	5	12	0
Spanish pistoles, weighing four pennyweight six grains,	1	8	0
French milled pistoles, weighing four pennyweight four grains,	1	7	6
Arabian chequins, weighing two pennyweight three grains,	13	9	
Other gold coin, (German excepted,) by the pennyweight,	6	5	
English milled crowns,	8	4	
Other English milled silver at same rate.			
French silver crowns,	8	4	
Spanish milled pieces of eight,	7	6	
Other good coined Spanish silver, per ounce,	8	6	
Any other gold coin of the same fineness of Spanish or Portugal coin, per ounce,	6	13	4

And shall be deemed and adjudged in all courts of law, and in the court of equity and orphans courts, the current money of the state, and shall be received as such in payment of all debts, covenants, contracts, promises and agreements, at the value above expressed, except in the settlement of deceased persons estates, where the appraisements were made in the estates accounted for in dollars at six shillings.

*Juvenile offenders may be confined in house of refuge. Sec. 5549, R. S. See title "Penitentiary." See, also, chapter on Reform Schools, secs. 12, 13, and 33.

†The act of 1780, ch. 23, was by the Md. act of Jan. 18, 1799, 2 Kilty, p. 812, note z, continued until Oct. 30, 1805.

By the act of Congress of Mar. 3, 1807, ch. 23, sec. 6, 2 Stat., p. 431, the Temporary Statutes of Maryland and Virginia, adopted for the District of Columbia, were continued in force.

A dollar was declared to be of the value of the Spanish milled dollar as the same was then current: 1792, sec. 1 Stat. L., ch. 16, sec. 9, p. 248; see also 1 Stat., ch. 5, sec. 1, p. 300; 1 Mackey Rep., 346; U. S. vs. Bickster.

Fines under the Maryland laws, can only be imposed in current money; see Md. act 1781, ch. 16, secs. 1 and 2, 1 Kilty, 593; see next section.

SEC. 166. All judgments and decrees, appraisements of the estate of any deceased person, and all penalties, fines and forfeitures, shall only be rendered, given, made or imposed, in current money, at the rate and value aforesaid; and all mortgages, judgments, debts, covenants, contracts, promises or agreements, heretofore made for sterling money, may be discharged in any gold or silver coin above mentioned, at the rate of one hundred and sixty-six pounds thirteen shillings and four-pence current money for one hundred pounds sterling.

Fines, judgments, etc., can only be rendered in money.

Ibid., sec. 2.

CHAPTER FIFTY-SIX.

POLICE COURT.

- Sec.
1. Establishment of; (as to additional judge and trial by jury, etc. See note at foot of this chapter.)
 2. Judge of; term of office and salary.
 3. Judge, oath of.
 4. Terms of court.
 5. Rooms for holding court.
 6. Salaries of judge and officials; how paid.
 7. Sickness, absence, of disability of judge; justice of peace to act; how and by whom appointed.
 8. Oath and compensation of justice of peace acting as judge, etc.
 9. Jurisdiction of. (See Substitute for this section, act of Mar. 3, 1891; 26 Stat. L., 848. Sup. R. S. U. S., 2 ed., p. 911. Note at end of this chapter.)
 10. Power of judge to issue process for arrest, when; and to compel attendance of witnesses.
 11. Judge of may examine and commit or hold to bail, when.
 12. General powers of in exercise of jurisdiction of.
 13. Contempt of, punishment for; what.
 14. Enforcement of judgments and sentences.
 15. Power to make rules and regulations for government of.
 16. Naturalization of foreigners; has no power to.
 17. Seal; acknowledgment of deeds; power to take oaths and affirmations; power to administer.
 18. Clerk of, appointment and salary of.
 19. Deputy clerk of; who appointed by and salary of.

- Sec.
20. Bond and oath of clerk.
 21. Administering of oaths and affirmations; by whom.
 22. Fees; none to be charged by clerk for his services.
 23. Bailiffs of; how appointed, pay, etc.
 24. Bailiffs may act as deputies to marshal, when.
 25. Prosecutions in to be by information, without indictment or trial by jury. (See Note at end of this chapter.)
 26. Processes for violation of District laws, etc.; by whom served.
 27. Processes cognizable in Supreme Court; by whom served.
 28. Processes, form of.
 29. Fees of marshal, in cases of.
 30. U. S. attorney; duty of, in.
 31. U. S. attorney; fees of, in.
 32. District of Columbia attorney; duty of and how paid.
 33. Fees of witness, in.
 34. Appeals. (See Note at end of this chapter.)
 35. Appeals from, bond on.
 36. Appeals from, stay of proceedings on.
 37. Transfer of cases from to Supreme Court; what necessary.
 38. Appellant failing to recognize to be committed to jail.
 39. Appeals from; how certified.
 40. Collection of fines, etc.; by whom and with whom deposited.
 41. Disposal of moneys collected. (Informer to have one-half of fine, when. See Sec. 837, R. S. D. C.)

SEC. 1. There shall be in the District a court to be called the police court of the District of Columbia. [See § 89, R. S. D. C.] Police court established.

Sec. 1041, R. S. D. C. June 17, 1870. 16 Stat., 153.

SEC. 2. The police court shall consist of one judge, learned in the law, who shall be appointed by the President, by and with the advise and consent of the Senate, for the term of six years, and who shall receive a salary of three thousand dollars per annum. Judge.

Sec. 1042, R. S. D. C. June 17, 1870. 16 Stat., 153, 154. Ibid., secs. 1, 2, pp. 153, 154.

SEC. 3. The judge of the police court shall take the oath prescribed for judges of the courts of the United States. [See § 712, R. S. U. S.] Oath of judge.

Sec. 1043, R. S. D. C. Ibid., 154.

- Terms of court.** SEC. 4. The court shall hold a term on the first Monday of every month, and continue the same from day to day as long as it may be necessary for the transaction of its business.
 Sec. 1044, R. S. D. C. Ibid., sec. 4, p. 154.
- Rooms for holding court.** SEC. 5. The court shall be provided with a suitable place for holding its sessions at the expense of the District.
 Sec. 1045, R. S. D. C. Ibid., p. 155, sec. 10.
- Salaries of judge and officers, how paid.** SEC. 6. The salaries of the judge and clerk of the police court, the compensation of the deputy clerk and bailiffs, and the fees of the marshal, shall be paid by the District, quarterly. [See § 1080, R. S. D. C.]
 Sec. 1046, R. S. D. C. Ibid., sec. 14, p. 155. 21 Feb., 1871, ch. 62, sec. 41, v. 16, p. 429.
- Designation of justice in certain cases.** SEC. 7. In case of sickness, absence, or disability of the judge, either of the justices of the supreme court of the District shall designate some justice of the peace to discharge the duties of the police judge until such disability be removed.
 Sec. 1047, R. S. D. C. 17 June, 1870, ch. 133, sec. 4, v. 16, p. 154.
- Oath and compensation of special judge.** SEC. 8. The justice so designated shall take the same oath as prescribed for the judge, and shall receive the sum of ten dollars per day for the time he shall serve, to be paid in the same manner as the salary of judge is paid.
 Sec. 1048, R. S. D. C. Ibid.

JURISDICTION AND POWERS.

- Jurisdiction.** SEC. 9. The police court shall have original and exclusive jurisdiction of all offenses against the United States committed in the District not deemed capital or otherwise infamous crimes, that is to say, of all simple assaults and batteries, and all other misdemeanors not punishable by imprisonment in the penitentiary; and of all offenses against the laws and ordinances of the District in force therein.*
 Sec. 1049, R. S. D. C. Ibid., sec. 1, p. 153.
 1 MacArthur Rep., 149, U. S. vs. Cross; 1 MacArthur Rep., 502, U. S. vs. Buell; 1 Mackey Rep., 594, Guiteau's case; 6 Mackey Rep., 38, U. S. vs. Marshall; 127 U. S. Rep., 540, Callen vs. Wilson; 8 Mackey Rep., 230, U. S. vs. Green. [See § 61. See § 2173, R. S. U. S.]
- Power of judge to issue process for arrests.** SEC. 10. The judge shall have power to issue process for the arrest of persons against whom information may be filed, or complaint under oath be made, and to compel the attendance of witnesses.
 Sec. 1050, R. S. D. C. Ibid., sec. 4, p. 154.
- Judge may examine and commit.** SEC. 11. The judge of the police court may examine and commit, or hold to bail, in all offenses, whether cognizable in the police court or in the supreme court of the District. † [See § 1016, R. S. U. S.]
 Sec. 1051, R. S. D. C. Ibid., sec. 20, p. 157.
- General powers of court.** SEC. 12. The court shall have power to issue all process and to do all acts which may be necessary to the exercise of its jurisdiction.
 Sec. 1052, R. S. D. C. Ibid., secs. 5, 10, pp. 154, 155.
- Contempts.** SEC. 13. The court shall have power to punish contempts by fine and imprisonment, or by either; but the fine shall in no case, exceed twenty dollars, nor the imprisonment be for a longer time than forty-eight hours.
 Sec. 1053, R. S. D. C. Ibid., secs. 5, 13, pp. 154, 155.
- Enforcement of sentences.** SEC. 14. The court may enforce any of its judgments or sentences by fine or imprisonment, or by both.
 Sec. 1054, R. S. D. C. Ibid., sec. 4, p. 154. 6 Mackey Rep., 38, U. S. vs. Marshall; 3 Cranch, Ct. Rep., 625, U. S. vs. Royal.

* See substitute for sec. 1049, R. S. D. C. Act Mar. 3, 1891, 26 Stat., 848, Sup. R. S., 2 Ed., p. 911.

† 8 Mackey Rep., 595, in *re* Mantz; police judge, as committing magistrate only, has no power to take bail.

SEC. 15. The court shall have power to make such rules and regulations as may be deemed necessary and proper for conducting business therein.

Rules and regulations.

Sec. 1055, R. S.
D. C. 17 June, 1870, ch, 133, sec. 13, v. 16, p. 155.

SEC. 16. The police court of the District of Columbia shall have no power to naturalize foreigners.

Police court has no power to naturalize foreigners.

Sec. 2173, R. S. U. S. 17 June, 1870, ch. 133, sec. 5. 16 Stat., p. 154.

SEC. 17. The court shall have a seal, and shall have power to take the acknowledgment of deeds and to administer oaths and affirmations to public officers.

Seal; acknowledgments and oaths.

Sec. 1056, R. S. D. C. Ibid., sec. 5, p. 154.

CLERK.

SEC. 18. The court shall have power to appoint a clerk at a salary of two thousand dollars per annum, who shall hold his office during the pleasure of the court.

Clerk, appointment and salary.

Sec. 1057, R. S.
D. C. Ibid., sec. 2, p. 154.

SEC. 19. The clerk may appoint one deputy, with the consent of the court, if the business shall require it, to be paid such compensation as may be allowed by the court, not exceeding one thousand dollars per annum.

Deputy.

Sec. 1058, R. S.
D. C. Ibid.

SEC. 20. The clerk shall give bond, with surety, and take the oath of office prescribed by law for clerks of district courts of the United States. [See § 704, R. S. U. S.]

Bond and oath of clerk.

Sec. 1059, R. S.
D. C. Ibid.

SEC. 21. He shall have power to administer oaths and affirmations, and in his absence his deputy may administer the same.

Oaths and affirmations, by whom administered.

Sec. 1060, R. S. D. C. Ibid.

SEC. 22. There shall be no fee charged for any service by the clerk.

No fees to be charged.

Sec. 1061, R. S. D. C. Ibid., sec. 7, p. 155.

BAILIFFS.

SEC. 23. The court may appoint not exceeding two bailiffs, who shall receive for their services three dollars each for every day's attendance on court, to be paid upon certificate of service by the judge.

Bailiffs.

Sec. 1062, R. S.
D. C. Ibid., sec. 6, p. 154.

SEC. 24. The bailiffs may act as deputies to the marshal for the service of process issued by the court.

Bailiffs may act as deputy marshals, when.

Sec. 1063, R. S. D. C. Ibid., sec. 9, p. 155.

PROSECUTIONS.

SEC. 25. Prosecutions in the police court shall be by information under oath, without indictment by grand jury or trial by petit jury.*

Prosecutions to be by information.

Sec. 1064, R. S. D. C. Wash. Law Rep., No. 42, p. 277, D. C. vs. Herlihy.

* Trial by Jury, see note at end of this chapter. 127 U. S. Rep., 540, Callan vs. Wilson.

Process for violation of District laws. SEC. 26. In cases arising out of violations of any of the ordinances or laws of the District in force therein, process shall be directed to the major of police, who shall execute the same and make return thereof in like manner as in other cases.

Sec. 1065, R. S. D. C. Ibid., sec. 4, p. 154.

Process in other than District of Columbia cases to major of police. SEC. 27. In cases cognizable in the supreme court the process shall be directed to the marshal, except in cases of emergency, when it may be directed to the major of police.

Sec. 1066, R. S. D. C. Ibid.

Form of process. SEC. 28. Such process shall be under the seal of the police court, and shall bear teste in the name of the judge, and be signed by the clerk.

Sec. 1067, R. S. D. C. Ibid.

Marshal's fees. SEC. 29. For such services the marshal shall receive the same fees as prescribed for like service in the supreme court.

Sec. 1068, R. S. D. C. Ibid.

Duty of United States attorney. SEC. 30. It shall be the duty of the United States attorney for the District, in person or by one or more of his assistants or deputies, to attend to the prosecution in the police court of such offenses as were cognizable in the criminal court of the District prior to June seventeenth, eighteen hundred and seventy.

Sec. 1069, R. S. D. C. Ibid., sec. 17, p. 156.

Fees of U. S. attorney. SEC. 31. For such service he shall be paid the same fees as are allowed for similar service in the supreme court.

Sec. 1070, R. S. D. C. Ibid.

Duty of attorney of the District. SEC. 32. It shall be the duty of the attorney of the District, or his assistants, to attend to the prosecution in the police court of all offenses arising from violations of any of the laws or ordinances of the District in force therein, and for such service they shall be paid by the District.

Sec. 1071, R. S. D. C. Ibid., sec. 16, pp. 56, 157.

Fees of witnesses. SEC. 33. Witnesses before the police court shall receive the same fees as are allowed for similar service and attendance in the supreme court.

Sec. 1072, R. S. court. [See § 890, R. S. D. C., Feb. 28, 1799, 1 Stat., § 6, p. 626.]
D. C. 17 June, 1870, ch. 133, sec. 7. 16 Stat., 155.

Appeals. SEC. 34. Any party deeming himself aggrieved by the judgment of the police court may appeal to the supreme court.

Sec. 1073, R. S. D. C. Ibid., sec. 3, p. 154.

[See § 773, R. S. D. C.]

Bond on appeal. SEC. 35. In all appeals the party applying for appeal shall enter into recognizance, with sufficient surety to be approved by the judge, for his appearance at the criminal term of the supreme court then in session, or at the next term thereof if the criminal term be not then in session, there to prosecute the appeal and to abide by the judgment of the supreme court.

Sec. 1074, R. S. D. C. Ibid., sec. 8, p. 155.

Stay of proceedings on appeal. SEC. 36. Upon such recognizance being given, all further proceedings in police court shall be stayed.

Sec. 1075, R. S. D. C. Ibid.

Papers to be sent to supreme court. SEC. 37. Such recognizance so approved, and the information or complaint, shall be immediately transmitted to the clerk of the supreme court.

Sec. 1076, R. S. D. C. Ibid.

SEC. 38. Upon the failure of any party appealing from the judgment of the police court to the supreme court to enter into recognizance as provided for in section ten hundred and seventy-four, he shall be committed to jail to await his trial upon his appeal, and the trial shall be had in the supreme court as though such recognizance had been entered upon.

Appellants failing to recognize.
Sec. 1077, R. S. D. C.
Ibid., sec. 11.

SEC. 39. In every case of appeal the court below shall send up the information or complaint filed in the cause, and a copy of the record of all proceedings duly certified to the supreme court.

Appeals, how certified.
Sec. 1078, R. S. D. C.
Ibid.

DISPOSAL OF COSTS, FINES, AND FORFEITURES.

SEC. 40. All fines, penalties, costs, and forfeitures imposed or taxed by the police court shall be collected by the marshal, or by the major of police, as the case may be, on process ordered by the court, and by them paid over to the District. [See §§ 312-316, 337, R. S. D. C.]

Payment of fines, penalties, costs, and forfeitures.
Sec. 1079, R. S. D. C.
Ibid., sec. 15, p. 155; 21 Feb., 1871, ch. 62.

SEC. 41. The moneys collected upon the judgments of the police court, or so much thereof as may be necessary, shall be applied to the payment of the salaries of the judge and other officers of the court, as provided in section ten hundred and forty-six, and to the payment of the necessary expenses thereof, and any surplus remaining after paying such salaries, compensation, and expenses shall be paid into the treasury of the District at the end of every quarter.

Disposal of moneys collected.
Sec. 1080, R. S. D. C.

[See § 337, R. S. D. C.]

NOTE.—An act to define the jurisdiction of the police court of the District of Columbia. 26 Stat. L., ch. 536, 848, March 3, 1891. 2 Sup. R. S., 911.

CHAPTER FIFTY-SEVEN.

PUBLIC SCHOOLS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Board of school trustees abolished; Commissioners vested with powers and duties of said board, etc. 2. School trustees; qualifications, how appointed, term, etc.; powers and duties of. 3. Control and supervision of repairs of and construction of school buildings Commissioners may delegate to inspector of buildings. 4. Children between certain ages shall be sent to school; penalty for neglect of such duty. (NOTE.—Separation of males from females.) 5. When penalty imposed by preceding section not to be enforced. 6. Attendance of children may be enforced. 7. Children not vaccinated not to be admitted to schools. 8. Construction of laws relating to public schools. 9. General duties of school trustees. 10. Trustees to provide for education of colored children. (NOTE.—Use of school buildings.) 11. Where children may be placed in school. | <p>Sec.</p> <ol style="list-style-type: none"> 12. Donations for colored schools to be reported to Commissioners. 13. Condemnation of land for school sites; proceedings; powers of Commissioners in relation thereto. 14. Same subject; when no appeal is made. 15. Same subject; on appeal; proceedings and notice. 16. Same subject; costs of appeal, by whom payable. 17. Same subject; verdict of jury, how returned. 18. Same subject; when title shall pass, verdict to be recorded in land records. 19. Same subject; Commissioners' option as to verdict. 20. School-houses not to be located in certain places, except with consent, etc.; notice necessary. 21. Reports of school trustees to Commissioners. 22. Superintendents of schools to be appointed by Commissioners; their duties. 23. Same subject; compensation of. (NOTE.—Pay, etc.) |
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| <p>Sec.
24. Same subject; for colored schools. (NOTE.—Consolidation of offices of superintendents, and salaries.)</p> <p>25. Proportionate part of school money to be set apart for colored schools.</p> <p>26. Commissioners to establish schools for colored children.</p> <p>27. Land conveyed by United States for school purposes not to be diverted.</p> <p>28. Same subject; part of a certain lot may be sold and proceeds invested for school purposes.</p> <p>29. Same subject; certain lots to revert to United States if used for any purposes except schools.</p> <p>30. Same subject; certain land set apart for school purposes.</p> <p>31. Study of effect of alcoholic drinks and narcotics on the human system to be compulsory.</p> <p>32. Same subject; provision for enforcement of preceding section.</p> <p>33. Same subject; as to qualifications of teachers and their certificates. (NOTE.—Molesting teacher in discharge of duties or disturbing schools.)</p> <p>34. Janitor's additional duties.</p> | <p>Sec.
35. Night-school teachers may teach day schools. (NOTE.—Commissioners' report as to number, etc., of teachers.)</p> <p>36. Teachers, number of; their salaries fixed; no discrimination between female and male teachers in assigning salaries; Commissioners to report number of teachers required and their salaries.</p> <p>37. Commissioners restricted from employing agents to purchase school sites, when; commissions of agents when employed.</p> <p>38. Commissioners' powers in condemnation of land for sites for schools, engine houses, and public stations.</p> <p>39. Same subject; plans for same, by whom prepared and approved.</p> <p>40. Normal school for education of pupils for teachers.</p> <p>41. Same subject; principal teacher for same.</p> <p>42. Same subject; rules, regulations, and course of study to be prescribed; graduates of to be preferred in selection of teachers.</p> <p>43. Organization and establishment of schools restricted.</p> |
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Board of school trustees abolished, and Commissioners vested with powers and duties of said board, etc.

20 Stat., 107, sec. 6.

June 11, 1878. 2 Sup. R. S., 178. 103 U. S. Rep., 705, D. C. vs. Cluss.

School trustees; qualifications, how appointed, terms, etc.; powers and duties.

Ibid.

Inspector of buildings to have control of repair, etc., of school buildings.

Mar. 3, 1879. 20 Stat., ch. 182, p. 408. 1 Sup. R. S., 468.

All children between certain ages to be sent to school; penalty for neglect.

Sec. 271, R. S. D. C.

25 June, 1864, ch. 156, sec. 20, v. 13, p. 192.

SEC. 1. That from and after the first day of July, eighteen hundred and seventy-eight, the board of school trustees shall be abolished; and all the powers and duties now exercised by them shall be transferred to the said Commissioners of the District of Columbia, who shall have authority to employ such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act.

SEC. 2. The Commissioners of the District of Columbia shall from time to time appoint *nine** [nineteen] persons, actual residents of said District of Columbia, to constitute the trustees of public schools of said District, who shall serve without compensation and for such terms as said Commissioners shall fix. Said trustees shall have the powers and perform the duties in relation to the care and management of the public schools which are now authorized by law.

SEC. 3. The inspector of buildings of the District shall have authority and control over and supervision of the construction and repairs of all school buildings if the Commissioners deem best to delegate the same to him.

SEC. 4. Every person in the District of Columbia, having under control any child between the ages of eight and fourteen years, shall annually, during the continuance of such control, send such child to some public school in that part of the District in which he shall at the time reside, at least twelve weeks, six of which shall be consecutive, and for every neglect of such duty the party offending shall forfeit to the use of the District a sum not exceeding twenty dollars, to be recovered before any justice of the peace of the District. †

* The number reduced to nine by act July 1, 1882. 22 Stat. 135, 2 Sup. R. S., p. 351. See Webb's Digest, pp. 320, 321, 325.

† Male and female pupils in the city of Washington shall be kept separate during school hours, and shall have different places assigned them for recreation. Webb's Digest, p. 324.

SEC. 5. If upon the hearing of any case, provided for in the preceding section, it shall be made to appear to the justice that the party so offending was not able for any cause to send such child to school, or that the child has been attending any other school for a like period of time, or that the child by reason of bodily or mental infirmity was not fit to attend such school, the penalty shall not be enforced.

When penalty imposed by preceding section not to be enforced.

Sec. 272, R. S. D. C.
25 June, 1864, ch. 156, sec. 20, v. 13, p. 192.

SEC. 6. The *Commissioners* [trustees or school-board having charge of public schools in the District] may make such arrangements for the purpose of ascertaining whether any children within the ages prescribed by law are not attending the public schools, as they shall deem best for the purpose of enforcing the attendance of such children upon said schools, under the provisions of the two preceding sections.

Trustees to enforce attendance.

Sec. 273, R. S. D. C.
25 June, 1864, ch. 156, sec. 21, v. 13, pp. 192, 193.

SEC. 7. No child shall be admitted into the public schools who shall not have been duly vaccinated or otherwise protected against the small-pox.

Children not vaccinated not to be admitted.

Sec. 274, R. S. D. C.

SEC. 8. The provisions of this chapter are declared public and remedial, and shall be construed by all courts of justice according to the equity thereof; and no proceedings of the inhabitants or of the *Commissioners* [trustees of any school-district,] or of any other officer created under the provisions of this chapter shall be set aside or adjudged to be void for defect of form, or for any irregularity therein, so that the requirements of law are substantially complied with.

Construction of laws relating to public schools.

Sec. 275, R. S. D. C.

SEC. 9. The persons who may be appointed *school-trustees* [or elected by authority of the legislative assembly as a school-board for that portion of the District without the limits of the cities of Washington and Georgetown] shall have power and it shall be their duty:

General duties of school trustees.

Sec. 279, R. S. D. C.

[First. To receive and disburse any fund which may be provided for the purchase of sites and the erection and support of primary schools in such portion of the District.]

Second. To regulate the number of children to be taught in each of said schools.

Third. To select, upon a thorough examination, such teachers as are competent, giving to each a certificate of qualifications, without which no teacher shall be entitled to receive pay; and to fix their salaries and terms of service.

Fourth. To suspend or expel from any school any pupil who will not submit to the reasonable and ordinary rules of order and discipline therein.

Fifth. To prescribe the course of study and the text-books to be used in the schools, to regulate and control the purchase and distribution of books, maps, globes, stationery, and other things necessary for the same, and generally to prescribe rules and regulations for the management, good government, and well ordering of said schools.

Sixth. To report to the *Commissioners* [legislative assembly,] at the close of each school-year, and particularly set forth the number of pupils taught, their average attendance and progress, and such other statistics as the *Commissioners* [legislative assembly] may require.*

* * * * *

*Salaries of teachers to be annually estimated for 26 Stat., 1062, Mar. 3, 1891. 2 Sup. R. S., 982, par. 6.

School trustees to provide for the education of colored children.

Sec. 281, R. S. D. C.
103 U. S. Rep., 706, D. C. vs. Cluss.

SEC. 10. It shall be the duty of the *school-trustees* [school-board] to provide suitable and convenient houses or rooms for holding schools for colored children, to employ and examine teachers therefor, [and to appropriate a proportion of the school-funds, to be determined by the numbers of white and colored children, between the ages of six and seventeen years, to the payment of teachers' wages, to the building or renting of school-rooms, and other necessary expenses pertaining to said schools, to exercise a general supervision over them, to establish proper discipline, and to endeavor to promote a thorough, equitable, and practical education of colored children in said portion of the district.]*

Where children may be placed in school.

Sec. 282, R. S. D. C.

SEC. 11. Any white resident shall be privileged to place his or her child or ward at any one of the schools provided for the education of white children in said portion of the district he or she may think proper to select, with the consent of the *school-trustees* [school-board]; and any colored resident shall have the same rights with respect to colored schools.

Donations for colored schools receivable by the school trustees.

Sec. 283, R. S. D. C.

SEC. 12. The *school-trustees are* [school-board is] authorized to receive any donations or contributions that may be made for the benefit of the schools for colored children by persons disposed to aid in the elevation of the colored population in the District, and to apply the same in such manner as in their opinion shall be best calculated to effect the object of the donors; the *school-trustees* [school-board] to account for all funds so received, and to report the same to the *Commissioners* [legislative assembly.]

Condemnation of land for school-sites; proceedings.

Sec. 286, R. S. D. C.

SEC. 13. Whenever suitable sites cannot be purchased for the erection of school-houses, the *Commissioners* [school-board] shall have power to condemn and value land suitable for that purpose, not exceeding one acre for each site, by giving ten days' notice in writing to the proprietors thereof, except in cases where notice cannot be served, and in cases of minors, married women, and persons *non compos*, and filing with the secretary of the *Commissioners* of the District for inspection a certificate describing such lands, with the value assessed thereon, which shall be sufficient notice to the proprietors of such land that the *Commissioners are* [board is] ready to pay the amount of damages so assessed.†

When no appeal is made.

Sec. 287, R. S. D. C.

SEC. 14. If within thirty days from the filing of the certificate, as provided by the preceding section, the proprietors of the land shall not appeal from the decision of the *Commissioners* [school-board,] by written notice left with the secretary of the District, the amount so assessed shall be paid to the proprietors, and the title of such land and premises shall pass to and be vested in the District of Columbia, and said certificate shall be recorded in the land records of the District.

In case of appeal and when notice can not be given; proceedings.

Sec. 288, R. S. D. C.

SEC. 15. If the proprietors of such land and premises shall, within thirty days, notify the *Commissioners* [school-board,] in writing, left with the secretary of the *Commissioners* of the District, of their dissent from the valuation of such land so made, or if the land, or any part thereof, be owned by a minor, married woman, or person *non compos*, or if notice cannot be served, it shall be lawful for the *Commissioners* [school-board] to issue their warrant to the marshal of the District, commanding him to summon a jury of five freeholders, not interested in the matter, to appear, on a day appointed,

* By act of Congress of Mar. 3, 1893, 27 Stat., ch. 199, p. 546, it was enacted that public school buildings should not be used for any other purposes than those directly connected with the public school system.
† See note to sec. 7 of chapter 29, Highways.

on the premises, and after having each taken an oath (which the marshal or any one of the school-board is authorized to administer) that he will, without favor or prejudice, assess the damages sustained by the proprietor of the land by reason of the condemnation of said land, the jury so qualified shall proceed to value and assess the damages accordingly.

SEC. 16. If the amount assessed by the jury shall not be greater than the amount previously assessed, the whole costs of the appeal shall be chargeable to the appellant, to be paid by the *Commissioners* [school-board] and deducted from the cost of the land in settlement therefor; otherwise the board shall pay the expenses incurred by reason of such appeal, the marshal's and juror's fees to be computed as provided in chapter eleven of this title. [See § 266, R. S. D. C.]

Costs; by whom payable.
Sec. 289, R. S. D. C.

SEC. 17. The jury, immediately after they shall have completed their inquest and assessed the damages, shall make out a written verdict, setting forth a full and distinct description of the land and premises and the valuation or damages assessed therefor, which shall be signed by them, or a majority of them, and having been attested by the marshal, shall be immediately returned to the secretary of the *Commissioners* of the District, and shall be final.

Verdict of the jury, how returned.
Sec. 290, R. S. D. C.

SEC. 18. Upon payment, or offer of payment, to the proprietors of the land of the damages assessed according to the provisions of the three preceding sections, the title to such land shall pass to and be vested in the District of Columbia, and the verdict of the jury shall be recorded in the land records of the District.

Title to pass upon payment or tender of damages assessed.
Sec. 291, R. S. D. C.

SEC. 19. In any of the cases mentioned in the four preceding sections it shall be optional with the *Commissioners* [school-board] to abide by the verdict of the jury and occupy the land or abandon it, without being subject to damages therefor.

Option of the Commissioners to abide the verdict.
Sec. 292, R. S. D. C.

SEC. 20. It shall not be lawful to locate any site for a school-house in any orchard or garden, nor within three hundred yards of any dwelling-house, without the consent of the proprietor of such dwelling-house, and in order to obtain such consent or refusal thirty days' notice shall be given to the proprietor by the *Commissioners* [school-board,] notifying him of their intention; and if, within thirty days, no answer is returned by the proprietor, it shall be taken for consent, and the *Commissioners* [board] may proceed to erect their school-house.

Where school-houses shall not be located without consent.
Sec. 293, R. S. D. C.

SEC. 21. The *school* [board of] trustees shall furnish annually, on or before the 1st day of April, a correct report of their transactions to the *Commissioners* [governor] of the District.

Reports of board of school trustees.
Sec. 296, R. S. D. C.

SEC. 22. The *Commissioners* [Governor] shall appoint one superintendent of schools for, and a resident of, the county of Washington, and that all laws and ordinances of the portions of the District of Columbia known, respectively, as the city of Washington, city of Georgetown, and county of Washington, in relation to public schools therein, shall be of full force and effect in each of said localities, so far as not inconsistent with this act, or any other act of the Legislative Assembly of said District relative thereto: *Provided*, That the superintendent, secretaries, and treasurer of public schools in and for Georgetown and the county of Washington shall perform the same duties and be subject to the same regulations as are now imposed on, and required of, similar officers in Washington.

Superintendent's of public schools appointed by the Commissioners; their duties.
1 Leg. Assem., Aug. 23, 1871, ch. 108, sec. 36, p. 156.

Compensation of superintendents of public schools.

Ibid., sec. 37.
25 Stat., p. 800.

SEC. 23. The annual compensation of the officers named in the foregoing section shall be as follows, namely: For superintendent [of *Public Schools*] first six divisions, at two thousand seven hundred dollars; superintendent seventh and eighth divisions, at two thousand two hundred and fifty dollars.*

Superintendent of schools for colored children.

Sec. 304, R. S. D. C.

SEC. 24. There shall be a superintendent of schools for colored children, who shall be appointed by the *Commissioners* [governor] and hold office during *their* [his] pleasure, and who shall receive a salary of *two thousand two hundred and fifty*† [two thousand five hundred] dollars annually.‡

Proportionate part of school moneys to be set apart for colored schools.

Sec. 306, R. S. D. C.

SEC. 25. It shall be the duty of the proper authorities of the District to set apart each year from the whole fund received from all sources by such authorities applicable to purposes of public education in the cities of Washington and Georgetown such a proportionate part of all moneys received or expended for school or educational purposes in said cities, including the cost of sites, buildings, improvements, furniture, and books, and all other expenditures on account of schools, as the the colored children between the ages of six and seventeen years in the respective cities bear to the whole number of children, white and colored, between the same ages, for the purpose of establishing and sustaining public schools in said cities for the education of colored children; and such proportion shall be ascertained by the last reported census of the population of said cities made prior to such apportionment, and shall be regulated at all times thereby. [See § 115, R. S. D. C.]

Commissioners to establish schools for colored children.

Sec. 310, R. S. D. C.

SEC. 26. It is made the duty of the *Commissioners* [trustees] to provide suitable rooms and teachers for such a number of schools in Washington and Georgetown as, in their opinion, will best accommodate the colored children in the various portions of said cities.

PROVISIONS RELATING TO LAND CONVEYED BY THE UNITED STATES FOR SCHOOL PURPOSES.

Certain land given by the United States for school purposes not to be diverted.

Sec. 317, R. S. D. C.

SEC. 27. The lot of land marked upon the plan of the city of Washington as lot number fourteen, in square number two hundred and sixty-three, which was conveyed to said city by the Commissioner of Public Buildings, under authority of an act of Congress dated June fifth, eighteen hundred and sixty, for the use of the public schools in said city, shall not be sold, assigned, or conveyed or diverted for any other purpose except as provided in the following section.

Sale of part of lot authorized; proceeds, how to be invested.

Sec. 318, R. S. D. C.

SEC. 28. The proceeds of that portion of lot number fourteen, in square number two hundred and fifty-three, which was authorized to be sold by an act of Congress dated June fourth, eighteen hundred and seventy-two, shall be invested by the authorities of the District in another lot or part of a lot in the city of Washington, and in improvements thereon; and the property so purchased shall be used for the purpose of the public schools, and for no other purpose.

Certain lots granted for colored schools to revert to United

SEC. 29. The lots of land numbered one, two, and eighteen in square number nine hundred and eighty-five, in the city of Washington, which were designated and set apart by the Secretary of the

* Fixed by annual appropriations. The superintendent of the seventh and eighth divisions is superintendent of colored schools.

† Fixed by annual appropriation.

‡ The offices of school trustees of white and colored children and superintendents of schools were consolidated by order of the Commissioners, passed, respectively, Sept. 9, 1874, and June 22, 1875.

Interior to be used for colored schools, and conveyed to the trustees of colored schools for the cities of Washington and Georgetown, by the Commissioner of Public Buildings, under authority of an act of Congress dated July twenty-eight, eighteen hundred and sixty-six, for the sole use of schools for colored children in the District of Columbia, shall, if converted to other uses, revert to the United States.

States whenever used for any other purpose.

Sec. 319, R. S. D. C.

SEC. 30. That parcel of land marked and designated upon the map of the city of Washington as part of lot number eleven, in square number one hundred and forty-one, beginning at the northwest corner of said lot, and running thence due south on the west line of said square, fifty feet; thence due east, thirty feet; thence due north, fifty feet; thence due west on the north line of said square, to the point of beginning, and also that piece of land marked and designated upon said map as a public reservation, located between Eighth and Ninth streets and K street and Virginia avenue southeast, known as the Anacostia engine-house, together with the buildings and improvements thereon, are severally set apart and appropriated for the use of the public schools in the city of Washington, so long as they shall be occupied for that purpose, and no longer.

Certain pieces of land in Washington set apart exclusively for school purposes.

Sec. 320, R. S. D. C.

4 June, 1872, ch. 289, v. 17, p. 221.

SEC. 31. The nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the Military and Naval Schools, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of text-books in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the Territories, in the Military and Naval Academies of the United States, and in the District of Columbia, and in all Indian and colored schools in the Territories of the United States.

Alcoholic drinks and narcotics; study of effects of, to be compulsory in public schools.

May 20, 1886. 24 Stat., 69, ch. 362, sec. 1.

SEC. 32. It shall be the duty of the proper officers in the control of any school described in the foregoing section to enforce the provisions of this act; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this act, or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by the first section of this act, for all pupils in each and every school under his jurisdiction, shall be removed from office, and the vacancy filled as in other cases.

Enforcement of this act (sec. 31 of this chapter); punishment for failure to comply.

Ibid., sec. 2.

SEC. 33. No certificate shall be granted to any person to teach in the public schools of the District of Columbia or Territories, after the first day of January, anno Domini eighteen hundred and eighty-eight, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the nature and the effects of alcoholic drinks and other narcotics upon the human system.*

Teachers' certificates can only be granted after examination.

Ibid., sec. 3.

SEC. 34. Hereafter the janitors of the principal school buildings, in addition to their other duties, shall do all minor repairs to buildings and furniture, glazing, fixing seats and desks, and take care of the heating apparatus, and shall be selected with reference to their qualifications to perform this work.

Janitor's additional duties.

Feb. 25, 1885 23 Stat., 318.

SEC. 35. Teachers of night schools may also be teachers in the day schools.†

Teachers of night and day schools.

July 18, 1808. 25 Stat., 321.

* It is unlawful to molest or disturb any of the public schools in the city of Washington, or any teacher or assistant teacher thereof, while in discharge of their duty, under penalty of a fine of not less than \$5 or more than \$10. Webb's Digest, sec. 18, p. 325.

† By act of Congress Mar. 3, 1891, 26 Stat., ch. 546, p. 1062, 2 Sup. R. S., p. 982, the Commissioners are required to report to Congress an estimate of the number, etc., of all teachers.

Number of teachers; their salaries fixed; Commissioners to report.

SEC. 36. For teachers, not to exceed seven hundred and forty-five in number, including teachers of manual training schools, to be employed at a rate of compensation not to exceed the rate provided by the present schedule of salaries, and at an average salary not to exceed six hundred and eighty dollars, five hundred and six thousand six hundred dollars; and no increase in salaries paid to teachers in grades now receiving one thousand dollars or more, except in cases of promotion to fill vacancies occurring before or after the passage of this act and except in salaries to principals of normal, manual training, drawing and country schools, and no increase in the number of teachers in any of such grades exclusive of principals of such normal, manual training, drawing and country schools, shall be made, and the minimum compensation shall not be less than at the rate of three hundred dollars per annum, and the names of and actual compensation paid to each teacher under this provision shall be reported to Congress at the beginning of each regular session by the Commissioners: *Provided*, That in assigning salaries to teachers, no discrimination shall be made between male and female teachers employed in the same grade of school, and performing a like class of duties; and the Commissioners are directed to report to Congress at its next session an estimate of the number of teachers required in each of the grades and classes of the schools in the District, and the amount of salary for each of the teachers in each and all of the grades and classes of the schools in the District for the fiscal year eighteen hundred and ninety one.

No discrimination in sex.

Mar. 2, 1889.
25 Stat., 800.

School sites to be purchased without employing agents.

Ibid.

SEC. 37. Hereafter the Commissioners in making purchases of sites for schools or other public buildings shall do so without the employment of agents or through other persons not regular dealers in real estate in the District of Columbia, or through such regular dealers who have not had the property for sale continuously from the date of the passage of this act, and in no case shall commission be paid to more than one person or firm greater than the usual commission.

Condemnation powers of the Commissioners.

¹ 25 Stat., ch. 728, p. 357.

SEC. 38. The Commissioners shall have all the powers conferred on the Secretary of the Treasury and other officers of the United States by the act of August first, eighteen hundred and eighty-eight, entitled "An act to authorize condemnation of land for sites of public buildings, and for other purposes,"¹ for the condemnation of land for sites for school buildings, engine houses, and for police stations; Application for such proceedings shall be filed in the supreme court of said District, by the attorney thereof, under such orders as said court may prescribe in such cases.

Inspector of buildings to prepare plans, etc.

Ibid.

SEC. 39. The plans and specifications for each of said buildings, and for all other buildings provided for in this act, shall be prepared by the inspector of buildings of the District of Columbia, and shall be approved by the Architect of the Capitol and the Commissioners of the District, and said buildings shall be constructed by the Commissioners in conformity therewith.

Establishment of a normal school authorized for education of teachers.

³ Leg. Assem., ch. 8, sec. 1, p. 50.

SEC. 40. That the Board of Trustees of Public Schools of the city of Washington be, and is hereby, authorized to establish a normal school in the Franklin School building, for the special education of advanced pupils who are to become teachers in the public schools of said city.

June 23, 1873.

Principal teacher to be employed for normal school.

SEC. 41. The board of trustees be authorized to employ a teacher of said school, [at a salary not exceeding fifteen hundred dollars per annum, payable in monthly instalments, as the salaries of other

teachers of the public schools are paid: *Provided*, That no further expense shall be incurred by this act than is now required for teachers in the public schools for the year ending June thirtieth, eighteen hundred and seventy-four.] *

Ibid., sec. 2.

SEC. 42. That the board of trustees shall have power to make all necessary rules and regulations for the organization and government of the normal school, to prescribe the course of study to be pursued therein, and to fix terms for the admission and graduation of pupils: *Provided*, That the graduates of this school shall have preference in all cases when appointments of teachers for the public schools are to be made.

Board of school trustees to make rules and regulations, and to prescribe course of study.

Proviso.

Ibid., sec. 3.

SEC. 43. The Trustees of the Public Schools of the District of Columbia shall not organize or establish any more schools in any school district at the beginning of the school year than one for every fifty-two pupils attending school during the preceding year in said district, and no school shall be organized or established in any district after the beginning of the school year until the pupils attending school in such district shall be sufficiently in excess of fifty-two pupils for each school to allow fifty pupils for such new school as may be organized or established.

Restriction as to organization and establishment of schools.

June 26, 1873.
8 Leg. Assem.,
ch. 27, sec. 2, p. 79.

* The salaries of all teachers fixed by annual estimates and appropriations by Congress.

CHAPTER FIFTY-EIGHT.

REAL ESTATE.

CONVEYANCE OF.

- Sec.
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 2. Acknowledgment of deed; before whom may be made.
 3. Same subject; commissioner of deeds throughout the United States; how appointed; term of office; repeal.
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 12. When married woman party to deed; privy examination necessary.
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- Sec.
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21. Certain deeds not to be invalid for want of certain formalities.
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23. Same subject; as to any made by married women.
24. What acknowledgment by married woman sufficient to bar dower.
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26. Record and copies (sec. 21) of deeds; evidence; same subject. (*See Note to this section.*)
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Sec.	Sec.
29. Certain exceptions as to parties non-resident or absent parties to deeds abrogated, etc. (Note.)	37. Records relating to property shall be open to the public.
30. Certain acknowledgments made in foreign countries made valid; proviso.	38. When lands escheat. (NOTE.—Creditors of intestate; when lands escheat; how paid.)
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32. Tenant shall not be prejudiced until notified of conveyance.	39. Platting and subdivision of land; recording same.
33. Warranty by tenant for life void against heir.	40. When streets, avenues, and alleys become public property.
34. Will of donor, in gifts entail, shall be observed; limitation of alienation; reversion.	41. Right of way for extension of streets.
35. As to gifts hereafter made, sections 33 and 34 are in force.	42. Same subject; orders of Commissioners.
36. Implied warranty, what words create.	43. Future subdivisions to be in accordance with general plan of city of Washington. (NOTE.—Boundaries of land; Potomac flats.)

CONVEYANCE OF.

Deeds to be recorded. SEC. 1. The recorder of deeds shall admit to record any deed for the conveyance of real estate or interest therein within the District, or declaring or limiting any use or trust of any such real estate, which is executed, acknowledged, and certified according to the provisions of this chapter. (See § 467, Recorder of Deeds, R. S. D. C.)

Sec. 440, R. S. D. C.
May 31, 1832.
4 Stat., 520.
14 Feb., 1863, ch. 34, sec. 1, v. 12, p. 651.

Before whom deeds may be acknowledged. SEC. 2. Acknowledgments of deeds may be made before any of the following-named officers of the State, district, county, or Territory within the United States, in which the person making the deed may be, namely:

Sec. 441, R. S. D. C.
31 May, 1832, ch. 112, sec. 1, v. 4, p. 520.
16 Sept., 1850, ch. 52, v. 9, p. 458.
29 July, 1854, ch. 159, sec. 1, v. 10, p. 315.
8 Apr., 1864, ch. 51, sec. 5, v. 13, p. 44.
25 Mar., 1870, ch. 31, v. 16, pp. 77, 78.

First. Before any judge of a court of record and of law.
Second. Before any chancellor of a State.
Third. Before any judge of the supreme, circuit, district, or territorial courts of the United States.
Fourth. Before any justice of the peace.
Fifth. Before any notary public.
Sixth. Before any commissioner of the circuit court of the district, appointed for that purpose.* (See § 1773, R. S. U. S.)

Commissioners of deeds. Appointment. SEC. 3. The President of the United States is hereby authorized to appoint as many commissioners of deeds throughout the United States as he may deem necessary, with powers to take the acknowledgment of deeds for the conveyance of property within the said District, administer oaths, and take depositions in cases pending in the courts of said District in the manner prescribed by law; to whose acts, properly attested by their hands and seals of office, full faith and credit shall be given. Said commissioners of deeds to hold their offices for the period of five years, removable at discretion. All laws and parts of laws inconsistent with any of the provisions of this act be, and the same are hereby repealed.

Term of office. Repeal.

1 Sup. R. S. U. S., 337. June 7, 1878. 20 Stat., 101, sec. 5.

Certificate of acknowledgment. SEC. 4. The officer taking an acknowledgment shall annex to the deed a certificate under his hand and seal to the following effect:

Sec. 442, R. S. D. C.
31 May, 1832, ch. 112, sec. 1, v. 4, p. 521.
20 Apr., 1838, ch. 57, sec. 1, v. 5, p. 226.

County, [or city, &c.,] to wit:
I, A B, a justice of the peace, [or other prescribed officer, giving his title,] in and for the county, [or city, or parish, or district,] aforesaid, in the State [or Territory, or district] of _____, do hereby certify that C D, a party [or C D and E F, &c., parties,] to a certain deed, bearing date on the _____ day of _____, and hereunto

* For commissioners of deeds for District of Columbia, see next section.

annexed, personally appeared before me in the county [or city, &c.] aforesaid, the said C D, [or C D and E F, &c.,] being personally well known to me, as [or proved by the oaths of credible witnesses before me to be] the person [or persons] who executed the said deed, and acknowledged the same to be his [her, or their] act and deed. Given under my hand and seal this — day of —.

A. B. [SEAL.]

SEC. 5. When acknowledgments are made beyond the limits of the District within the United States, the certificate of the same shall be accompanied by a certificate of the register, clerk, or other public officer having cognizance of the fact, under his official seal, that, at the date of the acknowledgment, the officer taking the same was, in fact, the officer he purported to be.*

6 Mackey Rep., 181, *Black vs. Aman*; 123 U. S. Rep., 306, *Hitz vs. Jenks*.

To official character of person taking acknowledgment.

Sec. 443, R. S. D. C. *Ibid*.

SEC. 6. Deeds made in a foreign country may be executed and acknowledged before any judge or chancellor of any court, master, or master extraordinary in chancery, or notary public, or before any secretary of legation or consular officer of the United States.

Acknowledgments in a foreign country.

Sec. 444, R. S. D. C.

[See § 1750. R. S. U. S.]

112, sec. 1, v. 4, p. 521. 18 Aug., 1856, ch. 127,

31 May, 1832, ch. sec. 24, v. 11, p. 61.

SEC. 7. When acknowledgments are made before an officer in a foreign country other than a secretary of legation or consular officer of the United States, the official character of the person taking the acknowledgment shall be certified in the manner prescribed in section four hundred and forty-two.

Official character of foreign officer.

Sec. 445, R. S. D. C. *Ibid*.

SEC. 8. All acknowledgments of deeds and other instruments of writing under seal heretofore made in a foreign country, before any secretary of legation, consul or consular officer of the United States, for lands lying in the District of Columbia, are hereby validated and confirmed, and the same, and the records of the said deeds and instruments, if the said deeds and instruments have been recorded, are declared to be as good and effectual, in behalf the grantees therein named, and all persons claiming through or under them, as if the said acknowledgments and records had been respectively made and recorded under the provisions of existing laws: *Provided*, That nothing in this act shall be construed [to] divest just rights already acquired in good faith by creditors of or purchasers from the grantors in such deeds or instruments.

Foreign acknowledgments of deeds.

Proviso.

Mar. 3, 1879. 20 Stat., 353. Sup. R. S., 451.

SEC. 9. All deeds, deeds of trust, mortgages, conveyances, covenants, agreements, or any instrument of writing which by law is entitled to be recorded in the office of the recorder of deeds, shall take effect and be valid, as to creditors and as to subsequent purchasers for valuable consideration without notice, from the time when such deed, deed of trust, mortgage, conveyance, covenant, agreement, or instrument in writing shall, after having been acknowledged, proved, or certified, as the case may be, be delivered to the recorder of deeds for record, and from that time only; and the recorder of deeds shall note on each deed or other instrument of writing required by law to be recorded, the day and hour of delivery of the same to him to be recorded. That this section [act] shall not be so construed as to affect any deed or other instrument of writing heretofore recorded.

Deeds, etc., entitled to be recorded, to take effect on delivery to recorder, as against creditors, etc.

Act applied.

Apr. 29, 1878. 20 Stat., 39. 1 Sup. R. S., 315. R. S. D. C., 446, 447, p. 52, repealed.

6 Mackey Rep., 481, *Chafee vs. Blatchford*.

SEC. 10. If two or more deeds containing the same property, after having been acknowledged, or proved and certified, be delivered to the recorder for record on the same day, that which shall have been first sealed and delivered shall have preference in law.

Preferences in record.

Sec. 448, R. S. D. C.

20 Apr., 1838, ch. 57, sec. 2, v. 5, pp. 226, 227.

* Exception in favor of commissioners of deeds appointed by the President. 6 Mackey Rep., 459, *Chafee vs. Blatchford*.

Title-bonds or contract.

Sec. 449, R. S. D. C.
Ibid., sec. 3, p. 227.

SEC. 11. Any title-bond, or other written contract in relation to land, may be proved, acknowledged, certified, and recorded, in the same manner as deeds for the conveyance of land; and such proof or acknowledgment, and certificate, and the delivery of such bond or contract to the recorder of deeds for record, shall be taken and held to be notice to all subsequent purchasers of the existence of such bond or contract.

When a married woman is party to a deed, privy examination necessary.

Sec. 450, R. S. D. C.
31 May, 1832, ch. 112, sec. 2, v. 4, p. 521. 20 Apr., 1838,

SEC. 12. When any married woman shall be a party executing a deed for the conveyance of real estate or interest therein, and shall only be relinquishing her right of dower, or when she shall be a party with her husband to any deed, it shall be the duty of the officer authorized to take acknowledgments, before whom she may appear, to examine her privily and apart from her husband, and to explain to her the deed fully.

ch. 57, sec. 4, v. 5, p. 227. 123 U. S. Rep., 297, *Hitz vs Jenks*.

Certificate, when wife after privy examination, etc., acknowledges deed, etc.

Sec. 451, R. S. D. C.
6 Mackey Rep., 131, *Black vs. Aman*; 123 U. S. Rep., 301.

SEC. 13. If, upon such privy examination and explanation, she shall acknowledge the deed to be her act and deed, and shall declare that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it, the officer shall certify such examination, acknowledgment, and declaration by a certificate annexed to the deed, and under his hand and seal, to the following effect:

— county, [or city, &c.,] to wit:

I, A B, a justice of the peace, [or other prescribed officer, giving title,] in the county [or city, &c.] aforesaid, in the State [or Territory, &c.] of —, do hereby certify that C D, the wife of E F, party to a certain deed bearing date on the — day of — and hereunto annexed, personally appeared before me in the county [or city, &c.] aforesaid, the said C D being well known to me as [or proved by the oaths of credible witnesses before me to be] the person who executed the said deed, and being by me examined privily and apart from her husband, and having the deed aforesaid fully explained to her, she, the said E F, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it. Given under my hand and seal this — day of —.

A. B. [SEAL.]

Effect of deed as to married woman after privy examination and acknowledgment.

Sec. 452, R. S. D. C.
123 U. S. Rep., 301, *Hitz vs. Jenks*.

SEC. 14. When the privy examination, acknowledgment, and declaration of a married woman is taken and certified and delivered to the recorder of deeds for record, in accordance with the provisions of this chapter, the deed shall be as effectual in law as if she had been an unmarried woman, but no covenant contained in the deed shall in any manner operate upon her or her heirs, further than to convey effectually her right of dower or other interest in the real estate which she may have at the date of deed. [See §§ 727-730, R. S. D. C.]

CONVEYANCE FOR RELIGIOUS PURPOSES.

Certain conveyances not void for want of trustees.

Sec. 453, R. S. D. C.
17 June, 1844, ch. 101, sec. 2, v. 5, p. 679.

SEC. 15. Where any conveyance or devise of real estate is made for the use and benefit of any religious congregation as a place of public worship, such conveyance or devise shall not be void or frustrated by reason of the want of trustees to take and hold the same in trust, but trustees may be appointed as provided in the following section. [See § 17 of this chapter.]

Certain estates shall not pass except by deed recorded.

SEC. 16. No estate of inheritance or freehold or any declaration or limitation of use, or any estate for above seven years, shall pass or take effect, except the deed or conveyance by which the same shall be intended to pass or take effect, shall be acknowledged in the pro-

vincial court, or before one of the justices thereof in the county court, or before two justices of the same county where the lands, tenements or hereditaments, conveyed by such deed or conveyance do lie, and be also enrolled in the records of the same county, or the provincial court, as the case may be, within six months* after the date of such deed or conveyance; and, for the taking which acknowledgment there shall be paid to the party or parties taking the same, the sum of one shilling and no more; and the clerk of the provincial, or county courts, shall, immediately upon the receipt of such deed or conveyance, endorse thereon the time of his receiving the same, and shall well and truly, in a fair, full and legible hand-writing, enroll such deed or conveyance in a good sufficient book in folio, to be regularly alphabeted in the names of all and every of the parties to the same, and the name of the land, and quantity of acres, which book shall remain in the custody of the said clerk of the said provincial, or county court; and the clerk aforesaid shall, on the back of every such deed or conveyance, in a full legible hand, make a certificate of such enrollment, and the time of making it, and also of the folio of the book in which the same shall be enrolled, and shall to such certificate set his hand.

Md. act 1766, ch. 14, sec. 2.
1 Dorsey, 111.
1 Kilty, 346.
2 Mackey Rep., 416, U. S. vs. Howgate; 12 Peters Rep., 205, Steller vs. Carroll; 68 Md. Rep., 415, Walsh vs. McIntire; 31 Md. Rep., 111. Polk vs. Reynolds; 4 Cranch, Ct., 121, Arden vs. Brown; 11 Gill and J. Rep., 450, Anderson vs. Critcher.

SEC. 17. When such conveyance or devise is made, whether by the intervention of trustees or not, the supreme court of the district shall, on application of the United States attorney, on behalf of the authorities of any such congregation, have power to appoint trustees, originally, when there are none, or to substitute others, from time to time, in cases of death, refusal, or neglect to act, removal from the District, or other inability to execute the trust beneficially and conveniently; and the legal title shall thereupon become exclusively vested in the whole number of the trustees and their successors.

Appointment of trustees.

Sec. 454, R. S. D. C.
Ibid., sec. 3.

SEC. 18. The majority of the acting trustees for any such congregation may sue and be sued in their own names, in relation to the title, possession, or enjoyment of such property, without abatement by the death of any of the trustees, or substitution of others; and the action or suit may be prosecuted to its final termination in the names of the trustees by or against whom the same was instituted, and all other proceedings had in relation thereto, in like manner as if such death or substitution had not occurred.

Who may sue and be sued in relation to title, etc.

Sec. 455, R. S. D. C.
17 June, 1844, ch. 101, sec. 4, v. 5, pp. 679, 680.

SEC. 19. Land authorized to be conveyed and held subsequent to June seventeenth, eighteen hundred and forty-four, and prior to May fifth, eighteen hundred and seventy, for the uses of any religious congregation, in quantity not exceeding fifty acres if in the District outside of the cities of Washington and Georgetown, nor exceeding three acres, if in either of said cities, shall not be held by the trustees of such congregation for any other use than as a place of public worship, religious or other instruction, burial-ground, or residence of their minister. [See §§ 588, 589, class 2, corporations, R. S. D. C.]

Limitation to use of land for religious purposes.

Sec. 456, R. S. D. C.
Ibid., p. 680.
5 May, 1870, ch. 80, sec. 2, v. 16, p. 99.

SEC. 20. The thirty-fourth section of the Declaration of Rights of the State of Maryland, adopted seventeen hundred and seventy-six, so far as the same was recognized and adopted in the District prior to July twenty-fifth, eighteen hundred and sixty-six, is repealed and annulled, and all sales, gifts, and devises prohibited by said section, or by any law passed in accordance therewith, are, when made, valid and effectual: *Provided*, That, in case of gifts and devises, the same shall be made at least one calendar month before the death of the donor or testator.

Gifts and devises to religious congregations, etc.

Sec. 457, R. S. D. C.
25 July, 1866, ch. 237, v. 14, p. 232.

* By Nov., 1779, ch. 10, they are to be calendar months.

QUIETING LAND-TITLES.

Certain deeds not to be invalid for want of certain formalities.

Sec. 458, R. S. D. C.
8 Mar., 1863, ch. 115, v. 12, p. 807.

SEC. 21. No deed or conveyance of squares or lots of public land in the city of Washington made in pursuance of law prior to March third, eighteen hundred and sixty-three, by the commissioner of public buildings, or any other authorized officer, shall be deemed invalid in law, for the want of an acknowledgment by the commissioner or other authorized officer before such judicial officers as deeds of real property made between individuals are required by law to be acknowledged.

Defective acknowledgments cured.

Sec. 459, R. S. D. C.
8 Mar., 1865, ch. 110, sec. 1, v. 18, pp. 531, 532.

SEC. 22. All deeds and acknowledgments recorded in the land-records of the District prior to March third, eighteen hundred and sixty-five, of any of the following classes, namely:

First. All deeds which have been executed and acknowledged by married women, their husbands having signed and sealed the same, for conveying any real estate or interest therein, situated in the District.

Second. All acknowledgments of deeds which have been made by married women, whether they have executed the deed or not, for the purpose of releasing their claims to dower in the lands described therein, situated in the District, in which acknowledgments the form prescribed by law has not been followed.

Third. All deeds which have been executed and acknowledged by an attorney in fact, duly appointed for conveying real estate situated in the District.

Fourth. All deeds executed and acknowledged, or only acknowledged by such attorney in fact, for conveying real estate situated in the District, as to which the acknowledgment was made before officers different from those before whom proof of the power of attorney was made, and as to which the power of attorney was proved before only one justice of the peace;

Fifth. All deeds for the purpose of conveying land situated in the District, acknowledged out of the District, before a judge of a United States court, or before two aldermen of a city, or the chief magistrate of a city, or before a notary public;

Sixth. All deeds for the purpose of conveying land situated in the District, acknowledged by an attorney in fact, duly appointed, or by an officer of a corporation, duly authorized, who has acknowledged the same to be his act and deed, instead of the act and deed of the grantor or of the corporation; and,

Seventh. All deeds for the purpose of conveying land situated in the District to which there is not annexed a legal certificate as to the official character of the officer or officers taking the acknowledgment, are declared to be of the same effect and validity to pass the fee-simple or other estate intended to be conveyed, and bar dower in the real estate therein mentioned in favor of parties in actual possession, claiming under and through such deeds—

First. As if such deeds had been by such married women executed and acknowledged, or acknowledged in case of a dower right, in the form prescribed by law;

Second. As if such deeds had been executed and acknowledged by the grantor in the deed;

Third. As if such power of attorney had been proved before the officer or officers taking the acknowledgment;

Fourth. As if such power of attorney had been proved before two justices of the peace;

Fifth. As if such acknowledgment had been made before any judge of a State court, or before two justices of the peace;

Sixth. As if such attorneys-in-fact or officer of a corporation had acknowledged the deed to be the deed of the grantor or of the corporation;

Seventh. As if such deeds had thereto annexed a certificate, in legal form, that the officer or officers taking the acknowledgment were really what they purport to be.

SEC. 23. In cases mentioned in the preceding section the certificate of acknowledgment by a married woman must show that the acknowledgment was made "apart" or "privily" from her husband, or use some other term importing that her acknowledgment was made out of his presence, and also that she acknowledged or declared that she willingly executed or that she willingly acknowledged the deed, or that the same was her voluntary act, or to that effect.

Privy acknowledgments.

Sec. 460, R. S. D. C.
3 Mar., 1865, c. 110, sec. 1, v. 13, pp. 531, 532.

SEC. 24. Any acknowledgment made by a married woman of any deed executed by her husband, and recorded as mentioned in section four hundred and fifty-nine,* shall be good and effectual to bar all claim on her part to dower in the lands described therein, situated in the District, although she shall not have executed the same.

What acknowledgment by married woman sufficient to bar dower.

Sec. 461, R. S. D. C.
Ibid., sec. 3, p. 532.

SEC. 25. When the power of attorney mentioned in section four hundred and fifty-nine is executed by a married woman, the same shall be effectual and sufficient if there is such an acknowledgment of the same as would be sufficient, under the provisions of this chapter, to pass her estate and interest therein were she a party executing the deed of conveyance.

When power of attorney executed by married woman to pass title to lands sufficient.

Sec. 462, R. S. D. C.
Ibid., sec. 1, p. 532.

SEC. 26. The record and copy thereof of any deed recorded, as mentioned in section four hundred and fifty-nine, shall be evidence thereof, in the same manner and shall have the same effect as if such deed had been originally executed, acknowledged, and recorded according to law. †

Record and copy of deed.

Sec. 463, R. S. D. C.
Ibid.

SEC. 27. The acts of Congress approved May thirty-first, eighteen hundred and thirty-two, and April twenty, eighteen hundred and thirty-eight, in reference to the acknowledgment and recording of deeds of lands situated in the District, shall be taken and construed as cumulative with the acts of Maryland on the same subject in force in the District at the passage thereof, and an acknowledgment made and certified in compliance with any one of said acts, and before any officer authorized by either of said acts to take an acknowledgment, whether in or out of the District, shall be good and effectual.

Construction of certain acts as to acknowledgment and recording of deeds.

Sec. 464, R. S. D. C.
31 May, 1832, ch. 112, v. 4, p. 520.
20 Apr., 1838, ch. 57, v. 5, p. 226.
3 Mar., 1865, ch. 110, sec. 3, v. 13, p. 532.

SEC. 28. If in any case it shall appear that the grantor "acknowledged said deed," it shall have the same effect as if he acknowledged the deed to be his act and deed.

What sufficient to express acknowledgment of deed.

Sec. 465, R. S. D. C.

SEC. 29. All exceptions in favor of parties beyond the District, which may by laws in force March third, eighteen hundred and sixty-five, be replied or relied on in any action or proceeding brought in the District, are repealed and abrogated. †

Certain exceptions abrogated.

Sec. 466, R. S. D. C.

24 Stat., 431, Feb. 28, 1887. Ibid., sec. 2, p. 532. 94 U. S. Rep., 778, Hogan vs. Kurtz; 5 Wallace Rep., 107, Hadden vs. The Collector; 19 Wash. Law Rep., 702, Pickering vs. Arrick; ibid., 9 Mackey Rep., 169.

* R. S. D. C.

† As to proof of deed, etc., recorded, see secs. 33, 34, title "Evidence," ante.

‡ This section was made universal in its application by the act of Feb. 28, 1887, 24 Stat., L. 431; and absence from the District of Columbia does not suspend the statute of limitations.

Certain acknowledgments of deeds, etc., for District of Columbia taken in foreign countries made valid.

SEC. 30. All acknowledgments of deeds and other instruments of writing under seal heretofore made in a foreign country, before any secretary of legation, consul, or consular officer of the United States, for lands lying in the District of Columbia, are hereby validated and confirmed, and the same, and the records of the said deeds and instruments, if the said deeds and instruments have been recorded, are declared to be as good and effectual, in behalf of the grantees therein named, and all persons claiming through or under them, as if the said acknowledgments and records had been respectively made and recorded under the provisions of existing laws: *Provided*, That nothing in this act shall be construed [to] divest just rights already acquired in good faith by creditors or purchasers from the grantors in such deeds or instruments.

Proviso.

Mar. 3, 1879.
20 Stat., 353.

Conveyances shall be good without attornment.

4 Anne, ch. 16,
sec. 9, A. D. 1705.
Alex. Brit. Stat.,
660, 661.

SEC. 31. All grants or conveyances thereafter to be made, by fine or otherwise, of any manors or rents, or of the reversion or remainder of any messuages or lands, shall be good and effectual, to all intents and purposes, without any attornment of the tenants of any such manors, or of the land out of which such rent shall be issuing, or of the particular tenants upon whose particular estates any such reversions or remainders shall and may be expectant or depending, as if their attornment had been had and made.

Tenant shall not be prejudiced until notified of conveyance.

Ibid., sec. 10, A.
D., 1705.

SEC. 32. *Provided nevertheless*, That no such tenant shall be prejudiced or damaged by payment of any rent to any such grantor or conusor, or by breach of any condition for non-payment of rent, before notice shall be given to him of such grant by the conusee or grantee.

Alex. Brit. Stat., 661. Kilty's Rep., 246.

Warranty by tenant for life void against heir.

Ibid., sec. 21, A.
D. 1705.

Alex. Brit. Stat.,
662, 663.
Kilty's Rep., 246.

SEC. 33. All warranties which shall be made by any tenant for life, of any lands, tenements or hereditaments, the same descending or coming to any person in reversion or remainder, shall be void and of none effect: and likewise all collateral warranties, which shall be made, of any lands, tenements or hereditaments, by any ancestor, who has no estate of inheritance in possession in the same shall be void against the heir.

In gifts entail the donor's will shall be observed; limitation upon alienation; reversion.

13 Edward I, ch.
1, sec. 2, A. D.
1285.

Alex. Brit. Stat.,
88.

Kilty's Rep., 211.

SEC. 34. The will of the giver, according to the form in the deed of gift manifestly expressed, shall be from henceforth observed; so that they to whom the land was given under such condition, shall have no power to alien the land so given, but that it shall remain unto the issue of them to whom it was given after their deaths, or shall revert unto the giver, or his heirs, if issue fail (whereas there is no issue at all) or if any issue be, and fail by death, or heir of the body of such issue failing. (2) Neither shall the second husband of any such woman, from henceforth, have any thing in the land so given upon condition, after the death of his wife, by the law of England, nor the issue of the second husband and wife shall succeed in the inheritance, but immediately after the death of the husband and wife (to whom the land was so given) it shall come to their issue, or return unto the giver, or his heir, as before is said.

This statute in force as to gifts hereafter made.

Ibid., sec. 4.
Alex. Brit. Stat.,
90.

Kilty's Rep., 211.

SEC. 35. The writ whereby the giver shall recover (when issue faileth) is common enough in the chancery; (2) And it is to wit, that this statute shall hold place touching alienation of land contrary to the form of the gift hereafter to be made, and shall not extend to gifts made before. (3) And if a fine be levied hereafter upon such lands, it shall be void in the law; (4) neither shall the heirs, or such as the reversion belongeth unto, though they be of full age, within England, and out of prison, need to make their claim.

[Altered by 26 H. 8, ch. 36.]

SEC. 36. In deeds also where is contained *dedi & concessi tale tenementum* without homage, or without a clause that containeth warranty, and to be holden of the givers, and their heirs, by a certain service; it is agreed, that the givers, and their heirs, shall be bounden to warranty. (2) And where is contained, *dedi et concessi, &c.* to be holden of the chief lords of the fee, or of other, and not of feoffors, or of their heirs, reserving no service without homage, or without the foresaid clause, their heirs shall not be bounden to warranty, notwithstanding the feoffor during his own life, by force of his own gift shall be bound to warrant.

Implied warranty; by what words in a feoffment a feoffer shall be bound to warranty.

4 Edward I, ch. 6, sec. 1, A. D. 1276. Alex. Brit. Stat., 75.

Kilty's sec. p., 210.

1 Md. Rep., 225, *Georges Co. vs. Detmold*; 1 Md. Rep., 525, *White vs. Flannigan*; 5 Md. Rep., 314, *Moale vs. Baltimore*; 16 Md. Rep., 35, *Baugh vs. Wright*; 17 Md. Rep., 470, *Varnum vs. Thruston*; 19 Md. Rep., 472, *Parkhurst vs. N. C. R. W. Co.*

PUBLIC RECORDS OF.

SEC. 37. Public records which have any reference, or in any way relate, to real or personal property in said District, shall be open to the public.

Records relating to property shall be open to the public.

Feb. 6, 1879, 20 Stat., 283.

SEC. 38. Any lands within this *District* [state,] of which any person has or shall hereafter die seized in fee-simple, without any heir of the whole blood who could have inherited if he had been a *citizen of the United States* [subject of this state,] or without leaving any relation of the half blood within two degrees, that is, first cousins, as the same are reckoned by the common law, such lands shall escheat to the *United States* [state.]*

When lands escheat.

Md. act 1781, ch. 51, sec. 5.

1 Kilty, 554.

1 Dorsey, 165.

SUBDIVISION OF LAND.

SEC. 39. The Commissioners of the District of Columbia be, and they are hereby authorized and directed to make and publish such general orders as may be necessary to regulate the platting and subdividing of all lands and grounds in the District of Columbia; and no such plat of subdivision made in pursuance of such orders shall be admitted to record in the office of the surveyor of said District without an order to that effect indorsed thereon by the Commissioners of said District.

Platting and subdivision of land.

Recordingsame.

Aug. 27, 1888.

25 Stat., 451, sec. 1.

SEC. 40. All spaces on any duly recorded plat of land thereon designated as streets, avenues, or alleys shall thereupon become public ways, provided they are made in conformity with the provisions of section one of this act, and as such be under the protection of the laws and ordinances in force applicable to public roads out of said city.

Streets, avenues, and alleys.

Ibid., sec. 2.

SEC. 41. If by the extension of any of the present streets or avenues, or the opening of any public way, it becomes necessary to traverse any grounds now used as a cemetery, or place of burial, the Commissioners are hereby empowered to secure a right of way through the same by stipulation with the proprietors thereof.

Right away for extension of streets.

Ibid., sec. 3.

SEC. 42. That the orders of the Commissioners made pursuant to this act shall have the force and effect of law, thirty days subsequent to the day of publication; and all laws and provisions of laws inconsistent herewith are hereby repealed.

Orders of Commissioners, effect of.

Ibid., sec. 4.

* The omitted part of this section was repealed by the Md. act of Nov., 1781, ch. 20, sec. 17; 1 Kilty, 599. See title "Aliens," sec. 4; 5 How. Rep., 233, *Taylor vs. Benham*. When Government will pay creditor of intestate whose lands shall be escheated; see Md. act 1785, ch. 78, sec. 2; 2 Kilty, 59; see title "Chancery," secs. 54, 57, 74, 93.

Future subdivisions.

Ibid., sec. 5.

SEC. 43. No future subdivision of land in the District of Columbia, without the limits of the cities of Washington and Georgetown, shall be recorded in the surveyors office of the said District unless made in conformity with the general plan of the city of Washington.*

* *Boundaries of land.*—Boundaries of land; perpetuation of evidence of; procedure for same, see Md. act 1724, ch. 8, secs. 2, 3, 4, 6; 1 Dorsey, 61, 62; Thomp. Dig., 107, 108; Md. act, 1786, ch. 33, secs. 2, 3, 4, 5, 6; 1 Dorsey, 340, 341; Thomp. Dig. 106-111. Md. act 1787, ch. 22, sec. 2; 1 Dorsey, 249; Thomp. Dig. 114; Md. act 1788, ch. 70, secs. 2, 3; 1 Dorsey, 302, 303; Thomp. Dig. 114.
Potomac flats.—For act of Congress relating thereto, see 24 Stats., p. 335.

CHAPTER FIFTY-NINE.

RECORDER OF DEEDS.

Sec.

1. Appointment and duties of.
2. Deputy; by whom appointed; his acts, etc.
3. Vacancy of; deputy can act; proviso as to additional costs and fees.
4. Deeds and other instruments to take effect, when; day and hour to be noted on deeds, etc.

Sec.

5. Provisions of previous section not to be retroactive.
6. Rooms to be appropriated for, etc.
7. When other rooms may be procured.
8. Fees of enumerated.
9. Certain records made valid.
10. Recorder of deeds to number benevolent associations, etc.

Appointment and duties of recorder.

Sec. 467, R. S. D. C.

14 Feb., 1863, ch. 34, sec. 1, v. 12, p.

651. 3 Mar., 1869, ch. 151, sec. 1, v. 15, p. 341.

3 Mar., 1861, ch. 24, sec. 5, v. 2, p. 115.
 1 Amended Feb. 27, 1877, 19 Stat., 253, Sup. R. S., 258.

SEC. 1. There shall be a recorder of deeds of the District appointed by the President, by and with the advice and consent of the Senate,¹ who shall record all deeds and other instruments in writing authorized to be recorded, and perform all requisite services connected therewith, and who shall have charge and custody of all the records, papers, and property appertaining to his office.* [See §§ 90, 144, R. S. D. C.]

Recorder of deeds in District of Columbia may appoint deputy.

R. S., vol. 2, Dist. Col., secs. 467-471.

Jan. 16., 1877. 19 Stat., 222.

SEC. 2. The recorder of deeds for the District of Columbia is authorized to appoint a deputy recorder; and all deeds of conveyance, leases, powers of attorney, and other written instruments required to be filed and recorded, and all copies of instruments and records, and certificates authorized by law, filed, recorded, made, and certified by the deputy recorder, and shall have the same legality, force, and effect as if performed by the recorder.

Deputy to act in case of vacancy.

SEC. 3. In case of a vacancy in the office of recorder by death, resignation, or other cause, the deputy recorder shall act until a recorder shall be duly appointed and qualified:

No additional expense or fees allowed.

Provided, That no additional expense shall be incurred by the District for said deputy, and no other fees shall be allowed than are now provided by law.

Deeds, etc., to take effect on delivery to recorder, as against creditors, etc.

1 Sup. R. S., 315. Apr. 29, 1878.

20 Stat., 40. R. S. D. C., 446,

447, p. 52, repealed.

SEC. 4. All deeds, deeds of trust, mortgages, conveyances, covenants, agreements, or any instrument of writing which by law is entitled to be recorded in the office of the recorder of deeds, shall take effect and be valid, as to creditors and as to subsequent purchasers for valuable consideration without notice, from the time when such deed, deed of trust, mortgage, conveyance, covenant, agreement, or instrument in writing shall, after having been acknowledged, proved, or certified, as the case may be, be delivered to the recorder of deeds for record, and from that time only; and the recorder of deeds shall note on each deed or other instrument of writing required by law to be recorded, the day and hour of delivery of the same to him to be recorded.

* See sec. 1, title "Conveyance of Real Estate."

SEC. 5. This act shall not be so construed as to affect any deed or other instrument of writing heretofore recorded.

Act not retroactive.

Ibid., sec. 2.

SEC. 6. The chief of engineers in charge of the public buildings and grounds is directed to appropriate such rooms in any of the public buildings under his charge for the use of the recorder as may be necessary for his accommodation. [See § 1797, R. S. U. S.]

Rooms to be appropriated.

Sec. 468, R. S. D. C.

14 Feb., 1863, ch. 34, sec. 2, v. 12, pp. 651, 652.

SEC. 7. When rooms cannot be so appropriated without interfering with the business of the departments, the recorder shall procure, with the approbation of the chief of engineers, such rooms, in the city of Washington, as may be necessary for the security of the records and the convenient transaction of the business of his office.

Recorder may obtain rooms; where.

Sec. 469, R. S. D. C.

Ibid.

SEC. 8. The legal fees for the services of the recorder shall be as follows, namely:

Fees.

For filing, recording, and indexing, or for making certified copy of any instrument containing two hundred words or less, fifty cents, and fifteen cents for each additional hundred words, to be collected at the time of filing, and when the copy is made.

Sec. 470, R. S. D. C.

3 Mar., 1869, ch. 151, sec. 2, v. 15, p. 341.

For each certificate and seal, twenty-five cents.

For searching records extending back two years or less next preceding current date, twenty-five cents, and five cents for each additional year, to be paid by the party for whom the search may be made.

For recording a town-plat, three cents for each lot such plat may contain.

For recording a plat or survey, five cents for each course such survey may contain.

For filing and indexing any paper required by law to be filed in his office, fifteen cents.

For each examination of title by the party or his attorney, fifty cents.

For taking any acknowledgment, fifty cents.

SEC. 9. All deeds of conveyance, leases, power of attorney, and other written instruments required by law to be filed and recorded, and all copies of instruments and records and certificates authorized by law, filed, recorded, made, and certified by William G. Flood, as acting register of deeds for the District since the death of Edward C. Eddie, a former register, up to the date of the appointment and qualification of his successor, are declared to be legally performed, the same as if the said William G. Flood had been legally appointed and qualified as register of deeds.

Certain records made valid.

Sec. 471, R. S. D. C.

Ibid., sec. 3, pp. 341, 342.

SEC. 10. The recorder of deeds for the District of Columbia shall number benevolent societies or associations in the order in which the certificates of incorporation of said societies or associations have been, or may hereafter be, filed for record in his office.

Recorder of deeds to number benevolent associations.

Leg. As em., Aug. 23, 1871, sec. 1, p. 111.

CHAPTER SIXTY.

REGISTER OF WILLS.

Sec.

1. Appointment and duties of register.
2. Bond of register.
3. Oath of register.
4. Tenure of office.
5. Additional duties of.
6. Additional duties of.
7. May pass accounts, when.
8. Shall not practice law.
9. Penalty for charging for advice.
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Sec.

11. Fees.
12. Additional fees, when allowed.
13. Table of fees to be posted.
14. Forfeiture for neglect to post table of fees.
15. Penalty for taking excessive fees; how recovered.
16. Record books and dockets, allowed.
17. Fees limited for pauper estates.

Appointment and duties of register.

Sec. 929, R. S. D. C.
27 Feb., 1801, ch. 15, sec. 12, v. 2, p. 107.

SEC. 1. There shall be appointed for the District a register of wills, who shall take an oath for the faithful and impartial discharge of the duties of his office, and who shall have all the powers and perform all the duties which were exercised and performed by the registers of wills of the orphans' court, within the State of Maryland, prior to the twenty-seventh day of February, eighteen hundred and one. [See §§ 63, 90, 144, R. S. D. C.]

Bond of register.

Sec. 930, R. S. D. C.
21 June, 1870, ch. 138, sec. 1.
16 Stat., 160.

SEC. 2. The register of wills shall, before he acts as such, give a bond to the United States, with two or more sureties, to be approved of by the chief justice of the supreme court of the District, in the sum of five thousand dollars, faithfully to discharge the duties of his office and seasonably to record the decrees and orders of the justice of the supreme court holding the special term for orphans' court business for the District, and all wills proved before him or the court, and all other matters directed to be recorded in the court or in the office of the register, which bond shall be entered in full upon the minutes of the court, and the original filed with the records thereof.

Oath of register.

Md. act 1798, ch. 101, sub ch. 15, sec. 11.
2 Kilty, 853.
1 Dorsey, 412.

SEC. 3. Every person hereafter appointed register of wills, before he acts as such, shall, before the said court, or some judge or justice, qualify, by repeating and subscribing the declaration aforesaid, and taking, repeating and subscribing, the aforesaid oaths of allegiance and fidelity, and by taking, repeating and subscribing, the following oath of office: "I, A. B. do swear, (or solemnly, sincerely and truly affirm,) that I will diligently, honestly and faithfully, execute the office of register of wills in — county, according to the best of my skill and judgment; so help me God."

Tenure of office.

Constitution of Maryland, sec. 40.
1 Kilty, 21.

SEC. 4. The registers of wills shall hold their commissions during good behaviour, removable only for misbehaviour on conviction in a court of law.

Additional duties.

Md. act 1798, ch. 101, sub ch. 15, sec. 9.
2 Kilty, 852.
1 Dorsey, 412.

SEC. 5. The register of wills shall diligently attend each meeting of the orphans court and under their direction make full and fair entries of their proceedings, and shall also make a fair record, in a strong bound book or books, of all wills proved before him, or the said court, or authenticated according to this act, and of all other matters by law directed to be recorded in the said court, or in his office; he shall make out and issue every summons, process or order of the court, and shall, in every respect, act under their control and

direction, as the clerk of a court of law is under the direction of the said court of law; and he shall give out, and certify under the seal of the court, any copy of any part of the proceedings in the court, or in his office, which any person may demand; and he shall be entitled to a reward for any service by him done, according to the table of fees now or hereafter to be settled by law.

SEC. 6. The said register of wills shall attend where the orphans court is held, unless prevented by sickness, accident or necessity, for the dispatch of office business; he shall lodge every original paper and record by him made up in some repository of the court-house or in such other place of safety which the said court may appoint; [the levy court of the county shall provide and keep in repair the said repository at the county's charge.]

Additional duties.
Md. act 1798, ch. 101, sub ch. 15, sec. 10.
2 Kilty, 852.
1 Dorsey, 412.

SEC. 7. That the register of wills shall be, and by virtue of this act they are, authorized and empowered to pass any accounts of the estates of deceased persons where the amount of the inventory of such deceased's estate does not exceed the sum of three hundred and fifty pounds [\$933.33 $\frac{1}{4}$]: *Provided nevertheless*, That the orphans court, at any time within two terms after the passage or rejection of such accounts, shall have full power and authority to reconsider and alter or reverse the same: *And provided nevertheless*, That any one of the said justices shall have full power and authority to call and adjourn the said courts.*

When register may pass accounts.
Md. act 1791, ch. 76, sec. 5.
2 Kilty, 349.

SEC. 8. No person, being register of wills shall plead as an attorney at law in any court in the county where he is register of wills, for any person or persons, on any pretence whatsoever; and no register of wills as aforesaid shall exact, extort, demand, take, accept or receive, from any person whatsoever, any fee or fees, gratuity, gift or reward, for giving his advice in any matter or thing that will be transacted in the courts of the county where he acts as register aforesaid, under the penalty of thirty pounds¹ [\$80]; current money for every such offence.

Register shall not practice law.
Md. act 1786, ch. 10.
2 Kilty, 76.
1 Dorsey, 235.

¹See also sec. 837, R. S. D. C.

SEC. 9. That no register of wills shall demand, take or receive, from any person whatever, any fee, gratuity, gift or reward, for giving his advice in any matter or thing relative to his office, under the penalty of fifty pounds current money [\$133.33 $\frac{1}{4}$], for every offence.

Penalty for charging for advice.
Md. act 1779, ch. 25, sec. 7.
1 Kilty, 504.

SEC. 10. That if any register of wills, register of the chancery court, or any clerk of the common law courts, shall receive, directly or indirectly, at any time, the profits, or any part of the profits, of any office held by any other person during his acting in the office to which he is appointed, his election, appointment and commission, on conviction in a court of law by the oath, or affirmation, of two credible witnesses, shall be void, and he shall suffer the punishment for wilful and corrupt perjury, [or be banished this state for ever,] or disqualified for ever from holding any office or place of trust or profit, as the court may adjudge.

Penalty of register for receiving profits of any other office.
Constitution of Maryland, sec. 53.
1 Kilty, 22.

SEC. 11. There shall be allowed and paid to the register of wills the following fees:

Fees of register.
Sec. 931, R. S. D. C.
May 26, 1824, ch. 191, sec. 1.

For every probate of will, where there is no controversy, one dollar;
For granting letters testamentary, seventy-five cents;

* When he may take probate of wills, 2 Kilty, 833, act 1798, ch. 101, sub-ch. 2, sec. 6.

4 Stat., pp. 71,
73.
June 25, 1864,
ch. 158,
18 Stat., 194.

- Annexing will, for one hundred words, twelve and one-half cents ;
- For recording wills and other instruments, fifteen cents per folio of one hundred words ;
- For granting letters of administration, seventy-five cents ;
- Every bond taken of executors, administrators, or guardians, and recording the same, one dollar and fifty cents ;
- For filing and entering renunciation of executors, or widows, twenty-five cents ;
- For exemplification of letters testamentary, or letters of administration, under seal, one dollar ;
- For issuing warrant, under seal, to appraisers, and warrant to swear them, fifty cents ;
- For notice of administrators to creditors, and orders thereon, fifty cents ;
- For entering caveat, twenty-five cents ;
- For issuing citation, under seal, fifty cents ;
- For administering every oath or affirmation, six and one-fourth cents ;
- For filing list of articles appraised, twenty-five cents ;
- For filing list of articles sold at vendue, twenty-five cents ;
- For recording the same, (if ordered by the court,) for every hundred words, fifteen cents ;
- For stating, passing, and filing the account of an executor, administrator, or guardian, not exceeding seventy-five items, three dollars; every additional item, two cents ;
- For examining vouchers, passing, and filing the account of an executor, administrator, or guardian, (not stated by the register.) and not exceeding seventy-five items, two dollars; every additional item, two cents ;
- For copy of same, under seal, if demanded, not exceeding one hundred items, one dollar; every additional item, two cents; seal and certificate, thirty-seven and one-half cents ;
- For subpoena, thirty-seven and one-half cents; all witnesses to be put into one subpoena, unless separate ones are required by the party; for every name after the first, six and one-fourth cents ;
- For subpoena duces tecum, under seal, fifty cents ;
- For every search, where no other service is performed for which fees are allowed, eighteen and three-fourth cents ;
- For making out, and filing, the balance of distribution of deceased persons' estate, for each heir, one dollar ;
- For taxing all costs, in any one case, twenty-five cents ;
- For a writ of execution, on a definite sentence, under seal, seventy-five cents ;
- For recording, and filing, each indenture of apprentice, including the court's taking recognizance for same, or its approval when done by a justice of the peace, seventy-five cents ;
- For drawing depositions of witnesses, for every hundred words, twelve and a half cents ;
- For filing all other papers, (except as above required,) four cents each ;
- For entering appearance of party under process, twelve and one-half cents ;
- For entering return of process, twelve and one-half cents ;
- For every continuance or reference, chargeable to the applicants, twelve and one-half cents ;
- For commission to examine witnesses, or to auditors, under seal, one dollar ;
- For commission to value orphans' estate, in the hands of guardians, under seal, one dollar ;
- For entering every order of court, twelve cents and one-half; if more than one hundred words, then at the rate of twelve and one-half cents per hundred ;

For copying any paper, for one hundred words, twelve and one-half cents; seal and certificate, thirty-seven and one-half cents;

For filing petition or report, and entering the same on record, (if necessary,) fifty cents; if more than one hundred words, at the rate of fifteen cents per hundred;

For entering judgment, or rule of court, twenty-five cents; copy of same, if demanded, for every hundred words twelve and one-half cents; seal and certificate, thirty-seven and one-half cents;

For entering every motion in court, twelve and one-half cents;

For entering appointment of guardian, with certificate and seal of said appointment, one dollar; every additional word included in the same certificate, twelve and one-half cents;

For issuing attachments and entering motion therefor, seventy-five cents;

For taking a recognizance, twenty-five cents;

For warrant to marshal to summon jury, under seal, seventy-five cents;

For entering panel of jury, and swearing them, fifty cents;

For taking, filing, and recording, every bond, not provided for in this section, one dollar;

For passing an account against the estate of a deceased person, twelve and a half cents; to be paid by the applicant, and not to be refunded.

SEC. 12. The court may allow to the register reasonable fees for any service he may render not specified in the preceding section. Additional fees allowed, when.

Sec. 932, R. S. D. C. 26 May, 1824, ch. 191. sec. 3. 4 Stat., 73.

SEC. 13. The register is required to make fair tables of his fees, agreeably to the provisions of this chapter, and to post the same in some conspicuous place in his office, for the inspection of all persons who may have business therein. Table of fees to be posted.

Sec. 933, R. S. D. C. Ibid., sec. 2, p. 73.

SEC. 14. The register shall forfeit for each day such tables shall be missing through his neglect the sum of ten dollars, to be recovered as other debts of the same amount are recoverable, one-half to the District, and one-half to the informer. Forfeiture for neglect.

Sec. 934, R. S. D. C. Ibid.

SEC. 15. If the register, or any person for him, shall take greater fees than provided for in this chapter, such officer shall forfeit and pay the party injured fifty dollars, to be recovered as debts of the same amount are recoverable. Penalty for taking excessive fees.

Sec. 935, R. S. D. C. Ibid., sec. 3.

SEC. 16. The register shall be allowed by the District for all record-books and docket necessarily furnished for his office. Record books and dockets allowed.

Sec. 936, R. S. D. C. Ibid., sec. 4.

SEC. 17. All estates not exceeding thirty pounds current money [~~\$80~~] shall be deemed pauper estates; and the register of wills shall be allowed for finally settling the same the sum of thirty shillings current money [~~\$4~~], and no more. Fees limited for pauper estates.

Md. act 1779, ch. 25, sec. 6.

1 Dorsey, 153. 1 Kilty, 504.

CHAPTER SIXTY-ONE.

REFORM SCHOOLS.

Sec.	Sec.
1. School established and buildings, etc., transferred to its trustees.	17. Penalty for enticing away or harboring boys; their arrest.
2. Trustees: how appointed, number, and term of office.	18. Employment of boys; apprenticing, indentures.
3. One Commissioner of District to be a trustee.	19. Support of boys; contracts; executive officer and annual reports.
4. No compensation; only expenses allowed trustees.	20. By-laws.
5. Trustees to visit and examine condition of institutions; record of visits to be kept.	21. Consulting trustees.
6. Incorporated; powers.	22. Repeals.
7. Superintendent and other officers to be appointed and salaries fixed.	23. Report to Commissioners of District of Columbia.
8. Treasurer, appointment of, bond and duties.	24. Board of trustees of girls' school incorporated.
9. Superintendent to give bond.	25. May hold property; proviso.
10. Duties of superintendent and other officers.	26. Authority of trustees.
11. Superintendent to have charge of lands, buildings, etc.; keep books, account for money, etc., and keep register of boys. Trustees to examine accounts, departments, etc.	27. Officers.
12. Commitment of boys convicted of crime.	28. By-laws.
13. When boys may be committed.	29. Reform school laws made applicable
14. When trustees may commit.	30. Organizing board of trustees, etc.
15. Period of detention.	31. Amendments.
16. Suspension of commitments where school is full.	32. Association for works of mercy, to have custody and control; teaching and employment of girls of certain age, how and when.
	33. Commitment of girls to, for offenses.
	34. Keeping and discharge of inmates.
	35. When association may be appointed guardian and by whom.

FOR BOYS.

House of correction for boys established.

Buildings, etc., transferred to trustees.

July 25, 1866.
14 Stat., ch. 238,
sec. 1, p. 232.

Reform School in District Columbia; how governed.

1880, June 4, ch. 121, sec. 1, par. 1.
—president of board.

May 3, 1876. 19 Stat., 90, sec. 1.
1 Sup. R. S., 207.

One Commissioner of District Columbia to be trustee.

SEC. 1. There shall be established in the District of Columbia, on the tract of land known as the Government farm, a fit and convenient house of correction, suitably and sufficiently ventilated, with convenient yards, workshops and other suitable accommodations adjoining or appurtenant thereto, for the safe keeping, correction, governing and employing of offenders legally committed thereto by authority of the courts * * * of the District of Columbia: *Provided*, That the building already erected on that land for the purpose of establishing a similar institution, together with all other property there collected for the same purpose, shall be transferred to the trustees appointed according to the provisions of this act, at a cost not exceeding one thousand five hundred dollars.

SEC. 2. The institution known as the Reform-School of the District of Columbia shall be in the charge of, and governed and managed by, a board of seven trustees, who shall be appointed by the President of the United States, upon the recommendation of the Attorney-General, each for the term of three years, but in such a manner that the terms of not more than three of them shall expire within any one or the same year;

That one of the trustees shall be elected president of the board, whose duty shall be prescribed by the board.

SEC. 3. One of the Commissioners of the District of Columbia, to be selected by the Board of Commissioners, shall be a trustee, with all the powers, privileges, and duties of other trustees of said Reform

School. The trustees of said Reform School are authorized to use of the money due them from the trustees of Jay Cooke and Company the sum of eight thousand five hundred dollars, or so much as may be necessary, to purchase the remainder of the Peter farm for the use of said school: *Provided*, That no part of said money shall be paid until a title satisfactory to said trustees is made for said farm at a price not exceeding the sum aforesaid.

Proviso.

June 4, 1880.

21 Stat., 156.

2 Sup. R.S., 290. 1876, ch. 90. 19 Stat., 49.

SEC. 4. No trustee shall receive compensation for his services, but each trustee shall be allowed the amount of expenses necessarily incurred in the discharge of the duties of his office.

Trustees to serve without compensation, but allowed expenses.

July 25, 1866. 14 Stat., 232, pt. sec. 2.

SEC. 5. One or more of the trustees shall visit the said house of correction, once, at least, in every two weeks, at which time the condition of the same shall be carefully examined and the register inspected; a record of the visits shall be kept in the book of the superintendent; once in every three months the institution shall be thoroughly examined in all its departments by not less than three of the trustees, * * *

Trustees to visit and examine the condition of the institution; record of visits to be kept.

July 25, 1866.

14 Stat., ch. 238, sec. 12, p. 234.

SEC. 6. The board of trustees shall be a corporation by the name of the "Board of Trustees of the Reform-School of the District of Columbia," for the purpose of taking and holding, in trust for the United States property of every description which has been purchased, appropriated, or set apart for the use of the institution, or which may hereafter be purchased, appropriated, or set apart for its use, or given or bequeathed to it, or to the said board, for its use, with all power necessary to carry this purpose into effect, and to protect and preserve such property, including the land and buildings, fences, stock, fruit, crops, and trees of all kinds.

Reform School in District of Columbia to be a corporation.

May 3, 1876.

19 Stat., 90, sec.

2. 1 Sup. R.S., 208.

SEC. 7. The board of trustees may appoint a superintendent, two or more teachers or assistants, and a matron whose salaries are fixed by law; they may also employ two or more master-mechanics, a farmer, a gardener, and such other persons, as servants and laborers, as may be necessary, and fix their compensation, subject to the approval of the Attorney General.

Reform School superintendent and other employes.

Ibid., sec. 3.

SEC. 8. The board of trustees shall appoint a treasurer, who shall, before entering upon the duties of his office, give a bond to the United States with two or more sureties, to be approved by the First Comptroller of the Treasury, in the sum of twenty thousand dollars, or a larger sum, at the option of the said Comptroller, conditioned that he shall faithfully account for all the money received by him as treasurer;

Reform School, treasurer of; his bond and duties.

Ibid., sec. 4.

And it shall be his duty to keep a clear and full record of his accounts as treasurer, and report an abstract of the same to the board of trustees once in every two months, and shall also make an annual report to the board of trustees.

SEC. 9. Before entering upon the duties of his office, the superintendent shall give a bond to the board of trustees, with sureties, to be approved by the Attorney General of the United States, in the sum of three thousand dollars, conditioned that he shall faithfully account for all money received by him, and faithfully perform all the duties incumbent on him as superintendent of said Reform School.

Superintendent to give bond.

Ibid., sec. 5.

Superintendent to reside at institution; his and other officers' duties.

Ibid., sec. 6.

SEC. 10. The superintendent shall reside at the institution constantly and that he, with such subordinate officers as may be appointed in accordance with the third section of this act, shall have the charge and custody of the boys; shall govern them in accordance with such rules and regulations as the board of trustees may prescribe in its by-laws; shall employ them in agricultural, mechanical or other labor; shall give them instruction in reading, writing, arithmetic, geography, and such other studies and in such arts and trades as the trustees may direct; and shall employ such methods of discipline as will, as far as possible, reform their characters, preserve their health, promote regular improvement in their studies and employments, and secure in them fixed habits of religion, morality, and industry.

Superintendent to have charge of lands, buildings, etc., keep books, account for money, etc., keep register of boys.

SEC. 11. The superintendent shall have charge of the lands, buildings, furniture, tools, implements, stock, provisions, and every other species of property pertaining to the institution, within the precincts thereof, under the board of trustees, including the farm in possession of the board where the school was first located; and he shall keep in suitable books, regular and complete accounts of all his receipts and expenditures, and of all the property intrusted to him, so as to show clearly the income and expenses of the institution; and he shall account, in such manner as the trustees may prescribe, for all the money received by him from the proceeds of the institution or otherwise; and he shall keep a register of the names and ages of all boys committed to the institution, with the dates of their admission and discharge, and such particulars of their history before and after leaving the institution as he can obtain.

Trustees to examine accounts, departments, etc.

Ibid., sec. 7.

His books and all documents relating to the Reform-School shall, at all times, be open to the inspection of the trustees, who shall, once or more in every month, carefully examine his accounts, and the vouchers and documents connected therewith, and make a record of the result of such examination; and, once in every three months, the institution shall be thoroughly examined in all its departments by three or more of the trustees, and a report of such examination shall be made to the board.

Commitment of boys convicted of crime.

Ibid., sec. 8.

SEC. 12. Whenever any boy under the age of sixteen years shall be brought before any court of the District of Columbia, or any Judge of such court, and shall be convicted of any crime or misdemeanor punishable by fine or imprisonment, other than imprisonment for life, such court or Judge, in lieu of sentencing him to imprisonment in the county jail or fining him, may commit him to the Reform-School, to remain until he shall arrive at the age of twenty-one years, unless sooner discharged by the board of trustees.

When boys may be committed, etc.

SEC. 13. The Judges of the criminal and police courts of the District of Columbia shall have power to commit to the Reform-School, first any boy under sixteen years of age who may be liable to punishment by imprisonment under any existing law of the District of Columbia, or any law that may be enacted and in force in said District; second, any boy under sixteen years of age, with the consent of his parent or guardian, against whom any charge of committing any crime or misdemeanor shall have been made, the punishment of which, on conviction, would be confinement in jail or prison; third, any boy under sixteen years of age who is destitute of a suitable home and adequate means of obtaining an honest living, or who is in danger of being brought up, or is brought up, to lead an idle or vicious life; fourth, any boy under sixteen years of age who is incorrigible, or habitually disregards the commands of his father or mother, or guardian, who leads a vagrant life, or resorts to immoral places or practices, or neglects or refuses to perform labor suitable to his years and condition, or to attend school.

SEC. 14. The president of the board of trustees may also commit to the Reform school such boys as are mentioned in the foregoing third and fourth classes upon application or complaint in writing of a parent, or guardian, or relative having charge of such boy, and upon such testimony in regard to the facts stated as shall be satisfactory to him; and for taking testimony in such cases, he is hereby empowered to administer oaths.

When trustee may commit boys.

SEC. 15. Every boy sent to the Reform School shall remain until he is twenty-one years of age, unless sooner discharged or bound as an apprentice; but no boy shall be retained after the superintendent shall have reported him fully reformed.

Period of detention.

Ibid., sec. 9.

SEC. 16. Whenever there shall be as large a number of boys in the school as can be properly accommodated, it shall be the duty of the president of the board of trustees to give notice to the criminal and police courts of the fact, whereupon no boys shall be sent to the schools by the said courts until notice shall be given them by the president of the board that more can be received.

When school is full, commitments suspended.

Ibid., sec. 10.

SEC. 17. If any person shall entice, or attempt to entice, away from said school any boy legally committed to the same, or shall harbor, conceal, or aid in harboring or concealing any boy who shall have escaped from said school, such person shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall pay a fine of not less than ten nor more than one hundred dollars, which shall be paid to the treasurer of the board of trustees;

Enticing away or harboring boys committed; how punished.

And any policeman shall have power, and it is hereby made his duty, to arrest any boy, when in his power so to do, who shall have escaped from said school, and return him thereto.

Police may arrest escaped boys.

Ibid., sec. 11.

SEC. 18. The trustees shall have full power to place any boy committed as herein described, during his minority, at such employment and cause him to be instructed in such branches of useful knowledge, as may be suitable to his years and capacity, as they may see fit; and they may, with the consent of any such boy, bind him out as an apprentice during his minority, or for a shorter period, to learn such trade and employment as in their judgment will tend to his future benefit; and the president of the board shall, for such purpose, have power to execute and deliver, on behalf of the said board, indentures of apprenticeship for any such boy; and such indentures shall have the same force and effect as other indentures of apprenticeship under the laws of the District of Columbia, and be filed and kept among the records in the office of the Reform-School, and it shall not be necessary to record or file them elsewhere.

Employment of boys.

Apprenticing.

Filing of indentures.

Ibid., sec. 12.

SEC. 19. For the support of the boys sent to the Reform-School, as hereinbefore mentioned the District of Columbia shall pay to the board of trustees two dollars for each boy per week; and it shall be the duty of the superintendent to make out and render to the proper officers monthly accounts at the close of each month for the support of the boys in said school, which shall be paid on demand; and, if not paid within ten days from the time the account is presented, shall draw interest at the rate of one per centum per month until paid.

Support of boys committed.

Ibid., sec. 13.

All contracts and purchases made for or on account of the institution shall be made in the name of the board and by whomsoever the board may direct. The president of the board shall be its executive officer, and it shall be his duty to make an annual report to the Attorney General, to be accompanied by the annual report of the superintendent and treasurer.

Contracts.

Executive officer. Annual reports.

Ibid., sec. 14.

<p>By-laws. Ibid., sec. 15.</p>	<p>SEC. 20. The board of trustees may make such by-laws, rules, and regulations for their own and the government of the institution, its officers, employees, and inmates, as they may deem necessary and proper.</p>
<p>Consulting trustees. Ibid., sec. 16.</p>	<p>SEC. 21. Two consulting trustees shall be appointed, namely, one Senator of the United States, by the presiding officer of the Senate, for the term of four years, and one member of the House of Representatives, by the Speaker thereof, for the term of two years.</p>
<p>Repeals. Ibid., sec. 17.</p>	<p>SEC. 22. All acts and parts of acts incompatible with this act are hereby repealed.</p>
<p>Report to Commissioners of District of Columbia. Mar. 3, 1881. 21 Stat., 459. 2 Sup. R. S., 321.</p>	<p>SEC. 23. Hereafter the officers of the Reform School shall at the end of each fiscal year make a report to the Commissioners of the District of Columbia, which shall embrace a full and complete inventory of all the personal property in detail, the number of employees, and number of days each is employed during the year and price paid each, and the amount of garden, field, and other products produced, together with the disposition made of said personal property, and so forth.*</p>
<p>FOR GIRLS.</p>	
<p>Reform School for Girls, District of Columbia. Incorporators. 2 Sup. R. S., 596. July 9, 1888. 25 Stat., 245.</p>	<p>SEC. 24. That Samuel S. Shellabarger, Augustus S. Worthington, Adoniram J. Huntington, William C. Dodge, Mills Dean, Owen G. Staples, James E. Fitch, Thomas P. Morgan, and Alexander Graham Bell, and their successors, be, and they are hereby, created a body corporate to be known as the Board of Trustees of the Girl's Reform School of the District of Columbia.</p>
<p>May hold property. Proviso. Dissolution. Ibid., sec. 2.</p>	<p>SEC. 25. The said corporation is hereby authorized and empowered to establish and maintain a reform school for girls at any place within the District of Columbia, subject to the approval of the Commissioners thereof, and for that purpose may take and receive by gift, grant, or devise, such real estate and personal property as may be necessary for the purposes of said corporation: <i>Provided</i>, That at the dissolution of said corporation, or if it should cease for the space of six months to maintain a reform school for girls, all the property, real and personal, of said corporation shall vest in the United States.</p>
<p>Authority. Ibid., sec. 8.</p>	<p>SEC. 26. The said board of trustees shall have the same power and authority in relation to girls as the board of trustees of the Reform School of the District of Columbia now possess in relation to boys.</p>
<p>Officers. Ibid., sec. 4.</p>	<p>SEC. 27. The said board of trustees shall have authority to appoint such officers, agents, teachers, and other employees as may be necessary, and fix the rate of compensation of the same, subject to the approval of the Commissioners of the District of Columbia.</p>
<p>By-laws. Ibid., sec. 5.</p>	<p>SEC. 28. The said board of trustees shall have authority to make such by-laws and rules and regulations as shall be necessary for the government of the officers, teachers, employees, and inmates of the school, and from time to time alter, amend, and change the same.</p>
<p>Reform School laws made applicable.</p>	<p>SEC. 29. All the sections of the act of May third, eighteen hundred and seventy-six, entitled "An act revising and amending the various acts establishing and relating to the Reform School of the District</p>

* For further report as required by act of Mar. 2, 1889, see 25 Stat., p. 807.

of Columbia," not inconsistent with the provisions of this act, are hereby made applicable to the Reform School for Girls of the District of Columbia, except the word "girls" shall be understood wherever the word "boys" occur in said act, and the words "eighteen years" wherever the words "sixteen years" occur.

Vol. 19, p. 49.
Ibid., sec. 6.

SEC. 30. Within thirty days after this act is passed said trustees shall meet and organize by electing a president; and they shall draw lots and decide the length of service of said trustees. Three of said trustees shall serve for one year, three for two years, and three for three years, and their successors in office shall be appointed in like manner as the trustees of the Reform School of the District of Columbia are now appointed.

Organizing.
Ibid., sec. 7.

SEC. 31. Congress shall have the right to alter, amend, or repeal this act at any time.

Amendment.
Ibid., sec. 8.

SEC. 32. The Association for Works of Mercy, a charitable corporation in the District of Columbia, is hereby authorized and empowered to receive and have the custody and control of, and to suitably maintain, teach, employ, and discipline girls under the age of eighteen years, resident in the District of Columbia, until they attain the age of eighteen years. The right to the custody and control of any such girl shall be obtained in the manner following:

Custody, etc., of girls in Association for Works of Mercy.

25 Stat., ch. 1095, p. 554.
Oct. 11, 1888.
2 Sup. R. S., 630.

First. By a written instrument executed by the father of such girl, giving such custody and control to said association and renouncing parental rights.

Renunciation of parental rights by father.

Second. If the father be not living, or is unknown, or not resident in the District of Columbia, by a written instrument executed by the mother of such girl, giving such custody and control to said association and renouncing parental rights.

By mother.

Third. By a written instrument executed by the guardian of the person of such girl, giving such custody and control to said association and renouncing the rights of guardianship.

Renunciation of guardianship rights by guardian.

Fourth. If there be no father, or mother, or guardian of such girl living, or known, resident in the District of Columbia, by an instrument in writing executed by such girl, surrendering herself to the custody, control, and maintenance of said association.

Self-surrender.

Fifth. No such instrument shall be effectual in law until it shall be approved by the judge of the orphans' court of the District of Columbia by an indorsement of such approval thereon signed by such judge.

Approval by judge of orphans' court.

SEC. 33. That when any girl under the age of eighteen years shall be duly convicted of any offense punishable by fine or imprisonment for a term less than two years before any court in the District of Columbia, if it shall appear to the satisfaction of the court that such girl is a suitable subject for the custody of said association, the court may, instead of imposing such fine or imprisonment, and with the assent of said association, cause such girl to be committed to the custody and control of said association, there to remain until she shall attain the age of eighteen years, or be otherwise discharged in due course of law.

Commitment for offenses.

SEC. 34. That a girl, duly received into the institution of the said association, shall be kept there, disciplined, instructed, employed, and governed under the direction of said association until she is either reformed and discharged or has attained the age of eighteen years; but the association shall have the right to discharge and return to the parents, guardian, or protector any girl who, in its judgment, ought, for any cause, to be removed from the institution, and in such

Keeping and discharge of inmates.

case the association shall enter upon its minutes the reasons for her discharge; and in case such girl was received under the order of any criminal court, a copy of the minute of such reasons shall be forthwith transmitted to the court under whose order she was received.

Association may be appointed guardian by orphans' court.

SEC. 35. That the orphans' court of the District of Columbia shall have power to appoint the said association the guardian of the person of any girl under the age of eighteen years, in the same manner and with the same effect that it now has power to appoint guardians of the person of female infants. And such guardianship shall continue until such girl shall attain the age of eighteen years, unless the orphans' court shall discharge the same or otherwise direct.

CHAPTER SIXTY-TWO.

SHIP OWNERS

Sec.

1. Limitation of liability of ship-owners for embezzlement by master or mariners.
2. When more than one freighter suffer loss by embezzlement by master or mariners, their proportion to be averaged.

Sec.

3. Collusion on part of owners in settlements of such liability.
4. Legal remedies against master or mariners, not impaired by this act.

Limitation of liability of ship-owners for embezzlement by master or mariners.

7 George II, ch. 15, sec. 1, A. D. 1734.

Alex. Brit. Stat., 722.

Kilty's Rep., 250.

9 Stat., 635, Mar.

3, 1851; 6 How.

Rep., 344, N. J.

Co. vs. Merchants'

Bank; 3 Wallace

Rep., 150, Walker

vs. Transportation

Co.; 24 How.

Rep., 1, Moore vs.

American Trans.

Co.

SEC. 1. No person or persons, who is, are, or shall be owner or owners of any ship or vessel, shall be subject or liable to answer for, or make good, to any one or more person or persons, any loss or damage by reason of any imbezzlement, secreting, or making away with (by the master or mariners, or any of them) of any gold, silver, diamonds, jewels, precious stones, or other goods or merchandize, which, from and after the twenty-fourth day of June, which shall be in the year of our Lord one thousand seven hundred and thirty-four, shall be shipped, taken in, or put on board any ship or vessel, or for any act, matter or thing, damages, or forfeiture, done, occasioned, or incurred, from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-four, by the said master or mariners, or any of them, without the privity and knowledge of such owner or owners, further than the value of the ship or vessel, with all her appurtenances, and the full amount of the freight due or to grow due for and during the voyage, wherein such imbezzlement, secreting, or making away with, as aforesaid, or other maleversation of the master or mariners, shall be made, committed, or done; any law, usage, or custom to the contrary thereof in any wise notwithstanding.

When more than one freighter suffers loss by embezzlement by mariners or master, their proportion to be averaged.

Ibid., sec. 2.

SEC. 2. If several freighters or proprietors of any such gold, silver, diamonds, jewels, precious stones, or other goods or merchandize, shall suffer any loss or damage by any of the means aforesaid in the same voyage, and the value of the ship or vessel with all her appurtenances, and the amount of the freight due or to grow due during such voyage, shall not be sufficient to make full compensation to all and every of them, then such freighters or proprietors shall receive their satisfaction thereout in average, in proportion to their respective losses or damages: And in every such case it shall and may be lawful to and for such freighters or proprietors, or any of them, on behalf of himself and all other such freighters or proprietors, or to and for the owners of such ship or vessel, or any of them, on behalf

of himself and all the other part-owners of such ship or vessel, to exhibit a bill in any court of equity for a discovery of the total amount of such losses or damages, and also of the value of such ship or vessel, appurtenances, and freight, and for an equal distribution and payment thereof amongst such freighters or proprietors, in proportion to their respective losses or damages, according to the rules of equity.

SEC. 3. If any such bill shall be exhibited by or on the behalf of the part-owners of such ship, the plaintiff or plaintiffs shall annex an affidavit to such bill or bills, that he or they do not collude with any of the defendants thereto, and shall thereby offer to pay the value of such ship or vessel, appurtenances, and freight, as such court shall direct; and such court shall thereupon take such method for ascertaining such value, as to them shall seem just, and shall direct the payment thereof in like manner as is now used and practised in cases of bills of interpleader.

Collusion on part of owners in actions under this chapter.

Ibid., sec. 3.

SEC. 4. Nothing in this present act contained shall extend, or be construed to extend, to impeach, lessen, or discharge any remedy, which any person or persons now hath, or shall or may hereafter have, against all, every, or any of the masters and mariners of such ship or vessel, for or in respect of any imbezzlement, secreting, or making away with any gold, silver, diamonds, jewels, precious stones, or merchandize, shipped or loaded on board such ship or vessel, or on account of any fraud, abuse, or maleversation, of and in such master and mariners respectively; but that it shall and may be lawful to and for every person or persons, so injured or damaged, to pursue and take such remedy for the same, against the said master and mariners respectively, as he or they might have done before the making of this act.

This act not to impair any legal remedy against master or mariners for embezzlement.

Ibid., sec. 4.

CHAPTER SIXTY-THREE.

STEAM ENGINEERING AND BOILER INSPECTION.

- Sec.
1. Steam engineers to be licensed.
 2. Board of examiners of ; rules for examination of.
 3. Qualifications of.
 4. Fee for license of.
 5. Intoxication of, punishment for.
 6. Penalty for employing nonlicensed engineers ; exceptions.
 7. Section 6 not applicable, when.
 8. Inspectors of steam boilers to be ap-

- Sec.
- pointed ; term of office ; duties of , compensation and proviso.
 9. Annual inspection of boilers ; capacity of boilers ; certificates for to be posted ; record of and report of inspector.
 10. Penalty for using condemned boilers.
 11. Bond of inspector and oath of office.
 12. Not to inspect steamboat boilers.

SEC. 1. It shall be unlawful for any person to act as steam-engineer in the District of Columbia who shall not have been regularly licensed to do so by the Commissioners thereof.

District of Columbia.
Steam engineers to be licensed.

Feb. 28, 1887. 24 Stat., 427.

SEC. 2. All persons applying for such license shall be examined by a board of examiners composed as follows : The boiler-inspector for the District of Columbia and two practical engineers to be appointed by the District Commissioners. Said examination shall be conducted in all respects under such rules and regulations as the Commissioners of the District of Columbia shall from time to time provide ; and all steam-boilers and engines shall be subjected to such tests as the said Commissioners may prescribe.

Board of examiners.

Rules.

Ibid., sec. 2.

<p>Qualifications. Ibid., sec. 3.</p>	<p>SEC. 3. Applicants for license as steam-engineers must be twenty-one years of age and of temperate habits; must make application in writing, to which application must be attached a certificate as to character and moral habits signed by at least three citizens of the District of Columbia, themselves of moral standing.</p>
<p>Fee. Ibid., sec. 4.</p>	<p>SEC. 4. The fee for a license as steam-engineer shall be three dollars.</p>
<p>Punishment for intoxication. Ibid., sec. 5.</p>	<p>SEC. 5. Any person employed as a licensed steam-engineer in the District of Columbia who is found under the influence of intoxicating liquor while on duty, shall, for the first offense, have his license revoked for six months; for the second offense, twelve months; and for the third offense, shall have his license revoked and be debarred from following the occupation of licensed steam-engineer in the District of Columbia for the period of five years.</p>
<p>Penalty for employing nonlicensed engineers. Proviso. Heating boilers. Ibid., sec. 6.</p>	<p>SEC. 6. Any owner or lessee of steam-boiler or engine, or the secretary of any corporation, who shall knowingly employ a steam-engineer as such who has not been regularly licensed to act as such, shall on conviction thereof by the police court of the District of Columbia, be fined fifty dollars, and in default of payment of such fine shall be confined for a period of one month in the workhouse of the District of Columbia: <i>Provided</i>, That boilers used for steam-heating, where the water returns to the boiler without the use of a pump and injector or inspirator, and which are worked automatically, shall be exempt from the provisions of this section.</p>
<p>State or United States license. Ibid., sec. 7.</p>	<p>SEC. 7. The foregoing section shall not apply to engineers who have been licensed by the United States Government or the laws of any State.</p>
<p>Commissioners authorized to appoint an inspector of steam boilers. Term of office. Duties.</p>	<p>SEC. 8. The <i>Commissioners</i> are [Governor is] hereby authorized to appoint a person of good character and competent skill to be inspector of steam boilers for machinery in and for the District of Columbia, who shall hold said office two years, unless sooner removed, and whose duty it shall be to inspect all such steam boilers within said District at least once in twelve months, and who shall, in his judgment, condemn such boilers as he may deem unsafe, and that the said inspector shall, for every inspection, be entitled to receive as compensation the sum of five dollars, to be paid by the owner or owners for every such boiler inspected: <i>Provided</i>, No charge is made for inspection of boilers belonging to the Fire Department and any of the steam boilers belonging to the District of Columbia.</p>
<p>Compensation. Proviso. 3 Leg. Assem., ch. 35, sec. 1, p. 65. June 25, 1873.</p>	<p>SEC. 9. The inspector, upon such annual inspection, shall make a thorough examination of the boiler, and by proper and approved methods determine the amount of steam pressure per square inch at which it can be safely worked, and shall also examine the feed pumps, the gauges, cocks, and valves connected therewith, and by actual tests determine that the same are in proper working condition. He shall also give the proprietors of such boilers a certificate stating the amount of pressure per square inch they are allowed to carry, which certificate shall be displayed in some conspicuous place in the establishment where such boiler is used; the inspector shall keep a record of each boiler inspected, with the name of the owner or owners and the amount of pressure per square inch which said boiler is allowed to carry, and shall return to the <i>Commissioners</i> [Governor] annually a copy of said entries, together with a statement of the number of all boilers inspected and condemned.</p>
<p>Inspections to be made annually. Ibid., sec. 2.</p>	<p>SEC. 9. The inspector, upon such annual inspection, shall make a thorough examination of the boiler, and by proper and approved methods determine the amount of steam pressure per square inch at which it can be safely worked, and shall also examine the feed pumps, the gauges, cocks, and valves connected therewith, and by actual tests determine that the same are in proper working condition. He shall also give the proprietors of such boilers a certificate stating the amount of pressure per square inch they are allowed to carry, which certificate shall be displayed in some conspicuous place in the establishment where such boiler is used; the inspector shall keep a record of each boiler inspected, with the name of the owner or owners and the amount of pressure per square inch which said boiler is allowed to carry, and shall return to the <i>Commissioners</i> [Governor] annually a copy of said entries, together with a statement of the number of all boilers inspected and condemned.</p>
<p>Capacity of all boilers to be certified to. Certificate to be conspicuously posted. Record. Report to be made to the Commissioners.</p>	<p>SEC. 9. The inspector, upon such annual inspection, shall make a thorough examination of the boiler, and by proper and approved methods determine the amount of steam pressure per square inch at which it can be safely worked, and shall also examine the feed pumps, the gauges, cocks, and valves connected therewith, and by actual tests determine that the same are in proper working condition. He shall also give the proprietors of such boilers a certificate stating the amount of pressure per square inch they are allowed to carry, which certificate shall be displayed in some conspicuous place in the establishment where such boiler is used; the inspector shall keep a record of each boiler inspected, with the name of the owner or owners and the amount of pressure per square inch which said boiler is allowed to carry, and shall return to the <i>Commissioners</i> [Governor] annually a copy of said entries, together with a statement of the number of all boilers inspected and condemned.</p>
<p>Penalty for using any boiler that may be condemned.</p>	<p>SEC. 10. If any person or persons shall use a steam boiler, after the same having been condemned, unless first having such boiler repaired so as to make it safe, or shall work any boiler at a pressure per square inch greater than that permitted in the certificate before</p>

named, or while the feed pumps, gauges, cocks, or valves of the same are not in proper working condition, shall be fined in any sum not exceeding one hundred dollars nor less than fifty dollars for every such offence.

Ibid., sec. 3.

SEC. 11. The said inspector shall give bond, with two sufficient securities, to be approved by the *Commissioners* [Governor,] in the sum of two thousand dollars, and he shall take and subscribe the following oath or affirmation before a notary public or justice of the peace: "I do solemnly swear that I will diligently, faithfully, and impartially execute the duties of my office without favor."

Bond.

To subscribe to oath or affirmation.

Ibid., sec. 4.

SEC. 12. That nothing herein contained shall be so construed as to require the inspector to inspect the boilers of steamboats, (being otherwise provided for as per act of Congress.)

Not required to inspect boilers of steamboats.

Ibid., sec. 5.

CHAPTER SIXTY-FOUR.

SURVEYOR.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Legal office of record of division of squares; plats of subdivisions; when to be recorded in. 2. Certified transcripts of records to be evidence. 3. Records of, to be public property. 4. Oath of surveyor. 5. Plats of squares to be drawn to scale. 6. Plats shall show lines of property actually existing. 7. Subdivision of squares or lots by proprietor; how made. 8. Shall examine whether lots or squares may be subdivided; shall certify same and record plat; when. 9. When lots or squares recorded, etc.; how can be referred to by interested party. 10. Ways, alleys, and passages on subdivision plats; to whom they shall belong. 11. Measurement of subdivisions; apportionment of deficiencies. 12. Encroachment of wall in adjoining lot. 13. Party walls. 14. Occupation of land by party wall; duties of surveyor and payment for. 15. Examination of foundations of houses to be erected; placing of | <p>Sec.</p> <ol style="list-style-type: none"> lines for party wall; certificate and its effect. 16. Fees for services performed. 17. Subdivision of squares and lots belonging to the United States. 18. No salary to be paid to surveyor or any of his subordinates; office of assistant surveyors abolished. 19. Subdivision or alteration of boundaries or change of surveys shall be made only by the surveyor and certified; how. 20. All records of divisions of squares and lots to be kept in office of; maps, plans, etc., of District of Columbia; how kept. 21. Graduations to be ascertained and recorded. 22. When bond of, is liable for his neglect or error. 23. Squares, lots, etc., to be marked out and plans thereof furnished at request of proprietor. 24. To keep offices designated by Commissioners; shall preserve official records and instruments. 25. To keep account of fees and report same. 26. Papers, etc., of surveyor's office to be deemed property of District and part of public records; bond of. |
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SEC. 1. The office of the surveyor of the District is the legal office of record of the plats of all property in the city of Washington, and all records of the division of squares and lots made between the public and original proprietors, or otherwise authorized by law, shall be kept in said office.*

Legal office of record.

Sec. 472, R. S. D. C.

* Plats of subdivision, when to be recorded in surveyor's office. 25 Stat., 451, secs. 1 and 5; Aug. 27, 1888; Sup. R. S., 2 Ed., 618. See "Subdivision of land," title "Real Estate."

- Certified transcripts to be evidence.** SEC. 2. All transcripts from such records certified by the surveyor shall be evidence equally valid with certified transcripts from the land records of the District.
 Sec. 473, R. S. D. C.
- Surveyors' records to be public property.** SEC. 3. The records of the surveyor of the District of Columbia shall be a part of the public property of the District of Columbia.
 Feb. 25, 1885. 23 Stat., 312. 2 Sup. R.S., 476.
- Oath of surveyor.** SEC. 4. The surveyor, before entering upon the discharge of his duties, shall take an oath or affirmation that he will faithfully and impartially perform the duties required of him by the provisions of this chapter.
 Sec. 474, R. S. D. C.
 2 Stat., 513.
- Plats of square; how drawn.** SEC. 5. The plats of the squares in the city of Washington shall be drawn upon a uniform scale of not less than one inch to fifty feet, and shall show the lines of all subdivisions of the squares as the same existed at the date of the completion of each square.
 Sec. 475, R. S. D. C.
- What must be shown.** SEC. 6. The method of description provided for by section *four hundred and thirty-nine* shall be such that the plats of the squares shall at all times show the lines of property as actually existing in the squares. [See § 439, R. S. D. C.]
 Sec. 476, R. S. D. C.
- Subdivision of squares.** SEC. 7. Whenever the proprietor of any square or lot shall deem it necessary to subdivide the same into convenient building lots or portions for sale and occupancy, and alleys for their accommodation, he may cause a plat to be made, on which shall be expressed the dimensions and length of all the lines of such portions as are necessary for defining and laying off the same on the ground, and may certify such subdivision under his hand and seal, in the presence of two or more creditable witnesses, upon the same plat, or on a paper or parchment attached thereto.
 Sec. 477, R. S. D. C.
 5 Mackey Rep., 484, U. S. vs. Forsyth.
- Examination of surveyor; certificate and record.** SEC. 8. At the request of the proprietor, the surveyor shall examine whether the lots or parcels into which any square or lot may be subdivided, as provided in the preceding section, agree in dimensions with the whole of the square or lot so intended to be subdivided, and whether the dimensions expressed on the plat of subdivision be the true dimensions of the parts so expressed; and if upon such examination he shall find the plat correct, he shall certify the same under his hand and seal, with such remarks as appear to him necessary, and shall record the plat as examined in a book to be kept by him for that purpose.
 Sec. 478, R. S. D. C.
 5 Mackey Rep., 484, U. S. vs. Forsyth.
- Reference to plat and record.** SEC. 9. When a subdivision of any square or lot shall be so certified, examined, and recorded, the purchaser of any part thereof, or any person interested therein, may refer to the plat and record for description, in the same manner as to squares and lots divided between the commissioners and original proprietors.
 Sec. 479, R. S. D. C.
- Alleys and passageways.** SEC. 10. The ways, alleys, or passages, laid out or expressed on any plat of subdivision, shall be and remain to the public, or subject to the uses declared by the person making such subdivision, at all times under the same police regulations as the alleys laid off by the commissioners on division with the original proprietors.
 Sec. 480, R. S. D. C.
- Measurement of subdivisions; apportionment of deficiencies.** SEC. 11. Whenever the surveyor shall lay off any lot, or any of the parts into which a square or lot may be subdivided as provided in this chapter, he shall measure the whole of that front of the square on which such lot or part lies; and if, on such admeasurement, the

whole front of the square exceeds or falls short of the aggregate of the fronts of the lots on that side of the square, as the same are recorded, he shall apportion such excess, or deficiency, among the lots or pieces on that front, agreeably to their respective dimensions.

Sec. 481, R. S.
D. C.

SEC. 12. Whenever, on such admeasurement, the wall of a house previously erected by any proprietor shall appear to stand on the adjoining lot of any other person in part less than seven inches in width thereon, such wall shall be considered as standing altogether on the land of such proprietor, who shall pay to the owner of the lot on which the wall may stand a reasonable price for the ground so occupied, to be decided by arbitrators or a jury, as the parties interested may agree.

Encroachment
by wall upon ad-
joining lot.

Sec. 482, R. S.
D. C.

SEC. 13. If the wall of any house, already erected, cover seven inches or more in width of the adjoining lot, it shall be deemed a party wall, according to the regulations for building in the District as made under the provisions of section seventy-nine, and the ground so occupied, more than seven inches in width, shall be paid for as provided in the preceding section.

Party walls.

Sec. 483, R. S.
D. C.

SEC. 14. The surveyor shall ascertain and certify, and put on record at the request and expense of any person interested therein, the fact of the occupation of land by a party wall as mentioned in the preceding section.

Surveyor's cer-
tificate and rec-
ord.

Sec. 484, R. S.
D. C.

SEC. 15. It shall be the duty of the surveyor to attend, when requested, and examine the foundation or walls of any house to be erected, when the same shall be level with the street or surface of the ground, for the purpose of adjusting the line of the front of such building to the line of the street, and correctly placing the party-wall on the line of division between that and the adjoining lot; and his certificate of the fact shall be admitted as evidence, and binding on the parties interested.

Examination of
foundations; cer-
tificate.

Sec. 485, R. S.
D. C.

SEC. 16. The surveyor shall be authorized to receive from the persons for whom he shall perform the services required by this act the fees following, namely:

Surveyor's fees.

Sec. 486, R. S.
D. C.

For examining the plat and calculations of any subdivision of a square or lot, twelve and a half cents for each of the lots or portions into which it may be subdivided; but no more shall be paid for the lots in one square than one dollar and fifty cents.

For examining any building and giving the certificate required by the preceding section, and recording the same, one dollar and fifty cents.

For recording any division or subdivision of any square or lots, for transcripts from records, and for searches in his office, the fees provided by law, but not in any case to exceed the fee allowed by this section for examination.

For recording any division or subdivision of any square or lot, fifty cents; For setting out and marking the boundary lines of any lot or piece of ground in said District, and the proper graduation thereof for building, agreeably to the plan of Washington or Georgetown, and for furnishing a certificate describing such boundary lines and graduation, and the number of square feet contained in each lot or piece of ground, the sum of two dollars; For setting out and marking the boundary lines of any lot or piece of ground, and giving a description certificate thereof, and of the number of square feet therein, the sum of one dollar; For designating the graduation of any square, lot, or piece of ground, and giving a certificate thereof, the sum of seventy-five cents; For recording each certificate, the sum of fifty cents; and for every copy of a square, with the dimensions of the lots marked thereon, fifty cents.

Leg. Assem. act,
1871, ch. 108, sec.
23, p. 152.
Aug. 23, 1871.

Subdivision of squares belonging to United States.

Sec. 487, R. S. D. C.

SEC. 17. Whenever the President shall deem it necessary to subdivide any square or lot belonging to the United States within the city of Washington, not reserved for public purposes, into convenient building-lots or portions for sale and occupancy, and alleys for their accommodation, he may cause a plat to be made by the surveyor in the manner prescribed in this chapter, which plat shall be recorded by the surveyor, and the provisions of this chapter shall extend to the lots, pieces, and parcels of ground contained in such plat as fully as to subdivisions made by individual proprietors.

No salary to be paid to surveyor except, etc.

Office of assistant surveyors abolished.

SEC. 18. And no salary or compensation shall be paid to the surveyor of the District, or any of his subordinates, except such fees for special services as are allowed by law. And the offices of assistant surveyor and additional assistant surveyor of the District of Columbia are hereby abolished.

June 20, 1874. 18 Stat., 117. 2 Sup. R. S., 23.

Subdivision or change of boundaries.

Leg. Assem., 1871, Aug. 23, sec. 24, chap. 108, p. 152.

SEC. 19. That whenever the proprietor of any tract or parcel of land in the District of Columbia shall desire or deem it necessary to subdivide or alter boundaries, or change the surveys of any such tract or parcel of land, such subdivision, alteration, or change shall be by the surveyor of the District of Columbia, or his assistant only, and shall be entered in the plat book or books of said surveyor. All such subdivisions, alterations, or changes shall be certified by the surveyor, the party wishing such plat, and two competent witnesses, whose names shall be appended thereto.

Records to be kept in surveyor's office.

Ibid., sec. 25.

SEC. 20. That all records, or copies thereof, of the divisions of squares and lots heretofore made between the public and the original proprietors, or which are authorized by this act, shall be kept in the office of the surveyor of the District of Columbia, and the surveyor shall put up, label, index, and preserve, and, when necessary for their preservation, have the same backed with cotton cloth, all the maps, charts, plats, plans, and other drawings and papers relating to the District of Columbia, or which appertain to his office, and which may come to his office for deposit, record, or otherwise.

Graduations to be ascertained and recorded.

Ibid., sec. 26.

SEC. 21. That it shall be the duty of the surveyor, authorized by the act, to ascertain and enter upon the books of graduation or alterations of graduations which have heretofore been made, and which it may hereafter be found necessary to make.

When bond liable for error or neglect of surveyor.

Ibid., sec. 27, p. 153.

SEC. 22. That whenever it shall be made to appear to the satisfaction of the *Commissioners* [Governor] that the surveyor has been guilty of culpable error or neglect, by which the government may be obliged to pay damages, then it shall be lawful for the *Commissioners* [Governor] to deduct and retain from the salary of the surveyor the amount of damages which the government may have paid in each and every case; and in case the salary then due to said surveyor should be insufficient to cover the damages which the government shall have paid, the *Commissioners* [Governor] is hereby required to institute suit upon bond, enacted by the thirty-first section of this, for the recovery of such damages.*

Squares, lots, etc., to be marked out, and plans thereof furnished at request of proprietor.

Ibid., sec. 28.

SEC. 23. That it shall also be the duty of the surveyor, on the request of the proprietor or proprietors of any square, lot, or piece of ground within the District of Columbia, to set out and mark the proper lines and graduations thereof, and furnish to him, her, or them, a certificate describing the dimensions, boundaries, and graduations of the same, according to the plan.

* Surveyor's salary abolished by 18 Stat. 117, June 20, 1874.

SEC. 24. That the surveyor shall keep his office in a room designated by the *Commissioners* [Governor] for the purpose, and shall not be engaged in the transaction of any business appertaining to any other office or appointment which may be held by him, and shall, in his said office, preserve and keep all such maps, charts, surveys, books, records, and papers relating to the said District of Columbia, or to any of the avenues, streets, alleys, public spaces, squares, lots, and buildings thereon, or any of them, as shall, for the purpose of being deposited in his office, come into his hands or possession; and shall, in books provided, or to be provided for that purpose, keep a true record of every survey, certificate, or account which shall be made, issued, or prepared by him, and also shall preserve and keep in good order and repair, at his own expense, the instruments in his said office belonging to the government.

Surveyor to keep office designated by the Commissioners.

Shall preserve his official records.

And instruments. Ibid., sec. 29.

SEC. 25. That the surveyor shall enter in a book, to be kept for that purpose, a correct account of all fees which shall be received by him under or by virtue of this act, designating in every case the service performed, the sum received, the name or names of the person or persons paying it, and shall annually make a report of the amount of such fees to the [Legislative Assembly, through the] *Commissioners* [Governor].

To keep account of fees and report same.

Ibid., sec. 30.

SEC. 26. That all papers, plats, and records of his office shall be deemed the property of the District of Columbia, and shall constitute a part of the public records; and in all cases of vacancy in the office, by resignation or otherwise, they shall be transferred to his successor in office, and he shall give bond, to be approved by the *Commissioners* [Governor,] in the sum of twenty thousand dollars, conditioned for the faithful performance of his duties.

Papers, etc., of surveyor's office to be deemed property of District, and part of the public records.

Bond of surveyor.

Ibid., sec. 31.

CHAPTER SIXTY-FIVE.

TAXES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Collector's duty as to revenues. 2. Same subject, as to tax bills; his liability for taxes uncollected. 3. Same subject, as to account books; inspection, etc. 4. Same subject, as to amounts collected from leases and wharves. 5. Salary of collector; his bond, oath of office, etc. 6. Transfers of real property; list of to be furnished semiannually by recorder of deeds and register of wills. 7. What real and personal property exempt from taxation. 8. Church, school, and cemetery property; which exempt. 9. "School-houses" defined; taxes on refunded. 10. Cemeteries, which shall be taxed; proviso. 11. The Luther Statue Association; property exempt. 12. St. Mark's Protestant Episcopal Church exempted from taxation; remission of all taxes due and unpaid. 13. St. Dominic's Church; certain taxes, etc., remitted. | <p>Sec.</p> <ol style="list-style-type: none"> 14. Young Men's Christian Association; property of exempt from taxation. 15. Bonds, etc., of District exempt from taxation. 16. Orphan asylums; certain property of exempt. 17. Repeal of laws taxing church property; title to property sold for taxes revested in trustees. 18. Same subject; taxes paid to be refunded. 19. Congress to appropriate 50 per cent of estimates approved and balance to be collected by taxation; limit to taxation; tax on agricultural lands; tax notice. (NOTE.—Tax on dogs.) 20. Assessment of real estate. 21. Same subject; in 1883 and every third year, etc. 22. Same subject; District divided into 12 divisions; assessors, their bond and oath, etc. (NOTE.—Revision of assessments.) 23. Same subject; maps, field books, etc., to be furnished; deposit of same. 24. Same subject; how assessments shall be made. 25. Same subject; valuation of property. |
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| 26. Same subject; returns by assessors. | same, assessment on; same, failure to make; same, when return of not satisfactory; same, notice of rejection; same, appeal; same, false affidavit to; penalty. |
| 27. Same subject; neglect of assessor to perform duties; penalty for neglect, etc. | 47. Appraisal of capital stock of corporations; deduction for real estate in capital stock. |
| 28. Same subject; board of equalizations of assessments; their oath, quorum, record of their proceedings, assessment valuation of property, hearing of complaints, report of assessments and equalizations. | 48. Time and manner of assessments; allowances made to persons coming permanently after June 30, 1878; goods brought to be auctioned must pay full tax. |
| 29. Same subject; pay of assessors. | 49. License act; legislative assembly repealed in part. |
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| 31. Same subject; valuation of property to be added to tax list; new structures and improvements, return of; proviso. | 51. Lots; designation of by numbers and letters to be revised. |
| 32. Same subject; as to property omitted from lists, etc.: proviso. | 52. This act (March 3, 1877, ch. 117, 19 Stats., p. 396), permanent. |
| 33. Same subject; assessor may administer oath, etc.; subpoenas; fees; false oath; penalty for making. | 53. Fees for distresses of personalty to be placed in Treasury. |
| 34. Same subject; repeal clause. | 54. Fees collected by inspector of gas meters, etc., to be paid to collector and deposited in Treasury. |
| 35. Improvement taxes erroneously assessed; how refunded and reassessed against proper persons. | 55. United States property to be valued. |
| 36. Taxes not to be hypothecated. | 56. Same subject; how done. |
| 37. Taxes; payment of may be regulated by Commissioners, same subject to be paid into Treasury of United States; accounts for same to be settled, etc., by officers of Treasury. | 57. Taxation of lots and squares sold by the United States. |
| 38. Taxes payable semi-annually, in November and May. | 58. When sale of real property not made according to law, amount paid by purchaser to be refunded. |
| 39. Amendment twelfth section, act of March 3, 1877, past assessments of property; valuations to be as of June 1, except, etc.; amendments eighth section, act of March 3, 1877, as to personal property of temporary residents. | 59. Re-assessment in cases under previous section. |
| 40. Census to be taken by assessors. | 60. Taxes erroneously paid to be refunded. |
| 41. Penalty for delay in paying overdue taxes. | 61. Rebate of money paid for license when not granted. |
| 42. Sales of lands for taxes in arrears; expenses of pamphlet and advertising; sales; certificate of sales; time for redemption; deed; prima facie evidence of title; minimum price to be sold for; bidding in the property by Commissioners; when so bid in not exempt from taxation; suit to enforce lien on unredeemed property; right to redeem until proceedings had; decree for sale; precedence of tax cases; sale under decree; minimum price; surplus proceeds; deed; redemption by persons under disability. | 62. Surplus at tax sales to be held for benefit of owner of property. |
| 43. Report of collector of sales; deposit of surplus proceeds. | 63. Same subject; how refunded. |
| 44. Distress for delinquent tax on personal property; sale of land when no goods, etc.; how; advertisement; fees for selling; report of distraint and sale; surplus proceeds. | 64. Errors in sales for taxes to be corrected. |
| 45. Valid existing debts to be deducted in assessing personal property. | 65. Taxes remitted on lots in square No. 226 in Washington. |
| 46. Schedules of personal property; same, notice of to be advertised; same, filling up and verifying; | 66. Purchasers at tax sales to have valid title after two years, and deed to issue. |
| | 67. Sale of real estate for arrears of taxes; publication of list of delinquents; advertising; sales at auction; repeal provisions. (NOTE.—This section superseded.) |
| | 68. Certain assessments for improvement of real property to be reduced. |
| | 69. Same subjects; drawbacks for reductions to be issued and received for taxes. |
| | 70. Special improvements; how assessed and collected. |
| | 71. Any one of several lots of same owner, or any part of lots, may be sold for taxes, etc., due on whole. |
| | 72. Sales for taxes not to be void for error in computing amount. |
| | 73. Heirs and assigns to have same rights as purchaser at tax sale. |
| | 74. Sales for taxes to be recorded in land records. |

<p>Sec. 75. Personal property not to be sold for taxes without ten days' public notice.</p> <p>76. List of tax sales to be prepared and kept for inspection; certificate of taxes due to be furnished by collector; his fee for same; effect of</p>	<p>Sec. certificate as to taxes not included therein; public records relating to real or personal property to be open to public use and inspection free of charge.</p> <p>77. Publication of delinquent taxes.</p>
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SEC. 1. The office of treasurer of the District of Columbia is hereby abolished from and after the thirtieth day of June, eighteen hundred and eighty-one, and the collector of taxes for said District shall, from and after that date, collect all revenues of the District and deposit the amounts collected daily with the Treasurer of the United States.

Duty of collector as to revenues.
Mar. 3, 1881.
21 Stat., 458.
2Sup. R. S., 322,
par. 4.

SEC. 2. All tax bills shall be made up by the collector of taxes, and he shall be held responsible under his bond for all taxes, except such as he may not be able to collect after fully complying with the requirements of law.

Collector, duty as to tax bills; liability for taxes.
Ibid.

SEC. 3. It shall be the duty of the collector to keep in his office account books, in which shall be entered: First, the dates of payment of all taxes; second, the amounts paid; third, the names of the persons by whom payment has been made; fourth, the years paid for; fifth, the property paid on; and sixth, the names of the persons to whom assessed. His books shall at all times be open to the inspection of [the comptroller] [or] any [other] officer who may be authorized by the *Commissioners* [Governor] to examine the same.

Collector's account books; inspection of same.
Leg. Assem.,
Aug. 23, 1871, ch.
108, pt. sec. 1, p.
143.

SEC. 4. The amounts collected for leases and wharf charges shall be paid to the collector for payment into the Treasury to the credit of the United States and the District of Columbia, in equal parts.

Collections for leases and wharfs, how paid.

Mar. 3, 1887. 24 Stat., ch. 389, p. 574.

SEC. 5. The collector of taxes shall receive an annual compensation of four [five] thousand dollars, and that before entering upon his duties he shall execute a bond in the sum of one hundred thousand dollars, with sufficient surety or sureties, to be approved by the *Commissioners* [Governor], conditioned for the faithful performance of the duties of his office.*

Compensation of the collector; his bond.
Leg. Assem.,
Aug. 23, 1871, ch.
108, p. 145, sec. 7

SEC. 6. The recorder of deeds and the register of wills shall furnish the proper officer of the District appointed to receive the same, on or about the first Monday in January and July, in every year, correct lists of the transfers of real property in the city of Washington during the next preceding half-year, so far as can be ascertained by the records in their respective offices; and the District shall make to the recorder and register such compensation as shall be agreed upon, not exceeding six cents for each transfer on such lists.

Lists of transfers of real property to be furnished semiannually by recorder of deeds and register of wills.
Sec. 144, R. S.
D. C.

SEC. 7. That the property exempt from taxation under this act shall be the following and no other, namely: First, the Corcoran Art Building, free public library buildings, churches, the Soldiers' Home, and grounds actually occupied by such buildings; secondly, houses for the reformation of offenders, almshouses, buildings belonging to institutions of purely public charity, conducted without charge to inmates, profit, or income; cemeteries dedicated and used solely for burial purposes and without private income or profit; but if any portion of any such building, house, grounds, or cemetery so in terms excepted is larger than is absolutely required and actually used for its legitimate purpose and none other, or is used to secure a rent or income, or for any business purpose, such portion of the same, or a sum equal in

Property exempt from taxation, real and personal.
Mar. 3, 1877.
19 Stat., ch. 117,
sec. 8, p. 399.
2Sup. R. S., 145.

* For oath of collector and all civil officers of the District, see sec. 85 R. S. D. C.; how certified and recorded, sec. 48, p. 162, Leg. Assem., 1871. Chapter "District of Columbia."

value to such portion, shall be taxed against the owner of said building or grounds; thirdly, such property as is now exempt from taxation by laws of the United States; fourthly, personal property not in said District and taxed elsewhere, but owned by persons domiciled in said District; fifthly, personal property not held for sale and not over the value of five hundred dollars.

Exemptions of church, school, and cemetery property.

June 17, 1870.
Sec. 147, R. S. D. C.
16 Stat., 153.

SEC. 8. All churches and school-houses, and all buildings, grounds, and property appurtenant thereto, and used in connection therewith in the District, and any cemetery therein, held and owned by a religious society, having a regular and known place of worship, or by any incorporated association, shall be exempt from any and all taxes or assessments, national or municipal. [See next section.]

“Schoolhouses” defined: taxes on refunded.

1870, ch. 131.
16 Stat., 153.
June 11, 1878.
20 Stat., 108, sec. 14.
2 Sup. R. S., 180.

SEC. 9. The term “school houses” in the act of June seventeenth, eighteen hundred and seventy, chapter thirty, was intended to embrace all collegiate establishments actually used for educational purposes, and not for private gain; and that all taxes heretofore imposed upon such establishments, in the District of Columbia, since the date of said act are hereby remitted, and where the same or any part thereof has been paid, the sum so paid shall be refunded. But if any portion of any said building, house, or grounds in terms excepted is used to secure a rent or income, or for any business purpose such portion of the same, or a sum equal in value to such portion, shall be taxed. [See preceding section.]

What cemeteries shall be taxed; proviso.

Sec. 148, R. S. D. C.

SEC. 10. All cemeteries in the District, outside of the cities of Washington and Georgetown, the owners of which sell lots or burial-rights indiscriminately to those applying therefor, except those owned by incorporated associations, shall be assessed and taxed as other property in the same parts of the District, but all lots in such cemeteries, when actually sold for burial purposes, shall be exempt from taxation.

The Luther Statue Association property exempt.

Mar. 3, 1885.
23 Stat., 349, sec. 4.

SEC. 11. The lands of said body corporate [*The Luther Statue Association*] shall be located in the District of Columbia, and shall not exceed five thousand square feet. The lands acquired and held by said body corporate, and the statue erected thereon, and all the improvements and appurtenances thereto, shall be entirely exempt from taxation, and shall not be chargeable or assessed for any purpose whatever: *Provided*, That this act may be modified, repealed or amended, whenever Congress may see fit to do so.

Saint Mark's Protestant Episcopal Church, Washington, D. C., exempted from taxation.

Remission of taxes on real estate.

Feb. 23, 1887.
24 Stat., 411.

SEC. 12. From and after the passage of this act a certain piece of land situated in the city of Washington, District of Columbia, known as lots nine and eleven, in square seven hundred and eighty-eight of the plan of that city, and occupied by the church known as Saint Mark's Protestant Episcopal Church, and all the buildings, grounds, and property appurtenant thereto and used in connection therewith in the District of Columbia, shall be exempt from any and all taxes or assessments, national, municipal, or county; and all taxes together with the interest and penalties, now due and unpaid upon said property, shall be, and they are hereby, remitted.

Saint Dominic's Church, District of Columbia. Taxes, etc., remitted.

Mar. 3, 1887.
24 Stat., 495.

SEC. 13. The Commissioners of the District of Columbia be, and they are hereby, authorized and directed to remit all taxes, penalties, and interest heretofore assessed and now due and unpaid on all that portion of square numbered four hundred and sixty-six in the city of Washington, District of Columbia, which is exclusively used for religious and educational purposes.

SEC. 14. The property known as lot three, square two hundred and twenty-two, being house numbered fourteen hundred and nine New York avenue, in Washington City, District of Columbia, occupied by the Young Men's Christian Association of Washington, be, and the same is hereby, exempt from all taxation so long as the same is so occupied and used; and the taxes which have accrued and become due on and after July first, eighteen hundred and eighty-four, be, and the same are hereby, released, subject to the provisions of section eight of the act approved March third, eighteen hundred and seventy-seven, providing for exemptions of church and school property from taxation. [See § 5, 21 Stat., 467; 19 Stat., 399.]

Young Men's Christian Association, Washington; property exempt from taxation.

Jan. 26, 1887.
24 Stat., 364.

SEC. 15. All bonds or other public securities of the District of Columbia be, and they are hereby, exempted from local taxation by the Government of the District of Columbia.

Bonds, etc., of District exempt from taxation by District.

Leg. Assem., Jan. 19, 1872, sec. 1, p. 29.

SEC. 16. All taxes and assessments heretofore levied upon orphan asylums, and on the grounds actually occupied thereby, together with all penalties, costs, and interest that may have accrued thereon, shall be, and hereby are remitted and released; and said asylums and grounds shall hereafter be exempt from taxation while so occupied: *Provided*, That all other real estate belonging to such institutions shall still be held for assessment and taxation, and for all previous assessments and taxes.

Orphan asylums, certain property of, exempt from taxation.

Mar. 3, 1881.
21 Stat., 513, sec. 2.
2 Sup. R.S., 328.

SEC. 17. So much of an act of Congress entitled "An act for the government of the District of Columbia, and for other purposes", approved June twentieth, eighteen hundred and seventy-four, as was construed to authorize the Commissioners of the District to set aside former exemptions from taxation of church property which was actually held and used for the purpose of divine worship, and to enforce a tax upon such property, be, and is hereby, repealed; and the title to such property is hereby declared to vest in the trustees, or such other persons as held the title to the same at the time of the passage of the act of eighteen hundred and seventy-four, or their successors in interest, notwithstanding the sale of such property for non-payment of taxes.

Repeal of law taxing church property.

1874, ch. 337.
19 Stat., 117.

Title to property sold for taxes vested back.

June 21, 1879,
21 Stat., 23, ch. 33, sec. 1.
2 Sup. R.S., 266.

SEC. 18. The Commissioners of the District of Columbia be, and they hereby are, authorized and required to refund to the trustees or other proper officers of such church or churches as have paid the taxes assessed against them under the act of June twentieth, eighteen hundred and seventy-four, such sums respectively as were paid by each upon property actually held and used for the purpose of divine worship.

Taxes to be refunded.

Ibid., sec. 2.

SEC. 19. To the extent to which Congress shall approve of said estimates, [of the Commissioners] Congress shall appropriate the amount of fifty per centum thereof; and the remaining fifty per centum of such approved estimates shall be levied and assessed upon the taxable property and privileges in said District other than the property of the United States and of the District of Columbia; and all proceedings in the assessing, equalizing, and levying of said taxes, the collection thereof, the listing return and penalty for taxes in arrears, the advertising for sale and the sale of property for delinquent taxes, the redemption thereof, the proceedings to enforce the lien upon unredeemed property, and every other act and thing now required to be done in the premises, shall be done and performed at the times and in the manner now provided by law, except in so far

Congress to appropriate fifty per cent. of estimates approved, and remainder to be collected by taxation.

<p>Limit of taxation.</p>	<p>as is otherwise provided by this act: <i>Provided</i>, That the rate of taxation in any one year shall not exceed one dollar and fifty cents on every one hundred dollars of real estate not exempted by law; and on personal property not taxable elsewhere, one dollar and fifty cents on every one hundred dollars, according to the cash valuation thereof: <i>And provided further</i>, Upon real property held and used exclusively for agricultural purposes, without the limits of the cities of Washington and Georgetown, and to be so designated by the assessors in their annual returns, the rate for any one year shall not exceed one dollar on every one hundred dollars. The collector of taxes, upon the receipt of the duplicate of assessment, shall give notice for one week, in one newspaper published in the city of Washington, that he is ready to receive taxes.*</p>
<p>Tax on agricultural lands</p>	<p>exclusively for agricultural purposes, without the limits of the cities of Washington and Georgetown, and to be so designated by the assessors in their annual returns, the rate for any one year shall not exceed one dollar on every one hundred dollars. The collector of taxes, upon the receipt of the duplicate of assessment, shall give notice for one week, in one newspaper published in the city of Washington, that he is ready to receive taxes.*</p>
<p>Tax notice.</p>	<p>notice for one week, in one newspaper published in the city of Washington, that he is ready to receive taxes.*</p>
<p>June 11, 1878. 20 Stat., 102, ch. 180, p. sec. 3. 1 Sup. R. S., 342.</p>	<p>2 Sup. R. S., 176.</p>
<p>Assessment of real estate.</p>	<p>SEC. 20. That all real property, except as hereinafter provided, shall be assessed in the name of the owner, trustees, or guardian thereof. All undivided real property of a deceased person may be assessed in the name of such deceased person until the same is divided according to law, or has otherwise passed into the possession of some other person. And real property, the ownership of which is unknown, shall be assessed "owner unknown."†</p>
<p>Mar. 3, 1883. 23 Stat., 568, ch. 187, sec. 1. 2 Sup. R. S., 413.</p>	<p>SEC. 21. That real property shall be assessed and valued in the year eighteen hundred and eighty-three, and every third year thereafter, as herein provided.</p>
<p>Assessments in 1883, and every third year, etc.</p>	<p>SEC. 21. That real property shall be assessed and valued in the year eighteen hundred and eighty-three, and every third year thereafter, as herein provided.</p>
<p>Ibid., sec. 2.</p>	<p>SEC. 22. That the Commissioners shall, on the second Monday of March, eighteen hundred and eighty-three, or as soon thereafter as practicable, and every third year thereafter, divide the District into not exceeding twelve subdistricts, and shall appoint one assessor to each subdistrict, who shall be a resident thereof. Each person so appointed shall, within ten days after receiving notice thereof, file with said Commissioners his bond, payable to the United States, with sufficient surety to the acceptance of said Commissioners, in the sum of two thousand dollars, conditioned that he will faithfully, diligently, and impartially perform all and singular the duties enjoined upon him by law. And he shall, moreover, take and subscribe an oath of office. If any such appointee shall fail to qualify as aforesaid within the time prescribed, or shall fail to enter upon the discharge of his duties within five days after such qualification, the appointment shall be void, and the Commissioners shall forthwith appoint another suitable person, who shall qualify as above provided.</p>
<p>Twelve subdistricts.</p>	<p>SEC. 22. That the Commissioners shall, on the second Monday of March, eighteen hundred and eighty-three, or as soon thereafter as practicable, and every third year thereafter, divide the District into not exceeding twelve subdistricts, and shall appoint one assessor to each subdistrict, who shall be a resident thereof. Each person so appointed shall, within ten days after receiving notice thereof, file with said Commissioners his bond, payable to the United States, with sufficient surety to the acceptance of said Commissioners, in the sum of two thousand dollars, conditioned that he will faithfully, diligently, and impartially perform all and singular the duties enjoined upon him by law. And he shall, moreover, take and subscribe an oath of office. If any such appointee shall fail to qualify as aforesaid within the time prescribed, or shall fail to enter upon the discharge of his duties within five days after such qualification, the appointment shall be void, and the Commissioners shall forthwith appoint another suitable person, who shall qualify as above provided.</p>
<p>Ibid., sec. 3.</p>	<p>SEC. 22. That the Commissioners shall, on the second Monday of March, eighteen hundred and eighty-three, or as soon thereafter as practicable, and every third year thereafter, divide the District into not exceeding twelve subdistricts, and shall appoint one assessor to each subdistrict, who shall be a resident thereof. Each person so appointed shall, within ten days after receiving notice thereof, file with said Commissioners his bond, payable to the United States, with sufficient surety to the acceptance of said Commissioners, in the sum of two thousand dollars, conditioned that he will faithfully, diligently, and impartially perform all and singular the duties enjoined upon him by law. And he shall, moreover, take and subscribe an oath of office. If any such appointee shall fail to qualify as aforesaid within the time prescribed, or shall fail to enter upon the discharge of his duties within five days after such qualification, the appointment shall be void, and the Commissioners shall forthwith appoint another suitable person, who shall qualify as above provided.</p>
<p>Assessors, their bond and oath of office.</p>	<p>SEC. 22. That the Commissioners shall, on the second Monday of March, eighteen hundred and eighty-three, or as soon thereafter as practicable, and every third year thereafter, divide the District into not exceeding twelve subdistricts, and shall appoint one assessor to each subdistrict, who shall be a resident thereof. Each person so appointed shall, within ten days after receiving notice thereof, file with said Commissioners his bond, payable to the United States, with sufficient surety to the acceptance of said Commissioners, in the sum of two thousand dollars, conditioned that he will faithfully, diligently, and impartially perform all and singular the duties enjoined upon him by law. And he shall, moreover, take and subscribe an oath of office. If any such appointee shall fail to qualify as aforesaid within the time prescribed, or shall fail to enter upon the discharge of his duties within five days after such qualification, the appointment shall be void, and the Commissioners shall forthwith appoint another suitable person, who shall qualify as above provided.</p>
<p>Failure to discharge duties.</p>	<p>SEC. 22. That the Commissioners shall, on the second Monday of March, eighteen hundred and eighty-three, or as soon thereafter as practicable, and every third year thereafter, divide the District into not exceeding twelve subdistricts, and shall appoint one assessor to each subdistrict, who shall be a resident thereof. Each person so appointed shall, within ten days after receiving notice thereof, file with said Commissioners his bond, payable to the United States, with sufficient surety to the acceptance of said Commissioners, in the sum of two thousand dollars, conditioned that he will faithfully, diligently, and impartially perform all and singular the duties enjoined upon him by law. And he shall, moreover, take and subscribe an oath of office. If any such appointee shall fail to qualify as aforesaid within the time prescribed, or shall fail to enter upon the discharge of his duties within five days after such qualification, the appointment shall be void, and the Commissioners shall forthwith appoint another suitable person, who shall qualify as above provided.</p>
<p>5 Mackey Rep.,</p>	<p>422, Ins. Co. vs. D. C.</p>
<p>Commissioners to furnish maps, field books, etc.; deposit of same, etc.</p>	<p>SEC. 23. The Commissioners shall furnish each of said assessors a map and field-book of the respective subdistricts which he is appointed to assess and value, which shall contain an accurate list of each tract, together with a pertinent description of the real property situate therein, and, as far as may be known, the owner thereof, and also such blanks, forms, books, surveys, and plats as may be necessary for a systematic statement of the property to be assessed. Upon the completion of the assessment, each assessor shall deposit with the assessor of the district all maps, field-books, surveys, and plats, and all his notes and memoranda thereof.</p>
<p>Ibid., sec. 4.</p>	<p>SEC. 23. The Commissioners shall furnish each of said assessors a map and field-book of the respective subdistricts which he is appointed to assess and value, which shall contain an accurate list of each tract, together with a pertinent description of the real property situate therein, and, as far as may be known, the owner thereof, and also such blanks, forms, books, surveys, and plats as may be necessary for a systematic statement of the property to be assessed. Upon the completion of the assessment, each assessor shall deposit with the assessor of the district all maps, field-books, surveys, and plats, and all his notes and memoranda thereof.</p>
<p>Assessments, how made.</p>	<p>SEC. 24. Real estate in Washington or Georgetown, except such as is now or may hereafter be exempt by law from taxation, shall be assessed according to the number of the squares and lots thereof, or parts of lots, and upon the number of square or superficial feet in</p>
<p>Ibid., sec. 5.</p>	<p>SEC. 24. Real estate in Washington or Georgetown, except such as is now or may hereafter be exempt by law from taxation, shall be assessed according to the number of the squares and lots thereof, or parts of lots, and upon the number of square or superficial feet in</p>

* For tax on Dogs, see chapter on "Animals."

† For Board to revise assessment of real estate, see 27 Stat. L., ch. 380, p. 366, Aug. 5, 1892.

each square or lot, or parts of a lot, and in the county the agricultural lands shall be assessed by the acre, and suburban lots by the square foot, as in the city of Washington.

SEC. 25. Each assessor shall, in all cases, from actual view, and from the best sources of information in his reach, determine, as nearly as practicable, the true value of each separate tract or lot of real property in his district in lawful money, and he shall separately estimate the value of all improvements on any tract or lot, and shall note the same in his field-book, which shall be carried out as part of the value of such tract or lot, and he shall also return the dimensions to each tract or lot.

Valuation of property.
Ibid., sec. 6.

SEC. 26. Each assessor shall, on or before the first Monday of June, eighteen hundred and eighty-three, and every third year thereafter, make out and deliver to the Commissioners, a return in tabular form, contained in a book to be furnished him by said Commissioners, of the ownership, amount, description, and value of the real property subject to be listed for taxation in his district. He shall also enter in a separate list a pertinent description of all property exempt from taxation under the provisions of existing law, together with the ownership and use of the same, and shall estimate and return the true value thereof. All real property, the ownership of which is not known, shall be returned, as to ownership, "unknown."

Assessor's returns.
Ibid., sec. 7.

SEC. 27. Every assessor who shall refuse or knowingly neglect to perform any duty enjoined on him by law, or who shall consent to, or connive at, any evasion of the provisions of this chapter, whereby any property required to be assessed shall be unlawfully exempt, or the valuation thereof entered at less than its true value, shall, on conviction thereof, be liable to a fine not exceeding two hundred dollars for each offense, which may be collected from his bond aforesaid.

Neglect, etc., of assessor to perform duty.

Penalty.
Ibid., sec. 8.

SEC. 28. The assessor of the District and the assessors herein provided for shall compose a board of equalization of the real property, and they shall convene at an office, to be provided by the Commissioners, on the first Monday of June, eighteen hundred and eighty-three, and every third year thereafter. They shall each take an oath fairly and impartially to equalize the value of the real property according to law. Any seven of them shall constitute a quorum and a clerk appointed by the Commissioners shall keep a full and accurate account of their proceedings and orders. They shall immediately proceed to equalize the valuation made as aforesaid by the assessors, so that each lot and tract, and the improvements thereon, shall be entered upon the tax-list at their true value in money; and for this purpose they shall hear such complaints as may be made in respect of said assessment, and in determining them they may raise the valuation of such tracts or lot as, in their opinion, may have been returned below their true value, and reduce the valuation of such as they may believe to have been returned above their true value to such sum as, in their opinion may be the true value thereof; but they shall not reduce the aggregate value of the real property below the aggregate value thereof as made and returned by said assessors. All assessments and equalizations made pursuant to the provisions of this act shall be finally completed and be reported to the Commissioners of the District on or before the first Monday of August of each year in which an assessment is made.

Board of equalization of assessments, etc.

Ibid., sec. 9.

Oath.
Quorum.

Record of proceedings.

True valuation in money.
Hearing of complaints.

Report made to Commissioners, etc.

Aug. 5, 1892.
27 Stat., ch. 380, p. 366.

SEC. 29. Each assessor shall be entitled to receive for each day necessarily employed in the performance of his duties the sum of five dollars, for a period not exceeding one hundred and fifty days.

Pay of assessors.

Ibid., sec. 10.

Valuation as rendered to constitute basis of taxation.

Ibid., sec. 11.

SEC. 30. The valuation of the real property made and equalized as aforesaid shall constitute the basis of taxation for the next succeeding period of three years, and until another valuation is made according to law.

Valuation of property to be added to list subject to taxation.

Return of new structures, etc., and improvements.

Ibid., sec. 12.

SEC. 31. Annually, on or prior to July first, the assessor of the District shall take a list of all real property which shall have become subject to taxation, and is not on the tax-list, and affix a value thereon, according to the rules prescribed for assessing real estate; and he shall make return of all new structures and additions to or improvements of old structures of over one hundred dollars in value, the value of which shall not have been included in the valuation of the land on which such structures have been erected, specifying the tract or lot of land on which each of such structures has been erected, and the value which has been added to any such lot or tract by reason of such structure, and the assessor shall add such valuation to the assessment made on such tract or lot; and in case of the destruction of any structure from any cause, of over one hundred dollars in value, the value of which has been included in any former valuation of the tract or lot on which it is situate, the assessor shall determine and make return how much less valuable such lot or tract is by reason of such destruction, and the assessor shall deduct the same from the valuation of such tract or lot as it stands upon the list: *Provided*, That the assessor of the District of Columbia shall hear such complaints as may be made in respect of said assessments and determine the same between the first and third Monday of July of the same year, subject to the approval of the Commissioners of the District.

Proviso.

Property omitted from lists, etc.

Ibid., sec. 13.

SEC. 32. If the assessor of the District shall learn that any property liable to taxation has been omitted from the assessment for any previous year or years, or has been so assessed that the assessment was void, it shall be his duty at once to assess such property for each and every year after the passage of this act for which it has escaped assessment and taxation, and report the same to the collector of taxes, who shall at once proceed to collect the taxes so in arrears as other taxes are collected: *Provided*, That no property which has escaped taxation shall be liable to assessment and taxation under this section for a period of more than three years prior to such assessment.

Proviso.

Assessor may administer oaths, etc.

Ibid., sec. 14.

SEC. 33. The assessor of the District, in the discharge of any of the duties devolved upon him or the board of equalization, by any provisions of this act, may administer all necessary oaths or affirmations. He shall have power to summon the attendance of any person before said board, or himself, to be examined under oath touching such matters and things as they or he may deem advisable in the discharge of their said duties; and any member of the Metropolitan Police force or constable of the District may serve subpoenas in this behalf. Such fees shall be allowed witnesses so examined, to be paid out of the contingent fund of the Commissioners, as are allowed in civil actions before justices of the peace. Any person who shall knowingly make false oath or affirmation shall be guilty of perjury, and, upon conviction thereof, be punished according to laws in force for the punishment of perjury.

Subpoenas.
Fees.

False oath.
Penalty.

Repeal, etc.

Ibid., sec. 15.

SEC. 34. This act shall be in force from and after its passage; and all laws and parts of laws inconsistent herewith are hereby repealed, as also all laws allowing any deduction of taxes assessed against any person because of payment thereof within a period of thirty days receiving notice that the collector of taxes is ready to receive the taxes assessed.

SEC. 35. The Commissioners of the District of Columbia be, and they are hereby, authorized and empowered to refund to any persons who have heretofore been erroneously assessed for special improvement taxes on property not belonging to them, such moneys as they shall be found to have paid as taxes upon such erroneous assessment; and the said Commissioners are empowered to correct any assessment so found to have been made, and collect the tax from the rightful owners of the property.

Refund of improvement taxes erroneously assessed; how refunded and reassessed.

May 28, 1878.
20 Stat., 87, ch. 145.

SEC. 36. All taxes heretofore lawfully assessed and due, or to become due, shall be collected pursuant to law, except as herein otherwise provided; but said Commissioners shall have no power to anticipate taxes by a sale or hypothecation of any such taxes or evidences thereof.

Taxes not to be hypothecated.
1874, June 20, ch. 337, sec. 2.

June 11, 1878.
2 Sup. R. S., 175.

SEC. 37. That the said Commissioners may, by general regulations consistent with the act of Congress of March third, eighteen hundred and seventy-seven, entitled "An act for the support of the government of the District of Columbia for the fiscal year ending June thirtieth, eighteen hundred and seventy-eight, and for other purposes," or with other existing laws, prescribe the time or times for the payment of all taxes and the duties of assessors and collectors in relation thereto.

Regulations of payment of taxes may be made by Commissioners.
1877, ch. 117 (19 Stat. L., 396).

All taxes collected shall be paid into the Treasury of the United States, and the same, as well as the appropriations to be made by Congress as aforesaid, shall be disbursed for the expenses of said District, on itemized vouchers, which shall have been audited and approved by the auditor of the District of Columbia, certified by said Commissioners, or a majority of them;

Taxes to be paid into United States Treasury, and disbursements: how made.

1875, Mar. 3, ch. 162, sec. 13.

1879, Mar. 3, ch. 182, sec. 2. 1880. June 4, ch. 121, sec. 2.

And the accounts of said Commissioners, and the tax-collectors, and all other officers required to account, shall be settled and adjusted by the accounting-officers of the Treasury Department of the United States.

Accounts to be settled by accounting officers of Treasury.

June 11, 1878. 20 Stat., sec. 4, ch. 180. 1 Sup. R. S., 342. 2 Sup. R. S., 176.

SEC. 38. That one-half the tax levied upon real and personal property shall become due and payable on the first day of November next succeeding the completion of the assessment, and the other half of such tax shall become due and payable on the first day of May next following; and in every case where the tax levied shall be paid by installments, as herein authorized, each of said payments shall be deemed to have been made on the several funds and for the different purposes indicated in the second section of this act; and an equal pro rata proportion of the payments so made shall be carried to the credit of the respective funds.

Tax payable semi-annually, in November and May.

Apr. 3, 1878.
20 Stat. L., ch. 48, sec. 3, p. 35.
2 Sup. R. S., 156.

SEC. 39. The twelfth section of the act of Congress entitled "An act for the support of the government for the District of Columbia for the fiscal year ending June thirtieth, eighteen hundred and seventy-eight, and for other purposes," approved March third, eighteen hundred and seventy-seven, shall be, and is hereby, so amended that the assessors appointed under said act, or their successors in office, shall, before the first day of August, eighteen hundred and seventy-eight, under the direction of the superintendent of assessments and taxes of said District, assess the value of all the real and personal property in said District liable to taxation thereunder, and shall state the same in separate books, to be kept in a systematic manner, and such value for taxation shall be the true value in the law-

Amend twelfth section act Mar. 3, 1877. *post*.

Ibid., sec. 1.

ful money of the United States of the property so assessed. The assessed value shall have reference to the date of the first day of June, eighteen hundred and seventy-eight, except as to stock in trade, which shall be the average value of the stock of merchandise or other articles kept on hand during the year ending June thirtieth, eighteen hundred and seventy-eight. Said assessors shall, between the first day of August, eighteen hundred and seventy-eight, and the twentieth day of August, eighteen hundred and seventy-eight, hold daily sessions for the purpose of equalizing the assessments theretofore made by them, and for the purpose of hearing and determining any and all appeals from the valuations theretofore made by them. Each assessor shall, at the meetings of the assessors as aforesaid, make full and detailed reports of his act as such assessor. And during said period they shall have power to revise assessments theretofore made by them, or any of them, by either justly increasing or justly diminishing any particular assessment.

Amends eighth section as to personal property of temporary residents. ^[See § 48, post this chapter.]

In section eight strike out the word "domiciled", and insert in lieu thereof the words "temporarily residing."

Census to be taken by assessors. Ibid., sec. 2.

SEC. 40. That said assessors, while engaged in making the assessment as required in the first section of this act, shall also take an accurate census of the inhabitants of said District of Columbia, and return the same to the Commissioners of said District. For this purpose, the Commissioners of said District shall prepare the proper books, so arranged as to show, under proper heads, the name, sex, birth-place, race, age, and occupation of such inhabitants, and such other information as they shall prescribe.

Penalty for delay in paying taxes when due. Mar. 3, 1877. 19 Stat., 396, sec. 4. 2 Sup. R. S., 142.

SEC. 41. That if one-half of the tax herein levied upon the real and personal property taxed by this act shall not be paid before the first day of December, eighteen hundred and seventy-seven, said installment shall thereupon be in arrears and delinquent; and there shall then be added, to be collected with such taxes, a penalty of two per centum upon the amount thereof, and a like penalty on the first day of each succeeding month until payment of said installment and penalty. And if said installment shall not be paid before the first day of June, eighteen hundred and seventy-eight, together with one-half of said original tax due before said first day of June, a like penalty shall then be added on said last one-half of such tax; and the whole together shall constitute the delinquent tax, to be dealt with and collected in the manner prescribed by this act.

Sales of land for taxes in arrears. Ibid., sec. 5.

SEC. 42. That it shall be the duty of the collector of taxes in said District to prepare a complete list of all taxes on real property upon which the same are levied, in arrears on the first day of July eighteen hundred and seventy eight, including all taxes due to the late corporation of Washington City, Georgetown, levy court, and the District of Columbia; and he shall within fifteen days thereafter, publish the same with a notice of sale, in a pamphlet of which not less than five thousand copies shall be printed for circulation; and it shall be the duty of said collector of taxes to give notice by advertising in the regular issue of two daily newspapers published in said District twice a week for three successive weeks, that said pamphlet has been printed and that a copy thereof will be delivered to any tax payer applying therefor at the office of said tax-collector; and that if the taxes due together with the penalties and costs that may have accrued thereon, shall not be paid prior to the day named for sale, the property will be sold by the said collector at public auction at office of said collector in the city of Washington, on the second Tuesday of August following, and each day thereafter until all is

sold, at a fixed hour, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon of said days to the highest bidder or bidders. The expenses of said advertising and the printing of said pamphlet shall be paid, by a charge of twenty cents for each lot or piece of property advertised. Upon the day specified aforesaid, the collector shall proceed to sell any and all property upon which such taxes remain unpaid, and continue to sell the same every secular day until all the real property as aforesaid shall have been brought to auction. Immediately after the close of the sale, upon payment of the purchase-money he shall issue to the purchaser a certificate of sale, and if the property shall not be redeemed by the owner thereof within two years from the day of sale by payment to the collector of said District for the use of the legal holder of the certificate of the amount for which it was sold at such sale, and fifteen per centum per annum thereon, a deed thereof shall be given by the Commissioners of the District, or their successors in office, to the purchaser at the tax-sale or the assignee of such certificate, which deed shall be admitted and held to be prima facie evidence of a good and perfect title, in fee simple to any property bought at any sale herein authorized; and all proceedings prior to said deed shall be presumed to have been regular until the contrary be proved; *Provided*, That no property advertised as aforesaid shall be sold upon any bids not sufficient to meet the amounts of tax penalty and costs; but in case the highest bid upon any property is not sufficient to meet the taxes penalty and costs thereon said property shall thereupon be bid off by the said Commissioners or their successors in office, in the name of the District of Columbia; but the property so bid off, shall not be exempted from assessment and taxation, but shall be assessed and taxed as other property; and if within two years thereafter such property is not redeemed by the owner or owners thereof, by the payment of the taxes penalties and costs due at the time of the offer of the sale, and that may have accrued after that date and ten per centum per annum thereon, or if any property two years after having been so bid off at any sale whatever in the name of said District, under this or any other law, and whether heretofore or hereafter made is not or has not been so redeemed as aforesaid, then the Commissioners of the District or their successors in office shall, in the name and on behalf of the District of Columbia apply to the supreme court of said District sitting in equity for the purpose of enforcing the lien acquired as aforesaid by said District on the property aforesaid, and until such judicial proceedings shall be had the property so as aforesaid sold for taxes, and bid off in the name of the District, either at any sale heretofore made or at any sale hereafter to be made, may be redeemed by the owner thereof by the payment of the taxes and all legal penalties and costs thereon.

Upon proof of the failure of the owner or owners of the property to redeem it as provided by law, unless it shall be shown by the defendant or defendants that the sale for taxes was irregular and void, the court shall, without unnecessary delay, giving these cases precedence over current business, decree the sale of said property to satisfy the taxes, penalties, costs, and interest due to the government of the District of Columbia; and the costs of suit and said sale shall be had in the same manner as of foreclosures, mortgages, or trust-deeds in said court. No sale shall be made, unless by express order of the court, for an amount less than the aggregate of said taxes, penalties, costs, and interest. Any surplus received from said sale over said aggregate and the costs of the court, including the commission of the trustee, shall be paid to the person in equity entitled to receive it; and, on confirmation of the sale, the court shall cause to be issued to the purchaser a deed which shall have the effect to convey to said purchaser all the right, title and estate of all persons

Expenses of pamphlet and advertising. Sales.

Certificates of sales. Time for redemption.

Deed.

Prima facie evidence of title.

Minimum price.

Property bid in.

Still subject to tax.

Bill in equity to enforce lien on unredeemed property.

Right to redeem till proceedings had.

Decree for sale.

Precedence of tax cases.

Sale under decree.

Minimum price.

Surplus proceeds.

Deed.

Redemption by persons under disability.

Ibid., sec. 5.

whomsoever claiming an interest to said property, except as herein-after provided: *And provided also*, That minors or other persons under legal disability be allowed one year after such minors coming to, or being of full age, or after the removal of such legal disability, to redeem the property so sold, or of which the title has, as aforesaid, become vested in the District of Columbia, from the purchaser or purchasers, his, her, or their heirs or assigns, or from the District of Columbia, on payment of the amount of purchase-money so paid therefor, with ten per centum per annum interest thereon as aforesaid, and all taxes and assessments that have been paid thereon by the purchaser, or his assigns, between the day of sale and the period of such redemption, ten per centum per annum interest on the amount of such taxes and assessments.*

Collector's report of sales; deposit of surplus proceeds.

Ibid., sec. 6.

McA. and Mackey Rep., 36, King vs. D. C.

SEC. 43. That the collector of taxes, immediately after he shall have made sale of any property as aforesaid, shall file with the comptroller a written report, in which he shall give a statement of the property advertised and the property sold, to whom it was assessed, the taxes due, to whom sold, the amount paid, the date of sale, the cost thereof, and the surplus, if any, and the lands so as aforesaid sold to the District. Any surplus remaining, after collection of taxes, penalties, and costs, on any real estate, shall be deposited by the collector of taxes to the credit of the surplus fund, to be paid to the owner or owners, or their legal representatives, in the same manner as other payments made by the District of Columbia.

Distress for delinquent tax on personal property.

Ibid., sec. 7.

SEC. 44. That when the installment of one-half of the taxes on personal property so as aforesaid due and payable before the first day of November, eighteen hundred and seventy-seven, shall not be paid before said date, or when the remaining installment shall not be paid before the first day of June, eighteen hundred and seventy-eight, then, and in either such event, the collector of taxes, or his deputy, may distrain sufficient goods and chattels found within said District, and belonging to the person, persons, association, firm, or corporation charged with such tax, to pay the taxes remaining due under the provision of this law from such persons, firm, association or corporation, together with the penalty thereon and the costs that may accrue; and, for want of such goods and chattels, said collector may levy upon and sell at auction, in like manner, the estate and interest of such person, firm, association, or corporation in any parcel of land in said district; and in that case the proceedings as to such land subsequent to sale shall be the same as in the case of taxes against real estate, as in this act provided; and thereupon said collector shall immediately proceed to advertise the same, by public notices posted in front of the court-house, in the city of Washington, and in the office of said collector, and by advertisement three times for one week in some daily newspaper published in said District, as hereinafter provided, stating the time when and the place where such property shall be sold, the last publication to be at least six days before the day of sale; and if the taxes and penalty thereon for which such property shall have been distrained, and the costs and expense which shall have accrued thereon, shall not be paid before the day fixed for such sale, which shall be not less than ten days after the taking of such property, the collector shall proceed to sell, at public auction, in front of his office, to the highest bidder, such property, or so much thereof as may be sufficient to pay said taxes, penalty, and accrued costs and expense of such distraint and sale. The collector of taxes shall be allowed, for making such distress and sale, the same fees as are now by law allowed to the marshal of said District for making levy and sale of property under

Sale of land, when no goods, etc.

Proceedings in case of sale of land.

Advertisement.

Sale.

Fees for selling.

* See Act regulating tax sales. 26 Stat., p. 24, ch. 40, Mar. 19, 1890; 2 Sup. R. S., p. 709. See also 27 Stat. L., ch. 74, p. 37, May 13, 1892.

Publication of delinquent tax sales. 21 Stat., 36, ch. 41, sec. 4, June 27, 1870. See sec. 77 of this chapter.

execution. Said collector shall report in detail every such distress and sale, in writing, to the Commissioners of the District, or their successors in office; and his accounts, in respect of every such distress or sale, shall forthwith be submitted by him to the accounting officers of the District, and audited by them. Any surplus resulting from such sale shall be paid into the treasury of the District, and, upon being claimed by the owner or owners of the goods and chattels, shall be paid to him.

Report of dis-
traints and sales.

Surplus proceeds.

SEC. 45. That from the assessed value of the credits only of any person there shall be deducted the amount of any valid and bona-fide debt or debts which any such person shall individually and absolutely owe, in respect of which he has no remedy over against any other person, upon the same being established by the affidavit of such person claiming deduction as hereinafter provided.

Deduction of
debts from credits.

Ibid., sec. 9.

SEC. 46. That the Commissioners of said District or their successors in office shall cause to be prepared a printed blank schedule of personal property, including bonds, deeds of trust, mortgages, credits, and other choses in action or possession owned or held in trust or otherwise subject to taxation under the provisions of this act, together with deductions claimed for exemptions or debts, to which shall be appended an affidavit in blank, setting forth that the foregoing presents a full and true statement of all the personal property, bonds, deeds of trust, mortgages credits, and all other choses in action or possession, together with the amount of indebtedness on account of which deductions are claimed, and the kind of property claimed as exempt, under which class of exemptions, and that the property claimed as exempt under the fifth clause does not exceed in value five hundred dollars. And when said schedule is ready for delivery, notice thereof shall be given by the assessors by advertisement for six successive secular days, in one or more of the daily papers published in said District, and a copy of said schedule shall be delivered to any citizen applying therefor at the office of said assessors. Every person, corporation, or firm in said District liable to taxation hereunder, and every executor, administrator, guardian, or trustee holding property in trust liable to taxation hereunder, shall, within forty five days after the first publication of said advertisement as aforesaid, fill up the proper blanks in said schedule with a full and true statement in this section above required, and make and sign an affidavit to the truth thereof as aforesaid before one of the said assessors, who is hereby authorized to administer such oath without charge, or before any person authorized by law to administer oaths; and the address in the District of the affidavit shall in each case be given below his signature, and thereupon any one of said assessors shall assess said property at its fair cash value, and enter the same in the columns upon said blank to be provided for that purpose, and the amount thus ascertained after making the deductions provided for in this act shall be entered upon the books for taxation: *Provided*, That if any person, firm or corporation, administrator, executor, guardian, or trustee, shall fail to make for forty five days after the first advertisement of the notice above required, and deliver to the assessors or one of them, the schedule of his or its said property held in trust or otherwise, as in this section provided for, any one of said assessors shall, without delay from the best information he can procure, make an assessment against such person, firm or corporation, to which he shall add fifty per centum thereof: *Provided further*, That if a majority of said assessors be not satisfied as to the correctness of the return of personal property so made by any person, corporation, firm executor administrator, guardian, or trustee, any one of said assessors may, from the best information he can pro-

Blank schedules
of personal prop-
erty.

Ibid., sec. 10, p.
399.

Notice of sched-
ules advertised.

Filling up and
swearing to sched-
ules.

Assessment on
schedules.

Failure to make
schedule.

When return of
schedule not satis-
factory.

- cure, or by making such an examination of the personal property as may be practicable, assess the same in such amount as to him may seem just; and notice of the rejection of the sworn return shall be given to the party intrusted at the address given by him on the schedule; if he shall have given one; and he shall in all cases have the right of appeal to the board of assessors within the time hereinafter limited: *And provided further*, That if any person shall make a false affidavit touching the matters herein provided for, he shall be deemed guilty of perjury, and, upon conviction thereof, shall be subject to the penalties for that offense now provided for by section fifty-three hundred and ninety-two of the Revised Statutes of the United States.
- Notice of rejection.** SEC. 47. That the capital stock of all corporations in said District not herein exempted shall be appraised in bulk by the assessor, and the corporation issuing the same shall be liable for the tax thereon according to such value and the shares in the same shall not be assessed against the individual owners thereof; but from the appraised value of the stock shall be first deducted the value of any real estate of said corporation in said District, which shall be separately taxed against said corporation.
- Appeal.**
- False affidavit; penalty.**
- Tax on capital stock. Shareholders not taxed. Deduction of real estate from stock.** SEC. 48. Said assessors shall, before the first day of October, eighteen hundred and seventy-seven, under the direction of the superintendent of assessments and taxes of said District assess the value of all the real property not embraced in the assessment for the fiscal year, ending June thirtieth, eighteen hundred and seventy seven, inclusive of all buildings erected, or roofed, improved or enlarged, and not heretofore taxed, and all personal property in said District liable to taxation and shall state the same separately, in books to be kept in a systematic manner; and such value for taxation shall be the true value in the lawful money of the United States of the property so assessed. The assessed value shall have reference to the date of the first day of July, eighteen hundred and seventy seven, except in regard of buildings erected, roofed, improved, or enlarged subsequent to that date, or, in the case of stock in trade, shall be the average value of the stock of merchandise or other articles kept on hand during the year ending June thirtieth, eighteen hundred and seventy seven.
- Ibid., sec. 11.**
- Time and manner of assessments.** Where a person, coming into the District subsequent to June thirtieth, eighteen hundred and seventy seven, engages in trade of a permanent character, he shall pay a tax proportioned to the fraction of the tax year ending June thirtieth eighteen hundred and seventy eight, during which he conducts said trade and the assessment in said case shall have reference to the average stock in trade for sixty days from the date of commencing business; but when any person shall bring a stock of goods of any character whatever into the District for sale by auction, a tax of one and one half per centum shall be paid to the collector of the District; and; it shall be the duty of the auctioneer making such sales to deduct the said tax from the gross proceeds of each and every sale so made by him at the close of each day's sale and pay the same to the said collector; and when goods are so brought into the District to be otherwise disposed of than at auction, and in a place of business temporarily occupied for their sale, then before it shall be lawful to make any sales whatever, the owner of said goods shall notify the board of assessors who shall assess the entire stock to be sold, at its fair cash value, and the owner thereof shall pay to the collector of the District a tax of one and one half per centum on such assessed value, and shall receive a receipt therefor, which receipt shall be his permit to proceed with the sale of the goods; and any auctioneer or owner of goods who shall violate the provisions of this section, or any part thereof shall
- Ibid., sec. 12 in part.**
- 2 Sup. R. S., 146, 147.**
- Persons coming into District after June 30, 1877.**
- Goods brought in for sale at auction.**

be fined in the police court of said District, on information filed therein, in the name of the District of Columbia, in the manner used for breach of municipal ordinances and laws, not less than one hundred dollars and not more than one thousand dollars.

[See § 39 post, this chapter.]

SEC. 49. That the twenty-third section of the act of the legislative assembly of the District of Columbia, entitled "An act imposing a license on trades, business, and professions practiced or carried on in the District of Columbia," approved August twenty-third eighteen hundred and seventy-one, clause twenty of the twenty-first section of said act, and all other laws and acts, or parts thereof, inconsistent herewith, be, and the same are hereby, repealed.

License act of legislative assembly repealed in part.

Mar. 3, 1877.
19 Stat., p. 401,
sec. 14.
2 Sup. R. S., 147.

SEC. 50. That the corporation of the District of Columbia is continued for all the purposes of this act and other acts for the collection of taxes, for suing and being sued, for causes arising prior to June twentieth, eighteen hundred and seventy-four, and for acquiring and holding real estate for school and municipal purposes.

Corporation of District continued for collection of taxes; suits; and acquisition of property.

Ibid., sec. 15.

SEC. 51. That hereafter no two lots or subdivisions of original or other lots in any square of ground in the District of Columbia shall be designated by the same number or by the same letter of the alphabet, and the Commissioners of the District of Columbia, or their successors in office, shall cause the numbers and letters designating lots in all the squares of ground in said District to be revised and changed to conform to this requirement; and they shall make such further changes in the existing numbers or letters designating lots in any of the squares in the cities and villages in said District as may, in their opinion, facilitate and simplify the labor of assessing real estate therein.

Designation of lots by number and letter to be revised.

Ibid., sec. 16.

SEC. 52. That this act shall remain in force as the tax law of the District of Columbia for each subsequent year after June thirtieth, eighteen hundred and seventy-eight, until repealed.*

This act permanent.

Ibid., sec. 18.

SEC. 53. The fees and cost of proceeding, collected by the collector of taxes under the act of March third, eighteen hundred and seventy-seven,¹ for making distress and sale of property for personal taxes in arrears, shall be deposited by said collector in the Treasury of the United States as other revenues of the District are deposited.

Fees for distress of personalty, where to be deposited.

25 Stat., 794. ¹ 19 Stat., ch. 117, sec. 7. 2 Sup. R. S., p. 144.

Mar. 2, 1889.
2 Sup. R. S., 676.

SEC. 54. All fees collected by the inspector of gas and meters and the harbor-master and amounts collected for leases of streets and reservations and wharf charges shall be paid to the collector for payment into the Treasury to the credit of the United States and the District of Columbia in equal parts.

Collector shall receive certain fees, etc., and pay into Treasury.

July 18, 1888.
25 Stat., 316.

SEC. 55. There shall be a valuation taken of all real estate belonging to the United States in the District, except the public buildings, and the grounds which have been dedicated to the public use as parks and squares, at least once in five years, and return thereof shall be made by the *Commissioners* [governor] to the President of the Senate and Speaker of the House of Representatives on the first day of the session of Congress held after such valuation shall be taken.

Valuation of United States property.

R. S. D. C., sec. 138.

SEC. 56. All valuations of property belonging to the United States shall be made by such persons as the Secretary of the Interior shall appoint, and under such regulations as he shall prescribe.

Valuations, how made.

R. S. D. C., sec. 139.

* Act Mar. 3, 1877, ch. 117, 19 Stat., p. 306, 2 Sup. R. S. 141.

Lots and squares sold by the United States liable to taxation.

R. S. D. C., sec. 143.

SEC. 57. It shall be the duty of the chief of engineers in charge of public buildings and grounds, within ninety days after the sale of any lots or squares belonging to the United States in the city of Washington, to report the fact to the proper officers of the District, giving the date of sale, the number of the lot and square, and the name of the purchaser; and such lots or squares shall be liable to taxation by the District from the day of sale.

When sale of real property not according to law, amount paid may be refunded.

Sec. 158, R. S. D. C.

SEC. 58. In all cases of sales of real property for taxes due in the city of Washington, where such sale shall not have been made according to law, and void, it shall be lawful for the proper authorities, on the application of the purchaser, or other person entitled under him, to refund and pay to such person the amount paid by him on account of such purchase, and also the subsequent taxes accrued and paid on the same property.

Re-assessment in such cases.

Sec. 159, R. S. D. C.

SEC. 59. In the cases provided for by the preceding section, it shall be lawful for the proper authorities to re-assess the amount of taxes so refunded on the property on which the same accrued, which shall be collected in the manner provided by law for the collection of other taxes at any time after such re-assessment shall have been made.

Taxes erroneously paid to be refunded.

Leg. Assem., Jan. 19, 1872, sec. 1, p. 52.

SEC. 60. *The Commissioners are* [the Governor is] hereby authorized and instructed to cause all taxes erroneously paid in the District of Columbia to be refunded by the proper accounting and disbursing officers of said District, upon the certificate of the Collector of such erroneous payment, which certificate shall state the nature of the error, the name of the person or persons by whom such excessive payment was made, and such other particulars as may be necessary to satisfy the accounting officers that such claim for reimbursement is just and equitable; and the said accounting and disbursing officers shall pay all moneys so refunded out of, and charge the same to, the fund which was credited with the erroneous payment.

[See §§ 35, 58 of this chapter.]

Money paid for license not granted to be refunded.

Ibid., sec. 2.

SEC. 61. Whenever any person shall deposit money *with the collector* [in the treasury] for the purpose of procuring a license, and said license shall have been subsequently refused by legal authority, it shall be the duty of the *collector* [accounting and disbursing officers of the District] to refund the money so deposited, deducting therefrom an amount justly proportionate to the time during which such license shall have been used by the applicant therefor, or his representatives, and charge the amount so refunded to the fund which was credited with the original deposit.

When property is sold for taxes the excess received over taxes and costs to go to the surplus fund for the benefit of the owner of the property.

Ibid., sec. 3.

SEC. 62. In all cases of sales of property for non-payment of taxes, where the amount bid and paid therefor is in excess of the taxes and the cost incurred in enforcing the collection thereof, such excess shall be placed in the treasury [to the credit of the surplus fund, where it shall remain subject to the order of the owner or owners of such property, or his or their legal representatives,] and shall be paid [by the accounting and disbursing officers of this District,] on the demand of owner or owners, or his or their representatives, on the presentation of satisfactory evidence that he or they are entitled to receive it; [and all payments made under the provisions of this section shall be paid out of and charged to the surplus fund.]

Money paid for redemption of property sold for taxes to go to redemption fund.

SEC. 63. All moneys paid or deposited according to law, for the redemption of property sold for taxes, [shall be credited to the redemption fund, and the same] shall be paid by the accounting and disbursing officers of the District to the person or persons entitled to

receive it, on the presentation of the certificate of the *collector* [Register;] [and all payments by virtue of this section shall be payable out of and charged to the redemption fund.] and be paid to person entitled to receive it, on certificate of collector.

Ibid., sec. 4.

SEC. 64. In all cases of defects or errors in any sale of property for taxes, the Collector shall issue a certificate of the facts in such case, giving all the particulars; and it shall be the duty of the proper accounting and disbursing officer of the said District to reimburse to the purchaser the amount paid in each case, with interest at the rate of six per centum per annum thereon, to be payable on the surrender of the certificate of said sale or the execution of a quit-claim deed to the said District; and all payments made under the provisions of this section shall be chargeable to the fund which was credited with the original deposit.

Provision for protection of purchasers in cases of defects or errors in sale of property for taxes.

Ibid., sec. 5.

SEC. 65. The Commissioners of the District of Columbia be, and they are hereby, authorized and directed to remove from the records of the District all evidence of indebtedness against lot G and part of lot F, in square two hundred and twenty-six, in the city of Washington, District of Columbia, so far as the said indebtedness relates to special assessment against said lots levied in the year eighteen hundred and seventy for special improvements along Pennsylvania avenue northwest; the owners of the said lots to give bond in double the sum of said assessment to indemnify the District against any loss in consequence of the operations of this act.

Taxes on lots in square 226, Washington, remitted.

August 1, 1888.
25 Stat., 355.

SEC. 66. Hereafter sales of real estate, after advertisement as required by law, by the collector of taxes for the District of Columbia, for taxes or assessments that have been or may be levied by the Commissioners of said District, or by other lawful authority, shall entitle the purchaser, his heirs or assigns, if the property be not redeemed in two years from the date of such sale, to a deed from the Commissioners of the District, which deed shall vest in the grantee a good and valid title, and shall be presumptive evidence in all controversies in relation thereto that the property so conveyed was subject to the taxes for which the property was sold, that such taxes were not paid, and that the property was not redeemed before the execution of the deed, and that the manner of levy, notice, sale, and all the other prerequisites of law were complied with necessary and proper to make such deed and title valid.

Purchasers at tax sales to have valid title after two years, and deed to issue.

Jan. 26, 1887.
24 Stat., 364.
2 Sup., R. S., 519.

SEC. 67. That the Commissioners of the District of Columbia shall prepare a list of all taxes on real property in said District subject to taxation upon which said taxes are levied and in arrears on the first day of July, eighteen hundred and eighty-eight, and each year thereafter, including all taxes due to the late corporations of Washington City, Georgetown, the levy court of the county of Washington, and the District of Columbia; and said Commissioners shall publish the same, with a notice of sale, in a pamphlet, of which not less than five thousand copies shall be printed for distribution to taxpayers applying therefor; and a list of said property shall be published once in a daily newspaper, published in the District of Columbia, at a cost not to exceed the sum of fifteen cents for each parcel of property so advertised. Said Commissioners shall, on the first Tuesday in January, eighteen hundred and eighty-nine, and the first Tuesday in September of each year thereafter, give notice, by advertising twice a week for three successive weeks in the regular issue of two daily newspapers published in said District, that said pamphlet has been printed, and that a copy thereof will be delivered to any tax-payer applying therefor at the office of said Commissioners, and that if the taxes due, together with the penalties and costs that may

Sale of real estate for arrears of taxes.

Oct., 12, 1888.
25 Stat., 556, ch. 1097.

Publication of list of delinquents.

Advertising.

- have accrued thereon, shall not be paid prior to the day named for sale the property will be sold, under the direction of said Commissioners, at public auction, at the office of the collector of taxes of the District of Columbia, commencing three weeks after the first publication of said notice and continuing on each following day, Sundays and legal holidays excepted, until all such delinquent property is sold.
- Sales at auction.** **Repeal provision.** All acts and parts of acts inconsistent herewith are hereby repealed.*
- Reduction of certain assessments for improvements on real estate.** **SEC. 68.** The provisions of section one of the act of the late legislative assembly of the District of Columbia, entitled "An act regulating assessments for improvements," approved December nineteenth, eighteen hundred and seventy-one, shall be construed to apply to all cases where the work was done after February [twenty-first, eighteen hundred and seventy-one, and that the Commissioners of the District of Columbia are hereby directed to make the necessary reductions in assessment for such work.
- Feb. 12, 1889.
25 Stat., 659.
- Drawbacks to be issued.** **SEC. 69.** Drawback certificates for the amount of such reductions, with interest thereon to the date of the passage of this act, shall be issued to the holders of the liens, the security for which is reduced by the operation of this act, and to such other persons as may be found to have paid in excess of one-third of the cost of such work drawback certificates shall be issued for the amount of such excessive payment. All such drawback certificates shall be receivable for arrears of general taxes due the District of Columbia and unpaid June thirtieth, eighteen hundred and eighty-eight.†
- Ibid., sec. 2.
- Receivable for taxes.**
- Special improvements, how assessed and collected.** **SEC. 70.** The *Commissioners* [board of public works] shall assess, in such manner as shall be prescribed by law, upon the property adjoining and to be specially benefited by the improvements authorized by law and made by them, a reasonable proportion of the costs of the improvement, not exceeding one-third of such cost, which sum shall be collected as all other taxes are collected.
- Sec. 151, R. S.
D. C.
- Any one of several lots of same owner or part of lots assessed may be sold for taxes.** **SEC. 71.** In cases where a number of lots are assessed to the same person, it shall be lawful for the proper authorities to sell one or more of them for the taxes and expenses due on the whole; and also to provide for the sale of any part of a lot for the taxes and expenses due on that or other lots assessed to the same person, as may appear expedient, according to such rules and regulations as may be prescribed by law.
- Sec. 157, R. S.
D. C.
- Sales for taxes not to be void for error in computing amount due.** **SEC. 72.** No sale of any real property for taxes shall be impaired or made void by reason of any error of the proper officers in making a computation of the amount of taxes due, the expenses attendant on the advertisement and sale, or of the purchase-money and the interest thereon, notwithstanding the sum erroneously computed may have been paid by the purchaser, his heirs or assigns; but all such sales and the deeds which may be granted on the certificates then issued shall be valid and binding as if no such error had been made.
- Sec. 173, R. S.
D. C.
- Heirs and assigns to have same power as purchaser at tax sale.** **SEC. 73.** It shall be lawful for the heirs or assigns of any purchaser of property sold for taxes under the provisions of the preceding sections to receive, do, or perform anything which it may be lawful for such purchaser to receive, do, or perform.
- Sec. 174, R. S.
D. C.

*The act of Mar. 19, 1890, 26 Stat., 24, supersedes this act.
†For assessments for special improvements by the Board of Public Works, certificates of indebtedness, etc., see 1 Leg. Assm., Aug. 10, 1871, ch. 24, p. 31; also 3 Leg. Assm., May 29, 1873, ch. 1, p. 39, 18 Stat., sec. 15, p. 501, and 21 Stat. L., ch. 41, p. 36. See sec. 70 of this chapter.

SEC. 74. The collector of taxes, or other officer of the District, charged with the duty of selling any real estate in the city of Washington for taxes, shall, within ten days after every such sale, transmit to the recorder of deeds an accurate report in writing, duly certified, containing a particular description of the property sold, the amount of taxes for the raising of which it has been sold, the names and residence of the person or persons to whom such property belongs, or to whom such taxes have been assessed, and of the purchaser or purchasers, and the amount of the purchase-money; distinguishing how much has been actually paid, and the clear surplus, if any, coming to the proprietor; which report it shall be the duty of the recorder forthwith to record among the land-records of the District, and the expense thereof shall be paid by the party who redeems the same.

Report of property sold for taxes to be recorded in land records.

Sec. 175, R. S. D. C.
MacA. and Mackey Rep., 36, King vs. D. C.

SEC. 75. No personal property in the city of Washington shall be sold for taxes unless ten days' previous notice of such sale shall be given in some newspaper printed in said city.

Personal property not to be sold for taxes without ten days' public notice.

. 176, R. S. D. C.

SEC. 76. It shall be the duty of the collector of taxes for the District of Columbia to prepare and keep in his office, for public inspection, a list of lots and squares, arranged in numerical order, of all real estate in the city of Washington heretofore sold, or which may hereafter be sold, for the non-payment of any general or special tax or assessment levied or assessed upon the same, said list to show the date of sale and for what taxes sold; in whose name assessed at the time of sale; the amount for which the same was sold; when and to whom conveyed if deeded, or, if redeemed from said sale, the date of redemption. And it shall be the duty of said collector, whenever called upon, to furnish, in addition to the regular tax-bills, a certified statement, over his hand and official seal, of all taxes and assessments general and special, that may be due and unpaid at the time of making said certificate, and which may in any manner be a lien upon any real estate located in said District; and for each and every certificate so furnished by said collector, the party requesting the same, shall pay into the treasury of said District a fee of fifty cents; and said certificate when furnished as aforesaid, shall be a bar to the collection and recovery, from any subsequent purchaser, of any tax or assessment omitted from and which may be a lien upon the real estate mentioned in said certificate, and said lien shall be discharged as to such subsequent purchaser but shall not affect the liability of the person who owned the property at the time such tax was assessed to pay the same. And it is hereby declared that all public records which have any reference, or in any way relate, to real or personal property in said District, shall be open to the public for inspection free of charge.

List of tax sales to be prepared and kept for inspection.

Feb. 6, 1879.
20 Stat., 283.
2 Sup. R. S., 216.

Certificate of taxes due.

Fee.
Effect of certificate, as to taxes not included therein

Public records relating to real or personal property to be open to the public use and inspection free of charge.

SEC. 77. The date of publication of notice of sale for delinquent taxes provided for in section five of "An act for the support of the government of the District of Columbia for the fiscal year ending June thirtieth, eighteen hundred and seventy-eight, and for other purposes", approved March third, eighteen hundred and seventy-seven, shall be as follows:

Publication of delinquent tax sales.
1877, ch. 117.
19 Stat., 396.

June 27, 1879.
21 Stat., 86,
sec. 4.

For the tax year ending June thirtieth, eighteen hundred and seventy-nine, said notice of sale shall be published on the first Tuesday of November, eighteen hundred and seventy-nine, and for each subsequent year on the first Tuesday in September of each such year. [See § 42 of this chapter.]

CHAPTER SIXTY-SIX.

USES, STATUTE OF.

<p>Sec.</p> <ol style="list-style-type: none"> 1. Lands, etc., held to use of another under will, etc., to vest in usee. 2. Lands, etc., held by one or more jointly to use of one or more of joint holders, vest in usees. 3. Persons seized to any use in lands, etc., shall be seized to any other use. 4. Where persons are seized of lands to use of another, for annual rent to one and rent for life to another, 	<p>Sec.</p> <ol style="list-style-type: none"> such usees deemed to be in possession and seized of such estate as if conveyance to him had been made; powers to distrain; suits to be in name of usee. 5. Same subject. 6. <i>Cestui que use</i> may take same advantage, etc., as person seized to use of, in lands, etc., had, should or ought to have against any other person, for waste, trespass, etc.
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Possession of lands shall be in him that have the use.

27 Henry VIII. A. D. 1535, ch. 10, sec. 1.

Alex. Brit. Stat., 292, 293.

Kilty's Rep., 231.

SEC. 1. Where by the common laws of this realm, lands, tenements, and hereditaments be not devisable by testament, (2) nor ought to be transferred from one to another, but by solemn livery and seisin, matter of record, writing sufficient made bona fide, without covin or fraud; (3) yet nevertheless divers and sundry imaginations, subtle inventions, and practices have been used, whereby the hereditaments of this realm have been conveyed from one to another by fraudulent feoffments, fines, recoveries, and other assurances craftily made to secret uses, intents, and trusts; (4) and also by wills and testaments, sometime made by *nude parole* and words, sometime by signs and tokens, and sometime by writing, and for the most part made by such persons as be visited with sickness, in their extreme agonies and pains, or at such time as they have scanty had any good memory or remembrance: (5) at which times they being provoked by greedy and covetous persons lying in wait about them, do many times dispose indiscreetly and unadvisedly their lands and inheritances; (6) by reason whereof, and by occasion of which fraudulent feoffments, fines, recoveries and other like assurances to uses, confidences, and trusts, divers and many heirs have been unjustly, at sundry times disherited, the lords have lost their wards, marriages, reliefs, harriots, escheats, aids *pur fair fitz chevalier, & pur file marier*, (7) and scanty any person can be certainly assured of any lands by them purchased, nor know surely against whom they shall use their actions, or executions for their rights, titles, and duties; (8) also men married have lost their tenancies by the courtesy, (9) women their dowers, (10) manifest perjuries by trial of such secret wills and uses have been committed; (11) the King's highness hath lost the profits and advantages of the lands of persons attainted, (12) and of the lands craftily put in feoffments to the uses of aliens born, (13) and also the profits of waste for a year and a day of lands of felons attainted, (14) and the lords their escheats thereof; (15) and many other inconveniences have happened, and daily do increase among the King's subjects, to their great trouble and inquietness, and to the utter subversion of the ancient common laws of this realm; (16) for the extirping and extinguishment of all such subtle practiced feoffments, fines, recoveries, abuses and errors heretofore used and accustomed in this realm, to the subversion of the good and ancient laws of the same, and to the intent that the King's highness, or any other his subjects of this realm, shall not in any wise hereafter, by any means or inventions be deceived damaged or hurt, by reason of such trusts, uses or confidences: (17) It may please the King's most royal majesty, that it may be enacted by his highness, by the assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, in manner and form following; that is to say, that where any person or persons stand, or be seized, of at any time hereafter shall

happen to be seized of and in any honours, castles, manors, lands, tenements, rents, services, reversions, remainders, or other hereditaments, to the use, confidence or trust of any other person or persons, or of any body politick, by reason of any bargain, sale, feoffment, fine, recovery, covenant, contract, agreement, will, or otherwise, by any manner means whatsoever it be; that in every such case, all and every such person and persons, and bodies politick, that have, or hereafter shall have any such use, confidence, or trust, in fee-simple, fee-tail, for term of life, or of years, or otherwise; or any use, confidence, or trust, in remainder, or reverter, shall from henceforth stand and be seized, deemed, and adjudged in lawful seisin, estate, and possession of and in the same honours, castles, manors, lands, tenements, rents, services, reversions, remainders, and hereditaments, with their appurtenances, to all intents, constructions, and purposes in the law, of and in such like estates as they had, or shall have in use, trust, or confidence of or in the same; (19) and that the estate, title, right, and possession that was in such person or persons that were, or hereafter shall be seized of any lands, tenements, or hereditaments, to the use, confidence, or trust of any such person or persons, or of any body politick, be from henceforth clearly deemed and adjudged to be in him or them that have, or hereafter shall have, such use, confidence, or trust, after such quality, manner, form, and condition as they had before, in or to the use, confidence, or trust that was in them.

SEC. 2. That where divers and many persons be, or hereafter shall happen to be jointly seized of and in any lands, tenements, rents, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any of them that be so jointly seized, that in every such case that those person or persons which have or hereafter shall have any such use, confidence, or trust in any such lands, tenements, rents, reversions, remainders, or hereditaments, shall from henceforth have, and be deemed and adjudged to have only to him or them that have, or hereafter shall have such use, confidence, or trust, such estate, possession, and seisin, of and in the same lands, tenements, rents, reversions, remainders, and other hereditaments, in like nature, manner, form, condition, and course, as he or they had before in the use, confidence, or trust of the same lands, tenements, or hereditaments; (2) saving and reserving to all and singular persons, and bodies politick, their heirs, and successors, other than those person or persons which be seized, or hereafter shall be seized of any lands, tenements, or hereditaments, to any use, confidence, or trust, all such right, title, entry, interest, possession, rents, and action, as they or any of them had, or might have had before the making of this act.

SEC. 3. And also saving to all and singular those persons, and to their heirs, which be, or hereafter shall be seized to any use, all such former right, title, entry, interest, possession, rents, customs, services, and action, as they or any of them might have had to his or their own proper use, in or to any manors, lands, tenements, rents, or hereditaments, whereof they be, or hereafter shall be seized to any other use, as if this present act had never been had nor made; any thing contained in this act to the contrary notwithstanding.

SEC. 4. And where also divers persons stand and be seized of and in any lands, tenements, or hereditaments, in fee-simple, or otherwise, to the use and intent that some other person or persons shall have and perceive yearly to them, and to his or their heirs, one annual rent of *x. li.* or more, or less, out of the same lands and tenements, and some other person one other annual rent, to him and his assigns for term of life or years, or for some other special time, according to such intent and use as hath been heretofore declared, limited, and made thereof.

Assurance made to divers to use of one or some of them.

Ibid., sec. 2.
Alex. Brit. Stat.,
294, 295.
Kilty's Rep., 231.

Use in lands, etc., right of feoffees to the use of.

Ibid., sec. 3.

Land assured to the use that rent of should be paid out thereof to another.

Ibid., sec. 4.

Ibid., sec. 5.
Alex. Brit. Stat.,
295.
Kilty's Rep., 231.

SEC. 5. *Be it therefore enacted by the authority aforesaid,* That in every such case the same persons, their heirs, and assigns, that have such use and interest, to have and perceive any such annual rents out of any lands, tenements, or hereditaments, that they, and every of them, their heirs, and assigns, be adjudged and deemed to be in possession and seisin of the same rent, of and in such like estate as they had in the title, interest, or use of the said rent or profit, and as if a sufficient grant, or other lawful conveyance had been made and executed to them, by such as were or shall be seized to the use or intent of any such rent to be had, made, or paid according to the very trust and intent thereof; (2) and that all and every such person and persons as have, or hereafter shall have, any title, use, and interest in or to any such rent or profit, shall lawfully distrain for non-payment of the said rent, and in their own names make avowries, or by their bailiffs or servants makes conisances and justifications, (3) and have all other suits, entries, and remedies for such rents, as if the same rents had been actually and really granted to them, with sufficient clauses of distress, re-entry, or otherwise, according to such conditions, pains, or other things limited and appointed upon the trust and intent for payment or surety of such rent.

Cestui que use may take same advantage, etc., as persons seized to use of, in lands, etc., had, should, or ought to have against any other person for waste, trespass, etc.

Ibid., sec. 14.
Alex. Brit. Stat.,
297, 298.
Kilty's Rep., 231.

SEC. 6. *And be it enacted by authority aforesaid,* That all and singular person and persons, and bodies politic, which at any time on this side the said first day of May, which shall be in the year of our Lord God 1536, shall have any estate unto them executed of and in any lands, tenements, or hereditaments by the authority of this act, shall and may have and take the same, or like advantage, benefit, voucher, aid, prayer, remedy, commodity, and profit by action, entry, condition, or otherwise, to all intents, constructions, and purposes, as the person or persons seized to their use of or in any such lands, tenements, or hereditaments so executed, had, should, might, or ought to have had at the time of the execution of the estate thereof, by the authority of this act, against any other person or persons, of, or for any waste, disseisin, trespass, condition broken, or any other offence, cause, or thing concerning or touching the said lands or tenements so executed by the authority of this act.

CHAPTER SIXTY-SEVEN.

WASHINGTON HUMANE SOCIETY.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Present name of "Washington Humane Society;" operations extended to protection of children as well as animals; officers and agents may prefer complaints before courts. 2. Police to aid officers in discharge of duty and detail police or commission agents; powers of officers; commitment of children; appeal by parent or guardian; rules for impounding domestic animals; Bureau Animal Industry. 3. Penalty for abuse, abandonment, or wrongfully employing children. 4. Penalty for enticing female child to become prostitute or for using a child for obscene, etc., purposes. 5. Penalty for overdriving, etc., any animals or depriving them of food. 6. Penalty for other cruelties. 7. Transportation of animals regulated. | <p>Sec.</p> <ol style="list-style-type: none"> 8. Penalty for neglect of preceding requirements. 9. Search for animals believed to be ill treated. 10. Prosecution of offenders; disposition of fines. 11. Impounded animals to be fed and watered; penalty for failure. 12. Officers of society may afford relief and costs collected from owner of animal. 13. Fighting or baiting fowls, etc., prohibited; penalty. 14. Sick or disabled animals not to be abandoned or neglected by owner; penalty. 15. Scientific experiments, etc.; when permitted. 16. Definitions pertinent to this act; knowledge and acts of its agents declared acts of corporations. |
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SEC. 1. From and after the passage of this act the Association for the Prevention of Cruelty to Animals for the District of Columbia shall be known as the "Washington Humane Society," and shall be authorized to extend its operations under this act to the protection of children as well as animals from cruelty and abuse. In pursuance thereof the said society may cause its proper officers or agents to prefer complaints, before any court in the District of Columbia having jurisdiction, for the violation of any law relating to or affecting the protection of children in said District, and by its proper attorney may aid in bringing the facts before such court in any proceeding taken.

Association for the Prevention of Cruelty to Animals — name changed to Washington Humane Society.

Operations extended to protection of children. Its officers and agents may prefer complaints and aid in bringing facts before court.

Feb. 13, 1885. 23 Stat., 302, sec. 1.

SEC. 2. The Commissioners of the District of Columbia shall, by the police force of said District, aid the said society, its officers and agents, in the enforcement of all laws relating to or affecting the protection of children; and the Commissioners of the said District, and their successors, are authorized, in their discretion, to detail, from time to time, an officer or officers to aid specially in the work of said society, or they may commission any duly appointed agents of said society special police officers, without compensation; and such agents or officers shall have power to arrest, without warrant, all persons violating in their presence or sight any law relating to or affecting the protection of children, or other parties so offending by virtue of a warrant issued by the police court of the District of Columbia, which offenders shall be taken by such agents or officers before the said police court of the District of Columbia for trial. Said agents or officers are also hereby empowered to bring before the said court any child who is subjected to cruel treatment, willful abuse, or neglect, or any child under sixteen years of age found in a house of ill-fame; and said court may commit such child to an orphan asylum or other public charitable institution in the District of Columbia, with the consent of the constituted authorities of such asylum or institution, or make such other disposition thereof as now is or may hereafter be provided by law in cases of vagrant, destitute, or abandoned children: *Provided*, That any parent, guardian, or near relative who may feel aggrieved by any order of said court in the premises may appeal therefrom to the criminal court of the District of Columbia.*

Commissioners of the District of Columbia to aid in enforcing laws relating to the protection of children, and detail officers or appoint agents to aid in work.

Ibid., sec. 2.

Powers of officers.

Court to commit.

Provido. Parents or guardian may appeal.

SEC. 3. Any person in the District of Columbia who shall torture, cruelly beat, abuse, or otherwise willfully maltreat any child under the age of eighteen years; or any person, having the custody and possession of a child under the age of fourteen years, who shall expose, or aid and abet in exposing, such child in any highway, street, field, house, out-house, or other place, with intent to abandon it; or any person, having in his custody or control a child under the age of fourteen years, who shall in any way dispose of it with a view to its being employed as an acrobat, or a gymnast, or a contortionist, or a circus-rider, or a rope-walker, or in any exhibition of like dangerous character, or as a beggar, or mendicant, or pauper, or street-singer, or street-musician; or any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child of the age last named for any of the purposes last enumerated, shall be deemed guilty of a misdemeanor, and when convicted thereof shall be subject to punishment by a fine of not more than two hundred and fifty dollars, or by imprisonment for a term not exceeding two years, or both.

Abuse, abandonment, or wrongful employment of a child declared a misdemeanor punishable by fine and imprisonment.

23 Stat., 302. Ibid., sec. 3.

* The Commissioners are authorized to make rules for impounding domestic animals, 21 Stat., 35 June 27, 1879.

For act creating "Bureau of Animal Industry," see 23 Stat., 31, May 29, 1884.

Act of Congress to prevent cruelty to children or animals, June 25, 1892, 27 Stat. L., ch. 135, p. 60.

Enticing female child to become prostitute, or using for obscene purposes, punishable by fine and imprisonment.

Ibid., sec. 4.

Penalty for overdriving, etc., animals, or depriving them unnecessarily of food, etc.

Leg. Assem., Aug. 23, 1871, sec. 1, p. 135.

Other cruelties.

Ibid., sec. 2.

Penalty.

Transportation of animals by railroad companies regulated.

Ibid., sec. 3.

Penalty.
Proviso.

SEC. 4. Any person who shall entice, decoy, place, take, or receive any female child under the age of eighteen years into any house of ill-fame or disorderly house, for the purpose of prostitution, or any person who, having in his custody or control such child, shall dispose of it to be so received, or to be received in or for any obscene, indecent, or immoral purpose, exhibition, or practice, shall be deemed guilty of a misdemeanor, and when convicted thereof shall be subject to punishment by a fine of not more than one thousand dollars, or by imprisonment for a term not exceeding ten years, or both.

SEC. 5. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly kills any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

SEC. 6. Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, shall be punished for every such offense in the manner provided in section one.

SEC. 7. No railroad company, in the carrying or transportation of animals, shall permit the same to be confined in cars for a longer period than twenty-four hours, without unloading the same, for rest, water, and feeding, for a period of at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes. In estimating such confinement the time during which such animals have been confined without such rest on connecting roads from which they are received shall be included; it being the intent of this act to prohibit their continuous confinement beyond the period of twenty-four hours, except upon contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered, and sheltered during such rest by the owner or person having the custody thereof, or in case of his default in so doing, then by the railroad company transporting the same, at the expense of said owner or persons in custody thereof. And said company shall, in such case, have a lien upon such animals for food, care, and custody furnished, and shall not be liable for any detention of such animals authorized by this act. Any company, owner, or custodian of such animals who fails to comply with the provisions of this section shall, for each and every such offense, be liable for and forfeit and pay a penalty of not less than one or more than five hundred dollars: *Provided, however,* That when animals shall be carried in cars in which they can and do have proper food, water, space, and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

SEC. 8. Any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by the charter of the Association for the Prevention of Cruelty to Animals, granted by an act of Congress approved June twenty-one, eighteen hundred and seventy,* and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same: *Provided*, The owner shall take charge of the same within twenty days from the date of said notice. And the person making such arrest shall have a lien on said animals for the expense of such care and provisions.

Arrests without warrant authorized.

Notice to owners.

Proviso.

Ibid., sec. 4.

SEC. 9. When complaint is made by any member of the Association for the Prevention of Cruelty to Animals,† on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes, and has reasonable cause to believe, that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant, authorizing any marshal, deputy marshal, constable, police officer, or any member of the Association for the Prevention of Cruelty to Animals, to search such building or place.

Mode of obtaining search warrant when it is believed animals are being ill-treated in any particular place.

Ibid., sec. 5.

SEC. 10. It shall be the duty of all marshals, deputy marshals, constables, police officers, or any member of the Association for the Prevention of Cruelty to Animals, to prosecute all violations of the provisions of this act which shall come to their notice or knowledge, and fines and forfeitures collected upon or resulting from the complaint or information of any member of the Association for the Prevention of Cruelty to Animals under this act shall inure and be paid over to said association, in aid of the benevolent objects for which it was incorporated.

Prosecution of offenders.

Disposition of fines.

Ibid., sec. 6.

SEC. 11. Any person who shall impound, or cause to be impounded in any pound, any creature, shall supply the same, during such confinement, with a sufficient quantity of good and wholesome food and water; and in default thereof shall, upon conviction, be punished for every such offense in the same manner provided in section one.

Impounded animals to be supplied with food and water.

Penalty.

Ibid., sec. 7.

SEC. 12. In case any creature shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any officer of the Association for the Prevention of Cruelty to Animals, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which such creature shall be so confined, and supply it with necessary food and water so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost for such food and water may be collected of the owner of such creature, and the said creature shall not be exempt from levy and sale upon execution issued upon a judgment thereof.

Mode of relieving animals impounded for more than twelve hours without food and water.

Ibid., sec. 8.

SEC. 13. Any person or persons who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting of fowls or animals, may be arrested without a warrant, as provided in section five of the

Fighting or baiting fowls, etc., prohibited.

* 16 Stat., 158, ch. 135. Name changed to "Washington Humane Society," 23 Stat., 303; Feb. 13, 1885.

† Washington Humane Society.

- Penalty.** charter of the Association for the Prevention of Cruelty to Animals,¹ granted by act of Congress approved June twenty-one, eighteen hundred and seventy, and for every such offense be punished in the same manner provided in section one.
- Ibid., sec. 9.**
¹ 16 Stat., 158, ch. 185.
- Sick or disabled animals not to be abandoned or neglected.** SEC. 14. If any maimed, sick, infirm, or disabled animal shall be abandoned by its owner, or fail to receive proper food or shelter from said owner or person in charge of the same for more than five consecutive hours, such person shall, for every such offense, be punished in the same manner provided in section one.
- Penalty.**
- Ibid., sec. 10.**
- Exception in favor of scientific experiments.** SEC. 15. Nothing in this act contained shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.
- Ibid., sec. 11.**
- Definitions.** SEC. 16. In this act the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner," "persons," and "whoever," shall be held to include corporations as well as individuals; and the knowledge and acts of agents of, and persons employed by, corporations in regard to animals transported, owned, or employed by, or in the custody of, such corporations shall be held to be the acts and knowledge of such corporations.
- Knowledge and acts of agents to be held to be knowledge and acts of corporations they represent.**
- Ibid., sec. 12.**

CHAPTER SIXTY-EIGHT.

WATER.

- | Sec. | Sec. |
|--|--|
| 1. Water service to be under Commissioners, except, etc. [NOTE.—Fraud as to water supply.] | 21. Same subject; when to be renewed. |
| 2. Water department under direction of Engineer's office. | 22. Potomac water service, when it may be shut off. |
| 3. Potomac water, how distributed. | 23. Same subject; its use for certain purpose, may be allowed. |
| 4. Same subject; no expense to devolve upon United States. | 24. Same subject; when supply to be measured and price of same. |
| 5. Same subject; water-main taxes and water rent to be uniform. | 25. Same subject; the application of rents. |
| 6. Same subject; water rates apportioned and how collected. | 26. Same subject; unlawful tapping of pipes a misdemeanor; penalty for. |
| 7. Same subject; water rates not to be source of revenue, etc. | 27. Same subject; who shall prosecute for violations of section 26. |
| 8. Same subject; extended to entire District. | 28. Same subject; penalty for injuring pipes or fixtures. |
| 9. Same subject; laws relating to, now in force extended. | 29. Same subject; penalty for making water impure, etc. |
| 10. Fiscal year of water department. | 30. Washington aqueduct, Chief of Engineers to have charge of. |
| 11. Water-main tax in Washington. | 31. Same subject; to be under orders of the President. |
| 12. Same subject; to be uniform and equal. | 32. Same subject; respecting control of lands around, and as to removal of railroad from bridge, etc. |
| 13. Same subject; how levied and collected. | 33. Same subject; as to how moneys appropriated for, shall be expended; also as to other public works in District. |
| 14. Same subject; payment of installments and interest on same. | 34. Same subject; unauthorized opening of pipes; penalty for. |
| 15. Same subject; to constitute a fund to defray cost of, etc. | 35. Same subject; laying of pipes for use of public buildings; District to pay cost of laying supply pipes for use of people of Washington and Georgetown. |
| 16. Same subject; rate of interest on installments of tax, increased. | |
| 17. Water pipes, fire plugs, and hydrant, when may be laid. | |
| 18. Fire-plug tax. | |
| 19. Same subject; limit of, and how levied. | |
| 20. Same subject; when it shall cease. | |

Sec.	Sec.
36. Same subject; compensation of Chief of Engineers.	47. Same subject; Commissioners to determine where mains shall be laid.
37. Same subject; apartments, etc., of Chief of Engineers.	48. Washington aqueduct, increase of water supply; survey, etc.
38. Same subject; record of property belonging to, to be kept.	49. Same subject; avenue over; condemnation of lands for, etc.; appraisers for; valuation of.
39. Same subject; control of water supply regulated, etc.	50. Same subject; how land shall be appraised.
40. Same subject; appeal to Secretary of War.	51. Same subject; compensation of appraisers.
41. Same subject; report of Chief of Engineers.	52. Same subject; damages; how sued for.
42. Same subject; each tenement to have separate supply pipe, etc.	53. Same subject; procedure in suits for; limitation.
43. Same subject; permits for, regulated.	54. Same subject; when title to lands vests in United States.
44. Same subject; when water may be cut off from Georgetown College.	55. Same subject; extension of; to build reservoir; dam at Great Falls, etc.
45. Water-main and fire-plug tax, how levied and collected.	56. Fish ways at Great Falls; costs of, how paid, etc.
46. Same subject; by whom to be collected and how applied.	

SEC. 1. The Commissioners of the District of Columbia shall have all the powers and be subject to all the duties and limitations provided in chapter eight of the Revised Statutes of the United States relating to the District of Columbia, excepting such powers and duties as belong to the Chief of Engineers.*

Water service to be under the Commissioners.

June 10, 1879.
21 Stat., 9.
1 Sup. R. S., 488.

SEC. 2. Hereafter the operations of the water department of the District of Columbia shall be under the direction of the engineer's office of the District, subject to the control of the Commissioners.†

Water department to be under engineer's office.

July 1, 1882. 22 Stat., 135, sec. 2. 2 Sup. R. S., 351.

SEC. 3. Full power is given to the *Commissioners* [legislative assembly] to supply the inhabitants of Washington and Georgetown with the Potomac water from the aqueduct mains or pipes laid in the streets and avenues by the United States; and to make all laws and regulations for the proper distribution of the same, subject to the provisions of this chapter, and to the control of the chief of engineers in charge of public buildings and grounds, as provided in section eighteen hundred and ten, [*Revised Statutes of the United States.*] title, "SEAT OF GOVERNMENT, INCLUDING THE PUBLIC BUILDINGS."

Distribution of Potomac water.

Sec. 195. R. S. D. C.
Amended by 21 Stat., 9.
June 10, 1879.

[See §§ 1800-1811, R. S. U. S.]

SEC. 4. No expense shall devolve upon the United States under the provisions of the preceding section.

No expense to devolve upon the United States.

Sec. 196, R. S.

SEC. 5. That water-main taxes and water rents shall be uniform in said District.

D. C.—taxes, to be uniform.

June 10, 1879. 21 Stat., 9. 1 Sup. R. S., 488.

SEC. 6. The *Commissioners have* [legislative assembly has] authority to establish a scale of annual rates for the supply and use of the water apportioned to different classes of buildings according to their size, dimensions, assessed values, exposure to fires, uses for dwellings, stores, shops, stables, manufactories, or other purposes, number of occupants, or consumption of water, measured by meter or otherwise, and to modify, alter, amend, increase, or reduce such scale, from time to time, and extend it to other description of buildings and establishments; to provide for the collection of such rates,

Water rates, how established and collected.

Sec. 197, R. S. D. C.
Amended June 10, 1879.

21 Stat., 9.
1 Sup. R. S., 488.

* Fraud as to water supply. 27 Stat. L. ch. 34, p. 14, Apr. 5, 1892.

† Expenses of the water department shall be included by the Commissioners in their annual estimates. 21 Stat. L. ch. 134, p. 458, 2 Sup., R. S., p. 322, par. 7.

in advance or otherwise, from the owner or occupants of all buildings or establishments using the water; to provide for stopping the supply of water to any dwelling or establishment upon a failure to pay the rate, and generally to enact such laws as may be necessary to supply the inhabitants of Washington and Georgetown with pure and wholesome water, and to carry into full effect the provisions of this chapter.

Not to be a source of revenue for other purposes.

Sec. 198, R. S. D. C.

SEC. 7. The water-rates levied in Washington and Georgetown shall never be a source of revenue other than as a means of keeping up to said cities a supply of water, but shall constitute a fund exclusively for the maintenance, management, and repair of the system of water distribution.

Potomac water service extended to entire District.

Feb. 25, 1885.
23 Stat., 319.

SEC. 8. Hereafter the supply of Potomac water may be extended to points in the District beyond the limits of Washington and Georgetown upon like terms and conditions as are provided by law for the supply of the same in those cities.

Laws of Washington relating to water taxes, etc., extended over District.

July 12, 1876.
19 Stat., 83, sec. 18.

1 Sup. R. S., 227.
2 Sup. R. S., 111.

SEC. 9. That all laws and ordinances now in force in the city of Washington, relating to the payment and collection of water-taxes, water-rents, and taxation for water mains be, and they are hereby, extended to and made operative over all parts of the District of Columbia where water taken from the United States aqueduct is used, and said taxes and rents shall be payable and collectible therein in the same manner and at the same rate as in the city of Washington for the year beginning January first eighteen hundred and seventy-six, and for each subsequent year.

Fiscal year to conform to fiscal year of General Government.

July 1, 1882. 22 Stat., 144. 2 Sup. R. S., 351.

SEC. 10. The fiscal year of the water department of the District of Columbia, shall be made to conform to the regular fiscal year of the general government.

WATER-TAX IN WASHINGTON.

Tax for water mains in Washington.

Sec. 199, R. S. D. C.

SEC. 11. A water-tax may be levied and collected on all real property within the limits of the city of Washington, which binds or touches on any avenue, street, or alley in which a main water-pipe may be laid by the United States or by the District.

To be equal and uniform.

Sec. 200, R. S. D. C.

SEC. 12. The water-tax shall be as nearly as possible equal and uniform.

How levied and collected.

Sec. 201, R. S. D. C.

SEC. 13. The water-tax may be levied on lots in proportion to their frontage or their area, as may be determined by law, and may be collected in not less than three nor more than five annual installments.

Interest on installments, 10 per cent.

Installments may be paid in full.

Sec. 202, R. S. D. C.

SEC. 14. All such installments after the first shall bear interest at the rate of *ten* [six] per centum per annum, commencing from the date at which the first installment becomes due, but may, at the option of the owner of the property taxed, be paid and discharged in full at any time after the tax has been levied.

Water tax to constitute a fund to defray cost of distribution.

Sec. 203, R. S. D. C.

SEC. 15. The water-tax authorized to be levied and collected by the provisions of the four preceding sections shall constitute a fund to be used exclusively to defray the cost of distribution of the water, including all necessary fixtures and machines connected with such distribution.

SEC. 16. The rate of interest specified in section two hundred and two of said Revised Statutes shall be increased to ten per centum per annum from and after the passage of this act.

Rate of interest increased.

21 Stat., 9, sec. 1. June 10, 1879.
1 Sup. R. S., 488.

SEC. 17. On petition of the owners of the majority of the real estate on any square or line of squares in the city of Washington, water-pipes may be laid and fire-plugs and hydrants erected wherever the same may be requisite and necessary for public convenience, security from fire, or for health.*

Water pipes, fire plugs, and hydrants.

Sec. 204, R. S. D. C.

SEC. 18. To aid in the erection, maintenance, and efficiency of fire-plugs in the city of Washington, a special annual tax may be levied on all buildings in said city within five hundred feet of any main water-pipe, into which, or the premises connected therewith, the water has not been introduced, and the owners or occupants of which do not pay any annual water-rate in accordance with law.

Fire-plug tax.

Sec. 205, R. S. D. C.

SEC. 19. The fire-plug tax shall be levied with reference to the value of the building so taxed, and shall not be more than five dollars nor less than one dollar per year.

How levied; limit of tax.

Sec. 206, R. S. D. C.

SEC. 20. Whenever the water is introduced, in conformity with law, into any building or premises, the fire-plug tax thereon shall cease.

When fire-plug tax shall cease.

Sec. 207, R. S. D. C.

SEC. 21. Whenever water is discontinued from any building or premises into which it has been introduced, such building shall be subject to the fire-plug tax from the date of the discontinuance of the water.

When shall be renewed.

Sec. 208, R. S. D. C.

SEC. 22. In order to prevent unnecessary waste of Potomac water, and in order to more fully enforce the laws in relation to the distribution of the same, the chief of engineers is authorized, after giving notice, to shut off the water when such notice shall be disregarded from any places where a waste of water is occurring.

Water may be shut off, when.

Sec. 214, R. S. D. C.

[See § 1810, R. S. U. S.]

SEC. 23. The use of Potomac water for mechanical and manufacturing purposes, or for private fountains, street and pavement washers, shall be allowed only when, in the opinion of the chief of engineers, it will not be detrimental to the general distribution of water in the two cities.

When use of water for certain purposes may be allowed.

Sec. 215, R. S. D. C.

SEC. 24. The supply of water to all manufacturing establishments, hotels, livery-stables, and other places requiring a large quantity, shall be determined by meters erected and maintained at the expense of the consumer; and the proper authorities shall charge and collect for the quantity so determined a price not exceeding three cents per hundred gallons.

Supply to be determined by meters, when; charge for water.

Sec. 216, R. S. D. C.

SEC. 25. All water-rents derived from the Washington Aqueduct shall be applied to the improvement and repair of the same, and for no other purpose.

Application of water rents derived from aqueduct.

Sec. 217, R. S. D. C.

SEC. 26. The unlawful tapping of any water-pipe laid down in the District by authority of the United States is a misdemeanor and an indictable offense; and any person convicted of such offense in the criminal court of the District shall be subject to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding one year. [See § 1808, R. S. U. S.]

Unlawful tapping of water pipes a misdemeanor; penalty.

Sec. 218, R. S. D. C.

* See amendment 26 Stat., 159, June 17, 1890; 2 Sup. R. S., 758.

Duty of chief of engineers to prosecute. SEC. 27. It is the special duty of the chief of engineers to bring to the notice of the attorney of the United States for the District of Columbia, or to the grand jury, any infraction of the preceding section.

Sec. 219, R. S. D. C.

Penalty for injuring pipe or fixtures. SEC. 28. Every person who maliciously breaks, injures, defaces, or destroys any main or pipe, bend, branch, valve, hydrant, service-pipe, or any other fixture used for the distribution of water throughout the streets and avenues, or for its introduction into the houses, tenements, or buildings of Washington and Georgetown, shall be punishable by imprisonment in the District jail for not more than two years. [See R. S. U. S., § 1804.]

Sec. 220, R. S. D. C.

Penalty for making water impure. SEC. 29. Every person who maliciously commits any act by reason of which the supply of water, or any part thereof, to the cities of Washington and Georgetown, becomes impure, filthy, or unfit for use, shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned at hard labor not more than three years nor less than one year. [See R. S. U. S., § 1806.]

Sec. 221, R. S. D. C.

Chief of engineers to have charge of Washington aqueduct. SEC. 30. The Chief of Engineers shall have the immediate superintendence of the Washington aqueduct, together with all rights, appurtenances, and fixtures connected with the same, and belonging to the United States, and of all other public works and improvements in the District of Columbia in which the Government has an interest, and which are not otherwise specially provided for by law.

Sec. 1800, R. S. U. S.

Chief of Engineers to obey the President. SEC. 31. He shall obey, in the discharge of the duties mentioned in the preceding section, such regulations, pursuant to law, as may be prescribed by the President through the Department of War.

Sec. 1801, R. S. U. S.

Washington aqueduct. SEC. 32. The lands belonging to the United States and lying around the receiving-reservoir shall hereafter be controlled in connection with the Washington Aqueduct, and shall be under the charge and control of the officer in charge of said aqueduct: *And provided further,* That the chief engineer is hereby directed to notify the Washington and Georgetown Railway Company to remove their railway track from the Washington aqueduct bridge over Rock Creek, within one year from the date of said notice; and said company shall make such removal within the year aforesaid, and have the right to lay their tracks along Twenty-sixth street from Pennsylvania avenue to M street north, and thence along M street into Georgetown, to connect with their tracks on Bridge street; and said chief engineer may establish and publish regulations prohibiting the passage of heavily loaded wagons and carriages over said bridge.

Proviso as to control of lands around.

Proviso as to removal of railroad track from bridge, etc.

Mar. 3, 1875.
18 Stat., 393.

How moneys for aqueduct, etc., to be expended. SEC. 33. All moneys appropriated or hereafter appropriated for the Washington Aqueduct, and for the other public works in the District of Columbia, not otherwise expressly provided for by law, shall be expended under the direction of the Secretary of War.

Sec. 1802, R. S. U. S.

Unauthorized opening of pipes punishable. SEC. 34. No person, unless by consent of the Chief of Engineers in charge of the public buildings and works, shall tap or open the mains or pipes laid or hereafter to be laid by the United States, under a penalty of not less than fifty nor more than five hundred dollars.

Sec. 1803, R. S. U. S.

Laying of pipes for use of public buildings. SEC. 35. No greater number of main pipes of the Washington Aqueduct shall be laid at the expense of the United States than are sufficient to furnish the public buildings, offices, and grounds with the necessary supply of water. The cost of any main pipe, for the supply of water to the inhabitants of Washington and Georgetown, must be paid by the District of Columbia, in the manner provided by law.

Sec. 1805, R. S. U. S.

SEC. 36. The Chief of Engineers shall receive no compensation, other than his regular pay as an officer of the Corps of Engineers, for the services required of him under the provisions of this Title.

Compensation of Chief of Engineers.

Sec. 1807, R. S. U. S.

SEC. 37. He shall be furnished official apartments in one of the public buildings in the city of Washington, as may be directed by the President, and shall be supplied by the Government with the stationery, instruments, books, and furniture which may be required for the performance of his duties.

Apartments, stationery, etc.

Sec. 1808, R. S. U. S.

SEC. 38. He shall keep in his office a complete record of all the lands and other property connected with or belonging to the Washington Aqueduct and other public works under his charge, together with accurate plans and surveys of the public grounds and reservations in the District of Columbia.

Record of property to be kept.

Sec. 1809, R. S. U. S.

SEC. 39. He and his necessary assistants are empowered to use all lawful means for the discharge of their duties; and, particularly, he shall have full control over the Washington Aqueduct, to regulate the manner in which the authorities of the District of Columbia may tap the supply of water to inhabitants thereof; and he shall stop the same whenever it is found to be no more than adequate to the wants of the public buildings and grounds.

Employees in office of public buildings.

Sec. 1810, R. S. U. S.

SEC. 40. His decision on all questions concerning the supply of water, as provided in the preceding section, shall be subject to appeal to the Secretary of War only.

Right or appeal to Secretary of War.

Sec. 1811, R. S. U. S.

SEC. 41. The Chief of Engineers shall, as Superintendent of Public Buildings and Grounds, and as Superintendent of the Washington Aqueduct, annually submit the following reports to the Secretary of War in time to accompany the annual message of the President to Congress, namely:

Reports.

Sec. 1812, R. S. U. S.

First. A report of his operations for the preceding year, with an account of the manner in which all appropriations for public buildings and grounds have been applied, including a statement of the number of public lots sold, or remaining unsold each year, of the condition of the public buildings and grounds, and of the measures necessary to be taken for the care and preservation of all public property under his charge.

Second. A report of the condition, progress, repairs, casualties, and expenditures of the Washington Aqueduct and other public works under his charge.

SEC. 42. No person shall be permitted to enter a supply-pipe or conduct the Potomac water into any two distinct premises or tenements unless through separate and distinct supply-pipes, with separate stop-cocks, placed on the outside of such premises or tenements opposite the same.

Each tenement to have separate supply-pipe for Potomac water.

Leg. Assem., Aug. 21, 1871, sec. 1, p. 69.

SEC. 43. The collector [water registrar] is hereby prohibited from granting permits to supply more than one house with the Potomac water through the same service-pipe.

Granting of certain permits prohibited.

Ibid., sec. 2.

SEC. 44. The president and directors of Georgetown College are hereby granted permission to introduce the Potomac water into said premises on the same terms and conditions as said water has been introduced into the houses and premises of other corporations and private buildings of Georgetown: *Provided*, That this act shall not go into effect until the new thirty-six-inch water-main of the Wash-

When water may be cut off from Georgetown college.

Leg. Assem., June 20, 1872, sec. 1, p. 67.

ington aqueduct is in a condition to furnish an additional supply of water to the District cities: *Provided further*, That if the introduction of Potomac water into Georgetown College, as provided for in this act, shall at any time cause any inconvenience to the private residences in Georgetown, or a scarcity of water in said residences, then the water shall be cut off from Georgetown College by the proper officers until said private residences are properly supplied with water.

Water-main and fire-plug tax, how levied and collected.

SEC. 45. That hereafter, in order to defray the expense of laying water-mains and the erection of fire-plugs, there be, and is hereby, levied a special tax of one and a quarter cents per square foot on every lot and part of lot which binds in or touches on any avenue, street, or alley in which a main water-pipe may hereafter be laid and fire-plugs erected, which tax shall be assessed by the *Collector* [Water Registrar] within thirty days after such water-mains and fire-plugs shall have been laid and erected, of which assessments the *Collector* [Water Registrar] shall immediately notify the owner or agent of the property chargeable therewith, setting forth in said notice the number of the square in which is situated the property on which said tax is assessed, and the street, avenue, or alley on which it fronts; and the said tax shall be due and payable in four equal instalments, the first of which shall be payable within thirty days from the date of the notice, and the other three shall be due and payable annually, one in each year, dating from the time when the first instalment became due, and all of the said instalments shall bear interest at the rate of six per cent. per annum, commencing from the date of notification of the assessment; but the owner of the property taxed may, at his option, at any time after the assessment, pay the same in full, and if the said tax shall be paid in full within thirty days from the time notice was given of the levying thereof, an abatement of six per cent. shall be allowed on the whole amount of the assessment, and in no case shall the same lot be chargeable with more than one tax for the laying of water-mains and erection of fire-plugs. [See §§ 19, 20, 21, of this chapter.]

Abatement for prompt payment.

3 Leg. Assem., June 23, 1873, ch. 5, sec. 6, pp. 47, 48.

By whom collections shall be made for water-mains, and how applied.

Ibid., sec. 7.

SEC. 46. That the *Collector* [Water Registrar] shall collect all moneys due on account of the laying of water-mains and the erection of fireplugs, as well as all other moneys pertaining to the Water Department, except in cases of delinquencies that shall be advertised and settled by the collector of the District; and he shall deposit all moneys received on account of the laying of water-mains and the erection of fire-plugs as is directed by preceding sections of this act, and all other moneys received by him shall be deposited to the credit of the water fund, to be used exclusively for the support of the water department.

The Commissioners to determine where mains shall be laid.

Ibid., sec. 8.

Increase of water-supply of Washington, D. C. Survey, etc.

Reservoir capacity not less than 300,000,000 gallons.

Dam across Potomac River at Great Falls.

SEC. 47. The *Commissioners* [Board of Public Works] shall determine where water-mains are to be laid, on petition therefor.

SEC. 48. The Secretary of War shall cause to be made a survey and map of the land necessary to extend the Washington Aqueduct from its present eastern terminus to the high ground north of Washington near Sixth street extended, and of the land necessary for a reservoir at that point the capacity of which shall not be less than three hundred million gallons; and a like survey and map of the land necessary for a dam across the Potomac River at the Great Falls, including the land now occupied by the dam, and the land required for the extension of said dam across Conn's Island to and upon the Virginia shore; and when surveys and maps shall have

been made the Secretary of War and the Attorney-General of the United States shall proceed to acquire to and for the United States the outstanding title, if any, to said land and water-rights, and to the land on which the gate-house at Great Falls stands by condemnation.

Title, etc.

July 15, 1882.
22 Stat., 168.
2 Sup., R.S., 357.

SEC. 49. In obtaining title to the right of way for the extension of said aqueduct, the Secretary of War and Attorney-General may, in their discretion, secure title to a strip suitable for an avenue over such part of said aqueduct extended as they think proper: *Provided*, That at least one-half in value of such right of way shall be donated or dedicated by the owners to that public use: *And provided further*, That if it shall be necessary to resort to condemnation, the proceeding shall be as follows:

Avenue over line of aqueduct.
Provisos.
Lands not donated, condemned.

When the map and survey are completed, the Attorney-General shall proceed to ascertain the owners or claimants of the premises embraced in the survey, and shall cause to be published, for the space of thirty days, in one or more of the daily newspapers published in the District of Columbia, a description of the entire tract or tracts of land embraced in the survey, with a notice that the same has been taken for the uses mentioned in this act, and notifying all claimants to any portion of said premises to file, within its period of publication, in the Department of Justice, a description of the tract or parcel claimed, and a statement of its value as estimated by the claimant. On application of the Attorney-General, the chief justice of the supreme court of the District of Columbia shall appoint three persons, not in the employ of the government or related to the claimants, to act as appraisers, whose duty it shall be, upon receiving from the Attorney-General a description of any tract or parcel the ownership of which is claimed separately, to fairly and justly value the same and report such valuation to the Attorney-General, who thereupon shall, upon being satisfied as to the title to the same, cause to be offered to the owner or owners the amount fixed by the appraisers as the value thereof; and if the offer be accepted, then upon the execution of a deed to the United States in form satisfactory to the Attorney-General, the Secretary of War shall pay the amount to such owner or owners from the appropriation made therefor in this act.*

Conditions.

Appraisers.

Valuation.

Ibid.

SEC. 50. In making the valuation the appraisers shall only consider the present value of the land without reference to its value for the uses for which it is taken under the provisions of this act.

How land shall be appraised.

Ibid.

SEC. 51. The appraisers shall each receive for their services five dollars for each day's actual service in making the said appraisements.

Compensation of appraisers.

Ibid.

SEC. 52. Any person or corporation having any estate or interest in any of the lands embraced in said survey and map who shall for any reason not have been tendered payment therefor as above provided or who shall have declined to accept the amount tendered therefor, and any person who, by reason of the taking of said land, or by the construction of the works hereinafter directed to be constructed, shall be directly injured in any property right, may, at any time within one year from the publication of notice by the Attorney-General as above provided, file a petition in the Court of Claims of the United States setting forth his right or title and the amount claimed by him as damages for the property taken or injury sustained; and the said court shall hear and adjudicate such claims in the same manner as other claims against the United States are now

Damages.

* 24 Stat., 265, ch. 903, Aug. 4, 1886; 23 Stat. L., ch. 178, p. 72, July 4, 1884.

- Proviso.* by law directed to be heard and adjudicated therein: *Provided*,
Ibid. That the court shall make such special rules in respect to such cases as shall secure their hearing and adjudication with the least possible delay.
- Judgments, how paid. SEC. 53. Judgments in favor of such claimants shall be paid as other judgments of said court are now directed to be paid; and any claimant to whom a tender shall have been made as hereinbefore authorized, and who shall have declined to accept the same, shall, unless he recover an amount greater than that so tendered, be taxed with the entire cost of the proceeding. All claims for value or damages on account of ownership of any interest in said premises, or on account of injury to a property right by the construction of said works, shall, unless a petition for the recovery thereof be filed within one year from the date of the first publication of notice by the Attorney-General as above directed, be forever barred: *Provided*, That owners or claimants laboring under any of the disabilities defined in the statute of limitations of the District of Columbia may file a petition at any time within one year from the removal of the disability.
- Proviso.*
Ibid. SEC. 54. Upon the publication of the notice as above directed, the Secretary of War may take possession of the premises embraced in the survey and map, and proceed with the construction herein authorized; and upon payment being made therefor, or, without payment, upon the expiration of the times above limited without the filing of a petition, an absolute title to the premises shall vest in the United States.
- Title to lands to vest in United States, when.
Ibid. SEC. 55. The Secretary of War be, and is hereby, authorized and directed to extend the Washington Aqueduct from its present eastern terminus to the high ground north of Washington near Sixth street extended; and that he construct at that point a reservoir of the capacity of not less than three hundred million gallons, erect the necessary gate-house, and lay such main-connections as may be necessary to furnish to Washington and Georgetown an ample supply of water; and that he complete the dam at Great Falls to the level of one hundred and forty-eight feet above tide, and extend the same at that level across Conn's Island to the Virginia shore; and that he raise the embankment between the Potomac River and the Chesapeake and Ohio Canal above the dam, so as to protect the canal from the increased flooding which the completion of the dam will cause in times of high water, or pay to the canal company, in full satisfaction for all such flooding, the amount hereinafter appropriated for that purpose.
- Secretary of War to extend Washington aqueduct, etc.; to build reservoir; capacity; to complete dam at Great Falls and extend the same, etc.
Ibid., sec. 2.
- Fish-ways.
Ibid., sec. 3. SEC. 56. To provide for the erection of suitable fish-ways at the Great Falls of the Potomac and at the dam to be constructed under the provisions of this act in accordance with plans and specifications to be prescribed by the United States Commissioner of Fish and Fisheries, fifty thousand dollars, or so much thereof as may be necessary: *Provided further*, That one-half the cost of said improvement, excluding the fish way, shall be annually computed and stated by the Treasurer of the United States, and charged to a capital account on the books of the Treasury, and that interest at the rate of three per centum per annum thereon shall be annually computed and charged to said account, and that any surplus of water rents over and above the expense of maintaining the works and appendages and paying the charges for interest and sinking fund for the redemption of outstanding bonds heretofore issued for the extension of said water works in the city of Washington shall be paid into the Treasury of the United States by the officer who may be charged with
- Proviso.*
One-half of cost to be computed annually and stated by Treasurer United States, charged to a capital account with interest thereon at 3 per cent per annum.

the collection of the same, and credited to the account thus created, until the same shall be finally extinguished and the water rents shall be so regulated from time to time as to be at least sufficient to pay the expenses of maintaining the said works and appendages and the interest on the capital account created in accordance with this provision in addition to charges now imposed thereon by law. After the extinguishment of said account and until further action by Congress the surplus water rents shall be paid into the Treasury of the United States.

Surplus of water rents, etc., credited in account.

Surplus water rents paid into Treasury, when.

CHAPTER SIXTY-NINE.

WEIGHTS AND MEASURES.

- Sec.
1. Fees, emoluments, and duties of sealers, inspectors, gaugers, measurers, etc., regulated.
 2. Sale of hay and straw regulated.
 3. Hay, straw, etc., to be sold by weight; who shall weigh, etc.
 4. Same subject; weight and certificate; penalty for not weighing.
 5. Same subject; penalty on weigher for nonattendance at scale.
 6. Same subject; weigher's fees.
 7. Same subject; certificate of weight.
 8. Same subject; cwt. to be 100 pounds; weigher to make returns; weigher to allow in weight for damp, etc.
 9. Same subject; scales to be examined; fee of sealer of weights, etc.
 10. Privilege of scales to be sold annually.
 11. Same subject, to whom; weigh master, how qualified.

- Sec.
12. Same subject; fees of weighers.
 13. Scales to be kept in repair.
 14. Hay, etc., not weighed, not to be offered for sale; penalty for violation of this section.
 15. Public scales in markets, etc., to be disposed of, etc; fees for weighing to be fixed and posted.
 16. Cut hay to be sold by weight.
 17. Repeal clause.
 18. Public scales at Brightwood and Uniontown: proviso.
 19. Same subject, sale of; same regulations and penalty, etc.
 20. Coal, sale of, regulated by Commissioners.
 21. Coal, weighing and selling of, regulated; compensation of inspectors.

SEC. 1. The fees, emoluments, and duties of the sealers of weights and measures, inspectors of flour and salted provisions, inspectors and measurers of wood and inspectors and measurers of lumber, gaugers and inspectors of spirituous liquors, weighers of hay, straw, and fodder, superintendent of sweeps, scavengers, and other officers whose compensation is in fees, shall remain the same in each locality for which they may be appointed as under existing ordinances and regulations: *Provided*, That where any office is for the first time created in any locality, the fees, emoluments, and duties shall in all respects be the same as those which attach to a similar office existing in another locality of the District of Columbia, unless otherwise prescribed in this act.*

Regulation of fees for sealers, inspectors, gaugers, measurers, scavengers, etc.

1 Leg. Assem., Aug. 23, 1871, ch. 108, sec. 41, p. 158.

SEC. 2. All hay and straw, which may be sold by weight in the District, shall be sold by the net hundred, and every twenty hundred pounds net weight shall be a ton.

Regulations for sale of hay and straw.

Sec. 1190, R. S. D. C.

SEC. 3. All hay, straw, fodder and oats in the straw brought to and sold within the District of Columbia, whether in wagons, carts, packages, bundles, or otherwise, shall be sold by weight and weighed in one of the several scales authorized by law, and the persons obtaining such scales, in accordance with the following provisions, shall have the exclusive privilege of weighing all such hay, straw, fodder, and oats in the straw.

Hay, straw, etc., to be sold by weight according to legal scales, and persons obtaining scales according to this act to have exclusive privilege of weighing hay, etc.

Leg. Assem., June 20, 1872, sec. 1, p. 33.

* See ordinances in Webb's Digest, pp. 419, 422, 125, 184, 272, 275, 280, 428.

No hay to be sold without being previously weighed and certificate obtained under penalty of \$5.

Ibid., sec. 2.

SEC. 4. No hay, straw, fodder, or oats in the straw shall be sold in the District of Columbia unless the same shall be previously weighed by one of the duly authorized weigh-masters, and a certificate of the quantity so weighed obtained, under the penalty of not more than ten nor less than five dollars for every wagon load, cart load, bundle, bale, or package so sold, to be recovered of the seller before the police court.

Penalty of between \$10 and \$5 prescribed for non-attendance happening between 6 a. m. and 6 p. m., of person having authorized scales, whereby detention of half hour is caused to person waiting hay, etc., weighed.

Ibid., sec. 3.

Compensation fixed for weigher.

Ibid., sec. 4.

SEC. 5. In case of nonattendance on the part of the person having charge of any of the authorized scales, by reason of which any person wanting hay, straw, fodder, or oats weighed shall be detained for the space of half hour, the person in charge shall forfeit for such offense, if it shall take place between the hour of six a. m. and six p. m., the sum of not more than ten nor less than five dollars, to be recovered as other fines are.

SEC. 6. Persons entitled to the privileges of said scales shall be allowed and receive compensation for weighing every load of hay, straw, fodder, or oats in the straw, weighing five hundred pounds or less, ten cents; all loads between five hundred and two thousand pounds, thirty-five cents; and for each and every bundle or package of the same, two cents, to be paid by the seller; and the said owner or proprietors shall not receive any other fee under the penalty of five dollars for each and every offense.

Form and character of certificate to be given by weigher.

Ibid., sec. 5.

SEC. 7. It shall be the duty of the weigher of hay, straw, fodder, or oats in the straw weighed, to give a certificate describing the gross weight of the hay, straw, fodder, or oats in the straw, with the wagon, and all the pieces that are used in securing the same in the wagon; also the weight of the wagon and pieces, and the net weight of the hay, straw, fodder, or oats in the straw so weighed, and it shall be the duty of the weighers of hay to brand with the letters WC all wagons, carts, or other vehicles used in bringing hay, straw, fodder, or oats in the straw for sale; also all the pieces of wood used in securing said hay, straw, fodder, or oats in the straw, and to number the same and to place the number in certificate; in case the wagon shall not be in practice of bringing hay, the weighers may dispense with the marking of the pieces, provided the certificate is not given to the wagon and pieces are reweighed, and whenever any hay, straw, fodder, or oats in the straw shall be weighed by the package or bundle, it shall be the duty of the weigher to allow five pounds of wood to each one hundred pounds of hay; the gross and net weight in the body of the certificates given by the weigher shall be written at full length, and shall be set down in figures in the margin of said certificate.

Hay, etc., to be sold at rate of 100 lbs. to 1 cwt.

Duties of and allowance to weigher and deputies.

Ibid., sec. 6.

SEC. 8. The above articles shall be weighed and sold at the rate of one hundred pounds for every hundred weight, that in all cases the weigher and deputies shall be sworn, and the weigher shall make a sworn quarterly return of the true amount received in each and every quarter, and the amount of each in each quarter, and the quarters shall be construed to be and terminate severally on the thirty-first of March, thirtieth of June, thirtieth of September, and thirty-first of December, in each and every year, and if either of the weighers shall fail to make the returns required by this act for a longer period than ten days after the expiration of each quarter, it shall be the duty of the *Commissioners* [Governor] to annul the

privilege of said weigher or weighers, and it shall be his duty also to make any allowance he shall think just on account of the hay, and so forth, being wet, and for each and every breach of law, not otherwise provided for by either of the weighers of hay, straw, fodder, or oats in the straw, he shall pay a sum of not less than two nor more than ten dollars.

SEC. 9. The sealers of weights and measures shall quarterly examine and adjust the hay scales, and shall be paid one dollar by each weigher of hay for such services, and the attention of the police shall be directed, and they shall be required to note and make report of all violation of this law.

Sealers of weights and measures to examine quarterly the scales.

Ibid., sec. 7.

SEC. 10. Annually, on or about the tenth day of July, the *Commissioners* [Governor] shall, after at least five days' public notice, sell to the highest bidder the exclusive right and privilege of using public scales, all hay, straw, fodder, and live cattle which may be sold in said District of Columbia, which said right or privilege shall continue only for the term or period which may be designated at the time of said sale, but not exceeding two years.

Annual sale of scales provided for.

Ibid., sec. 8.

SEC. 11. The person or persons who shall be the highest bidder or bidders at such sale or sales, and who shall thereby become entitled to said right or privilege, as aforesaid, shall, before entering upon the duty of weight-master, deposit to the credit of the general fund the amount or amounts so bid by him or them, and take and subscribe to the following oath or affirmation, before some person authorized to administer the same, to wit: "I, _____, of the District of Columbia, do solemnly swear (or affirm, as the case may be,) that I will faithfully, truly, and impartially, according to the best of my judgment and ability, execute and perform all the duties of the weigh-master which are or may be prescribed by law;" shall be filed in the Register's office, and said weigh-master shall also give bond, with two sureties, approved by the *Commissioners* [Governor,] in the penal sum of two thousand dollars, conditioned to pay all damages that may be sustained by reason of willful omission, refusal, or neglect to discharge the duties of his office, which are or may be prescribed by law which bond shall also be filed in the *Collectors* [Register's] office, and may be sued upon by any person injured or damaged by such willful omission, refusal, or neglect.

Highest bidder to become purchaser.

Mode prescribed for qualifying as weight-master.

Ibid., sec. 9.

SEC. 12. The said weigh-master is authorized to charge and receive for the weighing of hay, straw, and fodder, the rate of charge prescribed by law and no more; and for weighing live stock at the rate of one cent per hundred pounds, which said several fees or charges shall be paid by the seller, and the said weigh-master shall not receive any other or greater fees or charges, under penalty of five dollars for every offense.

Fees of weighers prescribed.

Ibid., sec. 10.

SEC. 13. The said weigh-master or weigh-masters shall keep the scales in all proper and needful repair during the term or period for which the right or privilege may have been given, and any neglect or omission to provide for such repairs shall operate as a forfeiture of said right or privilege, and the same may again be sold for the benefit of the District of Columbia for the said unexpired period.

Scales to be kept in repair under penalty of forfeiture of privilege.

Ibid., sec. 11.

SEC. 14. It shall not be lawful for any person or persons to sell or offer for sale any hay, straw, fodder, or live stock, except horses, mules, milch cows, and calves, in the District of Columbia, without having the same weighed, as aforesaid, and a certificate of the weight thereof obtained, under the penalty of five dollars for each and every offense.

Unlawful to offer for sale hay, etc., or live stock, except horses, mules, milch cows, and calves without previous weighing.

Ibid., sec. 12.

Public scales at markets to be disposed of as herein-above provided respecting scales for weighing hay, etc.

Tariff of fees for weighing in market-scales to be fixed by the Commissioners; such tariff of fees to be posted near scales.

Ibid., sec. 13.

Cut-hay not to be sold otherwise than by weight.

Ibid., sec. 14.

Repeal of acts and parts of acts inconsistent herewith.

Ibid., sec. 15.

Governor to have erected at Brightwood and Uniontown public scales.

Proviso: cost of each not to exceed \$250.

Leg. Assem., Jan. 19, 1872, sec. 1, p. 15.

Scales to be let to the highest bidder.

Certain ordinances of the old Corporation of Washington to govern their use.

Fines, how recovered.

Ibid., sec. 2.

Commissioners to make regulations relative to sale of coal.

June 14, 1878. 20 Stat. L., 131. 1 Sup. R. S., 351.

Weighing, and selling of coal regulated.

1 Leg. Assem., Aug. 23, 1871, ch. 108, sec. 42, p. 158.

SEC. 15. The *Commissioners are* [Governor is] authorized to dispose of the public scales in the several markets in the same manner as is herein provided for, disposing of the scales for weighing of hay, straw, and fodder, and for the same time and upon the same conditions the party or parties taking the said scales to be under the same instruction, requirements, oaths, and bonds as are required of the weigh-master or weigh-masters heretofore mentioned; and it shall be the duty of the *Commissioners* [Governor] to fix upon, and have printed, a scale or tariff of fees and charge for weighing articles in the said market scales, [provided said scale of prices shall be approved by the Legislative Assembly,] which said tariff shall be kept conspicuously posted near the scales, under a penalty of five dollars for each and every neglect, to be paid by the person renting the same, the non-payment of which shall operate as a forfeiture of his contract for said scales.

SEC. 16. It shall not be lawful for any person or persons to sell cut-hay in any other manner than by weight, and any person or persons offending against this law shall forfeit and pay to the District of Columbia the sum of three dollars for the first, and five dollars for each and every subsequent offense; all fines to be collected and applied as other fines forfeited to the District of Columbia.

SEC. 17. All acts or parts of acts which may be inconsistent with the provisions of this act be, and the same are hereby, repealed.

SEC. 18. The *Commissioners are* [Governor be, and he is] hereby, authorized and requested to cause to be erected at or near Brightwood, and also at Uniontown, in the county of Washington, suitable public scales, for the weighing of hay, fodder, oats in the straw, and live stock: *Provided*, That the cost of erecting the said scales at each place shall not exceed the sum of two hundred and fifty dollars.

SEC. 19. The said scales, after they shall have been erected, shall be let to the highest bidder therefor, in the manner provided in the ordinances of the late Corporation of Washington, as set forth in Webb's Digest, at pages 202, 203, 204, 205, 206, and 207, (edition of 1868;) and the successful bidders or persons who shall be entitled to the rental or use of said scales, as well as all persons bringing to market hay, straw, fodder, oats in the straw, or live cattle, to be sold by weight, shall be governed by the ordinances aforesaid, and be subject to all the fines and penalties therein imposed for the violation of any of their provisions; the said fines to be recovered in the same manner as other municipal fines are recovered.

SEC. 20. The Commissioners of the District of Columbia be, and they hereby are, authorized and directed to make and enforce such rules and regulations relative to the sale of coal in the District of Columbia as shall insure full weight to purchasers of coal.

SEC. 21. It shall be the duty of the inspectors and weighers of coal to weigh all coal brought to this District, when called upon, which coal shall be sold by weight, and two thousand two hundred and forty pounds shall be the standard for the ton, by which the same shall be weighed. It shall be the duty of the seller of coal to furnish to the driver of each dray, cart, or other vehicle used for hauling such coal, a card or ticket, which shall indicate on its face, in plain

characters, the quantity of coal contained in such dray, cart, or other vehicle, and also the weight of such cart, dray, or other vehicle; and any person violating said provision, or being found carrying coal which shall not be furnished with such card or ticket, shall be liable to a fine of not less than five nor more than ten dollars for every such violation. It shall also be the duty of the inspectors and weighers of coal, whenever they may have reason to believe that the quantity of coal in such dray, cart, or other vehicle, will not correspond with the amount indicated on the card or ticket aforesaid in the possession of the driver, owner, or agent of such load of coal, to cause the said load of coal to be weighed upon any lawful scale used for weighing coal for sale, most accessible for that purpose; and if, upon the weighing thereof, it shall be found that such load of coal shall be sufficiently in excess of or less than the net amount indicated upon such card or ticket to furnish to said inspector evidence of fraud, then the driver, owner, or agent furnishing such load of coal, shall be liable to, and shall forfeit and pay to the District of Columbia a fine of not less than five nor more than fifteen dollars for each and every offense, and the inspector shall be entitled to receive for each load found incorrect a fee at the rate of twenty-five cents per ton, payable by the seller or driver of such coal, with costs of weighing and handling the same; the fine to be collected the same as other fines imposed. If, upon weighing such coal, it shall be found that the amount of coal indicated on said card or ticket is correct, or so near correct as not to indicate any evidence of fraud, then the driver or owner of said coal shall not be liable to any expense or fee for re-weighing such coal. All persons licensed to sell coal in the District of Columbia shall keep in his or their yard, for the inspectors of coal, a suitable set of scales and weights sufficient to weigh at least eleven hundred and twenty pounds at one time, and which, before use, shall have been tested and found correct by a sealer of weights and measures. If any person or persons licensed as aforesaid shall sell and deliver any coal which shall not have been first weighed by one of the coal inspectors of the District, unless the buyer shall have previously agreed to dispense with such weighing, he shall be liable to a fine of not less than three nor more than five dollars for every such violation. If any person owning or keeping a scale for weighing coal for sale, or any other person, shall refuse to allow the use of said scale, or hinder any authorized inspector from weighing said coal, he shall be liable to a fine of not less than ten nor more than twenty dollars for every such violation. The said inspectors and weighers shall keep an office in some convenient place in the vicinity of the principal coal yards in the cities of Washington and Georgetown, where they can be found, for the performance of the duties of their office. The weighers of hard coal shall, from time to time, as often as once a month, carefully examine, try, and prove all scales used by them, or under their superintendence, for weighing hard coal; and if, upon any examination and trial, it shall be found that such scales are not conformable to the legal standard, they shall give immediate notice thereof, in writing, to the owner or keeper of said scales, therein requesting him to have the same regulated and sealed forthwith. In case said owner or keeper shall refuse or neglect to have the same tried, proved, and sealed by the public sealer of weights and measures for the space of twenty-four hours after such notice, it shall be the duty of said weigher forthwith to give notice thereof in two daily papers of said district. Said weighers are hereby forbidden from using said scales or certifying the weight of coal weighed therewith until the same shall have been tried, proved, and sealed as aforesaid; and for any neglect of duty aforesaid, or violation of the provisions of this act, said weighers shall forfeit and pay not less than two dollars for each load of coal he shall weigh therewith until the same shall be sealed

Compensation
of inspectors of
coal.

as aforesaid, one-half of said penalty to inure to the prosecutor, and the other to the District. The inspectors of coal shall be entitled to receive for any coal they may be called upon to weigh a fee of ten cents per ton, payable by the seller of such coal, and an additional sum of two hundred dollars per annum each, to be paid by said District of Columbia.

CHAPTER SEVENTY.

WILLS.

- | Sec. | Sec. |
|--|--|
| 1. How wills shall be made and their effect. | 21. When register may take probate of wills of personalty. |
| 2. To be in accord with laws and constitution of the State of Maryland. | 22. When court may take probate of wills of personalty. |
| 3. Testator's qualifications as to age and capacity. | 23. How wills shall be authenticated or proved. |
| 4. Of lands to be in writing; how attested; how revoked. | 24. Caveats against, to be decided by court. |
| 5. Affecting lands, when attested by any beneficiary, void as to his interest, but he can prove execution. | 25. When probate taken by register and caveat entered, letters shall not issue until hearing by court. |
| 6. Creditors of debts charged on lands may witness. | 26. Examination of witnesses and of person exhibiting will. |
| 7. Beneficiary attesting, whose interest is void as witness, barred from taking. | 27. When re-examination and hearing after probate; when nuncupative wills shall be proven. |
| 8. Proviso as to preceding three sections. | 28. Wills as to personalty, not to be repealed, altered, or changed except by writing, etc. |
| 9. After acquired, real estate may be devised by will. | 29. Nuncupative wills; when valid. |
| 10. Devises of land to churches, etc. | 30. Qualifications of witnesses to nuncupative wills. |
| 11. Devises of land to parish, when. | 31. Probate of nuncupative wills. |
| 12. Proviso as to preceding two sections. | 32. When letters or probate of nuncupative wills shall be effective. |
| 13. When actions may be maintained by creditors against devisees. | 33. Proof of wills by commission. |
| 14. Punishment for altering, destroying, or secreting wills. | 34. Will to accompany commission. |
| 15. Custodians, etc., of wills may open and read, etc.; must deliver to register; duty of register, etc. | 35. Depositions taken by commission equal to oral testimony. |
| 16. Wills must be delivered to register within three months after death of testator; penalty for neglect. | 36. Creditors not to be defrauded by wills. |
| 17. Attested copy of will, under seal; when evidence. | 37. Wills fraudulent against creditors. |
| 18. Record of wills to be <i>prima facie</i> evidence of contents; not to apply to pending cases. | 38. Heir and devisee jointly liable. |
| 19. Widows may bequeath crop of their lands. | 39. Devise pursuant to marriage contract and for just debt, valid. |
| 20. Wills of personalty may be proved. | 40. When heir is liable for value of the land. |
| | 41. Heir may plead "nothing by descent;" replication and issue. |
| | 42. Devisee liable as heir. |

How wills shall be made, and their effect.

Md. act 1798, ch. 101, sub ch. 1, sec. 1.

1 Dorsey, 370.

2 Kilty, 832. 3 MacArthur Rep., 153, *Power vs. Davis*; 43 Md. Rep., 335, *Devecmon vs. Devecmon*; 60 Md. Rep., 381, *Hoppe vs. Byers*; 61 Md. Rep., 206, *Hoppe vs. Byers*; 68 Md. Rep., 449, *Cover vs. Stem*.

SEC. 1. All lands, tenements and hereditaments, which might pass by deed, or which would, in case of the proprietor's dying intestate, descend to, or devolve on, his or her heirs or other representatives, except estates tail, shall be subject to be disposed of, transferred and passed, by his or her last will, testament or codicil, under the following restrictions.*

* Appeals to U.S Supreme Court. 134 U.S. Rep., 47, *Ormsby vs. Webb*.

SEC. 2. No will, testament or codicil, shall be effectual to create any interest or perpetuity, or make any limitation, or appoint any uses, not now permitted by the constitution or laws of the state [Maryland].

To be in accord with laws and constitution of the state of Maryland.

Ibid., sec. 2.
1 Dorsey, 370. 2 Kilty, 832. 95 U. S. Rep., 308, *Ould vs. Washn. Hospital*; 68 Md. Rep., 352, *Albert vs. Albert*.

SEC. 3. No will, testament or codicil, shall be good and effectual for any purpose whatever, unless the person making the same be, at the time of executing or acknowledging it as hereafter directed, of sound and disposing mind, and capable of executing a valid deed or contract. No will, testament or codicil, shall be good and effectual to pass any interest, or estate in any land, tenement, or incorporeal hereditament, unless the person making the same, if a male, be of the full age of twenty-one years, and if a female, of the full age of eighteen years.

Testator's qualifications as to capacity and age.

Ibid., sec. 3.
1 Dorsey, 370, 371.
2 Kilty, 832.
134 U. S. Rep., 47
Ormsby vs. Webb;
8 Mackey Rep.,
8 Mackey Rep.,
8 Mackey Rep., 286, *Layman vs. Conrey*; 53 Md. Rep., 376, *Brown vs. Ward*; 50 Md. Rep., 466, *Griffith vs. Diffeffer*; 45 Md. Rep., 422, *Taylor vs. Cresswell*; 43 Md. Rep., 479, *McElwee vs. Ferguson*.

495, *Hoover's Will*; 64 Md. Rep., 138, *Stirling vs. Stirling*; 60 Md. Rep., 286, *Layman vs. Conrey*; 53 Md. Rep., 376, *Brown vs. Ward*; 50 Md. Rep., 466, *Griffith vs. Diffeffer*; 45 Md. Rep., 422, *Taylor vs. Cresswell*; 43 Md. Rep., 479, *McElwee vs. Ferguson*.

SEC. 4. All devises and bequests of any lands or tenements, devisable by law, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express directions, and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else they shall be utterly void and of none effect; and moreover, no devise in writing of lands, tenements or hereditaments, or any clause thereof, shall be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing or obliterating the same by the testator himself, or in his presence, and by his directions and consent; but all devises and bequests of lands and tenements shall remain and continue in force until the same be burnt, cancelled, torn or obliterated, by the testator, or his directions in manner aforesaid, or unless the same be altered by some other will or codicil in writing, or other writing of the devisor, signed in the presence of three or four witnesses, declaring the same, any former law or usage to the contrary notwithstanding.

Of lands, to be writing; how attested; how revoked.

Ibid., sec. 4.
1 Dorsey, 371.
2 Kilty, 832.
9 Mackey D. C. Rep., 493, *Will of David D. Porter*; 8 Md. Rep., 22, *Welty vs. Welty*; 3 Har. and McHenry Rep., 462; 4 Har. and J. Rep., 173, *Tillman vs. Stewart*; 5 Har. and J. Rep., 490, *Mason vs. Harrison*; 7 Har. and J. Rep., 388, *Semmes vs. Semmes*; ibid.,

61, *Edelen vs. Hardy*; 3 Md. Rep., 134, *Plater vs. Groome*; 3 Md. Rep., 491, *Cramer vs. Crumbaugh*; 14 Md. Rep., 507, *Barnes vs. Syster*; 28 Md. Rep., 115, *Higgins vs. Carlton*; 43 Md. Rep., 336, *Devecmon vs. Devecmon*; 53 Md. Rep., 357, *Etchison vs. Etchison*; 61 Md. Rep., 478, *Eschbach vs. Collins*; 64 Md. Rep., 138, *Sterling vs. Sterling*; 65 Md. Rep., 373, *Baldwin vs. Spriggs*; 75 Md. Rep., 188, *Trustees vs. McKinstry*; 76 Md. Rep., 546, *Remington vs. Bank*.

SEC. 5. Whereas by an act made in the twenty-ninth year of the reign of his late majesty King Charles the Second, intituled, An act for prevention of frauds and perjuries; it is amongst other things enacted, That from and after the twenty-fourth day of June, in the year of our Lord one thousand six hundred and seventy seven, all devises and bequests of any lands or tenements deviseable, either by force of the statute of wills, or by that statute, or by force of the custom of Kent, or the custom of any borough, or any other particular custom, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express direction; and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else they shall be utterly void and of none effect, which hath been found to be a wise and good provision; but whereas doubts have arisen who are to be deemed legal witnesses within the intent of the said act; therefore, for avoiding the same,

Affecting lands, when attested by any beneficiary, void as to his interest; but he can prove execution.

25 George II, ch. 6, sec. 1, A. D. 1752.
Alex. Brit. Stat., 781, 782.
Kilty's Rep., 253.
21 Wash. Law Rep., 627, *Dougherty vs. O'Brien*;
1 Appeal Cases D. C., 148, ibid;
6 Mackey Rep., 98, 102, 104, *Elliot*

vs. Brent : 3 Har. and McH., 513, Shaffer vs. Brent; 38 Md. Rep., 417, Estep vs. Morris; 39 Md. Rep., 549, Harris vs. Pue.

Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person shall attest the execution of any will or codicil which shall be made after the twenty-fourth day of June in the year of our Lord one thousand seven hundred and fifty-two, to whom any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate, other than and except charges on lands, tenements or hereditaments for payment of any debt or debts, shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall, so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him, be utterly null and void; and such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said act; notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such will or codicil.

Creditors of debts charged on lands may witness.

Ibid., sec. 2.
Alex. Brit. Stat., 782.

SEC. 6. In case, by any will or codicil already made or hereafter to be made, any lands, tenements or hereditaments, are or shall be charged with any debt or debts; and any creditor whose debt is so charged, hath attested or shall attest the execution of such will or codicil, every such creditor, notwithstanding such charge, shall be admitted as a witness to the execution of such will or codicil, within the intent of the said act.

Beneficiary attesting whose interest is void as witness, barred from taking.

Ibid., sec. 7.
Alex. Brit. Stat., 783.

SEC. 7. No person to whom any beneficial estate, interest, gift, or appointment shall be given or made, which is hereby enacted to be null and void as aforesaid, or who shall have refused to receive any such legacy or bequest, on tender made as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he shall have been so examined, demand or take possession of or receive any profits or benefit of or from any such estate, interest, gift or appointment so given or made to him, in or by any such will or codicil; or demand, receive or accept from any person or persons whatsoever, any such legacy or bequest, or any satisfaction or compensation for the same, in any manner, or under any colour or pretence whatsoever.

Proviso as to preceding three sections, as to time of making will.

Ibid., sec. 11, p. 785.

SEC. 8. *Provided always,* That as to cases arising in any of the said colonies or plantations in America, no such devise, legacy or bequest as aforesaid, shall be made null and void by virtue of this act, unless the will or codicil whereby such devise, legacy or bequest shall be given, shall be made after the first day of March, which shall be in the year of our Lord one thousand seven hundred and fifty-three.*

After-acquired real estate may be devised by will.

Jan. 17, 1887.
24 Stat., 361, ch. 25, sec. 2.

8 Cranch Rep., 66, Smith vs. Edrington; 16 How. Rep., 282, Carroll vs. Carroll; 13 Gratt. Rep., 128, Raines vs. Barker; 3 Call Va. Rep., 289, Allen vs. Harrison; 12 B. Mon. Ky. Rep., 437, Ross vs. Ross; 65 Md. Rep., 383, Baldwin vs. Spriggs; 151 U. S. Rep., 112, Hardenbergh vs. Ray.

SEC. 9. Any will hereafter executed devising real estate in the District of Columbia from which it shall appear that it was the intention of the testator to devise property acquired after the execution of the will, shall be deemed, taken and held to operate as a valid devise of all such property.

* A legacy to a subscribing witness to a mere will or codicil of personalty is now held to be good (Foster vs. Banbury, 3 Sim. 40; Emanuel vs. Constable, 3 Russ. 436), although Sir William Grant, in Lee vs. Summersgill, 17 Ves. Jun. 508, held the contrary. In Doe vs. Mills, 1 M. & Rob. 288, it was determined that a devise to an attesting witness was void, though there are three other attesting witnesses to the will. See Dep. Commissary Guide, 75.

SEC. 10. That any person or persons, being of sound and disposing mind and memory, that have heretofore devised, or shall hereafter devise any lands or tenements to the use of any church or chapel within this *District* [province,] or for support or maintenance of the clergy or ministry of the church of England, as by law established, or to the use of the church, or support of the protestant religion in general, without particularly mentioning to what church, chapel or person, shall be good and effectual in law, notwithstanding such omission, or any ambiguity or uncertainty in the wording of any will, if the intent of the testator can be reasonably collected from the words of the will. [See § 457, R. S. D. C.]

Devise of lands to church, etc.

Md. act 1722, ch. 4, sec. 2.

1 Kilty, 171.

1 Dorsey, p. 57.

SEC. 11. That where the intent of the testator is at large, and it does not appear to what church, chapel or person, he devised such land, in such case the land so devised shall go to the parish or incumbent where such land lies, in the same manner as glebes are commonly held, and that no want or insufficiency of words, (where the intent appears) shall defeat such parish or incumbent of such land

Land to go to the parish, when.

Ibid., sec. 3.

1 Kilty, 171.

1 Dorsey, 58.

SEC. 12. That this law shall in no wise affect any lands that have been heretofore disputed in law, or escheated, or about which there is at this time any contest or law-suit depending: *And provided, likewise,* That such will or wills have and shall be signed by the testator so devising the same, or by some other person in his presence, and by his express directions, in the presence of three or more creditable witnesses and duly proved.*

Proviso as to two preceding sections.

Ibid., sec. 4.

1 Kilty, 172.

1 Dorsey, 58.

SEC. 13. In all and every case where any person hath died, or shall die, seized of lands, tenements or hereditaments, and shall have devised, or shall devise the same in any lawful manner whatsoever, not leaving any heir or heirs, or leaving any heir or heirs at law not being citizens or residents of this *District* [state,] in all and every such case it shall and may be lawful for any creditor or creditors of every such devisor to have and maintain his, her or their action and actions against the devisee or devisees to whom such lands, tenements or hereditaments, may be devised, without joining the heir or heirs at law in any such action or actions; and such creditor or creditors shall and may have remedy by virtue of this act against such devisee or devisees alone, and against the lands, tenements and hereditaments, so devised, in such like cases, and under such circumstances, as such creditor or creditors might or could have remedy under the said statute where the heir or heirs at law could or should be joined in such action or actions, according to the directions of the said statute.

In certain cases actions may be maintained by creditors against devisees.

Md. act 1797, ch. 113, sec. 2.

2 Kilty, 757.

1 Dorsey, 356.

SEC. 14. If any person, to whom a will or codicil hath been or shall be delivered by the party making it for safe custody, shall alter or destroy the same, without the direction of the said party, or wilfully secrete it for the space of six months after the death of the party shall be known to him or her, on conviction thereof the person so offending shall be sentenced to such punishment as is inflicted by law in cases of grand larceny.

Punishment for altering, destroying or secreting wills.

Md. act 1798, ch. 101, subch. 2,

sec. 1.

2 Kilty, 832.

1 Dorsey, 371.

SEC. 15. It shall be lawful for any private person, in whose possession or custody a will or codicil shall be, after the death of the testator or testatrix, to open and read the same in the presence of any near relatives of the deceased, who may conveniently have notice thereof, and of other persons, and immediately thereafter to deliver the said will or codicil to the register of wills, or the register or clerk of any office in the county authorized to record wills, whose

Custodians of wills may open and read same, etc.; must deliver to register; duty of register, etc.

Ibid., sec. 2.

2 Kilty, 832.

* See 1798, ch. 101, sub ch. 1, sec. 1, Md. act.

1 Dorsey, 371, duty it shall be to keep the same safe, until proceedings may be had for proving the same in the said office, or until it be demanded by an executor, or other person authorized to demand it, for the purpose of having it proved according to law.

Wills must be delivered to register within three months after death of testator; penalty for neglect.

Ibid., sec. 3.
2 Kilty, 832.
1 Dorsey, 372.

SEC. 16. If any private person, in whose possession or custody a will or codicil shall be, after the death of the testator or testatrix, shall wilfully neglect to deliver the same to the register of wills, or the register or clerk of any office proper for recording wills in the county where the said person resides, or where it is proper to prove the same, or to some executor named in the will, for the space of three calendar months after the death of the testator or testatrix shall be known to the said person, he or she, thus offending, shall be subject, on conviction in a court of law, to such fine as the court shall in their discretion think proper.

Attested copy of will, under seal, evidence when.

Ibid., sec. 4.
2 Kilty, 832.
1 Dorsey, 372.
109 U. S. Rep.,

SEC. 17. An attested copy, under the seal of office, of any will, testament or codicil, recorded in any office authorized to record the same, shall be admitted as evidence in any court of law or equity, provided that the execution of the original will or codicil be subject to be contested until a probat hath been had according to this act.

608, Robertson vs. Pickrell; 30 Md. Rep., 409, Beatty vs. Mason.

Record of wills to be prima facie evidence of contents.

Proviso.
Not to apply to pending causes.

July 9, 1888. 25 Stat., 246. 109 U. S. Rep., 608, Robertson vs. Pickrell; 5 Mackey Rep., 293, McIntire's Will; 14 Md. Rep., 532, Warford vs. Colvin; 30 Md. Rep., 409, Beatty vs. Mason; 51 Md. Rep., 146, Wright vs. Gilbert.

SEC. 18. The record of any will or codicil heretofore or hereafter recorded in the office of the register of wills of the District of Columbia, which shall have been admitted to probate by the supreme court of the District of Columbia, or by the late orphans' Court of said District, or the record of the transcript of the record and probate of any will or codicil elsewhere, or of any certified copy thereof heretofore or hereafter filed in the office of said register of wills shall be prima facie evidence of the contents and due execution of such wills and codicils: *Provided*, That this act shall not apply in any cause now pending in any of the courts of the District of Columbia.

Widows may bequeath the crop of their lands.

20 Henry III, ch. 2. Alex. Brit. Stat., 28. Kilty's Rep., 208.

SEC. 19. Widows may bequeath the crop of their ground, as well of their dowers, as of other their lands and tenements.*

WILLS OF PERSONALTY.†

Wills disposing of personalty may be proved.

Md. act 1798, ch. 101, sub ch. 2, sec.

SEC. 20. Any will, or codicil, containing any disposition relative to goods, chattels or personal estate, may be proved in the county where most of the witnesses reside, or in the county in which letters testamentary or of administration may be granted.

5. 2 Kilty, 832. 1 Dorsey, 372.

When register may take probate of wills of personalty, etc.

Ibid., sec. 6.
2 Kilty, 832.
1 Dorsey, 372.
8 Mackey Rep., 482, McIntire vs. McIntire; 5 Mackey Rep., 293, McIntire's Will; 62 Md. Rep., 528, Johns vs. Hodges.

SEC. 21. If any will or codicil, making any disposition relative to goods, chattels, or personal property or rights, or appointing an executor, be exhibited for proof to the register of wills in the county wherein the will may be proved, in the recess of the court, and any of the next relations of the deceased shall attend, and make no objections, or enter no caveat, or if it shall appear that reasonable notice hath been given to such of the next relations as might conveniently be therewith served, of the time of exhibiting the said will or codicil, and no person shall object, or enter a caveat, the register shall thereupon proceed to take the probat, and to grant letters testamentary accordingly.

* See Md. act 1798, chap. 101, subchap. 7; 2 Kilty, 841.

† 19 Wash. Law Rep., 118, McIntire vs. McIntire; *ibid.*, 8 Mackey Rep., 482.

SEC. 22. If any such will or codicil, respecting personal property, or appointing an executor, be exhibited for probat to the orphans court of the county where the same may be proved, and any of the next relations of the deceased shall attend, or if notice shall appear to have been given as aforesaid, and no caveat shall have been made against the said will or codicil, the said court may forthwith proceed to take the probat of such will or codicil.

When court may take probat of wills of personalty.

Ibid., sec. 7.
2 Kilty, 833.
1 Dorsey, 372.
64 Md. Rep., 548.
Emmert vs. Stouffer.

SEC. 23. If any such will or codicil, respecting personal property, or appointing an executor, be exhibited to the orphans court, and none of the near relations of the deceased shall attend, and no notice shall appear to have been given, the said court may either direct summons to the said near relations, or some one or more of them, to appear, on some fixed day, to shew cause wherefor the will or codicil should not be proved, or direct such notice to be given in the public papers, or otherwise, as they may think proper; and if no objection shall be made, or caveat entered on or before the day fixed, the said court, or the register of wills in their recess, may proceed to take the probat of such will or codicil; but if objection shall be made, on or before the day appointed, the said court shall have cognizance of the affair, and shall determine according to the testimony produced on both sides.

How wills shall be authenticated or proved after summons or publication.

Ibid., sec. 8.
2 Kilty, 833.
1 Dorsey, 372,
373.
64 Md. Rep., 548
Emmert vs. Stouffer.

SEC. 24. If any person whatever shall enter a caveat against any such will or codicil respecting personal property, or appointing an executor, either before or after it shall be exhibited to the register of wills or orphans court, the said caveat shall be decided by the said court.

Caveats against, to be decided by court.

Ibid., sec. 9.
2 Kilty, 833.
1 Dorsey, 378. 5 Mackey Rep., 298, McIntire's Will; 62 Md. Rep., 525, Johns vs. Hodges; 40 Md. Rep., 361, Mason vs. Poulson; 38 Md. Rep., 574, O'Neill vs. Smith; 14 Md. Rep., 532, Warford vs. Colvin; 11 Md. Rep., 387, Clagett vs. Hawkins; 3 Md. Rep., 290, Hanna vs. Munn; 12 Gill and J. Rep., 385, Offutt vs. Gott.

SEC. 25. In case any person shall enter a caveat against any will or codicil respecting personal property, or appointing an executor, of which probat shall have been taken by the register as aforesaid, no letters testamentary shall be granted, until a determination shall be had in the orphans court.

When probate taken by register and caveat entered, letters shall not issue until hearing by court.

Ibid., sec. 10; 2 Kilty, 833; 1 Dorsey, 373; 5 Mackey Rep., 298, Estate of McIntire; 11 Md. Rep., 381, Clagett vs. Hawkins; 33 Md. Rep., 569, O'Neill vs. Smith; 4 Gill Rep., 56, Compton vs. Barnes; 4 Md. Rep., 393, Pegg vs. Warford; 28 Md. Rep., 25, Levy vs. Levy; 21 Md. Rep., 373, Price vs. Moore; 39 Md. Rep., 535, Harris vs. Puc; 40 Md. Rep., 361, Mason vs. Poulson; 56 Md. Rep., 542, Worthington vs. Gittings; 62 Md. Rep., 525, Johns vs. Hodges; 64 Md. Rep., 101, State vs. Smith; 64 Md. Rep., 548, Emmert vs. Stouffer.

SEC. 26. If no objections shall be made to the probat of a will or codicil, respecting personal property, or appointing an executor, or no caveat shall be filed against the same before probat, it shall not be necessary to examine all the witnesses, unless they shall voluntarily attend, but the probat may be made on such proof as shall be sufficient to give efficacy to a will or codicil for passing personal property; provided that every executor, or other person, exhibiting a will, shall be examined on oath, or affirmation, as the case may be, whether or not he or she knows of any other will or codicil, and in what manner the will or codicil exhibited came to his or her hands.

Examination of witnesses and of person exhibiting will.

Ibid., sec. 12.
2 Kilty, 833.
1 Dorsey, 373,
374.

SEC. 27. If the probat of any will or codicil be taken as aforesaid, without contest, any person, before letters testamentary, or of administration with a copy of the will, shall be actually granted, may file a petition to the court, praying that the case be again examined and heard, and thereupon the orphans court shall delay the granting of letters, until a decision shall be had on the said

When reexamination and hearing after probate; when nuncupative wills shall be proven.

Ibid., sec. 13. petition; and in case letters shall have been granted, and any person shall file such petition, and the court, on hearing both sides, that is to say, the petitioner and the grantee of such letters, shall decide against the probat, the letters aforesaid shall be revoked, and the power of the party, under the said letters shall cease; and the said will shall not be proved unless the decision be reversed by the court; and no nuncupative will shall be proved within fourteen days after the death of the testator, unless his widow (if any) and some one of the next of kin, have been summoned to contest the same, if they please.

2 Kilty, 833.
1 Dorsey, 374.

5 Mackey Rep., 293, *McIntire's Will*; 62 Md. Rep., 525, *Johns vs. Hodges*; 40 Md. Rep., 361, *Mason vs. Poulson*; 33 Md. Rep., 569, *O'Neill vs. Smith*; 28 Md. Rep., 25, *Levy vs. Levy*; 11 Md. Rep., 381, *Clagett vs. Hawkins*; 39 Md. Rep., 533, *Harris vs. Paul*; 56 Md. Rep., 547, *Worthington vs. Gittings*.

Wills of personal estate, shall be repealed, nor shall any clause, devise or bequest therein, be altered or changed by any words, or will by word of mouth only, except the same be in the life of the testator committed to writing, and after the writing thereof read unto the testator, and allowed by him, and proved to be so done by three witnesses at the least.

SEC. 28. No will in writing concerning any goods or chattels, or personal estate, shall be repealed, nor shall any clause, devise or bequest therein, be altered or changed by any words, or will by word of mouth only, except the same be in the life of the testator committed to writing, and after the writing thereof read unto the testator, and allowed by him, and proved to be so done by three witnesses at the least.

29 Charles II, ch. 3, sec. 22, A. D. 1676.
Alex. Brit. Stat., 513. Kilty's Rep., 241. 61 Md. Rep., 208, *Byers vs. Hoope*, 68 Md. Rep., 203, *McIntire vs. Worthington*; 65 Md. Rep., 373, *Baldwin vs. Spriggs*; 26 Md. Rep., 95, *Whitman vs. Goodhand*.

NUNCUPATIVE WILL.*

Nuncupative wills when valid. SEC. 29. No nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, [\$80] that is not proved by the oaths of three witnesses (at the least) that were present at the making thereof; (3) nor unless it be proved that the testator at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his will, or to that effect; (4) nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he or she hath been resident for the space of ten days, or more, next before the making of such will, except where such person was surprized or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

Ibid., sec. 19. Alex. Brit. Stat., 512. Kilty's Rep., 241.

19 Wash. Law Rep., 139, 260, *in re Askins*; *ibid.*, 9 Mackey Rep., 10 and 12; 41 Md. Rep., 201, *Hammett vs. Shanks*; 36 Md. Rep., 630, *Biddle vs. Biddle*; 33 Md. Rep., 569, *O'Neill vs. Smith*; 19 Md. Rep., 348, *Weems vs. Weems*; 9 Gill Rep., 467, *Welling vs. Owings*; 12 Gill and J. Rep., 192, *Dorsey vs. Sheppard*; 8 Har. and J. Rep., 208, *Brayfield vs. Brayfield*.

Qualifications of witnesses to nuncupative wills. SEC. 30. And whereas by an act of Parliament made in the twenty-ninth year of King Charles the Second, intituled, An act for prevention of frauds and perjuries, it is enacted, that no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, [\$80] that is not proved by the oaths of three witnesses at the least, that were present at the making thereof; it is hereby declared, that all such witnesses as are and ought to be allowed to be good witnesses upon trials at law, by the laws and customs of this realm, shall be deemed good witnesses to prove any nuncupative will, or any thing relating thereto.

4 Anne. ch. 16, sec. 14, A. D. 1705.
Alex. Brit. Stat., 662.

Probate of nuncupative wills. SEC. 31. That after six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony, or the substance thereof, were committed to writing within six days after the making of the said will.

Ibid., sec. 20. Alex. Brit. Stat., 513. Kilty's Rep., 241.

When letters or probate of nuncupative wills shall be effective. SEC. 32. That no letters testamentary or probate of any nuncupative will, shall pass the seal of any court, till fourteen days at the least after the decease of the testator be fully expired; (2) nor shall

* See Md. act 1798, ch. 101, subch. 2, sec. 13, *ante*.

any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow, or next of kindred to the deceased, to the end they may contest the same, if they please.

Ibid., sec. 21.
Alex. Brit. Stat.,
513.
Kilty's Rep., 241.
33 Md. Rep., 569,
O'Neill vs. Smith.

PROOF OF WILLS BY COMMISSION.

SEC. 33. Whenever a will or codicil shall be exhibited for probate to the supreme court, if any of the witnesses to the same shall reside out of the District, or be temporarily absent therefrom at the time when the will or codicil shall be so exhibited, the court may issue, upon personal notice of not less than twenty days to all parties in interest, a commission to one or more competent persons to take the deposition of such absent witness, in such form as the court may prescribe, touching the execution of such will or codicil, and the competency of the testator at the time of the execution thereof.

Proof of wills
by commission.

Sec 894, R. S.
D. C.
3 Mar., 1869, ch.
149.
15 Stat., 340.

SEC. 34. In all such cases the original will or codicil shall accompany the commission, and be exhibited to the witnesses.

Will to accom-
pany commission.

Sec. 895, R. S. D. C. Mar. 3, 1869. 15 Stat., 340.

SEC. 35. Such depositions, when returned to the court, shall be received therein as competent evidence, and have the same force and effect as if the witnesses were personally present and testifying in the court.

Depositions so
taken equal to oral
testimony.

Sec. 896, R. S.
D. C. Mar. 3, 1869. 5 Stat., 340.

FRAUDULENT DEVISES.

SEC. 36. Whereas it is not reasonable or just, that by the practice or contrivance of any debtors, their creditors should be defrauded of their just debts; and nevertheless it hath often so happened, that where several persons having by bonds or other specialties bound themselves and their heirs, and have afterwards died seized in fee simple of and in manors, messuages, lands, tenements, and hereditaments, or had power or authority to dispose of or charge the same by their wills or testaments, have (to the defrauding of such their creditors by their last wills or testaments) devised the same, or disposed thereof in such manner as such creditors have lost their said debts; for remedying of which, and, for the maintenance of just and upright dealing, be it enacted and declared.

Creditors not to
be defrauded by
wills.

3 and 4 William
and Mary, ch. 14,
sec. 1, A. D. 1691.
Alex. Brit. Stat.,
573.
Kilty's Rep., 242.

SEC. 37. That all wills and testaments, limitations, dispositions, or appointments, of or concerning any manors, messuages, lands, tenements, or hereditaments, or of any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seized in fee-simple in possession, reversion, or remainder, or have power to dispose of the same by his, her, or their last wills or testaments, to be made after the five and twentieth day of March, in the year of our Lord God one thousand six hundred ninety and two, shall be deemed and taken (only as against such creditor or creditors as aforesaid, his, her, and their heirs, successors, executors, administrators, and assigns, and every of them) to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, colour, feigned, or presumed consideration, or any other matter or thing to the contrary notwithstanding.

Wills fraudulent
against creditors.

Ibid., sec. 2.
Alex. Brit. Stat.,
573, 574.
Kilty's Rep., 242.

SEC. 38. And for the means that such creditors may be enabled to recover their said debts:

Heir and devisee
jointly liable.

Be it further enacted by the authority aforesaid, That in the cases before mentioned, every such creditor shall and may have and maintain his, her, and their action and actions of debt, upon his, her, and

Ibid., sec. 3.
Alex. Brit. Stat.,
574.

their said bonds and specialties, against the heir and heirs at law of such obligor or obligors, and such devisee and devisees, jointly by virtue of this act; and such devisee or devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any heir should have been for any false plea by him pleaded, or for not confessing the lands or tenements to him descended.

Devise pursuant to marriage contract and for just debt valid.

Ibid., sec. 4.
Alex. Brit. Stat.,
574, 575.
Kilty's Rep., 242.

SEC. 39. *Provided always, and be it enacted by the authority aforesaid*, That where there hath been, or shall be any limitation or appointment, devise or disposition, of or concerning any manors, messuages, lands, tenements, or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money for any child or children of any person, other than the heir at law, according to, or in pursuance of, any marriage contract or agreement in writing, bona fide, made before such marriage, the same and every of them shall be in full force; and the same manors, messuages, lands, tenements, and hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her, and their heirs, executors, administrators, and assigns, for whom the said limitation, appointment, devise, or disposition was made, and by his, her, and their trustee or trustees, his, her, and their heirs, executors, administrators, and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid, and satisfied; any thing in this act contained to the contrary notwithstanding.

When heir liable for value of the land.

Ibid., sec. 5.

SEC. 40. And whereas several persons being heirs at law, to avoid the payment of such just debts, as in regard of the lands, tenements, and hereditaments descending to them, they have by law been liable to pay, have sold, aliened, or made over such lands, tenements, or hereditaments, before any process was or could be issued out against them:

Be it further enacted by the authority aforesaid, That in all cases where any heir at law shall be liable to pay the debt of his ancestor in regard of any lands, tenements, or hereditaments descending to him, and shall sell, aliene, or make over the same, before any action brought, or process sued out against him, that such heir at law shall be answerable for such debt, or debts, in an action or actions of debt, to the value of said land so by him sold, aliened, or made over; in which case all creditors shall be preferred, as in actions against executors and administrators, and such execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts, saving that the lands, tenements, and hereditaments bona fide aliened before the action brought, shall not be liable to such execution.

Heir may plead "nothing by descent," replication and issue.

Ibid., sec. 6.
Alex. Brit. Stat.,
575.
Kilty's Rep., 242.

SEC. 41. That where any action of debt upon any specialty is brought against any heir, he may plead *riens per descent*, at the time of the original writ brought, or the bill filed against him; any thing herein contained to the contrary notwithstanding; and the plaintiff in such action may reply, that he had lands, tenements, or hereditaments from his ancestor before the original writ brought, or bill filed; and if upon issue joyned thereupon, it be found for the plaintiff, the jury shall enquire of the value of the lands, tenements, or hereditaments so descended, and thereupon judgment shall be given, and execution shall be awarded as aforesaid; but if judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer, or *nihil dicit*, it shall be for the debt and damages, without any writ to enquire of the lands, tenements, or hereditaments so descended.

SEC. 42. That all and every devisee and devisees, made liable by this act, shall be liable and chargeable in the same manner as the heir at law by force of this act, notwithstanding the lands, tenements, and hereditaments, to him or them devised, shall be aliened before the action brought.

Devisee liable as heir.

Ibid., sec. 7.

CHAPTER SEVENTY-ONE.

WITNESSES.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Interested parties may be witnesses. (NOTE.—On letters rogatory from foreign courts, etc.; when subpoenas run to another district; attendance of, on grand and petit juries, when required on behalf of United States.; poor defendants in criminal cases may procure.) 2. When interested parties may not be witnesses. 3. Affirmation, when allowed in lieu of oath. 4. Right to affirm must be shown by testimony. 5. No witness excluded on account of color or interest, provided, etc.; interested parties may testify in Court of Claims. 6. Parties <i>particeps criminis</i> competent and compellable to give testimony against other defendants, etc.; their testimony not to be used against them. 7. No exclusion on account of color; equal rights, penalties, etc. 8. Defendants in criminal cases may be witnesses, etc. 9. Fees of witnesses. 10. Fees of witnesses and mileage. 11. Double fees to witnesses not allowed. 12. Fees of witnesses while detained in prison. 13. In criminal cases, may be imprisoned in default of security. 14. Fees of witnesses, in District of Columbia, before houses of Congress. 15. Fees (witness) not allowed officers of United States courts. 16. In suits pending elsewhere; how depositions obtained in the District of Columbia. 17. Same subject; when no commission nor notice. | <p>Sec.</p> <ol style="list-style-type: none"> 18. Same subject, taking and remitting depositions. 19. Depositions of foreign witnesses in civil suits, how obtained; effect of, at hearing. Depositions, <i>de bene esse</i>; under <i>dedimus</i>, and <i>in perpetuam</i>. (See Note at foot of this section.) 20. Fees of witnesses testifying in suits elsewhere; depositions under foreign commission or letters rogatory. (See Note to this section.) 21. Penalty for non-attendance after fees tendered. 22. On default, after process served, liability of witnesses in civil actions to attachment; being present and refusing to testify may be committed, etc. 23. Penalty for neglect to attend. (NOTE.—Proceedings against, for refusing to testify before houses of Congress.) 24. Commissions to take testimony in criminal cases. 25. Who may be commissioners. 26. What commission must state. 27. Notice by defendant to district attorney. 28. Contents of notice. 29. Service of copy of notice. 30. District attorney may file cross-interrogatories, otherwise clerk must file, etc. 31. The commission. 32. Duties of commissioners. 33. Exhibits to testimony, disposition of. 34. Certificate and return of commission. 35. Deviations from unimportant directions not to affect, etc. 36. Court may establish further rules, etc.; proof of wills by commission. (See "Wills," <i>ante</i>.) |
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SEC. 1. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice in the District, or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence within the District, the parties thereto, and the persons in whose behalf any such action or proceeding may be brought or defended, and all persons interested in the same, shall, except as provided in the following section, be competent and com-

Interested parties may be witnesses.

Sec. 876, R. S. D. C.

2 Mackey Rep., 469, *Burdette vs. Burdette*; 5 Mackey Rep., 15,

Holtzman vs. Wagner; 6 Mackey Rep., 98, *Elliot vs. Brent*; 7 Mackey Rep., 89, *Droop vs. Metzertott*; *ibid.*, p. 314, *Andrews vs. Hunt*; 3 Cranch, C. C., 216, *Bank of Columbia vs. Wright*; 3 Cranch, C. C., 435, *King vs. Fearson*.

Exceptions. SEC. 2. Nothing in the preceding section shall render any person who is charged with an offense in any criminal proceeding competent or compellable to give evidence for or against himself; Or render any person compellable to answer any question tending to criminate himself; Or render a husband competent or compellable to give evidence for or against his wife, or a wife competent or compellable to give evidence for or against her husband, in any criminal proceeding or in any proceeding instituted in consequence of adultery; Nor shall a husband be compellable to disclose any communication made to him by his wife during the marriage, nor shall a wife be compellable to disclose any communication made to her by her husband during the marriage.

Sec. 877, R. S. D. C. 2 Mackey Rep., 469, *Burdette vs. Burdette*; *ibid.*, p. 559, *Clark vs. Krause*; 3 MacArthur Rep., 109; 18 Wallace Rep., 436, *Lucas vs. Brooks*; 5 Mackey Rep., 15, *Holtzman vs. Wagner*; 6 Mackey Rep., 574, *Beale vs. Brown*; 3 Cranch, C. C., 638, *Sanderson's case*; 5 Cranch, C. C., 309, *U. S. vs. Hudland*.

Affirmation when allowed in lieu of oath. SEC. 3. The people called Quakers, those called Nicolites or New Quakers, those called Tunkers, and those called Menonists, holding it unlawful to take an oath on any occasion, shall be allowed to make their solemn affirmation as witnesses, in the manner that Quakers have been heretofore allowed to affirm, which affirmation shall be of the same avail as an oath, to all intents and purposes whatever.

Md. act 1797, ch. 118, sec. 2. 2 Kilty, 760. 1 Dorsey, xlix. Confirmed 1798, ch. 83. 2 Kilty, 822. 1 Cranch, Ct. Rep., 151, *Wilson Bryan's Case*; 43 Md. Rep., 17, *Loney vs. Bailey*.

Testimony must show the right to affirm. SEC. 4. That before any of the persons aforesaid shall be admitted as a witness in any court of justice in this *District* [State,] the court shall be satisfied, by such testimony as they may require, that such person is one of those who profess to be conscientiously scrupulous of taking an oath.

Ibid., sec. 3.

No witness excluded on account of color or interest; provided, etc. SEC. 5. In the courts of the United States no witness shall be excluded in any action on account of color, or in any civil action because he is a party to or interested in the issue tried: *Provided*, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other, as to any transaction with, or statement by, the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court. †

* * * * *

Sec. 858, R. S. U. S. 102 U. S. Rep., 664, *Page vs. Burnstine*; 2 Mackey Rep., 229, *Cohen vs. Cohen*; 7 Mackey Rep., 89, *Droop vs. Metzertott*; *ibid.*, p. 311, *Andrews vs. Hunt*; 144 U. S. Rep., 264, *Logan vs. U. S.*; 139 U. S. Rep., 478, *Snyder vs. Fiedler*; 146 U. S. Rep., 336, *Benson vs. U. S.*; 16 Pet., 203, *U. S. vs. Murphy*; 4 How., 420, *Smyth vs. Strader*; 12 How., 361, *U. S. vs. Reed*; 2 Bl., 535, *Wright vs. Bales*; 9 Wall., 655, *Green vs. U. S.*; 18 Wall., 436, *Lucas vs. Brooks*; 20 Wall., 226, *Cornett vs. Williams*; 20 Wall., 528, *Packet Company vs. Clough*; 21 Wall., 488, *Texas vs. Chiles*; 22 Wall., 341, *Railroad Company vs. Pollard*; 2 Dill., 475, *Johnson vs. Owens*; 1 Woods, 623, *Eslava vs. Mazange's Administrator*; 22 June, 1874, ch. 390, sec. 8, v. 18, p. 180.

* When witnesses giving testimony as experts entitled to compensation. 21 Wash Law Rep., 182, *U. S. vs. Cooper*.
 † Attendance of witnesses before grand or petit jury on part of the United States may be subpoenaed when, and duration of attendance. R. S. U. S., sec. 877; in *re Spencer*; MacArthur and M. Rep., 443.
 ‡ On Letters Rogatory from foreign courts witnesses may be compelled to appear. 1 Sup. R. S., p. 266; Feb. 27, 1877, 19 Stat., 240.
 § Subpoenas when to run to another district. R. S. U. S., sec. 876; in *re Spencer*, MacArthur and M. Rep.
 ¶ Poor defendants in criminal cases may procure witnesses. R. S. U. S., sec. 878; 1 Mackey Rep., 585, *Guiteau's Case*.
 † For amendment of first paragraph of this section see seventh section *post*. 20 Stat., 30.
 ‡ Parties and persons interested may testify as witnesses in the Court of Claims. June 16, 1890. 21 Stat., 284; 1 Sup. R. S., p. 563.

SEC. 6. Every person accused or convicted of obtaining by false pretenses any goods or chattels, money, bank-note, promissory note, or any other instrument in writing, for the payment or delivery of money or other valuable thing, or of keeping a faro-bank or gaming-table, or of violating the laws relating to dueling, shall be a competent witness against every other person offending in the same transaction, and may be compelled to appear and give evidence in the same manner as other persons; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

Testimony in certain criminal cases of accused or convicted persons.

Sec. 878, R. S. D. C.

SEC. 7. In all judicial proceedings in the District there shall be no exclusion of any witness on account of color.*

No exclusion on account of color.

Sec. 879, R. S. D. C.

SEC. 8. In the trial of all indictments, informations, complaints, and other proceedings against persons charged with the commission of crimes, offences, and misdemeanors, in the United States courts, Territorial courts, and courts-martial, and courts of inquiry, in any State or Territory, including the District of Columbia, the person so charged shall, at his own request but not otherwise, be a competent witness.

Defendants in criminal cases may be witnesses, etc.

R. S., secs. 858, 1342, 1624.

And his failure to make such request shall not create any presumption against him.

Mar. 16, 1878.

20 Stat., 30.

1 Sup. R. S., 312.

2 Sup. R. S., 155,

149 U. S. Rep., 61, *Wilson vs. U. S.*

SEC. 9. Witnesses are entitled to the same compensation as received for their attendance in the circuit courts of the District prior to July seventh, eighteen hundred and thirty-eight.†

Fees of witnesses.

Sec. 880, R. S. D. C.

7 July, 1838, ch. 192, sec. 3, v. 5, p. 307.

SEC. 10. The compensation to the witnesses * * summoned in any court of the United States, shall be as follows, to wit: To each witness, for each day he shall attend in court, one dollar and twenty-five cents; and for travelling, at the rate of five cents per mile, from their respective places of abode, to the place where the court is holden, and the like allowance for returning.

Witness fees and mileage.

Feb. 28, 1799.

1 Stat., 626,

sec. 6.

SEC. 11. * * * When a witness is subpoenaed in more than one cause between the same parties, at the same court, only one travel fee and one per diem compensation shall be allowed for attendance. Both shall be taxed in the case first disposed of, after which the per diem attendance fee alone shall be taxed in the other cases in the order in which they are disposed of. * * *

Double fees not allowed.

Sec. 848, R. S. U. S., in part.

SEC. 12. When a witness is detained in prison for want of security for his appearance, he shall be entitled, in addition to his subsistence, to a compensation of one dollar a day.

Fees of witnesses detained in prison.

[See §§ 879, 881, R. S. U. S.; § 401, R. S. D. C.]

Ibid.

SEC. 13. That where any person, witness against any person or persons accused of any crime or crimes within this *District* [province,] cannot find security for his appearance to testify as a witness against any person so arrested, accused or prosecuted as aforesaid, and for want of such surety shall be committed to prison, then and in such case the public shall be chargeable with and pay such fees, any law, usage or custom, to the contrary notwithstanding. [See §§ 879, 881, R. S., U. S.]

Witnesses in criminal cases may be imprisoned in default of security.

Md. act 1752, ch. 13, sec. 2.

1 Kilty, 301.

1 Dorsey, 97.

* Such persons entitled to equal rights and incur equal penalties under the law. Sec. 1977, R. S. U. S.
 † The same fees are allowed to witnesses before the coroner. See sec. 901, R. S. D. C.
 Fees of witnesses when paid by marshal, and otherwise. Secs. 855-857, R. S. U. S. See also secs. 844, 849, R. S. U. S.

Witnesses residing in District Columbia before committees of House allowed only \$2 per day.

SEC. 14. Witnesses residing in the District of Columbia and not in the service of the government of said District or of the United States, who shall be summoned to give testimony before any committee of the House of Representatives, shall not be allowed exceeding two dollars for each day's attendance before said committee.

[See § 848, R. S. U. S.]

May 1, 1876. 19 Stat., 41. 1 Sup. R. S., 206. 2 Sup. R. S., 100.

Witness fees not allowed to officers of U. S. courts.

SEC. 15. No officer of the United States courts, in any State or Territory, or in the District of Columbia, shall be entitled to witness fees for attending before any court or commissioner where he is officiating.

Sec. 849, R. S. U. S.

Depositions in District of Columbia in suits pending elsewhere.

SEC. 16. When a commission to take the testimony of any witness found within the District of Columbia, to be used in a suit depending in any State or Territorial or foreign court, is issued from such court, or a notice to the same effect is given according to its rules of practice, and such commission or notice is produced to a justice of the supreme court of said District, and due proof is made to him that the testimony of such witness is material to the party desiring the same, the said justice shall issue a summons to the witness, requiring him to appear before the commissioners named in the commission or notice, to testify in such suit, at a time and at a place within said District therein specified.

Sec. 871, R. S. U. S.
3 Mar., 1869, ch. 128, sec. 1.
15 Stat., 324.

Same subject; when no commission nor notice.

SEC. 17. When it satisfactorily appears by affidavit to any justice of the supreme court of the District of Columbia, or to any commissioner for taking depositions appointed by said court—

Sec. 872, R. S. U. S.
Ibid., sec. 2.

First. That any person within said District is a material witness for either party in a suit pending in any State or territorial or foreign court;

Second. That no commission nor notice to take the testimony of such witness has been issued or given; and

Third. That, according to the practice of the court in which the suit is pending, the deposition of a witness taken without the presence and consent of both parties will be received on the trial or hearing thereof, such officer shall issue his summons, requiring the witness to appear before him at a place within the District, at some reasonable time, to be stated therein, to testify in such suit.

Same subject; manner of taking and transmitting the deposition.

SEC. 18. Testimony obtained under the two preceding sections shall be taken down in writing by the officer before whom the witness appears, and shall be certified and transmitted by him to the court in which the suit is pending, in such manner as the practice of that court may require. If any person refuses or neglects to appear at the time and place mentioned in the summons, or, on his appearance, refuses to testify, he shall be liable to the same penalties as would be incurred for a like offense on the trial of a suit.

Sec. 873, R. S. U. S.
Ibid., sec. 3.

Depositions of foreign witnesses in civil suits, how obtained; effect of at hearing.

SEC. 19. It shall and may be lawful for the justices of the *Supreme Court of the District of Columbia* [the provincial court, or any county court,] upon application made to them in court by any party or parties in or to any action or civil suit depending, or that shall be depending before them, and upon satisfaction being given to such court, by affidavit or otherwise, that there are material and competent witnesses in such cause residing or living out of this *District* [province,] to direct the clerk of such court to issue a commission for taking the depositions or affidavits of such witnesses, and that such commission shall issue, and the commissioners shall be appointed and qualified, and such interrogatories be proposed or exhibited, and such commission be executed and returned, and the depositions or affidavits taken in pursuance thereof shall be published, in the same manner and

Md. act 1773, ch. 7, sec. 7.
1 Kilty, 402.
1 Dorsey, 126.

form as in the case of a commission issuing out of the court of chancery for the examination of witnesses residing and living out of this province, and the depositions or affidavits which shall be duly made and taken in virtue of any commission which shall issue in pursuance of this act, or copies thereof duly attested, shall be admitted in evidence at the trial of the cause.*

SEC. 20. Every witness appearing and testifying under the said provisions relating to the District of Columbia¹ shall be entitled to receive for each day's attendance, from the party at whose instance he is summoned, the fees now provided by law for each day he shall give attendance. †

SEC. 21. If any person or persons, upon whom any process out of any the courts of record shall be served, to testify or depose concerning any cause or matter depending in any of the same courts, relating to the premises, and having tendered unto him or them, such reasonable sums of money, for his or their costs and charges, as having regard to the distance of the place, in that behalf is necessary to be allowed, do not appear, according to the tenor of the said process, having not a lawful reasonable let or impediment to the contrary, that then the party or parties so making default, shall forfeit and lose, for every such offence, ten pounds sterling [\$26.66 $\frac{2}{3}$]; and to yield to the party grieved such further recompense as by the discretion of the judge of that court out of which the said process shall be awarded, according to the loss and hindrance that the party which procured the said process shall sustain by the reason of the non-appearance of the said witness or witnesses; the said several sums to be recovered by the party so grieved against the offender or offenders, by action of debt, bill, plaint or information, in any of the courts of record.

SEC. 22. That every person that shall be duly served with process to appear at court as a witness to testify in any matter or thing there depending, and shall not keep his day of appearance, but make default, shall be fined by the justices of the [provincial] court one thousand pounds of tobacco [\$16.66 $\frac{2}{3}$]; and every person that shall be duly served with process to appear in any of the county courts of this province as a witness to testify in any matter or thing there depending, and shall not keep his day of appearance, but shall make default, shall be fined by the justices of the county court where such default shall happen, the sum of 500 pounds of tobacco [\$8.33 $\frac{1}{3}$]; both which fines shall be to his majesty, his heirs and successors, for the support of the government of this province; and the persons that shall be summoned as evidences, and shall make default as aforesaid, shall [not only be liable to the fines aforesaid, but shall also] be liable to answer the party for whom he shall be summoned, in an action upon the case, for the damages sustained for want of his appearance to testify according to such summons, [and shall be held to special bail on such action,] and be liable to a conviction thereon for all damages that shall be sustained by such party for want of such evidence, and shall also be liable on such default, at the request of the party for whom such evidence shall have been summoned, to have his, her or their body or bodies attached by process out of the court to which they were summoned, which such court is hereby authorized and required to award accordingly, by virtue of which process

Same subject; witness fees.

Sec. 874, R. S. U. S.

Ibid., sec. 4.

¹ See secs. 17, 18.

Penalty on witnesses for not attending after fees tendered.

Md. act 1692, ch. 16, sec. 5.

¹ Dorsey, p. 3. Thomp. Dig., 452.

Re-enacted 1705 ch. 8.

¹ Kilty, 84. 5 Md. Rep., 387, State vs. Mace.

After process served, on default, liability of witnesses in civil suits to attachment; being present and refusing to testify may be committed, etc.

Md. act 1715, ch. 37, sec. 5.

¹ Dorsey, 20.

¹ Kilty, 123.

*For the continuances of causes after the issuing of such commissions, see Nov., 1787, ch. 9, and 1794, ch. 6.

¹ 1798, ch. 71, enacted into a permanent law.

See secs. Nos. 863, to 873, R. S. U. S. Ed. 1878, as to depositions *de bene esse*, under *dedimus potestatem* and in *perpetuam*.

† Witnesses testimony may be procured under foreign commission or letters rogatory. See sec. 875, R. S. U. S. Sup. R. S., 268, Feb. 27, 1877, 19 Stat., 240.

the sheriff [*marshal*] shall be obliged to have the body of such evidence at the court where such writ shall be returned to, and shall oblige their attendance at the same court; and in case any witness summoned or attached, who being present, shall refuse or delay to give his evidence, such witness shall be committed to jail, there to remain till he shall willingly do the same.*

Penalty on witness neglecting to attend.

SEC. 23. In all cases in which witnesses shall be summoned to appear at the general court, and shall, without sufficient excuse, neglect to appear, the general court may fine every such delinquent not exceeding thirty-five pounds current money [\$93.33].†

Md. act 1782, ch. 40, sec. 1. 1 Dorsey, 179. 1 Kilty, 621.

COMMISSIONS FOR TAKING TESTIMONY IN CRIMINAL CASES.

Commissions to take testimony in criminal cases.

SEC. 24. Any defendant in a criminal case, either after preliminary examination, indictment, or information, may examine witnesses on commission in the manner prescribed by the thirteen succeeding sections.

Sec. 881, R. S. D. C.

Mar. 3, 1865. 13Stat., 528, ch. 106.

Who may be commissioners.

SEC. 25. A defendant wishing to take the deposition of a witness residing more than one hundred miles from the city of Washington may select any of the following officers as a commissioner to take such deposition, either by the name of office of such officer, or by his individual name and official style:

Sec. 882, R. S. D. C. Ibid.

First. The clerk or judge of any court of record.

Second. Any notary public.

Third. Any consul of the United States.

What commission must state.

SEC. 26. The name of the court of which such constituted commissioner is clerk or judge and the name of the State and county, or if without the United States the name of the State and town, or city, in which such notary or consul resides must be stated in the notice and in the commission.

Sec. 883, R. S. D. C.

Notice to district attorney.

SEC. 27. Five days' notice must be given by a defendant, or his attorney, of the time when a commission will be sued out of the office of the clerk of the supreme court of the District for taking the deposition of a witness.

Sec. 884, R. S. D. C. Ibid., sec. 3.

Contents of notice

SEC. 28. The notice must give the name of the witness and be accompanied with a copy of the interrogatories to be asked such witness.

Sec. 885, R. S. D. C.

Service of notice and copy.

SEC. 29. The notice and copy of interrogatories may be served and returned in the same manner and by the same officers or persons as provided for the service and return of a summons or subpoena in civil actions within the District.

Sec. 886, R. S. D. C.

Cross-interrogatories.

SEC. 30. At or before the time fixed in the notice, the district attorney may file cross-interrogatories; but if he fail to so do, the clerk shall file the following:

Sec. 887, R. S. D. C.

Ibid., sec. 4, pp. 528, 529.

First. Are all your statements in the foregoing answers made from your personal knowledge; and if not, do your answers show what are made from your personal knowledge and what from information, and the source of that information? If not, now show what is from information, and give its source.

*The words in brackets repealed by Md. act 1782, ch. 40, sec. 1. See next section.

†For proceedings against witnesses failing to testify before either house of Congress, see sec. 104, 102, 103, R. S. U. S.

Second. State everything you know concerning this case favorable to either the Government or the defendant.

SEC. 31. The commission shall issue in the name of the supreme court, and under its seal, and must be signed by the clerk and need contain nothing but the authority conferred upon the commissioner and instructions to guide him, a statement of the cause in which the testimony is to be used, and a copy of all the interrogatories filed appended.

Commission.
Sec. 888, R. S.
D. C.

SEC. 32. The person before whom any of the depositions are taken must cause the interrogatories appended to the commission to be written out, and the answers thereto to be inserted immediately underneath the respective questions; the whole, when completed, being read over by or to the witness, must be by him subscribed and sworn to in the usual manner.

Duties of commissioner.
Sec. 889, R. S.
D. C.

SEC. 33. All exhibits produced before the person taking the deposition, or proved or referred to by any witness, or correct copies thereof, must be appended to the depositions, and returned with them, unless sufficient reasons be shown for not so doing.

Exhibits.
Sec. 890, R. S.
D. C.

SEC. 34. The person taking the deposition shall attach his certificate thereto, stating that it was subscribed and sworn to by the deponent at the time and place therein mentioned. The whole, including the commission and interrogatories, must then be sealed up and returned to the clerk of the supreme court of the District, by mail, unless the defendant and the district attorney agree upon some other mode; and, when received by the clerk, he shall open the package and place the deposition on file in his office.

Certificate and return.
Sec. 891, R. S.
D. C.

SEC. 35. Unimportant deviations from any of the directions contained in the preceding sections shall not cause the deposition to be excluded where no substantial prejudice could be wrought to the Government by such deviation.

Deviations.
Sec. 892, R. S.
D. C.

SEC. 36. The court may establish further rules for taking depositions and all other acts connected therewith, subject to the regulations contained in the thirteen preceding sections.*

Court may establish further rules.
Sec. 893, R. S.
D. C.

*For proof of wills by commissions, see "Wills," *ante*.
Witnesses before police and fire department trial boards; how procured; false swearing, how punished; 27 Stat. L., ch. 66, p. 23, May 11, 1892.

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APPENDIX
TO THE
COMPILED LAWS OF THE DISTRICT OF COLUMBIA.

CONSTITUTION OF THE UNITED STATES—1787.*

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

Chisholm *vs.* Georgia, 2 Dall. 419; McCulloch *vs.* State of Maryland *et al.*, 4 Wh., 316; Brown *et al. vs.* Maryland, 12 Wh., 419; Barron *vs.* The Mayor and City Council of Baltimore, 7 Pet., 243; Lane County *vs.* Oregon, 7 Wall., 71; Texas *vs.* White *et al.*, 7 Wall., 700.

ARTICLE I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Hayburn's case (notes), 2 Dall., 409.

SECTION 2. ¹The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

²No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

* In May, 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legislatures to proceed in the matter. In January, 1786, the Legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other States of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when ratified by them, will enable the United States in Congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other States were represented, viz, Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island, failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report (drawn by Mr. Hamilton, of New York), expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the States by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them, and afterwards confirmed by the Legislatures of every State, would effectually provide for the same. Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the Legislatures of those States which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven States having convened, George Washington, of Virginia, was unanimously elected President, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the Constitution as engrossed and agreed upon, was signed by all the members present, except Mr. Gerry, of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The president of the convention transmitted it to Congress, with a resolution

Veazie Bank vs. Fenno, 8 Wall., 533; *Scholey vs. Rew*, 23 Wall. 331.

³*[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] The actual Enumeration shall be made within three Years after the First Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

⁴When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

⁵The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. ¹The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

²Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

³No Person shall be a Senator who shall not have attained to the age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

⁴The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

⁵The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice-President, or when he shall exercise the Office of President of the United States.

⁶The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

stating how the proposed Federal Government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the Constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of Government under the new Constitution, it had been ratified by the conventions chosen in each State to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; and New York, July 26, 1788.

The President informed Congress, on the 24th of January, 1790, that North Carolina had ratified the Constitution November 21, 1789; and he informed Congress on the 1st of June, 1790, that Rhode Island had ratified the Constitution May 29, 1789. Vermont, in convention, ratified the Constitution January 10, 1791, and was, by an act of Congress approved February 18, 1791, "received and admitted into this Union as a new and entire member of the United States."

*The clause included in brackets is amended by the 14th amendment, 2d section, p. 594.

¹ Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. ¹ The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators. *Ex parte Siebold*, 100 U.S., 371; *Ex parte Yarborough*, 110 U.S., 651.

² The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. ¹ Each House shall be the Judge of the Elections, Returns and Qualifications of its own members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

² Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member. *Anderson vs. Dunn*, 6 Wh., 204; *Kilbourn vs. Thompson*, 103 U.S., 168.

³ Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

⁴ Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. ¹ The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place. *Coxe vs. McClenachan*, 3 Dall., 478.

² No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. ¹ All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

² Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of

the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

³Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Hylton vs. United States, 3 Dall., 171; **McCulloch vs. State of Maryland,** 4 Wh., 316; **Loughborough vs. Blake,** 5 Wh., 317; **Osborn vs. Bank of the United States,** 9 Wh., 738; **Weston et al. vs. City Council of Charleston,** 2 Pet., 449; **Dobbins vs. The Commissioners of Erie County,** 16 Pet., 435; **License Cases,** 5 How., 504; **Cooley vs. Board of Wardens of Port of Philadelphia et al.,** 12 How., 299; **McGuire vs. The Commonwealth,** 3 Wall., 387; **Van Allen vs. The Assessors,** 3 Wall., 573; **Bradley vs. The People,** 4 Wall., 459.

License Tax Cases, 5 Wall., 462; **Pervear vs. The Commonwealth,** 5 Wall., 475; **Woodruff vs. Parham,** 8 Wall., 123; **Hinson vs. Lott,** 8 Wall., 148; **Veazie Bank vs. Fenno,** 8 Wall., 533; **The Collector vs. Day,** 11 Wall., 113; **United States vs. Singer,** 15 Wall., 111; **State tax on foreign-held bonds,** 15 Wall., 300; **United States vs. Railroad Company,** 17 Wall., 322; **Railroad Company vs. Peniston,** 18 Wall., 5; **Scholey vs. Rew,** 23 Wall., 331; **Springer vs. United States,** 102 U. S., 586; **Legal Tender case,** 110 U. S., 421.

McCulloch vs. The State of Maryland, 4 Wh., 316; **Weston et al. vs. The City Council of Charleston,** 2 Pet., 449; **Bank of Commerce vs. New York City,** 2 Black., 620; **Bank Tax Cases,** 2 Wall., 200; **The Banks vs. The Mayor,** 7 Wall., 16; **Bank vs. Supervisors,** 7 Wall., 26; **Hepburn vs. Griswold,** 8 Wall., 603; **National Bank vs. Commonwealth,** 9 Wall., 353; **Parker vs. Davis,** 12 Wall., 457; **Legal Tender case,** 110 U. S., 421.

Gibbons vs. Ogden, 9 Wh., 1; **Brown et al. vs. eral States, and with the Indian Tribes ;**

State of Maryland, 12 Wh., 419; **Wilson et al. vs. Black Bird Creek Marsh Company,** 2 Pet., 245; **Worcester vs. The State of Georgia,** 6 Pet., 515; **City of New York vs. Miln,** 11 Pet., 102; **United States vs. Coombs,** 12 Pet., 72; **Holmes vs. Jennison et al.,** 14 Pet., 540; **License Cases,** 5 How., 504; **Passenger Cases,** 7 How., 283; **Nathan vs. Louisiana,** 8 How., 73; **Mager vs. Grima et al.,** 8 How., 490; **United States vs. Marigold,** 9 How., 560; **Cowley vs. Board of Wardens of Port of Philadelphia,** 12 How., 299; **The Propeller Genesee Chief et al. vs. Fitzhugh et al.,** 12 How., 443; **State of Pennsylvania vs. The Wheeling Bridge Company,** 13 How., 518; **Veazie et al. vs. Moor,** 14 How., 568; **Smith vs. State of Maryland,** 18 How., 71; **State of Pennsylvania vs. The Wheeling and Belmont Bridge Company et al.,** 18 How., 421; **Sinnitt vs. Davenport,** 22 How., 227; **Foster et al. vs. Davenport et al.,** 22 How., 244; **Conway et al. vs. Taylor's ex.,** 1 Black., 603; **United States vs. Holliday,** 3 Wall., 407; **Gilman vs. Philadelphia,** 3 Wall., 713; **The Passaic Bridges,** 3 Wall., 782; **Steamship Company vs. Port Wardens,** 6 Wall., 31; **Crandall vs. State of Nevada,** 6 Wall., 35; **White's Bank vs. Smith,** 7 Wall., 646; **Waring vs. The Mayor,** 8 Wall., 110; **Paul vs. Virginia,** 8 Wall., 168; **Thomson vs. Pacific Railroad,** 9 Wall., 579; **Downham et al. vs. Alexandria Council,** 10 Wall., 173; **The Clinton Bridge,** 10 Wall., 454; **The Daniel Ball,** 10 Wall., 557; **Liverpool Insurance Company vs. Massachusetts,** 10 Wall., 566; **The Montello,** 11 Wall., 411; **Ex parte McNeil,** 13 Wall., 236; **State freight-tax,** 15 Wall., 232; **State tax on railway gross receipts,** 11 Wall., 284; **Osborn vs. Mobile,** 16 Wall., 479; **Railroad Company vs. Fuller,** 17 Wall., 560; **Bartemeyer vs. Iowa,** 18 Wall., 129; **The Delaware railroad tax,** 18 Wall., 206; **Peete vs. Morgan,** 19 Wall., 581; **Railroad Company vs. Richmond,** 19 Wall., 584; **Railroad Company vs. Maryland,** 21 Wall., 456; **The Lottawanna,** 21 Wall., 558; **Henderson et al. vs. The Mayor of the City of New York,** 92 U. S., 259; **Chy Lung vs. Freeman et al.,** 92 U. S., 275; **South Carolina vs. Georgia et al.,** 93 U. S., 4; **Sherlock et al. vs. Alling, adm.,** 93 U. S., 99; **United States vs. Forty-three Gallons of Whisky, etc.,** 93 U. S., 188; **Foster vs. Master and Wardens of the Port of New Orleans,** 94 U. S., 246; **Railroad Co. vs. Husen,** 95 U. S., 465; **Pensacola Tel. Co. vs. W. U. Tel. Co.,** 96 U. S., 1; **Beer Co. vs.**

Massachusetts, 97 U. S., 25; *Cook vs. Pennsylvania*, 97 U. S., 566; *Packet Co. vs. St. Louis*, 100 U. S., 423; *Wilson vs. McNamee*, 102 U. S., 572; *Moran vs. New Orleans*, 112 U. S., 69; *Head Money Cases*, 112 U. S., 580; *Cooper Mfg. Co. vs. Ferguson*, 118 U. S., 727; *Gloucester Ferry Co. vs. Pennsylvania*, 114 U. S., 196; *Brown vs. Houston*, 114 U. S., 622; *Walling vs. Michigan*, 116 U. S., 446; *Pickard vs. Pullman Southern Car Co.*, 117 U. S., 31; *Tennessee vs. Pullman Southern Car Co.*, 117 U. S., 51; *Sprague vs. Thompson*, 118 U. S., 90; *Morgan vs. Louisiana*, 118 U. S., 455; *Wabash, St. Louis and Pacific Ry. vs. Illinois*, 118 U. S., 557; *Huse vs. Glover*, 119 U. S., 543; *Robbins vs. Shelby Co. Taxing Dist.*, 120 U. S., 489; *Corson vs. Maryland*, 120 U. S., 502; *Barron vs. Burnside*, 121 U. S., 186; *Fargo vs. Michigan*, 121 U. S., 230; *Ouachita Packet Co. vs. Aiken*, 121 U. S., 444; *Phila. and Southern S. S. Co. vs. Penna.*, 122 U. S., 326; *W. U. Tel. Co. vs. Pendleton*, 122 U. S., 347.

⁴To establish an uniform Rule of Naturalization,¹ and uniform ²*Sturges vs. Laws* on the subject of Bankruptcies throughout the United States; ² *Crowningshield*, 4 Wh., 122; ² *McMillan vs. McNeil*, 4 Wh., 209; ² *Farmers' and Mechanics' Bank, Pennsylvania vs. Smith*, 6 Wh., 131; ² *Ogden vs. Saunders*, 12 Wh., 213; ² *Hoole vs. Zacharie and Turner*, 6 Pet., 348; ¹ *Gassies vs. Ballou*, 6 Pet., 761; ² *Beers et al. vs. Haughton*, 9 Pet., 329; ² *Suydam et al. vs. Broadnax*, 14 Pet., 67; ² *Cook vs. Moffat et al.*, 5 How., 295; *Dred Scott vs. Sanford*, 19 How., 393.

⁵To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; *Briscoe vs. The Bank of the Commonwealth of Kentucky*, 11 Pet., 257; *Fox vs. The State of Ohio*, 5 How., 410; *United States vs. Marigold*, 9 How., 560.

⁶To provide for the Punishment of counterfeiting the Securities and current Coin of the United States; *Fox vs. The State of Ohio*, 5 How., 410; *United States vs. Marigold*, 9 How., 560.

⁷To establish Post Offices and Post Roads; *State of Pennsylvania vs. The Wheeling and Belmont Bridge Company*, 18 How., 421.

⁸To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; *Grant et al. vs. Raymond*, 6 Pet., 218; *Wheaton et al. vs. Peters et al.*, 8 Pet., 591; *Trade-mark cases*, 100 U. S., 82.

⁹To constitute Tribunals inferior to the supreme Court;

¹⁰To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations; *United States vs. Palmer*, 3 Wh., 610; *United States vs. Wiltberger*, 5 Wh., 76; *United States vs. Smith*, 5 Wh., 153; *United States vs. Pirates*, 5 Wh., 184; *United States vs. Arizona*, 120 U. S., 479.

¹¹To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; *Brown vs. United States*, 8 Cr., 110; *American Insurance Company et al. vs. Canter* (356 bales cotton), 1 Pet., 511; *Mrs. Alexander's cotton*, 2 Wall., 404; *Miller vs. United States*, 11 Wall., 268; *Tyler vs. Defrees*, 11 Wall., 331; *Stewart vs. Kahn*, 11 Wall., 493; *Hamilton vs. Dilin*, 21 Wall., 73; *Lamar, ex. vs. Browne et al.*, 92 U. S., 187.

¹²To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than Two Years; *Crandall vs. State of Nevada*, 6 Wall., 35.

¹³To provide and maintain a Navy; *United States vs. Bevans*, 3 Wh., 336; *Dynes vs. Hoover*, 20 How., 68.

¹⁴To make Rules for the Government and Regulation of the land and naval Forces;

¹⁵To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; *Houston vs. Moore*, 5 Wh., 1; *Martin vs. Mott*, 12 Wh., 19; *Luther vs. Borden*, 7 How., 1; *Crandall vs. State of Nevada*, 6 Wall., 35; *Texas vs. White*, 7 Wall., 700.

¹⁶To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress; *Houston vs. Moore*, 5 Wh., 1; *Martin vs. Mott*, 12 Wh., 19; *Luther vs. Borden*, 7 How., 1.

¹ Mackey Rep., 528, United States vs. Gaitreau; MacArthur and Mackey's Rep., 171. Roach vs. Van Riwick: 97 U. S. Rep., 542, Welsh vs. Cook; 6 Mackey Rep., 327, United States vs.

¹⁷ To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

Crawford; 1 Dorsey's laws of Md., p. 269.

Hepburn *et al.* vs. Ellzey, 2 Cr., 444; Loughborough vs. Blake, 5 Wh., 317; Cohens vs. Virginia, 6 Wh., 264; American Insurance Company vs. Canter (356 bales cotton), 1 Pet., 511; Kendall, Postmaster-General vs. The United States, 12 Pet., 524; United States vs. Dewitt, 9 Wall., 41; Dunphy vs. Kleinsmith *et al.*, 11 Wall., 610; Willard vs. Presbury, 14 Wall., 676; Phillips vs. Payne, 92 U. S., 130; United States vs. Fox, 94 U. S., 315; National Bank vs. Yankton County, 101 U. S., 129; Ft. Leavenworth R. Rd. Co. vs. Howe, 114 U. S., 525.

McCulloch vs. The State of Maryland, 4 Wh., 316; Wayman vs. Southard, 10 Wh., 1; Bank of United

¹⁸ To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

States vs. Halstead, 10 Wh., 51; Hepburn vs. Griswold, 8 Wall., 603; National Bank vs. Commonwealth, 9 Wall., 353; Thomson vs. Pacific Railroad, 9 Wall., 579; Parker vs. Davis, 12 Wall., 457; Railroad Company vs. Johnson, 15 Wall., 195; Railroad Company vs. Peniston, 18 Wall., 5; Legal Tender Case, 110 U. S., 421.

Dred Scott vs. Sanford, 19 How., 393.

SECTION. 9. ¹ The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

United States vs. Hamilton, 3 Dall., 17; Hepburn *et al.* vs. Ellzey, 2

² The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Cr., 445; *Ex parte* Bollman and Swartwout, 4 Cr., 75; *Ex parte* Kearney, 7 Wh., 38; *Ex parte* Tobias Watkins, 3 Pet., 192; *Ex parte* Milburn, 9 Pet., 704; Holmes vs. Jennison *et al.*, 14 Pet., 540; *Ex parte* Dorr, 3 How., 103; Luther vs. Borden, 7 How., 1; Ableman vs. Booth and United States vs. Booth, 21 How., 506; *Ex parte* Vallandigham, 1 Wall., 243; *Ex parte* Mulligan, 4 Wall., 2; *Ex parte* McCardle, 7 Wall., 506; *Ex parte* Yerger, 8 Wall., 85; Tarble's Case, 13 Wall., 397; *Ex parte* Lange, 18 Wall., 164; *Ex parte* Parks, 93 U. S., 18; *Ex parte* Karstendick, 93 U. S., 396; *Ex parte* Virginia, 100 U. S., 339.

Fletcher vs. Peck, 6 Cr., 87; Ogden

³ No Bill of Attainder or ex post facto Law shall be passed.

vs. Saunders, 12 Wh., 213; Watson *et al.* vs. Mercer, 8 Pet., 88; Carpenter *et al.* vs. Commonwealth of Pennsylvania, 17 How., 456; Locke vs. New Orleans, 4 Wall., 172; Cummings vs. The State of Missouri, 4 Wall., 277; *Ex parte* Garland, 4 Wall., 333; Drehman vs. Stifle, 8 Wall., 595; Klinger vs. State of Missouri, 13 Wall., 257; Pierce vs. Carskadon, 16 Wall., 234.

License Tax Cases, 5 Wall., 462; Springer vs. United States, 102 U. S., 586.

⁴ No Capitation, or other direct, tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

Cooley vs. Board of Wardens of Port of Philadelphia, 12 How., 299; Page vs. Burgess, collector, 92 U. S., 372; Turpin vs. Burgess, 117 U. S., 504.

⁵ No Tax or Duty shall be laid on Articles exported from any State.

Cooley vs. Board of Wardens of Port of Philadelphia *et al.*, 12 How., 299; State of Pennsylvania vs. Wheeling and Belmont Bridge Company *et al.*, 18 How., 421; Munn vs. Illinois, 94 U. S., 113; Packet Co. vs. St. Louis, 100 U. S., 413; Packet Co. vs. Catlettsburg, 105 U. S., 559; Morgan S. S. Co. vs. La. Board of Health, 118 U. S., 455.

⁶ No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

¹ No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

² No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. ¹ No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money, emit Bills of Credit; ² make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, ³ or Law impairing the Obligation of Contracts, ³ or grant any Title of Nobility.

³Calder and wife vs. Bull and wife, 2 Dall., 386; ³Fletcher vs. Peck, 6 Cr., 87; ³State of New Jersey vs. Wilson, 7 Cr., 164; ³Sturgis vs. Crowning-shield, 4 Wh., 122; ³McMillan vs. McNeil, 4 Wh., 209; ³Dartmouth College vs. Woodward, 4 Wh., 518; ³Owings vs. Speed, 5 Wh., 420; ³Farmers and Mechanics' Bank vs. Smith, 6 Wh., 131; ³Green et al. vs. Biddle, 8 Wh., 1; ³Ogden vs. Saunders, 12 Wh., 213; ³Mason vs. Haile, 12 Wh., 370; ³Satterlee vs. Matthewson, 2 Pet., 380; ³Hart vs. Lamphire, 3 Pet., 280; ¹Craig et al. vs. State of Missouri, 4 Pet., 410; ³Providence Bank vs. Billings and Pitman, 4 Pet., 514; ¹Byrne vs. State of Missouri, 8 Pet., 40; ³Watson vs. Mercer, 8 Pet., 88; ³Mumma vs. Potomac Company, 8 Pet., 281; ³Beers vs. Haughton, 9 Pet., 329; ¹Briscoe et al. vs. The Bank of the Commonwealth of Kentucky, 11 Pet., 257; ³The Proprietors of Charles River Bridge vs. The Proprietors of Warren Bridge, 11 Pet., 420; ³Armstrong vs. The Treasurer of Athens Company, 16 Pet., 281; ³Bronson vs. Kinzie et al., 1 How., 311; ³McCracken vs. Hayward, 2 How., 608; ³Gordon vs. Appeal Tax Court, 3 How., 133; ³State of Maryland vs. Baltimore and Ohio R. R. Co., 3 How., 534; ³Neil, Moore & Co. vs. State of Ohio, 3 How., 720; ³Cook vs. Moffatt, 5 How., 295; ³Planters' Bank vs. Sharp et al., 6 How., 301; ³West River Bridge Company vs. Dix et al., 6 How., 507; ³Crawford et al. vs. Branch Bank of Mobile, 7 How., 279; ³Woodruff vs. Trapnall, 10 How., 190; ³Paup et al. vs. Drew, 10 How., 218; ³Baltimore and Susquehanna R. R. Co. vs. Nesbitt et al., 10 How., 395; ³Butler et al. vs. Pennsylvania, 10 How., 402; ³Darrington et al. vs. The Bank of Alabama, 13 How., 12; ³Richmond, etc., R. R. Co. vs. The Louise R. R. Co., 13 How., 71; ³Trustees for Vincennes University vs. State of Indiana, 14 How., 268; ³Curran vs. State of Arkansas et al., 15 How., 304; ³State Bank of Ohio vs. Knoop, 16 How., 369; ³Carpenter et al. vs. Commonwealth of Pennsylvania, 17 How., 456; ³Dodge vs. Woolsey, 18 How., 331; ³Beers vs. State of Arkansas, 20 How., 527; ³Aspinwall et al. vs. Commissioners of County of Daviess, 22 How., 364; ³Rector of Christ Church, Philadelphia, vs. County of Philadelphia, 24 How., 300; ³Howard vs. Bugbee, 24 How., 461; ³Jefferson Branch Bank vs. Skelley, 1 Black, 436; ³Franklin Branch Bank vs. State of Ohio, 1 Black, 474; ³Trustees of the Wabash and Erie Canal Company vs. Beers, 2 Black, 448; ³Gilman vs. City of Sheboygan, 2 Black, 510; ³Bridge Proprietors vs. Hoboken Company, 1 Wall., 116; ³Hawthorne vs. Calef, 2 Wall., 10; ³The Binghamton Bridge, 3 Wall., 51; ³The Turnpike Company vs. The State, 3 Wall., 210; ³Locke vs. City of New Orleans, 4 Wall., 172; ³Railroad Company vs. Rock, 4 Wall., 177; ³Cummings vs. State of Missouri, 4 Wall., 277; ²Ex parte Garland, 4 Wall., 333; ³Von Hoffman vs. City of Quincy, 4 Wall., 535; ³Mulligan vs. Corbin, 7 Wall., 487; ³Furman vs. Nichol, 8 Wall., 44; ³Home of the Friendless vs. Rouse, 8 Wall., 430; ³The Washington University vs. Rouse, 8 Wall., 439; ³Butz vs. City of Muscatine, 8 Wall., 575; ³Drehman vs. Stifle, 8 Wall., 595; ³Hepburn vs. Griswold, 8 Wall., 603; ³Gut vs. The State, 9 Wall., 35; ³Railroad Company vs. McClure, 10 Wall., 511; ³Parker vs. Davis, 12 Wall., 457; ³Curtis vs. Whiting, 13 Wall., 68; ³Pennsylvania College Cases, 13 Wall., 190; ³Wilmington R. R. vs. Reid, sheriff, 13 Wall., 264; ³Salt Company vs. East Saginaw, 13 Wall., 373; ³White vs. Hart, 13 Wall., 646; ³Osborn vs. Nicholson et al., 13 Wall., 654; ³Railroad Company vs. Johnson, 15 Wall., 195; ³Case of the State Tax on foreign-held bonds, 15 Wall., 300; ³Tomlinson vs. Jessup, 15 Wall., 454; ³Tomlinson vs. Branch, 15 Wall., 460; ³Miller vs. The State, 15 Wall., 478; ³Holyoke Company vs. Lyman, 15 Wall., 500; ³Gunn vs. Barry, 15 Wall., 610; ³Humphrey vs. Pegues, 16 Wall., 244; ³Walker vs. Whitehead, 16 Wall., 314; ³Sohn vs. Waterson, 17 Wall., 596; ³Barings vs. Dabney, 19 Wall., 1; ³Head vs. The University, 19 Wall., 526; ³Pacific R. R. Co. vs. Maguire, 20 Wall., 36; ³Garrison vs. The City of New York, 21 Wall., 196; ³Ochiltree vs. The Railroad Company, 21 Wall., 249; ³Wilmington, etc., Railroad vs. King, ex., 91 U. S., 3; ³County of Moultrie vs. Rockingham Ten-Cent Savings Bank, 92 U. S., 631; ³Home Insurance Company vs. City Council of Augusta, 93 U. S., 116; ³West Wisconsin R. R. Co. vs. Supervisors, 93 U. S., 595; ³Murray vs. Charleston, 96 U. S., 432; ³Edwards vs. Kearzey, 96 U. S., 595; ³Keith vs. Clark, 97 U. S., 454; ³Railroad Co. vs. Georgia, 98 U. S., 359; ³Railroad Co. vs. Tennessee, 101 U. S., 337; ³Wright vs. Nagle, 101 U. S., 791; ³Stone vs. Mississippi, 101 U. S., 814;

Railroad Co. *vs.* Alabama, 101 U. S., 832; Louisiana *vs.* New Orleans, 101 U. S., 203; Hall *vs.* Wisconsin, 103 U. S., 5; Pennymann's Case, 103 U. S., 714; Guaranty Co. *vs.* Board of Liquidation, 105 U. S., 622; Greenwood *vs.* Freight Co., 105 U. S., 13; Kring *vs.* Missouri, 107 U. S., 221; Louisiana *vs.* New Orleans, 109 U. S., 285; Gillfillan *vs.* Union Canal Co., 109 U. S., 401; Nelson *vs.* St. Martin's Parish, 111 U. S., 716; Virginia Coupon Cases, 114 U. S., 270; Amy *vs.* Shelby Co., 114 U. S., 387; Effinger *vs.* Kenney, 115 U. S., 566; N. Orleans Gas Co. *vs.* La. Light Co., 115 U. S., 650; N. Orleans Water Works *vs.* Rivers, 115 U. S., 674; Louisville Gas Co. *vs.* Citizens' Gas Co., 115 U. S., 683; Fisk *vs.* Jefferson Police Jury, 116 U. S., 131; Stone *vs.* Farmers' Loan and Trust Co., 116 U. S., 307; Stone *vs.* Ill. Central R. R. Co., 116 U. S., 347; Royall *vs.* Virginia, 116 U. S., 572; St. Tammany Water Works *vs.* N. Orleans Water Works, 120 U. S., 64; Church *vs.* Kelsey, 121 U. S., 282; Lehigh Water Co. *vs.* Easton, 121 U. S., 388; Seibert *vs.* Lewis, 122 U. S., 284.

McCulloch *vs.* State of Maryland, 4 Wh., 316; Gibbons *vs.* Ogden, 9 Wh., 1; Brown *vs.* The State of Maryland, 12 Wh., 419; Mager *vs.* Grima *et al.*, 8 How., 490;

² No State shall, without the Consent of the Congress, lay any imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

Cooley *vs.* Board of Wardens of Port of Philadelphia *et al.*, 12 How., 299; Almy *vs.* State of California, 24 How., 169; License Tax Cases, 5 Wall., 462; Crandall *vs.* State of Nevada, 6 Wall., 35; Waring *vs.* The Mayor, 8 Wall., 110; Woodruff *vs.* Perham, 8 Wall., 123; Hinson *vs.* Lott, 8 Wall., 148; State Tonnage Tax Cases, 12 Wall., 204; State tax on railway gross receipts, 15 Wall., 284; Inman Steamship Company *vs.* Tinker, 94 U. S., 238; Cook *vs.* Pennsylvania, 97 U. S., 566; Packet Co. *vs.* Keokuk, 95 U. S., 80; People *vs.* Compagnie Général Transatlantique, 107 U. S., 59; Brown *vs.* Houston, 114 U. S., 622.

Green *vs.* Biddle, 8 Wh., 1; Poole *et al.* *vs.* The Lessee of Fleeger *et al.*, 11 Pet., 185;

³ No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Cooley *vs.* Board of Wardens of Port of Philadelphia *et al.*, 12 How., 299; Peete *vs.* Morgan, 19 Wall., 581; Cannon *vs.* New Orleans, 20 Wall., 577; Inman Steamship Company *vs.* Tinker, 94 U. S., 138; Packet Co. *vs.* St. Louis, 100 U. S., 423; Packet Co. *vs.* Keokuk, 95 U. S., 80; Vicksburg *vs.* Tobin, 100 U. S., 430; Packet Co. *vs.* Catlettsburg, 105 U. S., 559; Morgan Steamship Company *vs.* Louisiana Board of Health, 118 U. S., 455; Ouachita Packet Co. *vs.* Aiken, 121 U. S., 444; Huse *vs.* Glover, 119 U. S., 543.

ARTICLE II.

SECTION 1. ¹The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Chisholm, *ex. vs.* Georgia, 2 Dall, 419; Leitensdorfer *et al. vs.* Webb, 20 How., 176; *Ex parte* Siebold, 100 U. S., 271.

² Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[“ The electors shall meet in their respective States, and vote by ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for Each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately

chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.”]

This clause has been superseded by the twelfth amendment, p. 593.

³The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

English *vs.* The Trustees of the Sailors' Snug Harbor, 3 Pet., 99.

⁴No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

⁵In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

⁶The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

⁷Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

SECTION 2. ¹The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

United States *vs.* Wilson, 7 Pet., 150; *Ex Parte* William Wells, 18 How. 307; *Ex parte* Garland, 4 Wall. 383; *Armstrong's Foundry*, 6 Wall., 766; *The Grape Shot*, 9

Wall., 129; *United States vs. Padelford*, 9 Wall., 542; *United States vs. Klein*, 13 Wall., 128; *Armstrong vs. The United States*, 13 Wall., 152; *Pargoud vs. The United States*, 13 Wall., 156; *Hamilton vs. Dillin*, 21 Wall., 73; *Mechanics and Traders' Bank vs. Union Bank*, 22 Wall., 276; *Lamar ex. vs. Browne et al.*, 92 U. S., 187; *Wallach et al. vs. Van Riswick*, 92 U. S., 202.

²He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but

Ware vs. Hylton et al., 3 Dall., 199; *Marbury vs. Madison*, 1 Cr., 137; *United States vs. Kirkpatrick*, 9 Wh., 720; *American Insurance Company vs. Can-*

ter (356 bales cotton), 1 Pet., 511; Officers, as they think proper, in the President alone, in the Courts Foster and Elam of Law, or in the Heads of Departments. *vs. Neilson*, 2 Pet., 253; *Cherokee Nation vs. State of Georgia*, 5 Pet., 1; *Patterson vs. Gwinn et al.*, 5 Pet., 233; *Worcester vs. State of Georgia*, 6 Pet., 515; *City of New Orleans vs. De Armas et al.*, 9 Pet., 224; *Holden vs. Joy*, 17 Wall., 211.

The United States ³ The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of the next Session. *vs. Kirkpatrick et al.*, 9 Wh., 720.

Marbury vs. Madison, 1 Cr., 137; *Kendall, Postmaster-General, vs. the United States*, 12 Pet., 524; *Luther vs. Borden*, 7 How., 1; *The State of Mississippi vs. Johnson, President*, 4 Wall., 475; *Stewart vs. Kahn*, 11 Wall., 493.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient: he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III.

Chisholm, ex. vs. Georgia, 2 Dall., 419; *Stuart vs. Laird*, 1 Cr., 299; *United States vs. Peters*, 5 Cr., 115; *Cohens vs. Virginia*, 6 r., 264; *Martin vs. Hunter's Lessee*, 1 Wh., 304; *Osborn vs. United States Bank*, 9 Wh., 738; *Benner et al. vs. Porter*, 9 How., 235; *The United States vs. Ritchie*, 17 How., 525; *Murray's Lessee et al. vs. Hoboken Land and Improvement Company*, 18 How., 272; *Ex parte Vallandigham*, 1 Wall., 243; *Ames vs. Kansas*, 111 U. S., 449.

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Hayburn's case (note), 2 Dall., 410; *Chisholm, ex. vs. Georgia*, 2 Dall., 419; *Glass et al. vs. Sloop Betsy*, 3 Dall., 6; *United States vs. La Vengeance*, 3 Dall., 297; *Hollingsworth et al. vs. Virginia*, 3 Dall., 378; *Mossmann, ex. vs. Higginson*, 4 Dall., 12; *Marbury vs. Madison*, 1 Cr., 137; *Hepburn et al. vs. Ellezley*, 2 Cr., 444; *United States vs. Moore*, 3 Cr., 159; *Strawbridge et al. vs. Curtiss et al.*, 3 Cr., 267; *Ex parte Bollman and Swartwout*, 4 Cr., 75; *Rose vs. Himely*, 4 Cr., 241; *Chappelaine et al. vs. Dechenaux*, 4 Cr., 305; *Hope Insurance Company vs. Boardman et al.*, 5 Cr., 57; *Bank of United States vs. Devaux et al.*, 5 Cr., 61; *Hodgson et al. vs. Bowerbank et al.*, 5 Cr., 303; *Owings vs. Norwood's Lessee*, 5 Cr., 344; *Durousseau vs. The United States*, 6 Cr., 307; *United States vs. Hudson and Goodwin*, 7 Cr., 32; *Martin vs. Hunter*, 1 Wh., 304; *Colson et al. vs. Lewis*, 2 Wh., 377; *United States vs. Bevans*, 3 Wh., 336; *Cohens vs. Virginia*, 6 Wh., 264; *Ex parte Kearney*, 7 Wh., 38; *Matthews vs. Zane*, 7 Wh., 164; *Osborn vs. United States Bank*, 9 Wh., 738; *United States vs. Ortega*, 11 Wh., 467; *American Insurance Company vs. Canter* (356 bales of cotton), 1 Pet., 511; *Jackson vs. Twentyman*, 2 Pet., 136;

SECTION 2. ¹The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Cherokee Nation vs. State of Georgia, 5 Pet., 1; State of New Jersey vs. State of New York, 5 Pet., 283; Davis vs. Packard *et al.*, 6 Pet., 41; United States vs. Arredondo *et al.*, 6 Pet., 691; Davis vs. Packard *et al.*, 7 Pet., 276; Breedlove *et al. vs. Nickolet et al.*, 7 Pet., 413; Brown vs. Keene, 8 Pet., 112; Davis vs. Packard *et al.*, 8 Pet., 312; City of New Orleans vs. De Armas *et al.*, 9 Pet., 224; The State of Rhode Island vs. The Commonwealth of Massachusetts, 12 Pet., 657; The Bank of Augusta vs. Earle, 13 Pet., 519; The Commercial and Railroad Bank of Vicksburg vs. Slocomb *et al.*, 14 Pet., 60; Suydam *et al. vs. Broadnax*, 14 Pet., 67; Prigg vs. The Commonwealth of Pennsylvania, 16 Pet., 539; Louisville, Cincinnati and Charleston Railway Company vs. Letson, 2 How., 497; Cary *et als. vs. Curtis*, 3 How., 236; Warring vs. Clark, 5 How., 451; Luther vs. Borden, 7 How., 1; Sheldon *et al. vs. Sill*, 8 How., 441; The Propeller Genessee Chief vs. Fitzhugh *et al.*, 12 How., 443; Fretz *et al. vs. Ball et al.*, 12 How., 466; Neves *et al. vs. Scott et al.*, 13 How., 268; State of Pennsylvania vs. The Wheeling, etc., Bridge Company *et al.*, 13 How., 518; Marshall vs. The Baltimore and Ohio R. R. Co., 16 How., 314; The United States vs. Guthrie, 17 How., 284; Smith vs. State of Maryland, 18 How., 71; Jones, *et al. vs. League*, 18 How., 76; Murray's Lessee *et al. vs. Hoboken Land and Improvement Company*, 18 How., 272; Hyde *et al. vs. Stone*, 20 How., 170; Irvine vs. Marshall *et al.*, 20 How., 558; Fenn vs. Holmes, 21 How., 481; Moorewood *et al. vs. Erequist*, 23 How., 491; Commonwealth of Kentucky vs. Dennison, governor, 24 How., 66; Ohio and Mississippi Railroad Company vs. Wheeler, 1 Black, 286; The Steamer Saint Lawrence, 1 Black, 522; The Propeller Commerce, 1 Black, 574; *Ex parte* Vallandigham, 1 Wall., 243; *Ex parte* Milligan, 4 Wall., 1; The Moses Taylor, 4 Wall., 411; State of Mississippi vs. Johnson, President, 4 Wall., 475; The Hine vs. Trevor, 4 Wall., 555; City of Philadelphia vs. The Collector, 5 Wall, 720; State of Georgia vs. Stanton, 6 Wall, 50; Payne vs. Hook, 7 Wall., 425; The Alicia, 7 Wall., 571; *Ex parte* Yerger, 8 Wall., 85; Insurance Company vs. Dunham, 11 Wall., 1; Virginia vs. West Virginia, 11 Wall., 39; Coal Company vs. Blatchford, 11 Wall., 172; Railway Company vs. Whitton's adm., 13 Wall., 270; Tarble's Case, 13 Wall., 397; Blyew *et al. vs. The United States*, 13 Wall., 581; Davis vs. Gray, 16 Wall., 203; Case of the Sewing Machine Companies, 18 Wall., 353; Insurance Company vs. Morse, 20 Wall., 445; Vannevar vs. Bryant, 21 Wall., 41; The Lottawanna, 21 Wall., 558; Gaines vs. Fuentes *et al.*, 92 U. S., 10; Miller vs. Dows, 94 U. S., 444; Doyle vs. Continental Insurance Company, 94 U. S., 535; Tennessee vs. Davis, 100 U. S., 257; Baldwin vs. Franks, 120 U. S., 678; Barron vs. Burnside, 121 U. S., 186; Saint Louis, Iron Mountain and Southern Railway vs. Vickers, 122 U. S., 360.

² In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Chisholm, ex.,
vs. Georgia, 2
Dall., 419; Wis-
cart *et al. vs.*
Dauchy, 3 Dall.,
321; Marbury vs.
Madison, 1 Cr.,
137; Duroseau

et al. vs. United States, 6 Cr., 307; Martin vs. Hunter's Lessee, 1 Wh., 304; Cohens vs. Virginia, 6 Wh., 234; *Ex parte* Kearney, 7 Wh., 38; Wayman vs. Southard, 10 Wh., 1; Bank of the United States vs. Halstead, 10 Wh., 51; United States vs. Ortega, 11 Wh. 467; The Cherokee Nation vs. The State of Georgia, 5 Pet., 1; *Ex parte* Crane *et als.*, 5 Pet., 189; The State of New Jersey vs. The State of New York, 5 Pet., 283; *Ex parte* Sibbald vs. United States, 12 Pet., 428; The State of Rhode Island vs. The State of Massachusetts, 12 Pet., 657; State of Pennsylvania vs. The Wheeling, etc., Bridge Company, 13 How., 518; *in re* Kaine, 14 How., 103; Ableman vs. Booth and United States vs. Booth, 21 How., 506; Freeborn vs. Smith, 2 Wall., 160; *Ex parte* McCardle, 6 Wall., 318; *Ex parte* McCardle, 7 Wall., 506; *Ex parte* Yerger, 8 Wall., 85; The Lucy, 8 Wall., 307; The Justices vs. Murray, 9 Wall., 274; Pennsylvania vs. Quicksilver Company, 10 Wall., 553; Murdock vs. City of Memphis, 20 Wall., 590; Börs vs. Preston, 111 U. S. 252; Ames vs. Kansas, 111 U. S., 449.

³ The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Ex parte Milli-
gan, 4 Wall., 2.

SECTION 3. ¹ Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

United States
vs. The Insur-
gents, 2 Dall., 335;
United States vs.
Mitchell, 2 Dall.,
348; *Ex parte*

Bollman and Swartout, 4 Cr., 75; United States vs. Aaron Burr, 4 Cr., 469.

Bigelow vs. Forrest, 9 Wall., 339; *Day vs. Micou*, 18 Wall., 156; *Ex parte Lange*, 18 Wall., 163; *Wallach et al. vs. Van Riswick*, 92 U. S., 202.

²The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE IV.

Mills vs. Dur-yea, 7 Cr., 481; *Hampton vs. McConnel*, 3 Wh., 234; *Mayhew vs. Thatcher*, 6 Wh., 129; *Darby's Lessee vs. Mayer*, 10 Wh., 465; *The United States vs. Amedy*, 11 Wh., 392; *Caldwell et al. vs. Carrington's heirs*, 9 Pet., 86; *M'Elmoyle vs. Cohen*, 13 Pet., 312; *The Bank of Augusta vs. Earle*, 13 Pet., 519; *Bank of the State of Alabama vs. Dalton*, 9 How., 522; *D'Arcy vs. Ketchum*, 11 How., 165; *Christmas vs. Russell*, 5 Wall., 290; *Green vs. Van Buskirk*, 7 Wall., 139; *Paul vs. Virginia*, 8 Wall., 168; *Board of Public Works vs. Columbia College*, 17 Wall., 521; *Thompson vs. Whitman*, 18 Wall., 457; *Bonaparte vs. Tax Court*, 104 U. S., 592; *Hanley vs. Donoghue*, 116 U. S., 1; *Renaud vs. Abbott*, 116 U. S., 277; *Chic. and Alton R. R. vs. Wiggins Ferry Co.*, 119 U. S., 615.

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Bank of United States vs. Devereux, 5 Cr., 61; *Gassies vs. Ballou*, 6 Pet., 761; *The State of Rhode Island vs. The Commonwealth of Massachusetts*, 12 Pet., 657; *The Bank of Augusta vs. Earle*, 13 Pet., 519; *Moore vs. The People of the State of Illinois*, 14 How., 13; *Conner et al. vs. Elliott et al.*, 18 How., 591; *Dred Scott vs. Sanford*, 19 How., 393; *Crandall vs. State of Nevada*, 6 Wall., 35; *Woodruff vs. Parham*, 8 Wall., 123; *Paul vs. Virginia*, 8 Wall., 168; *Downham vs. Alexandria Council*, 10 Wall., 173; *Liverpool Insurance Company vs. Massachusetts*, 10 Wall., 566; *Ward vs. Maryland*, 12 Wall., 418; *Slaughterhouse Cases*, 16 Wall., 36; *Bradwell vs. The State*, 16 Wall., 130; *Chemung Bank vs. Lowery*, 93 U. S., 72; *McCready vs. Virginia*, 94 U. S., 391; *Brown vs. Houston*, 114 U. S., 622.

SECTION 2. ¹The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

Holmes vs. Jennison et al., 14 Pet., 540; *Commonwealth of Kentucky vs. Dennison, governor*, 24 How., 66; *Taylor vs. Tainter*, 16 Wall., 366.

²A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

Prigg vs. The Commonwealth of Pennsylvania, 16 Pet., 539; *Jones vs. Van Zandt*, 5 How., 215; *Strader et al. vs. Graham*, 10 How., 82; *Moore vs. The People of the State of Illinois*, 14 How., 13; *Dred Scott vs. Sanford*, 19 How., 393; *Ableman vs. Booth and United States vs. Booth*, 21 How., 506.

³No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

American Insurance Company *et al. vs. Canter* (356 bales cotton), 1 Pet., 511; *Pol-land's Lessee vs. Hagan*, 3 How., 212; *Cross et al. vs. Harrison*, 16 How., 164.

SECTION 3. ¹New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

McCulloch vs. State of Maryland, 4 Wh., 316; *American Insurance Company vs. Canter*, 1 Pet., 511; *United States vs. Gratiot et al.*, 14 Pet., 526; *United States vs. Rogers*, 4 How., 567; *Cross et al. vs. Harrison*, 16 How., 164; *Muckey et al. vs. Cox*, 18 How., 100; *Gibson vs. Chouteau*, 13 Wall., 92; *Clinton vs. Englebert*, 13 Wall., 431; *Beall vs. New Mexico*, 16 Wall., 535.

²The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States or of any particular State.

McCulloch vs. State of Maryland, 4 Wh., 316; *American Insurance Company vs. Canter*, 1 Pet., 511; *United States vs. Gratiot et al.*, 14 Pet., 526; *United States vs. Rogers*, 4 How., 567; *Cross et al. vs. Harrison*, 16 How., 164; *Muckey et al. vs. Cox*, 18 How., 100; *Gibson vs. Chouteau*, 13 Wall., 92; *Clinton vs. Englebert*, 13 Wall., 431; *Beall vs. New Mexico*, 16 Wall., 535.

McCulloch vs. State of Maryland, 4 Wh., 316; *American Insurance Company vs. Canter*, 1 Pet., 511; *United States vs. Gratiot et al.*, 14 Pet., 526; *United States vs. Rogers*, 4 How., 567; *Cross et al. vs. Harrison*, 16 How., 164; *Muckey et al. vs. Cox*, 18 How., 100; *Gibson vs. Chouteau*, 13 Wall., 92; *Clinton vs. Englebert*, 13 Wall., 431; *Beall vs. New Mexico*, 16 Wall., 535.

McCulloch vs. State of Maryland, 4 Wh., 316; *American Insurance Company vs. Canter*, 1 Pet., 511; *United States vs. Gratiot et al.*, 14 Pet., 526; *United States vs. Rogers*, 4 How., 567; *Cross et al. vs. Harrison*, 16 How., 164; *Muckey et al. vs. Cox*, 18 How., 100; *Gibson vs. Chouteau*, 13 Wall., 92; *Clinton vs. Englebert*, 13 Wall., 431; *Beall vs. New Mexico*, 16 Wall., 535.

SECTION. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence.

Luther vs. Borden, 7 How., 1;
Texas vs. White, 7 Wall., 700.

ARTICLE V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Hollingsworth et al. vs. Va., 3 Dallas, 378.

ARTICLE VI.

¹All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

²This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Hayburn's Case, 2 Dall., 409; *Ware vs. Hylton*, 3 Dall., 199; *Calder and wife vs. Bull and wife*, 3 Dall., 386; *Marbury vs. Madison*, 1 Cr., 137;

Chirac vs. Chirac, 2 Wh., 259; *McCulloch vs. The State of Maryland*, 4 Wh., 816; *Society vs. New Haven*, 8 Wh., 464; *Gibbons vs. Ogden*, 9 Wh., 1; *Foster and Elam vs. Neilson*, 2 Pet., 253; *Buckner vs. Finley*, 2 Pet., 586; *Worcester vs. State of Georgia*, 6 Pet., 515; *Kennett et al. vs. Chambers*, 14 How., 38; *Dodge vs. Woolsey*, 18 How., 331; *State of New York vs. Dibble*, 21 How., 366; *Ableman vs. Booth and United States vs. Booth*, 21 How., 506; *Sinnot vs. Davenport*, 22 How., 227; *Foster vs. Davenport*, 22 How., 244; *Haver vs. Yaker*, 9 Wall., 32.

³The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a qualification to any Office or public Trust under the United States.

Ex parte Garland, 4 Wall., 333.

ARTICLE VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one

thousand seven hundred and Eighty seven and of the Independence
of the United States of America the Twelfth. **In witness** whereof
We have hereunto subscribed our Names,

GO WASHINGTON—

Presidt. and Deputy from Virginia.

New Hampshire.

JOHN LANGDON, NICHOLAS GILMAN.

Massachusetts.

NATHANIEL GORHAM, RUFUS KING.

Connecticut.

WM. SAML. JOHNSON, ROGER SHERMAN.

New York.

ALEXANDER HAMILTON.

New Jersey.

WIL : LIVINGSTON, WM. PATTERSON,
DAVID BREARLEY, JONA DAYTON.

Pennsylvania.

B. FRANKLIN, THOMAS MIFFLIN,
ROBT. MORRIS, GEO : CLYMER,
THO : FITZSIMONS, JARED INGERSOLL,
JAMES WILSON, GOUV : MORRIS.

Delaware.

GEO : READ, GUNNING BEDFORD, Jun'r,
JOHN DICKINSON, RICHARD BASSETT.
JACO. BROOM,

Maryland.

JAMES M'HENRY, DAN : OF ST. THOS. JENIFER.
DANL CARROLL,

Virginia.

JOHN BLAIR, JAMES MADISON, Jr.

North Carolina.

WM. BLOUNT, RICH'D DOBBS SPAIGHT,
HU. WILLIAMSON,

South Carolina.

J. RUTLEDGE, CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY, PIERCE BUTLER.

Georgia.

WILLIAM FEW, ABR. BALDWIN.

Attest :

WILLIAM JACKSON, *Secretary.*

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

[ARTICLE I.]*

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

Terret *et al. vs.* Taylor *et al.*, 9 Cr., 43; Vidal *et al. vs.* Girard *et al.*, 2 How., 127; *Ex parte* Garland, 4 Wall., 333; United States *vs.* Cruikshank *et al.*, 92 U. S., 542; Reynolds *vs.* United States, 98 U. S., 145.

[ARTICLE II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

United States *vs.* Cruikshank, 92 U. S. Rep., 542; Presser *vs.* Illinois, 116 U. S., 252.

[ARTICLE III.]

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

[ARTICLE IV.]

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

Smith *vs.* State of Maryland, 18 How., 71; Murray's Lessee *et al. vs.* Hoboken Land and Improvement Company, 18 How., 227, *Ex parte* Milligan, 4 Wall., 2; Boyd *vs.* United States, 116 U. S., 616.

[ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

United States *vs.* Perez, 9 Wh., 579; Barron *vs.* The City of Baltimore, 7 Pe., 243; Fox *vs.* Ohio, 5 How., 410; West River Bridge Company *vs.* Dix *et al.*, 6 How., 507; Mitchell *vs.* Harmony, 13 How., 115; Moore, *ex. vs.* The People of the State of Illinois, 14 How., 13; Murray's Lessee *et al. vs.* Hoboken Land and Improvement Company, 18 How., 272; Dynes *vs.* Hoover, 20 How., 65; Withers *vs.* Buckley *et al.*, 20 How., 84; Gilman *vs.* The City of Sheboygan, 2 Black, 510; *Ex parte* Milligan, 4 Wall., 2; Twitchell *vs.* The Commonwealth, 7 Wall., 321; Hepburn *vs.* Griswold, 8 Wall., 603; Miller *vs.* United States, 11 Wall., 268; Legal Tender Cases, 12 Wall., 457; Pumpelly *vs.* Green Bay Company, 13 Wall., 166; Osborn *vs.* Nicholson, 13 Wall., 654; *Ex parte* Lange, 18 Wall., 163; Kohl *et al. vs.* United States, 91 U. S., 367; Cole *vs.* La Grange, 113 U. S., 1; *Ex parte* Wilson, 114 U. S., 417; Brown *vs.* Grant, 116 U. S., 207; Boyd *vs.* United States, 116 U. S., 616; Mackin *vs.* United States, 117 U. S., 348; *Ex parte* Bain, 121 U. S., 1; Parkinson *vs.* United States, 121 U. S., 281.

*The first ten amendments to the Constitution of the United States were proposed to the legislatures of the several States by the First Congress, on the 25th of September, 1789. They were ratified by the following States, and the notifications of ratification by the governors thereof were successively communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; Pennsylvania, March 10, 1790; New York, March 27, 1790; Rhode Island, June 15, 1790; Vermont, November 3, 1791, and Virginia, December 15, 1791. There is no evidence on the journals of Congress that the legislatures of Connecticut, Georgia, and Massachusetts ratified them.

[ARTICLE VI.]

Callan vs. Wilson, 127 U. S. Rep., 548; *United States vs. Cooledge*, 1 Wh., 415; *Ex parte Kearney*, 7 Wh., 38; *United States vs. Mills*, 7 Pet., 142; *Barron vs. City of Baltimore*, 7 Pet., 243; *Fox vs. Ohio*, 5 How., 410; *Withers vs. Buckley et al.*, 20 How., 84; *Ex parte Milligan*, 4 Wall., 2; *Twitchell vs. The Commonwealth*, 7 Wall., 321; *Miller vs. The United States*, 11 Wall., 268; *United States vs. Cook*, 17 Wall., 168; *United States vs. Cruikshank et al.*, 92 U. S., 542.

[ARTICLE VII.]

Basey vs. Gallagher, 20 Wall., 680; *Kohl vs. United States*, 91 U. S. Rep., 375; *Boom vs. Patterson*, 98 U. S. Rep., 407; *Met. Ry. vs. Moore*, 121 U. S. Rep., 573; *Great Falls vs. Garland*, 124 U. S. Rep., 599; *United States vs. La Vengeance*, Dall., 297; *Bank of Columbia vs. Oakley*, 4 Wh., 235; *Parsons vs. Bedford et al.*, 3 Pet., 433; *Lessee of Livingston vs. Moore et al.*, 7 Pet., 469; *Webster vs. Reid*, 11 How., 437; *State of Pennsylvania vs. The Wheeling Bridge Company et al.*, 13 How., 518; *The Justices vs. Murray*, 9 Wall., 274; *Edwards vs. Elliot et al.*, 21 Wall., 532; *Pearson vs. Yewdall*, 95 U. S., 294; *McElrath vs. United States*, 102 U. S., 426.

[ARTICLE VIII.]

Pervear vs. Commonwealth, 5 Wall., 475.

[ARTICLE IX.]

Lessee of Livingston vs. Moore et al., 7 Pet., 469.

[ARTICLE X.]

Chisolm, ex. vs. State of Georgia, 2 Dall., 419; *Hollingsworth et al. vs. The State of Virginia*, 3 Dall., 378; *Martin vs. Hunter's Lessee*, 1 Wh., 304; *McCulloch vs. State of Maryland*, 4 Wh., 316; *Anderson vs. Dunn*, 6 Wh., 204; *Cohens vs. Virginia*, 6 Wh., 264; *Osborn vs. United States Bank*, 9 Wh., 738; *Buchler vs. Finley*, 2 Pet., 586; *Ableman vs. Booth*, 21 How., 506; *The Collector vs. Day*, 11 Wall., 112; *Clafin vs. Houseman*, assignee, 93 U. S., 130; *Inman Steamship Company vs. Tinker*, 94 U. S., 238; *Church vs. Kelsey*, 121 U. S., 282; *Ouachita Packet Co. vs. Aiken*, 121 U. S., 444; *W. U. Tel. Co. vs. Pendleton*, 122 U. S., 347.

ARTICLE XI.

State of Georgia vs. Brailsford et al., 2 Dall., 402; *Chisholm, ex. vs. State of Georgia*, 2 Dall., 419; *Hollingsworth et al. vs. Virginia*, 3 Dall., 378; *Cohen vs. Virginia*, 6 Wh., 264; *Osborn vs. United States Bank*, 9 Wh., 738; *United States vs. The Planters' Bank*, 9 Wh., 904; *The Governor of Georgia vs. Juan Madrazo*, 1 Pet., 110; *Cherokee Nation vs. State of Georgia*, 5 Pet., 1; *Briscoe vs. The Bank of the Commonwealth of Kentucky*, 11 Pet., 257; *Curran vs. State of Arkansas et al.*, 15 How., 304; *New Hampshire vs. Louisiana*, 108 U. S., 76; *Virginia Coupon Cases*, 114 U. S., 270; *Hagood vs. Southern*, 117 U. S., 52.

The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress, on the 5th of September, 1794; and was declared in a message from the President to Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States.

ARTICLE XII.

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The twelfth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighth Congress, on the 12th of December, 1803, in lieu of the original third paragraph of the first section of the second article; and was declared in a proclamation of the Secretary of State, dated the 25th of September, 1804, to have been ratified by the legislatures of three-fourths of the States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

Dred Scott vs. Sanford, 19 How., 393; *White vs.*

Hart, 13 Wall., 646; *Osborn vs. Nicholson*, 13 Wall., 654; *Slaughter-house Cases*, 16 Wall., 36; *Ex parte Virginia*, 100 U.S., 339; *Civil Rights Case*, 109 U.S., 3.

The thirteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-eighth Congress, on the 1st of February, 1865, and was declared, in a proclamation of the Secretary of State, dated the 18th of December, 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six States, viz: Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia.

ARTICLE XIV.

Strauder vs. West Virginia, 100 U. S., 303; *Virginia vs. Rivers*, 100 U. S., 313; *Ex parte Virginia*, 100 U. S., 339; *Missouri vs. Lewis*, 101 U. S., 22; *Civil Rights Cases*, 109 U. S., 3; *Louisiana vs. New Orleans*, 109 U. S., 285; *Hurtado vs. California*, 110 U. S., 516; *Hagar vs. Reclamation Dist.*, 111 U. S., 701; *Elk vs. Wilkins*, 112 U. S., 94; *Head vs. Amoskeag Mfg. Co.*, 113 U. S., 9; *Barbier vs. Connolly*, 113 U. S., 27; *Provident Institution vs. Jersey City*, 113 U. S., 506; *Soon Hing vs. Crowley*, 113 U. S., 703; *Wurts vs. Hoagland*, 114 U. S., 606; *Ky. R. Rd. Tax Cases*, 115 U. S., 321; *Campbell vs. Holt*, 115 U. S., 620; *Presser vs. Illinois*, 116 U. S., 252; *Stone vs. Farmers' Loan and Trust Co.*, 116 U. S., 307; *Arrowsmith vs. Harmoning*, 118 U. S., 194; *Yick Wo vs. Hopkins*, 118 U. S., 356; *Santa Clara Co. vs. S. Pacific R. Rd.*, 118 U. S., 394; *Phila. Fire Assn. vs. N. Y.*, 119 U. S., 110; *Schmidt vs. Cobb*, 119 U. S., 286; *Baldwin vs. Frank*, 119 U. S., 678; *Hayes vs. Missouri*, 120 U. S., 68; *Church vs. Kelsey*, 121 U. S., 282.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Crandall vs. The State of Nevada, 6 Wall., 35; *Paul vs. Virginia*, 8 Wall., 168; *Ward vs. Maryland*, 12 Wall., 418; *Slaughter-house Cases*, 16 Wall., 36; *Bradwell vs. The State*, 16 Wall., 130; *Bartemeyer vs. Iowa*, 18 Wall., 129; *Minor vs. Happersett*, 21 Wall., 162; *Walker vs. Sauvinet*, 92 U. S., 90; *Kennard vs. Louisiana, ex rel. Morgan*, 92 U. S., 480; *United States vs. Cruikshank*, 92 U. S., 542; *Munn vs. Illinois*, 94 U. S., 113.

The fourteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-ninth Congress, on the 16th of June, 1866. On the 21st of July, 1868, Congress adopted and transmitted to the De-

partment of State a concurrent resolution declaring that "the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore *Resolved*, That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." The Secretary of State accordingly issued a proclamation, dated the 28th of July, 1868, declaring that the proposed fourteenth amendment had been ratified, in the manner hereafter mentioned, by the legislatures of thirty of the thirty-six States, viz: Connecticut, June 30, 1866; New Hampshire, July 7, 1866; Tennessee, July 19, 1866; New Jersey, September 11, 1866, (and the legislature of the same State passed a resolution in April, 1868, to withdraw its consent to it;) Oregon, September 19, 1866; Vermont, November 9, 1866; Georgia rejected it November 13, 1866, and ratified it July 21, 1868; North Carolina rejected it December 4, 1866, and ratified it July 4, 1868; South Carolina rejected it December 20, 1866, and ratified it July 9, 1868; New York, ratified it January 10, 1867; Ohio ratified it January 11, 1867, (and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it;) Illinois ratified it January 15, 1867; West Virginia, January 16, 1867; Kansas, January 18, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Missouri, January 26, 1867; Indiana, January 20, 1867; Minnesota, February 1, 1867; Rhode Island, February 7, 1867; Wisconsin, February 13, 1867; Pennsylvania, February 13, 1867; Michigan, February 15, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, April 3, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; Louisiana, July 9, 1868; and Alabama, July 13, 1868. Georgia again ratified the amendment February 2, 1870. Texas rejected it November 1, 1866, and ratified it February 18, 1870. Virginia rejected it January 19, 1867, and ratified October 8, 1869. The amendment was rejected by Kentucky January 10, 1867; by Delaware February 8, 1867; by Maryland March 23, 1867; and was not afterward ratified by either State.

ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

United States
vs. Reese *et al.*, 92
U. S., 214; United
States vs. Cruik-
shank *et al.*, 92 U.
S., 542; *ex parte*,
Yarborough, 110
U. S., 651.

The fifteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Fortieth Congress on the 27th of February, 1869, and was declared, in a proclamation of the Secretary of State, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven States. The dates of these ratifications (arranged in the order of their reception at the Department of State) were: from North Carolina, March 5, 1869; West Virginia, March 3, 1869; Massachusetts, March 9-12, 1869; Wisconsin, March 9, 1869; Maine, March 12, 1869; Louisiana, March 5, 1869; Michigan, March 8, 1869; South Carolina, March 16, 1869; Pennsylvania, March 26, 1869; Arkansas, March 30, 1869; Connecticut, May 19, 1869; Florida, June 15, 1869; Illinois, March 5, 1869; Indiana, May 13-14, 1869; New York, March 17-April 14, 1869, (and the legislature of the same State passed a resolution January 5, 1870, to withdraw its consent to it;) New Hampshire, July 7, 1869; Nevada, March 1, 1869; Vermont, October 21, 1869; Virginia, October 8, 1869; Missouri, January 10, 1870; Mississippi, January 15-17, 1870; Ohio, January 27, 1870; Iowa, February 3, 1870; Kansas, January 18-19, 1870; Minnesota, February 19, 1870; Rhode Island, January 18, 1870; Nebraska, February 17, 1870; Texas, February 18, 1870. The State of Georgia also ratified the amendment February 2, 1870.

RATIFICATIONS OF THE CONSTITUTION.

The Constitution was adopted by a Convention of the States September 17, 1787, and was subsequently ratified by the several States, in the following order, viz :

Delaware, December 7, 1787.
 Pennsylvania, December 12, 1787.
 New Jersey, December 18, 1787.
 Georgia, January 2, 1788.
 Connecticut, January 9, 1788
 Massachusetts, February 6, 1788.
 Maryland, April 28, 1788.
 South Carolina, May 23, 1788.
 New Hampshire, June 21, 1788.
 Virginia, June 26, 1788.
 New York, June 26, 1788.
 North Carolina, November 21, 1789.
 Rhode Island, May 29, 1790.

The State of Vermont, by convention, ratified the Constitution on the 10th of January, 1791, and was, by an act of Congress of the 18th of February, 1791, "received and admitted into this Union as a new and entire member of the United States of America."

RATIFICATIONS OF THE AMENDMENTS TO THE CONSTITUTION.

The first ten of the preceding articles of amendment (with two others which were not ratified by the requisite number of States) were submitted to the several State legislatures by a resolution of Congress which passed on the 25th of September, 1789, at the first session of the first Congress, and was ratified by the legislatures of the following States:

New Jersey, November 20, 1789.
 Maryland, December 19, 1789.
 North Carolina, December 22, 1789.
 South Carolina, January 19, 1790.
 New Hampshire, January 25, 1790.
 Delaware, January 28, 1790.
 Pennsylvania, March 10, 1790.
 New York, March 27, 1790.
 Rhode Island, June 15, 1790.
 Vermont, November 3, 1791.
 Virginia, December 15, 1791.

The acts of the Legislatures of the States ratifying these amendments were transmitted by the governors to the President, and by him communicated to Congress. The Legislatures of Massachusetts, Connecticut, and Georgia do not appear by the record to have ratified them.

The eleventh article was submitted to the Legislatures of the several States by a resolution of Congress passed on the 5th of March, 1794, at the first session of the Third Congress; and on the 8th of January, 1798, at the second session of the Fifth Congress, it was declared by the President, in a message to the two Houses of Congress, to have been adopted by the Legislatures of three-fourths of the States, there being at that time sixteen States in the Union.

The twelfth article was submitted to the Legislatures of the several States, there being then seventeen States, by a resolution of Congress passed on the 12th of December, 1803, at the first session of the Eighth Congress; and was ratified by the Legislatures of three-fourths of the States in 1804, according to a proclamation of the Secretary of State dated the 25th of September, 1804.

The thirteenth article was submitted to the Legislatures of the several States, there being then thirty-six States, by a resolution of Congress passed on the 1st of February, 1865, at the second session of the Thirty-eighth Congress, and was ratified, according to a proclamation of the Secretary of State dated December 18, 1865, by the Legislatures of the following States:

Illinois, February 1, 1865.
 Rhode Island, February 2, 1865.
 Michigan, February 2, 1865.
 Maryland, February 3, 1865.
 New York, February 3, 1865.
 West Virginia, February 3, 1865.
 Maine, February 7, 1865.
 Kansas, February 7, 1865.
 Massachusetts, February 8, 1865.
 Pennsylvania, February 8, 1865.
 Virginia, February 9, 1865.
 Ohio, February 10, 1865.
 Missouri, February 10, 1865.
 Indiana, February 16, 1865.
 Nevada, February 16, 1865.
 Louisiana, February 17, 1865.
 Minnesota, February 23, 1865.
 Wisconsin, March 1, 1865.
 Vermont, March 9, 1865.
 Tennessee, April 7, 1865.
 Arkansas, April 20, 1865.
 Connecticut, May 5, 1865.
 New Hampshire, July 1, 1865.
 South Carolina, November 13, 1865.
 Alabama, December 2, 1865.
 North Carolina, December 4, 1865.
 Georgia, December 9, 1865.

The following States not enumerated in the proclamation of the Secretary of State also ratified this amendment:

Oregon, December 11, 1865.
 California, December 20, 1865.
 Florida, December 28, 1865.
 New Jersey, January 23, 1866.
 Iowa, January 24, 1866.
 Texas, February 18, 1870.

The fourteenth article was submitted to the Legislatures of the several States, there being then thirty-seven States, by a resolution of Congress passed on the 16th of June, 1866, at the first session of the Thirty-ninth Congress; and was ratified, according to a proclamation of the Secretary of State dated July 28, 1868, by the Legislatures of the following States:

Connecticut, June 30, 1866.
 New Hampshire, July 7, 1866.
 Tennessee, July 19, 1866.
 * New Jersey, September 11, 1866.
 † Oregon, September 19, 1866.
 Vermont, November 9, 1866.
 New York, January 10, 1867.

* New Jersey withdrew her consent to the ratification in April, 1868.

† Oregon withdrew her consent to the ratification October 15, 1868.

*Ohio, January 11, 1867.
 Illinois, January 15, 1867.
 West Virginia, January 16, 1867.
 Kansas, January 18, 1867.
 Maine, January 19, 1867.
 Nevada, January 22, 1867.
 Missouri, January 26, 1867.
 Indiana, January 29, 1867.
 Minnesota, February 1, 1867.
 Rhode Island, February 7, 1867.
 Wisconsin, February 13, 1867.
 Pennsylvania, February 13, 1867.
 Michigan, February 15, 1867.
 Massachusetts, March 20, 1867.
 Nebraska, June 15, 1867.
 Iowa, April 3, 1868.
 Arkansas, April 6, 1868.
 Florida, June 9, 1868.
 †North Carolina, July 4, 1868.
 Louisiana, July 9, 1868.
 †South Carolina, July 9, 1868.
 Alabama, July 13, 1868.
 †Georgia, July 21, 1868.

† The State of Virginia ratified this amendment on the 8th of October, 1869, subsequent to the date of the proclamation of the Secretary of State.

The States of Delaware, Maryland, Kentucky, and Texas rejected the amendment.

The fifteenth article was submitted to the Legislatures of the several States, there being then thirty-seven States, by a resolution of Congress passed on the 27th of February, 1869, at the first session of the Forty-first Congress; and was ratified, according to a proclamation of the Secretary of State dated March 30, 1870, by the Legislatures of the following States:

Nevada, March 1, 1869.
 West Virginia, March 3, 1869.
 North Carolina, March 5, 1869.
 Louisiana, March 5, 1869.
 Illinois, March 5, 1869.
 Michigan, March 8, 1869.
 Wisconsin, March 9, 1869.
 Massachusetts, March 12, 1869.
 Maine, March 12, 1869.
 South Carolina, March 16, 1869.
 Pennsylvania, March 26, 1869.
 Arkansas, March 30, 1869.
 †New York, April 14, 1869.
 Indiana, May 14, 1869.
 Connecticut, May 19, 1869.
 Florida, June 15, 1869.
 New Hampshire, July 7, 1869.
 Virginia, October 8, 1869.
 Vermont, October 21, 1869.
 Alabama, November 24, 1869.
 Missouri, January 10, 1870.
 Mississippi, January 17, 1870.
 Rhode Island, January 18, 1870.
 Kansas, January 19, 1870.

* Ohio withdrew her consent to the ratification in January, 1868.

† North Carolina, South Carolina, Georgia, and Virginia had previously rejected the amendment.

‡ New York withdrew her consent to the ratification January 5, 1870.

*Ohio, January 27, 1870.

Georgia, February 2, 1870.

Iowa, February 3, 1870.

Nebraska, February 17, 1870.

Texas, February 18, 1870.

Minnesota, February 19, 1870.

†The State of New Jersey ratified this amendment on the 21st of February, 1871, subsequent to the date of the proclamation of the Secretary of State.

The States of California, Delaware, Kentucky, Maryland, Oregon, and Tennessee rejected this amendment.

*Ohio had previously rejected the amendment May 4, 1869.

†New Jersey had previously rejected the amendment.

**ANALYTICAL INDEX TO THE CONSTITUTION OF THE UNITED STATES
AND THE AMENDMENTS THERETO.**

A.

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Upon the reconsideration of a bill returned by the President, the question shall be taken by yeas and nays	1	7	2	579
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C.

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The executive of the several States shall issue writs of election to fill vacancies in the.	1	2	4	578
Shall choose their Speaker and other officers.	1	2	5	578
Shall have the sole power of impeachment.	1	2	5	578
Shall be the judge of the elections, returns, and qualifications of its own members.	1	5	1	579
A majority shall constitute a quorum to do business.	1	5	1	579
Less than a majority may adjourn from day to day, and compel the attendance of absent members.	1	5	1	579
May determine its own rules of proceedings.	1	5	2	579
May punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.	1	5	2	579
Shall keep a journal of its proceedings.	1	5	3	579
Shall not adjourn for more than three days during the session of Congress without the consent of the Senate.	1	5	4	579
Members shall not be questioned for any speech or debate in either House or in any other place.	1	6	1	579
No person holding any office under the United States shall, while holding such office, be a member of the.	1	6	2	579
No person, while a member of either House, shall be appointed to an office which shall have been created or the emoluments increased during his membership.	1	6	2	579
All bills for raising revenue shall originate in the.	1	7	1	579
The votes for President and Vice-President shall be counted in the presence of the Senate and. [Amendments].	12	—	—	593
If no person have a majority of electoral votes, then from the three highest on the list the House of Representatives shall immediately, by ballot, choose a President. [Amendments]	12	—	—	593
They shall vote by States, each State counting one vote. [Amendments].	12	—	—	593
A quorum shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to the choice of a President. [Amendments].	12	—	—	593
No person having as a legislative, executive, or judicial officer of the United States, or of any State, taken an oath to support the Constitution, and afterwards engaged in insurrection or rebellion against the United States, shall be a member of the. [Amendments].	14	3	—	594
But Congress may, by a vote of two-thirds of each House, remove such disability. [Amendments].	14	3	—	594

APPENDIX.

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I.

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<i>Immunities.</i> Members of Congress shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going and returning from the same ...	1	6	1	579
No soldier shall be quartered in any house without the consent of the owner in time of peace. [Amendments].....	3	—	—	591
No person shall be twice put in jeopardy of life and limb for the same offense. [Amendments].....	5	—	—	591
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State in which they reside. [Amendments]	14	1	—	594
No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. [Amendments].....	14	1	—	594
Nor shall any State deprive any person of life, liberty, or property without due process of law. [Amendments].....	14	1	—	594
Nor deny to any person within its jurisdiction the equal protection of the laws. [Amendments].....	14	1	—	594
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The House of Representatives shall have the sole power of... The trial of all crimes shall be by jury, except in cases of...	1	2	5	578
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	1	3	6	578
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But the party convicted shall be liable to indictment and punishment according to law.....	1	3	7	579
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But a tax or duty of ten dollars for each person may be imposed on such.....	1	9	1	582
<i>Imports or exports</i> except what may be absolutely necessary for executing its inspection laws. No State shall, without the consent of Congress, lay any imposts or duties on.....	1	10	2	584
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Their compensation shall not be diminished during their continuance in office	3	1	—	586
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The judges of the Supreme and inferior courts shall hold their offices during good behavior	3	1	—	586
Their compensation shall not be diminished during their continuance in office	3	1	—	586
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To controversies between a State and citizens of another State	3	2	1	586
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In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction.	3	2	2	587
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But a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members	1	5	1	579
<i>Majority</i> of all the States shall be necessary to a choice. When the choice of a President shall devolve on the House of Representatives, a quorum shall consist of a member or members from two-thirds of the States; but a. [Amendments].	12	—	—	593
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The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation.....	1	3	6	578
When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.	1	3	6	578
It shall be the judge of elections, returns, and qualifications of its own members.....	1	5	1	579
A majority shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members. . . .	1	5	1	579
It may determine the rules of its proceedings, punish a member for disorderly behavior, and with the concurrence of two-thirds expel a member.....	1	5	2	579
It shall keep a journal of its proceedings and from time to time publish the same, except such parts as may in their judgment require secrecy.....	1	5	3	579
It shall not adjourn for more than three days during a session without the consent of the other House.....	1	5	4	579
It may propose amendments to bills for raising revenue, but such bills shall originate in the House of Representatives..	1	7	1	579
The Senate shall advise and consent to the ratification of all treaties, provided two-thirds of the members present concur	2	2	2	585
It shall advise and consent to the appointment of ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers not herein otherwise provided for.....	2	2	2	585
It may be convened by the President on extraordinary occasions.....	2	3	—	586
No State, without its consent, shall be deprived of its equal suffrage in the Senate.....	5	—	—	589
<i>Senators.</i> They shall, immediately after assembling, under their first election, be divided into three classes, so that the seats of one-third shall become vacant at the expiration of every second year.....	1	3	2	578
No person shall be a Senator who shall not be thirty years of age, nine years a citizen of the United States, and an inhabitant when elected of the State for which he shall be chosen.	1	3	3	578
The times, places, and manner of choosing Senators may be fixed by the legislature of a State, but Congress may by law make or alter such regulations, except as to the places of choosing.....	1	4	1	579
If vacancies happen during the recess of the legislature of a State, the executive thereof may make temporary appointments until the next meeting of the legislature.....	1	3	2	578
They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of the Senate and in going to and returning from the same.....	1	6	1	579
Senators and Representatives shall receive a compensation to be ascertained by law.....	1	6	1	579
They shall not be questioned for any speech or debate in either House or in any other place.....	1	6	1	579
No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the United States which shall have been created, or of which the emoluments shall have been increased, during such term.	1	6	2	579
No person holding any office under the United States shall be a member of either House during his continuance in office.	1	6	2	579
No Senator or Representative or person holding an office of trust or profit under the United States shall be an elector for President and Vice-President.....	2	1	2	584

<i>Senators—Continued.</i>	Art.	Sec.	Cl.	Page.
Senators and Representatives shall be bound by an oath or affirmation to support the Constitution.....	6	—	3	589
No person shall be a Senator or Representative who having, as a Federal or State officer, taken an oath to support the Constitution, afterwards engaged in rebellion against the United States. [Amendments].....	14	3	—	594
But Congress may, by a vote of two-thirds of each House, remove such disability. [Amendments].....	14	3	—	594
<i>Service or labor</i> in one State, escaping into another State, shall be delivered up to the party to whom such service or labor may be due. Fugitives from.....	4	2	3	588
<i>Servitude</i> , except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in the United States or any place subject to their jurisdiction. Neither slavery nor involuntary. [Amendments].....	13	1	—	593
<i>Servitude</i> . The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of. [Amendments].....	15	1	—	595
<i>Ships of war</i> in time of peace, without the consent of Congress. No State shall keep troops or.....	1	10	3	584
<i>Silver coin</i> a tender in payment of debts. No State shall make anything but gold and.....	1	10	1	583
<i>Slave</i> . Neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion, or any claim for the loss or emancipation of any. [Amendments].....	14	4	—	594
<i>Slavery</i> nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in the United States, or any places subject to their jurisdiction. Neither. [Amendments].....	13	1	—	593
<i>Soldiers</i> shall not be quartered, in time of peace, in any house without the consent of the owner. [Amendments].....	3	—	—	591
<i>South Carolina</i> entitled to five Representatives in the first Congress	1	2	3	578
<i>Speaker</i> and other officers. The House of Representatives shall choose their.....	1	2	5	578
<i>Speech or of the press</i> . Congress shall make no law abridging the freedom of. [Amendments].....	1	—	—	591
<i>Speedy and public trial</i> by a jury. In all criminal prosecutions the accused shall have a. [Amendments].....	6	—	—	592
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<i>State legislatures</i> , and all executive and judicial officers of the United States, shall take an oath to support the Constitution. All members of the several.....	6	—	3	589
<i>States</i> . When vacancies happen in the representation from any State, the executive authority shall issue writs of election to fill such vacancies.....	1	2	4	578
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No State shall enter into any treaty, alliance, or confederation	1	10	1	583
Shall not grant letters of marque and reprisal.....	1	10	1	583
Shall not coin money.....	1	10	1	583
Shall not emit bills of credit.....	1	10	1	583
Shall not make anything but gold and silver coin a tender in payment of debts.....	1	10	1	583
Shall not pass any bill of attainder, <i>ex post facto</i> law, or law impairing the obligation of contracts.....	1	10	1	583
Shall not grant any title of nobility.....	1	10	1	583
Shall not, without the consent of Congress, lay any duties on imports or exports, except what may be absolutely necessary for executing its inspection laws.....	1	10	2	584
Shall not, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war unless actually invaded or in such imminent danger as will not admit of delay....	1	10	3	584
Full faith and credit in every other State shall be given to the public acts, records, and judicial proceedings of each State.	4	1	—	588
Congress shall prescribe the manner of proving such acts, records, and proceedings.....	4	1	—	588
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New States may be admitted by Congress into this Union ...	4	3	1	588

<i>States—Continued.</i>	Art.	Sec.	Cl.	Page.
But no new State shall be formed or erected within the jurisdiction of another State.....	4	3	1	588
Nor any State formed by the junction of two or more States or parts of States, without the consent of the legislatures as well as of Congress	4	3	1	588
No State shall be deprived, without its consent, of its equal suffrage in the Senate	5	—	—	589
Three-fourths of the legislatures of the States or conventions of three-fourths of the States, as Congress shall prescribe, may ratify amendments to the Constitution.....	5	—	—	589
The United States shall guarantee a republican form of government to every State in the Union	4	4	—	589
They shall protect each State against invasion	4	4	—	589
And on application of the legislature, or the executive (when the legislature can not be convened), against domestic violence.....	4	4	—	589
The ratification by nine States shall be sufficient to establish the Constitution between the States so ratifying the same .	7	—	—	590
When the choice of President shall devolve on the House of Representatives, the vote shall be taken by States. [Amendments]	12	—	—	593
But in choosing the President the vote shall be taken by States, the representation from each State having one vote. [Amendments].....	12	—	—	593
A quorum for choice of President shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. [Amendments]	12	—	—	593
<i>States</i> or to the people. Powers not delegated to the United States, nor prohibited to the States, are reserved to the. [Amendments].....	10	—	—	592
<i>Suffrage</i> in the Senate. No State shall be deprived without its consent of its equal	5	—	—	589
<i>Suits</i> at common law, where the value in controversy shall exceed \$20, shall be tried by jury. [Amendments].....	7	—	—	592
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<i>Supreme Court.</i> Congress shall have power to constitute tribunals inferior to the.....	1	8	9	581
<i>Supreme Court,</i> and such inferior courts as Congress may establish. The judicial power of the United States shall be vested in one	4	1	—	588
<i>Supreme Court.</i> The judges of the Supreme and inferior courts shall hold their offices during good behavior	3	1	—	586
The compensation of the judges shall not be diminished during their continuance in office.....	3	1	—	586
Shall have original jurisdiction. In all cases affecting ambassadors, other public ministers and consuls, and in which a State may be a party, the	3	2	2	587
Shall have appellate jurisdiction, both as to law and the fact, with such exceptions and regulations as Congress may make. The	3	2	2	587
<i>Supreme law</i> of the land. This Constitution, the laws made in pursuance thereof, and the treaties of the United States, shall be the	6	—	2	589
The judges in every State shall be bound thereby.....	6	—	2	589
<i>Suppress</i> insurrections and repel invasions. Congress shall provide for calling forth the militia to execute the laws	1	8	15	581
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<i>Tax</i> or duty shall be laid on articles exported from any State. No	1	9	5	582
<i>Taxes</i> (direct) and Representatives, how apportioned among the several States. [See 14th amendment, section 2, page 594].	1	2	3	578
<i>Taxes,</i> duties, imposts, and excises. Congress shall have power to lay	1	8	1	580
They shall be uniform throughout the United States	1	8	1	580

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<i>Temporary appointments</i> until the next meeting of the legislature. If vacancies happen in the Senate in the recess of the legislature of a State, the executive of the State shall make	1	3	2	578
<i>Tender</i> in payment of debts. No State shall make anything but gold and silver coin a	1	10	1	583
<i>Term of four years.</i> The President and Vice-President shall hold their offices for the	2	1	1	584
<i>Term</i> for which he is elected. No Senator or Representative shall be appointed to any office under the United States which shall have been created or its emoluments increased during the	1	6	2	579
<i>Territory</i> or other property of the United States. Congress shall dispose of and make all needful rules and regulations respecting the	4	3	2	588
<i>Test</i> as a qualification for any office or public trust shall ever be required. No religious	6	—	3	589
<i>Testimony</i> of two witnesses to the same overt act, or on confession in open court. No person shall be convicted of treason except on the	3	3	1	587
<i>Three-fourths of the legislatures</i> of the States, or conventions in three-fourths of the States, as Congress shall prescribe, may ratify amendments to the Constitution	5	—	—	589
<i>Tie.</i> The Vice-President shall have no vote unless the Senate be equally divided	1	3	4	578
<i>Times, places, and manner</i> of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof	1	4	1	579
But Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators	1	4	1	579
<i>Title of nobility.</i> The United States shall not grant any	1	9	8	583
No State shall grant any	1	10	1	583
<i>Title</i> of any kind, from any king, prince, or foreign state, without the consent of Congress. No person holding any office under the United States shall accept of any	1	9	8	583
<i>Tonnage</i> without the consent of Congress. No State shall lay any duty of	1	10	3	584
<i>Tranquillity,</i> provide for common defense, etc. To insure domestic. [Preamble]	—	—	—	577
<i>Treason</i> shall consist only in levying war against the United States, or in adhering to their enemies, giving them aid and comfort	3	3	1	587
<i>Treason.</i> No person shall, unless on the testimony of two witnesses to the same overt act, or on confession in open court, be convicted of	3	3	1	587
Congress shall have power to declare the punishment of	3	3	2	588
Shall not work corruption of blood. Attainder of	3	3	2	588
Shall not work forfeiture, except during the life of the person attainted. Attainder of	3	3	2	588
<i>Treason, bribery,</i> or other high crimes and misdemeanors. The President, Vice-President, and all civil officers shall be removed from office on impeachment for and conviction of	2	4	—	586
<i>Treason, felony, and breach of the peace.</i> Senators and Representatives shall be privileged from arrest while attending or while going to or returning from the sessions of Congress, except in cases of	1	6	1	579
<i>Treasury,</i> but in consequence of appropriations made by law. No money shall be drawn from the	1	9	7	583
<i>Treaties.</i> The President shall have power, with the advice and consent of the Senate, provided two-thirds of the Senators present concur, to make	2	2	2	585
The judicial power shall extend to all cases arising under the Constitution, laws, and	3	2	1	586
They shall be the supreme law of the land, and the judges in every State shall be bound thereby	6	—	2	589
<i>Treaty,</i> alliance, or confederation. No State shall enter into any	1	10	1	583
<i>Trial,</i> judgment, and punishment according to law. Judgment in cases of impeachment shall not extend further than to removal from, and disqualification for, office; but the party convicted shall nevertheless be liable and subject to indictment	1	3	7	579
<i>Trial by jury.</i> All crimes, except in cases of impeachment, shall be tried by jury	3	2	3	587
Such trial shall be held in the State within which the crime shall have been committed	3	2	3	587
But when not committed within a State, the trial shall be at such place as Congress may by law have directed	3	2	3	587

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In all criminal prosecutions the accused shall have a speedy and public. [Amendments]	6	—	—	592
Suits at common law, when the amount exceeds \$20, shall be by. [Amendments]	7	—	—	592
<i>Tribunals</i> inferior to the Supreme Court. Congress shall have power to constitute	1	8	9	581
<i>Troops</i> or ships of war in time of peace without the consent of Congress. No State shall keep	1	10	3	584
<i>Trust and profit</i> under the United States, shall be an elector for President and Vice-President. No Senator, Representative, or person holding any office of	2	1	2	584
<i>Two-thirds</i> of the members present. No person shall be convicted on impeachment without the concurrence of	1	3	6	578
<i>Two-thirds</i> , may expel a member. Each House, with the concurrence of	1	5	2	579
<i>Two-thirds</i> . A bill returned by the President with his objections may be repassed by each House by a vote of	1	7	2	579
<i>Two-thirds</i> of the Senators present concur. The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided	2	2	2	585
<i>Two-thirds</i> of the legislatures of the several States. Congress shall call a convention for proposing amendments to the Constitution on the application of	5	—	—	589
<i>Two-thirds</i> of both Houses shall deem it necessary. Congress shall propose amendments to the Constitution whenever ...	5	—	—	589
<i>Two-thirds</i> of the States. When the choice of a President shall devolve on the House of Representatives, a quorum shall consist of a member or members from. [Amendments]...	12	—	—	593
<i>Two-thirds</i> of the whole number of Senators. A quorum of the Senate, when choosing a Vice-President, shall consist of. [Amendments]	12	—	—	593
<i>Two-thirds</i> , may remove the disabilities imposed by the third section of the fourteenth amendment. Congress, by a vote of. [Amendments]	14	3	—	594
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U.

<i>Union</i> . To establish a more perfect. [Preamble]	—	—	—	577
The President shall, from time to time, give to Congress information of the state of the	2	3	1	586
New States may be admitted by Congress into this	4	3	1	588
But no new State shall be formed or erected within the jurisdiction of another	4	3	1	588
<i>Unreasonable</i> searches and seizures. The people shall be secured in their persons, houses, papers, and effects against. [Amendments]	4	—	—	591
<i>Unreasonable</i> searches and seizures. And no warrants shall be issued but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [Amendments]...	4	—	—	591
<i>Unusual</i> punishments inflicted. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and. [Amendments]	8	—	—	593
<i>Use</i> without just compensation. Private property shall not be taken for public. [Amendments]	5	—	—	591
<i>Useful</i> arts, by securing for limited times to authors and inventors the exclusive right to their writings and inventions. Congress shall have power to promote the progress of science and the	1	8	8	581

V.

<i>Vacancies</i> happening in the representation of a State. The executive thereof shall issue writs of election to fill	1	2	4	578
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<i>Validity</i> of the public debt incurred in suppressing insurrection against the United States, including debt for pensions and bounties, shall not be questioned. [Amendments]	14	4	—	594

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<i>Vice-President of the United States shall be President of the Senate</i>	1	3	4	578
He shall have no vote unless the Senate be equally divided ..	1	3	4	578
The Senate shall elect a President <i>pro tempore</i> in the absence of the.....	1	3	5	578
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Congress may provide by law for the case of the removal, death, resignation, or inability both of the President and...	2	1	5	585
<i>Vice-President. On impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors shall be removed from office. The</i>	2	4	—	586
<i>Vice-President. The manner of choosing the. The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. [Amendments]</i>	12	—	—	593
The electors shall name, in distinct ballots, the person voted for as Vice-President. [Amendments].....	12	—	—	593
They shall make distinct lists of the persons voted for as Vice-President, which lists they shall sign and certify, and send sealed to the seat of government, directed to the President of the Senate. [Amendments].....	12	—	—	593
The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. [Amendments].....	12	—	—	593
The person having the greatest number of votes shall be Vice-President, if such number be a majority of the whole number of electors. [Amendments].....	12	—	—	593
If no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President. [Amendments].....	12	—	—	593
A quorum for this purpose shall consist of two-thirds of the whole number of Senators; and a majority of the whole number shall be necessary to a choice. [Amendments]....	12	—	—	593
But if the House shall make no choice of a President before the 4th of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. [Amendments].	12	—	—	593
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<i>Violence. The United States shall guarantee to every State a republican form of government, and shall protect each State against invasion and domestic</i>	4	4	—	589
<i>Virginia entitled to ten Representatives in the first Congress</i>	1	2	3	578
<i>Vote. Each Senator shall have one</i>	1	3	1	578
The Vice-President, unless the Senate be equally divided, shall have no	1	3	4	578
<i>Vote requiring the concurrence of the two Houses (except upon a question of adjournment) shall be presented to the President. Every order, resolution, or</i>	1	7	3	580
<i>Vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. The right of citizens of the United States to. [Amendments]</i>	15	1	—	595
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No person shall be convicted on an impeachment except by a.	1	3	6	578
Whenever both Houses shall deem it necessary, Congress may propose amendments to the Constitution by a.....	5	—	—	589
The President may make treaties, with the advice and consent of the Senate, by a.....	2	2	2	585
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W.

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No State shall, without the consent of Congress, unless actually invaded, or in such imminent danger as will not admit of delay, engage in.....	1	10	8	584
<i>War</i> against the United States, adhering to their enemies, and giving them aid and comfort. Treason shall consist only in levying.....	3	3	1	587
<i>Warrants</i> shall issue but upon probable cause, on oath or affirmation, describing the place to be searched, and the persons or things to be seized. No. [Amendments].....	4	—	—	591
<i>Weights and measures</i> . Congress shall fix the standard of.....	1	8	5	581
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<i>Welfare</i> . Congress shall have power to provide for the common defense and general.....	1	8	1	590
<i>Witness</i> against himself. No person shall, in a criminal case, be compelled to be a. [Amendments].....	5	—	—	591
<i>Witnesses</i> against him. In all criminal prosecutions the accused shall be confronted with the. [Amendments].	6	—	—	592
<i>Witnesses</i> in his favor. In all criminal prosecutions the accused shall have compulsory process for obtaining. [Amendments].....	6	—	—	592
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Y.

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DECLARATION OF INDEPENDENCE, JULY 4, 1776.*THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES
OF AMERICA IN CONGRESS ASSEMBLED.*

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the State remaining, in the mean time, exposed to all the dangers of invasion from without and convulsions within.

He has endeavored to prevent the population of these States—for that purpose obstructing the laws of naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws—giving his assent to their acts of pretended legislation—

For quartering large bodies of armed troops among us;

For protecting them, by a mock trial, from punishment for any murders which they could commit on the inhabitants of these States;

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

For imposing taxes on us without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments;

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

He has abdicated government here by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war; in peace, friends.

We, therefore, the representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies, solemnly publish and declare that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.	OLIVER WOLCOTT.
SAMUEL ADAMS.	SAMUEL CHASE.
JOHN ADAMS.	WILLIAM PACA.
ROBERT TREAT PAINE.	THOMAS STONE.
ELBRIDGE GERRY.	CHARLES CARROLL, <i>of Carrollton.</i>
JOSIAH BARTLETT.	WILLIAM FLOYD.
WILLIAM WHIPPLE.	PHILIP LIVINGSTON.
MATTHEW THORNTON.	FRANCIS LEWIS.
STEPHEN HOPKINS.	LEWIS MORRIS.
WILLIAM ELLERY.	GEORGE WYTHE.
CÆSAR RODNEY.	RICHARD HENRY LEE.
GEORGE READ.	THOMAS JEFFERSON.
THOMAS M'KEAN.	BENJAMIN HARRISON.
ROGER SHERMAN.	THOMAS NELSON, JR.
SAMUEL HUNTINGTON.	FRANCIS LIGHTFOOT LEE.
WILLIAM WILLIAMS.	CARTER BRAXTON.
RICHARD STOCKTON.	GEORGE CLYMER.
JOHN WITHERSPOON.	JAMES SMITHE.
FRANCIS HOPKINSON.	GEORGE TAYLOR.
JOHN HART.	JAMES WILSON.
ABRAHAM CLARK.	GEORGE ROSS.
WILLIAM HOOPER.	EDWARD RUTLEDGE.
JOSEPH HEWES.	THOMAS HEYWARD, JR.
JOHN PENN.	THOMAS LYNCH, JR.
ROBERT MORRIS.	ARTHUR MIDDLETON.
BENJAMIN RUSH.	BUTTON GWINNETT.
BENJAMIN FRANKLIN.	LYMAN HALL.
JOHN MORTON.	GEORGE WALTON.

THE CHARTER OF MARYLAND.

Charles, by the Grace of God, of England, Scotland, France and Ireland, King, Defender of the Faith, &c. To all to whom these presents shall come, Greeting.

II. Whereas our well beloved and right trusty subject Cæcilius Calvert, baron of Baltimore, in our kingdom of Ireland, son and heir of George Calvert, knight, late baron of Baltimore, in our said kingdom of Ireland, treading in the steps of his father, being animated with a laudable and pious zeal for extending the christian religion, and also the territories of our empire, hath humbly besought leave of us, that he may transport, by his own industry and expence, a numerous colony of the English nation, to a certain region, herein after described, in a country hitherto uncultivated, in the parts of America, and partly occupied by savages, having no knowledge of the Divine Being, and that all that region, with some certain privileges and jurisdictions, appertaining unto the wholesome government, and state of his colony and region aforesaid, may by our royal highness be given, granted, and confirmed unto him, and his heirs.

III. Know ye therefore, that we, encouraging with our royal favour, the pious and noble purpose of the aforesaid barons of Baltimore, of our special grace, certain knowledge, and mere motion, have given, granted and confirmed, and by this our present charter, for us, our heirs and successors, do give, grant and confirm, unto the aforesaid Cæcilius, now baron of Baltimore, his heirs and assigns, all that part of the peninsula, or chersonese, lying in the parts of America, between the ocean on the east, and the bay of Chesapeake on the west, divided from the residue thereof by a right line drawn from the promontory, or head-land, called Watkin's Point, situate upon the bay aforesaid, near the river of Wighco, on the west, unto the main ocean on the east; and between that boundary on the south, unto that part of the bay of Delaware on the north, which lieth under the fortieth degree of north latitude from the æquinoctial, where New England is terminated: And all the tract of that land within the metes underwritten, (that is to say,) passing from the said bay, called Delaware bay, in a right line, by the degree aforesaid, unto the true meridian of the first fountain of the river of Pattowmack, thence verging towards the south, unto the further bank of the said river,* and following the same on the west and south, unto a certain place called Cinquack, situate near the mouth of the said river, where it disembogues into the aforesaid bay of Chessapeake, and thence by the shortest line unto the aforesaid promontory or place, called Watkin's Point; so that the whole tract of land, divided by the line aforesaid, between the main ocean, and Watkin's Point, unto the promontory called Cape Charles, and every the appendages thereof, may entirely remain excepted for ever to us, our heirs and successors.

IV. Also we do grant, and likewise confirm unto the said baron, of Baltimore, his heirs and assigns, all islands and islets within the limits aforesaid, all and singular the islands and islets, from the eastern shore of the aforesaid region, towards the east, which have been, or shall be formed in the sea, situate within ten marine leagues

*The southern boundary of the District of Columbia. 1 Mackey Rep., 226, Railroad vs. D. C.

from the said shore; with all and singular the ports, harbours, bays, rivers, and straits, belonging to the region or islands aforesaid, and all the soil, plains, woods, mountains, marshes, lakes, rivers, bays, and straits, situate, or being within the metes, bounds and limits aforesaid, with the fishings of every kind of fish, as well of whales, sturgeons, and other royal fish, as of other fish, in the sea, bays, straits or rivers, within the premisses, and the fish there taken: And moreover all veins, mines, and quarries, as well opened as hidden, already found, or that shall be found within the region, islands or limits aforesaid, of gold, silver, gems and precious stones, and any other whatsoever, whether they be of stones, or metals, or of any other thing or matter whatsoever: And furthermore the patronages, and advowsons of all churches which (with the increasing worship and religion of Christ) within the said region, islands, islets and limits aforesaid, hereafter shall happen to be built, together with licence and faculty of erecting and founding churches, chapels, and places of worship, in convenient and suitable places, within the premisses, and of causing the same to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England, with all, and singular such, and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and royal rights, and temporal franchises whatsoever, as well by sea as by land, within the region, islands, islets and limits aforesaid, to be had, exercised, used and enjoyed, as any bishop of Durham, within the bishoprick or county palatine of Durham, in our kingdom of England, ever heretofore hath had, held, used or enjoyed, or of right could, or ought to have, hold, use or enjoy.

V. And we do by these presents, for us, our heirs and successors, make, create, and constitute him, the now baron of Baltimore, and his heirs, the true and absolute lords and proprietaries of the region aforesaid, and of all other the premisses, (except the before excepted,) saving always the faith and allegiance and sovereign dominion due to us, our heirs and successors, to have, hold, possess and enjoy, the aforesaid region, islands, islets, and other the premisses, unto the aforesaid now baron of Baltimore, and to his heirs and assigns, to the sole and proper behoof and use of him, the now baron of Baltimore, his heirs and assigns, forever: To hold of us, our heirs and successors, kings of England, as of our castle of Windsor, in our county of Berks, in free and common soccage, by fealty only for all services, and not *in capite*, nor by knight's service, yielding therefore unto us, our heirs, and successors two Indian arrows of those parts, to be delivered at the said castle of Windsor, every year, on Tuesday in Easter-week; and also the fifth part of all gold and silver ore, which shall happen from time to time, to be found within the aforesaid limits.

VI. Now, that the aforesaid region, thus by us granted and described, may be eminently distinguished above all other regions of that territory, and decorated with more ample titles, know ye, that we, of our more especial grace, certain knowledge, and mere motion, have thought fit that the said region and islands be erected into a province, as out of the plenitude of our royal power and prerogative, we do, for us, our heirs and successors, erect and incorporate the same into a province, and nominate the same Maryland, by which name we will that it shall from henceforth be called.

VII. And forasmuch as we have above made and ordained the aforesaid now baron of Baltimore, the true lord and proprietary of the whole province aforesaid, Know ye therefore further, that we, for us, our heirs and successors, do grant unto the said now baron, (in whose fidelity, prudence, justice, and provident circumspection of mind, we repose the greatest confidence,) and to his heirs, for the good and happy government of the said province, free, full, and absolute power, by the tenor of these presents, to ordain, make, and

enact laws, of what kind soever, according to their sound discretions, whether relating to the public state of the said province, or the private utility of individuals, of and with the advice, assent, and approbation of the free-men of the same province, or of the greater part of them, or of their delegates or deputies, whom we will shall be called together for the framing of laws, when, and as often as need shall require, by the aforesaid now baron of Baltimore, and his heirs, and in the form which shall seem best to him or them, and the same to publish under the seal of the aforesaid now baron of Baltimore, and his heirs, and duly to execute the same upon all persons, for the time being, within the aforesaid province, and the limits thereof, or under his or their government and power, in sailing towards Maryland, or thence returning, outward bound, either to England, or elsewhere, whether to any other part of our, or of any foreign dominions, wheresoever established, by the imposition of fines, imprisonment, and other punishment whatsoever; even if it be necessary, and the quality of the offence require it, by privation of member, or life, by him the aforesaid now baron of Baltimore, and his heirs, or by his or their deputy, lieutenant, judges, justices, magistrates, officers and ministers, to be constituted and appointed according to the tenor and true intent of these presents, and to constitute and ordain judges, justices, magistrates and officers, of what kind, for what cause, and with what power soever, within that land, and the sea of those parts, and in such form as to the said now baron of Baltimore, or his heirs, shall seem most fitting: And also to remit, release, pardon and abolish, all crimes and offences whatsoever against such laws, whether before, or after judgment passed; and to do all and singular other things belonging to the completion of justice, and to courts, prætorian judicatories, and tribunals, judicial forms and modes of proceeding, although express mention thereof in these presents be not made; and, by judges by them delegated, to award process, hold pleas, and determine in those courts, prætorian judicatories, and tribunals, in all actions, suits, causes, and matters whatsoever, as well criminal as personal, real and mixed, and prætorian: Which said laws, so to be published as abovesaid, we will, enjoin, charge and command, to be most absolute and firm in law, and to be kept in those parts by all the subjects and liege-men of us, our heirs and successors, so far as they concern them, and to be inviolably observed under the penalties therein expressed, or to be expressed. So nevertheless, that the laws aforesaid be consonant to reason, and be not repugnant or contrary, but (so far as conveniently may be) agreeable to the laws, statutes, customs and rights of this our kingdom of England.

VIII. And forasmuch as, in the government of so great a province, sudden accidents may frequently happen, to which it will be necessary to apply a remedy, before the freeholders of the said province, their delegates or deputies, can be called together for the framing of laws; neither will it be fit that so great a number of people should immediately, on such emergent occasion, be called together, we therefore, for the better government of so great a province, do will and ordain, and by these presents, for us, our heirs and successors, do grant unto the said now baron of Baltimore, and to his heirs, that the aforesaid now baron of Baltimore, and his heirs, by themselves, or by their magistrates and officers, thereunto duly to be constituted as aforesaid, may, and can make and constitute fit and wholesom ordinances from time to time, to be kept and observed within the province aforesaid, as well for the conservation of the peace, as for the better government of the people inhabiting therein, and publicly to notify the same to all persons whom the same in any wise do or may affect. Which ordinances we will to be inviolably observed within the said province, under the pains to be expressed in the same: So that the said ordinances be consonant to reason, and be not repugnant

nor contrary, but (so far as conveniently may be done) agreeable to the laws, statutes, or rights of our kingdom of England: And so that the same ordinances do not, in any sort, extend to oblige, bind, charge, or take away the right or interest of any person or persons, of, or in member, life, freehold, goods or chattels.

IX. Furthermore, that the new colony may more happily increase by a multitude of people resorting thither, and at the same time may be more firmly secured from the incursions of savages, or of other enemies, pirates and ravagers: We therefore, for us, our heirs and successors, do by these presents give and grant power, licence and liberty, to all the liege-men and subjects, present and future, of us, our heirs and successors, except such to whom it shall be expressly forbidden, to transport themselves and their families to the said province, with fitting vessels, and suitable provisions, and therein to settle, dwell and inhabit; and to build and fortify castles, forts, and other places of strength, at the appointment of the aforesaid now baron of Baltimore, and his heirs, for the public and their own defence; the statute of fugitives, or any other whatsoever to the contrary of the premisses in any wise notwithstanding.

X. We will also, and of our more abundant grace, for us, our heirs and successors, do firmly charge, constitute, ordain and command, that the said province be of our allegiance; and that all and singular the subjects and liege-men of us, our heirs and successors, transplanted, or hereafter to be transplanted into the province aforesaid, and the children of them, and of others their descendants, whether already born there, or hereafter to be born, be and shall be natives and liege-men of us, our heirs and successors, of our kingdom of England and Ireland; and in all things shall be held, treated, reputed, and esteemed as the faithful liege-men of us, and our heirs and successors, born within our kingdom of England; also lands, tenements, revenues, services, and other hereditaments whatsoever, within our kingdom of England, and other our dominions, to inherit, or otherwise purchase, receive, take, have, hold, buy and possess, and the same to use and enjoy, and the same to give, sell, alien and bequeath; and likewise all privileges, franchises and liberties of this our kingdom of England, freely, quietly, and peaceably to have and possess, and the same may use and enjoy in the same manner as our liege-men born, or to be born within our said kingdom of England, without impediment, molestation, vexation, impeachment, or grievance of us, or any of our heirs or successors; any statute, act, ordinance or provision, to the contrary thereof notwithstanding.

XI. Furthermore, that our subjects may be incited to undertake this expedition with a ready and chearful mind: Know ye, that we, of our especial grace, certain knowledge, and mere motion, do, by the tenor of these presents, give and grant, as well to the aforesaid baron of Baltimore, and to his heirs, as to all other persons who shall from time to time repair to the said province, either for the sake of inhabiting, or of trading with the inhabitants of the province aforesaid, full licence to ship and lade in any the ports of us, our heirs and successors, all and singular their goods, as well moveable as immoveable, wares and merchandises, likewise grain of what sort soever, and other things whatsoever necessary for food and cloathing, by the laws and statutes of our kingdoms and dominions, not prohibited to be transported out of the said kingdoms; and the same to transport, by themselves, or their servants or assigns, into the said province, without the impediment or molestation of us, our heirs or successors, or of any officers of us, our heirs or successors, (saving unto us, our heirs and successors, the impositions, subsidies, customs, and other dues payable for the same goods and merchandises.) any statute, act, ordinance, or other thing whatsoever to the contrary notwithstanding.

XII. But because, that in so remote a region, placed among so many barbarous nations, the incursions as well of the barbarians themselves, as of other enemies, pirates and ravagers, probably will be feared, therefore we have given, and for us, our heirs and successors, do give by these presents, as full and unrestrained power, as any captain-general of an army ever hath had, unto the aforesaid now baron of Baltimore, and to his heirs and assigns, by themselves, or by their captains, or other officers, to summon to their standards, and to array all men, of whatsoever condition, or wheresoever born, for the time being, in the said province of Maryland, to wage war, and to pursue, even beyond the limits of their province, the enemies and ravagers aforesaid, infesting those parts by land and by sea, and (if God shall grant it) to vanquish and captivate them, and the captives to put to death, or, according to their discretion, to save, and to do all other and singular the things which appertain, or have been accustomed to appertain unto the authority and office of a captain-general of an army.

XIII. We also will, and by this our charter, do give unto the aforesaid now baron of Baltimore, and to his heirs and assigns, power, liberty and authority, that in case of rebellion, sudden tumult, or sedition, if any (which God forbid) should happen to arise, whether upon land within the province aforesaid, or upon the high sea in making a voyage to the said province of Maryland, or in returning thence, they may, by themselves, or by their captains, or other officers, thereunto deputed under their seals (to whom we for us, our heirs and successors, by these presents, do give and grant the fullest power and authority) exercise martial law as freely, and in as ample manner and form, as any captain-general of an army, by virtue of his office may, or hath accustomed to use the same, against the seditious authors of innovations in those parts, withdrawing themselves from the government of him or them, refusing to serve in war, flying over to the enemy, exceeding their leave of absence, deserters, or otherwise howsoever offending against the rule, law, or discipline of war.

XIV. Moreover, left in so remote and far distant a region, every access to honours and dignities may seem to be precluded, and utterly barred, to men well born, who are preparing to engage in the present expedition, and desirous of deserving well, both in peace and war, of us, and our kingdoms; for this cause, we, for us, our heirs and successors, do give free and plenary power to the aforesaid now baron of Baltimore, and to his heirs and assigns, to confer favours, rewards and honours, upon such subjects, inhabiting within the province aforesaid, as shall be well deserving, and to adorn them with whatsoever titles and dignities they shall appoint; (so that they be not such as are now used in England) also to erect and incorporate towns into boroughs, and boroughs into cities, with suitable privileges and immunities, according to the merits of the inhabitants, and convenience of the places; and to do all and singular other things in the premises, which to him or them shall seem fitting and convenient; even although they shall be such as, in their own nature, require a more special commandment and warrant than in these presents may be expressed.

XV. We will also, and by these presents do, for us, our heirs and successors, give and grant license by this our charter, unto the aforesaid now baron of Baltimore, his heirs and assigns, and to all persons whatsoever, who are, or shall be residents and inhabitants of the province aforesaid, freely to import and unlade, by themselves, their servants, factors or assigns, all wares and merchandises whatsoever, which shall be collected out of the fruits and commodities of the said province, whether the product of the land or the sea, into any the ports whatsoever of us, our heirs and successors, of England or Ireland, or otherwise to dispose of the same there; and, if need

be, within one year, to be computed immediately from the time of unloading thereof, to lade the same merchandises again, in the same, or other ships, and to export the same to any other countries they shall think proper, whether belonging to us, or any foreign power which shall be in amity with us, our heirs or successors: *Provided always*, That they be bound to pay for the same to us, our heirs and successors, such customs and impositions, subsidies and taxes, as our other subjects of our kingdom of England, for the time being, shall be bound to pay, beyond which we will that the inhabitants of the aforesaid province of the said land, called Maryland, shall not be burthened.

XVI. And furthermore, of our more ample special grace, and of our certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the aforesaid now baron of Baltimore, his heirs and assigns, full and absolute power and authority to make, erect and constitute, within the province of Maryland, and the islands and islets aforesaid, such, and so many sea-ports, harbours, creeks, and other places of unloading and discharge of goods and merchandises out of ships, boats, and other vessels, and of lading in the same, and in so many, and such places, and with such rights, jurisdictions, liberties and privileges, unto such ports respecting, as to him or them shall seem most expedient: And, that all and every the ships, boats, and other vessels whatsoever, coming to, or going from the province aforesaid, for the sake of merchandising, shall be laden and unladen at such ports only as shall be so erected and constituted by the said now baron of Baltimore, his heirs and assigns, any usage, custom, or any other thing whatsoever to the contrary notwithstanding. Saving always to us, our heirs and successors, and to all the subjects of our kingdoms of England and Ireland, of us, our heirs and successors, the liberty of fishing for sea-fish, as well in the sea, bays, straits, and navigable rivers, as in the harbours, bays, and creeks of the province aforesaid; and the privilege of salting and drying fish on the shores of the same province; and, for that cause, to cut down and take hedging-wood and twigs there growing, and to build huts and cabins, necessary in this behalf, in the same manner as heretofore they reasonably might, or have used to do. Which liberties and privileges, the said subjects of us, our heirs and successors, shall enjoy, without notable damage or injury in any wise to be done to the aforesaid now baron of Baltimore, his heirs or assigns, or to the residents and inhabitants of the same province in the ports, creeks, and shores aforesaid, and especially in the woods and trees there growing. And if any person shall do damage or injury of this kind, he shall incur the peril and pain of the heavy displeasure of us, our heirs and successors, and of the due chastisement of the laws, besides making satisfaction.

XVII. Moreover, we will, appoint, and ordain, and by these presents, for us, our heirs and successors, do grant unto the aforesaid now baron of Baltimore, his heirs and assigns, that the same baron of Baltimore, his heirs and assigns, from time to time, for ever, shall have, and enjoy the taxes and subsidies payable, or arising within the ports, harbours, and other creeks and places aforesaid, within the province aforesaid, for wares bought and sold, and things there to be laden or unladen, to be reasonably assessed by them, and the people there as aforesaid, on emergent occasion; to whom we grant power by these presents, for us, our heirs and successors, to assess and impose the said taxes and subsidies there, upon just cause, and in due proportion.

XVIII. And furthermore, of our special grace, and certain knowledge, and mere motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant

and confirm, unto the aforesaid now baron of Baltimore, his heirs and assigns, full and absolute licence, power and authority, that he, the aforesaid now baron of Baltimore, his heirs and assigns, from time to time hereafter, for ever, may and can, at his or their will and pleasure, assign, alien, grant, demise, or enfeoff so many, such, and proportionate parts and parcels of the premises, to any person or persons willing to purchase the same, as they shall think convenient, to have and to hold to the same person or persons willing to take or purchase the same, and his and their heirs and assigns, in fee-simple, or fee-tail, or for term of life, lives or years; to hold of the aforesaid now baron of Baltimore, his heirs and assigns, by so many, such, and so great services, customs and rents, of this kind, as to the same now baron of Baltimore, his heirs and assigns, shall seem fit and agreeable, and not immediately of us, our heirs or successors. And we do give, and by these presents, for us, our heirs and successors, do grant to the same person and persons, and to each and every of them, licence, authority and power, that such person and persons, may take the premisses, or any parcel thereof, of the aforesaid now baron of Baltimore, his heirs and assigns, and hold the same to them and their assigns, or their heirs, of the aforesaid baron of Baltimore, his heirs and assigns, of what estate of inheritance soever, in fee-simple or fee-tail, or otherwise, as to them and the now baron of Baltimore, his heirs and assigns, shall seem expedient; the statute made in the parliament of lord Edward, son of king Henry, late king of England, our progenitor, commonly called the "*Statute quia emptores terrarum*," heretofore published in our kingdom of England, or any other statute, act, ordinance, usage, law, or custom, or any other thing, cause or matter, to the contrary thereof, heretofore had, done, published, ordained, or provided to the contrary thereof notwithstanding.

XIX. We also, by these presents, do give and grant licence to the same baron of Baltimore, and to his heirs, to erect any parcels of land within the province aforesaid, into manors, and in every of those manors, to have and to hold a court-baron, and all things which to a court-baron do belong; and to have and to keep view of frank-pledge, for the conservation of the peace and better government of those parts, by themselves and their stewards, or by the lords, for the time being to be deputed, of other of those manors when they shall be constituted, and in the same to exercise all things to the view of frank-pledge belonging.

XX. And further we will, and do, by these presents, for us, our heirs and successors, covenant and grant to, and with the aforesaid now baron of Baltimore, his heirs and assigns, that we, our heirs and successors, at no time hereafter, will impose, or make or cause to be imposed, any impositions, customs, or other taxations, quotas or contributions whatsoever, in or upon the residents or inhabitants of the province aforesaid for their goods, lands, or tenements within the same province, or upon any tenements, lands, goods or chattels within the province aforesaid, or in or upon any goods or merchandises within the province aforesaid, or within the ports or harbours of the said province, to be laden or unladen: And we will and do, for us, our heirs and successors, enjoin and command that this our declaration shall, from time to time, be received and allowed in all our courts and prætorian judicatories, and before all the judges whatsoever of us, our heirs and successors, for a sufficient and lawful discharge, payment, and acquittance thereof, charging all and singular the officers and ministers of us, our heirs and successors, and enjoining them, under our heavy displeasure, that they do not at any time presume to attempt any thing to the contrary of the premisses or that may in any wise contravene the same, but that they, at all times, as is fitting, do aid and assist the aforesaid now baron of Baltimore,

and his heirs, and the aforesaid inhabitants and merchants of the province of Maryland aforesaid, and their servants and ministers, factors and assigns, in the fullest use and enjoyment of this our charter.

XXI. And furthermore we will, and by these presents, for us, our heirs and successors, do grant unto the aforesaid now baron of Baltimore, his heirs and assigns, and to the freeholders and inhabitants of the said province, both present and to come, and to every of them, that the said province, and the freeholders or inhabitants of the said colony or country, shall not henceforth be held or reputed a member or part of the land of Virginia, or of any other colony already transported, or hereafter to be transported, or be dependent on the same, or subordinate in any kind of government, from which we do separate both the said province, and inhabitants thereof, and by these presents do will to be distinct, and that they may be immediately subject to our crown of England, and dependent on the same for ever.

XXII. And if, peradventure, hereafter it may happen, that any doubts or questions should arise concerning the true sense and meaning of any word, clause or sentence, contained in this our present charter, we will, charge and command, that interpretation to be applied, always, and in all things, and in all our courts and judicatories whatsoever, to obtain which shall be judged to be the more beneficial, profitable, and favourable to the aforesaid now baron of Baltimore, his heirs and assigns: *Provided always*, That no interpretation thereof be made, whereby God's holy and true christian religion, or the allegiance due to us, our heirs and successors, may in any wise suffer by change, prejudice, or diminution; although express mention be not made in these presents of the true yearly value or certainty of the premisses, or of any part thereof, or of other gifts and grants made by us, our heirs and predecessors, unto the said now lord Baltimore, or any statute, act, ordinance, provision, proclamation or restraint, heretofore had, made, published, ordained or provided, or any other thing, cause, or matter whatsoever, to the contrary thereof in any wise notwithstanding.

XXIII. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the twentieth day of June, in the eighth year of our reign.

THE DECLARATION OF RIGHTS OF THE STATE OF MARYLAND AS IT NOW STANDS.

The parliament of Great Britain, by a declaratory act, having assumed a right to make laws to bind the colonies in all cases whatsoever, and in pursuance of such claim endeavoured by force of arms to subjugate the United Colonies to an unconditional submission to their will and power, and having at length constrained them to declare themselves independent states, and to assume government under the authority of the people, Therefore, we, the Delegates of Maryland, in free and full convention assembled, taking into our most serious consideration, the best means of establishing a good constitution in this state, for the surer foundation, and more permanent security thereof, declare,*

1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

* By sec. 457, R. S. D. C., the thirty-fourth section of the Maryland Bill of Rights was adopted, 1 Mackey Rep., 566, Guiteau case.

Declaration of
rights.

1 Dorsey, XXV.

191 U. S. Rep.,
359, *Morsell vs.*
Bauk; 13 *Peters*
Rep., 298, *Van*
Ness vs. Hyatt; 12
Peters Rep., 622,
Kendall vs. U. S.
²⁴ *Cranch, Ct.*
Rep., 120, *U. S.*
vs. Jennegen; 1
Mackey Rep., 566,
Guiteau's Case; 3
Cranch, Ct. Rep.,
344, *Thurston vs.*
Mustin.

2. That the people of this state ought to have the sole and exclusive right of regulating the internal government and police thereof.

3. That the inhabitants of Maryland are entitled to the common law of England,¹ and the trial by jury according to the course of that law, and to the benefit of such of the English statutes² as existed at the time of their first emigration, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England or Great Britain, and have been introduced, used, and practised by the courts of law or equity; and also to all acts of assembly in force on the first of June, seventeen hundred and seventy-four, except such as may have since expired, or have been, or may be altered by acts of convention, or this declaration of rights; subject nevertheless to the revision of, and amendment or repeal by the legislature of this state; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his majesty Charles the first, to Cæcilius Calvert, baron of Baltimore.

4. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government; the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

5. That the right in the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose elections ought to be free and frequent, and every man having *property in*, a common interest with, and an attachment to the community, ought to have a right of suffrage.

6. That the legislative, executive, and judicial powers of government, ought to be for ever separate and distinct from each other.

7. That no power of suspending laws, or the execution of laws, unless by or derived from the legislature, ought to be exercised or allowed.

8. That freedom of speech and debates or proceedings in the legislature, ought not to be impeached in any other court of judicature.

9. That a place for the meeting of the legislature ought to be fixed, the most convenient to the members thereof, and to the depository of the public records; and the legislature ought not to be convened or held at any other place but from evident necessity.

10. That for the redress of grievances, and for amending, strengthening and preserving the laws, the legislature ought to be frequently convened.

11. That every man hath a right to petition the legislature for the redress of grievances in a peaceable and orderly manner.

12. That no aid, charge, tax, burthen, fee or fees, ought to be set, rated or levied, under any pretence, without the consent of the legislature.

13. That the levying taxes by the poll is greivous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of government, but every other person in the state ought to contribute his proportion of public taxes, for the support of government, according to his actual worth in real or personal property within this state; yet fines, duties or taxes, may properly and justly be imposed or laid with a political view for the good government and benefit of the community.

14. That sanguinary laws ought to be avoided, as far as is consistent with the safety of the state; and no law to inflict cruel and unusual pains and penalties ought to be made, in any case, or at any time hereafter.

15. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty; wherefore no ex post facto law ought to be made.

1 McArthur Rep., 70, Kimbro vs. Bank; 128 U. S. Rep., 189, Jaehne vs. New York; 101

U. S. Rep., 814, Stone vs. Miss; 3 Dallas Rep., 336, Calder vs. Bull; 8 Peters Rep., 88, Watson vs. Mercer; 3 R. I. Rep., 117, State vs. Cleveland.

16. That no law to attain particular persons of treason or felony, ought to be made in any case or at any time hereafter.

17. That every free man, for any injury done to him in his person, or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

18. That the trial of facts where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

19. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment, or charge, in due time, (if required,) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath, and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

20. That no man ought to be compelled to give evidence against himself in a court of common law, or in any other court, but in such cases as have been usually practised in this state, or may hereafter be directed by the legislature.

21. That no freeman ought to be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land.

4 Wallace Rep., 278, Cummins vs. Mo.

22. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted by the courts of law.

23. That all warrants without oath, or affirmation, to search suspected places, or to seize any person, or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal and ought not to be granted.

32 Kansas Rep., State vs. Gleason; 18 How. Rep., 71, Smith vs. State; 4 Wallace Rep., 2, Ex parte Milligan; 116 U.S. Rep., 616, Boyd vs. U. S.

24. That there ought to be no forfeiture of any part of the estate of any person for any crime except murder, or treason against the state, and then only on conviction and attainder.

25. That a well regulated militia is the proper and natural defence of a free government.

26. That standing armies are dangerous to liberty, and ought not to be raised or kept up without consent of the legislature.

27. That in all cases and at all times the military ought to be under strict subordination to, and control of, the civil power.

28. That no soldier ought to be quartered in any house in time of peace without the consent of the owner, and in time of war in such manner only as the legislature shall direct.

29. That no person except regular soldiers, mariners and marines, in the service of this state, or militia when in actual service, ought in any case to be subject to, or punishable by martial law.

30. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore, the chancellor and all judges ought to hold commissions during good behaviour; and the said chancellor and judges shall be removed for misbehavior, on conviction in a court of law, and may be removed by the governor, upon the address of the general assembly: *Provided*, That two-thirds of all

the members of each house concur in such address. That salaries, liberal, but not profuse, ought to be secured to the chancellor and the judges during the continuance of their commissions, in such manner and at such time, as the legislature shall hereafter direct, upon consideration of the circumstances of this state. No chancellor or judge ought to hold any other office, civil or military, or receive fees or perquisites of any kind.

31. That a long continuance in the first executive departments of power or trust, is dangerous to liberty; a rotation, therefore, in those departments, is one of the best securities of permanent freedom.

32. That no person ought to hold, at the same time, more than one office of profit, nor ought any person in public trust to receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this state.

1809, ch. 167.

33. That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to him, all persons *professing the christian religion* are equally entitled to protection in their religious liberty; wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice; unless, under colour of religion, any man shall disturb the good order, peace, or safety of the state, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights: nor ought any person to be compelled to frequent or maintain, or contribute, unless on contract, to maintain any place of worship, or any ministry. It shall not be lawful for the general assembly of this state to lay an equal general tax, or any other tax on the people of this state for the support of any religion, but the churches, chapels, glebes, and all other property, now belonging to the church of England, ought to remain to the church of England for ever. And all acts of assembly lately passed, for collecting moneys for building or repairing particular churches or chapels of ease, shall continue in force, and be executed, unless the legislature shall, by act, supersede or repeal the same: but no county court shall assess any quantity of tobacco, or sum of money, hereafter, on the application of any vestrymen or church wardens; and every incumbent of the church of England, who hath remained in his parish, and performed his duty, shall be entitled to receive the provision and support established by the act, entitled, an act for the support of the clergy of the church of England in this province, till the November court of this present year, to be held for the county in which his parish shall lie, or partly lie, or for such time as he hath remained in his parish, and performed his duty.

34. That every gift, sale, or devise of lands, to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to or for the support, use, or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels, to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit, and also every devise of goods or chattels to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, without the leave of the legislature, shall be void, except always any sale, gift, lease, or devise of any quantity of land not exceeding two acres, for a church, meeting, or other house of worship, and for a burying ground, which shall be improved, enjoyed, or used only for such purpose, or such sale, gift, lease, or devise, shall be void.*

* Repealed by sec. 457, p. 54. R. S. D. C. 94 U. S. Rep., 308. Ould vs. Washington Hospital, 5 Crauch, Ct. R., 632, Newton vs. Carbery.

35. That no other test or qualification ought to be required, on admission to any office of trust or profit, than such oath of support and fidelity to this state, and such oath of office, as shall be directed by this convention or the legislature of this state, *and a declaration of a belief in the christian religion.*

36. That the manner of administering an oath to any person ought to be such as those of the religious persuasion, profession, or denomination, of which such person is one, generally esteem the most effectual confirmation by the attestation of the Divine Being; and that the people called quakers, those called tunkers, and those called menonists, holding it unlawful to take an oath,¹ on any occasion, ought to be allowed to make their solemn affirmation in the manner that quakers have been heretofore allowed to affirm, and to be of the same avail as an oath, in all such cases as the affirmation of quakers hath been allowed and accepted within this state instead of an oath. And further, on such affirmation warrants to search for stolen goods, or the apprehension or commitment of offenders, ought to be granted, or security for the peace awarded, and quakers, tunkers, or menonists, ought also, on their solemn affirmation as aforesaid, to be admitted as witnesses in all criminal cases.*

¹ 1 Cranch Ct. R., 15th Bryan's Case.

37. That the city of Annapolis ought to have all its rights, privileges and benefits, agreeable to its charter and the acts of assembly confirming and regulating the same; subject, nevertheless, to such alterations as may be made by this convention or any future legislature.

38. That the liberty of the press ought to be inviolably preserved.

39. That monopolies are odious, contrary to the spirit of a free government, and the principles of commerce, and ought not to be suffered.

40. That no title of nobility, or hereditary honour, ought to be granted in this state.

41. That the subsisting resolves of this and the several conventions held for this colony, ought to be in force as laws, unless altered by this convention, or the legislature of this state.

42. That this declaration of rights, or the form of government to be established by this convention, or any part of either of them, ought not to be altered, changed, or abolished by the legislature of this state, but in such manner as this convention shall prescribe and direct.

* Constitution, see 1797, ch. 118, and other "Constitutional amendments," for the enlargement and modification of this principle. † Kilty's laws, p. 760.

AN ACT FOR ESTABLISHING THE TEMPORARY AND PERMANENT SEAT OF GOVERNMENT OF THE UNITED STATES.

SEC. 1. That a district of territory not exceeding ten miles square, to be located as hereafter directed, on the river Potomac, at some place between the mouths of the Eastern Branch and Conogochegue, be, and the same is hereby, accepted for the permanent seat of the Government of the United States: *Provided, nevertheless,* That the operation of the laws of the State within such district shall not be affected by this acceptance until the time fixed for the removal of the Government thereto, and until Congress shall otherwise by law provide.

District on the Potomac accepted for permanent seat of government.

When State laws shall cease.

1 Stat., 130.
July 16, 1790.

SEC. 2. That the President of the United States be authorized to appoint, and, by supplying vacancies happening from refusals to act, or other causes, to keep in appointment as long as may be neces-

President to appoint commissioners to locate and define.

sary, three commissioners, who, or any two of them, shall, under the direction of the President, survey, and by proper metes and bounds define and limit, a district of territory under the limitations above mentioned; and the district so defined, limited, and located, shall be deemed the district accepted by this act for the permanent seat of the Government of the United States.

May purchase and accept lands, etc., provide buildings for Congress and offices.

SEC. 3. That the said commissioners, or any two of them, shall have power to purchase or accept such quantity of land on the eastern side of the said river, within the said district, as the President shall deem proper for the use of the United States; and, according to such plans as the President shall approve, the said commissioners, or any two of them, shall, prior to the first Monday in December, in the year eighteen hundred, provide suitable buildings for the accommodation of Congress, and of the President, and for the public offices of the Government of the United States.

Expenses, how paid.

SEC. 4. That for defraying the expense of such purchases and buildings the President of the United States be authorized and requested to accept grants of money.

Seat of government at Philadelphia until 1800.

SEC. 5. That prior to the first Monday in December next all offices attached to the seat of government of the United States shall be removed to, and until the said first Monday in December, in the year eighteen hundred, shall remain at the city of Philadelphia, in the State of Pennsylvania, at which place the session of Congress next ensuing the present shall be held.

Seat of government to be removed to District in December, 1800.

SEC. 6. That on the said first Monday in December, in the year eighteen hundred, the seat of the Government of the United States shall, by virtue of this act, be transferred to the district and place aforesaid. And all offices attached to the said seat of government shall accordingly be removed thereto by their respective holders, and shall, after the said day, cease to be exercised elsewhere; and that the necessary expense of such removal shall be defrayed out of the duties on imposts and tonnage, of which a sufficient sum is hereby appropriated.

AN ACT TO AMEND "AN ACT FOR ESTABLISHING THE TEMPORARY AND PERMANENT SEAT OF THE GOVERNMENT OF THE UNITED STATES."

Repealing certain part of act fixing permanent seat of government and vesting the President with certain powers.

¹ Stat., 214.
Mar. 3, 1791.

That so much of the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States" as requires that the whole of the district of territory, not exceeding ten miles square, to be located on the river Potomac for the permanent seat of the Government of the United States, shall be located above the mouth of the Eastern Branch, be, and the same is, hereby repealed, and that it shall be lawful for the President to make any part of the said territory below the said limit, and above the mouth of Hunting Creek, a part of the said district, so as to include a convenient part of the Eastern Branch, and of the lands lying on the lower side thereof, and also the town of Alexandria; and the territory so included shall form a part of the district not exceeding ten miles square, for the permanent seat of the Government of the United States, in like manner and to all intents and purposes as if the same had been within the purview of the above-recited act: *Provided*, That nothing herein contained shall authorize the erection of the public buildings otherwise than on the Maryland side of the river Potomac, as required by the aforesaid act.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas the general assembly of the State of Maryland, by an act passed on the twenty-third day of December, seventeen hundred and eighty-eight, entitled "An act to cede to Congress a district of ten miles square in this State, for the seat of the Government of the United States," did enact that the representatives of the said State in the House of Representatives of the Congress of the United States, appointed to assemble at New York on the first Wednesday in March then next ensuing, should be, and they were thereby authorized and required, on behalf of the said State, to cede to the Congress of the United States any district in the said State, not exceeding ten miles square, which the Congress might fix upon and accept for the seat of Government of the United States.

Jan. 24, 1791.

And the general assembly of the Commonwealth of Virginia, by an act passed on the third day of December, seventeen hundred and eighty-nine, and entitled "An act for the cession of ten miles square, or any lesser quantity of territory within this State, to the United States in Congress assembled, for the permanent seat of the general government," did enact that a tract of country not exceeding ten miles square, or any lesser quantity to be located within the limits of the said State, and in any part thereof, as Congress might by law direct, should be and the same was thereby forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first Article of the Constitution of the United States.

And the Congress of the United States, by their act passed on the sixteenth day of July, seventeen hundred and ninety, and entitled "An act for establishing the temporary and permanent seat of the Government of the United States," authorized the President of the United States to appoint three commissioners to survey, under his direction, and by proper metes and bounds to limit a district of territory, not exceeding ten miles square, on the river Potomac, at some place between the Eastern Branch and Conococheague, which district so to be located and limited was accepted by the said act of Congress as the district for the permanent seat of the Government of the United States:

Now, therefore, in pursuance of the powers to me confided, and after duly examining and weighing the advantages and disadvantages of the several situations within the limits aforesaid, I do hereby declare and make known, that the location of one part of the said district of ten miles square shall be found by running four lines of experiment in the following manner: that is to say, running from the court-house of Alexandria, in Virginia, due southwest half a mile, and thence a due southeast course till it shall strike Hunting Creek, to fix the beginning of the said four lines of experiment.

Then beginning the first of the said four lines of experiment at the point on Hunting Creek where the said southeast course shall have struck the same, and running the said first line due northwest ten miles; thence the second line into Maryland due northeast ten miles; thence the third line due southeast ten miles; and thence the fourth line due southwest ten miles, to the beginning on Hunting Creek.

And the said four lines of experiment being so run, I do hereby declare and make known, that all that part within the said four lines of experiment which shall be within the State of Maryland, and above the Eastern Branch, and all that part within the same four lines of experiment which shall be within the Commonwealth of Virginia,

and above a line to be run from the point of land forming the upper cape of the mouth of the Eastern Branch due southwest, and no more, is now fixed upon and directed to be surveyed, defined, limited, and located for a part of the said district accepted by the said act of Congress for the permanent seat of the Government of the United States; hereby expressly reserving the direction of the survey and location of the remaining part of the said district, to be made hereafter, contiguous to such part or parts of the present location as is or shall be agreeably to law.

And I do accordingly direct the said commissioners appointed agreeably to the tenor of said act to proceed forthwith to run the said lines of experiment, and the same being run, to survey, and by proper metes and bounds to define and limit the part within the same which is hereinbefore directed for immediate location and acceptance; and thereof to make due report to me, under their hands and seals.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand. Done at the city of Philadelphia, the twenty-fourth day of January, in the year of our Lord seventeen hundred and ninety-one, and of the Independence of the United States the fifteenth.

[SEAL.]

GEORGE WASHINGTON.

By the President:

THOMAS JEFFERSON.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Mar. 30, 1791.

Whereas, by a proclamation bearing date the twenty-fourth day of January of this present year, and in pursuance of certain acts of the States of Maryland and Virginia, and of the Congress of the United States therein mentioned, certain lines of experiment were directed to be run in the neighborhood of Georgetown, in Maryland, for the purpose of locating a part of the territory, of ten miles square, for the permanent seat of Government of the United States, and a certain part was directed to be located within the said lines of experiment on both sides of the Potomac, and above the limit of the Eastern Branch, prescribed by the said act of Congress;

And Congress, by an amendatory act, passed on the third day of this present month of March, have given further authority to the President of the United States "to make any part of the said territory below the said limit, and above the mouth of Hunting Creek, a part of the said district, so as to include a convenient part of the Eastern Branch and of the lands lying on the lower side thereof, and also the town of Alexandria:

Now, therefore, for the purpose of amending and completing the location of the whole of the said territory, of ten miles square, in conformity with the said amendatory act of Congress, I do hereby declare and make known, that the whole of the said territory shall be located and included within the four lines following; that is to say:

Beginning at Jones's Point, being the upper cape of Hunting Creek, in Virginia, and at an angle in the outset of forty-five degrees west of the north, and running in a direct line ten miles, for the first line; then beginning again at the same Jones's Point and running another direct line, at a right angle with the first, across the Potomac, ten miles, for the second line; thence from the termination of the said first and second lines, running two other direct lines of ten miles each, the one crossing the Eastern Branch aforesaid, and the other the Potomac, and meeting each other in a point.

And I do accordingly direct the commissioners named under the authority of the said first-mentioned act of Congress to proceed forthwith to have the said four lines run, and by proper metes and bounds defined and limited; and thereof to make due report, under their hands and seals; and the territory so to be located, defined, and limited shall be the whole territory accepted by the said act of Congress as the district for the permanent seat of the Government of the United States.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand. Done at Georgetown aforesaid, the thirtieth day of March, in the year of our Lord seventeen hundred and ninety-one, and of the Independence of the United States the fifteenth.

[SEAL.]

GEORGE WASHINGTON.

By the President:

THOMAS JEFFERSON.

ACT OF CESSION FROM THE STATE OF VIRGINIA.

AN ACT for the cession of ten miles square, or any lesser quantity of territory within this State, to the United States, in Congress assembled, for the permanent seat of the General Government. [Passed the 3d December, 1789.]

I. Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large; having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens on the western frontier; and whereas it appears to this assembly that a situation combining all the considerations and advantages before recited may be had on the banks of the river Potomac, above tide-water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia, may participate in such location: Burch's Dig., p. 213.

II. *Be it therefore enacted by the general assembly,* That a tract of country, not exceeding ten miles square, or any lesser quantity, to be located within the limits of the State, and in any part thereof, as Congress may by law direct, shall be, and the same is hereby forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of the Government of the United States.

III. *Provided,* That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

IV. *And provided also,* That the jurisdiction of the laws of this commonwealth over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress, having accepted the said cession, shall, by law, provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

AN ACT TO RETROCEDE THE COUNTY OF ALEXANDRIA, IN THE DISTRICT OF COLUMBIA, TO THE STATE OF VIRGINIA.*

July 9, 1846.
9 Stat. L., ch.
35, p. 35.

Whereas no more territory ought to be held under the exclusive legislation given to Congress over the District which is the seat of the General Government than may be necessary and proper for the purposes of such a seat; and whereas experience hath shown that the portion of the District of Columbia ceded to the United States by the State of Virginia has not been, nor is ever likely to be, necessary for that purpose; and whereas the State of Virginia, by an act passed on the third day of February, eighteen hundred and forty-six, entitled "An act accepting by the State of Virginia the county of Alexandria, in the District of Columbia, when the same shall be re-ceded by the Congress of the United States," hath signified her willingness to take back the said territory ceded as aforesaid: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That with the assent of the people of the county and town of Alexandria, to be ascertained as hereinafter prescribed, all of that portion of the District of Columbia, ceded to the United States by the State of Virginia, and all the rights and jurisdiction therewith ceded over the same, be, and the same are hereby, ceded and forever relinquished to the State of Virginia, in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside thereon.

SEC. 2. *And be it further enacted,* That nothing herein contained shall be construed to vest in the State of Virginia any right of property in the custom-house and post-office of the United States within the town of Alexandria, or in the soil of the territory hereby re-ceded, so as to affect the rights of individuals or corporations therein, otherwise than as the same shall or may be transferred by such individuals or corporations to the State of Virginia.

SEC. 3. *And be it further enacted,* That the jurisdiction and laws now existing in the said territory, ceded to the United States by the State of Virginia, as aforesaid, over the persons and property of individuals therein residing, shall not cease or determine until the State of Virginia shall hereafter provide, by law, for the extension of her jurisdiction and judicial system over the said territory hereby re-ceded.

SEC. 4. *And be it further enacted,* That this act shall not be in force until after the assent of the people of the county and town of Alexandria shall be given to it, in the mode hereinafter provided. Immediately after the close of the present session of Congress, the President of the United States shall appoint five commissioners, (any three of whom may act,) citizens of the said town or county of Alexandria, and freeholders within the same, who shall be sworn, before some justice of the peace in and for the said town or county, to discharge the duties hereby imposed upon them faithfully, impartially, and to the best of their ability. These commissioners, or any of them, shall proceed, within ten days after they are notified of their appointment, to fix upon the time, place, and manner, of taking the vote within the town or county of Alexandria, and shall

*92 U. S. Rep., 130, Phillips vs. Payne, declares the act valid

give notice of the same by advertisement in the newspapers of the said town. And on the day and at the place so appointed, every free white male citizen of the United States, who shall have resided in said county of Alexandria for six months preceding the time when he offers his vote, insane persons and paupers excepted, shall vote *viva voce* upon the question of accepting or rejecting the provisions of this act. The said commissioners shall preside when this vote is taken, and decide all questions arising in relation to the right of voting under this act. Within three days after this vote is taken as aforesaid, the said commissioners shall make out three statements of the result of this poll, upon oath, and under their seals. Of these, one shall be transmitted to the President of the United States, one to the governor of the Commonwealth of Virginia, and one shall be deposited in the clerk's office of the county court of Alexandria. If a majority of the votes so given shall be cast against accepting the provisions of this act, then it shall be void and of no effect; but if a majority of the said votes should be in favor of accepting the provisions of this act, then this act shall be in full force, and it shall be the duty of the President of the United States to inform the governor of Virginia that this act is in full force and effect, and to make proclamation of the fact.

SEC. 5. *And be it further enacted*, That, in such case, the right of property in the half square in Alexandria on which stands the courthouse, bounded by Columbus, Queen, and Princess streets, and the half square on which stands the jail, bounded by Princess, St. Asaph, and Pitt streets, shall be conveyed to the governor of Virginia, and his successors, for the use of the county and corporation of Alexandria forever; and the Solicitor of the Treasury of the United States is hereby authorized and required, in the name and on the behalf of the United States, to make all the proper and necessary conveyances for that purpose.

SEC. 6. *And be it further enacted*, That Congress will in no event assume and pay the debt, or any part thereof, now due by the corporation of the city of Alexandria.

**AN ACT TO CEDE TO CONGRESS A DISTRICT OF TEN MILES SQUARE
IN THIS STATE FOR THE SEAT OF THE GOVERNMENT OF THE
UNITED STATES.**

Be it enacted, by the General Assembly of Maryland, That the representatives of this state in the house of representatives in the congress of the United States, appointed to assemble at New York on the first Wednesday of March next, be and they are hereby authorized and required, on the behalf of this state, to cede to the congress of the United States, any district in this state, not exceeding ten miles square, which the congress may fix upon and accept for the seat of government of the United States.

Representatives
may cede any dis-
trict, etc.

Md. act, Dec. 23,
1788, ch. 46.
1 Kilty, 187.
1 Dorsey, 251,
252.

**AN ACT CONCERNING THE TERRITORY OF COLUMBIA AND THE
CITY OF WASHINGTON.**

(Supplements, November, 1792, ch. 59; 1793, ch. 58.)

Md. act 1791, ch.
45, sec. 1.
1 Dorsey, 268.
2 Kilty, p. 315.

Whereas, the president of the United States, by virtue of several acts of congress, and acts of the assemblies of Virginia and Maryland, by his proclamation, dated at Georgetown, on the thirtieth day of March, seventeen hundred and ninety-one, did declare and make known, that the whole of the territory of ten miles square, for the permanent seat of government of the United States, shall be located and included within the four lines following; that is to say, beginning at Jones' Point, being the upper point of Hunting creek, in Virginia, and at an angle in the outset of forty-five degrees west of the north, and running a direct line ten miles for the first line, then beginning again at the same Jones' Point, and running another direct line at a right angle with the first, across the Patowmack, ten miles, for the second line, then from the terminations of the said first and second lines, running two other direct lines ten miles each, the one crossing the Eastern Branch, and the other Patowmack, and meeting each other in a point; which has since been called the territory of Columbia:

And whereas, Notley Young, Daniel Carroll, of Duddington, and many others, proprietors of the greater part of the land hereinafter mentioned to have been laid out in a city, came into an agreement, and have conveyed their lands in trust to Thomas Beall, son of George, and John Mackall Gantt, whereby they have subjected their lands to be laid out as a city, given up part to the United States, and subjected other part to be sold to raise money as a donation to be employed according to the act of congress for establishing the temporary and permanent seat of the government of the United States, under and upon the terms and conditions contained in each of the said deeds; and many of the proprietors of lots in Carrollsburgh and Hamburgh, have also come into an agreement, subjecting their lots to be laid out anew, giving up one-half of the quantity thereof to be sold, and the money thence arising to be applied as a donation as aforesaid, and they to be reinstated in one-half of the quantity of their lots in the new location, or otherwise compensated in land in a different situation within the city, by agreement between the commissioners and them, and, in case of disagreement, that then a just and full compensation shall be made in money; yet some of the proprietors of lots in Carrollsburgh and Hamburgh, as well as some of the proprietors of other lands, have not, from imbecility and other causes, come into any agreement concerning their lands within the limits hereinafter mentioned, but a very great proportion of the landholders having agreed on the same terms, the president of the United States directed a city to be laid out, comprehending all the lands beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburgh, thence along the middle of the said road to a stone standing on the east side of the reedy branch of Goose creek, thence south-easterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburgh to the Eastern Branch ferry, then south to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek to the Eastern Branch, then east, parallel to the said east and west line, to the Eastern Branch, then with the waters of the Eastern Branch, Patowmack river and Rock creek, to the beginning; which hath since been called the city of Washington.

And whereas it appears to this general assembly highly just and expedient, that all the lands within the said city should contribute, in due proportion, in the means which have already very greatly enhanced the value of the whole; that an incontrovertible title ought to be made to the purchasers, under public sanction; that allowing foreigners to hold land within the said territory, will greatly contribute to the improvement and population thereof; and that many temporary provisions will be necessary, till congress exercise the jurisdiction and government over the said territory.

And whereas, in the cession of this state, heretofore made, of territory for the government of the United States, the lines of such cession could not be particularly designated; and it being expedient and proper that the same should be recognized in the acts of this state.*

SEC. 2. *Be it enacted by the General Assembly of Maryland,* That all that part of the said territory, called Columbia, which lies within the limits of this state, shall be and the same is hereby acknowledged to be forever ceded and relinquished to the congress and government of the United States, in full and absolute right, and exclusive jurisdiction,† as well of soil as of persons residing, or to reside, thereon, pursuant to the tenor and effect of the eighth section of the first article of the constitution of government of the United States: *Provided,* That nothing herein contained shall be so construed to vest in the United States any right of property in the soil,‡ as to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States: *And provided also,* That the jurisdiction§ of the laws of this state, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until congress shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the constitution before recited. Territory ceded to Congress, etc.

SEC. 3. *And be it enacted,* That all the lands belonging to minors, persons absent out of the state, married women, or persons non compos mentis, or lands the property of this state, within the limits of Carrollsburgh and Hamburgh, shall be and are hereby subjected to the terms and conditions herein before recited, as to the lots where the proprietors thereof have agreed concerning the same; and all the other lands, belonging as aforesaid, within the limits of the said city of Washington, shall be and are hereby subjected to the same terms and conditions as the said Notley Young, Daniel Carroll, of Duddington, and others, have, by their said agreements and deeds, subjected their lands to, and where no conveyances have been made, the legal estate and trust are hereby invested in the said Thomas Beall, son of George, and John Mackall Gantt, in the same manner as if each proprietor had been competent to make, and had made, a legal conveyance of his or her land, according to the form of those already mentioned, with proper acknowledgments of the execution thereof, and, where necessary, of release of dower; and in every case where the proprietor is an infant, a married women, insane, absent out of the state, or shall not attend on three months' advertisement of notice in the Maryland Journal and Baltimore Advertiser, the Maryland Herald, and in the Georgetown and Alexandria papers, so that allotment cannot take place by agreement, the commissioners aforesaid, or any two of them, may allot and assign the Lands subject to same terms, etc.

* Act of Congress accepting territory. 1 Stat. L., p. 130, ch. 28, July 16, 1790.

† 1 Mackey Rep., 528, 529, 530, U. S. vs. Guiteau; 6 Mackey Rep., 327, U. S. vs. Crawford; 97 U. S. Rep., 542, Welch vs. Cook.

‡ 1 Cranch, Ct. Rep., 69, O'Neal vs. Brown; 147 U. S. Rep., 288, 299, Shoemaker vs. U. S.

§ Jurisdiction of the United States vested the first Monday of December, 1800. 1 Cranch, Ct. Rep., 15, U. S. vs. Hammond. See also 13 Peter's Rep., 19, Van Ness vs. Bank.

portion or share of such proprietor, as near the old situation as may be, in Carrollsburgh and Hamburg, and to the full value of what the party might claim under the terms before recited; and, as to the other lands within the said city, the commissioners aforesaid, or any two of them, shall make such allotment and assignment, within the lands belonging to the same person, in alternate lots, determining by lot or ballot whether the party shall begin with the lowest number: *Provided*, That in the cases of coverture and infancy, if the husband, guardian or next friend, will agree with the commissioners, or any two of them, then an effectual division may be made by consent; and in case of contrary claims, if the claimants will not jointly agree, the commissioners may proceed as if the proprietor was absent; and all persons, to whom allotments and assignments of lands shall be made by the commissioners, or any two of them, on consent and agreement, or pursuant to this act without consent, shall hold the same in their former estate and interest, and in lieu of their former quantity, and subject, in every respect, to all such limitations, conditions and incumbrances, as their former estate and interest, and in lieu of their former quantity, and subject, in every respect, to all such limitations, conditions and incumbrances, as their former estate and interest were subject to, and as if the same had been actually reconveyed pursuant to the said deed in trust.

[See 1798, ch. 58, § 3.]

Commissioners,
in certain cases
may issue process,
etc.

SEC. 4. *And be it enacted*, That where the proprietor or proprietors, possessor or possessors, of any lands within the limits of the city of Washington, or within the limits of Carrollsburgh or Hamburg, who have not already, or who shall not, within three months after the passage of this act, execute deeds in trust to the aforesaid Thomas Beall and John M. Gantt, of all their lands within the limits of the said city of Washington, and on the terms and conditions mentioned in the deeds already executed by Notley Young, and others, and execute deeds in trust to the said Thomas Beall and John M. Gantt, of all their lots in the towns of Carrollsburgh and Hamburg, on the same terms and conditions contained in the deeds already executed by the greater part of the proprietors of lots in the said towns, the said commissioners, or any two of them, shall and may, at any time or times thereafter, issue a process, directed to the sheriff of Prince George's county, commanding him in the name of the state, to summon five good substantial freeholders, who are not of kin to any proprietor or proprietors of the lands aforesaid, and who are not proprietors themselves, to meet on a certain day, and at a certain place, within the limits of the said city, to inquire of the value of the estate of such proprietor or proprietors, possessor or possessors, on which day and place the said sheriff shall attend, with the freeholders by him summoned; which freeholders shall take the following oath, or affirmation, on the land to be by them valued, to wit: "I, A. B. do solemnly swear, (or affirm,) that I will, to the best of my judgment, value the lands of C. D. now to be valued, so as to do equal right and justice to the said C. D. and to the public, taking into consideration all circumstances," and shall then proceed to value the said lands; and such valuation, under their hands and seals, and under the hand and seal of the said sheriff, shall be annexed to the said process, and returned by the sheriff to the clerk appointed by virtue of this act, who shall make record of the same, and the said lands shall, on the payment of such valuation, be and is hereby vested in the said commissioners in trust, to be disposed of by them, or otherwise employed to the use of the said city of Washington; and the sheriff aforesaid, and freeholders aforesaid, shall be allowed the same fees for their trouble as are allowed to a sheriff and jurymen in executing a writ of inquiry; and in all cases where the proprietor

or possessor is tenant in right of power, or by the courtesy, the freeholders aforesaid shall ascertain the annual value of the lands, and the gross value of such estate therein, and upon paying such gross value, or securing to the possessor the payment of the annual valuation, at the option of the proprietor or possessor, the commissioners shall be and are hereby vested with the whole estate of such tenant, in manner, and for the uses and purposes, aforesaid.

SEC. 5. *And be it enacted*, That all the squares, lots, pieces and parcels of land, within the said city, which have been or shall be appropriated for the use of the United States, and also the streets, shall remain and be for the use of the United States; and all the lots and parcels, which have been or shall be sold to raise money as a donation as aforesaid, shall remain and be to the purchasers, according to the terms and conditions of their respective purchase; and purchases and leases from private persons claiming to be proprietors, and having, or those under whom they claim having, been in possession of the lands purchased or leased in their own right, five whole years next before the passing of this act, shall be good and effectual for the estate, and on the terms and conditions of such purchases and leases respectively, without impeachment, and against any contrary title now existing; but if any person hath made a conveyance, or shall make a conveyance or lease, of any lands within the limits of the said city, not having right and title to do so, the person who might be entitled to recover the land under a contrary title now existing, may, either by way of ejectment against the tenant, or in an action for money had and received for his use against the bargainor or lessor, his heirs, executors, administrators or devisees, as the case may require, recover all money received by him for the squares, pieces or parcels, appropriated for the use of the United States, as well as for lots or parcels sold, and rents received, by the person not having title as aforesaid, with interest from the time of the receipt; and, on such recovery in ejectment, where the land is in lease, the tenant shall thereafter hold under, and pay the rent reserved to, the person making title to and recovering the land; but the possession, bona fide acquired, in none of the said cases shall be changed.

Squares, etc., to remain, etc.

SEC. 6. *And be it enacted*, That any foreigner may, by deed or will hereafter to be made, take and hold lands within that part of the said territory which lies within this state, in the same manner as if he was a citizen of this state, and the same lands may be conveyed by him, and transmitted to, and be inherited by, his heirs or relations, as if he and they were citizens of this state; provided, that no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen.

Foreigners may hold lands, etc.

SEC. 7. That the said commissioners, or any two of them, may appoint a clerk for recording deeds of lands within the said territory, who shall provide a proper book for the purpose, and therein record, in a strong, legible hand, all deeds duly acknowledged of lands in the said territory, delivered to him to be recorded, and in the same book make due entries of all divisions and allotments of lands and lots made by the commissioners in pursuance of this act, and certificates* granted by them of sales, and the purchase-money having been paid, with a proper alphabet, in the same book of the deeds and entries aforesaid; and the same book shall carefully preserve, and deliver over to the commissioners aforesaid, or their successors, or such person or persons as Congress shall hereafter appoint; which clerk shall continue such during good behavior, and shall be removable only on conviction of misbehavior in a court of law; but

before he acts as such he shall take an oath or affirmation well and truly to execute his office; and he shall be entitled to the same fees as are or may be allowed to the clerks of the country courts for searches, copying, and recording.

[The above section has been superseded by law of Congress establishing courts, and afterward by establishing the office of register of deeds.]

SEC. 8. That acknowledgments of deeds made before a person in the manner and certified as the laws of this State direct, or made before and certified by either of the commissioners, shall be effectual; and that no deed hereafter to be made of or for lands within that part of the said territory which lies within this State shall operate as a legal conveyance, nor shall any lease for more than seven years be effectual unless the deed shall have been acknowledged as aforesaid, and delivered to the said clerk to be recorded within six calendar months from the date thereof.*

SEC. 9. That the commissioners aforesaid, or some two of them, shall direct an entry to be made in the said record book of every allotment and assignment to the respective proprietors in pursuance of this act.

SEC. 10. And for the encouragement of master-builders to undertake the building and finishing houses within the said city, by securing to them a just and effectual remedy for their advances and earnings:

Be it enacted, That for all sums due and owing, on written contracts, for the building any house in the said city, or the brick work, or carpenters or joiners' work thereon, the undertaker or workmen employed by the person for whose use the house shall be built shall have a lien on the house and the ground on which the same is erected, as well as for the materials found by him: *Provided*, The said written contract shall have been acknowledged before one of the commissioners, a justice of the peace, or an alderman of the corporation of Georgetown, and recorded in the office of the clerk for recording deeds herein created, within six calendar months from the time of acknowledgment as aforesaid; and if, within two years after the last work is done, he proceeds in equity, he shall have remedy as upon a mortgage, or if he proceeds at law within the same time, he may have execution against the house and land, in whose hands soever the same may be; but this remedy shall be considered as additional only, nor shall, as to the land, take place of any legal incumbrance made prior to the commencement of such claim.

[The foregoing section has been superseded by acts of Congress. See act of Feb. 2, 1859, Stat. L., vol. 2, p. 376.]

SEC. 11. That the treasurer of the western shore be empowered and required to pay the seventy-two thousand dollars agreed to be advanced to the President by resolutions of the last session of assembly, in sums as the same may come to his hands on the appointed funds, without waiting for the day appointed for the payment thereof.

SEC. 12. That the commissioners aforesaid, for the time being, or any two of them, shall, from time to time, until Congress shall exercise the jurisdiction and government within the said territory, have power to license the building of wharves in the waters of Patowmack and the Eastern Branch, adjoining the said city, of the materials, in the manner, and of the extent they may judge durable, conven-

* By November, 1792, ch. 59, deeds so recorded shall be as valid as if also recorded in the manner prescribed by law before the passage of this act.

ient, and agreeing with general order; but no license shall be granted to one to build a wharf before the land of another, nor shall any wharf be built in the said waters without license, as aforesaid; and if any wharf shall be built without such license, or different therefrom, the same is hereby declared a common nuisance. They may also, from time to time, make regulations for the discharge and laying of ballast from ships or vessels lying in Patowmack River above the lower line of the said territory and Georgetown, and from ships and vessels lying in the Eastern Branch. They may also, from time to time, make regulations for landing and laying materials for building the said city, for disposing and laying earth which may be dug out of the wells, cellars, and foundations, and for ascertaining the thickness of the walls of houses, and to enforce the observance of all such regulations by appointing penalties for the breach of any one of them, not exceeding ten pounds current money, which may be recovered in the name of the said commissioners, by warrant, before a justice of the peace, as in case of small debts, and disposed of as a donation for the purposes of the said act of Congress; and the said commissioners, or any two of them, may grant licenses for retailing distilled spirits within the limits of the said city, and suspend or declare the same void; and if any person shall retail or sell any distilled spirits, mixed or unmixed, in less quantity than ten gallons, to the same person, or at the same time actually delivered, he or she shall forfeit for every such sale three pounds, to be recovered and applied as aforesaid.

SEC. 13. That an act of assembly of this State to condemn lands, if necessary, for the public buildings of the United States, be, and is hereby, repealed.

A SUPPLEMENT TO THE ACT,* ENTITLED, AN ACT CONCERNING THE TERRITORY OF COLUMBIA, AND THE CITY OF WASHINGTON.

Whereas doubts have arisen upon the act to which this is a supplement, whether it be essential to the validity of deeds and other conveyances of lands in that part of the territory of Columbia which lies within this state, that the same be recorded in the manner prescribed by the laws of this state before the passage of the said act; to remove which doubts,

Preamble:

SEC. 2. *Be it enacted, by the General Assembly of Maryland,* That all deeds and other conveyances of lands lying within the said territory, and recorded agreeably to the directions and provisions of the said act by the clerk appointed in the manner therein provided for the recording of deeds within the said territory, shall be as good, valid and sufficient, in law, for the purposes of passing the estates therein mentioned, and for all other purposes, as if the same were also recorded in the manner prescribed by the laws of this state, before the passage of the said act for the recording of deeds and other conveyances of land within this state.

Certain deeds good, etc.

Md. act 1792, ch. 59.

2 Kilty, 392.

1 Dorsey, 288.

* 1791, ch. 45.

A FURTHER SUPPLEMENT TO THE ACT* CONCERNING THE TERRITORY OF COLUMBIA AND THE CITY OF WASHINGTON.

- Certificates to be sufficient, etc. *Be it enacted, by the General Assembly of Maryland,* That the certificates granted, or which may be granted, by the said commissioners, or any two of them, to purchasers of lots in the said city, with acknowledgement of the payment of the whole purchase money, and interest, if any shall have arisen thereon, and recorded agreeably to the directions of the act concerning the territory of Columbia and city of Washington, shall be sufficient and effectual to vest the legal estate in the purchasers, their heirs and assigns, according to the import of such certificates, without any deed or formal conveyance.
- Md. act Nov., 1793, ch. 58.
2 Kilty, 450.
- On sales not paid, property to be again sold, etc. II. *And be it enacted,* That on sales of lots in the said city by the said commissioners, or any two of them, under terms or conditions of payment being made therefor at any day or days after such contract entered into, if any sum of the purchase money or interest shall not be paid for the space of thirty days after the same ought to be paid, the commissioners, or any two of them, may sell the same lots at public vendue, in the city of Washington, at any time after sixty days notice of such sale, in some of the public newspapers of George-town and Baltimore-town, and retain in their hands sufficient of the money produced by such new sale to satisfy all principal and interest due on the first contract, together with the expenses of advertisements and sale, and the original purchaser, or his assigns, shall be entitled to receive from the said commissioners at their treasury, on demand, the balance of the money which may have been actually received by them, or under their order, on the said second sale; and all lots so sold shall be freed and acquitted of all claim, legal and equitable, of the first purchaser, his heirs and assigns.
- Chap. LVIII.
Commissioners to appoint a day, etc. III. *And be it enacted,* That the commissioners aforesaid, or any two of them, may appoint a certain day for the allotment and assignment of one half of the quantity of each lot of ground in Carrollsburg and Hamburg, not before that time divided or assigned, pursuant to the said act concerning the territory of Columbia and the city of Washington, and on notice thereof in the Annapolis, some one of the Baltimore, the Easton and George-town newspapers, for at least three weeks, the same commissioners may proceed to the allotment and assignment of ground within the said city, on the day appointed for that purpose, and therein proceed at convenient times till the whole be finished, as if the proprietors of such lots actually resided out of this state: *Provided,* That if the proprietor of any such lot shall object in person, or by writing delivered to the commissioners, against their so proceeding as to his lot, before they shall have made an assignment of ground for the same, then they shall forbear as to such lot, and may proceed according to the before-mentioned act.
- And make a seal, etc. IV. *And be it enacted,* That the said commissioners may make a seal of office of the clerk for recording deeds within the district of Columbia, which shall be kept by him; and that the like fees shall be paid for, and the like credit shall be given to, certificates under that seal, as to the like acts under the seal of a county court, and the said clerk shall be entitled to demand and receive his fees when the services enjoined him by this act, and the act to which this is a further supplement, shall be performed.

*1791, ch. 45.

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