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ACTS

PASSED

AT THE REGULAR SESSION

OF THE

SIXTEENTH GENERAL ASSEMBLY

OF THE

State of Tennessee.

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CAPTIONS

OF THE

PUBLIC ACTS OF 1825.

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X

XI

Public Acts.



PASSED IN THE YEAR 1825.

Public Acts,

OF THE

STATE OF TENNESSEE;

PASSED AT THE REGULAR SESSION, WHICH WAS BEGUN AND HELD AT MURFRESBOROUGH, IN BUTTERFORD COUNTY, ON MONDAY, THE NINETEENTH DAY OF SEPTEMBER, ONE THOUSAND EIGHT HUNDRED AND TWENTY FIVE.

WILLIAM CARROLL, Governor; DANIEL GRAHAM, Secretary of State; R. C. FOSTER, Speaker of the Senate; WM. BRADY, Speaker of the House of Representatives.

CHAPTER I.

AN ACT, supplementary to an act, passed November 28, 1823, entitled, "An Act to provide for the sale of the Islands in the Hiwassee District."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That the Register of the Land Office for East Tennessee be, and he is hereby required, to issue grants, as in and to other cases, to the purchasers of the Islands heretofore sold in pursuance of the above recited act.* Register to issue Grants on purchases made heretofore.

SEC. 2. *Be it enacted, That if any other lands in said District shall hereafter be sold, it shall be the duty of the Register, in like manner, to issue Grants for the same.* On purchases hereafter to be made.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,

Speaker of the Senate

Passed September 28, 1825.

CHAPTER II.

AN ACT, giving further time for those that have made surveys north and east of the Congressional reservation line, to obtain their grants.

Two years given for perfecting grants on valid Warrants.

Be it enacted by the General Assembly of the State of Tennessee, That the several owners, agents, or legal representatives of such person or persons, in whose name any entry founded on a good and valid warrant or survey has heretofore been made, in any of the surveyors offices north and east of the Congressional line, shall have the further time of two years to obtain grants thereon, on causing surveys thereon to be made.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

CHAPTER III.

AN ACT, to alter the 7th and 8th Solicitorial Districts.

Marion county attached to 7th solicitorial district.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That Marion county, shall hereafter form a part of the Seventh Solicitorial District, and shall no longer be a component part of the Eighth Solicitorial District, as it now is.

Solicitor's duty.

SEC. 2. Be it enacted, That it shall hereafter be the duty of the Solicitor of the Seventh Solicitorial District to attend all the courts in said county, as it was his duty heretofore to attend the courts of the other counties in the Seventh District.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 1, 1825.

CHAPTER IV.

AN ACT, to repeal so much of the first section of an act, entitled "An Act to amend the Militia Law of this state, passed at Murfreesborough, 18th October, 1824, as relates to the 12th Brigade of Tennessee Militia, constituting a part of the Third Division of the Militia of this State, and for other purposes."

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That so much of the above recited act as relates to the 12th Brigade Tennessee Militia, composing a part of the Third Division of Militia be, and the same is hereby repealed, and the said 12th Brigade, shall be attached to the First Division, as heretofore.

Twelfth brigade attached to the first division.

SEC. 2. Be it enacted, That the Eleventh Brigade of Tennessee Militia be, and the same is, attached to and constitutes a part of the Third Division of the Militia of this state.

Eleventh brigade to third division.

SEC. 3. Be it enacted, That this act shall be in force from and after the first day of January next.

Takes effect.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 4, 1825.

CHAPTER V.

AN ACT, to repeal so much of an act entitled, "An Act to Encourage the Manufacture of Paper," as exempts persons therein named from working on roads.

WHEREAS, an act entitled "An Act to encourage the manufacture of paper," was passed at the Seventh General Assembly of the State of Tennessee, exempting paper makers from working on roads and mustering; and whereas, persons have claimed and obtained an exemption therefrom to which, by the strict spirit of the act and the intention of its framers, they are not entitled,

Be it enacted by the General Assembly of the State of Tennessee, That so much of the act above

alluded to as exempts the persons therein named from working on roads be, and the same is, hereby repealed.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 4, 1825.

CHAPTER VI.

AN ACT, to alter the time of holding the Chancery court in the county of Williamson, in the town of Franklin.

Time of holding court.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the court of Chancery held at Franklin, in the county of Williamson, shall, in future, be held on the third Mondays of April and October.

Time and manner of making returns.

SEC. 2. *Be it enacted,* That all process returnable to the next November term, be returned to said April term next, and shall, in all respects, be held as effectual and stand in the same situation as though this alteration had not been made, and all process issuing from the office of said court, after the first day of November next, shall be made returnable to the next April term.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 7, 1825.

CHAPTER VII.

AN ACT, to amend an act entitled, "An Act to amend the Judiciary of this State."

WHEREAS, doubts have arisen whether the clerks of the Supreme courts & Chancery courts have power to issue executions upon judgments & decrees rendered by any of the Supreme courts which are now discontinued by law; for remedy whereof,

Clerks of the Chancery. SECTION 1. *Be it enacted by the General Assembly of the state of Tennessee,* That the clerk

of any court of Chancery where a Supreme court of Errors and Appeals may have formerly been holden, shall have full power and authority, upon any judgment or decree which may have been rendered by such court of Errors and Appeals, and which is now discontinued by law, to issue such process of execution as if the courts had not been discontinued, and which shall be made returnable to the Supreme court of Errors and Appeals to which the said Chancery District belongs.

SEC. 2. *Be it enacted,* That when any execution shall be returned as aforesaid, to any Supreme court of Errors and Appeals, and shall not be satisfied, it shall be lawful for said clerk of the court of Errors and Appeals, to issue such other and further process, for the satisfaction of such judgment or decree as if the said judgment or decree were had in the court for which he was clerk.

Clerk of the court of Appeals to issue certain process to the court of Errors and Appeals.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 14, 1825.

CHAPTER VIII.

AN ACT, to encourage the manufacturing of Lead.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That upon Anthony Dibrell shewing to the satisfaction of the Entry Taker of the Hiwassee District, that he has procured lead ore upon his own land, or upon land held jointly with others, sufficient to justify an opinion that lead may be manufactured to advantage, it shall be lawful for said Entry Taker, and he is hereby required, to receive entries from said Dibrell for any quantity of land not exceeding three thousand acres, contiguous thereto, without paying for the same, at the time of making such entries, anything except the office fees as fixed by law, and it shall not be lawful for any other person to make an entry for said land so entered, for two years from and after the date of said entry.

A. Dibrell permitted to enter 3000 acres in Hiwassee.

SEC. 2. *Be it [enacted,]* That where any person or persons, in future, shall shew, by satisfactory Court to lay off 3000 acres

for the use of
lead mines, on
report of any
five discreet
persons.

ry evidence, to the County court of the county where the land lies, that he, she, or they, have discovered lead ore upon their own land in sufficient quantities to justify a belief that lead can be manufactured to advantage or in considerable quantities, it shall be the duty of such court, to appoint five discreet persons to view and designate any vacant land contiguous thereto, unfit for cultivation, not exceeding three thousand acres, and make report thereof to the next succeeding County court; which report, when received, shall be recorded, and on the production of a copy of said report to the Entry Taker in said district, it shall be lawful for him to receive entries for the land described in said report without any other payment except the office fees, which land shall be free from the entry of any other person.

Enterers to
obtain grants,
and upon what
conditions.

SEC. 3. *Be it enacted*, That if the enterer or enterers under the second section of this act shall, on or before the expiration of two years from the date of such entry or entries, pay to said Entry Taker the sum of twelve dollars and fifty cents per hundred acres, and the enterer under the first section of this act shall pay such sum as shall be fixed upon the land so entered as hereinafter provided, then they, and each of them, shall be entitled to a Grant for the same as in other cases.

Dibrell's en-
try to be va-
lued, and in
what manner.

SEC. 4. *Be it enacted*, That when any entry shall be offered under the first section of this act, it shall be the duty of the Entry Taker, to appoint five discreet persons to go upon the land so entered and value the same; that is to say, said valuers shall determine to what class said lands should be placed, according to the usual quality entered at fifty cents, twenty-five cents and twelve and one half cents, under the law now in force for entering lands in that district of country; which commissioners shall make report to said Entry Taker, and the enterer shall pay the amount so reported before he shall be entitled to a Grant: *Provided*, that if said price, fixed as aforesaid, shall not be paid in two years from the date of such entry, then, and in that case, the land shall revert to the state and be subject to entry of any other person at such price as shall have been fixed upon by said valuers; and *provided, also*, that no entry shall be made under this act so as to interfere with any right of occupancy secured by existing laws.

Timber not

SEC. 5. *Be it enacted*, That the timber upon

the land entered under the provisions of this act, shall not be used for any other purpose except that of establishing and carrying on, lead works, previous to the payment of the price of said land, and in case the timber shall be used for any other purpose by the enterer or enterers under this act, said entry or entries shall be forfeited, and the person or persons so offending, shall also forfeit and pay one hundred dollars, one half to the use of the state, and the other half to the use of any person who will sue for the same before any court of record having cognizance thereof.

to be used for
any other pur-
pose.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed October 17, 1825.

CHAPTER IX.

AN ACT, to change the time of holding the Circuit Courts for Franklin and other Counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Circuit Court of the county of Franklin, shall hereafter be holden on the Second Monday of January and July, in each year, and continue in session four weeks, should the business require it.

SEC. 2. *Be it enacted*, That all process returnable to the next term of said Circuit Court, shall be returnable at the time the same is required by the first section of this act to be holden, and that parties bound in recognizances, witnesses and others, required to give their attendance at said court, shall make their appearance in conformity to the provisions of this act.

Process,
when return-
able.

SEC. 3. *Be it enacted*, That after the first day of January next, the County Courts for the county of Lincoln, shall be held on the first Monday in January, April, July and October.

Lincoln
county courts
when held.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed October 17, 1825.

CHAPTER X.

AN ACT, for the benefit of married women, whose husbands have either left them, or driven them from their homes.

Be it enacted by the General Assembly of the State of Tennessee, That it shall not be lawful for any sheriff, coroner or constable in this state, to levy any execution upon any property which may have been acquired by the labor, care and industry, of the wife, or that she may receive by descent, gift, or otherwise, of a defendant where it is notoriously known that he, her husband, has either left and abandoned, or discharged or drove her from the place of his home and residence, nor where she, the said wife, may have left and separated herself from the home and residence of her husband and lives separate from him in consequence of receiving from him, her said husband, personal abuse or violent and ill treatment, neither shall the husband interfere with, or dispose of, the same; Provided always, that this act is not intended to protect or to secure to the wife, the enjoyment of any property which she may have acquired previously to the separation having happened as aforesaid; but such property, so acquired as aforesaid by the wife, antecedent to the happening of said separation, shall be liable to the payment of her husband's debts, in the same way, and to the same extent, that it is now liable but no further. But in case she shall again live with her said husband after such separation, then, the property acquired by her as aforesaid, shall be subject to his debts and shall not be protected under the provisions of this act.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed October 18, 1825.

CHAPTER XI.

AN ACT, to establish a Register's Office in the town of Jackson, for the Western District.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That there shall be appointed, in addition to the two Registers already appointed by law, a Register of the Land Office by joint ballot of both houses of the General Assembly, who shall hold his office during good behavior, and before he enters on the duties of his office, shall, before some judge of the Circuit Court, take and subscribe the oath prescribed to the registers heretofore appointed, and shall also enter into bond with security, in the same penalty, manner and condition, as required of the registers of the Land office for East and West Tennessee.* Register to give bond and take oath.

SEC. 2. *Be it enacted, That the Register of the Land Office herein to be appointed, shall keep his office in the town of Jackson, in the county of Madison, and shall be denominated the "REGISTER OF THE WESTERN DISTRICT."* Office to be kept at Jackson.

SEC. 3. *Be it enacted, That the Register herein to be appointed, shall do and perform all the duties pertaining to his office, and be subject to all pains and penalties, laws and directions, which are now in force and govern, direct and restrain, the registers of the Land Offices for East and West Tennessee, so far as they are applicable to his said office.* Rules of government in office.

SEC. 4. *Be it enacted, That all the land entered, or hereafter to be entered, in the 9th, 10th, 11th, 12th and 13th Principal Surveyor's Districts and the plats and certificates not returned to the Register of West Tennessee on or before the first day of January next, shall be returned to the Register's office of the Western District, and that the said office shall be opened for the issuing of grants on the first day of January next.* Office to open and plats to be received.

SEC. 5. *Be it enacted, That any person depositing a plat and certificate with the Register as aforesaid, that it shall be his duty to demand, as well the fee due on the same to the Secretary, as his own, and he shall be accountable to the Secretary for the same, and it shall further be his duty, to forward said grant to the Secretary's office for* Register to transmit warrants to Secretary with fee.

Warrants in
part granted.

the purpose of receiving the proper signatures and seal of the state, and to procure the same to be returned to his said office for registration; *Provided, however*, that where any warrant has been consumed by different entries for occupants and said warrant or certificate having been returned to the Register of West Tennessee on or before the first day of January next, that then, and in that case, any plat of survey which may, at any time, be made out, founded on an entry of any part of said warrant or certificate, as aforesaid, shall, when so made out, be returned to the Register of West Tennessee, where said warrant or certificate is deposited.

WM. BRADY,
Speaker of the House of Representatives.

B. C. FOSTER,
Speaker of the Senate.

Passed October 21, 1825.

CHAPTER XII.

AN ACT, to revive an act entitled, "An Act for the benefit of certain Reservees," passed at Murfreesborough, August 22, 1822.

Privilege
to life estate
reservees.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the above recited act be, and the same is, declared hereby to be hereby revived, and shall continue in force for the term of twelve months from and after the first day of January next; and that all persons who may have purchased life estate reservations, shall be entitled to the same benefits as those who may [have] purchased fee simple reservations.

May enter
less than the
whole reser-
vation.

SEC. 2. *Be it enacted*, That any reservee or the rightful assignee or assignees, that have heretofore, or hereafter may, become the rightful assignee of any reservee, shall be permitted to enter, under the provisions of the above recited act, one or more quarter sections of their reservation, and that the treasurer of East Tennessee is hereby required to receive said Entry in as full and ample a manner as if he, she or they, were to enter the whole of a reservation, any law to the contrary notwithstanding.

SEC. 3. *Be it enacted*, That the provisions of this act shall apply to the Hiwassee District, and to no other part of the state of Tennessee. Restricted
to Hiwassee.

WM. BRADY,

Speaker of the House of Representatives.

B. C. FOSTER,

Speaker of the Senate.

Passed October 24, 1825.

CHAPTER XIII.

AN ACT, to compel Attorneys at Law to pay over monies by them collected.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter if any lawyer shall collect any money by suit or otherwise, on any note, account, or any other instruments, or for any other cause for which judgment can be recovered, and shall, upon demand, fail or neglect to pay over the same to the person or persons entitled to the same, or any portion thereof, it shall and may be lawful, for the person or persons who may be entitled to such money so collected as aforesaid, upon motion either in the County or Circuit court of the county in which such attorney may reside, or in which such money was collected, to have judgment against such delinquent lawyer for the amount due and owing, with twelve and one half per cent. interest thereon from the time it shall be proved such money was demanded till the rendition of said judgment. *Provided, however*, such delinquent lawyer shall have five days notice of the time and place of such motion; and *provided also*, that it shall be proved to the satisfaction of the court, that such money has been collected and actually paid over to such lawyer. To be recovered on motion in County or Circuit court.

SEC. 2. *Be it enacted*, That upon return of any sheriff or other officer, to whom execution upon such judgment against any attorney, shall have come, that the money cannot be made, or that he cannot find sufficient property of the defendant to make the same, then, and in that case, it shall be the duty of the court before whom such judgment was rendered, to strike such delinquent attorney from the roll of attorneys, & [he] shall be disqualified. Punishment for default of payment on execution.

T has ef-
fect.

to practice in any court in this state, until he shall have paid the amount of such judgment and costs.

SEC. 3. *Be it enacted*, That this act shall be in force from and after the first day of January next.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 24, 1825.

CHAPTER XIV.

AN ACT to limit presentments which may hereafter be made by Grand Jurors in the County courts.

Be it enacted by the General Assembly of the State of Tennessee, That hereafter it shall not be lawful for Grand Juries in the County courts of this state, to make presentments against any person or persons, for any assault and battery, or for any affray, unless the same be committed in their presence during the term of the court; *Provided*, however, that nothing in this act contained shall be so construed, as to prohibit presentments for said offences, if a prosecutor will come forward and have his name endorsed on the bill of indictment.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 25, 1825.

CHAPTER XV.

AN ACT, to prevent certain children of color from inheriting the estate of their mother's husband.

WHEREAS, by the laws and customs of this state, a child of color born at a time when its mother is a married woman whether it be begotten before or after the marriage of the mother, will inherit the estate of its mother's husband, Therefore,
Be it enacted by the General Assembly of the

State of Tennessee, That it shall not be lawful for any child of colour, to inherit the estate of its mother's husband, or any part thereof; *Provided*, always, that this act shall not be construed to extend to cases where the husband is himself a man of colour, nor shall it be construed to extend to cases where the mother is a woman of colour.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 25, 1825.

CHAPTER XVI.

AN ACT, allowing longer time for making surveys and returning plats and certificates south and west of the congressional reservation line.

Be it enacted by the General Assembly of the State of Tennessee, That the further time of twelve months be allowed for making surveys and returning plats and certificates of entries heretofore made south and west of the congressional reservation line, and no longer.

Further time
of 12 months

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed October 31, 1825.

CHAPTER XVII.

AN ACT, to amend and explain the laws now in force in this state respecting roads

Be it enacted by the General Assembly of the State of Tennessee, That in all cases where a jury of review shall have, by order of any court in this state, marked and laid off any road through any person's land, the owner whereof, shall consider himself aggrieved thereby, and shall have obtained, agreeably to the laws now in force, a jury to assess the damages he may sustain thereby, that it shall not be lawful, for such road to be estab-

Road not to
be established
as a public
highway till
damages be
paid

lished as a public highway until the damages, so assessed, are paid to the person so injured or so provided for, as to answer the payment thereof.

WM. BRADY,

Speaker of the House of Representatives

R. C. FOSTER,

Speaker of the Senate.

Passed October 31, 1825.

CHAPTER XVIII.

AN ACT, to provide for closing the business belonging to the office of Surveyor General for the sixth district.

WHEREAS, the office of surveyor general for the sixth district, has become vacant, by the resignation of the late surveyor general, and is not lucrative, so that no person will accept the same; and whereas, much business appertaining to the office is yet unfinished, and for the want of an officer to conduct it, many persons are liable to injury and inconvenience; for remedy whereof,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty, of the surveyor general who last held the office in the sixth district, to deposit all the books and other documents belonging to said office, with the county register for the county of Washington, who shall be authorized and required to give copies of plats and certificates of survey to any person or persons entitled to the same, in all cases where the original plats and certificates may have been lost or mislaid, that grants for the same have not yet been obtained.

SEC. 2. *Be it enacted,* That the county register of Washington county, shall have power to make out and certify, copies of all such papers and documents belonging to said office as the surveyor general, when in office, had power by law to make out and certify.

SEC. 3. *Be it enacted,* That when plats and certificates of survey may have heretofore been returned and filed in his office by the surveyor general of the sixth district, it shall be lawful for the county register of Washington county, to hand over such plats and certificates of survey and

Surveyor 6th. district to hand over papers of his office to the Register of Washington County.

Register to make copies

To deliver plats and warrants

warrants, to the parties entitled, so as to enable them to obtain them, and if any plats and certificates of survey heretofore made, have not been yet returned and recorded by the former surveyor General, it shall be lawful for the said county Register to receive such plats and certificates of survey and record them in said surveyor general's books, and hand them over as in other cases, to the parties entitled.

SEC. 4. *Be it enacted,* That where any entry or entries have been made in said office, and not void by the existing laws, and have not been surveyed, it shall be lawful for the county register to issue copies of such entry or entries and upon the copy or copies, so issued, it shall be the duty of the county surveyor, where such land lies, to survey the same, and make out plats and certificates of survey, and return them to the said register, who shall record the same and deliver them to the persons interested as in other cases.

SEC. 5. *Be it enacted,* That for such services rendered under this act, the said register of Washington county shall be entitled to the same fees which were allowed heretofore by law to the surveyor general of the sixth district.

SEC. 6. *Be it enacted,* That the 5th section of an act, passed at Murfreesboro' 21st October, 1824, entitled "An act supplemental to an act entitled an act to establish offices for receiving entries of vacant and unappropriated land in the several counties in this state, &c. be and the same is hereby wholly repealed, and made void.

SEC. 7. *Be it enacted,* That this act shall not take effect and be in force until the 15th January next.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 3, 1825.

CHAPTER XIX.

AN ACT, to prescribe the duties of Justices of the peace, Sheriffs, Coroners, and Constables, in certain cases.

SECTION 1. *Be it enacted by the General As-*

County Surveyor to make surveys

Register's fees

Repealing clause

Takes effect.

Sheriff or other officer to arrest persons suspected of carrying arms to commit a breach of the peace

sembly of the State of Tennessee, That hereafter when any sheriff, coroner, or constable, shall know of his own knowledge, or upon the representation of any person, or if he or they, shall have good reason to suspect, any person of being armed with the intention of committing a riot or affray, or of wounding or killing any person, it shall be the duty of all such officers, immediately to arrest all such persons so suspected, and return them before some justice of the peace, whose duty it shall be, upon proof being made, that there was reasonable ground to suspect such person or persons for being armed, with intent to disturb or commit a breach of the peace, to bind such person or persons in a bond with two or more good and sufficient securities, in a sum of not less than two hundred and fifty dollars, and not exceeding two thousand dollars, conditioned for his or their good behaviour and peaceable deportment for the term of twelve months thereafter.

Justices to cause such persons to be arrested

SEC. 2. Be it enacted, That if any justice of the peace shall know of his knowledge, or have reasonable cause to suspect, any person or persons of being armed with intent to commit a breach of the peace, it shall be the duty of such justice of the peace, to cause such offender or offenders, to be arrested and immediately brought before him or some other justice for examination, and upon its being satisfactorily made to appear, that such person or persons was armed or about to be armed with intent to commit a breach of the peace, such justice shall bind such offender or offenders in bond and security, as specified in the first section of this act.

Bonds how used on

*SEC. 3. Be it enacted, That the bonds by this act required to be given, shall be made payable to the chairman of the county court of the county in which the same shall be executed, and his successors in office, and shall be filed in the office of the clerk of said court; and it shall be the duty of the solicitor for the state, when he shall believe such bond to be forfeited, to issue *scire facias* thereon against such offender and his securities, and the amount collected shall be by the sheriff paid to the county trustee for county purposes.*

Officer to summon by standers to assist in arrest

SEC. 4. Be it enacted, That any justice of the peace, sheriff, coroner, or constable, when acting under the provisions of this act, shall have power and authority to summon as many persons as they

may think proper, to assist in arresting and securing any such offender, and any person so summoned and shall fail or refuse to assist such officer, for the purposes aforesaid, shall forfeit and pay the sum of ten dollars and cost, to be recovered before any justice of the peace, for the use of the county; and it shall be the duty of such officer, when he may have summoned any person to assist as aforesaid, and such person shall fail or refuse to obey such summons, to prosecute such defaulter before some justice of the peace, for the above penalty, and give evidence, of such summons and default.

SEC. 5. Be it enacted, That when any person shall be brought before any justice of the peace as required by the first and second sections of this act, and shall fail or refuse to give the security required, it shall be the duty of such justice, to commit such offender to the nearest sufficient jail for safe keeping, until such security is given, or he shall be discharged by due course of law.

Persons refusing to give bond, to be committed

SEC. 6. Be it enacted, That if any sheriff, coroner, or constable, shall knowingly fail or refuse, to perform any of the duties required by this act, it shall be deemed a misdemeanor in office, and upon conviction thereof, shall be fined at the discretion of the court, in a sum not exceeding fifty, nor less than ten dollars, and shall furthermore be removed from office and be disqualified from holding the same office for five years.

Officers who neglect, how punished

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 3, 1825.

CHAPTER XX.

AN ACT, concerning surveyors south and west of the congressional reservation line.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That it shall be the duty of the principal surveyors south and west of the congressional reservation line, to make out, from the entry and survey books, a new and complete copy of the general plan required by law to be kept in their offices, which shall correctly exhibit a plat of all the lands entered, and survey-

Surveyors to make new plans of their districts

ed in their offices respectively, and which, when made out, shall remain in their offices for the examination and inspection of all persons whatsoever.

To file away
old plan

SEC. 2. *Be it enacted*, That it shall be the duty of said surveyors, when they shall have made out an exact copy of the general plan required to be kept in their offices, to file away the original plan as a record of the respective offices, which shall at all times, be subject to the inspection of all persons that may wish to compare the same with such copy.

Paid for ser-
vices

SEC. 3. *Be it enacted*, That each surveyor shall be entitled to receive, from the treasurer of West Tennessee, twenty five dollars as full compensation for his services in making out said plan, and that the certificate of the circuit judge of the district in which said surveyor resides, that such plan is made out as required by this act, together with the receipt of said surveyor, shall be a good voucher in the hands of said treasurer, in the settlement of his accounts, said plans to be completed, as required by this act, by the 1st June next.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 4, 1825.

CHAPTER XXI.

AN ACT, to secure the payment of rent.

Rent due lien
on the Crop
for 3 months

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter, when any debt shall be contracted to become due for rent, whether by note, account, or otherwise, the amount so contracted to become due and owing, shall be a lien on the crop growing or made on the rented premises, and shall have precedence over all other debts of every description whatever, till said debt for rent, shall be discharged, any law, usage or custom to the contrary notwithstanding; *Provided*, That the lien hereby created, shall only continue for three months after the time the rent shall fall due, and until the decision

of any suit that may be brought within that time for such rent.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 4, 1825.

CHAPTER XXII.

AN ACT, more effectually to define the jurisdiction of the courts of equity.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter, bills in equity for the specific execution of contracts, or bills in equity which seek directly to divest the title of any specified piece or parcel of land, may be filed in the court of chancery, of the county, circuit or district of country where such lands or any part thereof, shall be, and such court shall have power to make such decree as the nature of the case may require, and by such decree, vest the title in such person as shall seem right, according to the rules of equity, notwithstanding neither the plaintiff or defendant, nor any of them, may reside in said county, circuit or district; *Provided, nevertheless*, That such rules and means shall be observed of service of process and giving notice to defendants and others, as heretofore has been observed and used; and *provided*, nothing herein contained shall be so construed as to restrain and take away the jurisdiction of any other court of equity, which may or might, have jurisdiction in such case.

Bills for a decree of title to be filed where land lies the neither party be within jurisdiction

SEC. 2. *Be it enacted*, That hereafter, when any bill may be filed on which an injunction shall have been granted to stay proceedings on any judgment at law, it shall and may be lawful for the chancery court of the district within which such judgment at law may have been rendered, or of the district including the county to which execution thereon may have issued, to entertain jurisdiction thereof and proceed to decree thereon as to right and justice may pertain, any law or usage to the contrary notwithstanding.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 4, 1825.

CHAPTER XXIII.

AN ACT, providing for cases where justices of the peace have died, removed, or resigned.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That from and after the passage of this act, when it shall appear that judgments rendered by justices of the peace in this state, who have died, removed, or resigned, are unsatisfied; on application of the agent or attorney, it shall be lawful for the clerk of the county court in whose office such papers may be filed, under the acts of Assembly now in force, to issue execution on said judgments, to any county in this state, from which execution the plaintiff shall receive the same benefit and the officer into whose hands the same may come, shall have the same authority to proceed, as if the execution had issued from a justice of the peace on a judgment rendered by him in the county to which the same may be directed.

SEC. 2. Be it enacted, That it shall be the duty of the officer to whose hands such execution shall come, to return the same to the clerk by whom it was issued in forty days from the time he may have received such execution, and shall be liable for neglect of duty in such case, in the same manner as officers are liable in failures to return executions and pay over money in other cases.

SEC. 3. Be it enacted, That the officers executing the foregoing process, shall be entitled to the same compensation as they now are in similar cases, and the clerk issuing the same, shall be entitled to fifty cents therefor to be taxed as costs on the writ.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 7, 1825.

CHAPTER XXIV.

AN ACT, to prescribe the mode for the trial of slaves.

SECTION 1. Be it enacted by the General As-

Clerks to issue executions to other o'tys. when necessary

officers fees

sembly of the State of Tennessee, that the jury for the trial of any slaves charged, shall consist of owners of slaves only, and the want of such qualification shall be good cause of challenge, but shall be no cause for a new trial nor in any way affect the validity of a verdict.

SEC. 2. Be it enacted, That the owner or owners of any slave who may be put on his trial for any offence, the punishment whereof, by the existing laws is death, shall have the right to challenge peremptorily as many jurors as a free white person is allowed to challenge in similar cases and no more, and on trials for any offence of the grade of felony, where the punishment does not inflict death, the owner of the slave so accused, shall be entitled to challenge peremptorily four jurors and no more.

SEC. 3. Be it enacted, That upon the trial of any slave, under the statute and the existing laws, the owner or owners thereof, shall have the right to appear and superintend the defence of such slave, and in all cases where judgment of conviction is rendered against such slave, the owner thereof may appeal therefrom to the Circuit Court in like manner as in cases of the conviction of free white persons for similar offences upon his giving bond and security as in other cases.

SEC. 4. Be it enacted, That in all cases of proceeding against slaves, the owner may give bail for the appearance of such slaves in the same manner as bail is given in prosecutions against free white persons; and the bail so given, shall in all respects, be liable and proceeded against, in the same manner as in the case of prosecutions against free white persons: *Provided,* always, that in prosecutions for capital offences, such slaves shall not be bailed when the proof is evident or the presumption great.

SEC. 5. Be it enacted, That hereafter writs of error shall be granted in all cases in prosecutions against slaves in the Circuit Courts as in prosecutions against free white persons, upon the owner giving bond and security as in other cases.

SEC. 6. Be it enacted That in all prosecutions for the trial of slaves, when any appeal may be taken as contemplated by this act, the owner or owners of such slave or slaves shall be liable to pay the cost of such prosecution except it should appear to the court, that the prosecution is frivolous

Jurors to be slave holders

Owner to challenge

Owner may superintend trial and take appeal

May be bailed

To pay costs of appeal

or malicious and then, and in that case, the prosecutor shall pay the costs.

SEC. 7. *Be it enacted,* That if the owner or owners of any slave or slaves, should take an appeal as contemplated in this act, it shall be the duty of the judge before whom such appeal shall be tried, to put said slave or slaves upon his or their trial, before a jury, and shall not hear any exceptions that may be taken to the proceedings of the three justices, and a jury that may have been summoned and sat and decided upon the trial of said slave or slaves out of court, nor shall any writ of error lie from their proceedings.

SEC. 8. *Be it enacted,* That in all cases where the owner of any slave shall give bail for the appearance of such slave, or bond and security for an appeal, such bail bond, or bond for an appeal, shall be for double the amount of the value of such slave.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 9, 1825.

CHAPTER XXV.

AN ACT, supplemental to an act passed at the present session of the General Assembly, entitled "an act to alter the time of holding the Chancery Court in the county of Williamson, in the town of Franklin."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the act passed at the present session of the General Assembly, entitled "an act to alter the time of holding the Chancery Court in the county of Williamson, in the town of Franklin," shall be postponed in its operation, and shall not take effect until the first day of January, 1826, and that a term of said court shall be holden on the 2nd Monday of December next, as though the said act above recited had not been passed.

SEC. 2. *Be it enacted,* That all process already issued from said court, returnable on the said first Monday of November, shall be returnable to the 2nd Monday of December.

Sec. 3. *Be it enacted,* That John Haywood be, ^{By whom} held and he is hereby required, to hold said court at the term to be holden in December next.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 9, 1825.

CHAPTER XXVI.

AN ACT, to authorize the Secretary of State to give transcripts from the general plan now in his office, of the first, second and third surveyors districts.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty of the Secretary of State, upon application, to make out a transcript of the general plan now in his office, of the first, second and third surveyor's district, or any part thereof, as may be required which transcript, certified by him, shall be read in evidence in any suit now pending or which may hereafter be pending, in any court of law or equity in this State, where the title to any school tract of land shall, or may be, at issue, and such copy shall only have the effect and weight as evidence that the original plan, of which it is a copy, would have under the existing laws [if] it was produced and no more.

SEC. 2. *Be it enacted,* That the Secretary be allowed for his services, fifty cents as a fee for the representation of each township, that a copy, of, from said plan or plans, may be required. If required on behalf of the State, to be paid by the State, if on behalf of an individual or citizen, to be paid by such citizen.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 14, 1825.

CHAPTER XXVII.

AN ACT, to establish a Register's Office in the Hiwassee district.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That there shall be appointed by joint ballot of both branches of the General Assembly, another Register in addition to those already appointed by law, to be denominated, the "REGISTER OF THE HIWASSEE DISTRICT," who shall keep his office at Athens, in the county of McMinn, and before he enters upon the duties of the office, shall, before a judge of the Circuit Court, take the oath prescribed for the other registers and enter into bond and security as required by law of the other registers of this State.

SEC. 2. *Be it enacted,* That all land heretofore entered and not granted, and all land that may hereafter be entered, in the Hiwassee district, shall be granted and recorded by the register of said district, who shall be entitled to the same fees of office as the other registers of this State, for like services, and shall be under the same penalties, regulations and restrictions, in all respects whatever, as the registers heretofore appointed by law are under.

SEC. 3. *Be it enacted,* That the register's office for the Hiwassee district, shall be opened for the reception of plats and certificates and the issuance of grants, on the first day of January next.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 14, 1825.

CHAPTER XXVIII.

AN ACT, concerning the surveying of lands entered in the different entry takers' offices in this State.

Where entry
ties in differ-
ent Counties,
surveys how
made

Be it enacted by the General Assembly of the State of Tennessee, That where an entry has been heretofore made in any county in this State, under the law of 1823, authorizing land to be en-

tered north and east of the congressional reservation line, the beginning corner of which is in one county, and a part of the entry in another; that it shall and may be lawful for the surveyor of the county where such beginning corner is situated, to proceed and survey such entry as in other cases, and a copy thereof shall be taken by the enterer to the entry taker's office of the other county, as the case may be, and be recorded therein, for which service of recording, the entry taker shall be allowed one dollar.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 16, 1825.

CHAPTER XXIX.

AN ACT, to amend the law on suits brought in the name of one for the use of another, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That in all suits prosecuted in the name of one person for the use of another, the person or persons, bodies politic or corporate, for whose use such suit is brought, shall be held and deemed the real plaintiff on record, against whom judgment shall be rendered and execution issue for the costs they may be liable for, as in other cases.

Persons so
whose use li-
able for costs

SEC. 2. *Be it enacted,* That hereafter, in all actions of ejectment where application is made to the court to amend the declaration by laying a demise in the name of some other person or persons, bodies politic and corporate, the court before they allow such amendment, shall require the party making such application to give bond with good security to indemnify such person or persons, bodies politic or corporate, from the payment of any costs that may accrue in such suit, unless such amendment be applied for by the person or persons, bodies politic or corporate in whose name such new demise is laid, and in no case shall a demise be laid in the declaration in the name of a person not present without his, her or their consent in writing given

Change of
demise in e-
jectments how
to be provid-
ed for

by him, her, or them or agent thereunto lawfully authorised; and in case any demise shall be laid in any declaration contrary to the provisions of this act, that said suit shall be dismissed upon motion of the defendant or defendants, and the clerk who shall issue the same shall be liable for all costs and damages accruing to the party injured.

Suit not to
abate by death

SEC. 3. *Be it enacted*, Where any suit shall have been commenced or shall hereafter be commenced in the name of one for the use of another person, and the person whose name may be used shall depart this life during the pendency of the suit, it shall not be necessary to revive said suit in the name of his, her or their, personal representative, but said suit may be prosecuted in the same way as though said death had not happened.

WM. BRADY,

Speaker of the House of Representatives

R. C. FOSTER,

Speaker of the Senate

Passed November 17, 1825.

CHAPTER XXX.

AN ACT, concerning illegitimate children.

Persons giving
bastardy
bonds not to
be exonerat-
ed by any act
making legi-
timate.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That where any person or persons shall have been or may hereafter be duly convicted according to law, of having begotten a bastard child, and shall have entered into or may hereafter enter into bond with security, conditioned for the maintainance of said child and for the prevention of said child becoming a county charge, that such person so convicted as aforesaid, and his securities, shall not be exonerated thereby from the penalty of such bond, notwithstanding, such person may, after the execution of such bond, make such child legitimate, as tho' born in wedlock, according to the provisions of an act entitled "an act to authorise the different superior or county courts of law in this state to alter the names of illegitimate persons," passed October 3, 1805.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 16, 1825.

CHAPTER XXXI.

AN ACT, to establish the sitting of a Supreme court of errors and appeals at Reynoldsburgh.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the judges of the supreme court of errors and appeals shall hold a term of said supreme court of errors and appeals at Reynoldsburgh in the county of Humphreys, on the second Monday in March in each and every year.

Court where
& when held

SEC. 2. *Be it enacted*, That all appeals, writs of error, or appeals in the nature of writs of error either in law or equity arising in the fifth, eighth and ninth circuits, shall be taken to, and returned to said court to be held at Reynoldsburgh; *Provided, nevertheless*, that should the appellant in any cause arising and tried in the counties of Robertson, Montgomery or Dickson wish to carry up their causes to the supreme court at Nashville, they or he shall not be precluded from doing so by any thing contained in this act, nor is this act to be so construed as taking away the jurisdiction of the supreme court at Nashville in causes from said counties.

Causes from
what circuits
or counties to
be carried up

SEC. 3. *Be it enacted*, That the parties to suits now pending in the supreme [court] at Nashville from said fifth, eighth and ninth circuits, both agreeing thereto and wishing the same, may, by order of said supreme court at Nashville, have their said causes now pending in said court at Nashville, transferred to said supreme court at Reynoldsburgh for trial; which order said court is hereby required to make upon such consent of the parties.

Certain cau-
ses may be
transferred

SEC. 4. *Be it enacted*, That it shall be the duty of the judges of said supreme court of errors and appeals to appoint a clerk for said court, and require bond and security as is required by law from other clerks of the courts of appeals.

Clerk to be
appointed

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 17, 1825.

CHAPTER XXXII.

AN ACT, to establish a court of chancery at the town of Paris in the county of Henry.

Court to sit when & where and for what counties
SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the judges of the supreme court, by arrangement among themselves, shall hold a court of chancery at the town of Paris, in the county of Henry, for the counties of Perry, Henderson, Carroll, Henry, Weakley, Obion, Gibson and Dyer; which court shall be held twice in each and every year on the third Mondays in April and October, and continue two weeks if necessary.

To appoint a clerk
SEC. 2. *Be it enacted,* That the judges of the supreme court as soon as convenient, shall appoint a clerk and master for said court, who shall give bond and security according to law before he shall enter on the execution of his office.

WM. BRADY,

Speaker of the House of Representatives.

R. O. FOSTER,

Speaker of the Senate.

Passed November 19, 1825.

CHAPTER XXXIII.

AN ACT, for the relief of appearance bail.

Plaintiff to issue process of ca. sa. and of sci. fa. in twelve months from January next
SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That in all cases heretofore pending in any of the courts of this state wherein judgments have been rendered, it shall be the duty of the plaintiff if he wishes to render the appearance bail for the defendant or defendants to said suit or suits liable as such under the laws now in force, to prosecute his *capias ad satisfaciendum* within twelve months next after the first of January next, and his *scire facias* from the term to which said *ca. sa.* is returnable. That in all cases now pending and hereafter to be commenced in any of the courts of this state in which appearance bail has been or may hereafter be given, it shall be the duty of the plaintiff to issue his *capias ad satisfaciendum* within twelve months after the rendition of the judgment therein,

and upon the return of such *capias ad satisfaciendum* "not found," it shall be the duty of the plaintiff to issue a *scire facias* against their bail, which process shall be tested of the term to which the *capias* aforesaid was returned, and made returnable at the next term of said court, upon the return of said process executed, or two returns upon writs of *scire facias* "not found," if no legal cause be shown for the discharge of the bail, the plaintiff shall have judgment of execution against said bail; but if the plaintiff shall fail or neglect to prosecute his *scire facias* against said bail in the time prescribed by this act, then, and in that case, the bail shall be forever discharged from all liability whatsoever.

Or in twelve months from rendition of judgment

WM. BRADY,

Speaker of the House of Representatives.

R. O. FOSTER,

Speaker of the Senate.

Passed November 21, 1825.

CHAPTER XXXIV.

AN ACT, to amend an act entitled "an act supplemental to an act, to dispose of the lands lying between the rivers Hiwassee and Tennessee, and north of Little Tennessee river," passed November 15, 1823.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That whenever the price of lands in the Hiwassee district shall be reduced to twelve and one half cents per acre, agreeably to the provisions of the above recited act, it shall and may be lawful for the entry taker to suffer entries to be made in his office by any person or persons for a less quantity than a quarter section, to wit, for eighty acres or for forty acres, at the election of the person or persons desiring to make such entry; but in no wise shall entries for less than a quarter section be received by said entry taker, except entries for eighty acres or for forty acres as aforesaid beginning at any corner of the quarter section, and running such to the cardinal points.

Entries may be made for less than a quarter section

SEC. 2. *Be it enacted,* That when any person or persons are in actual possession of any tract of land in said district on first day of January

Rights of occupancy reserved

next, such person or persons shall be entitled to a preference of entry for the term of twelve months, any law, usages or custom to the contrary notwithstanding: *Provided*, that occupants shall not enter less than forty acres as directed in the first section of this act.

Taxes how applied. *Sec. 3. Be it enacted*, That the taxes arising from all lands entered at twelve and a half cents per acre and under, in the Hiwassee district, under the provisions of this or any other act of the General Assembly, shall be appropriated to the use of common schools, as the taxes now are or may be by law, on lands lying north and east of the congressional reservation line, north of Tennessee river.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 23, 1825.

CHAPTER XXXV.

AN ACT, concerning cotton gins.

Former act repealed. *SECTION 1. Be it enacted by the General Assembly of the State of Tennessee*, That the second section of an act passed November 8, 1803, chapter 7, entitled "an act to amend an act entitled an act to prevent the exportation of unmerchable commodities, be and the same is, hereby repealed.

Private ginners not to give bond. *Sec. 2. Be it enacted*, That where any person heretofore has, or hereafter may erect, a cotton gin and press for the purpose solely of ginning and baling their own cotton, such persons may proceed and gin and bale the same without taking the oaths and entering into the bonds now directed to be taken and entered into by the existing laws; *Provided, however*, that the persons herein provided for, shall not be permitted to gin and bale the cotton of others without first taking the oaths and entering into the bonds prescribed by law.

To enclose cotton gins. *Sec. 3. Be it enacted*, That hereafter all owners of gins shall enclose the same so as to exclude stock, and if such owner or owners fail to do so,

they shall forfeit and pay for every such offence ten dollars, to be sued for by the party aggrieved before any jurisdiction having cognizance of the same, and a recovery had, one half to the use of the county and the other half to the person suing for the same.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 23, 1825.

CHAPTER XXXVI.

AN ACT, concerning the duty of Coroner's and for other purposes.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That hereafter it shall not be lawful for any person or persons to bury or cause to be buried, the body of any person, whatsoever, that may come to their death accidentally or by unlawful violence, or other suspicious cause, without first giving notice to the coroner of his county, of such death, or in case the coroner is absent or sick so that his attendance cannot be had, to some justice of the peace. Every person so offending shall be liable to the sum of fifty dollars, to be recovered before any tribunal, having cognizance thereof, one half to the use of the county and the other half to the use of any person who will sue for the same.

Persons not to be buried without notice to coroner or justice when they may die suddenly.

Sec. 2. Be it enacted, That if any person summoned to serve on such jury by any coroner, shall fail to attend upon such inquest, he shall forfeit the sum of five dollars, to be recovered by such coroner before any justice of the peace for the use of the county in which such inquest may have been made.

Penalty for not serving as jurors.

Sec. 3. Be it enacted, That this act shall take effect and be in force from and after the first day of January next.

Take effect.

Sec. 4. Be it enacted, That hereafter, when any person or persons may by accident, be deprived of life in the presence of any person or persons, it may be lawful for any person to give notice to some justice of the peace in the county where such

Justice to summon a jury when.

accident may happen, whose duty it shall be to cause a jury of seven respectable men to be summoned under the same rules and restrictions that govern a coroner's inquest by the laws of this State, and if the said jury shall be of opinion that the person over which the inquest is held was deprived of life by accident, it shall be lawful for such person to be buried without notice to the coroner, but should said jury be of opinion that said person was murdered or came to his death by unlawful means or violence, it shall be the duty of the justice holding such inquest, forthwith to give notice to the coroner of his county, and an inquest shall be held as provided for in the first section of this act.

Coroner of Humphreys. **Sec. 5. Be it enacted,** That any coroner that may hereafter be appointed by the county court of Humphreys county, shall not be compelled to take or receive any *capias ad satisfaciendum* upon any judgment heretofore rendered against the sheriff of said county and others, jointly.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 23, 1825.

CHAPTER XXXVII.

AN ACT, for the relief of the mechanics of this State.

Lien given to mechanics on buildings completed by them. **SECTION 1. Be it enacted by the General Assembly of the state of Tennessee,** That hereafter, when mechanics construct buildings upon any lot of ground in any of the towns in this State, by special contract with the owners thereof, they shall have and possess a lien upon such building and the lot of ground thereto attached not exceeding one acre, for the just value of his labor and materials furnished by such mechanic for constructing such house or houses, and the owner of said ground shall not be able to convey the same free from the said lien created by this act, nor shall the same be sold by legal process so as to avoid said lien, unless upon judgment rendered before such building was commenced.

Limit of time for lien. **Sec. 2. Be it enacted,** That the lien hereby

created shall continue for the term of one year from and after the completion of the building contracted to be erected, and until the decision of any suit, that such mechanic may bring within that time for the debt that may be due him, for the erection of such building; *Provided,* that nothing in this act shall apply to any other case than those where one person undertakes and completes the building.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 22, 1825.

CHAPTER XXXVIII.

AN ACT, for the relief of the citizens who entered lands ceded to Kentucky under the act of 1823 making provisions for entering vacant land at twelve and one half cents per acre.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That any person, or persons, who may have entered any lands under the act of 1823, making provision for entering the vacant lands of this State, north and east of the Congressional reservation line, and north of Tennessee river, at twelve and one half cents per acre, which lands so entered, lies south of the Kentucky line, called Walkers' line, and north of a point, one mile and one quarter north of the line lately run by commissioners on the part of Kentucky, by Steele and others, shall be entitled to receive from the agent of the bank of the state of Tennessee, in the county where the land lies, the amount of money by him, her or them, paid for such lands, to the county entry taker, with interest on said sum from the time of payment, as also the entry takers' fees, surveyors' fees, and fees of register and secretary, if granted, or hereafter paid to the surveyor, with interest thereon, upon the terms and evidence hereinafter mentioned.

Sec. 2. Be it enacted, That to entitle any person or persons, to the provisions or benefit of *To receive from the bank of the state of Tennessee the amount of money and fees by them paid with interest* *To produce affidavits of a respectable cit*

izens and the
affidavit of the
entire.

this act, he, she or they, shall produce to the entry taker of the county where the entry is made, the affidavit made before some justice of [the] peace, of two respectable citizens of the county where the entry was made, stating that entry No. —, for — acres, entered in the name of — or — acres of said entry lies north of a point one mile and one quarter north of the line lately run by Steele and others, Kentucky commissioners— also, the affidavit of the person, his or her executor or administrator, in whose name the entry was made, that he, she or they, for whose benefit said entry had been made, did, or had not removed, or procured to be removed off of said land, or any part thereof, for which compensation from the State is sought to be obtained, so entered, any land warrant or warrants; by virtue of which the same was held and stood entered on the 4th of February, 1820.

Entry takers
to issue a cer-
tificate

SEC. 3. *Be it enacted*, That it shall be the duty of the entry takers of the counties, upon proof made to him as provided by this act, to file away said affidavit, and carefully take care of the same; and to issue to the person or persons, his, her or their executor or administrator, heirs or attorney in fact legally authorised, a certificate directed to the president and directors of the bank of the State of Tennessee, or the county agent of said bank, in his county, stating that — is entitled to the sum of — dollars, being the amount paid on — acres of land entered in his county, on the — day of — in the name —; as also the sum of — dollars being the amount of interest due thereon to that date; as also the sum of — dollars for fees paid for entering; surveying, registering and secretary's fees on the same; making in all, the sum of — dollars. It shall be the duty of the different entry takers in this state, in a book to be by them kept for that purpose in his office, to enter said certificate at large; also make in the margin of his entry book that the entry is made void, and the date thereof; and that a certificate has been issued, for which service, the entry taker may receive fifty cents, which sum he shall include in his certificate to the bank agent, or the president and directors, and shall be paid as other fees provided for by this act.

Duty of en-
try takers

SEC. 4 *Be it enacted*, That it shall be the duty

of the agent of the bank of the State of Tennessee, in the county from which said certificate issued by the entry taker aforesaid, if he may have funds in his hands to pay and discharge said certificate, if required of him or the bank of the State of Tennessee at Nashville, if demanded there, and take the receipt of the person receiving said payment; if paid by the agent, he shall report the same to said bank, who shall keep an account thereof and charge the common school fund with the said sums so paid.

SEC. 5. *Be it enacted*, That when any person or persons may have entered any land under the said act of 1823, south of Walker's line, and between said line, and a point one mile and one quarter of a mile north of Steeles' line, and may have erected thereon valuable improvements; and the said land may have been entered, granted or in any other way appropriated by the state of Kentucky, it shall and may be lawful for the person or persons claiming such land, by virtue of any title, either by entry or grant from this state under the act of 1823 aforesaid, to call on two respectable persons residing in the county where said land lies, who shall value said improvements on oath; which oath shall be taken before some justice of the peace, which valuation shall be by said valuers, stated in writing, and by them filed in the office of the clerk of the circuit court of the county where the land lies.

Land to be
valued by two
respectable
persons and
their state-
ment to be fi-
led in the of-
fice of the cir-
cuit court of
the county:

SEC. 6. *Be it enacted*, That no clerk of any circuit court in this State, when the valuation of the improvement has been filled with him agreeably to the provisions of this act, shall issue any original process, whereby the title to said land shall be sought, to be tried where the plaintiff or the les-ee of the plaintiff claims title by virtue of any title derived from the state of Kentucky, unless the full amount of the valuation aforesaid shall be first paid in his office for the benefit of the person or persons entitled thereto; and any process issued contrary to the provisions of this act, shall be abated on the plea of the defendant.

Duty of clerks
of the circuit
court

SEC. 7. *Be it enacted*, That any person swearing falsely, to obtain for himself or any other person, any of the benefits of this act, shall be considered guilty of wilful and corrupt perjury; and shall be liable on conviction, to all the pains and penalties thereof. Any entry taker neglecting

Swear-
ing falsely
guilty of per-
jury. Entry
taker neglect-
ing &c. guilt-
y of a misde-
meanor.

any of the duties required by this act, or corruptly giving the certificate required by this act, without the proof as herein required, upon conviction, shall be deemed guilty of a misdemeanor in office, and on conviction, shall be removed from office.

Sec. 8. *Be it enacted,* That it shall be the duty of the president and directors of the bank of the State of Tennessee, to furnish and supply the agent of said bank of the counties where the claims, provided for in this act exist, money for the purpose of paying the claims provided for in this act.

Sec. 9. *Be it enacted,* That any person or persons, who have made entry or entries, on any valid military land warrants, or commissioners certificate, south of Walker's line, and one mile and one quarter of a mile north of the line lately run by Col. Steele and others, since the 4th of February, 1820, and have obtained grant or grants thereon, shall have the privilege of filing said grant or grants with the secretary of state; and it shall be the duty of the secretary of state, to make said grant or grants void, or so much thereof as lies south of Walker's line, and one mile and one quarter of a mile north of the line, lately run by Steele and others, and to issue certificate or certificates to the person or persons filing the same for the amount of such grant or grants, or such part thereof as aforesaid, so filed and made void by him, on the person or persons filing with each of said grant or grants, his own affidavit, and the affidavit of two respectable persons, taken before some justice of the peace, stating that the land contained in the bounds of said grant or grants, lies south of Walker's line, and one mile and one quarter of a mile north of the line lately run by Col. Steele and others; and the certificate or certificates so issued, shall be entered on any vacant land lying south and west of the congressional reservation line.

WM. BRADY,
Speaker of the House of Representatives
R. C. FOSTER,
Speaker of the Senate.

Passed November 24, 1825.

CHAPTER XXXIX.

AN ACT, to settle the claims of North Carolina and for the benefit of the occupants of the Western District.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Secretary of state is hereby constituted and appointed a commissioner, with power to examine and adjudicate all military land warrants laid before him by the trustees of the university of North Carolina, and by the trustees of Cumberland and East Tennessee colleges, and which have been issued to the trustees of the university aforesaid, by the State of North Carolina; and upon the said commissioner being satisfied that said warrants are genuine, upon testimony heretofore required in similar cases, he shall pass the same as valid; *Provided,* the warrants thus adjudicated shall not amount to more than one hundred and five thousand acres, and that the power is conferred only upon the express provisions and limitations hereinafter mentioned.

Sec. 2. *Be it enacted,* That so soon as the said commissioner shall adjudicate said warrants valid, he shall proceed to consider the whole amount thus adjudicated as one consolidated quantity, and shall issue certificates of twenty-five acres each, directed to the surveyors south and west of the congressional reservation line, in favor of the register of the western district or his assignee, which certificates shall not refer to, or be the part of, any specified land warrant thus adjudicated, but a part only of the general consolidated amount aforesaid; the form of which certificate shall be as follows: This is to certify, that the assignee of the register of the western district is entitled to enter and obtain a grant, for twenty-five acres of land, south and west of the congressional reservation line. Given under my hand this — day of — 182 — A. B. secretary and commissioner of West Tennessee. Which certificates the secretary shall deliver over to the said register and take his receipt therefor.

Sec. 3. *Be it enacted,* That the said register of the western district, is hereby authorised and

Secretary of State to adjudicate military land warrants not exceeding 100,000 acres

To issue certificates

Form of certificates

trict to assign
to occupants
upon payment
of fifty cents
per acre

required, to assign to any resident occupant upon vacant and unappropriated land in any of said surveyors districts, one or more of said certificates upon the payment of fifty cents per acre by said occupant, so that no one occupant shall obtain more than two hundred acres of said certificates, and said register is authorised to adjudge whether any occupant so applying, is an occupant upon such testimony and in the same manner, that the several surveyors of said districts are required by the acts of Assembly of 1819, chap. 1, and 1820, chap. 27, and this provision shall be extended to all persons who shall be *bona fide* resident occupants at this time, and also, all who shall become such before the first day of May next; *Provided, however,* that no person who is now the owner of one hundred and sixty acres of land in this State shall have any preference as an occupant; and *provided, also,* that no person shall be entitled to more than one occupancy and preference either for himself or as assignee of any other person; *Provided, also,* that in all cases where any occupant shall purchase any certificate or certificates, as an occupant under the provisions of this act, such occupant shall be bound to locate the same on his or her occupant piece or parcel of land, and such certificate warrant, shall not be subject to appropriation on any other piece or parcel of land, and any of such occupants, upon producing to the surveyor of any district where he may wish to make an entry, the said certificate or certificates and also a duplicate of the evidence of occupancy presented to said register, is hereby authorised, after the said first day of May, 1826, and until the first day of July, 1826, to make, in said office, an entry including his improvement and occupancy, and all the parts of said acts of 1819, and 1820, which relate to the manner of making and surveying occupant entries, and for the prevention of conflicts between the several occupants, shall be held to apply to the occupants herein provided for.

SEC. 4. *Be it enacted,* That each occupant shall have time given him until [the] first day of July, 1826, to purchase said certificate or certificates, and make such entry in preference and to the exclusion of all other persons whatsoever; and the register of the Western district shall not sell or assign any of said certificates to any other person

Owner of 160
acres exclud-
ed

How to be
located

Preference to
occupants to
first July 1826

or persons but an occupant until after the first day of July, 1826, and any sale or assignment made previous to said first day of July, 1826, to any other person but an occupant, shall be null and void, and the surveyors shall not survey any entry or entries made on a certificate sold or assigned by the said register to such person contrary to the provisions of this act; neither shall the Governor and Secretary of State perfect such a grant.

SEC. 5. *Be it enacted,* That if, on the said first day of July, 1826, any of said certificates, shall remain in the hands of said register unsold, then the said register shall and may sell the same to any person at the price of one dollar per acre, and if, on the first day of August thereafter, any shall remain unsold, he may, and is required, to sell the same, to any person wishing to purchase for fifty cents per acre; and any such purchasers are authorized to enter and obtain grants for such quantity of land as such warrant or warrants may specify; *Provided,* that after [the] first day of July, 1826, no quantity of said certificates less than one hundred and fifty acres, shall be sold to, nor any entry thereon made for a less quantity than one hundred and fifty acres by, any person, and said surveyors offices shall be open for the reception of general entries on any of said warrants, or any others authorized to be entered in said surveyors' offices after the first day of July, 1826, and not before.

SEC. 6. *Be it enacted,* That the register shall, on the first day of every quarter, deposit in the bank of the State at Nashville, to the credit of the Treasurer of West Tennessee, all such monies as he may have received on the sale of said certificates.

SEC. 7. *Be it enacted,* That the purchasers of said certificates shall take the same clear and discharged of all equitable claims of any and all persons, and all trusts or incumbrances, and shall be held and taken to be the indefeasible and sole owners of said certificates.

SEC. 8. *Be it enacted,* That the treasurer of West Tennessee shall, on the first day of September, 1826, pay over to the president and trustees of the university of North Carolina, or its agent, one third of the monies in his hands arising from the sale of said certificates upon the said president and trustees executing a bond with satisfactory security to the Treasurer aforesaid, and his succes-

Sale or as-
signment to
any other per-
son before 1st
day of July
void

After 1st Ju-
ly 1826 Regis-
ter of western
district may
sell certifi-
cates at \$1 per
acre

Not less than
160 acres to
be sold, nor
a less quanti-
ty to be enter-
ed

Register to
deposit mo-
ney in the
Bank of the
state at Nash-
ville

Purchasers
to hold certi-
ficates free of
any equitable
claim

Duty of the
treasurer of
West Tennes-
see to pay one
third to Uni-
versity

C. on giving
bond

sors to be answerable and bound to refund the same or any ratable proportion thereof which any claimant of any warrant adjudicated as aforesaid shall shew himself by law to be entitled to, in the manner hereinafter prescribed; said Treasurer shall also pay over to the trustees of Cumberland college and East Tennessee college, one other third of said monies in the proportion of two thirds to Cumberland college and one third to the East Tennessee college, which money so paid to said colleges, shall be credited as a payment made to said colleges and academies, by the purchasers of land south of French Broad and Holston, and west of Big Pigeon rivers, which shall be of the third class hereafter to be ascertained by act of Assembly, and applied in equal proportions to the several sums due from each purchaser of said third class, whether the same has been sold by said colleges and academies or not, and the other third to be appropriated to the use of common schools forever.

SEC. 9. *Be it enacted*, [That] this act shall be so construed that Cumberland college, and East Tennessee college, shall receive in the proportion aforesaid, so much of the amount of the monies arising from the sale of said warrants as is appropriated in the foregoing provisions of this act, for the relief of the people residing on the college and academy lands south of French Broad and Holston, and the academies in East and West Tennessee shall receive out of the first monies collected of the people residing on the college and academy lands south of French Broad and Holston, a sum equal to the amount of the sum to be received by said colleges out of the funds arising from the sale of the warrants as aforesaid; and after the said academies shall have received their proportion as aforesaid, East Tennessee college shall receive so much of the monies thereafter to be collected from the people south of French Broad and Holston, as will make the whole amount received by said college equal to the amount received by Cumberland college as aforesaid.

SEC. 10. *Be it enacted*, That if, from inability or other cause, any occupant now resident and entitled to a right of occupancy under the provisions of this act, shall enter a less quantity of land than one hundred acres by virtue of a certificate or cer-

One third to Cumberland and East Tennessee colleges and this amount to be credited on lands south of French Broad and Holston of the third rate

Colleges to receive one third so appropriated

Academies to receive an equal sum when collected from the people south of the river

Privilege of the occupant where he shall enter less than 100 acres

tificates, he shall and may lay off and have surveyed, on any vacant land, in a square or oblong, so as to join or include the land so by him entered in virtue of any certificate or certificates, a quantity not more than double the quantity so by him entered in virtue of a certificate or certificates: and *Provided*, the whole, inclusive of the land entered by virtue of a certificate or certificates, does not exceed one hundred acres, which the occupant may have laid down on the general plan, which land, so laid off, shall not be subject to be taken or entered by any other person until a relinquishment of the vacant soil south and west of the congressional reservation line shall be obtained from the Congress of the United States, when said land shall be subject, entirely, to the disposition of the legislature of this state, and that any entry made contrary to the provisions of this act, shall be null and void.

SEC. 11. *Be it enacted*, That the Secretary of State shall be allowed eighteen and three fourth cents for issuing each certificate and recording the same, and making an alphabetical abstract in a well bound book, to be by him provided for that purpose, which said fee shall also include all services for listing, adjudicating and recording the original warrants, in a well bound book, and making alphabetical references and a minute docket on filing and adjudicating, as heretofore practised by the commissioners of this state, which shall be paid by the treasurer of West Tennessee after the whole is completed, on a fair statement made out, and warrant issued by the Governor, and shall be by said Treasurer deducted from that portion of said monies allotted to the university and to the colleges.

SEC. 12. *Be it enacted*, That the said surveyors offices shall remain open for receiving entries made by virtue of said certificates until the first day of January, 1827.

SEC. 13. *Be it enacted*, That the said power to adjudicate said military warrants and issue said certificates, shall not arise, and no provision of this act shall be in force, until the president and trustees of the university of North Carolina shall give their assent to the same and every part thereof, by a writing under their common seal properly certified by the 15th day of February next, upon the recep-

Secretary's fees

Surveyor's offices open till 1st January 1827.

Assent of President and Trustees of the University of N Carolina to be given

tion of which, by the Secretary of State, this act and every part thereof, shall be in force, and he shall proceed to execute the powers hereby given him.

SEC. 14. *Be it enacted*, That every person or persons, who may claim or may be entitled to any of said military warrants adjudicated valid by said commissioner, may file his bill in equity against the Treasurer of West Tennessee, who shall represent and defend on behalf of the school fund, the president and trustees of the university of North Carolina, and of East Tennessee and Cumberland colleges, in the court of chancery where said treasurer resides; which court shall have jurisdiction of the case, and upon shewing to the court that such complainant is entitled to said warrant, said court may make a decree in his favor for such sum of money as said warrant would be worth at fifty cents per acre and against each of said defendants, in the several proportions they have received the same: *Provided*, the said defendants may make and use any defence against said bill, which may be legal and available.

SEC. 15. *Be it enacted*, That if any of said certificates shall, on the first day of September, 1826, remain unsold, then the register of the Western district, shall sell the same at auction, for cash, at the court house in the town of Jackson, after giving twenty days notice in some news-paper printed at Jackson, and also at Nashville; and immediately pay over the money arising from said sale, as required in the 8th section of this act, and the same shall be applied as therein directed.

SEC. 16. *Be it enacted*, That where any person or persons may be the owner or owners of any piece or tract of land less than one hundred and sixty acres, by the first day of May next, such person or persons shall have a preference or priority of entry, for so much of the vacant and unappropriated lands adjoining thereunto, which may not be in the actual possession of any other person, as will enlarge his tract to one hundred and sixty acres; for the entry of which, they shall be entitled to purchase warrants, as other occupants, by the provisions of this act.

SEC. 17. *Be it enacted*, That it shall be the duty of the register of the Western district, in a book to be by him kept for that purpose, to make out a clear memorandum, specifying each certificate he

Claims of military warrants adjudicated valid by said commissioner, may file his bill in equity against the Treasurer of West Tennessee, who shall represent and defend on behalf of the school fund, the president and trustees of the university of North Carolina, and of East Tennessee and Cumberland colleges, in the court of chancery where said treasurer resides; which court shall have jurisdiction of the case, and upon shewing to the court that such complainant is entitled to said warrant, said court may make a decree in his favor for such sum of money as said warrant would be worth at fifty cents per acre and against each of said defendants, in the several proportions they have received the same: *Provided*, the said defendants may make and use any defence against said bill, which may be legal and available.

Decree how to be made

After 1st of Septem. 1826 certificates to be sold by Register of W. D. at auction

Preference to persons who own less than 160 acres of land.

Register of W. District to keep a book &c.

shall assign by virtue of this act, to whom assigned, and whether to an occupant or not, what quantity of acres is contained in said certificate, what number said certificate is, and on what day the same [was] assigned.

SEC. 18. *Be it enacted*, That the register of the Western district shall, before he enters on the duties of his office, before some one of the circuit judges of this State, enter into a bond with good and sufficient securities in the sum of fifty thousand dollars, payable to the Governor and his successors in office, conditioned that he will faithfully pay over to the proper person, all monies by him received on the sale of certificate warrants; which bond shall not be void till the whole penalty is recovered; and it shall be the duty of the judge before whom said bond shall be taken, to deliver the same to the Treasurer of West Tennessee, who shall file away the same in his office.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 24, 1825.

CHAPTER XL.

AN ACT, to provide better security for sheriffs and other officers when selling property taken in execution.

SECTION, 1. *Be it enacted by the General Assembly of the State of Tennessee*, That in all cases where a sheriff, coroner, or constable, heretofore has levied, or hereafter may levy, an execution on property, the title of which is disputed, and shall have taken, or may hereafter take, a bond of indemnity, and shall have been, or may hereafter be, sued for so doing, by the rightful owner of such property so levied on and sold, and a recovery had against such sheriff, coroner or constable, it shall and may be lawful for such sheriff, coroner or constable, upon motion in any court of record, to obtain judgment against the obligor or obligors, or either of them, on such bond of indemnity for the amount of the damages and costs that may have been recovered against such sheriff, coroner or constable.

Register of W. District to give bond in the sum of \$50,000 with good securities

To take judgment on indemnity bond by motion

Officer not
compelled to
sell unless in-
demnified by
bond

Sec. 2. *Be it enacted*, That hereafter, no sheriff, coroner or constable, shall be compelled to levy an execution on any property, the title to which is disputed, and sell the same unless the plaintiff, in the execution, will first give bond and security to such sheriff, coroner or constable, to indemnify and keep harmless, such officer from all damages and costs in consequence of levying upon and selling, such property.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 24, 1825.

CHAPTER XLI.

AN ACT, for the relief of certain purchasers of land in the Hiwassee district.

WHEREAS, it is represented to this General Assembly, that a number of persons purchased land in said district, at the land sales in 1820, on which there had been reservations taken by certain natives of the Cherokee nation, under the different treaties made by and between the United States and the Cherokee nation aforesaid, and [it] is further represented that said reservees have commenced suits against said purchasers or their assignees, for the land sold by the State as aforesaid, for remedy whereof;

Commission-
ers to settle
with the Indi-
an reservees

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That THOMAS J. CAMPBELL, WILLIAM S. BLAIR and HOPKINS L. TURNEY, be, and they are hereby, appointed to meet and take into consideration the validity of the claims produced by the reservees to said land in ——— (first [giving] the said reservees notice of the time and place of examining the same :) and the commissioners appointed as aforesaid, shall have full power to make compromise and settle the matter in dispute, provided they should think any or all, of said claims, to be valid and good; and the commissioners aforesaid, are by this act empowered to make any agreement for the purchasing in said claims; which settlement shall be good and

effectual between the State of Tennessee and the reservees, when ratified by the Legislature of this State, in manner hereinafter described.

SEC. 2. *Be it enacted*, That the said commissioners, appointed as aforesaid, shall meet at the Cherokee agency, at such time or times as may be convenient to them, first giving the agent of the Cherokee nation twenty days notice of the time and place of such meeting, requiring said agent to give the [those] holding reservations who have commenced suits for the same, notice of said meeting.

To give no-
tice of meet-
ing

SEC. 3. *Be it enacted*, [That] the commissioners aforesaid, are by this act required to make a detailed report of the condition of said claims and what compromise is made or agreed upon, if any, to the next session of this General Assembly, and if said commissioners report a compromise in any or all of said suits, such compromise shall be subject to the examination and ratification of the Legislature, and if approved of, it shall be binding and effectual as aforesaid.

To make re-
port to assem-
bly

SEC. 4. *Be it enacted*, That the commissioners aforesaid, shall be entitled to a reasonable compensation hereafter to be made.

To receive
compensation

SEC. 5. *Be it enacted*, That said commissioners shall take and subscribe the following oath; to wit: I do solemnly swear or affirm (as the case may be) that I will faithfully and honestly examine into all the claims, as well that of the reservees as that of the State of Tennessee, and report the same to the next session of the General Assembly.

Form of oath

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 18, 1825.

CHAPTER XLII.

AN ACT, giving further time to make surveys and obtain grants on entries north and east of the congressional reservation line, and under the act of 1823.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the further

Further time of two years for surveys & grants

time of two years be allowed to return certificates of entry and make surveys and obtain grants, on entries lying north and east of the congressional reservation line, made under the act of 1823, allowing the vacant lands to be entered at twelve and a half cents per acre.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 24, 1825.

CHAPTER XLIII.

AN ACT, to repeal part of an act passed 28th day of July, 1820, to prevent the sacrifice of real estate, and for other purposes.

Right of redemption repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That so much of the above recited act, as relates to negro property, sold at execution sale, be and the same is, hereby repealed.*

Not to change the right of parties

SEC. 2. *Be it enacted, That all laws and parts of laws now in force in this State, which authorises the redemption of slaves sold by execution or the decree of a court of equity, are hereby repealed; Provided, nothing in this act contained, shall be so construed, as to affect, or in any manner change, the rights of parties under sales heretofore made under the laws hereby repealed, but such rights are hereby secured.*

Nor operate on judgments heretofore rendered

SEC. 3. *Be it enacted, That nothing contained in this act, shall operate on judgments heretofore rendered, or that may hereafter be rendered, before this act goes into effect, or executions that may hereafter issue on judgments rendered under the former redemption laws.*

SEC. 4. *Be it enacted, That this act shall take effect and be in force from and after the first day of August next, and that the third section of this act shall expire and cease to exist on the first day of August, 1826.*

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 24, 1825.

CHAPTER XLIV.

AN ACT, making owners of private ferries liable in certain cases.

Be it enacted by the General Assembly of the State of Tennessee, That where any public road crosses a river at a place where it is, or may be, necessary that a ferry should be kept, and the owner or owners of the ferry banks keep or may hereafter keep or authorize some other person to keep, a ferry without having such ferry established and made a public ferry by order of the county court, as is by law provided, such person or persons, so owning or keeping a private ferry, shall be regulated and governed by the same laws and regulations as is now in force and use concerning owners of public ferries.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 25, 1825.

CHAPTER XLV.

AN ACT, concerning guardian bonds.

Bonds made payable to the chairman, how recoverable

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That all bonds hereafter to be given by persons appointed guardian to any orphan, by the several courts of pleas and quarter sessions in this State, shall be made payable to the chairman of the court and his successors in office, in trust for the benefit of said orphan, which bond said court shall cause to be acknowledged before them and recorded; and it shall and may be lawful for any person or persons, injured by reason of any breach of the condition of such bond, to prosecute a suit in the name of said chairman or his successors in office, for his or their use, against such guardian and his securities, or any or either of them, their executors and administrators, and shall and may recover all damages which he, she or they, may have sustained.*

Bonds heretofore made how recoverable.

Sec. 2. *Be it enacted*, That suits shall, and may be, prosecuted in manner herein before pointed out, on all guardian bonds which shall have been heretofore made payable to the chairman of any court of pleas and quarter sessions and his successors in office, and also, on all guardian bonds which shall have been heretofore made payable to any of the justices of said courts, their successors and executors and administrators.

Judgment in favor of one no bar against another.

Sec. 3. *Be it enacted*, That when several persons are entitled to a recovery on any such bonds, the verdict and judgment rendered in favor of one, shall not be a bar to any other person or persons so entitled, but each may separately sue for and recover, his or her portion thereon, until the whole penalty of said bond is recovered.

Copy of bond sufficient if not contested.

Sec. 4. *Be it enacted*, That when suit shall be brought as aforesaid, it shall be sufficient to make proof of an attested copy of said bond; *Provided*, that if said copy should be contested, the original shall be produced by subpoena, to the clerk in whose custody it may be.

Who liable for cost.

Sec. 5. *Be it enacted*, That the person or persons for whose use suit may be brought as aforesaid, shall be liable for cost, and judgment shall and may be rendered against him or them, in case of failure to prosecute his or their suit with effect, in like manner as if said suit had been brought in his, her or their own name.

Sec. 6. *Be it enacted*, That the 7th section of the act of 1762, ch. 5, be, and the same is, hereby repealed.

Where the guardian bond is executed to chairman who becomes executor or administrator.

Sec. 7. *Be it enacted*, That if the chairman of any county court to whom, or to whose predecessor, any guardian bond has been, or shall hereafter be executed by any guardian, and such chairman shall have become administrator or executor of such guardian, then, and in that case, it shall be lawful for any person interested in a recovery upon such bond, to institute suit thereon in his own name or by his or her next friend, against such chairman, and recover judgment thereon in the same manner as if such bond had been made payable to such plaintiff.

WM. BRADY,
Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 25, 1825.

CHAPTER XLVI.

AN ACT, to provide for children whose fathers have abandoned them.

Be it enacted by the General Assembly of the State of Tennessee, That it shall and may be lawful for the county court of any county in this State, when it shall satisfactorily appear to said court, that there is in their county any child or children, the father of whom has totally abandoned and utterly fails or refuses to provide for their support or maintenance, to bind out said child or children, as though the said parent was deceased; *Provided*, no such child or children shall be bound out as foresaid, except the assent of the mother is first made in open court.

To be bound out by the county court.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER XLVII.

AN ACT, to authorize the registers north and east of the congressional boundary to issue grants in certain cases.

Be it enacted by the General Assembly of the State of Tennessee, That where any entries may have heretofore been made in the offices of the surveyors general north and east of the aforesaid boundary, by any person or persons as assignees of any land warrant or certificate, and the assignment may be lost so that no grant can lawfully issue for want of such assignment, and that the applicant will also make oath that he claims said land under regular assignments, could the same be produced, from the original owner or owners of said warrants or certificates, it shall and may be lawful for such person or persons, who have made entries as assignees of warrants or certificates, to obtain their grants from the registers as in other cases; *Provided*, however, that no grant shall issue as herein directed, unless the

Where the assignment is lost grant may issue on affidavit.

E

person or persons making the entries, shall make oath before some justice of the peace, that the assignment or assignments is lost or mislaid so that the same cannot be produced, and that the assignor is dead or removed beyond the limits of the State; and, *Provided*, also, that the person or persons applying for the grant, shall appear by the entry and the plat and certificate of survey, to be the assignee or assignees of the warrant or certificate, on which the entry or entries were founded.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER XLVIII.

AN ACT, to repeal the 10th section of an act, passed in the year 1741, (see Scott's Revisal, page 49) which exempts constables from paying taxes and working on roads.

Be it enacted by the General Assembly of the State of Tennessee, That the above recited section be, and, the same is, hereby repealed.

WM. BRADY,

Speaker of the House of Representatives

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER XLIX.

AN ACT, prescribing the duty of the entry taker of the Hiwassee district, in certain cases.

Be it enacted by the General Assembly of the State of Tennessee, That it shall hereafter be the duty of the entry taker of the Hiwassee district, to make quarter yearly returns of all monies paid into his hands, on account of entries made in his office, with a fair and correct account of the quantity of land entered in said office, within each quar-

ter of a year, to the cashier of the branch Bank of the State of Tennessee at Knoxville, and take duplicate receipts for the same, one of which he shall carefully file in his office and deposit the other in the office of the treasurer of East Tennessee.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER L.

AN ACT, to provide for the taking of the enumeration of the free male inhabitants of this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the justices of the peace in each county in this State, who shall be appointed to receive lists of taxable property for the year 1826, as by law directed, shall, and it is hereby made their duty, to take and make out in writing, an accurate and complete list of the number of free male inhabitants of their respective districts, who are twenty one years of age and upwards, and who shall be resident citizens of their counties on the first day of January, 1826; and it shall be the duty of each of said justices, to return such list of free male inhabitants so taken by them as aforesaid, signed with their names, to the court of pleas and quarter sessions, which shall be held in their respective counties, next before the last day of July, 1826.

Justices who take lists of taxable property, to take the enumeration.

SEC. 2. *Be it enacted*, That it shall be the duty of the clerks of the courts of pleas and quarter sessions respectively, to make out the aggregate number of free male inhabitants returned, as by this act directed; and shall make out two accurate copies thereof, one of which shall be filed in their offices, after being entered of record; and it shall be the duty of the clerks of the county courts respectively, to transmit the other copy, certified under their hands and seals of office to the Secretary of State, on or before the first day of September,

Clerks to make duplicate lists.

1826, and shall also furnish the senators or representatives from his county, with a duplicate thereof.

Secretary to lay lists before the Assembly.
SEC. 3. *Be it enacted,* That it shall be the duty of the secretary of State, to receive all such lists to him transmitted, as by this act directed, and lay the same before the General Assembly at their next session thereafter.

Justices refusing to act vacancies shown.
SEC. 4. *Be it enacted,* That if any of the courts of pleas and quarter sessions in this State, should fail to appoint justices of the peace, to receive the lists of taxable inhabitants, as by this act directed, or should any of the justices appointed by virtue of this act, die or remove out of the county before the time limited as by this act, for the taking and returning the lists of free male inhabitants, as by this act directed, it shall and may be lawful, for any three justices of the peace in the county wherein any such failure, death or removal, may happen, to appoint one in his place, whose duty it shall be to receive the list of free male inhabitants and return the same, as by this act directed.

Allowance to Justices.
SEC. 5. *Be it enacted,* That each justice of the peace appointed by virtue of this act, shall be allowed the sum of three dollars for each hundred free male inhabitants by him enumerated and returned; which shall be paid by either of the Treasurers of this State, on the certificates of the clerks of the county courts respectively; which shall be a good voucher in the settlements of their accounts.

How interrogated.
SEC. 6. *Be it enacted,* That it shall be the duty of the justices of the peace, when taking the enumeration of any person or persons, to interrogate him or them whether he or they had been enumerated heretofore under this act.

Penalty on justice or clerk for neglect.
SEC. 7. *Be it enacted,* That if any justice of the peace, or clerk of any county court, shall fail or refuse to perform the duties enjoined on them by this act, every such justice of the peace, or clerk so failing, neglecting or refusing, shall, on due proof thereof, be fined in the sum of fifty dollars, unless sufficient cause be shewn to the contrary, to be recovered before any tribunal having cogni-

zance thereof, one half to the use of the informer, the other to the use of the county.

WM. BRADY,
 Speaker of the House of Representatives.
R. C. FOSTER,
 Speaker of the Senate.

Passed November 26, 1825.

CHAPTER LI.

AN ACT, requiring the clerks and trustees and other officers of the several counties in this State, to perform certain duties.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty of the court of pleas and quarter sessions in each county in this state, at their first term held after the first day of January next, to appoint two intelligent men of honesty and probity, whose duty it shall be to call on the clerks of the county and circuit courts in their respective counties, and examine what was the revenue of the county, which by law said clerks were bound to collect, and did collect under the several laws of this state; and which said clerks were bound to pay over to the treasurer of this state, or to the county trustee for the years 1822, 1823, 1824 and 1825, and said commissioners shall have power to require of the clerks of said courts, the execution dockets, court dockets, and any and all papers, and documents within the possession of the clerks aforesaid, and which relates to the office, that will tend to give information relative to the revenue collected by virtue of said offices for the State or county; the said commissioners shall also have power to call and summon before them witnesses, and examine the same whose testimony shall be reduced to writing, and such settlement, so made by the commissioners, shall be certified to the Treasurer of the State, under the oath of said commissioners, that they have fully examined all matters, papers and documents, in the offices aforesaid, and other testimony within their power or knowledge, tending to give information; and that they believe the statement by them made, contains a true schedule of the revenue by said clerk or clerks

County courts to appoint commissioners to examine clerk's settlements.

collected, and which they, or he, ought to have paid over to the Treasurer or county trustee.

Clerks to produce annual statements of settlement to Treasurer.

SEC. 2. *Be it enacted*, That the several clerks of the county courts, circuit courts, courts of equity and courts of appeals in this State, shall, on or before the first day of October in each and every year, or within two months thereafter, produce to the Treasurer a statement of the taxes or revenue by him collected, as clerk of the court, and which, by law, he is bound to collect, and setting out the amount collected on deeds of conveyance, number of acres, the amount on stores, the amount for pedlars, and hawkers, auctions, on law suits, ordinary license, for fines, forfeitures, and all other revenue which, by law, said clerks are authorized and required to collect, and pay over to the county trustee or treasurer, with the affidavit of said two commissioners, that they have examined said statement; also, the evidences within the office of the clerk, and otherwise within their knowledge, and that they do believe that the statement of all taxes, forfeitures or other revenue, which said clerk has collected as clerk, and not heretofore accounted for, and which he was authorized and required by law to collect: the clerk shall also make affidavit of the above facts; which affidavits may be taken before any justice of the peace in his county, or judge of any of the courts.

Treasurers not to receive returns of Clerks unless verified by oath.

SEC. 3. *Be it enacted*, That the Treasurer of East and West Tennessee shall receive no returns from any clerk, unless verified by oath as herein required, and in case he does, the same shall not be allowed said Treasurer as a voucher in his settlements with the legislature or any authority appointed hereafter to settle with said Treasurer.

Solicitors to call on Clerks for receipts of Treasurer and Trustee.

SEC. 4. *Be it enacted*, That it shall be the duty of each solicitor, in each of the counties of his district, at the first court in each county in his district, after the first day of January in each year, to call upon the clerk of the court, whether of the county, circuit or supreme court or court of equity, in the presence of the court, for the receipt of the Treasurer; also, for the receipt of the county trustee, of the payment of revenue of the preceding year; and it shall be the duty of the court to require their clerk to produce the said receipts, and have the same entered on the minutes of the court, and in case any of said clerks shall fail to produce the re-

ceipt of one of the Treasurers, and also the receipt of the county trustee, for the taxes and revenue of the year next preceding, it shall be, and is hereby made, the express duty of the court, to dismiss said clerk from office, and appoint another in his place; and no solicitor shall be entitled to receive any of his salary, either from the county, or from the state, until he makes affidavit, that he has performed the duties required by this section of this act; which affidavit, the county trustee or Treasurer, (as the case may be) shall file before he pays any of the salary.

SEC. 5. *Be it enacted*, That it shall be the duty of the commissioners appointed under the first section of this act, to perform the duties therein required by the first day of May next, and transmit to the Treasurer as therein required; for which services said commissioners shall have, and receive, out of the Treasury of East or West Tennessee, two dollars and fifty cents each, for the statement as required for each year, which the Treasurer is hereby authorized to pay.

Commissioners to make return by 1st May, and receive compensation.

SEC. 6. *Be it enacted*, That it shall be the duty of the Treasurer of East or West Tennessee, (as the case may be,) upon receipt of the statement and schedule as required by the first section of this act, to examine the same and compare it with the return of the clerk for that year, and if he finds that said clerks has not paid over and accounted for as much as he was bound, and ought to have accounted for, as appears by the return of the commissioners by this act required, to notify the solicitor of the district in which said clerk resides, and also send him a copy of said clerk's bond, upon receipt of which, said solicitor shall institute suit in the name of the Treasurer of East or West Tennessee (as the case may be) against said clerk, and his security or securities, or such of them as can be conveniently taken by the writ, their executors or administrators; and such copy of the bond and statement, or schedule of the commissioners aforesaid, shall be good evidence upon the trial of such suits of the amount due by said clerk or clerks; which monies, when collected, the solicitor shall immediately pay over to said Treasurer, who shall account for the same: *Provided*, nevertheless, that any clerk may pay the monies he is so found in arrears, to the Treasurer of East or West Tennessee, (as the case may be): and *Provided* also, in case suit is instituted as

Treasurer to direct Solicitor to institute suit against delinquent Clerks.

required by this act, said clerk may dispute the report of the commissioners by testimony.

SEC. 7. *Be it enacted,* That it shall be the duty of said clerks, to record at length, in a book kept for that purpose, the statements made out by said commissioners, as required by this act, and all merchants license by him issued.

SEC. 8. *Be it enacted,* That any clerk or solicitor failing to perform any of the duties enjoined on them by this act, shall be deemed to be guilty of a misdemeanor in office, for which he or they, shall, and may be, indicted, in the circuit court, and on conviction, be fined at the discretion of the court, in addition to the other penalties of this act.

SEC. 9. *Be it enacted,* That the solicitors shall be entitled to receive as a tax fee in case it be collected, of the defendant, the sum of fifteen dollars for a recovery on conviction, under the provisions of this act.

SEC. 10. *Be it enacted,* That in case suit is instituted under the provisions of this act, against any clerk and his securities, the same shall not be abated, quashed or delayed by any want of form, or by reason of any informality in bringing and prosecuting the same

SEC. 11. *Be it enacted,* That the county trustee of each county in this State, at the second term of the county court held after the first of January, in each year, make a true report to the county courts, for which he is trustee, of all the monies that have come into his hands for and during the preceding year, and likewise the amount paid out by him for the use of said county, shewing particularly for what the same was disbursed, which report shall be made on oath; and any trustee failing or neglecting any of the duties herein required, shall be subject to indictment in the county court, and on conviction, be fined not less than twenty five dollars, and be removed from office.

WM. BRADY,
Speaker of the House of Representatives.

R. C. FOSTER,
Speaker of the Senate.

Passed November 26, 1825.

CHAPTER LII.

AN ACT, to make it the duty of the registers in this State to correct errors committed in the issuance of certain grants.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That in all cases where any of the registers of this State have heretofore committed, or hereafter may commit, any error in the issuance of any grant issued under the provision of an act passed at Murfreesborough, in the fall of 1823, establishing offices for the purpose of entering therein the vacant and unappropriated lands lying north and east of the congressional reservation line, it shall be the duty of the register of the land office, from which the erroneous grant issued, to correct the same, so as to make it agree and correspond with the plat and certificate of survey upon which it issued, whether such error be committed in the name of the grantee, or in the courses or distances, or other local description, of the land which may have been intended to be granted.

SEC. 2. *Be it enacted,* That in all cases where either of the said registers of this State shall be applied to for the purpose of correcting the errors in the first section of this act mentioned, it shall be the duty of said register to make said correction; and if the said errors were committed by himself, he shall make the same without demanding or receiving any fee therefor from the person so applying as aforesaid, but that in all cases, where said errors may have been committed by the predecessors of said register, then, and in that case, it shall be lawful for him to demand and receive, from said applicant, for every correction of errors in a grant, which he may make, the sum of fifty cents, as full compensation for his services.

SEC. 3. *Be it enacted,* That if either of the registers of this State shall fail or refuse to make the said corrections in the first section of this act mentioned, when application shall be made to him for that purpose, it shall be lawful for the person injured to commence and prosecute an action on the case against him, for the recovery of such damages as the party may have sustained in consequence of such failure and refusal by said register.

SEC. 4. *Be it enacted,* That all acts done by

Errors to be corrected in all grants issued under the act of 1823.

Register to make correction without fee, where error was made by himself.

Remedy against Register for refusal to correct.

Alterations, said register, under pretence of correcting said errors, which shall make the grant inconsistent with the plat and certificate of survey, upon which the same may have issued, shall be utterly void.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER LIII.

AN ACT, to amend an act, passed at Murfreesborough, 22nd November, 1823, entitled "an act to establish offices to receive entries on the vacant land, north and east of the congressional reservation line and north of the Tennessee river."

Entry takers
when sued on
bonds compelled
to produce
Books and
Vouchers.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That where any suit is now pending, or which hereafter may be instituted, on the bond given by the entry taker, under the provisions of the above recited act, against him or his securities or either of them, the court before whom such suit may be pending, shall have power to compel the entry taker to produce the entry books on the trial of said suit, shewing the number of acres entered in his office, and also to produce to said court, a correct account of all moneys received by him as entry taker with his vouchers and receipts, from the agents of their respective counties, shewing the amount of monies paid over to them as directed by the above recited act.

Successor of
deceased entry
taker to
produce in
like manner.

SEC. 2. *Be it enacted,* That where any suit has been, or may hereafter be, commenced against the security or securities, on the bonds of any deceased entry taker, who may have been appointed by the provisions of the above recited act, and a second entry taker having been appointed, that the court shall have full power to compel said second entry taker to produce the books of the first entry taker to said court, on the trial, also a correct estimate of the number of acres entered in his, the said entry taker's office, and also, produce his vouchers and receipts, showing the amount of monies re-

ceived by him on entries made in his office; also, produce the receipts of the agents of their respective counties shewing the amount paid over to them as aforesaid.

SEC. 3. *Be it enacted,* That all the books, papers, vouchers or other evidence, that may be in the possession of said entry taker of his own, or any former entry taker, tending to shew how, and in what manner, the monies received by him or his predecessors as entry taker, have been disposed of, shall be produced in the trial as evidence in any cause now pending, or which may hereafter be commenced, on the bond as aforesaid.

Vouchers &c.
to be read in
evidence

SEC. 4. *Be it enacted,* That hereafter, when an entry taker or surveyor, in any court of this state, shall be appointed under the provisions of the act which this is intended to amend, it shall be lawful for such entry taker or surveyor, to enter into bond with good and sufficient security, according to law, and take the oath of office before any five justices of the peace of his county, and the justices or any one of them taking said bonds, shall present the same to the clerk of the county court to be by him filed away and safely kept in his office.

Bond may
hereafter be
taken by five
justices

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER LIV.

AN ACT, authorising the transfer of suits from the chancery to the supreme court.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That where any cause has been continued, or may hereafter be continued, in any chancery court, for two terms or more, by reason that the chancellor may be incompetent to sit in such cause, either on motions to dissolve injunctions or to dispose of such cause finally, that in every such cause, on motion made in open court, it may be lawful for the chancellor to order the transfer of such cause into the supreme court for hearing, and on such order of transfer,

Cause how
removed to su-
preme courts.

the clerk of such chancery court, shall transmit the original papers and all depositions and documents appertaining to the cause, into the office of the clerk of the supreme court, to which an appeal from such chancery [court] would lie; which cause shall be there docketed and prepared for trial in the same manner, and be proceeded on in the [same] way as if it had remained in the inferior court and determined in said supreme court as appeals from such chancery court are determined. *Provided*, that in cases where the cause is open for taking depositions, the same may be taken under commission from the clerk of the supreme court.

Incompetency of a judge.
SEC. 2. *Be it enacted*, That the judge or chancellor, shall be considered as incompetent, if, he has been employed or counselled as an attorney or counsel, in said cause previous to his appointment as judge or chancellor and has given an opinion in relation to the merits of the cause.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 26, 1825.

CHAPTER LV.

AN ACT, supplemental to an act entitled "an act to amend the 8th section of an act entitled "an act, to dispose of the lands lying between the rivers Hiwassee and Tennessee and north the Little Tennessee river," passed at Murfreesborough, August 22, 1822.

Be it enacted by the General Assembly of the State of Tennessee, That the provisions of the above recited act be, and the same are, hereby extended to the first day of January in the year of our Lord, one thousand eight hundred and twenty seven.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 29, 1825.

CHAPTER LVI.

AN ACT, to condense and bring into one view, the fees of the several offices therein mentioned.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the clerks of the circuit courts of law, and clerks of the county courts, shall receive for every leading process, one dollar; for every presentment or indictment, charging the prisoner and entering his plea, sixty cents; for entering and filing every recognizance, twenty five cents; for every continuance of any cause after the second term, forty cents; for every reference of any cause to arbitrators, forty cents; for entering final judgment, one dollar if entered after the first term; for the dismissal of every cause at the first term, twenty-five cents, and the same sum for entering judgments for costs; for a subpoena for each witness named therein, twelve and a half cents; for every *fieri facias* forty cents; for a *venditioni exponas*, fifty cents; for a writ of possession or *distringas*, one dollar; for every *scire facias* against bail, one dollar; for every *scire facias* against heirs, one dollar; for every other *scire facias*, fifty cents; for the transcript of every record which shall consist of a copy of the leading process, prosecution bond, bail bond, declaration, pleas, interlocutory orders, continuances and final judgment, one dollar sixty-two and a half cents, including fee for affixing the seal of court thereto if necessary; for every other paper, bill or bills of exceptions or exhibits thereto affixed and made part of the record, ten cents for every hundred words contained in such paper; for every order to take depositions, twenty five cents; for every order for a survey or other interlocutory orders and copy thereof when necessary, twenty-five cents; for entering the probate or acknowledgment of a conveyance for land or other estate and certifying the same, twenty five cents; for examination of a *feme covert*, without commission, thirty seven and a half cents; for a commission to take the examination of a *feme covert*, entering return thereon, and every other service, fifty cents; for every commission to take the examination of a witness in any cause depending in court, twenty-five cents; for entering a special verdict, judg-

Clerks of circuit and county courts, fees of office.

ment on demurrer, or motion in arrest of judgment or plea in abatement, fifty cents; for entering order for appeal and taking appeal bond, one dollar.—The clerk of the appellate court for receiving and filing record brought to his court by appeal, writ of error or *certiorari* and docketing the same, one dollar; for a writ of error, fifty cents; for *certiorari*, fifty cents; for supersedeas, fifty cents; for prosecution bond and security, fifty cents; for each security taken for prosecution in court and entering the same of record, twenty-five cents; for the probate of each witness's attendance, in any suit, six and a fourth cents; and for certificate of probate to witness, six and a fourth cents; for every certificate to a power of attorney or other instruments of writing, including the fee for annexing the seal when necessary, seventy-five cents; for issuing an order to the sheriff or subpoena, for each surveyor, witness or jurymen named therein, twenty-five cents; for making out a complete [copy] of the costs in each suit, fifty cents; for taking or filing affidavit, six and a fourth cents, each; for empanneling each jury, twelve and a half cents; for a search or examination of the record out of court, twelve and a half cents; for every subpoena to bring in a record or paper, twenty-five cents; for every search for any papers or judgment returned into their office by a justice of the peace who has resigned, died or removed, twelve and a half cents; for every execution issued on a judgment before a justice of the peace, twenty-five cents; for certifying that a justice of the peace is an acting justice of the peace for his county, without the county seal, twenty cents; for issuing merchants' license, one dollar; for entering on the minutes the probate of a will and recording the will, one dollar; for taking bond and issuing letters testamentary, fifty cents; for the copy of a will, fifty cents; for qualifying administrators, entering the same of record, taking bond and issuing letters of administration, one dollar; for receiving and recording in a well bound book to be kept for that purpose, an inventory of a deceased person's estate, account of sales or account current exhibited by a guardian, executor or administrator, sixty-two and a half cents each; for every marriage license and bond, seventy-five cents; for every ordinary license, bond and all services therein, seventy-five cents; for each guardian bond, fifty cents; for each bastardy

bond, fifty cents; for apprentice indentures, sixty-two and a half cents; for qualifying each constable, entering his appointment of record and taking bond, one dollar; for qualifying each sheriff, taking bonds and recording the same, two dollars; for recording a mark or brand, twelve and a half cents; for a copy of a record certifying to the treasurer, who is or was sheriff and for the sheriff's bond and copy thereof, if recorded, to be paid out of the county tax on the clerk's producing the treasurer's receipt, one dollar; for furnishing the treasurer with a list of the amount of tax for each year to be paid out of the county tax upon the clerk's producing the treasurer's receipt, two dollars and fifty cents; for rendering to the trustee each year an account of the fines, forfeitures and amercements that are due and payable to the use of the county, to be paid out of the county tax on the clerk's producing the trustee's receipt, one dollar; for issuing license to hawkers and pedlars, one dollar; for issuing license to exhibit shows, one dollar; for receiving and paying over all taxes on merchants' license, ordinary license, tax on suits and all other taxes received and paid over by them to the proper offices, two and a half per cent; for the probate of a wolf scalp and certificate thereof, twenty-five cents.

Sec. 2. *Be it enacted*, That the clerks may charge the foregoing and no other fees for the service therein mentioned. Limitation of fees.

Sec. 3. *Be it enacted*, That the sheriffs in the several counties in this state shall and may receive for their services, the following, and no other or larger fees for the following services; to wit: For every arrest, one dollar; for returning a *capias*, *non est inventus*, fifty cents; for every bail bond, twenty-five cents; for serving a copy of a declaration in ejectment, one dollar; for serving a subpoena for witnesses, for every person named therein, and making return thereof, twenty-five cents; for returning a subpoena "not found," for every person named therein, twelve and a half cents; for serving a *scire facias*, sixty-two and a half cents; for returning a *scire facias* "not found," twenty-five cents; for pillorying any person by order of court, and releasement, one dollar each time; for every commitment and releasement, fifty cents each; for serving a subpoena in equity, sixty-two and a half cents; for summoning a witness to a

Sheriffs' fees.

will or other writing, fifty cents; for summoning and empanneling a jury in each case where any jury shall be sworn, twelve and a half cents; for executing every condemned person, including every necessary expense and service, twelve dollars and fifty cents; where a special venire shall issue by order of court, for summoning each juror, twenty-five cents; for attending on the premises on a special *venire facias*, for each day, two dollars; for summoning a jury on a forcible entry and detainer or forcible detainer, executing writ and all other services, five dollars; for making return of a writ of partition or writ of dower [dower] and all necessary services therein, three dollars, as also attending on the premises, two dollars per day; for serving a writ of possession of land, one dollar; for serving and attending any person on a *habeas corpus* per day, one dollar; for whipping a person by order of court, fifty cents; for levying an attachment, one dollar, and if further trouble by removing of goods, to be taxed by the court; for summoning each garnishee, sixty-two and a half cents; for executing a warrant of distress or an execution against the body, one dollar; for levying an execution upon any property, real or personal, one dollar; for collecting money on execution, four dollars for the first hundred dollars, at the rate of three dollars for every hundred dollars over one hundred and not exceeding three hundred dollars, and at the rate of two dollars for every hundred over three hundred dollars; for collecting the state, county and other taxes, six per cent. on the amount collected; for distress in collecting taxes, fifty cents, where such sheriff shall have to go to the house or may have distrained the property of the person liable to pay such taxes after the time shall have elapsed for payment as heretofore established by law.

Registers of
counties.

SEC. 4. *Be it enacted*, That the Register of the several counties in this state shall and may receive for registering each deed of conveyance or grant, when but one tract of land is conveyed or but one warrant contained in a grant, (except sheriffs' deeds) seventy-five cents; for registering each certificate and order of registration, twelve and a half cents; for certifying the same to be registered in his office, twelve and a half cents; for each tract of land or town lot contained in the same deed more than one, twenty-five cents; for each war-

rant contained in a grant more than one, twelve and a half cents; for registering each sheriff's deed for real estate, one dollar twenty-five cents; for each search of his books, twelve and a half cents; for copies from the office the same fees as are allowed for registering such deeds or grants and twelve and a half cents for certifying the same, for all other instruments, fifty cents; for certificate thereof, twelve and a half cents, and the same fees for copies.

SEC. 5. *Be it enacted*, That it shall be the duty of the clerks of the circuit courts, the clerks of the county courts, and registers of the several counties in this state to keep all their records in well bound books to be by them procured for that purpose, which said books, so procured and kept by them, shall be paid for out of the county tax in each county in this state, by the trustee of their respective counties on the order of the county court, whose duty it shall be to make such order, upon the clerks of said courts and registers producing before them the receipts of the persons from whom such books shall have been purchased and making affidavit that they have paid or are bound to pay the sum or sums specified in such receipt or receipts so exhibited.

Record books
to be paid for
by county trustee.

SEC. 6. *Be it enacted*, That this act shall not take effect and be in force until the first day of April next, and that any clerk, sheriff or register, who shall demand or receive any larger or greater fees than herein provided for, shall be deemed guilty of a misdemeanor in office, and upon conviction thereof, by presentment or indictment, shall be removed from office.

Penalty for
taking excess-
sive fees.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed November 29, 1825.

CHAPTER LVII.

AN ACT, supplemental to an act entitled "an act to amend an act for the relief of insolvent debtors;" passed October 20, 1824.

WHEREAS, doubts have arisen in the minds of some as to the true construction of the above recited act, to remove which;

Be it enacted by the General Assembly of the

Bonds taken
by sheriff to
be made pay-
able to plaintiff.

State of Tennessee, That hereafter, in cases where bonds may be taken in pursuance of the provisions of the said act for appearance of any person or persons at court, it shall be the duty of the sheriff or other officer taking the same, to have them executed to the plaintiff or plaintiffs at whose instance, and for whose benefit, the execution may have issued, and the bonds so taken, shall be preserved by said sheriff or other officer and be returned by him to the next term of the court from which said execution may have issued, to be proceeded on according to law.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 28, 1825.

CHAPTER LVIII.

AN ACT, to amend an act, entitled "an act for the encouragement of Iron Works," passed October 5, 1824.

Owners of
Iron Works to
have 3000 a-
cres laid off at
half a cent per
acre.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall and may be lawful for any person or persons, owning iron works in any county in this State, to enter any quantity of lands not fit for cultivation lying within five miles of his iron works, not exceeding three thousand acres, and not less than one hundred acres, in any of the county entry takers offices of this State by paying unto said entry taker for the county, one half cent per acre for every acre so entered, upon which said entry, a survey shall be made and grant or grants issued as provided for by the act of 1823, establishing entry takers' offices in each county, north and east of the congressional line and Tennessee river, *Provided nevertheless*, that the county entry taker, before he receives any entry under the authority of this act, shall require proof by affidavit of two or more creditable [credible] witnesses, that the person or persons offering to enter lands under this act, is, or are, the owner of iron works in operation and making iron or castings, that they are acquainted with the land and the quantity thereof, proposed

to be entered, and that the same is poor and sterile as they believe, and unfit for cultivation, and every part thereof lies within five miles of the iron works of said enterer.

Sec. 2. *Be it enacted*, That any person or persons, now commenced, progressing in and building iron works in any county of this State, who have not completed their said iron works, may have laid off any quantity of land within five miles of said iron works' seat, so in progress of building not fit for cultivation and not exceeding three thousand acres, nor less than one hundred, for which he, she, or they, shall have a preference of eighteen months from and after the 1st day of January next, to enter at the price and on the conditions pointed out in the first section of this act; *Provided*, that said person or persons, so building iron works as aforesaid, and wishing to, and entitled to, enter the land as aforesaid, shall have a plat of said land made by the county surveyor by actual survey, filed with the county entry taker together with proof by affidavit of two or more creditable [credible] witnesses, that the several facts and qualifications required by this act, exist in relation to the person entering or offering to enter, or obtain the preference given by this act.

Persons
commencing
or progressing
with iron
works to have
like privileges

Sec. 3. *Be it enacted*, That the several registers of this State be, and they or he is, hereby required and authorized, to issue grant or grants to any person or persons being the owner of iron works that are worked and in operation for any quantity of land not exceeding three thousand acres, who have heretofore had said land unfit for cultivation condemned and surveyed, or may hereafter be surveyed under any law heretofore, or now in force in this State; *Provided*, it shall appear to the register, by affidavit of two or more creditable [credible] witnesses, that the grantee is the owner of the iron works as an appendage to which said land is or has been condemned, and that said works are in operation and making iron or castings.

Registers to
issue grants

Sec. 4. *Be it enacted*, That as lands granted under the provisions of this act are for the encouragement [of] manufacturing iron, that any lands granted under the authority of this act, shall be forfeited to the State and be subject to be entered by any other citizen, if the grantee or those who may become the owner of the iron works for the support of which such land is granted

Land for-
feited if iron
works be not
carried on.

ed, shall cease for the term of two years, to carry or keep his or their iron works in operation, and such condition, it shall be the duty of the register to express on the face of any grant he may issue under this act.

Former acts repealed. SEC. 5. *Be it enacted*, That all laws coming within the purview and meaning of this act, is hereby repealed.

Further time for obtaining grants. SEC. 6. *Be it enacted*, That the further time of one year be allowed to make out surveys and to obtain grants for the benefit of owners of iron works.

Extended to owners of salt works. SEC. 7. *Be it enacted*, That the privileges hereby extended and conferred upon owners of iron works, shall be also extended and conferred upon owners of salt works, under the same rules, regulations and restrictions.

Direction to surveyor in case of deficiency. SEC. 8. *Be it enacted*, That where any land has heretofore been condemned for the use of iron works by any county court in this State, and the surveyor in coming to make the survey agreeable to such condemnation or order of court, cannot find the quantity in the bounds designated in said order, and upon his certifying the facts to the county court of the county where such land lies, and they being satisfied of the correctness of the same, it shall be the duty of said court to order such person or persons owning iron works, to have what he or they may lack of their three thousand acres laid off elsewhere, in one or more tracts, *Provided*, it can be got within five miles of the iron works.

Not to extend to Hiwassee or French Broad and Holston. SEC. 9. *Be it enacted*, That the provisions of this act shall not apply to any part of the Hiwassee district; *Provided*, also, that the provisions of this act shall not extend to the district of country south of French Broad and Holston.

WM. BRADY,

Speaker of the House of Representatives;

R. C. FOSTER,

Speaker of the Senate;

Passed November 28, 1825.

CHAPTER LIX.

AN ACT, to repeal the first section of an act entitled "an act to amend the revenue laws of this State," passed 20th August, 1822.

Be it enacted by the General Assembly of the State of Tennessee, That the first section of the before recited act be, and the same is, hereby repealed, any law to the contrary notwithstanding.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 29, 1825.

CHAPTER LX.

AN ACT, to procure a revision of the public statutes of this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That there shall be appointed by joint ballot of both houses of this general assembly, at the present session, two persons learned in the law, to revise and digest all the statutes of this State and the State of North Carolina now in force and of a public nature, in such manner, that where there are several statutes upon the same subject, the whole may be reduced into one, in which shall be comprehended the provisions still in force contained in the said several statutes with marginal notes of the dates of the passage of such laws as are considered in force and stating the substance of the section, and that the persons so to be appointed, shall, and they are hereby required, to make a report thereof, to the General Assembly of this State at its next ensuing session.*

Two persons elected by Assembly to revise.

SEC. 2. *Be it enacted*, That the said persons so to be appointed as aforesaid, are also hereby required to make a report to this General Assembly at its next ensuing session, in which they shall designate and point out all such statutes and parts of statutes, which according to their judgment, have become obsolete, or which are inconsistent

Persons elected to make a report to the next session.

with the constitution of this State and the freedom of its institutions.

*How com-
pensated.*
SEC. 3. *Be it enacted*, That said persons so to be appointed shall receive such a compensation for their services, to be by them rendered as required in this act, as the Legislature shall hereafter deem reasonable, to be paid after such services shall have been rendered.

WM. BRADY,
Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed November 30, 1825.

CHAPTER LXI.

AN ACT, to authorize certain deeds to be read on trials in court.

Be it enacted by the General Assembly of the State of Tennessee, That when any deed is offered in evidence in any of the courts of this State, under the provisions of the 4th section of an act of the General Assembly of this State, passed the 23rd November, 1809, the same shall be received and read in evidence without proving where the same was executed, and without proving that the grantor or grantors, bargainor or bargainors, to such deed, did, in fact, reside beyond the limits of this State at the time the same was executed.

*Residence of
grantor need
not be proven.*

WM. BRADY,
Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 2, 1825.

CHAPTER LXII.

AN ACT, to amend an act, entitled "an act, for the benefit of the widows of intestates and for other purposes," passed the 16th day of November, 1813.

WHEREAS, doubts have been expressed, whether the fifth section of the act, entitled as above, extended as well to the securities of executors

as those of administrators, for the removal whereof:

Be it enacted by the General Assembly of the State of Tennessee, That the provisions of said act are hereby declared to apply and shall be held and deemed to apply, as well to the securities of executors as to the security of administrators, and all proceedings of any county court wherein such security was bound for the relief of the securities of executors, which have heretofore been had, or which may be hereafter had, shall be as effectual as if such security had been the security of an administrator; *Provided, nevertheless*, that the confirmation of such proceedings shall not operate to the discharge of such security of any liability that may have attached since the time of such proceeding and previous to the passage of this act.

*Same priv-
ileges ex-
tended to se-
curities of ex-
ecutors as of
administra-
tors.*

WM. BRADY,
Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 2, 1825.

CHAPTER LXIII.

AN ACT, to prevent abuses in bringing actions of ejectment, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter, when any person or persons, may commence an action of ejectment in any of the courts of this State, and shall insert in the declaration, counts in the names of other persons for the purpose of preventing the defendant from shewing an outstanding title, or for any other causes whatever, such person or persons, so suing, shall be required to produce to the court, a power of attorney, duly authenticated, authorizing the use of his, her or their names in the prosecution of said suit, and if the person or persons commencing said action, shall not produce to the court a power of attorney as aforesaid, at the appearance term to which said writ may be returnable, it shall be the duty of said court, to order the names of the persons so used without authority, to be stricken out of the declar-

*Persons using
the name of
another as
plaintiff in e-
jectment must
shew a power
of attorney.*

tion, and they shall in no wise be considered as parties in said suit.

Judgment entered up for costs.

SEC. 2. *Be it enacted*, That upon ordering the names of any person or persons to be stricken out as required in the first section of this act, it shall be the duty of the court, instantly, to enter up judgment for all costs awarded thereby against the plaintiff or plaintiffs, who may have signed the bond which was given for the prosecution of said suit, and execution may immediately be issued upon such judgment, for the amount thereof, any law to the contrary notwithstanding.

Penalty for re-possession by forcible entry and detainer.

SEC. 3. *Be it enacted*, That where any person has been, or hereafter may be, dispossessed of any premises by virtue of the laws of this State, for a forcible entry and detainer or detainer and shall again illegally possess him, her or themselves, of the premises from which he, she or they were thus dispossessed, such person so offending, shall be deemed guilty of a misdemeanor, and on presentment or indictment in the circuit court of the county where such offence shall have been committed, shall be subject to a fine not less than five, nor more than fifty dollars, and shall be imprisoned for a time not less than two days nor more than ten, and the only evidence which shall be required or admitted by the court upon the trial of such cause shall be, that the person so in possession, turned out of possession for a forcible entry and detainer or detainer, and that he, she, or they have again taken possession of such premises.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 2, 1825.

CHAPTER LXIV.

AN ACT, supplemental to an act, entitled "an act, to establish offices for receiving entries for the vacant land in the several counties in this State, lying north and east of the congressional reservation line and north of the Tennessee river," passed the 22nd November, 1823.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall

and may be lawful for any person or persons, to enter any vacant and unappropriated land, lying north and east of the congressional reservation line and north of Tennessee river, by paying into the county entry taker's office, one cent per acre for every acre he may so enter, together with the fees of office heretofore prescribed by law; *Provided*, no person shall enter more than six hundred and forty acres, nor less than twenty five acres, unless confined or restricted by lines of appropriated land or natural boundaries.

Entries north and east of the line at half a cent per acre from 25 to 640 acres.

SEC. 2. *Be it enacted*, That any person or persons, who may have heretofore, or may hereafter obtain a certificate under the provisions of the act of 1824, for interference with older and better title, may, and is hereby, by himself or assignee of such certificate, empowered to enter double the quantity of such certificates of interference, on any vacant and unappropriated land in the county from which said certificate issued, north and east of the reservation line and north of Tennessee river, and the county entry taker is hereby required to receive entries as herein provided, for double the quantity of said interference, evidenced by said certificate as aforesaid.

Holders of certificates may enter double the quantity.

SEC. 3. *Be it enacted*, That all laws and parts of laws now in force and use in this State, authorizing the entry of lands in the entry taker's office north and east of the line aforesaid, that are not inconsistent with the provisions of this act, shall be and the same is, hereby extended to all entries made under the authority of this act.

Entries subject to regulations of former acts.

SEC. 4. *Be it enacted*, That this act shall be in force from and after the first day of January next.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 3, 1825.

CHAPTER LXV.

AN ACT, to prevent the abatement of suits.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That in case

Suits how
revived a-
gainst the sur-
vivor of one
or more joint
defendants.

one or more of several defendants, should die pending a suit either in law or equity, such suit may be revived against the representatives of the deceased defendant or defendants, at any term before the trial of such suit; *Provided, always*, if there be no executor or administrator to such deceased defendant or defendants, the plaintiff may suggest the death of such defendant or defendants upon record, and that he, she, or they, have no executor or administrator, and satisfy the court that such is the fact, and proceed to trial and judgment against the surviving defendant or defendants, at the first or any subsequent trial term; *Provided, also*, it shall be the duty of the plaintiff or plaintiffs, to revive such suit by *sci. fa.* if the suit be at law, or by bill of revival if it be in equity, against all or any personal representative that may be to such deceased defendant or defendants at the first term which happens after such suggestion of the death of such defendant or defendants, and *Provided*, that nothing herein contained shall be construed to prevent any suit for the benefit of heirs being revived against the personal representatives of a deceased defendant or defendants, after such suggestion, at any term previous to the trial of such suit.

On sugges-
tion of death,
plaintiff may
proceed to
trial or con-
tinue.

SEC. 2. Be it enacted, That if the plaintiff or plaintiffs, will suggest the death of one or more of the defendants upon record, and that he, she, or they, has no executor or administrator, such plaintiff or plaintiffs may elect to proceed to trial against the surviving defendant or defendants, or have his cause continued from time to time for two terms after such suggestion, and after such cause is reached for trial, to enable him to revive against any person or persons who may qualify as executor or administrator of such deceased defendant or defendants.

Executors
or administra-
tors of joint
plaintiff may
revive by mo-
tion, with the
survivors.

SEC. 3. Be it enacted. That in case one or more of such plaintiffs who are not partners in trade should die pending a suit either in law or equity, the executor or administrators of such plaintiff or plaintiffs, so dying, may, by motion in court, have the suit revived in their name jointly with surviving plaintiff or plaintiffs, at any term before the cause is reached for trial, but in case there be no executor or administrator to such deceased plaintiff or plaintiffs or the executor or administrator of such deceased plaintiff or plaintiffs fail or refuse to have such suit revived in his, her or their name,

at the first term thereafter, and before the suit is called in court the defendant [may] elect, by suggesting the death of such plaintiff or plaintiffs, to proceed to the trial of such suit with the surviving plaintiff or let the cause be continued from term to term for two terms thereafter, at which time, if said suit is not revived in the name of the executors or administrators of such deceased plaintiff or plaintiffs, the same may be abated on the application of the defendant.

SEC. 4. Be it enacted, That hereafter, when any suit shall be brought against any sole executor or administrator, or such executor or administrator shall die pending such suit, and administration *de bonis non* or *cum testamento annexo* be granted to some other person, it shall be lawful for the plaintiff by *scire facias* to revive such suit within two terms after the death of defendant against such administrator *cum testamento annexo* or *de bonis non* and proceed to trial in the same manner as if such suit had been originally brought against him or them.

Revived in
case of death
of sole ex-
ecutor or ad-
ministrator
defendant.

SEC. 5. Be it enacted, That hereafter, when any sole executor or administrator is plaintiff and shall die pending the suit, and administration shall [be] granted as aforesaid, it shall be lawful for the administrator *de bonis non*, to revive such suit so brought by *scire facias*, or upon motion, within two terms after the death of such plaintiff.

Where sole
Executor or
administrator
is plaintiff and
dies

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 3, 1825.

CHAPTER LXVI.

AN ACT, to authorize clerks to issue executions in certain cases.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That where any execution issued from a justice of the peace in this State, shall be levied on real estate and returned to court and an order of sale issued on said execution agreeably to the law now in force, and the real estate executed as aforesaid, shall fail to satisfy the judgment, then, and in that case, it shall be lawful for the clerk in whose office said

Where a-
mount made
by vendition
be insufficient
another exe-
cution to issue

justices execution may be returned, on return of the sheriff of the amount of the said real estate, to issue an execution against the defendant for the amount of said debt not satisfied, with the same power that justices of the peace now have in such cases by virtue of a *procedendo*.

SEC. 2. *Be it enacted*, That this act shall be in force from and after the first day of January next.

Papers of James M'Daniel, a Justice of Carroll.
SEC. 3. *Be it enacted*, That all the papers of James M'Daniel relative to, and in his office, as a justice of the peace for Carroll county, be, and the same shall be, taken into possession by any person interested therein and carefully deposit them in the clerk's office of the county for Carroll county, and the clerk of said court shall hereafter proceed in the same way upon said papers as he is now bound by law to do upon papers of any justice of the peace who have heretofore died, resigned or removed, said M'Daniel not having returned his papers before he left the country.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed December 3, 1825.

CHAPTER LXVII.

AN ACT, to compel the agents of the Bank of the State of Tennessee, to loan sums not less than ten dollars, and for other purposes.

Agent may loan from 10 to 500 dollars.
SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That upon application of any person, with sufficient security, to the agent of his county, to borrow any sum not exceeding five hundred dollars nor less than ten dollars, it shall be the duty of the agent, to loan the same out of any money he may at that time have in his hands for the purpose of loaning.

Note reduced to fifty dollars, shall not be collected at once.
SEC. 2. *Be it enacted*, That when the note of any person who may have borrowed money at any agency, is reduced to the sum of fifty dollars, it shall not be lawful for the agent to require the payment for the whole balance at one time, unless he should believe it in danger of being lost,

but he shall collect the said balance in the same proportions in which the former part of the debt had been collected

SEC. 3. *Be it enacted*, That it shall be the duty of the president and directors of the bank of the State of Tennessee, to continue the agencies now established until otherwise directed by law.

Agencies continued.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.
Passed December 3, 1825.

CHAPTER LXVIII.

AN ACT, to authorize a change of venue in certain cases when a jury cannot be had.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That where it so happens, on the trial of a criminal in any county in this State, that a jury cannot be had by reason of the disqualification of jurors from having formed or expressed an opinion as to the guilt of such criminal, it shall and may be lawful for the judge of said court, to cause the trial of said cause to be changed to any adjoining county and the criminal so charged, (if confined) to be conveyed to said county.

Venue changed to adjoining county.

SEC. 2. *Be it enacted*, That hereafter, when it may be the duty of any judge to adjourn his court for the purpose of attending another court pending the trial of any criminal cause, it shall and may be lawful for such judge to postpone such adjournment until such criminal cause shall be disposed of, any law, usage or custom to the contrary notwithstanding, and such delay shall not occasion a discontinuance of the term of the court which it was the duty of the judge, by law to attend, although he may not arrive so as to open said court by the third day of the term.

Criminal cause commenced, shall be finished though beyond the limit of the term.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.
Passed December 5, 1825.

CHAPTER LXIX.

AN ACT, to revise and amend the Militia laws of this state.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That all free men and indented servants, between the age of eighteen and forty-five years, shall compose the MILITIA of this state; judges of the supreme court, circuit courts, courts of chancery, secretary of state, treasurers, regular ordained ministers of the Gospel of every denomination, justices of the peace, public ferry men, keepers of grist-mills, post-officers who have the care of the United States mail and all carriers of the mail, are exempt from military duty except in case of insurrection or invasion.

SEC. 2. Be it enacted, That the militia of the State shall be divided and designated as follows; to wit:

Regiments
composing
first brigade
Washington
county

The militia of the county of Washington, shall compose the first regiment and hold a regimental muster on the first Thursday in October.

Sullivan

The militia of the county of Sullivan, shall compose the second regiment and hold a regimental muster on the second Thursday in October.

Greene

The militia of the county of Greene, shall compose the third regiment and ninetieth regiment; the third regiment shall hold a regimental muster on the third Thursday in October, and the ninetieth regiment, on the fourth Thursday in October.

Hawkins

The militia of the county of Hawkins shall compose the fourth and seventy-eighth regiments, the fourth regiment shall hold a regimental muster on the fourth Saturday in the month of October and the seventy-eighth regiment on the second Thursday of October.

Carter

The militia of Carter county shall compose the fifth regiment, and shall hold a regimental muster on the last Thursday in the month of September; which said regiments shall constitute the first Brigade, and hold their regimental musters annually.

Second bri-
gade

Jefferson

SEC. 3. Be it enacted, That the militia of the county of Jefferson, shall compose the sixth and seventieth regiments; the sixth regiment shall hold a regimental muster on the first Thursday in the month of October, and the seventieth regiment on the fourth Thursday in September.

The militia of Grainger county shall compose the seventh regiment, and hold a regimental muster on the second Saturday in the month of October.

Grainger.

The militia of Cocke county, shall compose the eighth regiment, and shall hold a regimental muster on the third Saturday in October.

Cocke.

The militia of the county of Claiborne, shall compose the ninth regiment and hold a regimental muster on the second Thursday in October; which regiment shall constitute the second brigade, and shall [hold] their regimental musters annually.

Claiborne.

SEC. 4. Be it enacted, That the militia of the county of Knox, shall compose the tenth and fortieth regiments, and shall hold their regimental musters, to wit; the tenth regiment, on the last Friday in September, and the fortieth regiment, on the first Friday in October.

Third brigade

Knox.

The militia of Sevier county shall compose the eleventh regiment, and shall hold a regimental muster on the second Saturday in October.

Sevier.

The militia of the county of Blount, shall compose the twelfth regiment, and hold a regimental muster on the third Thursday of October.

Blount.

The militia of the county of Campbell, shall compose the thirty third regiment, and shall hold a regimental muster on the first Saturday of October; which musters shall be held annually, and said regiments shall constitute the third brigade.

Campbell.

SEC. 5. Be it enacted, That the militia of the county of Roane, shall compose the fortieth and ninety fifth regiments; the fortieth regiment shall hold a regimental muster on the fourth Thursday in September, and the ninety fifth regiment, on the third Thursday in September.

Seventh bri-
gade.

Roane.

The militia of the county of Monroe shall compose the sixty seventh regiment, and shall hold a regimental muster on the second Saturday in November.

Monroe.

The militia of the county of Morgan, shall compose the fifty-eighth regiment and hold a regimental muster on the fourth Thursday in October.

Morgan.

The militia of the county of Anderson, shall compose the thirteenth regiment, and hold a regimental muster on the third Thursday in October, which said musters shall be held annually, and said regiments shall constitute the seventh brigade.

Anderson.

Twelfth brigade
M'Minn. SEC. 6. *Be it enacted*, That the militia of the county of M'Minn, shall constitute the sixty sixth and ninety-fourth regiments; the sixty-sixth regiment shall hold a regimental muster on the first Thursday in November, and the ninety-fourth regiment on the fourth Thursday in September.

Hamilton. The militia of the county of Hamilton, shall compose the sixty-fourth regiment and hold a regimental muster on the fourth Saturday in October.

Marion. The militia of the county of Marion, shall compose the sixtieth regiment, and shall hold a regimental muster on the third Friday in October.

Bledsoe. The militia of the county of Bledsoe, shall compose the thirty-first regiment, and shall hold a regimental muster on the second Friday in October.

Rhea. The militia of the county of Rhea, shall compose the thirtieth regiment, and shall hold a regimental muster on the first Saturday in October, which said musters shall be held annually, and the said regiments shall constitute the twelfth brigade.

Fourth brigade.
Sumner. SEC. 7. *Be it enacted*, That the militia of the county of Sumner shall compose the fifteenth, forty third, and seventy-seventh regiments; the fifteenth regiment shall hold a regimental muster on the second Saturday of September, the forty-third regiment shall hold a regimental muster on the third Saturday of September, the seventy seventh regiment shall hold a regimental muster on the third Thursday of September.

Smith. The militia of the county of Smith, shall compose the sixteenth, forty-first, and fifty-ninth regiments; the sixteenth regiment shall hold a regimental muster on the fourth Thursday in September, the forty first shall hold a regimental muster on the first Thursday in October, and the forty-ninth on the second Thursday in October.

Wilson. The militia of the county of Wilson, shall constitute the seventeenth, forty second and seventy second regiments, the seventeenth regiment shall hold a regimental muster on the third Saturday of October; the forty-second shall hold a regimental muster on the fourth Saturday of October, and the seventy second on the second Saturday in October; which musters shall be held annually, and the militia of Sumner, Smith and Wilson shall compose the fourth brigade.

SEC. 8. *Be it enacted*, That the militia of the county of Maury shall compose the twenty-seventh, forty-sixth, fifty-first and ninety-third regiments; the twenty-seventh shall hold a regimental muster on the third Wednesday in September, the forty-sixth on the Saturday following, the fifty-first on the fourth Wednesday in September, and the ninety-third on the Saturday following.

The militia of the county of Giles shall compose the thirty-seventh, fifty-second and ninety-second regiments; the thirty seventh shall hold a regimental muster on the second Wednesday in October, the fifty-second on the Saturday following, the ninety second on the third Wednesday in October.

The militia of the county of Lawrence shall compose the fifty-seventh regiment, and shall hold a regimental muster on the Saturday following the muster of the ninety-fourth regiment; which said regiments shall compose the fifth brigade, and hold their regimental musters annually.

SEC. 9. *Be it enacted*, That the militia of the county of Robertson, shall compose the twenty-third and the sixty second regiments, the twenty-third shall hold a regimental muster on the first Saturday in October, and the sixty-second on the last Saturday in September, annually.

The militia of the county of Hickman, shall compose the thirty sixth regiment and hold a regimental muster on the third Saturday in September, annually.

The militia of the county of Montgomery, shall compose the twenty-fourth and fiftieth regiments; the twenty-fourth regiment shall hold a regimental muster on the fourth Friday in September, and the fiftieth regiment, shall hold a regimental muster on the first Friday of October, annually.

The militia of the county of Dickson, shall compose the twenty-fifth regiment, and hold a regimental muster on the second Saturday in October annually.

The militia of the county of Stewart, shall compose the twenty-sixth regiment, and shall hold a regimental muster on the third Friday of October, annually; which said regiments shall constitute the sixth brigade.

SEC. 10. [*Be it enacted* [That] the militia of the

Fifth brigade

Maury.

Giles

Lawrence.

Sixth brigade.

Robertson.

Hickman.

Montgomery

Dickson.

Stewart.

Eleventh brigade. Humphreys county of Humphreys shall compose the thirty eighth regiment, and hold a regimental muster on the fourth Friday of October, annually.

Wayne. The militia of the county of Wayne shall compose the sixty first regiment, and hold a regimental muster on the first Saturday in November, annually.

Perry. The militia of the county of Perry, shall compose the sixty eighth regiment, and hold a regimental muster on the first Saturday in October, annually.

Hardin. The militia of the county of Hardin, shall compose the sixty fifth regiment, and hold a regimental muster on the second Saturday in October, annually.

McNairy. The militia of the county of McNairy, shall compose the eightieth regiment, and hold a regimental muster on the last Saturday in October, annually; which said regiments shall constitute the eleventh brigade.

Eighth brigade. Jackson. SEC. 11. *Be it enacted*, That the militia of the county of Jackson, shall compose the eighteenth and forty eighth regiments, the eighteenth regiment shall hold a regimental muster on the first Thursday of September, and the forty eighth, on the second Thursday of September, annually.

Overton. The militia of Overton county, shall compose the thirty fifth regiment, and shall hold a regimental muster on the third Saturday of September, annually.

White. The militia of White county, shall compose the thirty fourth and seventy first regiments, the thirty fourth regiment shall hold a regimental muster on the fourth Saturday of September, and the seventy first regiment, on the third Thursday of September, annually.

Warren. The militia of the county of Warren, shall compose the twenty ninth and fifty fifth regiments; the twenty ninth shall hold a regimental muster on the first Saturday of October, and the fifty fifth, on the second Saturday of October annually.

Franklin. The militia of Franklin county shall compose the thirty second and fifty sixth regiments, the thirty second regiment shall hold a regimental muster on the third Saturday of October, the fifty sixth regiment on the fourth Saturday of October, annually.

ess. The militia of the county of Fentress, shall compose the eighty ninth regiment and hold a

regimental muster on the first Thursday in October, annually; which said regiments shall constitute the eighth brigade.

SEC. 12. *Be it enacted*, That the militia of Davidson, shall compose the nineteenth, twentieth and seventy ninth regiments, and the said regiments shall hold regimental musters annually, as follows, to Davidson. wit; the nineteenth on the second Saturday of September, the twentieth on the third Saturday of September, and the seventy ninth, on the second Thursday of September.

The militia of the county of Williamson, shall compose the twenty first and forty fourth regiments, and shall hold regimental musters annually, as follows, to wit; the twenty first on the fourth Thursday of September, the forty fourth on the first Thursday of October.

The militia of the county of Rutherford, shall compose the twenty second, forty fifth and fifty third regiments, and shall hold regimental musters annually, as follows, to wit; the twenty second regiment on the second Thursday of October, the forty fifth on the third Thursday of October, and the fifty third on the fourth Thursday of October, which said regiments shall constitute the ninth brigade.

SEC. 13. *Be it enacted*, That the militia of the county of Bedford, shall compose the twenty eighth, forty seventh and fifty fourth regiments, and shall hold a regimental muster annually, as follows, to wit, the forty seventh regiment shall hold a regimental muster on the first Wednesday in October; the twenty eighth regiment shall hold a regimental muster on the first Thursday after the first Wednesday in October, the fifty fourth regiment shall hold a regimental muster on the first Friday after the first Wednesday in October, in each and every year.

The militia of the county of Lincoln, shall compose the thirty ninth, forty ninth and sixty third regiments, and shall hold a regimental muster, annually, as follows, viz; the thirty ninth shall hold a regimental muster on the first Friday after the second Wednesday in October, the forty ninth on the second Wednesday of October; and the sixty third on the first Thursday after the second Wednesday in October; which said regiments shall constitute the tenth brigade.

Thirteenth
brigade
Henderson

SEC. 14. *Be it enacted*, That the militia of the county of Henderson, shall compose the seventy sixth regiment, and shall hold a regimental muster on the first Saturday of September, annually.

Carroll

The militia of Carroll, shall constitute the seventy fourth regiment, and hold a regimental muster on the second Saturday of September, annually.

Henry

The militia of the county of Henry, shall compose the seventy third regiment, and hold a regimental muster on the third Saturday of September, annually.

Weakly

The militia of the county of Weakly, shall constitute the eighty second regiment, and hold a regimental muster on the fourth Saturday of September, annually.

Obion

The militia of the county of Obion, shall constitute the eighty third regiment, and hold a regimental muster on the first Saturday of October, annually.

Dyer

The militia of the county of Dyer, shall constitute the eighty fifth regiment, and hold a regimental muster on the second Saturday of October, annually.

Gibson

The militia of the county of Gibson, shall constitute the eighty fourth regiment, and hold a regimental muster on the third Saturday of October, annually; which said regiments shall constitute the thirteenth brigade.

Fourteenth
brigade
Hardeman

SEC. 15. *Be it enacted*, That the militia of the county of Hardeman, shall compose the eighty first regiment, and hold a regimental muster on the second Saturday of September, annually.

Fayette

The militia of the county of Fayette, shall compose the eighty eighth regiment, and hold a regimental muster on the third Saturday of September, annually.

Shelby

The militia of the county of Shelby, shall compose the sixty ninth regiment, and hold a regimental muster on the fourth Saturday of September, annually.

Tipton

The militia of the county of Tipton, shall constitute the eighty seventh regiment, and hold a regimental muster on the first Saturday of October, annually.

Haywood

The militia of the county of Haywood, shall compose the eighty sixth regiment, and shall hold a

regimental muster on the second Saturday of October, annually.

The militia of the county of Madison, shall compose the seventy fifth and ninety first regiments; the seventy fifth shall hold a regimental muster on the third Saturday of October, annually, and the ninety first on the fourth Saturday of October, annually; which said regiments shall constitute the fourteenth brigade.

SEC. 16. *Be it enacted*, That the first, second, third, seventh and twelfth brigades, shall constitute the first division; the fourth, fifth, sixth, eighth, ninth and tenth brigades, shall constitute the second division; the eleventh, thirteenth and fourteenth brigades, shall constitute the third division.

SEC. 17. *Be it enacted*, That the Governor, for the time being, shall be commander in chief of the militia of this state, who shall appoint one adjutant, one quarter master general of the state, who shall rank each as brigadier generals, in the line, and two aids-de-camp, with the rank of colonel of infantry, and the said officers, when called into actual service, either by the authority of the United States or of this state, shall be entitled to the same pay and emoluments as officers of the like grade belonging to the line.

SEC. 18. *Be it enacted*, That each division shall be commanded by one major general, who shall appoint one assistant adjutant general, one assistant quarter master general, and two aids-de-camp, which shall rank as colonels of infantry, and each brigade shall be commanded by one brigadier general, who shall appoint one brigade major, who shall perform the duties of inspector; one brigade quarter master and aid-de-camp, who shall rank as majors. Each regiment shall be commanded by one colonel commandant and one lieutenant colonel; one first and one second major; the colonel shall appoint one adjutant, one regimental quarter master, and one surgeon, which shall rank as captains of infantry; one sergeant major, one quarter master, sergeant one drum and one fife major. Each company shall be commanded by one captain, one first lieutenant and one second lieutenant, one ensign, three sergeants and three corporals, who shall be elected by those citizens in the bounds of said company subject to military duty, and the captains shall ap-

Madison

Divisions.

Governor and Staff.

Major Gen. and Staff.

Brigadier Staff.

Regimental Staff.

Company of-ficers.

point one drummer and one fifer to each company.

Generals & fife officers, by whom elected.
SEC. 19. *Be it enacted,* That all field officers of the infantry, shall be elected by those citizens within their respective regiments subject to militia duty; brigadier generals shall be elected by the field officers within their respective brigades, major generals shall be elected by brigadier generals and field officers of their respective divisions, and it shall not be lawful for any officer to vote at an election for the same appointment where he is a candidate.

Battalion musters.
SEC. 20. *Be it enacted,* That there shall be a battalion muster in each battalion in the month of April, in each year; the first battalion shall hold a muster on the first Friday, and the second battalion on the second Friday in said month, at such place in the bounds of the battalion, as a majority of the officers may direct, where every officer, non-commissioned officer, musician and private, shall attend, armed and equipped according to law.

Officers and privates to attend musters.
SEC. 21. *Be it enacted,* That each officer, non-commissioned officer, musician and private, shall attend at their respective muster grounds and be in readiness to perform the duties assigned them, by eleven o'clock A. M. on the day appointed for regimental, battalion and company musters, and at the several musters herein directed to be held, the troops shall be exercised at least two hours in each day, and agreeable to such system of discipline as is, or may be, adopted for the government of the United States' infantry, at which musters, the roll shall be called and delinquents noted by order of the commandants of regiments, battalions or companies, as the case may be, both as to absence and arms.

Delinquencies noted.
SEC. 22. *Be it enacted,* That the commissioned officers of the several regiments of INFANTRY in this state, shall meet at the place of holding their regimental musters at eleven o'clock on the day immediately preceding the regimental muster, armed with a good rifle or smooth bored gun, and dressed in the uniform prescribed by this act, for the purpose of being trained and instructed in their duty by the adjutant of the regiment, or such other person as the commanding officer present may direct; and the senior officer present, shall

Officers to be drilled by adjutant.

call the roll or order the adjutant to call it, and note down all delinquents and make report thereof to the next regimental or battalion court martial, as the case may be.

SEC. 23. *Be it enacted,* That there shall be one judge advocate and one provost martial appointed by the commanding officers of each regiment.

Judge advocate and provost martial.

SEC. 24. *Be it enacted,* That before the judge advocate shall proceed to any of the duties of his office, he shall take an oath to support the constitution of the United States and of the state of Tennessee, and also, the following oath: I, A. B. do SOLEMNLY SWEAR, that I will well and truly perform the duties of judge advocate to this regiment, in all things, according to law and to the best of my ability, *so help me God*; and shall give bond and security in the sum of five hundred dollars, payable to the colonel commandant and his successors in office of the regiment, conditioned for the faithful performance of the duties herein required of him, and the said bond shall not be void upon the first recovery.

Judge advocate to take oath and give bond.

SEC. 25. *Be it enacted,* That each judge advocate shall hold his office during good behaviour, whose duty it shall be to provide a good bound book to be paid for out of any money in the hands of the judge advocate not otherwise appropriated, in which he shall, from time to time, record the proceedings of the several courts martial; viz: regimental, battalion and company courts martial, for the trial of officers, and all other entries for the regiment, and for his services shall be allowed the sum of one dollar and fifty cents per day for attending regimental, battalion and called courts martial to be paid out of the fines arising by virtue of this act; *Provided,* also, in case of death, resignation or removal out of the county, or office, the journal or proceedings shall be kept by the colonel or commanding officer until a judge advocate be appointed in room and stead of him so dead, removed, resigned, refusing to act or removed out of office.

Duties of judge advocate.

SEC. 26. *Be it enacted,* That it shall be lawful for the commandants of companies to discharge any person from militia duty, upon his producing an affidavit from some justice of the peace within the county, that he believes he is forty-five years of

How discharged from duty

Proof of residence

age. The residence of every militia man in this State shall be considered to be at the place where he has lodging.

Non-commissioned officers not to resign; captains to furnish lists of to sergeant major.

SEC. 27. *Be it enacted*, That the non-commissioned officers, when elected, shall serve three years, unless permitted to resign by a majority of the company officers, and it shall be the duty of the captains, annually, to furnish the sergeant major of the battalion wherein he resides, with a list of the names of the sergeants and corporals of his company, which shall be done on or before the battalion muster, and such sergeant major shall keep a roster thereof, by which a detail of the duty shall be regulated.

Company returns, how made.

SEC. 28. *Be it enacted*, That the commandants of companies shall make the annual company returns on or before the battalion muster in each and every year, agreeable to the forms hereto annexed, in which shall be expressed the military strength, arms, &c. and deliver the same to the adjutant or commandant of the battalion.

Company and regimental returns, how made.

SEC. 29. *Be it enacted*, That the commandants of regiments shall cause their adjutants to make out, from their company returns, on or before the first day of May, in each year, two regimental returns, agreeable to forms hereafter presented, and lay the same before the commandant of the regiment for his examination, and it shall be the duty of said commandants, after signing said returns, to cause their adjutants to forward one of said returns to the brigade major, on or before the fifteenth day of May, in each and every year, and the other shall be kept by said commandants for the use of the regiment.

Brigade returns, how made.

SEC. 30. *Be it enacted*, That it shall be the duty of the brigade majors, to make out, from the regimental returns, two brigade returns, on or before the first day in July in each year, agreeable to forms hereto annexed, and lay the same before the brigadier general for his examination, and it shall be the duty of the brigadier general, after signing said returns, to forward one of said returns to the assistant adjutant general, on or before the first day of August in

each and every year.

SEC. 31. *Be it enacted*, That it shall be the duty of the major generals to cause their assistant adjutant generals to make out from the brigade re-

turns, two forms of division returns, agreeable to forms hereto annexed, and lay the same before him on or before the first day of September, in each year, for his examination and signature, one of which the assistant adjutant general shall forward to the adjutant general's office, on or before the fifteenth day of September, in each year, and it shall be the duty of the adjutants of regiments, brigade majors and assistant adjutant generals, when any officer shall refuse or neglect to make return as by this act required, to give notice thereof to his commanding officer of his regiment, brigade, or division, as the case may be, whose duty it shall be, to order a court of inquiry within fifteen days, if for the trial of a captain or regimental staff, if field, brigade or division officer or staff, within thirty days; and it shall be the duty of the officer ordering said court, to give to the officer or officers failing as aforesaid, at least fifteen days notice of the time and place of such court, and a copy of the charge or charges in writing exhibited against him, and said officers, so charged, unless good cause shown to the satisfaction of said court, shall be fined in a sum hereafter directed, subject, notwithstanding, to appeal as in other cases.

Division returns.

Delinquents in making returns.

SEC. 32. *Be it enacted*, That fines inflicted under the [this] act, shall be as follows, without a reasonable excuse; on a major general or division staff officer, for failing to perform any of the duties assigned on them by this act, a sum not less than twenty-five, nor more than one hundred dollars; on a brigadier general or brigadier staff, a sum not less than twenty-five nor more than one hundred dollars; on a field officer or regimental staff, not less than fifteen, nor more than fifty dollars; on a captain or subaltern officer, a sum not less than three, nor more than twenty dollars; on a non-commissioned officer, musician or private, at a company muster, not more than one dollar nor less than fifty cents; at regimental or battalion muster, not more than five dollars, nor less than one dollar; *Provided*, in all cases, when the fine to be assessed on any person [is] for not bearing of arms, then, and in that case, the courts martial are vested with the discretionary power either to fine or not.

Rate of fines for neglect of duty.

SEC. 33. *Be it enacted*, That if any non-commis-

Penalty on disorder and mutiny.

sioned officer or private, shall behave himself disobediently or mutinously when on duty or parade, or before any court directed by this act, the commanding officers of said court may confine him during said parade or during the sitting of said court, and he may be fined by a court martial, in any sum not under five, nor more than ten dollars, to be collected as other fines under this act; and if any by-stander shall attempt to insult or molest any officer or soldier while on duty, or shall be guilty of like conduct before any court, the commanding officer, or such court, may inflict similar punishment on any person or persons so offending.

Captains to make rosters of their companies, and place them for duty in order.

SEC. 34. *Be it enacted*, That it shall be the duty of the commanding officers of companies, to make out a fair roster of his company, placing all those who have not served a tour of duty on the lowest number, and when a detail is made on the company, the captain shall draft the number required from the whole, who have not served a tour of duty, and when any person shall arrive at the age of eighteen years, it shall be the duty of the captain to give such person at least three days notice of the time and place of holding his next muster, who shall be enrolled in the first or second class, to be determined by lot; and when any person shall move into the bounds of any company, he shall, within ten days, if a citizen of this state, if a citizen of another state, within thirty days, produce a certificate from the captain in the bounds he formerly belonged, shewing whether he had served a tour of duty or not, and in case he should fail to produce such certificate, the officer shall place him first for service.

Judge advocate to make settlement.

SEC. 35. *Be it enacted*, That it shall be the duty of the field officers of each regiment to settle with the judge advocate at least once in every year, which settlement shall be made preceding the court martial, and signed by themselves and recorded in the judge advocate's books, and shall be laid before each court martial and subject to the inspection of the officers composing said court martial; the money collected and funds in hands of the judge advocate shall be drawn by order of a regimental court martial, for the following purposes, viz: for the purchase of regimental and battalion standards, drums, fifes, &c. and for furnish-

ing each company with a drum, fife and standard, all of which orders shall be filed and preserved by the judge advocate as vouchers in his annual settlement; *Provided*, that the judge advocate shall retain in his hands, six per cent. as a commission to be deducted out of all monies so paid out.

His pay and appropriation of money.

SEC. 36. *Be it enacted*, That it shall be the duty of the drum and fife major, to attend the regimental and battalion musters and the drill parades in the regiment, and shall be allowed the sum of one dollar per day, out of any money in the hands of the judge advocate not otherwise appropriated.

Drum and fife majors, duty and pay.

SEC. 37. *Be it enacted*, That it shall be the duty of the adjutant of each regiment, to attend the several regimental and battalion musters and the drill parades, and there attend to his duty as heretofore directed, for which service he shall receive the sum of one dollar and fifty cents per day, out of any money in the hands of the judge advocate not otherwise appropriated.

Adjutant's duty and pay.

SEC. 38. *Be it enacted*, That it shall be the duty of commandants of regiments and battalions, to exercise their regiments and battalions on the muster days, and when they may be present at any company muster they may superintend the exercise, if they think proper.

Commandants of regiments and battalions to superintend

SEC. 39. *Be it enacted*, That it shall be the duty of lieutenants and ensigns, to assist in the exercise and discipline of their companies, and report every default and disobedience in the government and exercise thereof. All officers of every grade, shall implicitly obey the lawful orders of their superiors, and in case of absence, death or inability of any officer, the next in rank shall take command and discharge all the duty required by this act of his superior during such vacancy, absence or inability.

Duty of subalterns.

Next in rank to command in absence.

SEC. 40. *Be it enacted*, That the officers of each regiment shall hold a court martial on the fourth Thursday of November, annually, and the succeeding days, if necessary, at the place of holding regimental musters, to consist of at least seven members. The senior officer, or officer highest in grade, to be president of said court, and the court shall be sworn to do their duty by the judge advocate of the regiment. The court thus organized, shall have power to inquire into the abilities of those brought before them and exempt such as may be judged incapable of duty, and to receive all re-

Regimental courts martial how held.

turns of delinquencies made by officers, and to hear and determine all neglects or omissions of duty, as well by officers, as by privates; to hear and determine on all appeals that may be taken by officers, non-commissioned officers or privates, who may think themselves aggrieved by any sentence or decree of any battalion or company court martial, and order and dispose of all fines and forfeitures arising under this act, unless otherwise disbursed by law; and it shall be the duty of all officers to attend their regimental and battalion courts martial; each battalion shall hold a battalion court martial, at the place of holding battalion musters.—

Battalion
courts martial

The first battalion shall hold court martial on the first Thursday in June, and the second battalion on the second Tuesday in June, annually; which court shall consist of at least five members, and in case the major commanding should fail to attend and preside, the senior officer highest in rank present shall preside in said court martial, and at which courts martial the judge advocate of the regiment shall attend, and said court shall be conducted by the same rules, regulations, and restrictions as regimental courts martial, reserving to any person who may think himself aggrieved by the sentence of said court, the right of appeal to the next regimental court martial, whose duty it shall be to hear and determine on all appeals brought before them. The commissioned officers of companies shall have power to hold courts martial when they may deem it necessary, or any two of them, and the senior officer present shall preside and administer all necessary oaths and receive fines by them adjudicated, and pay the same into the hands of the judge advocate of the regiment, and the commanding officers of companies, shall keep a record of all persons on whom fines are assessed, a copy of which shall be returned to the judge advocate on or before the next regimental or battalion court martial after such fine has been assessed, and all such returns shall be entered on the books of the judge advocate, and any person who may think themselves aggrieved by the sentence of any company court martial, shall have the right of appeal to the regimental or battalion court martial, as the case may be.

Company
courts martial

Judge advocate
to issue
execution.

SEC. 41. *Be it enacted*, That within twenty days after the rise of any court, it shall be the duty of the judge advocate to issue executions against

all persons on whom a fine has been assessed by such court or who has been fined and returned by a company court martial.

SEC. 42. *Be it enacted*, That any persons on whom a fine may be assessed by virtue of this act, shall have the right of appeal before such execution issues; *Provided*, he will shew to the satisfaction of the judge advocate, that such appeal should be granted, or to the commanding officer of his regiment; whose order shall be a good voucher to the judge advocate for suspending such execution; and it shall be the duty of the commandants of companies, to cause to be notified, all persons under their command on whom a fine has been assessed, within twenty days after the rise of the court at which such fine was assessed.

Persons fined
may appeal

SEC. *Be it enacted*, That where any regiment shall consist of sixteen companies, exclusive of volunteer companies, and the commandant thereof fails or refuses to divide the same and make two distinct regiments, it shall be the duty of the brigadier general to cause such regiment to be divided, and when done, to issue his writ to fill vacancies as in other cases.

Regiments
how divided.

SEC. *Be it enacted*, That nothing in this act shall be so construed as to affect the right of volunteer companies, whose rights have been secured to them by special act of Assembly.

Rights of
volunteer com-
panies secured.

SEC. 43. *Be it enacted*, That there shall be a judge advocate and provost martial, appointed by the governor, major general or brigadier general, as the case may be, to the several courts hereafter ordered. The judge advocate shall take and keep safely, a true statement of all proceedings whether pleas, evidence, or defence, made before a court martial, a fair copy of which, after being signed by the president, shall be delivered to the governor, major general or brigadier general, as the case may be, within twenty days after their adjournment, and prosecute for the State; the provost martial shall attend and execute the orders of the court.

Judge advocate
and provost
martial
for special
courts martial

SEC. 43. *Be it enacted*, That courts martial shall be ordered for the trial of all officers for neglect of duty, disobedience of orders or disorderly and ungentlemanly behaviour, and it is hereby made the duty of all officers, to cause to be arrested and brought to trial, all subordinate officers under their

Causes of
arrest and tri-
al.

command who may be guilty of a violation of this act.

General
courts martial

Sec. 44. *Be it enacted*, That general courts martial shall be ordered by the governor when he may think it necessary, where a major general shall preside, if convenient, if not, a brigadier, and be composed of twelve additional members, two of whom, at least, shall be brigadiers and the others, field officers.

Division
courts martial

Sec. 45. *Be it enacted*, That division courts martial shall be ordered by the major general when necessary, where a brigadier general shall preside and be composed of twelve additional members, two of whom, at least, shall be colonels and the others, field officers.

Brigade
courts martial

Sec. 46. *Be it enacted*, That brigade courts martial shall be ordered at the discretion of the brigadier general, where a colonel shall preside and consist of twelve additional members, two of whom, at least, shall be field officers and the others, not under the grade of captain.

Regimental
courts martial

Sec. 47. *Be it enacted*, That regimental courts martial shall be appointed at the discretion of the colonel, where a major or lieutenant colonel shall preside, and be composed of twelve additional members, two of whom shall be captains.

Court to
proceed if a
majority at
tends.

Sec. 48. *Be it enacted*, That in all courts martial, whether general, division, brigade, or regimental, when the full number of officers summoned shall fail to attend, the court shall proceed to the trial, *Provided*, a majority of the officers summoned are present. The president or any member may be challenged on good cause, shewn to the satisfaction of the court; the decision of any of the courts martial ordered under the authority of this act, shall be approved or disapproved by the officer ordering the same, and in case the sentence is disapproved, he shall return the proceedings to the president of the court with his objections within twenty days, who shall again convene the court and re-consider the same, and thereupon, if they adhere to their former opinion, the sentence shall stand confirmed, and the officer ordering said court shall dissolve said court and publish the sentence thereof; subject, however, to an appeal to the officer next in rank, and in case of a division court martial, to the governor for the final affirmance or reversal; *Provided*, that the sentence of no

Sentence
how to be ap-
proved.

court martial shall be reversed or set aside, for the want of any formality.

Sec. 49. *Be it enacted*, That in general courts martial, none shall be tried below the grade of a general officer, or the adjutant or the quarter master general; in division courts martial, none shall be tried below the grade of a field officer or division staff; in a brigade court martial, none shall be tried below the grade of a field officer or brigade staff or a captain on good cause shewn; in regimental courts martial, all officers below the grade of field officers, shall be tried, and regimental staff officers.

Grade of off-
cers. In what
courts tried.

Sec. 50. *Be it enacted*, That when either of the courts herein directed to be organized, is convened, the president thereof shall administer to the judge advocate thereof, the following oath.

Courts mar-
tial, how or-
ganized.

You do solemnly swear or affirm, that you will truly and faithfully, execute the office of judge advocate to this court so long as you remain in office, to the best of your ability and according to the laws of this state and the United States, and that you will not, when secrecy is required, disclose or discover, the sentence of said court unless to the commanding officer until he has approved or disapproved thereof, nor will you disclose or discover the sentence or opinion of any particular member of said court, unless required to give evidence in a court of justice.

The judge advocate shall then proceed to qualify the president and members of said court by administering to them the following oath.

You, and each of you, do swear, or affirm, that you will well and truly try and determine, according to law and evidence, between the State of Tennessee and the officer to be tried, and you will not discover the sentence of this court martial when secrecy is required, until the same is made known by proper authority, nor will you disclose or discover the opinion of any particular member of this court, unless required to give evidence thereof in a court of justice.

The proceedings of the court shall be correctly taken down by the judge advocate, until the trial is finished, when a complete record of the trial and sentence shall be signed by the president and the court adjourned *sine die*; and upon the disclosure of the sentence of any court martial, any person may, according to the direction of this act, appeal

Decision—
how appealed
from.

therefrom by filing a written notice with the officer to whom the appeal is made, at any time before the expiration of twenty days, whose duty it shall be to order up before him, the proceedings of such court for final decision, which shall be given within thirty days thereafter.

SEC. 51. *Be it enacted,* That when any person may have cause of complaint against any commissioned officer, he shall lodge with the governor, major general, brigadier general or commandant of a regiment, as the case may be, the charges, certified in form, and make oath before some justice of the peace, that such charges are true to the best of their knowledge and belief, and thereupon an arrest or inquiry shall be awarded; within twenty days thereafter, the court martial shall be ordered and the officer arrested, shall have at least fifteen days notice thereof, as well as a copy of the charges exhibited against him. If it should appear to said court when convened, that from the absence of witnesses or any other cause, a fair and impartial trial cannot be had, they may adjourn to some further day, *provided*, the time shall not exceed three months.

SEC. 52. *Be it enacted,* That the commandants of regiments are hereby authorized and directed to call courts martial or courts of inquiry at any time when they may think it necessary, to try persons failing to do their duty or delinquents of any kind, or persons failing to perform a tour of duty when called on, or for the trial of any non-commissioned officer, musician or private who may desert from the service or to excuse any person disabled, or for other causes, from doing militia duty during their disability.

SEC. 53. *Be it enacted,* That it shall be the duty of each major general to receive from the adjutant general, copies of requisitions of men made by the government on his division, and shall, without delay, make a detail on the brigades in his division, agreeable to the returns made by the assistant adjutant general, and shall issue his orders to the brigadiers accordingly. Whenever the major general may choose, he may attend at any muster or review whatever, and give any orders for the discipline of the troops he may deem expedient.

SEC. 54. *Be it enacted,* That it shall be the duty of the brigadier general to receive from the adjutant general or major general, copies of requisitions

tions made on his brigade and shall make a detail on the regiments in his brigade agreeable to the returns made by the adjutants of regiments, and give orders to the commandants of regiments accordingly.

SEC. 55. *Be it enacted,* That commandants of regiments shall receive from the brigadiers, copies of requisitions made on their regiments, who shall make the detail on the several companies in his regiment and give orders to the several commandants of companies accordingly.

SEC. *Be it enacted,* That it shall be the duty of the major generals, brigadier generals and commandants of regiments, upon receiving notice of an invasion or insurrection, immediately to embody such a force as they may deem competent for the emergency, giving the earliest notice thereof to their next superior officer and to the governor.

SEC. 56. *Be it enacted,* That where marching orders are given, the captain or other officer, may designate some place within the bounds of the regiment or regiments, from which the companies were detailed, where he may receive substitutes in the place of those detailed for service; *Provided*, they are able bodied men, well armed and such as the captain will approve of, and if approved of, he shall receipt to the person furnishing such substitute, which shall be evidence to the officer from whose company such detail is made, that such person is entitled to a credit, which credit shall be entered in such company book after such troops are discharged from service for the time the detachment has served and no longer, and if the substitute enlist in the service of the United States, the credit shall be given for the same as if such detachment was detailed for service; and each and every one furnishing such substitute, shall be bound to attend all the musters directed by this act, and if such substitute should be called on to perform a tour of duty during substitution, the person for whom he is a substitute, shall be bound to serve in his stead, and if any person who may furnish a substitute, should be called upon to serve in the room of such substitute, said substitute shall refund to said person, the full amount which he may have received for performing said substitution.

SEC. 57. *Be it enacted,* That the requisitions of the governor, on the militia of this state, shall be deemed evidence of an invasion or insurrection, or an invasion threatened or premeditated, and

Brigadiers to make detail on regiments.

Commandants of regiments to make detail on companies.

Militia embodied on an invasion of the country.

Commandants of companies to receive substitutes.

Governor's requisition evidence of invasion.

thereupon, it shall be lawful for the proper officer, to enrol such persons as are exempted from militia duty by this act, except in such cases.

To serve six months. SEC. 57. *Be it enacted*, That the militia of this state, when called out in the service of the United States, shall not be bound to serve longer than six months from the time of their arrival at the place of rendezvous.

Order of rank. SEC. 58. *Be it enacted*, That all commissioned officers shall rank according to their grades and the dates of their commissions, and when two or more officers of like rank shall have been commissioned on the same day, their rank in the brigade or regiment shall be determined by lot to be drawn before their commanding officer.

Governor to call out and discharge. SEC. 59. *Be it enacted*, That in case of actual invasion or an invasion premeditated or threatened against this state or any part thereof, it shall and may be lawful for the governor, or any officer by him directed, to order into actual service, all or such parts of the militia of this state, as he shall deem expedient, and to discharge such troops as soon as he may judge it consistent with the safety of the state; *Provided, always*, the requisitions shall be made in the different divisions, brigades, regiments and companies, in proportion to their numbers who have not performed a tour of duty.

Adjutant general's duties. SEC. 60. *Be it enacted*, That the adjutant general shall keep his office at the seat of government; he shall keep a fair record of all orders and communications he shall receive from the commander in chief of this state, and obey all orders from him relative to the duties of his office; he shall receive annual returns from the assistant adjutant general, from which he shall make out a general return of the whole strength of the militia of this state, which he shall lay before the commander in chief of the state, on or before the fifteenth of October, in each year; a duplicate of which return he shall, without delay, forward to the secretary of war of the United States.

Quarter master's duty. SEC. 61. *Be it enacted*, That the quarter master general shall keep his office at the seat of government, or at such other place as the governor may direct; he shall keep a record of all orders and communications, he shall, from time to time, receive from the commander in chief of the state, and obey all orders relative to the duties of his office; he shall collect and keep safely, all arms and

military stores belonging to the state, which shall be subject to the orders of the governor, he shall furnish blank printed forms to division quarter masters and others while in service, which, when made out, shall shew the quantity of arms, equipage, &c.

SEC. 60. *Be it enacted*, That every non-commissioned officer, musician, or private, who shall neglect or refuse to appear 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, shall forfeit and pay a sum not less than one hundred dollars; which sum shall be adjudged against him by a court martial and shall be collected as heretofore directed, and paid into the public treasury, and if any commissioned officer shall be guilty in like manner, he shall be subject to a penalty not less than one hundred dollars, be reduced to the ranks and ordered immediately for service, and in case of refusal, shall be liable to the same penalties that other privates are by this act, each of which last mentioned penalties, shall be assigned and paid over as heretofore directed by this act; *Provided, always*, that each commissioned, non-commissioned officer, musician and private, shall be notified of such requisition, which must depend upon circumstances, for if the person be notified, it shall be available in law.

Penalty for not appearing when called out.

SEC. 61. *Be it enacted*, That parents, guardians and masters, shall be accountable for, and pay the fines of their children, wards or servants, who are under twenty one years of age; *Provided*, that parents shall only be responsible where their children live with them.

Liability of parents and guardians.

SEC. 62. *Be it enacted*, That all writs for election of general or field officers, shall be directed to some sheriff within the bounds of the command for which such officer is to be elected, and such sheriff shall, for the election of major general, advertise the time and place of holding such election in some paper printed in the division at least forty days previous thereto, and when two or more candidates have an equal and highest number of votes, the governor shall determine by his vote who is elected.

Election of major general.

SEC. 63. *Be it enacted*, That elections for brigadier generals shall be advertised at least forty days in the most public place in each county composing the brigade, and when two or more candi-

Of brigadier general.

dates have an equal and the highest number of votes, the major general shall determine by his vote who is elected.

Where held
and returns.

SEC. 64. *Be it enacted*, That elections for general officers shall be held by the sheriff of the counties, at their court houses respectively, in the division or brigade, as the case may be, and make return thereof to the officer ordering such election, who shall return the persons so elected to the governor.

Election for
field officers.

SEC. *Be it enacted*, That the elections for field officers shall be advertised at least thirty days in each battalion of the regiment, for which such officer is to be elected and which election shall be held at the battalion muster grounds, and the polls to be kept open one day only, and it shall be the duty of the officers holding such election to meet at the regimental muster ground on the succeeding day, and compare the votes so given, and when two or more candidates for field officers have an equal and the highest number of votes, the brigadier general shall determine by his vote who is elected.

Elections of
company officers.

SEC. 65. *Be it enacted*, That all elections for captains, lieutenants and ensigns, shall be held at their respective muster grounds, in the manner following; the justice of the peace to whom the writ of election is issued, whose duty it shall be to hold said election, after giving fifteen days notice, shall appoint and qualify three persons of good character, as judges, and when two or more candidates have an equal and highest number of votes, the commandant of the regiment shall determine by his vote who is elected; and that all elections for officers of light infantry or riflemen, shall be held under the same rules, regulations and restrictions, as other militia officers of the like grade.

Writs of election,
by whom issued.

SEC. 66. *Be it enacted*, That for elections of major generals, the governor shall issue his writ; for the election of brigadier generals, the major general shall issue his writ; for the election of field officers in the brigade, the brigadier shall issue his writ; for the election of captains, lieutenants and ensigns, the commandant of the regiment shall issue his writ.

Election returns.

SEC. 67. *Be it enacted*, That it shall be the duty of the sheriffs to certify all elections by this act directed to be holden by them under their hands and seals, and transmit the same to the officer is-

suing the writ, who shall return the person elect, to the governor, who is hereby directed to commission the person elected. To whom made.

SEC. *Be it enacted*, That justices of the peace shall certify all elections by them held, to the commandants of regiments, on whose certificate the governor shall commission the person elected. Justices returns.

SEC. 68. *Be it enacted*, That any militia officer hereafter elected, shall not resign his commission under five years from the date of his commission, unless permitted so to do by his commanding officer, under the following fines, to wit: If a general or staff officer, one hundred dollars; if a field or regimental staff officer, fifty dollars; if a platoon or subaltern officer, thirty dollars. Penalty for resigning without cause.

SEC. 69. *Be it enacted*, That the resignation of all officers in the militia, shall be as follows: All company and regimental staff shall resign to the commandants of regiments; regimental, field and brigade staff officers, to the commandants of brigades; brigadier general and division staff, to the commandants of divisions; the adjutant and quarter master general, to the governor. Resignation to whom made

SEC. 70. *Be it enacted*, That it shall be the duty of every person hereafter elected to the command of the militia of this state, before he enters on the discharge of the duties of his command, to take and subscribe the following oath, which shall be entered on the back of his commission: Officer's oath on back of commission.

I do solemnly swear, that I will support the constitution of the United States and the state of Tennessee, and that I will faithfully discharge the duties of the militia of Tennessee as prescribed by law, to the best of my abilities: And also, the following oath:

I, A B, do solemnly swear, or affirm, as the case may be, that I will not give or accept a challenge either written or verbal, to fight a duel, nor will I be the second of any person or bearer of a challenge for such purpose, nor will I fight a duel, nor be second to any person to fight a duel, during my continuance in office, *so help me God: Provided, nevertheless*, that it may be lawful for any officer to be qualified and act on a certificate from the inspectors of election, countersigned by the returning officer, and it shall be the duty of said inspectors to give the persons hereafter elected in the mi-

May act on certificates

litia, a certificate whenever called on by any person entitled to the same.

Manner of
contesting e-
lections.

SEC. 71. *Be it enacted*, That the courts martial for the determination of contested elections, shall be ordered in the same manner as by this act, for the trial of officers, and the party contesting the election of any officer, shall immediately notify the commanding officer in writing, of his intention to contest, who shall not make return of such election to the governor until further orders, and the party so contesting, shall, within fifteen days, make application to the proper officer, furnishing him a fair statement of his reasons in writing, supported by oath or affirmation, upon the receipt of which, said officer shall order a court martial immediately as aforesaid; and if it shall appear to the satisfaction of said court, that the officer whose election shall have been contested, did receive a number of illegal votes, which, when deducted, would give a majority of legal votes to any other candidate, then, said court shall report to the returning officer, in favor of the candidate having the greatest number of legal votes, and the governor shall commission him accordingly, and in all cases of illegal proceedings, the election shall be declared void, and the court shall order the proper officer to issue a writ of election to fill the vacancy, giving legal notice of the time and place, and if the party constituting [contesting] such election shall fail to establish his charge or cause of contest, in that case the court shall report to the returning officer, in favor of the person whose election was contested, who shall be commissioned by the governor: *Provided, always*, that either party shall have the right of appeal from the decision of any court martial in which they may think themselves aggrieved.

Causes of
removal from
office.

SEC. 72. *Be it enacted*, That if any commissioned officer should absent himself from the duties of his command for more than twelve months, unless employed in the duties of his office, it shall be considered a removal, and measures shall be taken by the proper officer to fill such vacancy; and if any commissioned officer in the militia of this state shall labor under any incurable bodily infirmity, mental disability, or shall be guilty of habitual drunkenness, or unofficer-like or ungentlemanly conduct, or have been guilty of any infamous crime, or escaped or concealed himself from justice, or

removed himself out of the bounds of his command, the proper officer, on information thereof, shall order a court of inquiry to consist of five members; if on testimony or personal observation, they shall report to the officer ordering such court, that such person does labor under mental disability, bodily infirmity, or shall be guilty of habitual drunkenness, or unofficerlike or ungentlemanly conduct, or have been guilty of any infamous crime, or escaped or concealed himself from justice, or removed himself out of the bounds of his command so as to disqualify him for the faithful discharge of his duty, and if the officer ordering said court shall approve the said report, the officer [office] shall thereafter be considered vacant, and the proper officer shall proceed to have said vacancy filled as in other cases: *Provided, always*, that the officer so tried, shall have the right of appeal to the next superior officer for approval or disapproval, of said report.

SEC. 73. *Be it enacted*, That persons who have served tours in the United States' army, as officers, and have since resigned or been arranged out of service and have returned to the ranks as privates, and all persons who have enlisted and been discharged after a service of six months or more, shall be entitled to a credit of a tour of duty in the militia of this state.

Entitled to
credit of a
tour.

SEC. 74. *Be it enacted*, That no person known to belong to any religious denomination, the tenets of which are opposed to the bearing of arms, shall be fined for not attending regimental, battalion, or company 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.

Certain per-
sons exempt
from fines.

SEC. 75. *Be it enacted*, That each company of militia in this state, excepting cavalry and volunteer companies, shall consist of not less than forty, nor more than ninety privates, one captain, one first lieutenant, one second lieutenant, one ensign, three sergeants, three corporals and two musicians, and no company shall be reduced by any volunteer company under sixty rank and file.

Number in
a company.

SEC. 76. *Be it enacted*, That the field officers of any regiment or regiments, in any one county where they conceive it necessary to divide said regiment or regiments and make a separate and distinct regiment, *Provided* that each regiment have eight companies exclusive of cavalry or volunteer

New regi-
ments & com-
panies.

How laid off.

companies, and whenever a new and distinct regiment is formed from one or more regiments, it shall be the duty of the senior officer present to notify the brigadier general of the regiment or regiments so laid off, and the vacancies of the field officers occasioned in either of said regiments, he shall issue his writ to fill said vacancies as in other cases, and the regiment or regiments so established, shall be under the same rules, regulations and restrictions, as other militia of this state, and shall constitute a part of the brigade to which said regiment belong, and it shall be lawful for the commandants of regiments, to divide any company or companies in their respective regiments, so as to make two or more companies; *Provided*, the same can be done without reducing the number of privates below its lawful number, and the companies when laid off, shall be recorded by the judge advocate of the regiment and vacancies filled as in other cases.

Exempt from execution and civil process.

SEC. 77. *Be it enacted*, That the arms and equipments of any militia man, shall be exempt from arrest or the service of civil process, while going to, continuing at, or returning from, musters or any courts martial stipulated by this act.

Volunteer infantry company.

SEC. 78. *Be it enacted*, That it shall and may be lawful for a volunteer company of light infantry to be raised in each regiment where it has not already been done, and the commandants of regiments are hereby authorized to appoint persons *pro tempore* to raise such companies, which shall not consist of less than thirty six, nor more than sixty four privates, one captain, one lieutenant, one ensign, three sergeants, three corporals and two musicians.

How armed and times of muster.

SEC. 79. *Be it enacted*, That the commissioned officers shall be armed as other officers of the same grade, and each non-commissioned officer and private with a good musket, smooth bored or rifle, cartouch box or pouch and horn, and shall hold company muster four times in each year, the one on the Saturday preceding the regimental muster and the other on the Saturday preceding the battalion muster at such place as a majority of the officers may direct, and shall attend the regimental and battalion musters to which they belong: *Provided*, that the rifle and light infantry companies, shall not be compelled to attend the same battalion and shall be subject, at all times,

to the commanding officers as other regiment or battalion.

SEC. 80. *Be it enacted*, That it shall be lawful for a volunteer company of riflemen to be raised in each regiment when it has not been done under the same rules and after the same manner, and to be under the same restrictions, of light infantry. The commissioned officers to be armed as other officers of the same grade, the non-commissioned officers and privates with good rifles, pouches and horns, and shall muster as directed for light infantry.

Rifle company.

SEC. 81. *Be it enacted*, That it shall not be lawful for any officer of the light infantry or rifle companies, to enroll any person who has been enrolled by any militia officer, unless such person shall produce a certificate from the commandant of the company to which he belonged, certifying that his company will not be reduced below its lawful number by such enrolment, and it shall be the duty of such person applying for such certificate, to perform duty in the company to which he did belong until he shall produce the certificate of the captain that he may wish to join, that his company is organized and he is equipped according to law.

Companies not to be reduced below the lawful number by volunteer companies.

SEC. 82. *Be it enacted*, That the companies of light infantry and riflemen herein directed to be raised, shall be distinguished by the number of the regiment to which they belong, and where details are made on the militia of this state, they shall be ordered into service by certain companies, which shall be determined by lot, drawn by the adjutant general in presence of the governor.

Numbered by their regiments detailed in full companies.

SEC. 83. *Be it enacted*, That no person shall be permitted to withdraw from a company of light infantry or riflemen in five years, without the consent of the commandant or unless he shall move out of the regiment to which said company belongs.

Not to withdraw.

SEC. 84. *Be it enacted*, That the uniform of the general, field and staff officers of the militia of this state shall be the same as that of officers of the same grade in the United States' army; captains and subaltern officers may wear deep blue domestic, and at the option of the subaltern officers, to wear epaulettes.

Uniform of the officers.

SEC. 85. *Be it enacted*, That the uniform of light

Uniform of
volunteer com-
panies.

infantry, and riflemen shall be as follows: For light infantry, long blue hunting shirts, blue pantaloons, round black hat and red plumes; and for riflemen, long black hunting shirts, black pantaloons hats as infantry, and white plumes, but in all cases where a company may choose a different uniform, and uniform themselves complete, it shall be lawful for said company to wear its own uniform on all parades.

Form of
commissions.

SEC. 86. *Be it enacted*, That all commissions for militia officers, shall issue in the form heretofore in use in this state.

Fines, where
paid.

SEC. 87. *Be it enacted*, That all fines and forfeitures imposed on any person by the provisions of this act, shall be collected and paid over in the following manner; (to wit,) that fines on major generals, staff and field officers, shall be paid into the public treasury; on regimental staff, company officers, non-commissioned officers, musicians and privates, into the hands of the judge advocate of the regiment to which they belong.

Manner of
collecting
fines.

SEC. 88. *Be it enacted*, That all executions for fines, provided for by this act, shall be issued by the judge advocate of the court, and which fines, when collected, if to be paid into the public treasury, the execution shall be directed to the sheriff of the county where the delinquent resides, and the said sheriff shall collect the same within sixty days, and pay the same over to the clerk of the circuit court, who shall account for the same as other public monies; and all executions for fines to be appropriated to the use of the regiment, shall be placed by the judge advocate in the hands of a constable within the bounds of the battalion, whom [where] such delinquent resides, and the said constable shall collect and make return thereof, within sixty days after the receipt of such executions; and sheriffs or constables shall be entitled to the same fees that they would be entitled to in civil cases; and for such execution, the judge advocate shall be entitled to twelve and one half cents; but no officer shall be entitled to cost except collected of the defendant, and if the constable or sheriff so collecting, shall fail or refuse to pay the money as by this act directed, it shall be the duty of the judge advocate, by motion, in the next county court of the county where such delinquency shall

happen, to take a judgment against such delinquent officer for the principal, so collected, together with twelve and a half per cent. interest; *Provided*, the said delinquent shall have ten days notice in writing from the judge advocate, of his intention to make such motion.

SEC. 89. *Be it enacted*, That when any new regiment may hereafter be established or has heretofore been established under the laws of this state and not numbered by law, it shall be the duty of the governor, to attach the proper numeral number thereto, and the commanding officer to designate the day for regimental muster by a regimental order.

Governor to
number next
regiments;

SEC. 90. *Be it enacted*, That all volunteer companies, in complete uniform, are hereby authorized to pass by-laws for the government of the respective companies, and to appoint the number required by law and to collect fines under their own by-laws and apply such fines to the use of their own companies; *Provided*, that nothing in this section shall be so construed, as to release said companies from performing any of the duties required by the regiment to which they belong, and all fines for a neglect of such duty shall be applied as the fines on other militia.

Volunteer
companies by
laws.

SEC. 91. *Be it enacted*, That there shall be one company of cavalry in each regiment, together with those volunteer companies which are established by law in this state, to be raised by volunteer enrolments, and shall consist of one captain, one first lieutenant, and one second lieutenant, one cornet, three sergeants, three corporals, one trumpeter, and not less than thirty, nor more than sixty privates, and the cavalry of each brigade shall constitute one regiment, and be commanded by a colonel commandant, and one lieutenant colonel, and one first and second major, who shall be elected by the commissioned officers of their regiment, and the regimental courts martial of said cavalry shall be conducted under the same rules, regulations and restrictions, as in infantry courts martial of like grade, and each company of cavalry shall, on two several days annually, hold two company musters at the court house of their county or such other place as the officers may agree on, which said company musters, shall be held on the last Satur-

Cavalry
troops to be
raised.

day in March and September, and shall hold courts martial on delinquents in the same manner as is directed for holding company courts martial of infantry; and it shall further be the duty of each company of cavalry, to attend the infantry regimental musters of their county, and when at said musters shall be under the direction and command of the commanding officers of the regiment.

How equipped,
 SEC. 92. *Be it enacted,* That every officer and private belonging to each troop of cavalry, shall appear, when on parade, with a strong serviceable horse, at least fourteen and a half hands high, with a good saddle, bridle, holsters, and one pistol at least, and horseman's sword, cap, a pair of shoe boots and spurs, cartouch box and cartridges in good order, and dressed in the uniform of the regiment to which he belongs.

Company returns
 SEC. 93. *Be it enacted,* That the captains or commanding officer of the company of cavalry, shall make out a fair statement of the strength and condition of his company, 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 or brigadier [brigade] major, of his brigades, on or before the first day of June, annually.

Penalty for neglect in making returns.
 SEC. 94. *Be it enacted,* That each officer required to make return by virtue of this act, and refusing or neglecting to make return as herein before directed, shall be fined, if a colonel or commanding officer of a regiment, in a sum not less than fifteen, and not more than fifty dollars; if a captain or commanding officer of a company, in a sum not exceeding twenty dollars, nor less than ten, which fines shall be assessed on the delinquents at the discretion of a brigade or regimental court martial.

Fines how applied.
 SEC. 95. *Be it enacted,* That all fines imposed by this act when collected, shall be applied by the commanding officer of the regiment, to the use of the regiment to which said delinquents belong.

Not to be enrolled without certificate and uniform.
 SEC. 96. *Be it enacted,* That it shall not be lawful for the captain of any company of cavalry, hereafter to receive or enrol, any private in his company, without such private first appearing before equipped as the law directs, and on said private ap-

pearing equipped as aforesaid, such captain shall give him a certificate to the captain of the company of infantry to which he belonged, and on his producing such certificate, the captain of the infantry shall immediately strike him off his roll.

SEC. 97. *Be it enacted,* That it shall and may be lawful for each and every regiment of cavalry in this state, to choose the quality of their uniform for their officers and privates, and they shall be authorized to use domestic manufactures for the same; *Provided, nevertheless,* that the coats and pantaloons of each officer and private of each regiment, shall be of a deep blue colour, and, *Provided further,* that this act shall not affect any persons who have heretofore equipt themselves.

Choice of uniform.

SEC. 98. *Be it enacted,* That each officer of cavalry, shall be commissioned by the governor of this state, under the same rules, and after the same manner, as officers of the infantry of like grade.

How commissioned.

SEC. 99. *Be it enacted,* That it shall be the duty of each officer and private of any company of cavalry, to attend company muster, and in failure thereof, if a commissioned officer, he shall forfeit and pay a sum not exceeding twenty, nor less than five dollars; and each non-commissioned officer or private, shall forfeit and pay a sum not exceeding five dollars, nor less than one; to be recovered against such officer or officers at the first regimental court martial, and against non-commissioned officers and privates, at the first company court martial immediately after such delinquency shall so happen; *Provided,* such delinquent commissioned officers, shall have till their next regimental court martial, and non-commissioned officers and privates till their next company court martial after such fine shall have been assessed, to make their excuse for such delinquency so happening, and in case they fail so to do, the court martial shall then, and in that case, proceed to confirm and make absolute, said fine or fines; *Provided,* That no execution shall issue for a fine assessed unless assessed within twelve months after said fine.

Penalty for not attending musters of company.

SEC. 100. *Be it enacted,* That all commissioned officers of cavalry hereafter to be elected, shall have three months from and after such officer or officers shall be elected, to equip themselves.

Time given to equip.

SEC. 101. *Be it enacted,* That each regiment of cavalry in this state, shall hold one regimental muster, on the first Thursday in October, annually, except the second regiment, which second regiment shall hold its regimental muster on the third Thursday in October, annually, at such places as the commissioned officers of the regiment or majority of them may select, at which time and place, it shall be the duty of each officer and private of said regiment, to attend the regimental muster of said regiment; that the commissioned officers of each regiment, shall, on the day succeeding said regimental muster, hold a court martial for the trial of all delinquents, both officers and privates. If any field officer fail to attend said regimental muster, armed and equipped as directed by this act without a reasonable excuse, they shall each be fined in [a] sum not exceeding fifty dollars; nor less than twenty dollars; if a captain or subaltern officer, he shall be fined in [a] sum not exceeding twenty dollars nor less than ten dollars; if a non-commissioned officer or private, in a sum not exceeding ten dollars nor less than two dollars.

SEC. 102. *Be it enacted,* That no private in any company of cavalry, be permitted to withdraw himself from said company, under five years, without the assent of regimental court martial, and if any private is permitted to withdraw himself from any company as by this act directed, the captain of the company of cavalry shall notify the captain of the infantry in whose bounds such private may reside, of the proceedings of said court martial, and that said private has been permitted to withdraw himself from the company of cavalry, and it shall be the duty of the captain of the infantry in whose bounds such private may reside, on receiving such information, immediately to enroll him on his company roster, the first man on the first class destined for actual service.

SEC. 105. *Be it enacted,* That when any of the cavalry of this State shall be called on for actual service, they shall be called out by companies and be commanded by their own company officers.

SEC. 104. *Be it enacted,* That when it may be conceived that the public good eminently requires it, the governor is hereby authorized to call out such parts of the cavalry of this State as he may think

Time of regimental musters and penalty for not attending

Not to withdraw from company.

Called on by companies

When called out by governor, nor, considered as mounted gunmen.

proper, and when so called out, they shall be considered, ruled and regulated as mounted gunmen, for the time he may so order them.

SEC. 105. *Be it enacted,* That it shall be the duty of the field officers of the cavalry of each regiment, when they may deem it necessary, to appoint suitable persons in each regiment of infantry, within the bounds of their regiment of cavalry, to raise a troop of cavalry where there is no troop, and it shall be the duty of the brigadier general, where there are no field officers, to issue writs of election in the same manner and under the same rules regulating field officers of infantry.

SEC. 106. *Be it enacted,* That it shall be the duty of the brigadier general, where there are no field officers, to appoint persons to raise such companies of cavalry as field officers are authorised by this act.

SEC. 107. *Be it enacted,* That the judge advocate of each regiment of cavalry in this State, when it shall so happen that execution may issue against any delinquent officer or private, that he is hereby authorized to issue said execution or executions to the sheriff of the county where such delinquency shall so happen, and that the sheriff receiving such execution, shall account for such monies, if collected, and if not collected, shew the reason why it was not collected, within the same time as specified for infantry, and under the same penalties heretofore in such cases provided by law, any law to the contrary, notwithstanding.

SEC. 108. *Be it enacted,* That it shall be the duty of the brigade inspector of each brigade, to distribute all orders from the brigadier general or commanding officer of his brigade, to the several commanding officers of regiments, in his brigade; to keep an orderly book and record all orders by him received; the proceedings of all brigade courts martial and all other official communications which he or the commanding officer of his brigade may receive. He shall also keep a record of all appointments and resignations in his brigade; he shall keep a roster of the field and staff officers in his brigade with the dates of their appointments, from which all details for duty shall be made, and shall note the services performed by

Troops of cavalry, how raised.

Brigadier's duty in raising troop.

Executions for fines, how issued.

Duties of brigade inspector.

each officer, and shall perform all other duties which by law or custom, appertain to his office.

Adjutant's duty. SEC. 109. *Be it enacted,* That it shall be the duty of adjutants of regiments to distribute all orders from the commanding officer of his regiment; to attend the commanding officer of his regiment when on military duty, and to see that all his orders are promptly executed; and to keep an orderly book in which all orders and other official communications which may be received by him on [from] the commanding officer of his regiment, and all orders which may be received by his commanding officer; he shall keep a roster of the officers of his regiment with the dates of their commissions, from which all details for duty shall be made, and note the services performed by each officer; he shall do and perform all other duties which appertain to his office of regimental adjutant.

Adjutant to call roll. SEC. 110. *Be it enacted,* That it shall be the duty of adjutants of regiments, at their several parades, to call the roll of officers, whose duty is to attend each parade, and note all delinquents, and make report thereof to the next court martial having cognizance of the same, which report shall be read in evidence against such delinquents, and it is hereby made the duty of company officers, to attend their annual regimental and battalion courts martial, and the commanding officer of each company shall report to such court the condition of his company at the preceding regimental or battalion parade, as the case may be.

Apprentices arms. SEC. 111. *Be it enacted,* That the master of an indented servant or apprentice, shall not hereafter be bound to furnish said apprentice with arms, with which to muster and perform militia duty.

Public arms, how drawn for the use of companies. SEC. 112. *Be it enacted,* That the governor be authorized to distribute to such uniform volunteer companies as shall be entitled to the same; and in order to entitle any company to the use of a portion of said arms, it shall be necessary for the commandant of the regiment to certify that such company consists of not less than forty rank and file, and that it is a uniform volunteer company, and that every member of the same is in complete uniform. It shall then be lawful for the governor to issue his order to the quarter master general,

directing him to deliver to the captain of said company, a number of arms equal to the whole number of non-commissioned officers and privates, the said captain first giving bond and sufficient security, to be approved by the governor, and payable to him and his successors in office, that the arms thus delivered, shall be kept in a soldierlike manner, and free from injury, and that they will be delivered whenever called on for the use of the State, which bond shall be renewed by each succeeding captain, within two months from the day of his election, or on failure, the governor shall forthwith cause the arms to be re-delivered to the quarter master.

SEC. 112. *Be it enacted,* That there shall be a county drill in each and every county in this State, in each and every year, at [or] near the court house, where each commissioned and staff officer shall attend, armed with a smooth bore or rifle, and equipt as the law directs, for the purpose of being trained and disciplined by the brigade major, who shall be allowed the sum of three dollars for each day he may be engaged in such training, and two dollars for each twenty five miles travelling to and from said drills, and it shall be the duty of commandants of regiments, to furnish the brigade major with a list of the officers, whose duty it shall be to attend such drills, and he shall note all delinquents and make return thereof to the proper court martial, which return shall be read in evidence against such delinquent officer.

SEC. 113. *Be it enacted,* That the said drill muster for the county of Maury, shall be held on the second Friday and succeeding day, in July; for the county of Lawrence, on the fourth Tuesday and succeeding day [in] June, and for the county of Giles, the Friday and Saturday following; for the county of Bedford on the second Friday and succeeding day in July; for the county of Lincoln, on the third Friday and succeeding day in July.

SEC. 114. *Be it enacted,* That delinquents, instead of being compelled to attend courts martial in person for the purpose of procuring the remission of fines, may make their affidavit before some justice of the peace, setting forth the reasons of such delinquency, which affidavit may be produced to the court martial, by the commandant of the

Delinquents may make affidavits for court martial.

company in which such delinquency may happen, and shall be received by such court martial as legal evidence of the facts therein contained.

Present colonels to be the commandants
Writes to issue for lieutenant colonels and second lieutenants.
 SEC. 115. *Be it enacted*, That the colonels now in commission, under the former laws, shall be deemed, and held the colonels commandant of their respective regiments, and the colonels to be elected under this act, shall be the lieutenant colonels, and the brigadier generals and commandants of regiments, shall respectively issue their writs for the election of lieutenant colonels and second lieutenants as provided for in this act.

Repealing clause.
 SEC. 116. *Be it enacted*, That all laws and parts of laws, coming within the purview and meaning of this [act] is hereby repealed.

Commandants of regiments to certify to clerks.
 SEC. 117. *Be it enacted*, That the commanding officers of the different regiments of militia in this State, shall certify to the clerk of the county court of pleas and quarter sessions in their several counties, the number of the different captains companies in the bounds of their regiments, at least fifteen days before the commencement of each session of the legislature.

Drill musters, when held.
 SEC. 118. *Be it enacted*, That the said drill musters, shall be holden on the Thursday and Friday preceding the first regimental muster in each county, except in the counties hereafter provided for.

WM. BRADY,
 Speaker of the House of Representatives.
 R. C. FOSTER,
 Speaker of the Senate.

[NOTE.—In several instances, in the Militia law, the number of the section is omitted; and in the same act, the sections are erroneously numbered from No. 43 to the end of the act. In a number of other places it will be found to be inaccurate. In every instance it is according to the copy, not feeling ourselves authorised to make the corrections, except, occasionally, we have added a word, which, in every case, is enclosed in brackets, thus []

THE PRINTERS.

CHAPTER LXX.

AN ACT, to provide a court for the trial of causes in the supreme court, in cases wherein the present court are incompetent.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the governor of this State, when notified by the supreme court of errors and appeals that there are any causes depending before them which cannot be tried and determined by a competent number of the regular members of said court, to appoint persons skilled in the law, for the purpose of trying and determining said causes, in conjunction with such of the regular members of said court as may be competent to preside therein, or in case none of the regular members of said court may be competent to preside therein, then, and in that case, it shall be the duty of the said governor to appoint three persons skilled in the law, to try and determine such causes, and the decision of such special court, shall have the same effect as if it had been made by a competent number of the regular judges.

SEC. 2. *Be it enacted*, That it shall be the duty of the supreme court, to give such notification to the governor, at the beginning of each and every term, and it shall be the duty of the governor to make the appointment contemplated by the foregoing section, in the course of the term, during which he may receive the notification and it shall also be the duty of the persons specially appointed as aforesaid, to try and determine the causes which they are appointed to act in during the term at which they receive their appointment.

SEC. 3. *Be it enacted*, That the persons appointed under this act, shall receive for their services, five dollars for each and every day employed in the trial of said causes.

SEC. 4. *Be it enacted*, That the power hereby conferred on the Governor, is [not] confined to such causes of the above description as are now depending only but to remain and be exercised whenever causes may occur to render it necessary.

SEC. 5. *Be it enacted*, That the suit now depending and undetermined in the chancery court at Franklin, wherein Benjamin Sewell, executor of the last will and testament of Nancy Cherry de-

Governor to appoint special judges

Judges of supreme court to notify the governor.

Compensation

Limitation

Special case of Cherry's executor.

ceased, is complainant, and Daniel Cherry and others, executors of the last will and testament of Willie Cherry deceased, are defendants, be, and the same is, hereby transferred to the chancery court at Carthage, and the judge that shall hold said court at Carthage, shall have the same jurisdiction in and over said suit as fully and completely, as if the same had been originally commenced in said court, and shall grant all necessary rules and orders therein, and when the same is prepared for trial, shall determine and decree thereon as in other causes in said court.

Clerk's duty

SEC. 6. *Be it enacted*, That it shall be the duty of the clerk of said court at Franklin to transmit all the papers and documents in said cause in his office to the clerk of said court at Carthage, before the first term thereof.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed December 5, 1825.

CHAPTER LXXI.

AN ACT, to repeal some of the rules lately made and published by the supreme court of errors and appeals, regulating the practice in the courts of equity and court of appeals.

Eighth and ninth rules repealed

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the eighth and ninth rules, lately made and published by the supreme court of errors and appeals for the government of the practice in said court, and also, in the courts of equity in this State, be, and the same are hereby repealed.

Rules in full force

SEC. 2. *Be it enacted*, That any rules made by said supreme court at any time hereafter, shall not have the effect or the force of law until confirmed by this legislature.

Judge to envelope & seal the bill

SEC. 3. *Be it enacted*, That it shall be the duty of every judge of any of the courts of this state, upon granting an injunction and making a fiat to any of the clerks of the courts having equity jurisdiction to envelope the same and seal and certify the bill so enveloped and sealed, directed to the

clerk of the court to which said fiat is directed, which envelope, so sealed, shall be opened alone by the clerk or his deputy.

WM. BRADY,
Speaker of the House of Representatives
R. C. FOSTER,
Speaker of the Senate.

Passed December 5, 1825.

CHAPTER LXXII.

AN ACT, for the relief of soldiers and their heirs.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That any officer or soldier of the revolution and of the North Carolina line, or his rightful heir or heirs or rightful assignee or assignees of such officer or soldier or his heir or heirs, who shall claim any land or lands or any warrant for land, founded on his or hers or their ancestors services, in the revolution, or for the service or services of the assignor or of the ancestor of the assignor or assignors, for any lands entered by virtue of any warrant or warrants in any of the land offices of this State, which warrant or warrants were issued to the president and trustees of the University of North Carolina by the State of North Carolina, whether said warrant is entered in the name of and for the benefit of, the said University of North Carolina, or in the name of the assignee or assignees of said University, and he, she or they, shall file his, her, or their bill in equity in the court of equity of the county or district where the land lies for the recovery of the land held by virtue of the entry made on his, her, or their warrant aforesaid, or for the warrant or the value of the warrant or land, he, she, or they, by himself, his or their agent or attorney, upon making affidavit before the clerk and master of the court where said bill is filed that their witness or witnesses are aged or infirm by whom they expect to prove his, hers or their right to recover, it shall be the duty of the clerk to issue a commission to take the depositions of such witnesses, and said complainant may proceed to take the same upon leaving notice in the clerks office in writing of the

Manner of taking testimony in suit against President and Trustees

names of the witnesses and of the time and place of taking their testimony, a copy of which notice it shall be the duty of said clerk to transmit to the agent or attorney of the adverse party, which notice shall be filed thirty days previous to taking the depositions, which said depositions, when so taken shall be received as evidence by the court or [on] the hearing of the cause, as if the same had been taken agreeable to the rules of the courts of equity.

Chancellor to
make decree
for land or for
its value

SEC. 2. *Be it enacted*, That in any suit or suits now pending or hereafter to be brought, in any of our courts of chancery for the recovery of lands entered by virtue of warrants issued to the University of North Carolina, if the court or chancellor be of opinion that the complainant or complainants, is or are, the person or the heir or heirs of the officer or soldier for whose services the warrant was issued, or that complainant is the rightful assignee of such officer or soldier or his heirs, and that said complainant is entitled to recover, it shall be the duty of said court, or chancellor, to decree the land or warrant, as the case may be, to such complainant or complainants so sued for; *Provided nevertheless*, that if the land has passed by *bona fide* conveyance and payment of purchase money into the hands of an innocent purchaser without notice, the court may decree the value of the land at the time suit was brought, to be paid by the said president and trustees of the University of North Carolina, or the consideration money for which the same was sold with interest at the option of complainant.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 5, 1825.

CHAPTER LXXIII.

AN ACT, supplemental to an act, entitled "an act, to settle the claims of North Carolina and for the benefit of the occupants of the Western district," past at the present session of the General Assembly.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That William*

Gault, sen. of the county of Blount, William Ellis, College and academy land to be valued.
of the county of Sevier, Abraham Fine, Esq. of the county of Cocke, William Hill, of the county of Jefferson, and Wm. Montgomery, of the [county] of Knox be, and they are appointed, commissioners, whose duty it shall be, to go upon each separate tract of lands within their respective counties, chargeable with the payment of money for the use of colleges and academies, and to ascertain what portion of them may be of the third and last class, in point of value, considering all such lands to be of that class that would properly belong to it were all the lands in that section of country, chargeable with the payment of money to said institution properly arranged into three classes, according to their several grades of valuation; *Provided always*, that where said commissioners shall be sufficient[ly] acquainted with the quality with [of] any particular tract of land to enable him to determine whether it ought, or ought not, to belong to the third class, it shall not be necessary for him to go and examine the same.

SEC. 2. *Be it enacted*, That in order to enable said commissioners to discharge the duties required of them by this act, it shall be the duty of the Treasurer of East Tennessee to furnish each of said commissioners, when he is applied to for that purpose, with a transcript of all the names of persons who made entries in his county on lands that is chargeable with the payment of money to the colleges and academies [academies] together with the quantity of acres belonging to each tract, and also what other local description of said land that may be in his possession.

Valuing commissioners to be furnished with list of lands

SEC. 3. *Be it enacted*, That it shall be the duty of each of said commissioners, when examining said lands, to keep a record book in which they shall enter all those tracts of lands which they may adjudge to be of the third and last class, which said record book it shall be the duty of each of said commissioners, to deliver to the Treasurer of East Tennessee, so soon as they shall have finished the duties required of them by this act.

Commissioners to make record book of lands

SEC. 4. *Be it enacted*, That each of said commissioners, before they shall enter upon the duties of their appointment, shall, before some justice of the peace, take and subscribe the following oath; I, A. B. do solemnly swear or affirm, (as the case

Commissioners oath

may be) that I will honestly, faithfully and impartially, discharge all the duties required of me by this act, to the best of my skill and ability, so help me God.

Compensation
to commission-
ers

SEC. 5. *Be it enacted*, That so soon as each of said commissioners shall have finished the duties required of them by this act, and shall have made report thereof, delivering their record books to the said treasurer of East Tennessee, which they are hereby required to do on or before the first day of June, next, it shall be the duty of said Treasurer, to pay each of said commissioners the sum of one dollar and twenty five cents for each day they may have been necessarily engaged in the performance of their duty, to be paid out of the funds arising from the sale of one third part of the university land warrants, which, by an act of this general assembly, is to be applied to the use of the colleges, and the debt due said colleges by purchasers of said lands of the third class, shall be credited only for the amount received after paying said expenses; *Provided*, that before either of said commissioners shall receive compensation for their services, he shall make out an account upon oath, setting forth the number of days that he was necessarily engaged in the performance of said duties.

Governor to
fill vacancies

SEC. 6. *Be it enacted*, That if any of the persons hereby appointed commissioners shall die or refuse to act, it shall be the duty of the governor to fill the vacancy occasioned thereby.

Time of pay-
ment extend-
ed in redeem-
ing lands sold

SEC. 7. *Be it enacted*, That the citizens residing south of French Broad and Holston shall have to the first day of November, 1826, to redeem their lands that has been sold for the benefit of colleges and academies of this State, by paying interest on the respective sums that may be due; *Provided*, that the trustees of Cumberland and East Tennessee colleges, give their consent hereto in meeting to the treasurer of east Tennessee.

Kind of mo-
ney to be re-
ceived for cer-
tificates

SEC. 8. *Be it enacted*, That the register shall receive the notes of the bank of the State of Tennessee, the Nashville Bank and State Bank of Tennessee, in payment of said certificates, and such other bank paper as may be current.

Registers fees

SEC. 9. *Be it enacted*. That the register of the western district shall be entitled to receive six and one fourth cents for each certificate he may sell

and assign as provided for by an act passed at the present session, providing for the adjudication of the warrants of the university of North Carolina, and for other purposes, which said fee shall be paid to the said register by the person purchasing the same.

WM. BRADY,
Speaker of the House of Representatives.
R. C. FOSTER,
Speaker of the Senate.

Passed December 5, 1825.

CHAPTER LXXIV.

AN ACT, directing the disposal of Academy monies and of funding the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the treasurers of east and west Tennessee to deposit all and any academy monies by them collected in the bank of the State of Tennessee and its branch bank at Knoxville, (that is) such proportion as will be coming to the academies of the counties of West Tennessee in the bank at Nashville, and such portion as belongs to the counties or academies of East Tennessee into the branch bank at Knoxville, and take the receipt of the officers of said bank and branch therefor, and any monies they may collect hereafter for the use of the county academies of this State, shall, in like manner, be deposited and in the same proportion.

Academy
money to be de-
posited in the
Bank of the
State of Ten-
nessee.

SEC. 2. *Be it enacted*, That the said bank and its branch, shall twice a year on the first of January and July or at any time thereafter, pay to the trustees of the county academies, established by law, as the academy for the county upon their application therefor, the interest that may or would accrue at the rate of six per cent. on their equal proportion of the whole sum of academy money so deposited, each county in the State being entitled, to as large a portion as any other county: *Provided*, that the treasurers aforesaid shall file in the banks aforesaid, a statement of the amount of money paid over to the trustees of academies in the different counties previous to the year 1819:

Academies
to receive the
interest.

What acad-
emies not to
receive a divi-
dend, &c.

And provided, also, that those academies that had received money previous to that time, shall not receive any dividend until all the counties existing previous to said year, shall have received an amount equal thereto: And provided, further, that all counties that have been established since the year aforesaid, shall be entitled to an equal dividend of the interest that may have accrued on academy monies since that time, and no county that may have received a dividend of the interest which may have arisen since the aforesaid period of 1819, shall be entitled to receive any further dividend of such interest, until all the counties shall have received an amount equal thereto.

Where no
academies are
established.

SEC. 3. Be it enacted, That any counties in this State, that shall have no academy and trustees thereof established by law, and for want thereof, be unable to draw the monies due the said county academies under the provisions of this act, it shall be the duty of the cashier of the said bank and its branch, and the directors thereof to open an account for said county or counties and pass to the credit of said county or counties the interest so accrued at the end of each six months, which shall belong to such county or counties, and be paid to them at any time thereafter when it or they shall be entitled thereto as by this act directed.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 5, 1825.

CHAPTER LXXV.

AN ACT, regulating the fees of Justices of the Peace, and for other purposes.

Be it enacted by the General Assembly of the State of Tennessee, That the justices of the peace in the several counties in this State, shall receive for granting attachments and taking bail bond, one dollar; for taking, enclosing and returning affidavits or depositions, one dollar; for taking appeal bonds, fifty cents; and the chairman of the county court twenty-five cents, for each certificate he shall make as chairman of said court for the purpose of

authenticating records and other instruments of writing, payable at the time the services are rendered; Provided, that if the plaintiff recover he shall have judgment for the sums of cost which he may have expended under the provisions of this act.

WM. BRADY,

Speaker of the House of Representatives.

R. C. FOSTER,

Speaker of the Senate.

Passed December 5, 1825.

CHAPTER LXXVI.

AN ACT, to apportion the moneys arising from the entering of the vacant land north and east of the Congressional line.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That the monies heretofore paid over to the president and directors of the Bank of the State of Tennessee, from the entering of the poor land, known by the ninepence land, and all which may hereafter be paid over, shall, by the president and directors of said bank, be apportioned amongst the different counties in this State, agreeable to the free taxable inhabitants of each.

Monies dis-
tributed by
population.

SEC. 2. Be it enacted, That the different agents in each and every county, shall pay over the interest accruing on the school fund, to the commissioners of said fund in each county, semi-annually, and take their receipts, which shall be a good voucher in the settlement of his accounts with the Principal or Branch Bank, as the case may be.

Agents to
pay over to
school com-
missioners.

SEC. 3. Be it enacted, That the tax heretofore collected and which may hereafter be collected, on the land mentioned in the first section of this act, shall be paid over as now directed by law and loaned out by the president and directors of the Bank of the State of Tennessee in the different counties in this State, agreeable to the number of free taxable inhabitants of each.

Tax money,
how loaned.

SEC. 4. Be it enacted, That so much of the act passed 1823, entitled "an act to establish offices for receiving of entries for the vacant and unappropriated land in the several counties in this State, lying north and east of the Congressional reserva-

Repealing.