

*Sheriff's
duty.*

Sec. 2. *Be it enacted*, That the sheriffs or coroners as aforesaid, holding said elections, shall, in the presence of the inspectors, count out the votes which may be taken at said elections, and shall on the Monday succeeding, return the number of votes for each candidate to the sheriff of Knox county, whose duty it shall be to add the votes for each candidate to the poll by him kept, and transmit the same as by law directed.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

PASSED—October 15, 1801.

CHAP. LXXXIX.

An ACT to authorize Elizabeth Carter, widow and administratrix of Landon Carter, deceased, to sell and convey by deed or deeds, certain lands therein mentioned for the purpose of paying certain debts due by the said Landon Carter.

Preamble:

WHEREAS it appears that general Landon Carter, late of the county of Carter, in his life time, was indebted to a considerable amount, and is deceased, and the said debts remaining unpaid, and Elizabeth Carter, widow, and sole administratrix of the goods and chattels, rights and credits of the said Landon Carter, hath petitioned this general assembly to enact a law by which she may be enabled to dispose of, and convey by deeds of conveyance, certain lands of the property of the said Landon Carter, in his life time, for the purpose of paying and satisfying the said debts: Therefore,

Section 1. *BE it enacted by the general assembly of the State of Tennessee*, That it shall and may be lawful for the said Elizabeth Carter, widow, and administratrix as aforesaid, to dispose of at public or private sale, certain lands laying on the waters of Clinch river, which were of the property of the said Landon Carter, in his life time, or so much thereof as may be found necessary for the purpose of raising the sum of three thousand dollars, to be applied by the said Elizabeth Carter to the payment of such debts as were due by him in his life time, and do yet remain unpaid. *Authorized to sell land*

Sec. 2. *Be it enacted*, That if the said lands laying on the waters of Clinch river, cannot be sold as in this act before mentioned, then and in that case, it shall and may be lawful for the said Elizabeth Carter, widow, and administratrix as aforesaid, to sell and dispose of at public or private sale, so much of the lands laying on the waters of Cumberland river, which were of the property of the said Landon Carter, in his life time, as may be found necessary for the purpose of raising the aforesaid sum of three thousand dollars, or so much thereof as may remain to be raised after disposing of the lands on the waters of Clinch river, and the monies arising from the sale of the said lands on the waters of Cumberland river, shall be applied in the same manner as the monies arising from the sale of the lands laying on the waters of Clinch river. *Cumberland river*

Sec. 3. *Be it enacted*, That if the said lands laying on the waters of Clinch and Cumberland rivers, cannot be sold as in this act before mentioned, then and in that case, it shall and may be lawful for the said Elizabeth Carter, widow, and administratrix as aforesaid, to sell a certain tract of land laying on the waters of Stoney creek, in Carter county, which was of the property of the said Landon Carter, in his life time, for the purpose of raising the aforesaid sum of three thousand dollars, or so much thereof as shall remain to be raised after disposing of the lands on the waters of Clinch and Cumberland *Stoney creek.*

rivers, and the monies arising from the sale of the said tract of land laying on the waters of Stoney creek, shall be applied in the same manner as the monies arising from the sale of the lands on the waters of Clinch and Cumberland rivers. *Provided always,* That this act shall not be construed so as to authorize & empower the said Elizabeth Carter, widow, & administratrix as aforesaid, to sell & dispose of lands which were of the property of the said Landon Carter, in his life time, to a greater amount than three thousand dollars, as aforesaid.

Consent of Guardians Sec. 4. *Be it enacted,* That the said Elizabeth Carter, widow and administratrix as aforesaid, shall not sell and dispose of any tract of land by virtue of the powers given her by this act, for a less sum of money than the guardians of the children of the said Landon Carter, deceased, shall consent and agree for the same to be sold for, and the court of the county of Carter is hereby authorized and required to appoint three suitable and fit persons for that purpose.

Make deeds. Sec. 5. *Be it enacted,* That it shall and may be lawful for the said Elizabeth Carter, administratrix as aforesaid, to convey by deeds of conveyance, such, or as many of the before mentioned tracts of land, as she may sell and dispose of for the purpose before mentioned, to the purchaser or purchasers; which deeds of conveyance so made, being duly proven or acknowledged, and registered agreeably to law, shall forever after be held, deemed, and taken, and adjudged, and decreed, to be good and valid and sufficient, both in law and equity, to pass and convey all the right of property, of, in, and to the tracts of land so sold and disposed of, to the purchaser or purchasers with the fee simple estate thereof, to all intents and purposes, any law to the contrary in any wise notwithstanding.

WILLIAM DICKSON,
Speaker of the House of Representatives.

JAMES WHITE,
Speaker of the Senate.

PASSED—November 10, 1801.

CHAP. XC.

An ACT to exonerate William Donaho and Griffith Rutherford, from a fine and double tax, in the county of Wilson.

WHEREAS the aforesaid William Donaho and Griffith Rutherford, have been subjected to a fine and double tax, on tracts of land in the aforesaid county of Wilson, by their agents, or through the negligence of the justice to whom such returns should have been made, and judgment having been entered up, and execution issued for the same, *Preamble*

Section 1. *BE it enacted by the general assembly of the state of Tennessee,* That the aforesaid William Donaho, shall be, and is hereby exonerated from paying a fine and double tax entered up against him, the said Donaho, by the court of Wilson county, he, the said Donaho, paying all necessary costs and charges accruing thereon, any thing to the contrary notwithstanding. *W. Donaho.*

Sec. 2. *Be it enacted,* That Griffith Rutherford, shall be, and is hereby released from a fine and double tax incurred in the county of Wilson, by not returning his taxable property within said county. *G. Rutherford.* *Provided,* he pays all costs and charges thereon, together with the single tax due on said property, any law to the contrary notwithstanding.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

PASSED—November 11, 1801.

C H A P. XCI.

An ACT to amend an act, entitled, "An act making compensation to Henry Conway," passed at Knoxville, in the year of one thousand seven hundred and ninety nine.

WHEREAS by the aforesaid act, Henry Conway was allowed the sum of thirty eight dollars and twenty eight cents: And whereas no mode was pointed out for drawing the said sum,

BE it enacted by the General Assembly of the State of Tennessee, That the governor for the time being, is hereby authorized and required to issue his warrant upon either of the treasurers of this state, for the sum of thirty eight dollars and twenty eight cents, in favor the aforesaid Henry Conway, which warrant shall be a sufficient voucher in the settlement with the treasury department.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

PASSED—October 29, 1801.

CHAP. XCII.

An ACT to alter the names of certain persons therein mentioned.

WHEREAS Mark Brown Sappington, and Robert Searcy, having requested this general assembly to alter the names of their illegitimate children, to wit: the name of Fanny Lucas, to that of Fanny Sappington, and the name of Robert Eastin Chapman, to that of Robert Eastin Searcy,

BE it enacted by the General Assembly of the State of Tennessee, That from and after the passing of this act, that the name of Fanny Lucas, is hereby altered and changed to that of Fanny Sappington, and that she, the said Fanny Sappington, shall, in all respects, both in law and equity, be upon an equal footing with the said Mark Brown Sappington's other children, and shall be entitled to all the advantages that she, the said Fanny Sappington possibly could be, provided she had been born in wedlock. And that the name of Robert Eastin Chapman, shall be altered to that of Robert Eastin Searcy, & that he the said Robert Eastin Searcy, shall, in all respects, both in law and equity, be upon an equal footing with the other children of the said Robert Searcy, which have been, or may be born in wedlock, any law, usage, or custom, to the contrary notwithstanding.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

PASSED—October 29, 1801.

An ACT to emancipate and set free a negro man, named Bob.

WHEREAS Robert Searcy, esquire, of Nashville, having made known to this general assembly, that he some time ago purchased said negro man, Bob, sold under an execution, and that the said negro hath since by his industry, reimbursed the purchase money, in consequence whereof, he prays that he may be emancipated and forever set free,

BE it enacted by the General Assembly of the state of Tennessee, That the said negro man, Bob, shall be, and he is hereby emancipated and forever set free, to all intents and purposes whatever, and shall in future be known by the name of Robert Reelfro.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

PASSED—November 10, 1801.

CHAP. XCIV.

An ACT making compensation to the members, clerks, and door keepers of the general assembly, and for defraying other contingencies.

SECTION 1. BE it enacted by the General Assembly of the state of Tennessee, That *Members* each member shall receive on dollar and seventy five cents, for each day he shall have attended the general assembly, and the same for every twenty five miles he shall travel in going to, and returning from the same.

Sec. 2. *Be it enacted*, That each principal clerk *Clerks* of the general assembly, shall be allowed the sum of three dollars per day for their services, and that three dollars per day be allowed for each assistant clerk, and a further allowance be made for stationery, to Edward Scott, twenty dollars, to Stephen Heard, twenty dollars, to George Roulstone, twenty dollars, and to Nathaniel B. Buckingham, twenty dollars.

Sec. 3. *Be it enacted*, That each door keeper shall *Door keepers* be allowed two dollars, for each day he shall have attended on the general assembly.

Sec. 4. *Be it enacted*, That the sum of twelve dollars and thirteen cents, be allowed Samuel *Fire wood.* Hindman, (door keeper) for fire wood, candles, &c. furnished both houses of the general assembly.

Sec. 5. *Be it enacted*, That the sum of forty dollars, be allowed Robert Craighead, for five *Tables.* tables, sixteen firms, furnished both houses of the general assembly.

Sec. 6. *Be it enacted*, That the sum of sixty one dollars, be allowed George Roulstone, for sundry *Printing.* printing, as per vouchers filed in the secretary's office.

Sec. 7. *Be it enacted*, That the secretary of *Laws.* State is hereby required to number the pages of the

laws and journals to be printed and published by George Roulstone, consistent with his contract with the general assembly, as appears on the journals, and on his producing the receipt of David Deaderick, William Machin, and Robert Searcy, the governor is hereby required to issue a warrant to the treasurer of either of the districts, to pay the said Roulstone, such sum of money as shall appear due, consistent with the aforesaid contract.

Sec. 8. *Be it enacted*, That William Machin shall be allowed the sum of eighty three dollars, as full compensation for stationery furnished by him for the use of the governor, and the office of secretary of state, and postage paid on public papers up to this general assembly.

Sec. 9. *Be it enacted*, That John Sevier, esq. late governor of this state, be allowed three hundred and seventy five dollars, being the balance due of his six years salary, as governor; and the governor for the time being, is hereby required to draw a warrant in his favor, on either of the public treasurers for that sum.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,
Speaker of the Senate.

PASSED—November 14, 1801.

A copy,

Tell,

WILLIAM MACLIN,

Secretary

STATE OF TENNESSEE,
IN GENERAL ASSEMBLY,

OCTOBER 26, 1801.

WHEREAS sundry evil minded persons regardless of their duty towards their just creditors, as also the obligations they owe to society, and in defiance of the laws of this state, have in sundry instances taken refuge within the territorial limits allotted to the Cherokee Indians; and the former laws not being sufficiently coercive to restrain or punish such offenders, either in criminal or civil cases, the legislature therefore, have thought it politically just, to prevent in future such contemptuous and violent attacks upon the administration of justice, by extending civil jurisdiction within the territory aforesaid. Such having been the motives which gave rise to the act of extension, it is scarcely presumable that any inference can be drawn, so as to authorize even the most abandoned character to commit an infraction upon the treaty or laws of the United States. Nevertheless, to foreclose misconception, it is

RESOLVED, That if any of the citizens of this state, or any of the United States, under any pretended right whatsoever, enter upon, occupy, or possess, any of the lands lying within the Indian boundary, or commit any offence against the laws of this state, or of the United States, such offender or offenders, are, in the opinion of this legislature, proper subjects of the penal laws, and ought to receive exemplary punishment.

WILLIAM DICKSON,

Speaker of the House of Representatives.
JAMES WHITE,

Speaker of the Senate.

STATE OF TENNESSEE,

IN GENERAL ASSEMBLY,

NOVEMBER 14, 1801.

RESOLVED, That the governor be requested to draw up and forward to the senators and representative of this state in Congress, such instructions as he may deem necessary and consistent with the act passed this session of the general assembly, entitled, "An act to appoint agents to settle the dispute existing between this state and the United States, relative to the vacant and unappropriated lands within this state, and to procure the relinquishment of the claim of the United States to the same."

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

STATE OF TENNESSEE,

IN GENERAL ASSEMBLY,

NOVEMBER 14, 1801.

RESOLVED, That Knoxville be and remain the seat of government until the end of the next General Assembly, and until otherwise provided for by law.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

STATE OF TENNESSEE,

IN GENERAL ASSEMBLY,

NOVEMBER 14, 1801.

RESOLVED, That the books of pre-emption and guard rights now in the possession of Andrew Ewing be deposited in the hands of Nathan Ewing, of Davidson county, there to remain until otherwise provided for by law.

WILLIAM DICKSON,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

A copy,

Telle,

WILLIAM MACLIN,

Secretary.

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PASSED AT THE

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FIRST SESSION

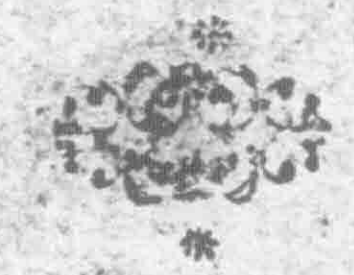
OF THE

FIFTH GENERAL ASSEMBLY

OF THE

STATE OF TENNESSEE,

BEGAN AND HELD AT KNOXVILLE, ON MONDAY THE
NINETEENTH DAY OF SEPTEMBER, ONE
THOUSAND EIGHT HUNDRED
AND THREE.



KNOXVILLE:

PRINTED BY GEORGE ROULSTONE,

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1803.

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A C T S
OF THE
STATE OF TENNESSEE.

19
CHAPTER I.

AN ACT for the better establishment and regulation of the militia of this state.

SECTION 1. **B**E it enacted by the General Assembly of the State of Tennessee, That all free men and indentured servants from the age of eighteen to forty five years shall compose the militia of this state; judges of the superior courts of law and equity, secretary of state, treasurers, attorney general, ministers of the gospel of every denomination, public ferrymen, justices of the peace, and all continental officers who have served three years with reputation, or during the war, post officers who have the care of the mail of the United States, and post riders shall be exempt from militia duty, except in case of imminent danger, insurrection or invasion.

Sec 2. *Be it enacted,* That the militia of this state shall be divided and designated as follows, viz

The militia of Washington county shall compose the first regiment.

The militia of Sullivan county shall compose the second regiment.

The militia of Greene county shall compose the third regiment.

The militia of Hawkins county shall compose the fourth regiment.

And the militia of Carter county shall compose the fifth regiment—which regiments shall constitute the first brigade.

The militia of Jefferson county shall compose the sixth regiment.

The militia of Grainger county shall compose the seventh regiment.

The militia of Coeke county shall compose the eighth regiment.

And the militia of Claiborne county shall compose the ninth regiment—which regiments shall constitute the second brigade.

The militia of Knox county shall compose the tenth regiment.

The militia of Sevier county shall compose the eleventh regiment.

The militia of Blount county shall compose the twelfth regiment.

The militia of Anderson county shall compose the thirteenth regiment.

And the militia of Roane county shall compose the fourteenth regiment—which regiments shall constitute the third brigade; which brigades shall compose the first division.

The militia of Sumner county shall compose the fifteenth regiment.

The militia of Smith county shall compose the sixteenth regiment.

The militia of Wilson county shall compose the seventeenth regiment.

And the militia of Jackson county shall compose the eighteenth regiment—which regiments shall constitute the fourth brigade.

The first regiment of militia of Davidson county shall compose the nineteenth regiment; and the second regiment of said county the twentieth regiment.

The militia of Williamson county shall compose the twenty first regiment.

And the militia of Rutherford county shall compose the twenty second regiment—which regiments shall constitute the fifth brigade.

The militia of Robertson county shall compose the twenty third regiment.

The militia of Montgomery county shall compose the twenty fourth regiment.

The militia of Dickson county shall compose the twenty fifth regiment.

And the militia of Stewart county shall compose the twenty sixth regiment—which regiments shall constitute the six brigade; which brigades shall constitute the second division.

Sec. 3. *Be it enacted*, That each regiment shall be composed of two battalions, and each battalion shall be formed into companies, to consist of not less than forty, nor more than ninety privates each, three serjeants, three corporals, one drummer, and one fifer, all of whom shall reside within the company district.

Sec. 4. *Be it enacted*, That each regiment of infantry shall hold one regimental muster annually at their respective court-houses or places of holding courts; except the second regiment of Davidson county, which shall hold its regimental musters at Waynesborough, or at any other place within the bounds of said regiment that two thirds of the commissioned officers may agree on, on the following days, viz.

The first, fifth, tenth, fifteenth, nineteenth, and twenty-third regiments the last Thursday in September.

The second, seventh, eleventh, sixteenth, twentieth, and twenty fourth, the first Thursday of October.

The third, eighth, twelfth, seventeenth, twenty first and twenty fifth the second Thursday in October.

The fourth, ninth, thirteenth, eighteenth, twenty second, and twenty sixth, the third Thursday of October.

And the fifth and fourteenth on the fourth Thursday in the same month.

Sec. 5. *Be it enacted*, That each battalion shall hold one muster annually: The first battalion in each regiment shall hold a muster on the second Thursday in April; and the second battalion shall hold a muster on the third Thursday in April; and the officers of each battalion shall have the privilege of choosing their muster ground.

Sec. 6. *Be it enacted*, That each regiment shall hold a court martial at their respective court houses, on the second Friday of November annually, and the succeeding day, if found necessary, to consist of at least seven members, the eldest of whom shall be president, and be of the grade of field officer; and if there be no field officer present, the senior officer present shall preside; and the court shall be sworn to do their duty by the judge advocate of the regiment; and the said court when convened, shall have power to enquire into the age and abilities of all persons brought before them, and exempt such as may be judged incapable of duty, and all neglects or omis-

sions of duty, as well by officers as by privates; to hear and determine all appeals which may be made by non commissioned officers or privates, who may think themselves aggrieved by any sentence or decree of their battalion or company court martial, and to order and dispose of all fines and forfeitures arising under this act, unless otherwise dispensed by law. And the first battalion in each regiment shall hold a court martial on the last Saturday in May annually; and the second battalion in each regiment shall hold a court martial on the first Saturday in June annually, at the places for holding the battalion musters, and shall consist of at least five members; and the major appointed to the command of each battalion shall attend the battalion musters, and may preside in the courts martial, or may direct the senior officer present to preside; and shall be conducted by the same rules, regulations and restrictions as regimental courts martial; reserving to any persons who may think themselves aggrieved by any sentence of such court the right of appeal to the next regimental court martial; and in case of any such appeal, it shall be the duty of the judge advocate to carry up the same to the succeeding regimental court martial, whose duty it shall be to determine on all such appeals agreeable to law and the nature of the case.

Sec. 7. *Be it enacted* That the commissioned officers of the aforesaid regiments of infantry, shall meet at the places of holding their regimental musters, armed with a good rifle or smooth bore, for the purpose of being trained and instructed in their duty by the brigade inspector, which meeting shall be on the Monday preceding the regimental musters, and shall continue two days; the senior officer present shall call the roll each day and report all delinquents to the next regimental court martial, and every officer failing to attend, or not appearing armed, as aforesaid, without a reasonable excuse, to be judged of by the court martial, shall be fined in the sum of five dollars, to be appropriated as other fines by this act directed.

Sec. 8. *Be it enacted*, That the commissioned officers of the different regiments, shall appear in the following uniform, when on parade, (to wit:) with a good cocked hat, a blue cloth coat faced with red, and white small clothes; each field officer with two epaulets; each captain with one epaulet, and

optional with subaltern officers to wear an epaulet or not; and the staff officers of the regiments, brigades and divisions, shall be equipped and dressed in the same manner and uniform as other officers except their small clothes, and facings of their coats, which shall be buff.

Sec. 9. *Be it enacted*, That each division of militia shall be commanded by a major general; each brigade, by a brigadier general; each regiment, by a lieutenant colonel commandant and two majors; each battalion by one major; each company by one captain, one lieutenant and one ensign. The major generals shall appoint their aids de camp; the brigadier generals, their brigade majors; the commanding officers of each regiment their adjutants, quartermasters, sergeant majors, drum majors and file majors; and the captains their drummers and fifers.

Sec. 10. *Be it enacted*, That the drum majors and file majors shall be allowed one dollar for each day they may attend to instruct the drummers and fifers in their regiments, to be paid out of any fines and forfeitures collected under the authority of this act; and the adjutants shall be allowed one dollar and fifty cents for each day that they shall be engaged in training and disciplining the regiments and battalions, to be paid out of the fines and forfeitures of the regiment.

Sec. 11. *Be it enacted*, That the brigadier generals shall attend the regimental musters, in their respective brigades, at least once in two years, and oftener if found necessary, and shall review said regiments, and make such regulations as may appear to them necessary, not inconsistent with this act; and it shall be the duty of the brigadier generals to appoint proper persons brigade inspectors, who shall be acquainted with military discipline, whose duty it shall be to attend the several drill and regimental musters, at the times appointed by this act, and there proceed to train and discipline the commissioned officers of their respective brigades, agreeable to Stuben's military guide. And the brigade inspector shall be allowed for their services the sum of two dollars and fifty cents for each and every twenty five miles engaged in travelling to and from the place of attendance, and the like sum for every day employed in discharging the duties enjoined on them by this act, to be drawn from either of the public treasuries of this State, on a warrant from either of the brigadier generals.

Sec. 12. *Be it enacted*. That the elections for military officers shall be as follows: the election for major general, the governor shall issue his order, giving sixty days notice; for a brigadier general, the major general shall issue his order, giving forty five days notice; for colonel or major, the brigadier shall issue his order, giving thirty days notice; for captain, lieutenant, ensign, or cornet, the colonel shall issue his order, giving fifteen days notice. In case of death, resignation or removal from office, of either of the above mentioned officers, the next officer in rank shall issue his order to fill all such vacancies. The election for major general, for the first division, shall be holden by the field officers of the first brigade, at Jonesborough; by the field officers of the second brigade at Mosley Creek Iron Works; by the field officers of the third brigade at Knoxville, and vote for one major general; and the senior officer shall transmit the votes so taken to the governor, who in the presence of the secretary of state shall proceed to count out the same, and commission the person elected; and if two or more persons should have an equal number of votes, the governor shall decide who shall be the major general; and the field officers of the second brigade shall meet at Mosley Creek Iron Works, and proceed to elect one person for a brigadier general; and the vote so taken by the senior officer present, shall be transmitted by him to the major general of the first division, whose duty it is to count the same and send to the governor a certificate of the person elected, whose duty it is to commission him accordingly; and if two or more persons shall have an equal number of votes, the major general shall decide who is to be the brigadier general. And the field officers of the fifth brigade shall meet at Nashville, and the field officers of the sixth brigade shall meet at Clarksville, and shall respectively vote for one brigadier general; and the votes so taken in each brigade respectively, shall be transmitted by the senior officer to the major general of the second division, who shall proceed to count them out and transmit to the governor a certificate of the person elected, and the governor shall commission him accordingly. And it shall be the duty of the major general to decide who shall be the brigadier general, in all cases where any two or more persons shall have an equal number of votes.

Sec. 13. *Be it enacted*. That any person who shall be elected and commissioned in the military department of this state,

shall not resign the same within three years after the date of their commission, unless they shall offer for a higher command, removed by a court martial for a misdemeanor in office, or admitted to do by his superior officer.

If a major general, his resignation shall be approved of by the governor.

If a brigadier, by the major general.

If a lieutenant colonel commandant, or major, by the brigadier general.

If a captain or subaltern, by a majority of the field officers under the following penalties, viz.

If a major general, in a sum not exceeding fifty dollars.

If a brigadier general, in a sum not exceeding fifty dollars.

If a colonel commandant, in a sum not exceeding fifty dollars.

If a major, in a sum not exceeding fifty dollars.

If a captain or subaltern, in a sum not exceeding fifty dollars, to be recovered and appropriated as other fines and penalties by this act directed.

Sec. 14. *Be it enacted*. That in future, all commissions for militia officers shall be issued agreeably to the following form, by varying the same according to the grade of the office, viz.

STATE OF TENNESSEE,

To all who shall see these presents, GREETING:

KNOW YE, That reposing special trust and confidence in the patriotism, valor, conduct and fidelity of
of the county of _____ We do commission him
the _____ regiment of militia of this
state; and do authorize and empower him to execute and fulfill the duties of _____ the said regiment, agreeable to law and the rules and directions of military discipline: TO HAVE AND TO HOLD the rank and command of _____ the said regiment during his good behavior, with all the powers, privileges, and emoluments thereof of right appertaining. And the said _____ is hereby required to obey his superior officers' lawful orders and commands; and all officers and privates under his command are to be obedient to him as _____ aforesaid.

In testimony whereof we have caused the great seal of the state to be hereunto affixed. Witness _____ esquire;

our governor and commander in chief, at the
day of in the year of
our independence, and in the year of our Lord one thousand
eight hundred and

By the Governor,

Secretary.

Sec. 15 *Be it enacted.* That any person who hath heretofore received a commission under the authority of this state, may apply to the secretary to have a commission agreeable to the foregoing form, under the great seal of the state, whose duty it shall be to make out the same; and it shall bear date on the day and date of the commission heretofore issued, and be signed by the governor for the time being; and persons so applying shall pay twenty five cents to the secretary for his trouble in issuing the commission a second time.

Sec. 16. *Be it enacted.* That each and every officer appointed and commissioned by virtue of this act, shall, previous to their entering on the execution of their respective offices, take the following oath:

I, A. B. do solemnly swear, that I will support the constitution of this state and of the United States: And that I will faithfully and justly execute the office of in the
regiment, brigade or division (as the case may be)
of militia of this state, according to the best of my skill and judgment. *So help me God.*

A copy of which oath shall be entered on the back of the commission.

Sec. 17 *Be it enacted.* That each judge advocate previous to his entering on the duties of his appointment, shall take an oath to support the constitution of the United States and of this state, and also the following oath:

I, A. B. do solemnly swear, that I will well and truly perform the duties of judge advocate of this court, according to law and the best of my abilities. *So help me God.*

The judge advocate thus sworn, shall administer the following oath to the officers, previous to their entering on court martial:

You, and each of you do solemnly swear or appral, that you will well and truly enquire into all delinquencies which may appear on the returns to be laid before you, and will

affix the fines thereon as shall seem just, without favor, affection, partiality or prejudice, and that you will not disclose or discover the vote or opinion of any particular member of this court, unless required to give evidence thereof in a court of justice in due course of law. *So help me God.*

No variation to be made in the form of this oath, except as circumstances arising from different cases may require. And the doors of all courts martial shall in all cases be kept open, unless the public good require the contrary.

Sec. 18. *Be it enacted.* That the commanding officers of regiments, battalions, or companies shall lay out and designate a sufficient bounds at their several places of mustering, as will be sufficient for their regiments, battalions, or companies (as the case may be) to muster and exercise on, within which bounds no spectator shall be at liberty to enter, during the time such regiment, battalion or company is mustering and exercising, without the approbation of the said commanding officer. And if any person shall behave disorderly within the bounds aforesaid, he or they shall be confined at the discretion of the commanding officer aforesaid, which confinement shall not be longer than the dismissal of the troops so assembled to exercise.

Sec. 19 *Be it enacted.* That every captain or commanding officer of the company shall hold a company muster once in every two months in each and every year, except the months of January and February, at such places near the centre of their company as the commanding officer may deem most convenient, and shall direct his company sergeant to warn his men of the time and place of said musters; and on such muster days the officers of the company, or any two of them shall have power to hold court martial if found necessary and the senior officer present shall administer all necessary oaths, and receive the fines by said court imposed, and pay the same into the hands of the judge advocate of the regiment, and a record of the proceedings shall be kept stating the name of each person on whom a fine has been imposed; and the sum shall be returned to the judge advocate, and be entered by him on his journal, and execution may issue thereon, as in other cases; but no execution in any case shall issue for fines or forfeitures, until the expiration of three months after sentence of any court martial stipulated by this act; and if any

person on whom a fine shall be assessed, shall pay the same to the judge advocate, or the commanding officer of the company to which he belongs, within the time limited for stay of execution, he shall not be liable to pay any costs. And fines arising by delinquencies at any company muster, shall be appropriated to the use of such company only, in manner as the court martial thereof may direct, and be drawn from the hands of the judge advocate, on order of the commanding officer of the company.

Sec. 20. *Be it enacted*, That it may be lawful for a volunteer company of light infantry to be raised out of each regiment, by voluntary enlistment, to be and remain a part of the regiment in which it shall be raised. The field officers of each regiment is hereby empowered to appoint suitable persons *pro tem.* to raise such company, which shall consist of not less than thirty, nor more than sixty privates, *Provided*, that no officer shall enlist so many men out of any one company as to reduce it under its lawful number; and when any such company shall be made up, it shall be lawful for the commanding officer of the regiment in which such company shall be raised, to give a writ of election, and the volunteers so raised shall have power to elect their officers as in other cases: and each volunteer shall fix himself with, and appear when on parade in the following uniform, to wit, a blue coat faced with white, a round hat with one side turned up, & white small clothes; and shall be armed in the following manner; each captain and subaltern with side arms, each non commissioned officer and private with a good rifle, shot bag and powder-horn, with nine charges of powder and ball suitable to the bore of his rifle, and be under the same rules, regulations, and restrictions as other militia. *Provided*, no private thus enlisted, shall be compelled to serve in said company longer than five years, but shall, six months previous to his leaving said company, give a written note to the commanding officer, of his intention to quit the same.

Sec. 21. *Be it enacted*. That it shall be the duty of commanding officers of companies to proceed forthwith to divide their companies into divisions by ballot from one to four for the purpose of a regular routine of duty when called into actual service and return a roll of each division and its number in rotation within thirty days thereafter to the commanding officer of the

battalion, who shall transmit the same to the commanding officer of the regiment, who shall cause the same to be recorded by the judge advocate. Every militia man moving out of the bounds of one company into another shall apply to the commanding officer of the company to which he did belong, who shall give him a certificate certifying the class wherein he was arranged, and whether he had served his tour of duty or not, and also the time and date of such service, which certificate the said militia man shall produce to the captain or commanding officer of the company into whose bounds he shall so have removed within ten days after his settlement, and such officer is hereby required to enroll him in the numerical class specified therein, and every militia man so removing, and failing to produce such certificate shall be arranged and enrolled in the class destined to perform the next tour of duty; and if any captain or commanding officer of any company shall refuse to grant such certificate, upon application made to him for that purpose, he shall for such refusal forfeit and pay a sum not exceeding ten dollars, to be recovered and applied as other fines by this act directed.

Sec. 22. *Be it enacted*, That all fines and forfeitures imposed by virtue of this act, shall be collected by a serjeant of the company in which such delinquent shall reside, who shall pay the same into the hands of the judge advocate, who shall enter into bond with approved security, in the sum of one thousand dollars, payable to the colonel, for the use of the regiment, conditioned for the receiving, safe keeping, and disbursing the same; and for all necessary services thereon shall be allowed the sum of six dollars for each and every hundred dollars so received and disbursed, and so in proportion for a greater or lesser sum, first retaining his fees of office. — The serjeant shall not at any time collect any fines as aforesaid, unless there be first put into his hands an execution by the judge advocate, to the following effect:

STATE OF TENNESSEE,

To the serjeant of

company.

YOU are hereby commanded, that of the goods and chattels of
you cause to be made the sum of
dollars, which sum the said
was fined in at a regimental, battalion or company court martial

B

(as the case may be) on the _____ day of _____ in _____ the year of _____ which sum you are to render to the judge advocate within thirty days after the receipt thereof. Given under my hand the day and date above written.

(Signed)

A. B. judge advocate
of _____ regiment.

And it shall be the duty of the serjeants upon the receipt of such execution to proceed, without delay, to the collection of the sums therein specified; and the said serjeant shall receive fifty cents for every execution by him collected; and also the judge advocate shall receive twelve and one half cents for every execution by him issued, which fees shall be inserted in the execution and collected from the delinquents, and to return all such executions to the next regimental court martial next ensuing the day of issuing the same, and to render the monies thereon collected as directed by such executions; and the said judge advocate is hereby empowered and required as before-mentioned, and it shall be the duty of the judge advocate to enter on the minutes of the court martial the return of the serjeant on each and every execution, and the court martial of each and every regiment shall order the judge advocate (whose duty it shall be) to advertise annually, at the court martial, the amount of all money arising by fines agreeable to this act, which he may have in his hands or in what manner the same is disbursed.

Sec. 23. *Be it enacted*, That it shall be the duty of the colonel to appropriate the money arising by fines in the hands of the judge advocate, by order of the court martial in the first place to buying drums, fises and colours for the use of the regiment, and secondly to buying arms and other necessary implements of war, and other contingencies.

Sec. 24. *Be it enacted*, That the commanding officers of each company shall make out an accurate statement, of the strength and condition of his company, and make return thereof to the major of the battalion to which he belongs, on or before the battalion muster annually, whose duty it shall be to return the same to the commanding officer of his regiment on or before the first day of May annually, who shall file the same with the adjutant of the regiment, whose duty it shall

be under the direction of the commanding officer of his regiment, to make out an accurate statement of the strength and condition of his regiment, and return the same to the brigade major of the brigade to which he belongs on or before the first day of June annually; and the brigade major, under the direction of the brigadier general, shall in like manner make a return of the brigade to which he belongs, to the adjutant general, on or before the first day of August annually; and it shall be the duty of the adjutant general to furnish all blank forms of the different returns and explanations of the principles on which they should be made as shall be approved of by the major general, and also to receive the returns of the militia throughout the state, from all which he shall make the proper abstracts, and lay the same before the commander in chief of this state, on or before the third Monday of September annually; and the commander in chief, when required, shall lay the same before the general assembly.

Sec. 25. *Be it enacted*, That each militia officer and private shall be armed in the following manner, (to wit) each commissioned officer with side arms espantons, each private and non-commissioned officer shall be provided with a musquet, cartridge box with nine charges of powder & ball made into cartridges, or a rifle, powder horn and shot pouch with an equal quantity of ammunition suitable thereto in good condition, one spare flint, one picker and worm; and every officer and private shall appear at their respective muster fields by eleven o'clock in the forenoon, on the day appointed for holding regimental, battalion or private musters. And for the better understanding of the duties of the officers and soldiers at the aforesaid musters, it shall be the duty of the adjutant when the different companies are assembled, to lead off the same by files, into one regimental or battalion line, (as the case may be) and the commanding officer of each company shall cause his roll to be called, examine every person belonging thereto, and note down all delinquencies accruing therein, as well those not attending as those attending and not armed as by this act directed, and make report thereof to the regimental, battalion or company court martial (as the case may be) the commanding officer shall order the adjutant to proceed to train and discipline the troops, agreeable to Stuben's military guide.

Sec. 26. *Be it enacted*, That if any officer shall fail to appear at such muster as aforesaid, neglect to appear properly armed

and equipt, as by law directed, such officer on conviction before a court martial, shall forfeit and pay, if a field officer, a sum not exceeding ten nor less than four dollars; if a captain, lieutenant, ensign or adjutant, a sum not exceeding five nor less than two dollars, unless he or they shall render to the court such reasons as they shall judge sufficient; and every non commissioned officer and private, who shall fail to attend at such musters, or appear not armed, or provided as directed by this act, shall for every such neglect forfeit and pay, if at a regimental muster, a sum not exceeding two nor less than one dollar; if at a battalion muster, a sum not exceeding one dollar and fifty cents, nor less than seventy five cents; if at a private muster, a sum not exceeding one dollar nor less than fifty cents: *Provided always*, That every delinquent shall be allowed until the next regimental, battalion or company court martial, (as the case may be) whose duty it shall be to attend such court martial to render his or their excuse for such delinquency; and if upon trial, their reasons should be deemed insufficient, the court shall then proceed to assess the fines as aforesaid, *Provided*, that in all cases, when the fine to be assessed shall arise from any person appearing without arms, as by this act directed, then and in that case the court is hereby vested with a discretionary power.

Sec. 27. *Be it enacted*, That when either the major general, brigadier general, brigade major shall be charged with mal administration or neglect of duty in office, if the major general, it shall be lawful for any militia officer, not under the grade of field officer, to exhibit to the governor for the time being a fair statement of the charge or charges, and the facts intended to establish the same, who is hereby authorized to order a general court martial, to consist of least nine members, none to be under the grade of a field officer, who, when convened shall take and subscribe the oath hereafter directed for regimental court martials. The said court thus sworn, shall have power to enquire into the nature of the offence, and if it should constitute a misdemeanor in office, he shall be removed from the same; if neglect of duty, he shall forfeit and pay a sum not exceeding fifty dollars, to be recovered and applied as in similar cases; if a brigadier general, or brigade major, shall be guilty of either of the aforesaid offences, the charge shall be exhibited to the major general, whose duty it shall be to issue his orders to the senior colonel commandant in the brigade in which the person charged resides, by virtue of

which order said colonel is directed to hold a court martial, and proceed in the same manner as prescribed for the trial of major general: *Provided*, That in all cases of charges exhibited against officers, the officer ordering a court martial, shall, as soon as practicable, furnish the person charged with a copy of the charges exhibited against him; and the president of the court martial shall give him at least fifteen days notice of the time and place appointed for trial, and cause such witnesses to be summoned by the adjutant of the regiment in which they reside, as may be required by either party; and every person so summoned and failing to attend or refusing to be sworn, shall be liable to be tried by a court martial; and if he be an officer, he may be cashiered or fined at the discretion of the court martial not exceeding fifty dollars; if a non commissioned officer or private, he may be fined not exceeding twenty dollars, and moreover be confined under guard or put in jail until he will give evidence.

Sec. 28. *Be it enacted*, That each regimental court martial shall by ballot elect a suitable person as judge advocate, whose appointment shall continue during good behaviour; his duty shall be to provide a book, in which he shall state from time to time the proceedings to said court, and make all other necessary entries for the regiment; and for his services shall be exempted from military duty, and be allowed the sum of one dollar per day, for attending regimental and battalion court martials, to be paid out of the fines arising by virtue of this act: *Provided also*, that in case of death, resignation, or removal out of the county or office, the journals and proceedings shall be kept by the colonel or commanding officer, until a judge advocate be appointed in the room and stead of him so dead, or refusing to act, or removed as aforesaid.

Sec. 29. *Be it enacted*, That if any commissioned officer belonging to any regiment, shall be charged with unmilitary or ungentlemanly conduct, such court shall have power, on conviction thereof to cashier the person so charged and convicted, from office; and if any officer shall be guilty of disobedience to his superior officers' lawful commands, when on duty, he shall be arrested and tried as herein directed; and if the sentence shall be to impose a fine, the same shall not exceed twenty dollars; and if any member of court martial shall be guilty of any conduct unbecoming the character of an officer, he shall for the first offence be reprimanded by the president, and

for the second and all others be fined in a sum not exceeding ten dollars; and if any by slander shall interrupt or insult said court, while sitting, such person, on conviction, shall forfeit and pay a sum not exceeding twenty dollars, to be recovered as by this act directed.

Sec. 30. *Be it enacted*, That if any non commissioned officer or private, shall, during the time of muster, resist his commanding officer, or refuse his lawful commands, if a non commissioned officer, he shall be fined in a sum not exceeding ten dollars, reduced to the ranks and kept under guard during such muster; if a private, he shall be fined, not exceeding eight dollars and kept under guard as aforesaid; which fine shall be appropriated as heretofore directed.

Sec. 31. *Be it enacted*, That it shall be the duty of the colonel or commanding officer of each regiment, to number by grade the commissioned officers, plainly setting forth the number of each company and the officers destined to command the same; which statement he shall cause to be duly registered by the judge advocate in his journal, the object of which is, to direct the colonel or commanding officer how and in what manner he shall call men into actual service and to establish the rank of the different officers in his regiment.

Sec. 32. *Be it enacted*, That no officer or private, ordered or directed by this act to appear as aforesaid, shall be liable to be taken or arrested by any officer in any civil action or process whatever, on the day such person or persons is or are directed to appear, or in any reasonable time going to, continuing at, or returning from the same, but every such arrest is hereby declared to be void. And every person required by this act, to attend musters, going to or returning from the same, shall be suffered to pass over any bridge, together with his horse, and shall be put over any public ferry without delay, free from any charge whatever; and if any ferryman demand pay for, delay or refuse to put such person or persons over, or master of a toll bridge impede the passage of any person, he shall forfeit and pay for every such offence the sum of two dollars to be recovered by a warrant from a justice of the peace, one half to the informer and the other half to the use of the county where the offence was committed; and no non commissioned officer or private shall be deprived of his arms and accou-

trements required by this act, by execution or other process of law civil or military whatever.

Sec 33. *Be it enacted*, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, regiment or company, or offer himself a candidate for any other military appointment, or shall be absent therefrom, otherwise than on militia duty for more than twelve months, his office shall thereby become vacated; and if any commissioned officer shall think himself injured by his commanding officer of the regiment, and shall upon due application made to him be refused redress, he may complain to the brigadier general, who shall order a brigade court martial to be held, under the same rules and restrictions as heretofore mentioned; if any inferior officer or private shall think himself injured by his captain, or other superior in the regiment to which he belongs, he may complain to the commanding officer, who shall summon a regimental court martial, and such court shall determine the complaint agreeable to the nature of the case. *Provided always*, that the complainant shall exhibit his charge in writing, supported by oath or affirmation.

Sec 34. *Be it enacted*, That all elections in the militia department, which may hereafter be contested, shall be determined in the following manner (to wit): If the election of a major general should be contested, the party contesting such election shall furnish the governor with a fair statement of his reasons in writing, upon the receipt of which he shall order a general court martial to be held at the seat of government; at which court, each militia officer, not under the grade of a field officer shall be entitled to a seat; and if the election of a brigadier general should at any time be contested, the complainant shall make application in the manner before mentioned to the major general, who is hereby directed to order a brigade court martial as in other cases; and when the election of a lieutenant colonel commandant or major shall be contested, application shall be made to the next highest officer in command, who shall order a regimental court martial accordingly; if under the rank of field officer all complaints shall be directed to the commanding officer of the regiment where the contest exists; and in order to explain and fix a principle to govern the several courts martial in their duties respecting contested elections, it is hereby declared that the pro-

son contesting in all cases, shall be bound to give satisfactory proof to the court, that the person whose election is contested did receive a number of illegal votes, which, if deducted, would give a majority to the person contesting, and if the person contesting should fail at any time to establish his charge, or if the charge shall be sufficiently supported, in either case the court shall report in favour of the person having the greatest number of legal votes, as being duly elected.

Sec. 35. *Be it enacted*, That the president of each court-martial shall certify, under his hand, the name or names of the person or persons thus duly elected, which certificate shall be directed to the governor, provided the officer shall be of the grade of general or field officer; if commissioned officers of companies, the certificate shall be signed as aforesaid & directed to the lieutenant colonel commandant, and by him to the governor, who shall issue commissions in either of the above mentioned cases; and in order to provide more amply for deciding contested elections, it is hereby declared, that where the cause should at any time arise from any illegal proceedings of any person ordering, inspecting, or judging any election, on proof being made to the court martial, such election shall be declared void; and the president, by and with the authority of said court, shall direct the proper officer to issue a writ or writs of election to fill such vacancy, having respect to the directions contained in the act, entitled, "an act prescribing the mode of electing militia officers of this state," passed at Knoxville, one thousand seven hundred and ninety six: *Provided*, that the parties contesting any election of an officer or officers, shall not be permitted to vote in any court martial authorized to decide in such contested election or elections.

Sec. 36. *Be it enacted*, That in case of actual invasion or insurrection, or an invasion threatened or premeditated, against this state or any part thereof, then it shall be lawful for the governor for the time being, or any officer by him directed, to order into actual service all or such parts of the militia as the exigency may require, and to discharge said troops as soon as he may judge it consistent with the interest of the state; and if a sudden insurrection should be raised, or invasion made upon any county within this state, the commanding officer of the militia of such county is hereby authorized and directed to order out such part of the militia as he may think necessary for sup-

pressing or repelling such invasion: *Provided always*, that it shall be the duty of such officer to transmit to the governor as early as practicable, the statement of his proceedings, setting forth his reasons for exercising such authority; and in order to explain an invasion premeditated, it must be understood as a special requisite, that the oath or oaths of one or more respectable persons shall be required; and in all cases where any part of the militia is called into service by virtue of such authority, the commanding officer shall, in transmitting his reasons to the governor, enclose a copy of each deposition so taken; and the said militia shall be discharged within thirty days from and after their rendezvous, except they should be continued in service for a longer time by the executive of this state.

Sec. 37. *Be it enacted*, That every non commission officer, musician, or private, who shall refuse or neglect to appear either by himself or substitute, at such time and place as shall be appointed by his commanding officer, or appear and not armed as by this act directed, such person on conviction before a court martial shall forfeit and pay a sum not exceeding thirty dollars; and if any commissioned officer shall be guilty of a like offence, such officer, on conviction before a regimental, brigade or general court martial (as the case may be) shall be subject to a fine not exceeding fifty dollars, and reduced to the ranks: *Provided always*, that each commissioned, non commissioned officer, or private, shall be notified of such requisition which must depend upon circumstances, for if the person be notified it shall be available in law.

Sec. 38. *Be it enacted*, That if any person shall be called upon to perform a tour of duty such person shall be acquitted from the same, provided he furnish his commanding officer with an able bodied substitute in his room and stead; no substitute shall be received unless armed as by this act directed; but if any substitute in his own turn shall be called into actual service, previous to the expiration of the term for which he shall have been enrolled, then the person procuring such substitute shall march in his room, or be liable to the same penalties as if called upon in his own name; any person called upon to perform a tour of duty as aforesaid, and serving by himself or substitute, or otherwise paying such fine as a court martial shall adjudge adequate to the offence, such person shall not be bound to perform any tour of duty until regularly called upon in rotation.

Sec. 39. *Be it enacted*, That the said militia shall not be compelled to serve a longer time in any one tour than three months after their arrival at the place of rendezvous.

Sec. 40. *Be it enacted*, That all fines and forfeitures arising by virtue of this act shall be assessed, collected, and paid as heretofore directed, and applied by the lieutenant colonel commandant, to the express purpose of hiring substitutes when the same may be found necessary. And if his fund for that purpose be inadequate he shall order into service a sufficient number to complete the quota of those destined next for duty, who shall be bound to perform accordingly, under the same penalties as heretofore declared and set forth in this act; and where any vacancy may happen in the ranks of commissioned officers, the commanding officers of each regiment shall proceed to fill such vacancy by calling into service any officer of the same grade next in order of command.

Sec. 41. *Be it enacted*, That in case any person or persons are fined as by this act directed, and shall move out of the bounds of the county where such fine is assessed, previous to his or their satisfying the same, it shall be lawful for the court martial to issue an execution signed by the judge advocate of said court as directed by this act, authorising the serjeant of the company, into which he or they may have removed, to collect and account with the judge advocate of the county from which the said execution issued.

Sec. 42. *Be it enacted*, That all commissioned officers shall take rank according to the office they hold and the date of their commissions; and where two or more officers of like rank shall have been commissioned on the same day, their rank in the brigade or regiment to which they belong, shall be decided by lot drawn before the commanding officer of such brigade or regiment, who shall have the same recorded by the brigade major or judge advocate.

Sec. 43. *Be it enacted*, That if any commissioned officer shall be charged with ungentlemanly conduct, either in or out of service, unbecoming the character of an officer, he shall be arrested and tried by a general or regimental court martial agreeable to the rules contained in this act; if found guilty, shall be cashiered and enrolled as a private, in the company within the district of his residence.

Sec. 44. *Be it enacted*, That if any person shall vote at any election prescribed in this act, not duly qualified, such

person shall, on conviction forfeit and pay five dollars, to be recovered as in other cases, to the use of him or them suing for the same.

Sec. 45. *Be it enacted*, That no person belonging to any religious denomination, the tenets of which are opposed to the bearing of arms, shall be fined for not attending regimental, battalion or private musters; but shall nevertheless be classed, drafted and ordered on duty as other privates in all other cases; and in case of non performance be subject to, the same penalties.

Sec. 46. *Be it enacted*, That there shall be one company of cavalry in each county, together with those volunteer companies which have heretofore been established by law in this state, to be raised by voluntary enlistment, and shall consist of one captain, one lieutenant, one cornet, three serjeants, three corporals, and one trumpeter, and not less than thirty nor more than forty privates; and the cavalry of each brigade shall constitute one regiment, and be commanded by a lieutenant colonel commandant and two majors, who shall be elected by the commissioned officers of their regiments, and shall hold one regimental muster on the second Tuesday of October, in each and every year, at the court house of the district, or at such other place as may be fixed by the regimental court martial, which place shall be the centre of the brigade, or as near thereto as convenience will admit; and the regimental courts martial of said cavalry shall be on the day next succeeding their regimental musters, and shall be conducted under the same rules, regulations and restrictions as infantry courts martial of like grade; and each company of cavalry shall, on three several days annually, hold three company musters at the court house of their county, or such other place as the officers may agree on, which days shall be appointed by the commanding officer of the company, and shall hold courts martial for the trial of delinquents, as is directed in this act for holding company courts martial; and it shall further be their duty to attend the infantry regimental musters of their county; and when at said musters shall be under the direction and command of the commanding officer of the regiment.

Sec. 47. *Be it enacted*, That every officer and private belonging to each troop of horse, shall appear, when on parade with a strong servicable horse, at least fourteen hands and an half high with a good saddle, bridle, holsters and one pistol at

least, & horseman's sword, cap, a pair of shoe boots and spurs, with cartouch box & cartridges in good order, and dressed in the uniform of the regiment to which he belongs: *Provided*, That no person shall be enrolled in any troop of horse until he is equipped as above directed, and approved by a field officer of the cavalry; but shall until then, do his duty in the infantry.

Sec. 48 *Be it enacted*, That the captain or commanding officer of the cavalry shall make out a fair statement of the strength and condition of their companies, and return the same to the commanding officer of the regiment, on or before the first day of May annually, who shall make out a fair statement of the strength and condition of his regiment, and return the same to the brigadier general of his brigade, on or before the first day of June annually.

Sec. 49 *Be it enacted*, That it shall be the duty of the captain or commanding officer of companies, both of cavalry and infantry, to cause this law, or such parts thereof as he shall think necessary, to be read at each private muster.

Sec. 50. *Be it enacted*, That each officer required to make returns by virtue of the twenty fourth section of this act, and failing to make such return, shall, if an adjutant general, be fined in a sum not exceeding fifty dollars; if a brigade major, in a sum not exceeding forty five dollars; if an adjutant, in a sum not exceeding thirty dollars; if a colonel, in a sum not exceeding thirty dollars; if a major, in a sum not exceeding twenty five dollars; if a captain, or commanding officer of a company, in a sum not exceeding twenty dollars; to be assessed, collected and disbursed in manner as by this act directed in other cases.

Sec. 51. *Be it enacted*, That this act shall be in force and use from and after the first day of December next. And that all laws and parts of laws, coming within the purview and meaning of this act are hereby declared void.

JAMES STUART,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

November 5th, 1803.

CHAP. II.

AN ACT supplementary to an act, entitled, "an act to amend an act establishing courts of law, and for regulating proceedings therein," so far as respects the county courts.

SECTION 1. *BE it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the clerks of the several county courts in this state, before swearing of any jury to try any issue or writ of enquiry depending in said courts, to set down the names of the justices present; and it shall be the duty of said justices to continue on the bench until said cause is determined, or otherwise disposed of.

Sec. 2 *Be it enacted*, That it shall be the duty of the clerk of said courts to furnish the justices thereof, when in session, at every court, with a fair and alphabetical list of the names of all the freeholders in each captain's company in their respective counties, together with a note or memorandum of the names of such freeholders as have served on the grand and petit jury at the last session of said court; and it shall be the duty of said court to apportion the jurors to the different captains' companies in their several counties, and shall on the second day of every term make out a list of thirty nine freeholders, to serve at the succeeding term on the grand and petit jury, and deliver the same to the clerk, who shall thereupon make out a summons, directed to the sheriff of the county, commanding him to summon said persons to attend at the next court of pleas and quarter sessions, as jurors; which summons the sheriff shall serve at least five days before such court; out of which number fifteen shall be drawn for the purpose of composing a grand jury, and the residue shall be compelled to attend during the whole of said term as petit jurors: *Provided always*, that no person shall be appointed by said courts as a jurymen, who in their opinion is infirm on account of old age, or otherwise incapacitated from serving; and in case there be not a sufficient number of petit jurors, it shall be

the duty of the sheriff to summon talismen to attend for the day as heretofore: *Provided also*, that no grand jury shall be compelled to attend more than four days in each term.

Sec. 3. *Be it enacted*, That each grand jurymen shall receive the sum of fifty cents for each and every day he may attend in discharge of his duty aforesaid; and each petit jurymen and talisman the sum of sixteen and two thirds cents for each and every cause they may serve on as a juror; and it shall be the duty of the clerks of the said courts to make out certificates of such attendance, and deliver the same to the several persons entitled thereto, which said certificates of the grand jurors shall be received by the sheriffs of the different counties in payment of county tax: *Provided*, that the said jurors shall not be allowed their certificates in settlement of their taxes, when the tax to be collected is for the purpose of building or repairing public buildings. And the sum allowed by this act to each petit juror, shall be taxed in the bill of cost to the person losing the cause on which such jurors served, and execution shall issue for the same, as for other costs, directed to the sheriff, whose duty it shall be to collect and pay the same to the party entitled thereto, or into the clerk's office upon the return of such writ of execution.

Sec. 4. *Be it enacted*, That if any clerk or sheriff, after having received any money by virtue of any execution issued under the authority of this act, shall, on application being made to them at their office or place of residence, fail, refuse or neglect to pay over the same to the person or persons entitled thereto, such clerk or sheriff shall forfeit and pay the sum of ten dollars, to be recovered before any jurisdiction having cognizance thereof.

Sec. 5. *Be it enacted*, That in all civil cases before the jury is sworn to try any issue, the clerk shall read over the names of the jurors on the panel, in the presence and hearing of the parties and their counsel, and either plaintiff or defendant or their counsel for them may challenge peremptorily two jurors without shewing any cause therefor, which challenge shall be allowed by the court; and the jurors shall then be made up as in other cases. And in cases of indictment for petit larceny, the defendant or his attorney, and also counsel for the state may challenge peremptorily four jurors as aforesaid, and then the balance of the jury to be made up as is usual in like cases.

Sec. 6. *Be it enacted*, That whenever the state shall fail in the prosecution of any indictment or presentment, and the court in their discretion may not think proper to tax the prosecutor with the costs, the jurors passing on such trial shall have the same allowance for their services as jurors in civil cases, to be paid in the same manner as grand jurors are to be paid by virtue of this act, and shall in all cases of conviction and judgment receive the same pay as allowed by this act in civil cases.

Sec. 7. *Be it enacted*, That any juror summoned to attend any of the courts of pleas and quarter sessions in this state who shall fail to appear, shall forfeit and pay five dollars for every such failure, to be recovered and applied as heretofore: *Provided nevertheless*, that it shall not be lawful for any of the courts as aforesaid, to issue any *scire facias* until the next term after the term to which such juror shall be summoned, and fail to attend; and it shall and may be lawful for any juror who has failed to attend to make his excuse known to the next court, on oath or affirmation, and in cases where a conditional forfeiture has been entered against such jurors, it shall be set aside without any cost to such juror, on sufficient cause being shewn.

Sec. 8. *Be it enacted*, That the several jurors attending as by this act required, shall, at the commencement of the court be sworn in chief, to try all causes that shall be submitted to them during the term of said court; and a talisman shall be sworn separately to try each cause, or for the day, as the court may determine.

Sec. 9. *Be it enacted*, That the constables attending the several courts shall be sworn in chief.

JAMES STUART,
Speaker of the House of Representatives.

JAMES WHITE,
Speaker of the Senate.

November 5th, 1803.

24-1805-25

C H A P. III.

AN ACT to ascertain what property in this state shall be deemed taxable, and the mode of collecting, accounting for and paying public taxes.

SECTION 1. *BE it enacted by the General Assembly of the State of Tennessee,* That all lands to which the Indian claim is extinguished by treaty, held by deed, grant, entry, right of dower, courtsey or occupancy, all free males and male servants between the age of twenty one and fifty years, and all slaves male and female, between the age of twelve and fifty years, all town lots, and stud horses kept for the season of mares, all billiard tables, retail stores, pedlers, and hawkers within this state shall be subject to the payment of public taxes; and the public tax on such property and persons shall be proportioned in the manner directed by this act.

Sec. 2. *Be it enacted,* That the public tax for the years one thousand eight hundred & four, and in each succeeding year, shall be—

For each hundred acres of land twelve and one half cents
On each town lot twenty five cents:

On each free poil and male servant twelve & one half cents:

On each slave twenty five cents:

On each stud horse kept for the season of mares, the sum equal to the season of one mare:

On each billiard table one thousand dollars:

On each retail store twenty five dollars:

On each pedler or hawker twenty five dollars: *Provided nevertheless,* that no person shall be required to give in any billiard table he may own on the first day of January next, as taxable property; but should any person, after the first day of May next, presume to keep up any billiard table, he, she, or they shall be liable to pay the aforesaid sum of one thousand dollars, if the same should be kept up but one day; and it shall be the express duty of the sheriff in each county, to collect the aforesaid tax, if at any time thereafter they

shall know or discover such table to be kept up by any person in their county, by distress or otherwise.

Sec. 3. *Be it enacted,* That the aforesaid tax shall be and remain a lien upon all lands and other real estate, and all slaves and other taxable property of the individuals who may be returned for the same, when it shall become due and payable according to this act; and the said lien shall extend to each and every part of all tracts or lots of land, or species of taxable property whatever, notwithstanding the same may have been divided or alienated, and notwithstanding the same may have been listed and advertised in the name of others than those who actually own the same, at the time of the return or sale, or tho' the owner thereof be not known: provided such land be specially and particularly described in such return and advertisement; and to that end as far as practicable, it shall be the duty of the returning officer, where any doubts may exist as to the actual ownership of the land, to refer to the number of the original grant or entry, in order that all persons concerned, may be apprised of the same. And the tax upon all stud horses shall be a lien upon the plantation or tract of land where he is kept, any law to the contrary notwithstanding; and in every case where a merchant shall keep a store on the lands of another, the tax shall be a lien on the lot or land on which it is so kept.

Sec. 4. *Be it enacted,* That each merchant, pedler, and hawker, shall, after the first day of January next, before they proceed to sell any article of merchandize, make application to the clerk of the county in which such merchant, pedler, or hawker is about to dispose of such goods as aforesaid, and upon application, the clerk is hereby directed to issue a licence to said merchant, pedler, or hawker (as the case may be) who may proceed to sell and dispose of his merchandize, under the authority of such licence, for the term of one year and no longer: *Provided,* that before such licence shall issue as aforesaid, the applicant shall pay to the said clerk the tax imposed by this act, with the additional sum of fifty cents as fees of office; and each clerk receiving any money in behalf of this state, by virtue of this act, shall be bound to account for and pay the same in manner and form as directed for settling and accounting

For the tax on law proceedings: *and provided also*, that each pedler and hawker shall be compelled to take out licence in each county he may wish to retail goods.

Sec. 5. *Be it enacted*. That if any merchant, pedler, or hawker shall sell or retail merchandize, contrary to the true intent and meaning of this act, he shall forfeit and pay one hundred dollars, to be recovered by action of debt, one half to the person who will sue for the same, the other half for the use of the state.

Sec. 6. *Be it enacted*. That the several clerks and masters of the courts of equity, the clerks of the superior courts of law, clerks of the several county courts, and registers of each and every county within this state, shall each make out a fair list, clearly distinguishing the amount of money collected by them for taxes, which by law they are bound to pay over to the treasurer of their district, which list so made out, they shall transmit to each and every stated general assembly within six days after the meeting thereof, under the penalty of one thousand dollars.

Sec. 7. *Be it enacted*. That the justices of the several counties in this state shall appoint one commissioner in each county, on the second day of the first court after first day of January next, provided there is a majority of the acting justices present when such election is opened and held, who are well acquainted with the nature of business, as a commissioner of the public revenue within the county for which they are appointed, whose business it shall be to proceed to take the lists of all the taxable property and polls within the county, by applying to each person subject to taxes, resident within the same, and also report to the court all property of residents as well as non residents who may fail to return a list of their property and polls agreeable to this act; all persons subject to tax shall make out a list of his or her taxable property and polls within said county, which they possessed on the first day of January, in writing, clearly setting forth the quantity of land in each tract, and the situation of the same, which list so made out and signed, shall be sworn to before said commissioner, or some justice of the peace of the county, and shall be delivered to the said commissioner when called for, which shall be previous to the first day of May

next, & each & every succeeding year; and every person residing out of the county or state, shall by themselves, their agents, attornies, or managers, return a true list as aforesaid, of all their taxable property & polls within said county, within the time aforesaid, and every person neglecting or refusing to return a true list of all their taxable property and polls agreeable to this act, shall be subject to a double tax, and all costs and charges accruing thereon, for their non performance.

Sec. 8. *Be it enacted*. That the commissioner so appointed by this act, shall, previous to his acting in pursuance of his appointment, take and subscribe the following oath in open court, viz.

I, *A. B.* do solemnly swear, or affirm (as the case may be) that I will well and truly act as commissioner of the revenue for the county of _____ agreeable to law and the best of my understanding. *So help me God.*

And it shall be the duty of the commissioner of each and every county to use all lawful ways and means in their power, to obtain a just and true amount of all taxable property and polls in their county, which have not been returned agreeable to this act; and the property and polls so obtained by the discovery of the commissioners, or either of them, shall stand bound & be liable to a double tax, including all costs that may attend obtaining the same as pointed out by this act.

Sec. 9. *Be it enacted*. That in case of death, resignation, or otherwise, of any or all of the aforesaid commissioners, the court is hereby empowered to fill such vacancy, having regard to the restrictions and regulations in this act; and the person so appointed, shall be subject to the same rules and regulations, and have the same powers as the person in whose room and stead he was appointed had and exercised; and the commissioners appointed by virtue of this act, shall receive a compensation for their services, to be ascertained by said court, and signed by the chairman thereof; and such certificate shall be a sufficient voucher to either of the public treasurers to pay the same.

Sec. 10. *Be it enacted*. That any person incurring the said double tax in this act mentioned, by omitting to return

his, her, or their taxable property and polls, may apply to the said commissioners, or either of them, at any time within four months thereafter; and on sufficient reasons shewn, the commissioner or commissioners may release the same, and receive his, her, or their lists of such property, provided the party pay all costs that may have accrued in consequence of such failure in not complying with this act.

Sec. 11. *Be it enacted*, That the said commissioners shall, within thirty days after the first day of May in each and every year, make and enter such returns so made to them, or either of them, agreeably to this act, in a well bound book, to be kept by them for that purpose; and shall also make out an accurate and fair list in alphabetical order, of all such taxable property and polls within said county, so far as comes within their knowledge, by return to them made or otherwise, and return the same to the next succeeding court of said county, which shall be entered of record by the clerk of said county; and the said commissioners shall likewise make a return of all such lists as may be delivered them agreeably to the provisions of the tenth section of this act, to the clerk aforesaid.

Sec. 12. *Be it enacted*, That all taxes by this act imposed, or hereafter to be imposed, shall be collected, paid and accounted for in manner and form following—The clerk of each county court in this state shall, in thirty days after the court to which the lists of taxable property is returned in every year, furnish the sheriff of the county (whose duty it shall be to collect the public taxes) with a list of taxable property and polls within the county, & the sheriff shall appoint the day and place in each captain's district when he will attend for the purpose of receiving taxes, which day shall be as soon as may be after he shall have received the list of taxable property: *Provided always*, that the said sheriff shall give fifteen days previous notice, by advertising it at six of the most public places in said district; and if any person or persons notified, shall fail to attend, or otherwise pay their taxes, on or before the day appointed, it shall be the duty of the sheriff to levy the same by distress and sale of the goods and chattles of every person so neglecting: *Provided*, no distress be made within twenty days after the day so notified for receiving taxes; and for every sale and

distress so made it shall be lawful for such sheriff, as fees of office, to levy therewith the sum of fifty cents: *Provided also*, that the said sheriff shall give at least ten days previous notice of such sale, by advertisement as in other cases: *Provided nevertheless*, that if after the day appointed by the sheriff for receiving taxes; and before any distress shall be made, it shall be lawful for any person to pay the amount of his taxes to the sheriff, who shall not demand or receive the fifty cents contemplated by this act.

Sec. 13. *Be it enacted*, That in case there shall not be any goods and chattels on which the sheriff can distress for public taxes, he shall report the same to the court of his county; and the court shall forthwith, direct the clerk to make out a certificate of the lands and tenements liable for the payment of said taxes, together with the amount of charges and taxes due thereon, and shall cause the same to be published at least once in the gazette in the district where such land lies, and twice in the gazette of the public printer, setting forth the same will be sold for taxes. And the printer shall be allowed the sum of thirty seven and an half cents for each publication, to be levied of the said land as the tax and other charges; and if no person shall pay the public taxes thereof, agreeably to this act, within ten days after the last publication as aforesaid, the court shall enter up judgment for the amount of taxes due, and all accruing costs and charges; which execution, at the direction of the court, shall issue as in other cases; and the sheriff shall by virtue thereof expose to sale at the court house of his county, the said lands and tenements, or so much thereof as shall be sufficient to satisfy the said judgment and all costs and charges accruing thereon; and the said sheriff is hereby authorized and directed to make out and execute a deed or deeds of conveyance for the land so sold, having regard to the beginning corner and lines of such land about to be sold, that is, to begin at the aforesaid corner and running at least one line of said tract, either in a square or oblong to make the quantity; and should that part of the beginning of the original tract be sold, then to take the same in any other part, so as to observe the rule above prescribed, unto the person or persons being the highest bidder, on the receipt of the money paid him; which deed or deeds shall be deemed good and valid in law against the claimant

or any person claiming by or under him, her or them, any law, usage, or custom to the contrary notwithstanding. And the several clerks and sheriffs shall respectively receive for their services herein the several fees as allowed by law for similar services in other cases, exclusive of the six per cent. which the said sheriff is entitled to have for collecting and paying such taxes; and where any sheriff has or hereafter may sell lands for taxes and before making a title or titles thereto, shall die, remove or abscond from his or their county, then and in such case his or their successor in office shall and they are hereby authorized, empowered and required to make a deed or deeds to any and all lands so sold as aforesaid, which deed or deeds so made shall be as good and valid in law and equity, as if the same had been made by the sheriff selling lands as aforesaid.

Sec. 14. *Be it enacted*, That the sheriff of each and every county before entering on the collection of public taxes, shall give bond with two or more securities, which the court shall approve of, for double the sum by him to be collected, payable to the governor for the time being and his successors in office, for the use of the state, conditioned for the collection and payment to the treasurer of the district where the said sheriff resides, of all taxes by him collected, or which ought to have been collected on or before the first day of December in each and every year in which he shall collect the tax, and shall also in open court take and subscribe the following oath:

I, A. B. do solemnly swear or affirm, (as the case may be) that I will faithfully collect all taxes for my county, or cause the same to be done according to law, and the best of my skill and ability. *So help me God.*

Sec. 15. *Be it enacted*, That the sheriffs appointed to collect public taxes by virtue of this act, shall each and every of them pay the public taxes collected in his county, into the hands of the treasurers authorized to receive the same, on or before the last day of December in each and every year; and shall receive as commission for collecting and paying the same, the sum of six dollars for each hundred dollars and so in proportion for a greater or less sum, which commissions shall be deducted out of the money by them collected.

Sec. 16. *Be it enacted*, That if any sheriff or collector shall presume, under colour or pretence of this act or of any act, directing the collection, to collect more money in name of taxes, than is directed by law, such offending sheriff or collector, on due proof thereof, shall be guilty of a misdemeanor in office, and shall be fined not exceeding one hundred dollars.

Sec. 17. *Be it enacted*, That the clerk of each county court in this state shall enter of record the bond given by said sheriff for the collection of public taxes, and shall without delay transmit the same together with a copy of the tax list of his county to the treasurer of the district wherein said clerk resides, and also a like copy to the next stated meeting of the general assembly, within six days after their meeting; and in case any of the aforementioned clerks shall fail to comply with their duty as required by this act, for every such offence he or they shall forfeit and pay a sum not exceeding one hundred dollars.

Sec. 18. *Be it enacted*, That if the sheriff of any county in this state shall die shortly before or during the term appointed for the collection of public taxes, so that the court could not have appointed a successor in office before the time for collecting the taxes, in such case it may and shall be lawful for their securities to receive the same; in which business they are hereby declared to have all the powers, authorities, privileges and emoluments in and for the receipt and collection of all taxes, which the sheriffs deceased possessed and enjoyed, and shall be liable for deficiencies.

Sec. 19. *Be it enacted*, That if the sheriff or sheriffs of any county in this state shall neglect or refuse to settle his or their accounts on or within the time limited by this act, as in manner hereby directed, it shall and may be lawful for the treasurer of the district in which such sheriff shall reside, to enter up judgment, on motion, in the name of the governor, on the bond of the said sheriff, for the amount of the taxes due from such sheriff or sheriffs and their securities, in the superior court of the district in which such delinquent sheriff resides, which is hereby declared to be good and valid in law, and execution may issue thereon, directed to the succeeding sheriff or coroner of the county wherein the de-

delinquent sheriff refuses, as if the sheriff and his securities had been prosecuted to judgment by the usual process of said court, any law to the contrary notwithstanding: *Provided*, the sheriff shall have credit for delinquents and deficiency of payment to him in his collections, as shall be certified by the court of the county in which he is sheriff.

Sec. 20. *Be it enacted*, That if any sheriff or other person holding public monies, shall presume to demand or receive any fee, gift, gratuity, or discount, for paying or taking up any warrant or draft chargeable upon the taxes, as well of the state as the county, every such offender, upon due conviction in any court of record, shall forfeit and pay a sum equal to double the amount of the draft so taken up, to be recovered by action of debt before any jurisdiction having cognizance, in the name of the person aggrieved, one half to the use of the state or county (as the case may be) and the other half to the use of the person aggrieved; and in case the aggrieved person will not prosecute as aforesaid within six months, then in the name of him who will sue for the same, one half to his own use and the other half as aforesaid.

Sec. 21. *Be it enacted*, That if it shall appear that the public treasurer or treasurers, have failed at any time to pay the public monies in their hands on drafts of the general assembly, or monies brought into the treasury by special taxes, to those authorized to apply for and receive the same, or hath neglected in any instance to call to account, as by this act directed, any delinquent therein described, by which the public revenue of this state may suffer loss, then in such case the said treasurer or treasurers shall be held and deemed accountable for the sums due by such delinquents to all intents and purposes as if the sum had been actually paid into his or their office.

Sec. 22. *Be it enacted*, That the sheriff or sheriffs of the several counties, or the public treasurer, shall not discharge any drafts of the general assembly hereafter to be issued, except in said draft it shall be particularly expressed the cause and service for which the same was issued:

Sec. 23. *Be it enacted*, That the courts of each county in this state shall have power to lay and collect from each

merchant, pedler, or hawker a sum not exceeding five dollars, to be applied to the use of such county respectively.

JAMES STUART,

Speaker of the House of Representatives.

JAMES WHITE,

Speaker of the Senate.

November 7, 1803.

CHAP. IV.

AN ACT for the better security of the trial by jury in the superior courts.

WHEREAS it is essential in a free government carefully to guard the purity of the trial by jury, upon which life, liberty and property depend, and as far as practicable, to exclude the possibility of abuses in returning jurors to said courts:

SECTION 1. *BE it enacted by the General Assembly of the State of Tennessee*, That from and after the first day of January next, the following rule and method, and no other shall be observed by the county courts, in nominating jurors to the superior courts, that is to say: The justices of the county courts shall, at the session next after the sitting of the superior court, on the second day of their term, proceed to nominate the number of jurors directed by law, by ballot, previous to which, the sheriff shall make proclamation, that the court is then sitting for the purpose of appointing jurors to the superior court, and requiring the attendance of such justices of the county as may be within the hearing of said court, whose duty it shall be to attend; after which each justice shall proceed to nominate, write down, and hand to the clerk, the names of three freeholders; and should they not amount to the number of jurors appropriate to the county, then each justice shall, in like manner, nominate, write down, and hand to the clerk the name of one other freeholder; and the clerk shall thereupon put all the aforesaid names into a hat, and cause a

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The whole of the Act of 1803, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 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Ballot to be made in the usual form, by a child under ten years of age; the first drawn to the amount of the number appropriate to the county, shall be the jurors to the superior court, and shall be summoned in the manner directed by law.

Sec. 2. *Be it enacted*, That none of the justices sitting in court as aforesaid, shall nominate any person for balloting as aforesaid, who shall have served as a juror at the preceding superior court; and to that end the clerk shall read to the court the names of such as were directed to have been summoned to the preceding superior court; and the said justices shall not knowingly nominate any person for balloting as aforesaid, who shall have a suit at issue in the superior court at the term to which he shall be nominated.

Sec. 3. *Be it enacted*, That if any person having a cause at issue in the superior court as aforesaid, and shall be returned as a juror, that circumstance alone shall be considered a sufficient exception against his serving on any petit jury, and shall be excluded therefrom upon exception or challenge being made by either party.

Sec. 4. *Be it enacted*, That in order to carry into effect the above provision, so essential to the security of the rights of the people and a just decision of suits, that the clerk of any county court who shall fail to perform the duties enjoined by this act, shall forfeit and pay the sum of one hundred dollars for each court he shall so fail, to be recovered by action of debt, one half to the use of any person who will sue for the same, the other half for the use of the county where such person shall act as clerk.

Sec. 5. *Be it enacted*, That the public printer shall furnish each of the clerks of the county courts with a copy of this act, on or before the first day of January next, and moreover publish the same at least once in his gazette.

Sec. 6. *Be it enacted*, That all laws and parts of laws which come within the purview and meaning of this act, are hereby repealed.

JAMES STUART,
Speaker of the House of Representatives.

JAMES WHITE,
Speaker of the Senate.

November 1, 1803.

CHAP. V.

AN ACT to repeal an act, entitled, *an act increasing the jurisdiction of justices of the peace, and regulating proceedings therein*, passed October twenty third, one thousand seven hundred and ninety-nine; and for other purposes.

WHEREAS doubts exists in the minds of many persons, whether the before recited act be repealed by an act of the General Assembly, passed sixth November, one thousand eight hundred and one, entitled, an act to define the jurisdiction of justices of the peace, and for other purposes—Wherefore to dispel all doubts,

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the before recited act, entitled, an act increasing the jurisdiction of justices of the peace, and regulating proceedings therein, passed October twenty third, one thousand seven hundred and ninety nine, and for other purposes, be, and the same is hereby repealed, any thing to the contrary notwithstanding.

Sec. 2. *Be it enacted*, That from and after the passage of this act, it shall not be lawful for any person to institute a suit in any of the county courts of pleas and quarter sessions in this state, for any sum under fifty dollars; and if any suit should be brought therein for a less sum, said suit shall abate on the plea of the defendant.

Sec. 3. *Be it enacted*, That for all sums over thirty dollars, and not exceeding forty dollars, the stay of execution shall be one hundred days; and for all sums over forty dollars, and not exceeding fifty dollars, the stay of execution shall be one hundred and twenty days.

Sec. 4. *Be it enacted*, That so much of the second section of an act of the general assembly, entitled, an act to define the jurisdiction of the justices of the peace, and for other purposes therein mentioned, as require the constable to notify the absentee a second time, previous to the justice being authorized to enter up judgment against such party, be, and the same is hereby repealed.

JAMES STUART,
Speaker of the House of Representatives.

November 7th, 1803.

JAMES WHITE,
Speaker of the Senate.

C H A P. VI.

AN ACT directing the mode of entering judgments in the courts of record within this state, and for other purposes.

SECTION 1. *BE it enacted by the General Assembly of the State of Tennessee,* That all judgments entered up in any of the courts of record within this state, after the first day of January next, shall carry interest until paid; and it shall be the duty of each sheriff or other officer, into whose hands any execution may come, at the time the money is paid, to calculate the interest due thereon from the time judgment was rendered; and should the money due as aforesaid, be paid to the clerk of the court in which judgment was rendered, it shall be his duty to calculate and add the interest.

Sec. 2. *Be it enacted,* That it shall be the duty of the clerk to endorse upon the writ of execution, the day and year the judgment was rendered by virtue of which said execution issued.

Sec. 3. *Be it enacted,* That when a judgment has been rendered in any of the courts of record of this state, and execution issued thereon, and put into the hands of the sheriff or other officer for collection, if the person against whom such execution has issued, has removed himself out of the county, and has no property in said county, or not so much as will be sufficient to satisfy the same, it shall be the duty of the sheriff or other officer to summon in writing, all such persons as may be indebted to the person against whom such execution has issued, to appear at the sitting of the next court from which such execution issued, to declare on oath what sum he or they are indebted; and judgment shall thereupon be entered for the amount due, and execution issue as in the case of other garnishees, for the benefit of the person who originally obtained the judgment and execution aforesaid.

JAMES STUART,
Speaker of the House of Representatives.

JAMES WHITE,
Speaker of the Senate.

November 7, 1803.

C H A P. VII.

AN ACT to amend an act, entitled, *an act to prevent the exportation of unmerchantable commodities.*

SECTION 1. *BE it enacted by the General Assembly of the State of Tennessee,* That every person who now is, or hereafter may be appointed an inspector of cotton agreeable to the above recited act, shall, before he enters upon the execution of the said office, enter into bond, with two good securities, to be adjudged by the county court, whose duty it shall be to take such bond (payable to the chairman of the court for the term being and his successors in office) in the penal sum of five thousand dollars, conditioned for the due and faithful performance of his duty according to the directions of the before recited act, which bond shall be recorded by the clerk of the court, and safely kept by him, and to be assigned by the chairman of said court to him, her, or them that may be injured by the non performance of the condition thereof; and said bond shall not become void upon the first recovery had thereon, but suits may be commenced upon the same, until the whole penalty is recovered. And said inspector shall, at the time of entering into bond as aforesaid, take and subscribe, in open court, the oath prescribed in the before recited act.

Sec. 2. *Be it enacted,* That if any inspector of cotton in this state shall fail, refuse, or neglect to enter into bond, and take the necessary oaths required by law, or presume to execute the office of inspector before he shall have given bond and security, and taken the necessary oaths, he shall for every such offence forfeit and pay the sum of ten thousand dollars, one-half to the use and benefit of him or them who will sue for the same, and the other half to the use of the county where such delinquent may reside.

Sec. 3. *Be it enacted,* That each inspector of cotton shall issue a receipt for all cotton he may receive, if required by the owner, clearly setting forth the quantity and quality of clean picked cotton to be by him delivered for the same, and the time of such delivery; and any inspector failing or refusing to give such receipt, when required, shall forfeit and pay the sum of five thousand dollars, to the sole use of