

THE
REVISED CODE

OF THE
DISTRICT OF COLUMBIA.

1857.

Note: #12 on DC Code microfilm

THE
REVISED CODE

OF THE

DISTRICT OF COLUMBIA,

PREPARED

UNDER THE AUTHORITY OF THE ACT OF CONGRESS,

U.S. Laws, statutes, etc.

ENTITLED

"AN ACT TO IMPROVE THE LAWS OF THE DISTRICT OF COLUMBIA,
AND TO CODIFY THE SAME," APPROVED MARCH 3, 1855.

WASHINGTON:

A. O. T. NICHOLSON, PUBLIC PRINTER.

1857

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NOTE.

THE undersigned, commissioners appointed by virtue of "An act to improve the laws of the District of Columbia, and to codify the same," approved March 3, 1855, herewith submit the result of their labors. The framer of that act was the HON. HENRY MAY, formerly a citizen of this District, who, from an extensive practice in our courts, was made fully aware of the evils, from which it was intended by that law to relieve us. The people of this District will, in a great degree, be indebted to the exertions of that gentleman for any benefits which may result to them from this Code.

The commissioners were required "to revise, simplify, digest, and codify the laws of said District, and also the rules and principles of practice, of pleadings, of evidence, and conveyancing." The Code itself is the best commentary on the manner in which that duty has been discharged. The laws which it was made their duty "to revise and simplify," consisted, in the language of the Maryland declaration of rights, of such of the English statutes as existed at the time of the first emigration to Maryland, and "which by experience have been found applicable to local and other circumstances, and of such others as have been since made in England or Great Britain, and have been introduced, used, and practised by the courts of law and equity;" also of the declaration of rights, constitution, and statutes of Maryland, passed prior to the 27th day of February, 1801, as modified by the constitution and laws of the United States.

Our statute law thus flowing from three distinct sources, is almost necessarily inconsistent in many of its parts. Much of it is also obsolete. Much of it is disfigured by the prejudices of a past age. In many cases, the circumstances that called forth the statute have since passed away, or been materially changed. But perhaps the best founded complaint of all is the entire absence of any statutory provisions in relation to matters which, in the progress of time and development of society, have been made the subjects of legislation in almost every other civilized community.

Deeply impressed with these views, the commissioners have endeavored, in the preparation of this Code, to give to the people of this District the benefit of provisions which, in many cases, have even been adopted by those from whom we have derived our present system. In no instance where there has been a departure from former law has any principle or provision been introduced which has not the sanction of modern, and, as we believe, enlightened legislation.

The law of March 3, 1855, required that this Code should be approved by a majority of the board appointed to consider the same. The members of that board have certified to the President of the United States that they have considered the provisions thereof, and do unanimously approve the same. In further pursuance of said law, it is now submitted to the people of this District for their consideration.

ROBT. OULD,
WM. B. B. CROSS.

WASHINGTON CITY,
November, 1857.

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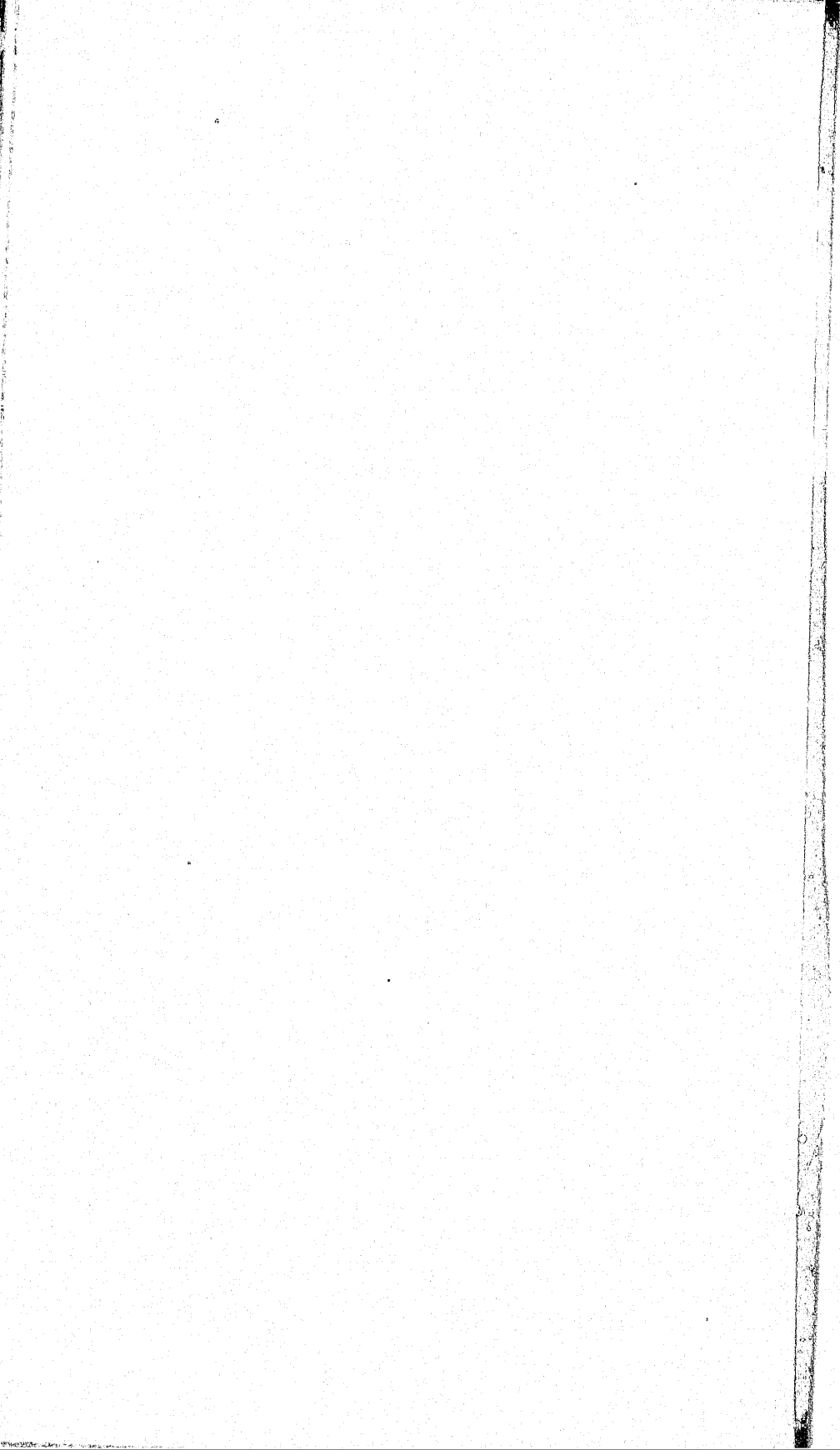
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DECLARATION OF INDEPENDENCE.

JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF
AMERICA IN CONGRESS ASSEMBLED.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter

their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise—the State remaining, in the meantime, exposed to all the dangers of invasion from without and convulsions within.

He has endeavored to prevent the population of these States—for that purpose obstructing the laws of naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws—giving his assent to their acts of pretended legislation—

For quartering large bodies of armed troops among us ;

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States ;

For cutting off our trade with all parts of the world ;

For imposing taxes on us without our consent ;

For depriving us, in many cases, of the benefits of trial by jury ;

For transporting us beyond seas to be tried for pretended offences ;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies ;

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments ;

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these Colonies, solemnly publish and declare that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connexion between them and the State of Great Britain is, and ought to be, totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

John Hancock,	Oliver Wolcott,
Samuel Adams,	Samuel Chase,
John Adams,	William Paca,
Robert Treat Paine,	Thomas Stone,
Elbridge Gerry,	Charles Carroll, of Carrollton,
Josiah Bartlett,	William Floyd,
William Whipple,	Philip Livingston,
Matthew Thornton,	Francis Lewis,
Stephen Hopkins,	Lewis Morris,
William Ellery,	George Wythe,
Cesar Rodney,	Richard Henry Lee,
George Read,	Thomas Jefferson,
Thomas M'Kean,	Benjamin Harrison,
Roger Sherman,	Thomas Nelson, jr.,
Samuel Huntington,	Francis Lightfoot Lee,

William Williams,
Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark,
William Hooper,
Joseph Hewes,
John Penn,
Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton.

Carter Braxton,
George Clymer,
James Smithe,
George Taylor,
James Wilson,
George Ross,
Edward Rutledge,
Thomas Heyward, jr.,
Thomas Lynch, jr.,
Arthur Middleton,
Button Gwinnett,
Lyman Hall,
George Walton.

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ARTICLES OF CONFEDERATION.

IN CONGRESS, JULY 9, 1778.

ARTICLES OF CONFEDERATION AND PERPETUAL UNION

Between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I.

The style of this Confederacy shall be, "THE UNITED STATES OF AMERICA."

ARTICLE II.

Each State retains its sovereignty, freedom and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ARTICLE III.

The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV.

SECTION 1. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and com-

merce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided, that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided, also, that no impositions, duties or restrictions, shall be laid by any State on the property of the United States, or either of them.

SEC. 2. If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

SEC. 3. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ARTICLE V.

SECTION 1. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

SEC. 2. No State shall be represented in Congress by less than two, nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

SEC. 3. Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of these States.

SEC. 4. In determining questions in the United States in Congress assembled, each State shall have one vote.

SEC. 5. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress, and the members of Congress shall be protected in their persons from

arrests and imprisonments during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

ARTICLE VI.

SECTION 1. No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty, with any king, prince, or State, nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

SEC. 2. No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

SEC. 3. No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or State, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

SEC. 4. No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States in Congress assembled, for the defence of such State, or its trade: nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

SEC. 5. No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State,

and the danger is so imminent as not to admit of delay till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or State, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ARTICLE VII.

When land forces are raised by any State for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each State, respectively, by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ARTICLE VIII.

All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States within the time agreed upon by the United States in Congress assembled.

ARTICLE IX.

SECTION 1. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article, of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are sub-

jected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding in all cases what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures; provided, that no member of Congress shall be appointed a judge of any of the said courts.

SEC. 2. The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or, being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final.

and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress, for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

SEC. 3. All controversies concerning the private right of soil claimed under different grants of two or more States whose jurisdiction, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

SEC. 4. The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States: provided, that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

SEC. 5. The United States in Congress assembled, shall have au-

thority to appoint a committee to sit in the recess of Congress, to be denominated "*A committee of the States,*" and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside: provided, that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled; but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

SEC. 6. The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor

appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same; nor shall a question on any other point, except for adjournment from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

SEC. 7. The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ARTICLE X.

The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with: provided, that no power be delegated to the said committee, for the exercise of which, by the Articles of Confederation, the voice of nine States, in the Congress of the United States assembled, is requisite.

ARTICLE XI.

Canada acceding to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ARTICLE XII.

All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be

deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ARTICLE XIII.

Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this Confederation are submitted to them. And the articles of this Confederation shall be inviolably observed by every State, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

AND WHEREAS, It hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of and to authorize us to ratify the said Articles of Confederation and Perpetual Union,

Know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the union shall be perpetual. In witness, whereof, we have hereunto set our hands in Congress.

Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

On the part and behalf of the State of New Hampshire.—Josiah Bartlett, John Wentworth, Jun., (August 8, 1778.)

On the part and behalf of the State of Massachusetts Bay.—John Hancock, Samuel Adams, Elbridge Gerry, Francis Dana, James Lovell, Samuel Holten.

On the part and behalf of the State of Rhode Island and Providence Plantations.—William Ellery, Henry Marchant, John Collins.

On the part and behalf of the State of Connecticut.—Roger Sherman, Samuel Huntington, Oliver Wolcott, Titus Hosmer, Andrew Adams.

On the part and in behalf of the State of New York.—James Duane, Francis Lewis, William Duer, Gouv. Morris.

On the part and behalf of the State of New Jersey.—John Witherspoon, Nath. Scudder, (November 26, 1778.)

On the part and behalf of the State of Pennsylvania.—Robert Morris, Daniel Roberdeau, Jona. Bayard Smith, William Clingan, Joseph Reed, (July 22, 1778.)

On the part and behalf of the State of Delaware.—Thomas M'Kean, (February 12, 1779,) John Dickinson, (May 5, 1779,) Nicholas Van Dyke.

On the part and behalf of the State of Maryland.—John Hanson, (March 1, 1781,) Daniel Carroll, (March 1, 1781.)

On the part and behalf of the State of Virginia.—Richard Henry Lee, John Banister, Thomas Adams, Jno. Harvie, Francis Lightfoot Lee.

On the part and behalf of the State of North Carolina.—John Penn, (July 21, 1778,) Corns. Harnett, Jno. Williams.

On the part and behalf of the State of South Carolina.—Henry Laurens, William Henry Drayton, Jno. Mathews, Richard Hutson, Thos. Heyward, Jun.

On the part and behalf of the State of Georgia.—Jno. Walton, (July 24, 1778,) Edwd. Telfair, Edward Langworthy.

CONSTITUTION
OF THE
UNITED STATES OF AMERICA,
WITH THE AMENDMENTS THERETO.

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

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SEC. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one

representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

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

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

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

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

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

The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice President, or when he shall exercise the office of President of the United States.

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

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

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

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

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

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

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

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

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

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments

whereof shall have been increased, during such time ; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

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

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

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

Sec. 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises, shall be uniform throughout the United States ;

To borrow money on the credit of the United States ;

To regulate commerce with foreign nations and among the several States, and with the Indian tribes ;

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

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

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

To establish post offices and post roads ;

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

To constitute tribunals inferior to the Supreme Court ;

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

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

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

To provide and maintain a navy ;

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

To provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions ;

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

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

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

Sec. 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year eighteen hundred and

eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

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

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

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

No tax or duty shall be laid on articles exported from any State.

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

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

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

SEC. 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

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

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

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.*

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

*This clause of the Constitution has been amended. See article xii of Amendments.

No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

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

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

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

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

Sec. 2. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Con-

gress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.

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

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

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

ARTICLE III.

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

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

In all cases affecting ambassadors, public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

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

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

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

ARTICLE IV.

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

SEC. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

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

SEC. 3. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

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

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

ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as a part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

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

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound

thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

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

GEO. WASHINGTON,
President, and Deputy from Virginia.

NEW HAMPSHIRE.

John Langdon,
Nicholas Gilman.

MASSACHUSETTS.

Nathaniel Gorham,
Rufus King.

CONNECTICUT.

William Samuel Johnson,
Roger Sherman.

NEW YORK.

Alexander Hamilton.

NEW JERSEY.

William Livingston,
David Brearley,
William Paterson,
Jonathan Dayton.

PENNSYLVANIA.

B. Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouv. Morris.

DELAWARE.

Geo. Read,
Gunning Bedford, jun.,
John Dickinson,
Richard Bassett,
Jacob Broom.

MARYLAND.

James McHenry,
Dan. of St. Thomas Jenifer,
Daniel Carroll.

VIRGINIA.

John Blair,
James Madison, jun.,

NORTH CAROLINA.

William Blount,
Rich'd Dobbs Spaight,
Hu. Williamson,

SOUTH CAROLINA.

J. Rutledge,
Charles Coatsworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.

William Few,
Abr. Baldwin.

Attest:

WILLIAM JACKSON, *Secretary.*

AMENDMENTS TO THE CONSTITUTION.

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF
THE UNITED STATES, RATIFIED BY THE LEGISLATURES OF THE
SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF
THE ORIGINAL CONSTITUTION.

ARTICLE I.

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

ARTICLE II.

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

ARTICLE III.

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

ARTICLE IV.

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

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy

of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

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

ARTICLE VII.

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

ARTICLE VIII.

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

ARTICLE IX.

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

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

ARTICLE XI.

The judicial power of the United State shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

The electors shall meet in their respective States, and vote by ballots for President and Vice President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representative shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March then next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice President; a quorum for that purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President, shall be eligible to that of Vice President of the United States.

DISTRICT OF COLUMBIA.

AN ACT

FOR REVISING, SIMPLIFYING, DIGESTING, AND CODIFYING THE
LAWS OF THE DISTRICT OF COLUMBIA.

WHEREAS it is expedient that the laws of the District of Columbia should be arranged in appropriate titles, chapters, and sections; that omissions and defects therein should be supplied and amended; and that the whole, rendered concise, plain, and intelligible, should be established and known as the Revised Code of the District of Columbia:

THEREFORE,

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, in manner following, that is to say:

PART I.

OF THE INTERNAL ADMINISTRATION OF THE GOVERNMENT.

TITLE I.

Of the jurisdiction of Congress; of statutes and rules of
decision.

CHAPTER 1. Of the jurisdiction of Congress.

CHAPTER 2. Of statutes and rules of decision.

CHAPTER 1.

OF THE JURISDICTION OF CONGRESS.

SECTION

1. Jurisdiction of Congress.

SECTION

2. The District to be included in one county.

SECTION 1. The jurisdiction of Congress shall extend to all places within the boundaries of the District of Columbia, being that territory ceded by the State of Maryland to the United States, by an act entitled "An act concerning the territory of Columbia and the City of Washington," passed 19th December, 1791.

SEC. 2. The District of Columbia shall be included within one county, to be named the County of Washington. The Potomac river, together with the islands therein, in its whole course through said District, shall be taken and deemed to all intents and purposes to be within the said county of Washington.

CHAPTER 2.

SECTION

1. Acts of incorporation to be deemed public acts.
2. Printed copies of statutes to be received as evidence.

SECTION

3. Rules for construing statutes.
4. The common law.

SECTION 1. All acts of incorporation shall be deemed public acts.

SEC. 2. The laws of the District of Columbia, printed and published under the authority of Congress, shall be received as evidence in the courts of this District, and in all the tribunals and public offices of the United States, for any purpose for which the original acts could be received, and with as much effect.

CONSTRUCTION OF STATUTES.

SEC. 3. In the construction of all statutes, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of Congress, or repugnant to the context of the same statute—that is to say:

First. Every word importing the singular number only, may extend and be applied to several persons or things, as well as to one person or thing; and every word importing the plural number only, may be applied to one person or thing, as well as to several persons and things; and a word importing the masculine gender only, may extend and be applied to females; and the word "person" may extend and be applied to bodies politic and corporate as well as to individuals.

Second. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

Third. Words purporting to give a joint authority to three or more public officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons, unless it be otherwise expressly declared in the law giving the authority.

Fourth. The words "insane person" shall be construed to include every person who is an idiot, lunatic, non-compos, or deranged.

Fifth. The word "land" or "lands," and the words "real estate" or "real property," shall be construed to include lands, tenements, and hereditaments, and all rights thereto and interest therein, other than a chattel interest; and the words "personal estate" or "personal property" shall include chattels real, and such other estate as, upon the death of the owner intestate, would devolve upon his administrator.

Sixth. The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath; and in like cases the word "swear" shall be construed to include the word "affirm."

Seventh. The word "written" and the words "in writing" shall be construed to include printing, engraving, lithographing, and any other mode of representing words and letters; provided, however, that in all cases where the written signature of any person is required by law, it shall always be the proper handwriting of such person, or, in case he is unable write, his proper mark.

Eighth. Unless otherwise expressed, the word "month" shall be construed to mean a calendar month, and the word "year," a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord."

Ninth. The word "State," when applied to a part of the United States, shall be construed to extend to and include the District of Columbia, and the several Territories so called; and the words "United States" shall be construed to include the said District and Territories.

Tenth. The word "justice" or "justices" shall be construed as if the words "of the peace" followed them.

Eleventh. The words "this District" shall be construed to be equivalent to "the District of Columbia."

Twelfth. The word "marshal" shall be construed to mean the marshal of the District of Columbia, or any other person authorized to perform his duties in any case.

Thirteenth. The words "preceding" and "following," when used by way of reference to any section of this Revised Code, shall be construed to mean the section next preceding, or next following, that in which such reference is made, unless when some other section is expressly designated in such reference.

Fourteenth. Where a statute requires a notice to be given, or any other act to be done, a certain time before any motion or proceeding, there must be that time, exclusive of the day for such motion or proceeding; but the day on which such notice is given, or such act is done, may be counted as part of the time.

Fifteenth. In cases where the seal of any court or public office shall be required to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to include an impression of such official seal made upon the paper alone, as well as an impression made by means of a wafer, or of wax, affixed thereto. And in any case in which the seal of any natural person shall be required to a paper, it shall be sufficient for such person to affix to such paper a scroll by way of seal.

SEC. 4. The common law of England, and the principles of equity jurisprudence, so far as the same are not repugnant to the constitution of the United States, shall continue in force in this District, and be the rule of decision, except in those respects wherein the same are or may be altered by Congress.

TITLE II.

Of offices.

CHAPTER 3. Of appointment to office.

CHAPTER 4. Of the disabilities to hold office.

CHAPTER 5. Of vacancies.

CHAPTER 6. Of oaths and official bonds.

CHAPTER 3.

OF APPOINTMENT TO OFFICE.

SECTION 1. The President of the United States shall nominate, and by and with the advice and consent of the Senate of the United States, appoint all civil and military officers under the laws of this District, unless a different mode of appointment be prescribed by the law creating the office; and all such officers, not holding their commission during good behavior, may be suspended or removed by him.

CHAPTER 4.

OF THE DISABILITIES TO HOLD OFFICE.

SECTION

1. Judges not to hold any other office.
2. Residence of six months necessary for an appointment.

SECTION

3. Any officer receiving the profits of another office, to be disqualified.
4. Any person giving or receiving a bribe, to be disqualified from holding office.

SECTION 1. No judge shall hold any other office, civil or military, so long as he continues to act as such.

SEC. 2. No person shall be appointed to any civil office within this District under the laws thereof, unless he shall have been a resident therein six months next preceding the appointment, and shall be a citizen of the United States.

SEC. 3. If any civil officer shall receive, directly or indirectly, at any time during the period for which he was appointed, the profits, or any part of the profits of any office held by any other person, his appointment and commission shall be void, and the person so offending shall be disqualified forever afterwards from holding any office of trust or profit.

SEC. 4. If any person shall give any bribe or reward, or any promise, or any security for the payment or delivery of any money or any other thing, to be appointed to any office of profit, both the person giving and the person receiving the same, upon conviction thereof, shall be forever disqualified from holding any office of profit or trust under the laws of this District.

CHAPTER 5.

OF VACANCIES IN OFFICE.

SECTION

1. } When offices become vacant.
2. }

SECTION

3. The circuit court may declare them vacant.

SECTION 1. Every office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

1. The death of the incumbent;
2. His resignation;

3. His removal ;
4. His ceasing to be a resident of this District ;
5. His conviction of any infamous crime, or of any offence involving a violation of his official oath ;
6. His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit such oath or bond within the time prescribed by law ;
7. The decision of a competent tribunal declaring void his appointment or election.

SEC. 2. If any person holding office shall charge and collect larger fees, for services rendered in his office, than are authorized by law, his office shall become vacant.

SEC. 3. The circuit court shall have jurisdiction of all cases arising under this chapter, and may declare when vacancies in office exist.

CHAPTER 6.

OF OATHS AND OFFICIAL BONDS.

SECTION

1. Oath of office.
1. By whom oaths of office are to be administered.
3. Where the fact that the oaths have been taken is recorded.
4. Oaths of deputies.
5. When solemn affirmation may be taken instead of an oath.
6. } Official bonds, where filed.
7. }
8. Approval of official bond to be endorsed thereon.
9. Official bonds not to be filed until approved.
10. Official bonds to be filed within ten days.
11. Penalty for exercising office, without filing oath and bond.
12. Official bonds to be safely kept and copies given.
13. Official bonds to be joint and several, and payable to United States.
14. } Extent and nature of liability on official
15. } bonds.
16. }

SECTION

17. Several recoveries may be had on official bonds.
18. Official bond not to be void, although informal or defective.
19. Certified copies of official bonds to be evidence.
20. } Proceedings where official bond becomes
21. } insufficient.
22. }
23. Original bond not to be discharged.
24. Sureties may recover of each other.
25. Proceedings where surety wishes to discharge himself from further liability.
26. Official bonds to have at least two sureties.
27. How sureties in an official bond may be relieved.
28. Upon new bond being given, sureties to be relieved from further liability.
29. Officer failing to give new bond, his office to be vacant.
30. Certain sections to apply to executors, administrators, and guardians.

SECTION 1. Every person chosen or appointed to any office of trust or profit under the laws of this District, shall, before entering upon the duties of such office, take an oath before some person lawfully authorized to administer it, that he will support the constitution of the United States, and that he will faithfully perform the duties of his office to the best of his skill and judgment.

SEC. 2. The oath to be taken by any person chosen or appointed to any office, shall, except in the cases where it may be otherwise directed by law, be administered in a court of record, or by some judge of such a court.

SEC. 3. When a person elected or appointed to any office takes the oath required of him in a court of record, a transcript from the record of the court, stating that such an oath had been taken, and when he takes the oath before any judge of a court of record, a certificate of the person administering the same, stating the fact that such an oath had been taken, shall be obtained by the person taking the same, and be by him delivered for record in the office of the clerk of the court to which such officer may belong, or by which he may be appointed. In the case of an officer not otherwise provided for, the transcript or certificate aforesaid shall be delivered for record, and be recorded in the office of the clerk of the circuit court.

SEC. 4. Whenever an officer is authorized or required to appoint a deputy, such deputy, before he shall proceed to act as such, shall take the same oath, and deliver for record the transcript or certificate thereof, in the same office where his principal is required to deposit his oath.

SEC. 5. If any person required to take an oath shall declare that he has religious scruples as to the propriety of taking it, he may make a solemn affirmation, which shall in all respects have the same effect as an oath.

OFFICIAL BONDS.

SEC. 6. Every officer, except the clerks of the circuit, district, and criminal courts, and register of wills, of whom an official bond is required by law, shall file such bond in the same office in which he is required to deliver for record the transcript or certificate of his official oath as aforesaid.

SEC. 7. The official bonds of the clerks of the district and criminal courts, and the register of wills, shall be filed in the office of the

clerk of the circuit court; and the official bond of the clerk of the circuit court shall be filed in the office of the recorder for this District.

Sec. 8. The approval of every official bond shall be endorsed thereon, and signed by the court or officer approving the same.

Sec. 9. No officer, with whom an official bond is required to be filed, shall file and take charge of such bond, until approved as prescribed by law.

Sec. 10. It shall be the duty of every officer of whom an official oath or bond is required, to file his oath or bond in the manner prescribed by law, within ten days after the commencement of his term of office and receipt of his commission or certificate.

Sec. 11. If any person appointed to any office shall perform any of the duties thereof without having filed in the proper office the oath and bond required of him by law, he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not exceeding five hundred dollars, and his office be declared vacant.

Sec. 12. It shall be the duty of every officer with whom an official bond shall be filed, carefully to record, keep, and preserve the same, and give certified copies thereof, sealed with the seal of his office, to any person demanding the same, upon being paid the same fees as are allowed by law for certified copies of papers in other cases.

Sec. 13. All official bonds, required by law of officers, shall be in form joint and several, and made payable to the United States, in such penalty and with such conditions as shall be required by law.

Sec. 14. Every official bond, executed by any officer pursuant to law, shall be deemed and taken to be in force, and obligatory upon the principal and sureties therein, for any and all breaches of the condition or conditions thereof, committed during the time such officer shall continue to discharge any of the duties, or hold such office.

Sec. 15. Every such bond shall be deemed to be in force and obligatory upon the principal and sureties therein, for the faithful discharge of all the duties which may be required of such officer by any law enacted subsequently to the execution of such bond.

Sec. 16. Every official bond, executed by any officer pursuant to law, shall be in force and obligatory upon the principal and sureties therein, to and for the United States, and to and for the use and benefit of all persons who may be injured by the wrongful act or

default of such officer in his official capacity; and any person so injured or aggrieved may bring suit on such bond in his own name, without an assignment thereof.

SEC. 17. No official bond shall be void on a first recovery, but suits may be instituted thereon, from time to time, until the penalty thereof is exhausted.

SEC. 18. No official bond shall be void because of defects in form, or in the approval or filing thereof; but upon the suggestion of such defects, such bond shall be obligatory as if properly executed, filed, and approved.

SEC. 19. A copy of any official bond, certified to be correct by the officer having the custody thereof, shall be received as evidence, in like manner as the original.

SEC. 20. Whenever the sureties in an official bond, or any one of them, shall remove from this District, become insolvent or insufficient, or the penalty of such bond shall become insufficient on account of recoveries had thereon, or otherwise, it shall be the duty of the circuit court, of their own motion, or on the showing of any person supported by affidavit, to summon any such officer to appear before said court, at a time stated, and show cause why he should not execute an additional official bond, with good and sufficient sureties.

SEC. 21. Should such officer, after due notice, fail to appear at the time appointed, the matter may be heard and determined in his absence. If the said court shall be of opinion, after examination, that the bond of such officer has become insufficient from any of the causes enumerated in the preceding section, said court shall require a further bond, with such security as may be deemed necessary, to be executed and filed within such time as may be ordered.

SEC. 22. Such additional bond shall be in such penalty as shall be directed by said court, and shall be approved and filed as is provided in the case of the original bond. Every such additional bond, filed and approved as aforesaid, shall be of like force and obligation upon the principal and sureties therein from the time of its execution, and shall subject the officer and his sureties to the same liabilities, suits, and actions as are prescribed respecting the original bonds of officers.

SEC. 23. In no case provided in the preceding sections of this chapter shall the original be discharged or affected when additional bond has been given, as herein required, but the same shall remain

of like force and obligation, as if such additional bond had not been given.

SEC. 24. Whenever the sureties in either bond shall have been compelled to pay any sum of money on account of the principal obligor therein, they shall be entitled to recover of the sureties in the remaining bond, a distributive part of the sum thus paid, not exceeding the penalty of the bond by which such sureties are bound.

SEC. 25. Whenever any sureties for an officer wish to be discharged from their liability, they and such officer may procure the same to be done, if such officer will file a new bond, with sufficient sureties, in like form and penalty and with like conditions as the original bond of said officer, to be approved and filed as such original bond. Upon the approval and filing of such new bond, such first sureties shall be exonerated from all further liability, but their bond shall remain in full force as to all liabilities incurred previous to the approval and filing of such new bond. The liability of the sureties in such new bond shall in all respects be the same, and may be enforced in like manner as the liability of the sureties in the original bond.

SEC. 26. Unless otherwise expressly provided, there shall be at least two sureties upon the official bond of every officer.

SEC. 27. When any surety in an official bond, or the heirs, executors, or administrators of such surety, shall petition the circuit court to be discharged from such bond, the said court shall cause the officer to be served with an attested copy of such petition, and shall require him to give a new bond, at such time as may be ordered, in the same manner as if none had been given by him.

SEC. 28. Upon such new bond being given, approved and filed according to law, the sureties in the former bond and their estates shall be discharged from all liability for any breach of duty committed by such officer after that time.

SEC. 29. If any such officer, being so required, shall fail to give such new or additional bond within the time required by said circuit court, he shall be deemed to have been guilty of a breach of official duty, and his office shall be declared vacant.

SEC. 30. The provisions of this chapter, from the twentieth section to the twenty-ninth section, both inclusive, shall apply to the bonds of executors, administrators, and guardians; and the orphans' court, as to such bonds, shall have and exercise the jurisdiction and authority conferred upon the circuit court therein.

TITLE III.

Of fines.

CHAPTER 7.

OF FINES.

SECTION

1. Fines to be for the use of the United States.
2. Jurisdiction of justices in cases of fines.
3. Constable to pay fine over to marshal.
4. Justices to make a return to clerk of criminal court.
5. District attorney to issue executions.
6. Marshal to pay over fines for the benefit of public schools.

SECTION

7. Clerk of criminal court to report fines to corporations and levy court.
8. When informer responsible for costs.
9. Certain sections to apply to forfeited recognizances.
10. When justices have jurisdiction.

SECTION 1. Where any statute imposes a fine, unless it shall be otherwise provided, it shall go to the United States.

SEC. 2. Justices of the peace shall have jurisdiction for the recovery of fines imposed by the laws of this District only where the same is expressly conferred.

SEC. 3. When any fine imposed by the laws of this District is collected by any constable, so much thereof as accrues to the United States shall be paid over to the marshal, and the remainder, if any, with the costs, shall be paid over to the parties entitled thereto.

SEC. 4. Each justice of the peace shall, on the first Monday in January and July of every year, return to the clerk of the criminal court a list of fines imposed by him, and the proceedings had thereon. If any justice shall violate the provisions of this section, he shall forfeit one hundred dollars.

SEC. 5. It shall be the duty of the district attorney to issue execution for the recovery of fines, with the costs thereon, imposed by the criminal court. It shall also be his duty to cause all delinquencies in relation to the service or return of any execution to be duly prosecuted.

SEC. 6. So much of any fine collected or received by the marshal, as accrues to the United States, shall be paid over by him for the benefit of public schools within this District, and the remainder, if any there be, with the costs, shall be paid over by him to the parties

entitled thereto. Such payments for the benefit of public schools shall be made by the marshal at least once in every six months to the mayors of Washington city and Georgetown, and the president of the levy court, in the proportion of the number of scholars in the public schools within their respective jurisdictions.

SEC. 7. The clerk of the criminal court shall annually, on the first Monday of March, transmit to the corporations of Washington City and Georgetown, and the levy court, a list of all fines imposed by the criminal court, or by any justice of the peace, during the year preceding, where the fine accrued wholly or in part to the United States. With such list of fines there shall also be stated the several sums of money accruing to the United States, and the several sums of money returned as collected or acknowledged to be received by the marshal on the same. The said clerk shall also state whether execution hath been issued upon such fines, and if so, when; and if any return be made, the nature thereof. For making out each of said lists, the said clerk shall receive two dollars, to be paid out of such fund.

SEC. 8. If any informer, to whom by law a fine wholly or in part accrues, shall fail to recover in any prosecution for a fine, such informer alone shall be liable for costs and fees. If, however, such informer be an officer, whose duty it is to commence such prosecution, and the judge of the criminal court, or justice of the peace, as the case may be, shall certify there was reasonable ground for the same, he shall not be so liable.

SEC. 9. The provisions of sections five, six, and seven of this chapter shall apply to forfeited recognizances in criminal proceedings as well as to fines.

SEC. 10. When any fine or forfeiture accrues wholly to any other party than the United States, a civil action may be maintained for the same by such party, and at his cost. If any such fine or forfeiture be less than one hundred dollars, justices of the peace may have jurisdiction as in civil cases.

TITLE IV.

Of certain officers and fees.

CHAPTER 8. Of certain officers.

CHAPTER 9. Of fees of officers.

CHAPTER 8.

OF CERTAIN OFFICERS.

SECTION

DISTRICT ATTORNEY.

1. Duties of the district attorney.
2. Tenure of his office.
3. Not to receive any fee from prosecutors.

MARSHAL.

4. Tenure of office of marshal.
5. His duty to attend certain courts.
6. May appoint deputies, removable by the judges.
7. Marshal to give bond.
8. Do. to take an oath.
9. Do. to have custody of the jail and prisoners.
10. In case of the death of the marshal, deputies to serve process.
11. Marshal to execute process in his hands when removed, or when his term of office shall have expired.
12. Marshal to be a conservator of the peace.
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26. Official papers to be filed by marshal.
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38. } The powers of notaries.
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- 48. Penalty on notary for misconduct.
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- 80. } out by the recorder.
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- 86. Surveyor to take an oath and give bond.
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DISTRICT ATTORNEY.

SECTION 1. There shall be an attorney of the United States for this District, who shall be sworn to the faithful execution of his office, and whose duty it shall be to prosecute in this District all delinquents for crimes and offences cognizable under the authority of the United

States and the laws of this District, and all civil actions in which the United States shall be concerned, except before the Supreme Court of the United States.

SEC. 2. The district attorney shall be appointed for the term of four years, but shall be removable from office at the pleasure of the President of the United States.

SEC. 3. The district attorney shall not receive any fee or reward from, or in behalf of, any prosecutor, for services in any prosecution or business, in which it shall be his official duty to attend.

MARSHAL.

SEC. 4. There shall be a marshal of the United States for this District, who shall be appointed for four years, but shall be removable from office at the pleasure of the President of the United States.

SEC. 5. It shall be the duty of the marshal to attend the circuit, district, criminal, and orphans' courts of this District, and also the Supreme Court of the United States, when sitting therein.

SEC. 6. The marshal may appoint one or more deputies, who shall be removable from office by the judges of the circuit court, or by the judge of the criminal or district court.

SEC. 7. Before the marshal enters upon the duties of his office, he shall become bound for the faithful performance of the same, by himself and his deputies, before any one of the judges of the circuit court, or before the judge of the criminal court, jointly and severally, with two good and sufficient sureties, inhabitants and freeholders within this District, to be approved by either of the said judges, in the sum of twenty thousand dollars.

SEC. 8. The marshal shall also take before any one of the judges of the circuit court, or the judge of the criminal court, as shall also his deputies, before they enter upon the duties of their appointment, the following oath of office: "I, _____, do solemnly swear, that I will faithfully execute all lawful precepts directed to the marshal of the District of Columbia, under the authority of the United States and the laws of the District of Columbia, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of marshal (or marshal's deputy, as the case may be) of the District of Columbia during my continuance in said office, and take only my lawful fees: So help me God."

SEC. 9. The marshal shall have custody of the jail, and be accountable for the safe keeping of all prisoners legally committed therein under the authority of the United States and the laws of this District.

SEC. 10. In case of the death of the marshal, his deputies shall continue in office, unless removed, and shall execute writs and precepts in the name of the deceased marshal, until another shall be appointed and qualified. The defaults or misfeasances in office of such deputies, in the mean time, as well as before, shall be adjudged a breach of the condition of the bond given by the marshal who appointed them; and the executor or administrator of the deceased marshal shall have like remedy for the defaults and misfeasances in office of such deputies, during such interval, as the marshal would have been entitled to if he had lived and continued in the exercise of his office, until his successor was appointed and qualified.

SEC. 11. The marshal, when removed from office, or when the term for which he was appointed shall have expired, shall, together with his deputies, have the power to execute all such precepts as shall be in his or their hands, respectively, at the time of such removal or expiration of term of office; and the marshal shall be answerable for the delivery to his successor of all prisoners who may be in his custody at the time of his removal, or when the term for which he was appointed shall have expired, and for that purpose may retain such prisoners in his custody until his successor shall be appointed and qualified as the law directs.

SEC. 12. The marshal shall be a conservator of the peace within this District, and shall arrest, without process, all persons who, within his view, shall commit any crime or misdemeanor, take them before any justice of the peace, and detain them in custody until the cause of such arrest has been investigated. It shall be his duty to prevent, quell, and suppress all affrays, breaches of the peace, riots, and insurrections that may come to his knowledge, and to pursue and commit to jail all felons.

SEC. 13. It shall be the duty of the marshal to execute all writs, warrants, and process of any kind, which, by law, shall appertain to the duties of his office, and which shall be directed to him by legal authority; and he shall do and perform all other acts and duties which may be required of him by law.

SEC. 14. When the marshal has collected any money on execution, he shall pay over the same at the earliest opportunity, unless enjoined.

SEC. 15. If the marshal shall neglect or refuse to levy upon or sell any property, justly liable to execution, when the same might have been done, he shall be amerced to the value of such property, not to exceed the amount necessary to satisfy the execution.

SEC. 16. If the marshal shall neglect or refuse to return any execution as required by law, or shall make a false return thereon, he shall be amerced in such amount as he might and should have levied by virtue of the execution.

SEC. 17. If the marshal shall neglect or refuse, on demand, to pay over any money collected on execution, to the execution creditor, his agent or attorney, or to the execution debtor when he is entitled thereto, he shall be amerced to the amount thus withheld.

SEC. 18. In all the cases specified in the three preceding sections, the plaintiff shall, in addition to the amercement, recover of the marshal fifteen per cent. per annum damages on the amount of the amercement. Such recovery may be had by motion against the marshal in the court to which such execution is returnable, ten days' notice thereof being given, or by action on the marshal's bond.

SEC. 19. If the marshal shall neglect or refuse to make due return on any process delivered to him, other than such as is hereinbefore in this chapter provided for, or shall make a false return thereon, or shall be guilty of any misconduct in relation thereto, he shall be liable to a fine not exceeding five hundred dollars, in the discretion of the court to which such process is returnable, and shall also be liable to an action on his official bond to the party aggrieved.

SEC. 20. If the marshal shall pay to the plaintiff in execution the amercement, and damages specified in the eighteenth section of this chapter, he shall thereupon become entitled to the judgment as fully as the plaintiff in execution was, and may issue execution thereon for his own use, and shall be entitled to every other benefit and advantage from such judgment that the plaintiff in execution might or could have had thereon.

SEC. 21. When any process or order shall be delivered to the marshal to be executed, he shall endorse upon it the time of its reception. He shall execute it with diligence according to its command, or as

required by law, and shall return it without delay to the proper court or officer, with his certificate, endorsed thereon, of the manner of its service or execution, or, if not served or executed, the reasons of his failure.

SEC. 22. No direction or authority by a party, or his attorney, to the marshal or his deputy, in respect to the execution of process or return thereof, or to an act or omission relating thereto, shall be available to discharge or excuse the marshal from a liability for neglect or misconduct, unless it be contained in a writing signed by the party or his attorney.

SEC. 23. The marshal and other ministerial officers shall be justified in the execution of all process and orders regular on their face, issued by competent authority, whatever may be the defect in the proceedings upon which they were issued.

SEC. 24. No marshal or deputy marshal shall appear in any court, or before any justice of the peace, for or in behalf of any party in any action or proceeding; and if any marshal or deputy marshal shall offend against the provisions of this section, he shall forfeit the sum of five hundred dollars.

SEC. 25. The marshal shall keep in a large bound book, provided for that purpose only, an exact register or calendar of all prisoners committed to the jail under his care, in which book shall be registered the names of all prisoners committed, their places of abode, time of confinement, for what cause, and by what authority committed; and when any prisoner is liberated, the marshal shall register the time when, and the authority by which, such liberation was made; and in case of any escape, the time and manner of their escape shall also be noted in said book.

SEC. 26. All warrants, processes, and other official papers, or the attested copies of them, by which any prisoner shall have been committed or liberated, shall be regularly filed in the order of time, and carefully preserved by the marshal, and shall be delivered over to his successor when qualified; and in default of such delivery, such marshal, his executors or administrators, shall forfeit the sum of two hundred dollars.

SEC. 27. If any deputy of the marshal shall neglect or refuse to render and settle his accounts with the marshal when so required, in accordance with the contract between the marshal and his deputy, such deputy shall be amerced to the amount withheld by him, to be recovered, with interest and fifteen per cent. per annum damages,

in the manner provided for recoveries against the marshal in section eighteen of this chapter.

SEC. 28. No marshal shall become the purchaser, nor procure any person to become the purchaser for him, of any property, real or personal, by him exposed for sale by virtue of any execution or other process; and all such purchases made by any marshal, or any other person in his behalf, shall be null and void.

SEC. 29. All the provisions concerning the powers, duties, and liabilities of marshal, shall, except where otherwise specially provided, be construed to include and apply to a coroner or an elisor, when authorized by law to discharge the duties of a marshal.

CORONER.

SEC. 30. There shall be a coroner for this District, who, before he enters upon the duties of his office, shall be sworn to the faithful discharge thereof, and shall give bond to the United States in the sum of five thousand dollars for the faithful discharge of the duties of his office, with security to be approved by the circuit court.

SEC. 31. The coroner shall be appointed for the term of four years, subject to removal at any time within said term by the President of the United States.

SEC. 32. The coroner shall perform the duties of marshal in all cases where the marshal is a party, or interested, shall be entitled to the same fees as are allowed by law to the marshal for similar services, and shall be subject to the same penalties.

ELISOR.

SEC. 33. Process and orders in any action or proceeding may be executed by any person residing in this District, designated by the court to which the same may be returnable, and denominated an elisor, in all cases where the marshal and coroner are both parties, or interested.

SEC. 34. An elisor, before he acts as such, shall be sworn to the faithful discharge of the duties of his office, and shall give such bond and such security as shall be approved by the court appointing him. He shall be entitled to the same fees as are allowed by law to the marshal for similar services, and subject to the same penalties.

NOTARIES PUBLIC.

SEC. 35. Notaries public for this District may be appointed by the circuit court, to hold their offices during the pleasure of the said court. There shall be no new appointment of a notary public until

the number in this District is reduced to thirty; and when the number is so reduced, as vacancies occur, they may be filled by said court.

Sec. 36. Each notary public, before entering upon the duties of his office, shall take an oath faithfully to discharge the same, and shall give bond to the United States in the sum of five thousand dollars, with security to be approved by the circuit court, for the faithful discharge of the duties of his office.

Sec. 37. Notaries public shall have authority to demand acceptance and payment of foreign bills of exchange, and to protest the same for non-acceptance and non-payment; and to exercise such other powers and duties as, by the law of nations, and according to commercial usages, or by the law of any state or government, may be performed by notaries public.

Sec. 38. Notaries public may also demand acceptance of inland bills of exchange, and payment thereof, and of promissory notes, and may protest the same for non-acceptance or non-payment, as the case may require.

Sec. 39. Each notary public shall have power to take and to certify the acknowledgment or proof of powers of attorney, mortgages, deeds, and other instruments of writing, the acknowledgments of any conveyance, or other instrument of writing executed by any married woman, to take depositions, and to administer oaths and affirmations, in all matters incident or belonging to the duties of his office, and to take affidavits to be used before any court, judge, or officer within this District.

Sec. 40. Each notary public shall keep a fair record of all his official acts, except such as are mentioned in the thirty-ninth section of this chapter; and, when required, shall give a certified copy of any record in his office to any person, upon payment of the fees therefor.

Sec. 41. Each notary public, before he acts as such, shall provide a notarial seal, with which he shall authenticate all his official acts; which seal, together with his records and official documents, shall not be liable to be seized on by any execution. He shall deposit an impression of his official seal in the office of the clerk of the circuit court.

Sec. 42. On the death, resignation, or removal from office, of any notary public, his records, together with all his official papers, shall be deposited in the office of the clerk of the circuit court.

SEC. 43. If any notary public, on his resignation, disqualification, or removal from office, shall, for the space of two months, neglect to deposit his records and official papers in the office of the clerk of the circuit court, he shall forfeit a sum not exceeding one thousand dollars.

SEC. 44. If the executor or administrator of any deceased notary public shall, for the space of two months after the acceptance of such appointment, neglect to deposit in the office of the clerk of the circuit court, the records and official papers of such deceased notary public which shall come into his hands, he shall forfeit a sum not exceeding one thousand dollars.

SEC. 45. If any person shall knowingly destroy, deface, or cancel, any records or official papers of any notary public, he shall forfeit a sum not exceeding one thousand dollars, and shall also be liable in damages to any party injured.

SEC. 46. The clerk of the circuit court shall receive and safely keep the records and official papers of any notary public, which are in this chapter directed to be deposited in his office; and shall make and certify copies of such records, or official papers, for which he shall be paid the same fees as the notary public would have been entitled to; and all copies certified by such clerk shall have the same effect in law as if they had been made and certified by such notary public.

SEC. 47. The original protest of a notary public, under his hand and official seal, of any bill of exchange or promissory note, for non-acceptance or non-payment, stating the presentment by him of such bill of exchange or note for acceptance or payment, and the non-acceptance or non-payment thereof, and the service of notice on any or all of the parties to such bill of exchange or promissory note, and specifying the mode of giving such notice, and the reputed place of residence of the party to whom the same was given, and the post office nearest thereto, shall be presumptive evidence of the facts contained therein. The certificate of a notary public, under his hand and seal of office, drawn from his record, stating the protest and the facts therein contained, shall be evidence of the facts in like manner as the original protest.

SEC. 48. For any misconduct or neglect of duty in any of the cases in which any notary public of this District is authorized to act, either by the laws of this District or of any state or government, or by the law of nations, or by commercial usage, he shall be liable, on his official

bond, to the parties injured thereby, for all damages sustained. For any wilful violation or neglect of duty, any notary public shall be subject to criminal prosecution, and may be punished by a fine not exceeding one thousand dollars, and removal from office.

SEC. 49. Each notary public shall receive such fees for his services as may be allowed by law.

COMMISSIONERS.

SEC. 50. The circuit court of this District may appoint and commission, in any State, one or more commissioners, to continue in office during the pleasure of said court, who shall have power to administer oaths, and to take depositions, and the proof and acknowledgment of deeds or other instruments of writing, to be used or recorded in this District.

SEC. 51. Before any such commissioner shall proceed to discharge any of the duties of his said appointment, he shall take and subscribe an oath, before some justice of the peace, or officer authorized to administer oaths in the State for which he is appointed, that he will faithfully discharge the duties of his said appointment; which oath shall be filed in the office of the clerk of the circuit court of this District.

CONSTABLES.

SEC. 52. The circuit court shall have power, from time to time, to appoint as many constables as said court shall deem necessary, and to remove them from office whenever proper cause be shown.

SEC. 53. Every person appointed to the office of constable shall, before he acts as such, take an oath to discharge faithfully the duties of his office; and shall give bond to the United States in the sum of five thousand dollars, with security to be approved by the circuit court, conditioned for the faithful performance of the duties of his office.

SEC. 54. The constable shall attend the courts of justices of the peace, when required, and execute all lawful orders made by them. It shall be his duty to execute and return all writs and processes directed to him by any court, judge, justice, or other officer having authority to issue the same.

SEC. 55. In regard to the service, execution, and return of orders, writs, processes, and papers, where there are no positive provisions of law prescribing the duties of a constable, he shall be governed by the laws relating to the marshal, as far as they are applicable.

SEC. 56. It shall be the duty of every constable to apprehend, on view or warrant, and bring to justice, all felons and disturbers of the peace, and violators of the criminal laws of this District; to suppress all riots, affrays, and unlawful assemblies which may come to his knowledge, and generally to keep the peace within this District.

SEC. 57. Every constable shall attend before the proper justices of the peace on the return day of any process committed to him, and keep order in said court.

SEC. 58. In all cases where a constable shall have received money in payment, or part payment, either voluntarily made by any defendant, or execution debtor, or as the proceeds of the sale of property by virtue of an execution in his hands, it shall be the duty of such constable to pay over said money to the plaintiff, his agent or attorney, or other proper party, without delay.

SEC. 59. When any execution is fully paid and satisfied, either by sale or otherwise, it shall be the duty of the constable to return it forthwith.

SEC. 60. When any property levied upon by virtue of an execution shall sell for more than will satisfy the judgment, interest, and costs, including the constable's lawful costs thereon, it shall be the duty of the constable immediately to render the overplus to such execution debtor.

SEC. 61. If any constable, to whom any writ of execution shall have been delivered, shall neglect or refuse, after being required and indemnified by the creditor, his agent or attorney, to levy upon, or sell any property of the defendant which is liable to be levied upon and sold, he, and the sureties in his bond, shall be liable to the creditor for the value of such property, not exceeding the sum due such creditor.

SEC. 62. Any constable who shall make a false return of any writ or process, or who shall fail to return the same within the time limited for such return, or who shall fail to discharge any duties incumbent on him by law, not otherwise specifically provided for, shall, with his sureties, be liable to the party injured to the extent of the injury, with interest and ten per cent. damages thereon, to be recovered by motion in the circuit court, ten days' notice thereof being given, or by action on the constable's bond.

SEC. 63. If any constable shall neglect or refuse to pay over any

money in his hands which he has collected or received in his official capacity, when demanded by the person entitled thereto, his agent or attorney, the amount thereof, with twenty-five per cent. damages and interest, may be recovered from such constable and his sureties in the manner provided in the preceding section. If a constable collect money mentioned in an execution after the return day thereof, he, and his sureties shall be liable for the money so collected, in like manner as if the collection had been before the return day. If a constable receive money on account of any claim intrusted to him for collection, he and his sureties shall be liable for the money so received, as for money collected under execution; and after six months from the date of any receipt for any claim recoverable before a justice of the peace, signed in his official capacity, such receipt shall be prima facie evidence of the receipt of the money.

SEC. 64. Any constable who shall be guilty of any manifest and wilful negligence, or shall, in the administration or under color of his office, be guilty of any oppression or malicious act, shall, upon conviction, be fined in any sum not exceeding five hundred dollars.

SEC. 65. No constable shall be permitted to practise as an attorney or counsellor-at-law before any court or justice of the peace in this District. For violating the provisions of this section, he shall be fined a sum not exceeding five hundred dollars.

SEC. 66. The authority of a constable shall extend throughout this District.

SEC. 67. No constable shall become the purchaser, nor procure any person to become the purchaser for him, of any property by him exposed for sale by virtue of any execution or other process; and all such purchases shall be null and void.

SEC. 68. Whenever any constable shall commit to jail any prisoner in his custody, he shall leave with the jailer the writ by authority of which he commits such prisoner, and such jailer shall give him a receipt therefor, containing at length a copy of such writ.

RECORDER.

SEC. 69. There shall be appointed by the President of the United States a recorder for this District, who shall serve for the term of four years unless sooner removed.

SEC. 70. The recorder, before he enters upon the duties of his office, shall be sworn to the faithful discharge thereof, and shall give bond

to the United States in the sum of ten thousand dollars for the faithful discharge of the duties of his office, with security to be approved by the circuit court.

SEC. 71. The recorder shall keep suitable and well bound books, wherein shall be recorded, in a fair, large, and legible hand, all deeds and other instruments of writing which shall be delivered to him, and which are authorized or required to be recorded by him. He shall have and keep a seal of office, and shall make out for any person demanding the same, a fair and accurate copy of any record in his office, and certify the same under his hand and the seal of his office.

SEC. 72. The recorder may appoint one or more deputies, who shall be removable at his pleasure. Such appointment shall be in writing, filed and recorded in the office of the recorder; and the recorder so appointing any deputy, and the sureties of such recorder shall be responsible for the faithful performance of the duties of such deputy.

SEC. 73. The recorder shall have the custody of, and shall safely keep and preserve, all the books, records, maps, and papers, deposited in his office; and on going out of office shall deliver to his successor the seal of office, all the books, records, and other instruments of writing, belonging to said office, and shall take his successor's receipt therefor; and in case of the death of the recorder, his personal representatives shall deliver over the seal, books, records, and papers, as aforesaid.

SEC. 74. The recorder shall keep a book, in which he shall make an entry, upon the reception of any deed or instrument of writing authorized or required to be recorded by him, the date of the reception (including the hour and minute) and the names of the grantors and grantees.

SEC. 75. When any deed or instrument of writing authorized by law to be recorded in the recorder's office shall be deposited in his office for record, there shall be endorsed on the same the time when it was received, and the said deed or instrument of writing shall be recorded, as aforesaid, without delay, together with the acknowledgments, proofs, and certificates written over and under the same, with the plats, surveys, schedule and other papers thereto annexed, in the order, and as of the time when the same was delivered for record.

At the foot of any such record, the date of the reception of any such deed or instrument of writing, and the name of the person at whose request it was recorded, shall be noted.

SEC. 76. The recorder shall endorse upon any deed or instrument of writing, the book and page or pages of the book in which the same is recorded, and the time when recorded; and, after the same is recorded, shall deliver it, except where otherwise ordered, upon request, to the party leaving the same for record, or to his order.

SEC. 77. Unless other provision be specially made by law, it shall be the duty of the recorder to record every conveyance or other instrument of writing authorized or required by law to be recorded. Such conveyance or other instrument of writing shall be recorded in the order of priority of time at which it was delivered for record.

SEC. 78. The recorder shall attach to every book kept in his office, in which conveyances or other instruments of writing are recorded, an index of the matters contained in such book, arranged in alphabetical order, under the names of the several parties to such matters, with reference to the pages where the same may be found. Such books shall be at all proper times open to the inspection of any person without charge.

SEC. 79. The recorder shall provide proper books for making general indices of the conveyances and other instruments of writing recorded in his office, and shall form indices therein in such manner as to afford correct and easy reference to the several books of record in his office. He shall keep, in separate volumes,

1st. An index of conveyances, labelled "Grantors," each page of which shall be divided into five columns, as follows:

Names of grantors, names of grantees, character of the conveyances, dates thereof, where recorded.

2d. An index of conveyances, labelled "Grantees," each page of which shall be divided into five columns, with heads to the respective columns, as follows:

Names of grantees, names of grantors, character of the conveyances, dates thereof, where recorded.

SEC. 80. The names of the parties in the first column, in the several indices required by the preceding section, shall be arranged in alphabetical order.

SEC. 81. When a deed is executed by an agent or attorney, the same shall be indexed in the name of the principal. When the

property' lies within the corporate limits of Washington City or Georgetown, the number of the lot and square shall be stated also in the index.

SEC. 82. It shall be the duty of the recorder, upon the application of any person, and upon the payment or tender of the legal fees therefor, to make searches for conveyances and other instruments of writing recorded or filed in his office, and to furnish a certificate thereof.

SEC. 83. If the recorder shall wilfully neglect or refuse to perform the duties required of him by law, or shall wilfully perform them in any other manner than is required by law, in addition to his liability with his sureties upon his official bond to the party aggrieved, he shall be deemed guilty of a misdemeanor in office, and, on conviction thereof, may be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or both by such fine and imprisonment.

SEC. 84. The recorder shall not be bound to record any instrument, or file any paper, or furnish any copy, or render any service connected with his office, until his fees for the same, as prescribed by law, are paid or tendered.

SURVEYOR.

SEC. 85. The circuit court shall have power to appoint a fit and suitable person to be surveyor of the county of Washington, who shall hold his office during the pleasure of the said court.

SEC. 86. The surveyor, before he acts as such, shall take an oath to discharge faithfully the duties of his office, and shall give bond to the United States in the sum of five thousand dollars, with surety to be approved by the circuit court, for the faithful performance of the duties of his office.

SEC. 87. The surveyor may appoint such number of deputies as he may think proper, who shall severally take the oath of office, and for the faithful performance of whose duty the surveyor and his sureties shall be responsible.

SEC. 88. All chain carriers employed by the surveyor or his deputies in the performance of any official duties which may be required of the surveyor, shall take an oath for the faithful discharge of their duties. The surveyor, or any one of his deputies, is hereby authorized to administer such oath.

SEC. 89. The surveyor may demand and receive from his predecessor in office, or from the executor or administrator of such predecessor, any book relating to such office which it is made the duty of such surveyor to keep, and all records, field notes, and other papers relating to the office of surveyor; and whenever the office of surveyor shall become vacant by death, resignation, or otherwise, it shall be the duty of any person having possession of such books and records, field notes, or other papers pertaining to such office, to hand the same over, without delay, to such successor. Any person violating any of the provisions of this section shall forfeit a sum not exceeding five hundred dollars.

SEC. 90. It shall be the duty of the surveyor, by himself or one of his deputies, to execute any survey that may be required by order of any court, or upon application by any person.

SEC. 91. The certificate of the surveyor, or any of his deputies, shall be admitted as legal evidence in any court in this District; but the same may be explained or rebutted by other proper evidence. No survey or resurvey hereafter made by any person except the said surveyor or his deputy, or the surveyor of Washington City or Georgetown, appointed by the authorities of said places respectively, shall be considered as legal evidence in any court within this District: provided, however, that no such restriction shall apply to such surveys as are made by the authority of the United States, or by the mutual consent of parties.

SEC. 92. Whenever it shall appear that a surveyor, whose duty it would otherwise be to make the survey, is interested in any tract of land, the title of which is in dispute before any court, and a survey of which is necessary, the court shall direct the survey to be made by some capable and disinterested person, who shall be authorized to administer oaths in the same manner as the county surveyor is directed to do, and shall return such survey, on oath or affirmation, and shall receive for his services the same fees as the county surveyor would be entitled to for similar services.

SEC. 93. The force and validity given by any of the provisions of this chapter to the official acts of the surveyor of the county of Washington, as such, shall apply only to surveys of land within this District lying outside the corporate limits of Washington City and Georgetown. The said surveyor shall not be required to execute any

survey of land lying within the corporate limits of said Washington City and Georgetown.

SEC. 94. The official acts of the surveyor of Washington City and the surveyor of Georgetown, appointed by the authorities of said places respectively, done and performed within their respective corporations, shall be of the same force and validity as similar acts of the county surveyor done and performed by him within that part of the county of Washington lying outside the corporate limits of Washington City and Georgetown.

SEC. 95. The provisions of sections eighty-eight and eighty-nine of this chapter shall apply to the surveyors of Washington City and Georgetown, respectively.

SEC. 96. In all surveys, the courses shall be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian shall be expressed on the plat, with the year, month, and day of the survey.

SEC. 97. Any surveyor who shall fail or refuse to perform the duties required of him by law, may be fined a sum not exceeding one thousand dollars.

GENERAL PROVISIONS.

SEC. 98. Every officer to whom any warrant, order, or process may be lawfully directed, may, in case of resistance made or apprehended, summon to his aid as many persons as may be sufficient. If any person fails to obey any such summons, the officer shall report the fact to the court from which such warrant, order, or process issued, which court may, in a summary way, after notice to such person, adjudge him to be fined or imprisoned, or both fined and imprisoned, as for a contempt of the said court's authority. If the order, warrant, or process shall not have issued from a court of record, such person shall be punished as for a misdemeanor, and to that end the officer shall report him to the district attorney.

SEC. 99. No officer shall, by color of his office, take any obligation of or for any person in his custody, otherwise than is directed by law. If he does, the same shall be void.

SEC. 100. When any judgment shall be obtained against any officer or his sureties, his or their personal representatives, for or on account of the default or misconduct in office of any deputy of such officer, and shall be paid by any defendant therein, he or his

personal representative may, on motion, ten days' notice being previously given, obtain judgment against such deputy and his sureties, or their personal representatives, for the amount so paid, with interest from the time of payment, and ten per cent. damages on said amount.

CHAPTER 9.

OF THE FEES OF OFFICERS.

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8. Fees of the coroner.
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14. Fees of commissioners.
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SECTION 1. The persons and officers in this chapter named shall be entitled to receive for their services the fees therein allowed and set forth, and none other, except where otherwise specially provided.

MARSHAL'S FEES.

For serving a writ or process under which the body is taken, one dollar.

Serving a writ, summons, subpoena, or other process, where the body is not taken, fifty cents.

Returning any writ or process, ten cents.

Summoning each juror and talesman, twenty-five cents.

Executing a writ of possession, one dollar.

Committing a person to jail, fifty cents.

Discharging a person out of jail, forty cents.

Attending a prisoner before a judge when surrendered by his bail, and receiving the prisoner into custody, fifty cents.

Boarding each prisoner per day, thirty-five cents.

Empanneling and swearing a jury out of court, fifty cents.

Summoning and swearing appraisers, each, forty cents.

Holding an inquisition, drawing up and returning the same, one dollar and fifty cents.

Administering any oath, other than such as are herein provided for, five cents.

Service, and certificate of such service, of any notice required by law, fifty cents.

Executing a deed prepared by a party or his attorney, fifty cents.

Levying on property and advertising the same, without sale, where the money is not paid to him, one dollar.

Selling personal property on execution, a commission of five per cent. on the first three hundred dollars of the money for which the levy is made, and two per cent. on any excess above that amount; but when the money is paid to him without sale, one-half of said commission only shall be allowed; and in no case shall a commission be charged on any sum greater than the amount actually due and received from the execution debtor.

For selling real property on execution, the marshal shall only be entitled to one-half of the commissions allowed for selling personal property.

For such service as a constable may render, the marshal shall be entitled to such fees as are allowed by law to a constable for the same service.

For conveying a prisoner under sentence to the penitentiary, and delivering him to the warden or keeper thereof, two dollars.

For executing a sentence of death, the marshal shall be entitled to twenty dollars.

Where, by virtue of any writ or process, the marshal is authorized or required to take and keep possession of any personal property, he shall be allowed the necessary expenses of keeping or removing the same.

And for any other service, duty, or attendance, not herein specifically provided for, such fees and compensation as are allowed by the laws of the United States to marshals for the same service, duty, or attendance; and if no such fees or compensation be allowed by the laws of the United States, then such fees as are herein allowed for similar services.

FEES OF THE CLERK OF THE CIRCUIT COURT.

SEC. 2. The fees of the clerk of the circuit court shall be as follows:

For issuing every writ, summons, or process, other than a subpoena, and recording the return of the same, when proper to do so, fifty cents.

For every subpoena, including as many witnesses as convenience in serving the same will permit, twenty-five cents.

Entering action, twenty-five cents.

Endorsing and filing each paper, five cents.

Entering every motion, order, continuance, or rule, ten cents.

Entering satisfaction of record, fifteen cents.

Receiving and entering a verdict, twenty cents.

Entering judgment, thirty-five cents.

Entering defendant's appearance, five cents.

Copy of any paper or record, when required, per sheet of one hundred words, or if the whole number of words in such copy be less than one hundred, ten cents.

Bringing a particular record into court, ten cents.

Entering on docket, fifteen cents.

Empanneling and swearing each jury, twenty-five cents.

Administering each oath in court, five cents.

Entering every issue joined, twenty cents.

Making a complete record, per hundred words, ten cents.

Making out notice for non-resident defendant, forty cents; or ten cents per hundred words, at the option of the clerk.

Taking bail for stay of execution, twenty-five cents.

Copy of the panel, ten cents.

Docketing appeal from justice of the peace, twenty-five cents.

Filing and docketing justice's judgment as a lien on real estate, fifty cents.

Entering allowance of writ of error or appeal, twenty-five cents.

Entering and certifying attendance of witness, ten cents.

Making short copy of judgment, fifteen cents.

Docketing judgment, fifteen cents.

Certificate and seal, fifty cents.

Certificate without seal, ten cents.

Filing and recording an official bond, twenty-five cents.

Taking and entering security for costs, fifteen cents.

Issuing a commission to take testimony, fifty cents.

Making out and approving any bond required to be taken, adminis-

tering the necessary oaths, and writing the proper affidavits, fifty cents.

Recording the transcript or certificate of an official oath, twenty-five cents.

Marriage license and recording certificate of marriage, one dollar and twenty-five cents.

For every hundred words contained in any writing required by law to be done by him, for which there is no specific allowance, ten cents.

For filing a declaration of intention to become a citizen of the United States, and making a certified copy of such declaration under seal, one dollar.

For entering the final admission of aliens to rights of citizenship, and making a certified copy thereof under seal, two dollars.

For entering the qualification and admission of an attorney or solicitor, with a certificate under seal, including the fee for all oaths taken therein, two dollars.

For each copy of any process, which goes out of the office with such process, to be used in serving it, one-half the fee for issuing such process.

For transcribing and making out docket for the use of court, ten cents for every hundred words, to be paid out of the United States treasury.

For searching a record within one year, ten cents, and for every preceding year five cents.

And for any other service, duty, or attendance, not herein specifically provided for, such fees and compensation as are allowed by the laws of the United States to the clerks of the circuit courts of the United States, for the same service, duty, or attendance; and if no such fee or compensation be allowed by the laws of the United States, such fees as are herein allowed for similar services.

FEES OF THE CLERK OF THE CRIMINAL COURT.

SEC. 3. The fees of the clerk of the criminal court shall be as follows:

For taking a recognizance, forty cents.

Discharging a recognizance, twenty-five cents.

Entering defendant's confession, twenty-five cents.

And for services not specifically provided for in this section, the same fees and compensation as are allowed to the clerk of the circuit court for the same or similar services.

FEES OF THE CLERK OF THE DISTRICT COURT.

Sec. 4. The fees and compensation of the clerk of the district court of the United States for this District, shall be the same as are allowed by the laws of the United States to the clerks of the district courts of the United States.

FEES OF THE REGISTER OF WILLS.

Sec. 5. The fees of the register of wills shall be as follows :

For every probate of a will, and endorsing certificate thereon, one dollar.

Issuing letters testamentary, of administration or collection, seventy-five cents.

Taking, filing, and recording, bond of executors, administrators, collectors or guardians, one dollar and fifty cents.

Taking, filing, and recording any bond, not otherwise provided for, one dollar.

Taking and entering a renunciation, twenty-five cents.

Issuing a citation, warrant, or other process, except subpoena, fifty cents.

Issuing notice to creditors, with order thereon, fifty cents.

Entering a caveat, twenty-five cents.

Administering an oath, five cents.

Filing a list of articles appraised or sold, twenty-five cents.

Stating, passing, and filing, the account of an executor, administrator or guardian, three dollars.

Issuing subpoena, including all persons applied for at the same time, forty cents.

Making any search, twenty-five cents.

Making out and filing the distributive share of each person, one dollar.

Filing and recording an indenture of apprenticeship, with the approval thereof, seventy-five cents.

Endorsing and filing any paper not herein named, five cents.

Entering appearance of defendant, ten cents.

Entering return of process, ten cents.

Entering continuance or reference, ten cents.

Issuing commission to value an orphan's estate, one dollar.

Entering any order of court, ten cents.

Entering final judgment, or decree, thirty cents.

Entering any motion, ten cents.

Entering appointment of guardian, with certificate and seal of court, one dollar.

Passing an account against the estate of a deceased person, to be paid by the applicant, ten cents.

Entering an appeal, twenty-five cents.

Copy of any paper or record, when required, per sheet of one hundred words, or if the whole number of words in such copy be less than one hundred, ten cents.

Certificate and seal, fifty cents.

Exemplification of letters testamentary or of administration, under seal, one dollar.

For every hundred words contained in any writing required by law or the rules of the court to be done by him, for which there is no specific allowance, ten cents.

And for any other service not herein provided for specifically, such fees as are allowed for similar services, and if there be none similar, then such fees as the judge of the orphans' court may approve.

FEES OF THE RECORDER.

SEC. 6. The fees of the recorder of deeds shall be as follows :

For recording all conveyances and other instruments of writing required by law to be recorded, for each one hundred words, ten cents ; provided, however, that for recording any conveyance of property he shall be allowed at least fifty cents.

For recording all instruments of writing, authorized or required to be recorded by him, other than conveyances of property, for each hundred words ten cents, and the same if the whole number of words be less than one hundred.

For making copies of any record or paper, for each hundred words ten cents, and the same if the whole number of words be less than one hundred.

For certificate and seal, twenty-five cents.

For recording a town plat, two cents for each lot such plat may contain.

For recording plat of survey, three cents for each course such survey may contain.

For filing any paper required by law to be filed in his office, five cents.

For searching a record within one year, ten cents, and for every preceding year five cents; provided, that nothing shall be charged for a search for the purpose of delivering to a person entitled thereto, any original paper recorded in his office.

And for services not specifically provided for herein, he shall be allowed the same fees as are by law allowed for similar services, subject to the regulation of the circuit court.

FEES OF THE DISTRICT ATTORNEY.

SEC. 7. The fees and compensation of the district attorney of the United States for this District, shall be the same as are allowed by the laws of the United States to the district attorneys of the United States.

FEES OF THE CORONER.

SEC. 8. The coroner shall be entitled to eight dollars, for empanneling and swearing a jury, issuing subpoenas for, and swearing witnesses, and making and returning an inquisition for the view of a dead body.

FEES OF JUSTICES OF THE PEACE.

SEC. 9. The fees of the justices of the peace shall be as follows :

For issuing any writ, summons, warrant or process, other than a subpoena, and entering the return thereof, twenty-five cents.

For issuing a subpoena, including all persons applied for at the same time, fifteen cents.

Entering action on docket, five cents.

Copy of any paper or record, when required, per sheet of one hundred words, ten cents.

Entering adjournment or other order, five cents.

Entering satisfaction of record, ten cents.

Receiving and entering a verdict, ten cents.

Rendering and entering every final judgment, fifteen cents.

Empanneling and swearing a jury, fifteen cents.

Administering each oath, five cents.

Making up docket, for every hundred words, ten cents.

Taking bail for stay of execution, ten cents.

Taking an affidavit, ten cents.

Making and certifying transcripts in cases of appeal, twenty-five cents.

Taking an acknowledgment of a deed or power of attorney, with a certificate thereof, twenty-five cents.

Taking a bond or recognizance, twenty cents.

Certificate for the admission of lunatic into the hospital, thirty cents.

Every trial on complaint for unlawful detention of lands and tenements, fifty cents.

And for any other service not specifically provided for, such fees as are allowed to justices for similar services, subject to the regulation of the circuit court.

CONSTABLE'S FEES.

SEC. 10. The fees of a constable shall be as follows:

For serving a writ or process under which the body is taken, fifty cents.

Serving a writ, summons or process, other than a subpoena, where the body is not taken, twenty-five cents.

Levying on property, and advertising the same, without sale, where the money is not paid to him, fifty cents.

Serving a subpoena, twenty cents.

Returning any writ or other process, five cents.

Summoning a jury in any case, fifty cents.

Attending a jury trial, twenty-five cents.

Executing a writ of possession, one dollar.

Commitment to jail, twenty-five cents.

Taking and returning any bond required by law to be taken by him, twenty-five cents.

For selling personal property on execution, a commission of five per cent. on any sum not exceeding ten dollars, and three per cent. on any excess above that amount; but when the money is paid to him without sale, one-half of said commission only shall be allowed; and in no case shall commission be charged upon any sum greater than that actually due and claimed by the plaintiff.

Where, by virtue of any writ or process, a constable is authorized or required to take and keep possession of any personal property, he shall be allowed the necessary expenses of keeping or removing the same.

And for any service not herein specifically provided for, such fees as are allowed to constables for similar services, subject to the regulation of the circuit court.

FEES OF JURORS.

SEC. 11. The fees of jurors shall be as follows :

Every juror shall receive in the circuit or criminal court, to be paid out of the United States treasury, two dollars per day.

Every grand juror shall receive for his services as such, to be paid out of the United States treasury, two dollars for each day's attendance.

Every juror for attending a trial before a justice of the peace shall receive fifty cents for each day of his attendance, to be paid in the first instance by the party directing the venire, and to be taxed with the costs of the action.

Every juror sworn upon a coroner's inquest shall receive two dollars per day for his attendance.

Every juror sworn before the marshal or other officer, in pursuance of law, shall receive two dollars per day for his attendance, to be taxed with the costs of the action or proceeding.

Talesmen shall receive the same amount per day as jurors, to be paid in like manner.

FEES OF WITNESSES.

SEC. 12. The fees of witnesses shall be as follows :

For each day's attendance in the circuit, criminal, or orphans' court, one dollar and fifty cents for each witness.

For each day's attendance before a justice of the peace, thirty-five cents for each witness.

For each day's attendance before arbitrators, referees, marshal, coroner, or other officer, one dollar for each witness.

Witnesses residing outside the District of Columbia shall be allowed five cents per mile for travelling from their place of residence to this District, and five cents per mile for returning.

Witnesses shall claim their fees on the day of trial, before any justice of the peace.

FEES OF NOTARIES.

SEC. 13. The fees of notaries public shall be as follows :

For each certificate and seal, fifty cents.

Taking depositions or other writing, for each one hundred words, ten cents.

Administering an oath, five cents.

Taking acknowledgment of a deed or power of attorney, with certificate thereof, twenty-five cents.

Every protest of a bill of exchange or promissory note, and recording the same, one dollar.

Each notice of protest, twenty cents.

FEEs OF COMMISSIONERS.

SEC. 14. Any commissioner authorized to take depositions and acknowledgment of deeds, shall be entitled to receive the same fees as are allowed to justices of the peace for the same services.

FEEs OF COUNTY SURVEYOR.

SEC. 15. The fees of the county surveyor shall be as follows:

For surveying, per day, five dollars.

Calculating the quantity of less than six courses or lines, seventy-five cents.

Every course or line more than six, four cents.

Making a plat of six courses or less, seventy-five cents.

Every course more than six, four cents.

Recording a plat and certificate, if not more than six courses, seventy-five cents.

Every course above six, four cents.

Copy of a plat and certificate, where there are not more than six courses, seventy-five cents.

Every course above six, four cents.

Every search where no copy is required, twenty-five cents.

SEC. 16. The criers of the circuit and criminal courts of this District shall be appointed by said courts respectively, and shall receive three dollars for each day they shall attend their respective courts in session, to be paid out of the treasury of the United States.

SEC. 17. Bailiffs, appointed for the purpose of keeping order in court, attending juries, or executing any order of the court, during its session, shall each receive two dollars per day, to be paid out of the treasury of the United States. Bailiffs shall be appointed by the courts respectively, not exceeding, however, three for the circuit and criminal courts each, and one for the district and orphans' courts each.

SEC. 18. In all copies, transcripts, or records, authorized by law, or required by any person, the fees to which any officer shall be entitled therefor shall be ascertained by accounting four figures therein used to express numbers, sums, or dates, as one word.

SEC. 19. Every officer whose fees are herein ascertained, shall pub-

lish and set up in his office a fair table of his fees according to this chapter, within one month after the passage thereof, in some conspicuous place, for the inspection of all persons who have business in his office. If any such officer shall neglect or refuse so to do, he shall forfeit one hundred dollars.

SEC. 20. The fees allowed by this chapter shall be payable at the time the service is rendered; and any officer, where it is not otherwise expressly provided by law, may refuse to perform any service in any action or proceeding in which there are any fees due to him (criminal proceedings excepted) from the person applying, unless such fees are paid, or secured to be paid.

SEC. 21. When by law any publication is authorized or required to be made by any officer, the costs of such publication shall be first tendered by the party, if demanded, before the officer shall be compelled to make publication.

SEC. 22. If any clerk, register of wills, marshal, justice of the peace, or constable, shall not have received the fees which may be due him for services rendered in any action or proceeding, he may have execution therefor, in his own name, against the party from whom they are due, to be issued from the court or by the justice before whom the action or proceeding is or was pending. The words "person" and "party," in this section and the two preceding sections, shall not be construed to include the United States.

SEC. 23. Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing and deliver to such person a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuse or neglect to do so, he shall be liable to the party paying the same for three times the amount so paid.

SEC. 24. The compensation in this chapter directed to be paid out of the United States treasury, shall be paid to the parties respectively by the marshal, and allowed in his accounts.

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SECTION 1. The board of commissioners, or levy court of Washington county, shall be composed of eleven members, to be designated by the President from among the justices of the peace of said county, annually, on the first Monday of May, or as soon thereafter as may be. If a vacancy happen, the President shall proceed to fill it by a selection as aforesaid. The present members of the levy court shall continue to hold their offices, according to the tenure of their commissions.

SEC. 2. Two members of the levy court shall be selected from that part of Washington county which lies eastward of Rock creek, and outside the limits of Washington City; two from that part of said county which lies westward of Rock creek, and outside the limits of Georgetown; three from Georgetown, and four from Washington City. A majority of the members shall constitute a quorum to do business.

SEC. 3. Every person appointed as a member of the levy court shall, on receiving his commission, take an oath faithfully to discharge the duties of his office; which being certified on the back of such commission, under the hand and seal of any judge or justice of the peace administering the same, shall be sufficient authority for such person to act as a member of said levy court for and during the time for which he may be appointed.

SEC. 4. The levy court shall be considered a body corporate and politic, by the name and style of "The Levy Court of the County of Washington," and as such, and in such name, may sue and be sued; may purchase and hold for the public use of said county, lands lying within its limits, and any personal estate; and may make all necessary contracts, and do all other necessary acts in relation to the property and concerns of said county.

SEC. 5. The levy court may, by their order of record, appoint agents to sell any real estate belonging to the said county of Washington; and all deeds made in behalf of the inhabitants of such county, by such agents, under their proper hands and seals, and duly acknowledged and recorded, shall be sufficient to convey all the right, title, and interest which said county may then have to such land so conveyed.

SEC. 6. When any action shall be commenced against the county of Washington, it shall be sufficient if service of the process be made

upon the clerk of the levy court. The inhabitants of such county shall be competent jurors or witnesses, if otherwise competent or qualified according to law.

SEC. 7. All the property of every kind belonging to said county shall be vested in the said levy court.

SEC. 8. The levy court shall hold its sessions on the first Monday of each month, and at such other times as the said court may order. Special sessions may be called by the clerk of said court, upon the written order of four members.

SEC. 9. The members of the levy court shall each receive two dollars for every day's attendance upon said court, to be paid out of the funds of the said county.

SEC. 10. The levy court shall have and use a seal for the purpose of sealing their proceedings; and copies of the same, when signed and sealed by the said court, and attested by their clerk, shall be good evidence of such proceedings in the trial of any cause in any court of this District.

SEC. 11. The levy court shall have power to appoint a clerk, treasurer, assessors, collector of taxes, supervisors of roads, overseers of the poor, and such other officers and agents as may be necessary; may fix their term of office, may assign them such duties, require of them such security, and allow them such compensation for their services, respectively, as the said court may think proper.

PUBLIC ROADS.

SEC. 12. The levy court shall have power to lay out, alter, repair, and regulate the public roads and highways within said county.

SEC. 13. No road shall be made to exceed one hundred feet in breadth, nor shall it pass through any building, garden, or yard, without the consent of the owner of the same.

SEC. 14. Reasonable compensation, if required by the owner, shall be made for any land marked and laid out for a public road, to be fixed as follows: The levy court, having first caused to be laid out and marked by the surveyor of the county the proposed road, shall give six weeks' public notice thereof by advertisement, and proper personal notice to the resident owners of the land through which the proposed road may run. If any owner of the land, through which the road may have been laid out, shall require compensation therefor, he shall, within two weeks after the expiration of the said six weeks, apply to the levy court, or to the clerk thereof, for such compensa-

If the parties cannot agree, or if the owner shall be a married woman, or insane person, or under age, or shall reside out of the District of Columbia, without having given proper authority to some person within this District to act for him in the premises, the levy court may, within two weeks after the expiration of the aforesaid two weeks, by writing, order the marshal to summon a jury of twelve freeholders, inhabitants of the said county of Washington, not related to the said owner, and in no manner interested in the premises, to meet on the land to be valued, at a day and hour to be expressed in said order. Ten days' notice of such meeting shall be given to the owner of the land, or left at his place of abode, or given to his guardian, if an infant, or to his committee or trustee, if an insane person, or to her husband, if a married woman. If the owner reside out of this District, and no person therein be duly authorized to act for him, sufficient notice shall be given to him personally, or public notice, by advertisement in some newspaper published in the city of Washington, shall be given for six weeks previous to the time for the assembling of said jury.

SEC. 15. The marshal shall summon the said jury and serve notice as aforesaid, and shall administer an oath to each of the jurors, justly and impartially, according to the best of his skill and judgment, to value the land and all damages, if any, which the owner will sustain by the road passing through the same, having regard to all circumstances of advantage or disadvantage, benefit or injury, which the owner may receive thereby.

SEC. 16. The inquisition, signed by the marshal and seven or more of the jurors, shall be returned by the marshal to the recorder, and filed in his office. Unless good cause be shown against said inquisition within a reasonable time, not exceeding three months, it shall be affirmed by the circuit court, and recorded, at the cost and charge of the levy court. If such inquisition be set aside, the circuit court may direct another inquisition, to be taken in the manner hereinbefore described. The valuation expressed in the inquisition shall be paid by the levy court to the owner of the land or his representatives, before the road shall be opened.

SEC. 17. If no compensation shall be claimed within eight weeks after the first publication of the notice as aforesaid, the land laid out and marked shall be adjudged to be condemned for the purposes of a

public road, and no compensation shall thereafter be required, unless the owner be a married woman, or insane person, or under age, or shall reside out of this District, having no person residing therein duly authorized to act for him; in which several cases the proceedings for condemnation shall be as aforesaid.

SEC. 18. Whenever a road shall be opened according to the foregoing provisions, the levy court shall cause a plat of the same to be recorded, and such road thereafter shall be a public road and common highway.

SEC. 19. In all cases where materials shall be necessary for making or repairing a public road, if the levy court cannot agree with the owner as to their purchase, or if the owner be a married woman, or under age, or insane person, or shall reside out of this District, having no person therein duly authorized to act for him, the said court may proceed in the same manner for condemning said materials as is hereinbefore directed for the condemnation of land for the purposes of a public road.

SEC. 20. No field of ground in actual cultivation shall be laid open or used as a public road, until after the usual time of taking off the crops growing thereon.

SEC. 21. The levy court shall have power, upon petition, to establish, at the termination of any public road leading to any navigable water, a public landing place; and may proceed in the same manner, and exercise the same powers, for establishing and maintaining such public landing place, as is hereinbefore directed for opening and repairing public roads.

SEC. 22. The levy court shall have power to make all proper and needful rules, not inconsistent with the laws of this District, for regulating, preserving, and keeping in good order, the roads and bridges of the said county of Washington; and may annex penalties, not exceeding twenty dollars, for any breach thereof, to be recovered in the name and for the use of said levy court, before any justice of the peace; provided, however, that no person shall be subject to any such penalty, unless such regulations have been duly and properly published.

SEC. 23. It shall be the duty of the levy court to keep, or cause to be kept, the public roads, causeways, and bridges, of said county of Washington, in proper repair; and if any person shall receive any

injury in his person or property, by reason of any defect or want of repair which has existed for the space of fifty-six hours in any public road, causeway, or bridge, in said county, he may recover from the said levy court the amount of damage sustained thereby.

PRIVATE ROADS.

SEC. 24. If any person shall desire any private road or way from his land, in said county of Washington, to a public road, and cannot agree therefor with the person through whose land such private road would pass, he may petition the levy court, which shall thereupon direct the surveyor of said county to view and survey such road, not exceeding sixteen feet wide, clear of ditches, and return a plat thereof within one month.

SEC. 25. The owners, or the duly authorized agents of owners of land through which such private road may pass, shall be notified to appear at a certain day named in said notice, before the levy court, to show cause against such petition; and upon hearing, the levy court may make such order respecting such private road as it shall think proper; and shall determine the compensation to be made to such owners by the petitioners.

SEC. 26. Upon the payment of such compensation, such road shall be deemed a private way, appurtenant to the land of said petitioner; to be kept open and repaired at the expense of the party using the same.

SEC. 27. Nothing in this chapter contained shall authorize the making of any private road or way as aforesaid, through any garden, yard, orchard, or meadow, without the owner's consent.

PAUPERS.

SEC. 28. The levy court shall provide for the support of the paupers of the county of Washington, and to that end may make such contracts, from time to time, for their support, as shall be deemed proper.

SEC. 29. The levy court may purchase and hold any quantity of land, not exceeding fifty acres, and erect thereon a workhouse or almshouse, for the employment and accommodation of the paupers of said county. The said levy court may direct what paupers shall be received into any such house, and, from time to time, may make reasonable and proper rules and regulations for the government thereof, and of the dwellers therein.

SEC. 30. No person shall be deemed to have gained a legal settlement in said county, so as to become chargeable to it, unless such person shall have been placed on the list of the paupers of said county, and shall have received support or aid therefrom, or unless such person shall have been born therein, or shall have resided therein for one year at one time, and shall not since that time have gained a legal settlement elsewhere.

SEC. 31. If any pauper shall be found in said county whose last legal settlement shall not have been in said county, any justice of the peace therein, upon oath being made by any member or officer of the levy court, that he believes that such pauper will become chargeable to said county, may order such pauper to be brought before him; and if, upon a hearing, said justice shall see cause, he may, by warrant, order any such pauper, at the cost and charge of said county, to be removed, if it can be done without danger, to the place where he was last legally settled, unless he shall enter into bond, not exceeding five hundred dollars, payable to the levy court, with security to be approved by said justice, that he will not become chargeable to said county.

COUNTY LEVIES.

SEC. 32. At the first meeting of the levy court in March next, and every five years thereafter, the levy court shall appoint three freeholders, residents of said county, whose duty it shall be to assess, and value, and make return of, all real and personal property within said county of Washington subject to valuation and assessment. If a vacancy occurs in said board of assessors, the levy court shall, as soon as practicable, fill the same.

SEC. 33. The levy court may direct an additional assessment to be made and returned, by the board of assessors for any year during which no general assessment shall be made and returned, which said additional assessment shall include such real and personal property subject to valuation and assessment as has not been made and returned in any previous assessment.

SEC. 34. Every assessor shall, before entering upon the discharge of the duties of his office, take an oath, to be administered by any justice of the levy court, that he will well and truly execute the duty of an assessor, and will faithfully, justly, and impartially value all

real and personal property in said county subject to assessment and valuation, according to the best of his skill and knowledge.

SEC. 35. It shall be the duty of the assessors to make and return their assessment within such time as shall be directed by the levy court. In making and returning such assessment, the assessors shall be subject to such regulations, not inconsistent with the provisions of this chapter, as may be provided by said court.

SEC. 36. Every person, when so required by the assessors, shall give to such assessors a full and particular account of all the real and personal property subject to assessment belonging to him, or in his possession, or under his care and management, and the name of the person to whom the same belongs. The assessors may require any person producing such an account to make oath that the same is true, to the best of his knowledge and belief; which said oath may be administered by either of the assessors.

SEC. 37. The assessors shall inform themselves, by all lawful ways and means, of all real and personal property subject to valuation and assessment; and in making their valuation, they shall determine it agreeably to what they believe the same to be worth, in cash, at the time of said valuation.

SEC. 38. The levy court may hear and determine appeals from any party complaining of his assessment, or may appoint a board of appeals for that purpose, under such regulations as may be prescribed by said court.

SEC. 39. All property, real and personal, within said county, not expressly exempted therefrom, shall be subject to assessment and taxation in the manner provided by law.

SEC. 40. The following property shall be exempt from assessment and taxation:

First. All property belonging to the United States, or to the county of Washington.

Second. The personal property of all literary, benevolent, charitable, and scientific institutions, incorporated within said county, and such real estate belonging to such institutions as shall be actually occupied for the purposes for which they were incorporated.

Third. Public schoolhouses, public hospitals, asylums, poorhouses, and other charitable or benevolent institutions for the relief of the indigent and afflicted, whether incorporated or not, and the land thereto appurtenant, with all their furniture and equipments.

Fourth. Houses of public worship, with their furniture and equipments, and the land appurtenant thereto and used therewith, so long as the same shall be used for that purpose only, or for public schools.

Fifth. Cemeteries and grave-yards, set apart and used for the purpose of interring the dead.

Sixth. Public libraries, and the real or personal property belonging to or connected with the same.

Seventh. The household furniture of every head of a family, where the same does not exceed in value the sum of two hundred dollars.

Eighth. The crop and produce of land in the hands of persons producing the same, and provisions necessary for the use and consumption of the person to whom they belong, and of his family, for a year.

Ninth. Wearing apparel, farming utensils, and the working tools of mechanics and manufacturers, actually used by them.

Tenth. Goods, wares, and merchandise, kept for sale, and all manufactures in the hands of the manufacturers.

Eleventh. All money, stocks, or debts.

SEC. 41. Real and personal property shall be assessed to the owner thereof, if he be known.

SEC. 42. Where real estate is subject to a mortgage or deed of trust; the mortgagor or grantor in the deed of trust shall, for the purposes of assessment and taxation, be deemed the owner, until the mortgagee shall take possession, or a sale be made in pursuance of the deed of trust, after which the mortgagee or vendee shall be deemed the owner.

SEC. 43. Where personal property is mortgaged or pledged, it shall, for the purposes of assessment and taxation, be deemed the property of the party who has the possession.

SEC. 44. The real estate of any deceased person shall be charged to his estate, until it can properly be charged to the heir, devisee, or grantee; and the personal estate of a deceased person shall be likewise charged to his estate, until the same is disposed of.

SEC. 45. The assessors shall return to the levy court, at the time appointed by said court, a certificate, in writing, containing the particulars of all the real and personal property in said county subject to assessment, and the value of the same, and the names of the owners thereof, alphabetically arranged, and according to such regulations and forms as may be prescribed by the said levy court.

SEC. 46. The levy court may, for the purpose of meeting and defraying the proper charges and expenses of said county, annually lay and collect a tax upon all the real and personal property in said county subject to assessment, not exceeding forty cents in the hundred dollars' value of said real and personal property, according to the last corrected assessment.

SEC. 47. The levy court may allow a discount of such sum as to said court may appear proper, to such persons as may make payment of taxes charged to them, within such periods of time as may be prescribed by said court.

SEC. 48. Every collector of taxes appointed by the levy court shall, before he acts as such, take an oath to discharge faithfully the duties of his office, and shall give bond to the levy court, in the sum of ten thousand dollars, with security to be approved by the said court, conditioned for the faithful performance of the duties of his office.

SEC. 49. The collector of taxes may appoint one or more deputies, and may take such bond and security from them as he may deem necessary; but in all cases he shall be held liable, with his sureties, for the proceedings and misconduct of such deputies.

SEC. 50. It shall be the duty of the clerk of the levy court to make out and deliver to the collector a tax list within two months after any tax shall have been laid by the levy court.

SEC. 51. If any person or estate shall refuse or neglect to pay any tax lawfully imposed by the said levy court, the collector shall proceed to collect the same by distress and sale of the goods and chattels of such person or estate, if any be found in said county.

SEC. 52. Before any personal property shall be seized, distrained, or sold, and before any real estate shall be sold for said tax, the collector shall deliver to the person chargeable therewith, if a resident, or leave at his last place of abode, a particular account of his assessment, the rate of tax imposed, and the amount of said tax.

SEC. 53. No sale of personal property for taxes shall be made unless ten days' previous notice thereof shall be given in some newspaper published in this District.

SEC. 54. No sale of real estate for taxes shall be made for any taxes due upon the same, except when the owner or tenant has not sufficient personal property in said county out of which the payment of such taxes could be enforced.

SEC. 55. When any tenant of real estate shall be compelled to pay any taxes on the same, which by agreement or otherwise ought to be paid by some other person, he shall be entitled to recover by action the amount, with twenty per cent. damages, from such person, or to retain the said amount, with twenty per cent. on the same, from any rent then or afterwards due for the real estate so taxed.

SEC. 56. In all cases where any tax is due upon real estate, and the collector can find no personal property in said county liable therefor, he shall return to the levy court, at such time as the said court shall require, an account of such real estate, and the amount of taxes due thereon, with the names of the persons or estates chargeable with the payment of the same.

SEC. 57. The levy court shall cause to be advertised any such real estate, and the amount of taxes due thereon, together with the names of the persons or estates chargeable with the payment of the same, at least once a week for four successive weeks, in some newspaper published in this District. Such advertisement shall give notice that unless said taxes be paid within thirty days after a certain day to be named in said notice, the said real estate, or so much thereof as may be necessary to pay the taxes due thereon, will be sold to the highest bidder for the payment of the same.

SEC. 58. If the said taxes shall not be paid at the time mentioned in said notice, the levy court shall direct the collector, after giving notice at least once a week for two months by advertisement in some newspaper published in this District, to sell to the highest bidder any such real estate, or such part thereof as may be sufficient to discharge said taxes and proper charges of sale.

SEC. 59. The collector, in pursuance of any such direction of the levy court, shall not sell more of any real estate than is sufficient to discharge the tax and legal charges due thereon, unless the levy court shall first make entry upon their minutes that such real estate will not admit of division without injury to the owner.

SEC. 60. If more money be raised by any such sale than is necessary to pay said tax and legal charges, the collector shall, within two weeks after such sale, pay over such surplus to the treasurer of the levy court, to be kept by him, subject to the order of the person entitled to the same.

SEC. 61. If any real estate shall be sold for any such taxes, the

former owner thereof, or any one claiming under him, may, at any time within two years thereafter, redeem the same by paying to the purchaser, or any one claiming under him, or to the treasurer of the levy court for the use of such purchaser, his heirs, or assigns, the sum paid by such purchaser, with ten per centum on such amount, and interest from the date of such purchase.

SEC. 62. Infants, married women, and insane persons, may redeem any real estate sold for taxes at any time within two years after the expiration of such disability.

SEC. 63. The collector shall enter any sales of real estate for taxes made by him in a proper record book, in which shall be given a description of the real estate sold, and to whom and for how much sold.

SEC. 64. After payment shall have been made for any real estate sold for taxes, the collector shall give to the purchaser a certificate, in writing, describing the real estate so purchased, the sum paid, and the time when the purchaser, his heirs, or assigns will be entitled to a deed; which certificate shall entitle the holder to the possession of the premises therein described.

SEC. 65. Any person claiming an undivided part of any real estate sold for taxes, may redeem the same within the time limited for redemption, upon paying such proportion of the purchase money, penalty, and interest as he shall claim of the real estate sold.

SEC. 66. If no person shall redeem any real estate sold for taxes within the time limited by law for such redemption, the collector, on the production of the certificate of purchase, shall execute to the purchaser, his heirs, or assigns, in the name of the levy court, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple. Such deed shall have relation to, and be construed to take effect from, the day of sale.

SEC. 67. Whenever the collector shall discover, prior to the conveyance of any real estate sold for taxes, that the sale was for any cause invalid, he shall not convey such real estate; but the purchase money and interest thereon shall be refunded to the purchaser, his representatives, or assigns, upon the direction of the levy court; and such real estate, if originally liable to taxation, and being still delinquent, shall again be placed on the delinquent list, and the amount so refunded, with interest, be collected as in other cases.

SEC. 68. The sale of real estate for taxes shall not be invalid on

account of such real estate having been assessed or charged in any other name than that of the rightful owner.

SEC. 69. The collector may adjourn his sale from day to day, and he shall give notice of every such adjournment by a public declaration thereof, at the time and place previously appointed for the sale.

SEC. 70. When conveyances are delivered for real estate sold for taxes, the certificates therefor shall be cancelled and filed away by the clerk of the levy court; and in the case of a loss of any certificate, on being duly satisfied thereof by due proof, the levy court may direct the collector to execute and deliver the proper conveyance.

SEC. 71. A register shall be kept by the collector, containing a brief description of the real estate by him conveyed on sales for taxes, the name of the person or estate charged therewith, the date of sale, the name of the purchaser, the amount for which sold, the name of the grantee in the deed, and the date of its execution.

SEC. 72. When real estate sold for taxes shall be redeemed, the collector shall insert a memorandum of such redemption, the quantity or description of the portion redeemed, if not the whole, the date thereof, and by whom made, on his record of sales of real estate for taxes, and shall likewise give a certificate thereof to the person redeeming.

SEC. 73. The amount of tax laid upon real estate shall constitute a lien upon the same; which lien shall in nowise be affected or destroyed by any sale or transfer of such real estate by the owner.

SEC. 74. The necessary expenses of advertising and sale shall be considered as legal charges, the payment of which may be enforced in the same manner as taxes are.

SEC. 75. The collector shall be allowed the same fees and charges for making distress and sale of goods and chattels for taxes, as are allowed by law to constables for making a levy upon and sale of personal property on execution.

SEC. 76. The taxes, when collected, shall be paid over by the collector to the treasurer of the levy court, and the collector shall make due return of his collections within such time as may be prescribed by the levy court.

SEC. 77. If the collector shall refuse or neglect to make due return of his collections, he and his sureties shall be held liable for the full amount of the taxes of which he so refuses or neglects to make return,

together with interest from the time when such return should have been made.

SEC. 78. If the collector shall refuse or neglect to pay over all moneys collected by him, he and his sureties shall be held liable to pay the full amount which he should have paid over, together with interest and ten per cent. damages.

SEC. 79. The collector, when resisted or impeded in the exercise of the duties of his office, may require any suitable person to aid him therein; and if such person shall refuse to render such aid, he shall forfeit a sum not exceeding two hundred dollars.

SEC. 80. If any goods and chattels distrained for taxes shall be sold for more than the taxes due and the legal charges, the collector shall return the surplus to the owner, with an account in writing of the sale and charges.

SEC. 81. The collector shall complete his collection of the taxes committed to him, notwithstanding his term of office shall have expired before completing the same, except in the case where he shall be removed from office.

SEC. 82. If the collector shall die before completing his collections, the levy court may appoint some suitable person to complete the same.

SEC. 83. No goods and chattels shall be distrained and sold for taxes, which by law are exempted from execution for debt.

COUNTY TREASURER.

SEC. 84. Any person appointed to the office of county treasurer, shall, before he enters on the duties thereof, take an oath to discharge faithfully the duties of his office, and shall give bond to the levy court in the sum of ten thousand dollars, with security to be approved by the said court, conditioned for the faithful performance of the duties of his office.

SEC. 85. Said treasurer shall receive all moneys due and accruing to said county of Washington, and disburse the same on proper orders.

SEC. 86. He shall so arrange and keep his books, that the amount received and paid out on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate accounts, as well as the whole receipts and expenditures by one general account.

SEC. 87. His books and office shall at all times be subject to the inspection and examination of the levy court.

SEC. 88. He shall annually make a complete settlement with the levy court, and shall, at the expiration of his term of office, deliver to his successor all public money, books, and papers in his possession.

LICENSES.

SEC. 89. No person shall keep an ordinary, or tavern, or house of public entertainment, in said county of Washington, without first having obtained a license therefor from the levy court.

SEC. 90. No such license shall be granted, unless the person applying therefor shall be furnished with suitable provisions and lodging for strangers and travellers, and with stable room and provender for their horses and cattle; and if any person to whom any such license shall have issued, be not at all times provided with the accommodations required by this section, the levy court may revoke such license.

SEC. 91. Every person on receiving any such license, shall pay therefor to the levy court, for use of said county, at the rate of twenty dollars per annum.

SEC. 92. No such license shall be granted, unless the person applying therefor shall give bond to the levy court in the sum of five hundred dollars, with sureties to be approved by said court, conditioned that he will keep a quiet, orderly, and peaceable house, and will, in all respects, keep, and faithfully observe, all the laws respecting ordinary keepers within said county; which bond shall be filed in the office of the clerk of the levy court.

SEC. 93. If the condition of such bond be broken, it may be put in suit, and if judgment be rendered thereon in favor of the levy court, such judgment shall be for the amount of the penalty of said bond; but execution shall only issue for such sum as the circuit court may assess. If any other breaches shall be afterwards assigned and proved, the said circuit court may order execution to be issued for such further sum, from time to time, as may be judged proper; provided, that the whole amount of such sums shall not exceed the penalty of such bond. Nothing in this section contained shall prevent any such ordinary keeper from being prosecuted for, and convicted of, any offence which he may have committed in the same manner as could have been done if such bond had not been given.

SEC. 94. If any such ordinary keeper shall keep a disorderly house, or shall violate any of the provisions of law regulating ordinaries, taverns, or houses of public entertainment, the levy court may sus-

pend or revoke his license; and such license shall not, after such revocation, nor during the time of such suspension, be of any validity or effect.

SEC. 95. No such license for keeping an ordinary, tavern, or house of public entertainment, shall be granted to any other person than the master, principal, or head of the family residing in the house where such ordinary, tavern, or house of public entertainment shall be kept; and if any license shall be granted contrary to the provisions of this section, the same shall be void.

SEC. 96. If any person shall keep an ordinary, tavern, or house of public entertainment, in said county, without having an existing, valid, and effectual license therefor; or if any person, without such license, shall sell a less quantity than one quart of intoxicating liquors, or shall sell any quantity of intoxicating liquor and suffer the same to be drunk in his house or on his premises, or shall sell any quantity of any such liquor, and deliver a less quantity thereof than one quart at any one time, every person so offending shall forfeit and pay thirty dollars for each offence, for the use of the levy court.

SEC. 97. No license heretofore granted to keep any ordinary, tavern, or house of public entertainment, in said county, shall, upon its expiration, be renewed, except in conformity with the foregoing provisions; and all such licenses so renewed, or which hereafter may be granted under said foregoing provisions, shall be made to expire on the thirty-first day of December in each year.

SEC. 98. The levy court shall have power to license hawkers and peddlars within said county, for which license the sum of twenty dollars per annum shall be paid to the said levy court. No person shall, without such license, act in said county as a hawker or pedlar in selling or trading in goods, wares, or merchandise, except articles manufactured by the seller within this District. Such license shall be a personal privilege, and shall be renewed every year. No other person shall act under it, either as a partner of or agent of the person to whom the same may be issued. Any person who shall violate any of the provisions of this section shall forfeit and pay, for the use of the levy court, the sum of twenty dollars.

SEC. 99. The levy court shall have power to license keepers of billiard tables within said county, for which license the sum of thirty dollars per annum shall be paid to the levy court. No person shall, without such license, keep a billiard table for public accommodation.

Such license shall be renewed every year. Any person who shall violate the provisions of this section shall forfeit and pay, for the use of the levy court, the sum of fifty dollars.

SEC. 100. The levy court shall have power to license keepers of ball alleys within said county, for which license the sum of twenty dollars per annum shall be paid to the levy court. No person without such license shall keep a ball alley for public accommodation. Such license shall be renewed every year. Any person who shall violate the provisions of this section shall forfeit and pay, for the use of the levy court, the sum of fifty dollars.

SEC. 101. The levy court shall have power to license auctioneers within said county, for which license the sum of ten dollars per annum shall be paid to the levy court. No person without such license shall act as auctioneer within said county. Any person who shall violate the provisions of this section shall forfeit and pay, for the use of the levy court, the sum of twenty dollars.

SEC. 102. The levy court shall have power to license caravans, menageries, circuses, and shows, exhibited for reward within said county. No person without having a license so to do shall exhibit for reward any caravan, menagerie, circus, or show. Any person who shall violate the provisions of this section shall forfeit and pay, to the use of the levy court, the sum of fifty dollars.

PUBLIC SCHOOLS.

SEC. 103. It shall be the duty of the levy court, as soon as practicable after the passage of this act, to lay off said county into school districts of convenient size. The levy court may revise and alter such districts at pleasure.

SEC. 104. The levy court shall annually appoint one person, resident in each school district, as a school commissioner. Whenever a vacancy shall occur in the office of school commissioner, the levy court, as soon as may be, shall fill the same.

SEC. 105. The said school commissioners, and their successors, shall be a corporation under the name and style of "The Board of School Commissioners of Washington County," with power to sue and be sued, and to take and hold, in fee simple or otherwise, any estate, real or personal, not prohibited by law, which may be given, or purchased by said board, for public or primary school purposes.

SEC. 106. The board shall have power, and it shall be its duty—

1. To receive and disburse any fund which may be provided for the support of public or primary schools in said county.

2. To apportion the school fund under its control amongst the several school districts, as near as may be, according to the number of indigent children in each district.

3. To regulate the number of children to be taught in said schools, and the price of their tuition.

4. To superintend the erection and repairs of all public or primary schoolhouses in the several school districts.

5. To select such teachers as are competent, and to fix their salaries and terms of service.

6. To suspend or expel from any public or primary school, with the advice of the teacher, any pupil who will not submit to the reasonable and ordinary rules of order and discipline therein.

7. To apportion the several public or primary schools amongst the members of said board, in such a manner that at least one of the commissioners shall visit and ascertain the character, progress, and prospects of each school, and report the same to the board, once in three months.

8. To hold meetings at least as often as once in three months, for the transaction of the business of said board.

9. To make and keep a record of all the official acts of said board, and a strict and particular account of all bills directed to be paid; said record and account, together with the vouchers relating thereto, shall be subject at all times to the inspection and examination of the levy court.

10. To report to the levy court, annually, at the close of every school year, the amount of all expenditures on account of schools in the several districts during the previous school year, and the manner in which the same shall have been expended, specifying what portion and amount thereof has been expended for the services of teachers. In such report shall also be particularly set forth the number of pupils taught, and their average attendance and progress, and such other statistics as the levy court may require.

11. To regulate and control the purchase and distribution of books, stationery, and other things, for the use of said schools, and generally to prescribe rules and regulations for the management, good government, and well ordering of said schools.

Sec. 107. It shall be the duty of the said commissioners, at the close of their official term, to deliver over their records and official

papers to their successors in office, and take their receipt for the same ; which receipt shall be filed in the office of the clerk of the levy court.

Sec. 108. Every school commissioner, on his appointment to said office, shall take an oath, to be administered by any member of the levy court, that he will faithfully discharge the duties of a school commissioner so long as he shall hold said office.

Sec. 109 For any breach or neglect of duty, any school commissioner may be removed from office by the levy court.

Sec. 110. For the purpose of supporting said public or primary schools, and of providing suitable houses and equipments therefor, the levy court is empowered and authorized to lay and collect, in the manner hereinbefore provided, a special tax upon the real and personal assessed property in said county, not exceeding ten cents on each hundred dollars of valuation, according to the latest corrected assessment. All moneys raised by said special tax shall be paid to the county treasurer as a special deposit.

GENERAL PROVISIONS.

Sec. 111. It shall be the duty of the levy court to provide for the use of the orphans' court of this District proper and suitable books of record and dockets.

Sec. 112. The levy court, when assembled for the discharge of the duties of said court, may punish any disorderly conduct which shall cause an actual interruption of the business of the meeting, or which shall amount to an open and direct contempt of the authority of said court, by a fine not exceeding fifty dollars, or by imprisonment in jail for a time not exceeding three days.

Sec. 113. Nothing in this chapter contained shall be construed as having any application to that portion of the county of Washington included within the corporate limits of Washington City and Georgetown ; but the provisions thereof shall apply only to that portion of said county which lies outside the limits of said corporations. Wherever in this chapter the said county of Washington is referred to, it shall be construed to mean only that portion of said county which lies outside the corporate limits of Washington City and Georgetown.

Sec. 114. Whenever a vote or an election may be directed to be taken or held in said county, the levy court may fix the number and limits of the election districts, and appoint a board of judges of election for each of said districts.

TITLE VI.

CHAPTER 11.

WASHINGTON CITY AND GEORGETOWN.

SECTION

1. Washington City and Georgetown to continue to have the powers heretofore conferred.
2. Washington City to contribute to certain county charges.
3. Georgetown to contribute to certain county charges.
4. Washington City to keep in repair a certain bridge.
5. Georgetown to keep in repair a certain bridge.
6. Washington City and Georgetown may erect bridges across Rock creek, &c.

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8. Members exempt from military duty.
9. Fire apparatus to be worth five hundred dollars.
10. Inspector of fire engines to be appointed; his duties.
11. Privileges forfeited in certain cases.
12. } How fines may be imposed and col-
13. } lected..
14. Certain proceedings to be had on the expulsion of a member.
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16. Fire companies to provide a fund, &c.
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SUBDIVISIONS OF SQUARES AND LOTS IN WASHINGTON CITY.

18. Proprietors may cause plats to be made.
19. Surveyor may examine and certify such plat.
20. Such plat, when certified, may be referred to for description.
21. Regulations relating to the measurement of lots.
22. } Duties and fees of city surveyor.
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SECTION

24. Certain records to be kept in surveyor's office.
25. How public squares or lots may be subdivided.
26. City surveyor to take an oath.

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27. Printed copies of laws and ordinances to be evidence.

HEALTH REGULATIONS.

28. Washington City and Georgetown may appoint a board of health.
29. } Powers of the board of health.
30. }
31. }
32. Regulations of the board of health to be published.
33. } Duties of the board of health.
34. }
35. The board of health may cause nuisances, &c., to be removed at the cost of owner of premises.
36. The board of health may enter into houses, &c.
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38. Common nuisance may be abated under direction of board of health.

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40. }
41. }
42. }
43. }
44. }
45. }

46. The expenses of the board of health to be a charge upon the cities respectively.
47. Fines to be recovered in the name and for the use of the cities respectively.

INSPECTIONS.

48. Washington City and Georgetown may provide for the inspection of certain articles.

SECTION 1. Washington City and Georgetown shall continue to have and exercise all the powers and privileges, and be subject to all the duties and liabilities, mentioned in the several acts of the State of Maryland, and of the Congress of the United States, now in force, specially relating to said cities, unless where otherwise expressly provided. Nothing in this Code contained shall be construed to repeal or impair the existing charters of said cities, or the laws passed by the State of Maryland, or by the Congress of the United States, now in force, specially relating to said cities, or either of them, unless so expressly declared.

SEC. 2. The corporation of Washington shall contribute one-half of the expenses incurred by the levy court of the county of Washington, on account of the orphans' court of this District, and for opening and repairing, in that part of said county which lies outside of Washington City and east of Rock creek, the roads which lead directly to said city of Washington.

SEC. 3. The corporation of Georgetown shall contribute one-fourth part of the expenses incurred by the said levy court on account of the orphans' court of this District, and one-half of the expenses of opening and repairing, in that part of said county of Washington which lies outside of Georgetown and west of Rock creek, the roads which lead to Georgetown.

SEC. 4. The corporation of Washington shall forever keep in good repair, and at the expense of said corporation, the bridge over Rock creek, at the western termination of K street in said city.

SEC. 5. The corporation of Georgetown shall forever keep in good repair, and at the expense of said corporation, the bridge over Rock creek, at the eastern termination of Bridge street in said Georgetown.

SEC. 6. The corporations of Washington City and Georgetown, jointly or separately, may erect permanent bridges across Rock creek at such sites as may be determined upon. If it should be necessary to obtain private property on which to fix the abutments, and the corporation attempting such bridge cannot agree with the owner for the purchase of said property, the same proceedings, as near as may be, may be had for the condemnation of such private property, as is provided in chapter ten for the condemnation of land for the purposes of a public road; and to that end, the mayor of such corporation shall proceed as the levy court is therein directed.

FIRE COMPANIES.

SEC. 7. The fire companies of Washington City and Georgetown now formed, and those which hereafter may be formed in said cities, shall severally have power to frame their own constitutions, adopt by-laws for their regulation, and elect their own officers.

SEC. 8. The officers and members of fire companies shall be exempt from the performance of military duty in time of peace, so long as they continue actively as such; provided, however, that no company possessing an apparatus of the value of five hundred dollars shall exempt more than seventy-five persons; and no company possessing an apparatus of the value of one thousand dollars and upward shall exempt more than one hundred persons.

SEC. 9. No company now or hereafter formed shall be deemed a fire company within the meaning of the sections of this chapter relating to fire companies, unless it shall first obtain a fire apparatus of the value of at least five hundred dollars.

SEC. 10. The corporate authorities of Washington City and Georgetown shall each, annually, appoint an inspector of fire engines, whose duty it shall be to examine into the conditions of the fire apparatus belonging to each fire company in his city, at least once in every month, and to report its state to a fire department, to be composed of the presidents of the fire companies of his city, who are hereby constituted a fire department for that purpose, to sit monthly at the town house of the city to which they belong.

SEC. 11. If the inspector shall report that the fire apparatus of any fire company is so defective, or out of repair, as to be of less value than five hundred dollars, or unfit for service, and the company whose apparatus shall be thus reported to be so depreciated in value, or out of repair, shall permit the same to continue so for one calendar month, said company shall thereupon forfeit all the rights, privileges, and immunities granted by the sections of this chapter relating to fire companies, and it shall be the duty of said inspector to communicate such fact to the assessors of the city to which such company may belong.

SEC. 12. Each fire company shall have power to enforce obedience to its constitution and by-laws by fine and forfeiture, and to collect all such fines by warrant, to be issued by a justice of the peace in the city where such company belongs, in the name of such company.

SEC. 13. The certificate of the president of any fire company, that a member has been fined for disobedience to the constitution or by-laws of the company, attested by the secretary of such company, shall be sufficient evidence upon which the said justice may issue his warrant. Such justice, after having the party so charged before him, and upon the production of the record of the fine, proved by the secretary, shall enter up judgment against such party, and issue execution accordingly.

SEC. 14. If any fire company shall expel any member thereof, such expelled member shall forfeit all the rights, privileges, and immunities of a member of a fire company, and it shall be the duty of the secretary of the company from which he shall be expelled, immediately to inform the assessors within whose limits said expelled member shall reside, that he has been so expelled.

SEC. 15. Every sum of money collected by virtue of sections twelve and thirteen of this chapter, shall be paid over, by the officer or other person collecting the same, to the treasurer of the fire company in the name of which the warrant shall have been issued, or the money collected. If such officer or other person shall fail to pay over the same, said treasurer may recover it, and twenty per cent. damages, before any justice, in his own name, for the use of his fire company.

SEC. 16. Every fire company shall provide a fund for the relief of the indigent members of such company who may receive corporeal hurt, or contract disease at, or in consequence of, any fire, and for the relief of the indigent families of members who may be killed at, or die in consequence of any injury received, or disease contracted at, or in consequence of, any fire. The treasurer of each company shall, after having paid all the expenses which his company shall lawfully have incurred, pay over to said fund the residue of all fines collected by virtue of the foregoing provisions.

SEC. 17. Nothing in the sections of this chapter relating to fire companies, shall be construed to interfere with the right of the corporate authorities of Washington City and Georgetown, severally, to provide for the prevention and extinguishment of fires. Each of the said corporate authorities shall have full power and lawful authority to make all necessary provisions for the prevention and extinguishment of fires; for the preservation of order and protection of prop-

erty at any fire; for the removal from any fire of suspicious persons, and those who are disobedient to the regulations of the said corporations, severally; for the punishment, by fine and imprisonment, of such persons as, being present at, refuse to assist and obey the commands of the proper officer in extinguishing any fire; for the removal of such property in the vicinity of fires as may be necessary to be removed; to prevent and arrest the progress of any fires; to aid, protect, and obtain obedience to the officers in command of the several fire companies, and to protect the members thereof while in the discharge of their duty at any fire.

SUBDIVISIONS OF SQUARES AND LOTS IN WASHINGTON CITY.

SEC. 18. Whenever the proprietor of any square or lot in Washington City shall deem it necessary to subdivide such square or lot into convenient building lots, pieces or portions for sale and occupancy, and alleys for their accommodation, he may cause a plat of the same to be made, on which shall be expressed the dimensions and length of all the lines of such portions as are necessary for defining and laying off the same on the ground, and may certify each subdivision under his hand and seal, in the presence of two or more credible witnesses, upon the same plat, or on a paper or parchment attached thereto.

SEC. 19. At the request of said proprietor, the surveyor of said city shall examine whether the lots, pieces, or parcels, into which any square or lot may be subdivided as aforesaid, agree in dimensions with the whole of the square or lot so intended to be subdivided, and whether the dimensions expressed on the plat of subdivision be the true dimensions of the parts so expressed. If, upon such examination, he shall find the plat correct, he shall certify the same under his hand and seal, with such remarks as appear to him necessary for the further illustration thereof, and record the said plat, as examined, in a book or books to be kept for that purpose.

SEC. 20. When such subdivision of any square or lot shall be so certified, examined, and recorded, the purchaser of any part thereof, or any person interested therein, may refer to the said plat and record for description, in the same manner as to squares and lots divided between the commissioners and the original proprietors; and the ways, alleys, or passages, laid out or expressed on such plat of subdivision, shall be and remain to the public, or subject to the uses

declared by the person making such subdivision, at all times, under the same police regulations as the alleys laid off by the commissioners on division with the proprietors.

SEC. 21. Whenever the said surveyor shall lay off any lot in said city, or any of the parts into which a square or lot may be subdivided as aforesaid, he shall measure the whole of that front of the square on which such lot or part lies; and if, on such admeasurement, the whole front of the square exceeds or falls short of the aggregate of the fronts of the lots on that side of the square, he shall apportion such excess or deficiency among the lots or pieces on that front agreeably to their respective dimensions. Whenever, on such admeasurement, the wall of a house, previously erected by any proprietor, shall appear to stand on the adjoining lot of any other person in part less than seven inches in width thereon, such wall shall be considered as standing altogether on the land of such proprietor, who shall pay to the owner of the lot on which the wall may stand, a reasonable price for the ground so occupied, to be decided by arbitrators or a jury, as the parties interested may agree. But if the wall of any house, already erected, cover seven inches or more in width of the adjoining lot, it shall be deemed a party wall, according to the regulations for building in said city as promulgated by the President of the United States; and the ground so occupied, more than seven inches in width, shall be paid for as above; which fact the said surveyor shall ascertain and certify, and put on record, at the request and expense of any person interested therein.

SEC. 22. It shall be the duty of the said surveyor to attend, when requested, and examine the foundation or walls of any house to be erected, when the same shall be level with the street or surface of the ground, for the purpose of adjusting the line of the front of such building to the line of the street, and correctly placing the party wall on the line of division between that and the adjoining lot; and his certificate of the fact shall be admitted as evidence, and binding on the parties interested.

SEC. 23. The said surveyor shall be authorized to receive from the persons for whom he shall perform said services, the following fees: For examining the plat and calculations of any subdivision of a square or lot, twelve and a half cents for each of the lots or portions into which it may be subdivided; provided that no more shall be paid for

the lots in one square than one dollar and fifty cents; for examining any building, and giving the certificate required by the eighteenth section of this chapter, and recording the same, one dollar and fifty cents; for recording any division or subdivision of any square or lots, for transcripts from records, and for searches in his office, the same fees as are allowed to the recorder, provided they do not in any case exceed the fee hereby allowed for examination.

SEC. 24. All records of the division of squares and lots heretofore made between the public and original proprietors, or which are authorized by this chapter, shall be kept in the office of the surveyor of Washington City, and all transcripts therefrom, certified by him, shall be evidence equally valid with transcripts certified by the recorder.

SEC. 25. Whenever the President of the United States shall deem it necessary to subdivide any square or lot belonging to the United States, within the city of Washington, which may not have been reserved for public purposes, into convenient building lots, pieces, or portions, for sale and occupancy, and alleys for their accommodation, he may cause a plat to be made by the surveyor of said city, in the manner prescribed in the eighteenth section of this chapter, which plat shall be recorded by said surveyor; and the provisions of so much of this chapter as relates to the subdivision of squares and lots in Washington City shall extend to the lots, pieces, and parcels of ground contained in such plat, as fully as to subdivisions made by individual proprietors.

SEC. 26. The surveyor of Washington City, before entering upon the discharge of the duties required of him by this chapter, shall take an oath before the mayor of said city, that he will faithfully and impartially perform the duties hereinbefore required of him.

PRINTED LAWS.

SEC. 27. The printed copies of the ordinances and resolutions of Washington City and Georgetown, published under the authority of said corporations severally, shall be received as evidence for any purpose for which the original ordinances and resolutions could be received, and with as much effect.

HEALTH REGULATIONS.

SEC. 28. The corporations of Washington City and Georgetown shall have power to appoint for their respective cities a board of

health, to consist of not less than three or more than ten persons; in case no board of health shall be appointed, the members composing said corporations, respectively, shall be a board of health.

SEC. 29. Every board of health may appoint a physician to be the health officer thereof, who shall hold his office during their pleasure.

SEC. 30. The board of health shall establish the salary or other compensation of such physician, and shall regulate all fees and charges of every person employed by them in the execution of the health laws and of their own regulations.

SEC. 31. The board of health shall have power to make regulations, in their discretion, respecting intercourse with infected places or persons; the apprehension, removal, separation, and treatment of persons sick of any infectious or contagious disease; the examination and purification of vessels and boats in harbors; the suppression and removal of nuisances, sources of filth, and causes of sickness; the interment of the dead; and such other regulations as they shall think necessary and proper for the preservation of the public health.

SEC. 32. The board of health shall publish, from time to time, all such regulations as may have been adopted by them, in such a manner as to give early and full publicity thereto. If any person shall violate any regulation so made and published by the board of health, he shall forfeit a sum not exceeding thirty dollars.

SEC. 33. The board of health shall examine into all nuisances, sources of filth, and causes of sickness, that may, in their opinion, be injurious to the public health; and the same shall destroy, remove, or prevent, as the case may require.

SEC. 34. Whenever any such nuisance, source of filth, or cause of sickness, shall be found on private property, the board of health, or health officer, shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant shall neglect so to do, he shall forfeit a sum not exceeding thirty dollars.

SEC. 35. If the owner or occupant shall not comply with such order of the board of health, or health officer, the board may cause the said nuisance, source of filth, or cause of sickness to be removed; and all expenses incurred thereby shall be paid by the said owner or occupant.

Sec. 36. The board of health shall have authority to enter, in the day time, into all buildings, lots, or vessels, for the purpose of examining into, and destroying, removing, or preventing any nuisance, source of filth, or cause of sickness.

Sec. 37. The board of health shall have authority to issue warrants to any constable to apprehend such persons as cannot otherwise be subjected to the regulations by them adopted; and whenever it shall be necessary to do so, to issue their warrant to the marshal, commanding him to bring to their aid the power of the county; all which warrants shall be forthwith executed by the officers to whom they shall be directed.

Sec. 38. When any person shall be convicted on an indictment for a common nuisance, that may be injurious to the public health, the court may, in its discretion, order it to be removed or destroyed at the expense of the defendant, under the direction of the board of health of the city where the nuisance is found; and the form of the warrant to the marshal shall be varied accordingly.

Sec. 39. The board of health may, from time to time, establish a quarantine ground, and make such quarantine regulations, not contrary to law, as they shall judge necessary for the preservation of the public health and safety.

Sec. 40. The boards of health of Washington and Georgetown may establish a quarantine ground for their common use.

Sec. 41. The quarantine regulations adopted and published by the board of health may extend to all persons, goods, and effects in vessels arriving within the harbor or vicinity of Washington City or Georgetown, and to all persons who may go on board of the same. If any person shall violate such regulations, he shall forfeit a sum not exceeding one hundred dollars.

Sec. 42. The health officer of the board of health may cause any such vessel, if the vessel or its cargo be in his opinion so foul or infected as to endanger the public health, to be removed to the quarantine ground, or other proper place, to be purified; and cause all persons arriving in, or going on board such vessel, or handling such cargo, to be removed to a hospital.

Sec. 43. If any master, seamen, or passenger, belonging to a vessel supposed to have any infection on board, or from a port where any dangerous infectious disease prevails, shall refuse to answer on oath such inquiries as may be made by any health officer, or other author-

ized person, relating to such infection or disease, he shall forfeit a sum not exceeding one hundred dollars.

SEC. 44. The master of a vessel ordered to perform quarantine, shall deliver to the officer appointed to see it performed, his bills of health and manifests, and his log-book and journal. If he fail to do so, or to repair in proper time, after notice, to the quarantine ground, or shall depart thence without authority to do so, he shall forfeit a sum not exceeding one hundred dollars.

SEC. 45. If any person ordered to perform quarantine shall escape, a justice of the peace, on complaint thereof under oath, may issue his warrant to the marshal, or any constable, commanding him to arrest such fugitive and deliver him to the custody of the officers of quarantine. Any such person attempting to escape may be forcibly detained at the place of quarantine by such officers.

SEC. 46. The expenses incurred by the boards of health of Washington City and Georgetown shall be a charge upon those places respectively. All expenses, however, incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid or reimbursed by such person, vessel, or goods, respectively; and the vessel or goods may be detained until such expenses are paid.

SEC. 47. All fines under the sections of this chapter relating to health regulations shall enure to the use of the city where the offence shall have been committed, and may be recovered in the name of such city.

INSPECTIONS.

SEC. 48. The corporations of Washington City and Georgetown, respectively, shall have power to provide for the inspection of tobacco, flour, corn meal, bread, salt, fish, pork, beef, tar, pitch, turpentine, lumber, lime, hemp, hay, leather, butter, lard, and pot and pearl ashes, and for the gauging of casks and liquors; and may enforce such regulations as may be made by them, respectively, in pursuance of this section, by appropriate fines and penalties.

TITLE VII.

Vessels.

CHAPTER 12. Of ballast-masters and port-wardens; of burying the dead from vessels; and of landing therefrom sick seamen and passengers without maintenance.

CHAPTER 13. Of seamen who desert their vessel.

CHAPTER 12.

OF BALLAST-MASTERS AND PORT-WARDENS; OF BURYING THE DEAD FROM VESSELS; AND OF LANDING THEREFROM SICK SEAMEN AND PASSENGERS WITHOUT MAINTENANCE.

SECTION	SECTION
1. } Ballast-masters; how appointed, and	9. Master to produce certificate of ballast-
2. } their jurisdiction.	master.
3. }	10. Port-wardens; by whom appointed.
4. Shall take an oath.	11. Burial of dead persons from vessels.
5. Penalty for failure or neglect of duty.	12. Landing sick and disabled persons con-
6. Duties of ballast-master.	trary to law.
7. } When and how commander of vessel to	
8. } give notice of ballast to be unladen, &c.	

SECTION 1. The corporations of Washington City and Georgetown, respectively, shall annually appoint one or more ballast-masters to superintend the delivery and unloading of ballast.

SEC. 2. The jurisdiction of the ballast-master for Georgetown shall extend to so much of the river Potomac within this District as is above a line drawn across said river due west from the south end of the east side of Twenty-second street west in Washington City. The jurisdiction of the ballast-master for Washington City shall extend to so much of the river Potomac and the Eastern Branch within this District as lies below said line.

SEC. 3. Any such ballast-master may continue to act until his successor is appointed and qualified. If a vacancy occur, the corporation making the original appointments shall fill such vacancy.

SEC. 4. Each ballast-master, before entering upon the discharge of the duties of his office, shall take an oath, before any judge or justice of the peace, that he will faithfully perform the duties of his office.

SEC. 5. If any ballast-master shall fail or neglect to discharge the duties of his office, he shall forfeit a sum not exceeding one thousand dollars.

SEC. 6. Every ballast-master, on receiving information that ballast is to be discharged from any vessel in his district, shall go on board such vessel and attend until the whole is unladed. He shall see that it is brought on shore and laid at some convenient place where it will not obstruct navigation, nor be washed or roll into the channel. And thereupon he shall give to the commander of such vessel a certificate that his ballast has been duly unladed from on board his vessel, on being paid by such commander two dollars for each day's attendance.

SEC. 7. Every commander of a ship or vessel having ballast to unlade, shall give notice in writing to the ballast-master of the district of the time when he intends to unlade the same. If any such commander shall land or cast overboard any ballast without having given such notice, or otherwise than according to the directions of the proper ballast-master, he shall forfeit one hundred and fifty dollars, and be imprisoned not exceeding six months, in the discretion of the court.

SEC. 8. If any commander of a vessel shall intend to discharge his ballast in a district where no ballast-master has been appointed, he may give notice in writing to any justice of the peace. Upon such justice being sworn to discharge the duties of a ballast-master faithfully, he shall act as such, and receive the same compensation, and his certificate as ballast-master shall have the same effect as if it had been given by one regularly appointed as such.

SEC. 9. If a commander of any vessel from which ballast has been unladed shall, when required by any ballast-master, justice of the peace, marshal, or constable, fail to produce the certificate of the ballast-master, or other person who superintended the unlading thereof, he shall forfeit thirty dollars.

SEC. 10. The corporations of Washington City and Georgetown, respectively, shall have power to appoint port-wardens for their respective ports, to prescribe their duties, to fix their fees, and to make regulations in respect to them not inconsistent with law.

SEC. 11. When any person shall die on board any vessel in this District, the master thereof shall cause the body to be buried above

high-water mark, and at least four feet deep. If he fail to do so, he shall forfeit one hundred dollars.

SEC. 12. If a commander of any vessel shall discharge, or cause to be put on shore, any sick or disabled seaman whose term of service has not expired, without making provision for his maintenance, and for proper medical attendance on him, he shall forfeit one hundred dollars.

CHAPTER 13.

OF SEAMEN WHO DESERT THEIR VESSEL.

SECTION

1. Warrant to issue against runaway seamen, &c.

SECTION

2. When such seamen to be confined in jail.
3. When he may be discharged.

SECTION 1. If any seaman or mariner who is under a contract in writing to serve on board of any merchant vessel, or any apprentice who is lawfully bound to the master or owner of any such vessel, for the purpose of being taught to be a seaman or mariner, shall desert or absent himself without lawful permission from such vessel, any justice of the peace within this District, upon complaint thereof being made by any officer of such vessel, shall issue his warrant to apprehend such seaman, mariner, or apprentice, and bring him before the same or some other justice.

SEC. 2. The justice before whom the complaint is tried, shall, if it be proved, deliver such seaman, mariner, or apprentice to the master or commander of such vessel, or may commit him to jail, there to remain until he shall be delivered to the master or commander, or until the vessel shall sail on her voyage.

SEC. 3. If it appear, however, that such seaman, mariner, or apprentice has been cruelly treated while on board such vessel by the master thereof, or that there is good ground to apprehend danger to his life, or to limb, or to health, from the master, should he be compelled to go on board such vessel, or that the master or owner of such vessel is in arrears to him for wages due, the said justice shall discharge him from custody. In either case the officer making the complaint shall pay the costs of the arrest and imprisonment.

TITLE VIII.

The militia.

CHAPTER 14. Of the militia.

CHAPTER 15. Of volunteer companies.

CHAPTER 14.

OF THE MILITIA.

SECTION

1. Who shall be subject to military duty.
2. Who shall be exempt from military duty.
3. Powers of the President.
4. Officers to take an oath.
5. Assessors to return lists of persons subject to military duty.
6. How persons may prove their exemption.
7. Commutation for non-performance of military duty.
8. Commutation to be collected as other taxes.

SECTION

9. How it shall be collected from a minor.
10. Commutation to be paid over to some person designated by a board of officers.
11. Officer removing from this District to forfeit his commission.
12. How the militia may be called out in case of war, &c.
13. Penalty for not appearing.
14. Proceedings when called out.
15. Penalty for refusing to obey orders.
16. Militia to be organized after being called out.

SECTION 1. Every able-bodied male citizen between the ages of eighteen and forty-five years, residing in this District, and not exempt by law, shall be subject to military duty, and enrolled as hereinafter directed.

SEC. 2. The following named persons shall be exempt from enrolment and compulsory performance of military duty, to wit: the Vice President of the United States; the officers, legislative, executive, and judicial, of the government of the United States; members of Congress and their respective officers; all custom-house officers and their clerks; all post officers, and other persons actually employed in the care and conveyance of the mails; all ferrymen employed at any ferry; all inspectors of exports; all pilots; all mariners actually employed in the sea service, in coasting vessels or river craft; all professors, tutors, assistants, and pupils in colleges and schools; all ministers of the gospel licensed to preach according to the rules of their sect; warden and keepers of the penitentiary and jail; superintendents and servants of public hospitals, infirmaries, and lunatic

asylums. The officers and members of fire companies shall be exempt from enrolment and the compulsory performance of military duty, as provided in chapter eleven. Every officer, musician, and private of every uniformed volunteer company, who shall have performed service in such company seven successive years, shall be exempt from enrolment and the compulsory performance of military duty, except in time of war, invasion, insurrection, or in case of resistance to the execution of the laws of this District.

SEC. 3. The President of the United States shall have power to regulate the number and bounds of divisions, brigades, and regiments, and to increase, alter, or divide the same. He shall, except where otherwise provided, appoint and commission, during pleasure, the officers proper for the same; the general officers with the advice and consent of the Senate of the United States. No person exempt from enrolment and the performance of military duty under the first paragraph of section two of this chapter shall be appointed under the provisions of this section.

SEC. 4. Every commissioned officer of the militia, uniformed and ununiformed, shall take an oath to support the constitution of the United States, and to discharge faithfully the duties of his office, a copy of which oath shall be endorsed on the commission.

SEC. 5. The assessors of Washington City and Georgetown, and of that part of Washington county which lies outside the limits of said cities, shall, every year, at the same time when they prepare a list containing the names of the persons subject to assessment within their respective limits, make out a separate and distinct list of all persons within said limits, respectively, subject to enrolment and the performance of military duty, and who are not exempt by law, and shall transmit a copy of said list, certified to be correct by such assessors, to the office of the adjutant general of the United States, within one month after such list is completed. For such service said assessors shall be paid, out of the "military fund," such sum as may be fixed by the board of officers named in the tenth section of this chapter.

SEC. 6. All persons exempt by law may prove their exemption by oral or written evidence; and all courts and persons having a right by law to inquire concerning the grounds of such exemption, are hereby authorized to administer all oaths which may be necessary to satisfy themselves concerning such exemption.

SEC. 7. Every citizen of this District subject to enrolment and the

performance of military duty, who is not a member of a volunteer company within this District, armed and uniformed under the provisions of chapter fifteen, shall pay, each and every year, fifty cents, as a commutation for the non-performance of military duty; which sum shall exonerate the person paying it from the performance of military duty for the year, except in cases of war, insurrection, invasion, or to assist in executing the laws of this District.

SEC. 8. Said sum of fifty cents shall be collected by the same persons, at the same time, and in the same manner as other taxes are collected in Washington City, Georgetown, and that part of Washington county which lies outside said cities. The fund thus collected, after deducting five per cent. for collecting the same, shall be called the "military fund."

SEC. 9. When the said sum of fifty cents is due by any person between the ages of eighteen and twenty-one years, the same may be collected from the father, master, or guardian, with whom such person shall reside, or out of any property such minor may have.

SEC. 10. The collectors shall, in some proper manner, designate upon their lists the amount paid by each person under the provisions of this chapter. All money so collected shall be paid over by the collectors to some fit and proper person, to be appointed by a board of officers composed of the majors general of the militia, the brigadiers, colonels, lieutenant colonels, majors, and commanding officers of companies of the uniformed volunteers of this District. The person so appointed shall give bond, payable to the United States, in such sum as may be fixed by said board, for the faithful discharge of his duties. Said fund, so created, shall be applied exclusively to military purposes; and no money shall be paid out of it, except upon the order of said board, specifying on its face the objects for which such money is paid.

SEC. 11. Any officer of the militia of this District who shall cease to reside therein, shall forfeit his commission.

SEC. 12. In case of war, insurrection, or rebellion, or resistance to the execution of the laws of this District, the President of the United States is authorized to call forth such a portion of the enrolled militia of this District, whether formed into volunteer companies or not, and in such a manner, as he may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the President may make such provision as to him shall seem

proper, and shall also take such measures for procuring, transporting, and issuing all orders, as may be necessary. Orders for the militia to be called forth as aforesaid, shall be sent to the commanding officer of the militia of this District, with a notification of the place or places of rendezvous, who shall immediately take measures for the same. Whenever the militia shall be called forth into actual service as aforesaid, they shall be governed by the regulations of the army, and the rules and articles of war, which govern troops of the United States.

SEC. 13. If any person subject to military duty shall neglect or refuse to appear at the time and place named, when required by the commanding officer in pursuance of the provisions of the preceding section, he shall be subject to a fine not exceeding two hundred dollars.

SEC. 14. At the time and place hereinbefore mentioned, the commanding officer, or some one appointed by him for that purpose, shall state to the enrolled militia then and there assembled, the reasons why they are so called together, and read the order from the President of the United States. He shall then ask for volunteers sufficient in number to fill the requisition or order from the President, and if a sufficient number of men fit for military duty to fill said requisition or order offer themselves for service, he shall make a list of all such volunteers, and shall take charge and direction of them. In case no person volunteers, or in case a sufficient number of persons subject to military duty to fill the requisition or order aforesaid shall not volunteer, said officer shall proceed to draw, in a fair and impartial manner, from the remaining persons present and subject to military duty, a sufficient number to fill up said requisition or order, and shall take charge and direction of them.

SEC. 15. Any person drafted according to the provisions of the preceding section, who shall refuse to obey the orders of said officer, shall be subject to a fine not exceeding one thousand dollars.

SEC. 16. After the militia are called out as aforesaid, they shall, when necessary, be organized into companies, battalions, regiments, and brigades. The commissioned and non-commissioned officers shall be the same as are authorized by law in the army of the United States.

CHAPTER 15.

OF VOLUNTEER COMPANIES.

SECTION

1. } How volunteer companies may be
2. } formed.
3. }
4. }
5. How they shall be armed and equipped, and of what number of men they shall consist.
6. May form constitution, by-laws, &c.
7. Fines, contributions, and dues, may be collected in the name of the company.
8. If reduced below the requisite strength, such fact to be reported.
9. To what regiment company shall be attached.
10. How arms and equipments may be obtained.
11. Officers to be commissioned by the President and to take an oath.

SECTION

12. Penalty for failure or neglect, when drafted.
13. How companies shall be uniformed.
14. } Provisions as to muster, drill, and discipline.
15. }
16. Rank of officers.
17. When companies now formed may be deemed formed under this chapter.
18. Contributing members.
19. Certificates to be given to members.
20. Volunteer regiments to be separate from the ununiformed militia, and how officers shall be elected.
21. How staff officers may be appointed.
22. Courts-martial.
23. Penalty for molestation.
24. Board of officers may make regulations.

SECTION 1. Whenever a sufficient number of citizens of this District, above the age of eighteen years, shall wish to form themselves into a volunteer company, it shall be the duty of the commanding officer of the militia of this District to cause some suitable person to open a book, in which he shall enter the names of all persons able to perform military duty who may make application to become members of such company.

SEC. 2. As soon as such book shall be opened for volunteers, and the number required by this chapter shall have volunteered, the person so appointed shall fix a time and place for the meeting of the same, by giving at least ten days' notice thereof in some newspaper published in Washington City; and it shall be his duty to attend at such meeting, and present the book aforesaid containing the names of the volunteers.

SEC. 3. It shall be the duty of the person so appointed to attend and act as chairman of such meeting, and organize the same. If two-thirds of the persons so volunteering be present, they shall then proceed to the choice of their commissioned and non-commissioned officers, by ballot.

SEC. 4. It shall be the duty of the person so appointed, after such election shall have been determined, to make out in writing and sign

a certificate of election of each of the officers so elected, which certificate he shall deliver to the respective officers of the company. He shall also, within the next ten days, make out a return, stating the time of the formation and organization of the company, its name and numerical strength of rank and file, and the names of its commissioned and non-commissioned officers, and forthwith forward the same to the office of the adjutant general of the United States.

SEC. 5. The volunteer companies shall be armed and equipped in the same manner that similar corps are in the army of the United States, and shall consist of the following officers, non-commissioned officers, musicians, and privates, to wit: To each company of cavalry there shall be one captain, one first, one second, and one third lieutenant, four sergeants, four corporals, one trumpeter, and not less than forty nor more than eighty privates; to all other volunteer companies there shall be one captain, one first, one second, and one third lieutenant, four sergeants, four corporals, and not less than forty nor more than one hundred privates.

SEC. 6. Every volunteer company may adopt a constitution, and form by-laws, rules, and regulations, not inconsistent with the constitution of the United States and the laws of this District, for the government and improvement of its members in military science.

SEC. 7. Said constitution, by-laws, rules, and regulations, may fix the fines and penalties which shall be imposed on any member of the company for an infraction of any of the provisions thereof, and may also fix the fines which shall be imposed on any member for a failure to parade at any muster which may be called in accordance with the constitution, by-laws, rules, and regulations of the company. Fines, contributions, and dues may be collected in the name of the company, and shall be applied for the benefit of such company, under its direction. All contributions and dues imposed by the constitution, by-laws, rules, and regulations, shall be recoverable, as well as the fines, before any justice of the peace, if they do not exceed the sum of one hundred dollars.

SEC. 8. Whenever any volunteer company shall for twelve months together be reduced in strength below the minimum number required by law, or shall for the same time be without the requisite uniform, it shall be dissolved. It shall be the duty of the captain or commanding officer of such company to report any such fact, when it occurs, to the adjutant general of the United States.

SEC. 9. Every volunteer company shall be attached, if practicable, to that regiment in the bounds of which the whole or greatest number of the company resides.

SEC. 10. When any volunteer company of artillery, cavalry, infantry, or riflemen, shall become organized and uniformed, according to law, the captain or commanding officer thereof may petition the commanding officer of the militia of this District to furnish him, for the use of his company, with such a number of muskets, rifles, sabres, pistols, or other arms, with their accoutrements, or, if an artillery company, cannon or field pieces, and swords, with their necessary accoutrements and equipments, as his company may require, and set forth the regiment to which his company belongs, the number which it contains, and specific number and description of the arms and accoutrements requisite for it, which shall not be greater than the rank and file which his company shall contain. The commanding officer of the militia of this District, upon such application, shall furnish such officer with an order upon the Secretary of War for such arms and accoutrements, who shall deliver the same for the use of such company.

SEC. 11. Every commissioned officer elected under the provisions of this chapter shall be commissioned by the President of the United States, and shall take an oath to support the constitution of the United States and to discharge faithfully the duties of his office. A copy of his oath shall be endorsed on the commission.

SEC. 12. All officers or members of volunteer companies, when summoned or commanded, in accordance with the provisions of law, in case of war, insurrection, rebellion, or resistance to the execution of the laws of this District, shall render prompt assistance and full obedience to the authority so summoning or commanding them, under a penalty, in case of neglect or refusal to comply with such summons or command, of not exceeding two hundred dollars. If a person so neglecting or refusing be an officer, he shall also forfeit his commission; and if he be a private, he shall also be expelled from his company.

SEC. 13. Volunteer companies shall be uniformed as companies or corps of the same arm of the service are required to be by the regulations of the United States army, or as each of such companies or corps may respectively determine upon for itself.

SEC. 14. It shall be the duty of volunteer companies to assemble for the purpose of muster, drill, and inspection, on at least two days in each year, and as much oftener as a majority of all the members of any such company may direct. There shall also be at least two regimental musters in each year.

SEC. 15. Volunteer companies shall conform their system of discipline and exercise to that of the army of the United States, as it is now, or shall hereafter be, prescribed by the Congress of the United States.

SEC. 16. All officers of volunteer companies shall take rank according to the date of their commissions, and when two of the same grade bear an equal date, then their rank shall be determined by lot, to be drawn by them before any three commissioned officers present. Officers of volunteer companies shall in all cases be deemed of superior rank to officers of the enrolled militia of the same grade, irrespective of the date of commission.

SEC. 17. It shall be the duty of the commanding officer of any volunteer company heretofore formed in this District, forthwith to make out a return stating the time of the formation and organization of such company, its name and numerical strength of rank and file, and the names of its commissioned and non-commissioned officers, and forward the same to the office of the adjutant general of the United States; and on such compliance, such company shall be considered as formed under the provisions of this chapter, and shall be subject to its provisions: provided, however, that nothing in the constitution, by-laws, rules, and regulations of such company shall conflict with the constitution and laws of the United States, or of this District.

SEC. 18. Every volunteer company armed and uniformed under the provisions of this chapter, besides its regular members, may enrol not exceeding one hundred contributing members, each of whom, on paying to the treasurer of the company, in advance, one dollar, shall be exempt from military duty and the payment of the fifty cents commutation money for that year, except that he may be drafted or detailed in case of war, insurrection, invasion, or resistance to the execution of the laws of this District. Upon such payment by any contributing member, the commandant of the company shall furnish him with a certificate of membership, which shall entitle him to such exemption for one year only.

SEC. 19. It shall be the duty of the commandant of each volunteer

company armed and uniformed under the provisions of this chapter, to furnish to each one of the regular members of such company, once in every year, a certificate of membership, which shall entitle such member to exemption from the commutation charge for that year. If any member of such company shall have served seven years, a certificate to that effect shall be given him by the commandant of such company, upon the application of such member, which shall have the effect provided in the chapter next preceding.

SEC. 20. Volunteer companies, armed and uniformed under the provisions of this chapter, shall be formed into regiments and brigades, separate from the ununiformed militia, under the direction of the commanding officer of the militia of this District. The captains and lieutenants of each volunteer company composing a regiment shall nominate the regimental officers, who shall be appointed and commissioned by the President of the United States, if approved of by him. Each company in any such election shall have one vote. The regimental officers of each uniformed regiment composing a brigade shall nominate a brigadier general, who shall be appointed and commissioned by the President of the United States, if approved of by him. Any person not subject to enrolment and the performance of military duty may be nominated, appointed, and commissioned under this section.

SEC. 21. Majors general, brigadiers general, and commanding officers of regiments or separate battalions, may appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.

SEC. 22. Any officer who shall be guilty of disobedience of orders, of a neglect of duty required of him, or of misconduct on duty, or who shall at any time be guilty of conduct unbecoming the character of an officer, shall be subject to arrest by his commanding officer, and to be tried by a court-martial; and for the regulation of the proceedings of such courts-martial, the rules now or hereafter to be established by the President of the United States or the War Department for the regulation or government of courts-martial in the army or militia of the United States, are hereby established, so far as practicable, for the militia of this District. Courts-martial may censure, cashier, or acquit such arrested officer.

SEC. 23. If any bystander at any muster or meeting of any company or corps, or board of officers, shall interrupt, molest, or insult

any officer or soldier while on duty, or encroach upon any parade ground. The commanding officer of such company, or corps, or board, may order him to be arrested and carried before a justice of the peace, who may fine any such offender a sum not exceeding ten dollars.

SEC. 24. The board mentioned in section ten of chapter fourteen may prescribe all regulations not herein provided, necessary for an efficient organization of the uniformed militia, provided the same are not inconsistent with the laws of the United States or of this District.

TITLE IX.

CHAPTER 16.

OF ENCLOSURES AND CERTAIN TRESPASSES.

SECTION

1. What to be deemed a lawful fence.
2. Occupants of adjoining enclosures to keep up partition fences.
3. If fence be used by adjacent proprietor, he shall pay one-half the value thereof.
4. When a proprietor ceases to cultivate

SECTION

- his land, his fence not to be taken away in certain cases.
5. The owner of a trespassing animal liable to damages, &c.
6. Penalty for taking away boat, horse, &c.
7. Domestic fowls not allowed to go at large.

SECTION 1. All fences five feet high, and in good repair, and all rivers, creeks, ditches, and hedges equivalent thereto, shall be deemed lawful fences.

SEC. 2. The respective occupants of lands enclosed with fences shall keep up and maintain partition fences between their own and the next adjoining enclosures, in equal shares, so long as both parties continue to improve or use the same, unless otherwise agreed between them.

SEC. 3. If the owner or occupant of any land shall have made a fence upon the line dividing said land from the adjoining land of another person, and the latter person shall desire to use the said fence, or any part thereof as part of his enclosure, it shall not be lawful for him so to do, or to join his fence thereto, until he shall have paid to the other party one-half the value of such fence at the time he shall so wish to use the same, or one-half the value of so much thereof as he shall so wish to use. If the parties cannot agree as to such value, each

party may choose an arbitrator, and, if necessary, such arbitrators may choose a third disinterested party, and the award of any two of them, ascertaining the value, and designating what part of said fence shall belong to the party desiring to use the same, shall be final. If said party desiring to use such fence shall use the same without paying therefor what is properly due from him, the other party may recover such sum by action.

SEC. 4. When any party shall cease to improve or use his land, or shall lay open his enclosure, he shall not take away any part of a fence which forms a partition fence between him and the enclosure of any other person, if the owner or occupant thereof will pay to such party the reasonable value of so much of said partition fence as belongs to him.

SEC. 5. If any domestic animal shall break into any grounds enclosed by a lawful fence, the owner of any such animal shall be liable to the owner or occupant of any such grounds for any damages sustained; and for every succeeding trespass as aforesaid by such animal, the owner thereof shall be liable for double damages. And after having given at least five days' notice to the owner of said animal, or to the agent of such owner, of the fact of two previous trespasses, the owner or occupier of such grounds shall be entitled to such animal if it be found again trespassing as aforesaid on such grounds.

SEC. 6. If any person, without permission of the owner, but not feloniously, shall take away any boat or other vessel; or shall take up any horse, mare, or gelding, not trespassing as aforesaid, or stray, shall forfeit to the owner ten dollars, and also be liable to an action for damages.

SEC. 7. No swine, goat, or goose, or other domestic fowl, shall be suffered to go at large; any person may kill, or cause to be killed, any such animal coming without his consent upon his premises.

TITLE X.

Of mills, mill dams, and ferries.

CHAPTER 17. Of mills and mill dams.

CHAPTER 18. Of ferries.

CHAPTER 17.

OF MILLS AND MILL DAMS.

SECTION

1. } Proceedings where it is proposed to
2. } build a mill, dam, or other useful
3. } machine.
4. }
5. }
6. }
7. No vested right to be interfered with.
8. The work to be begun and ended within a certain time.

SECTION

9. Proceedings to be no bar to an action in certain cases.
10. Proceedings where it is proposed to raise a dam.
11. Regulations respecting mills.
12. If public road be injured by a mill or dam, the owner to repair such road.

SECTION 1. When any person owning lands on one side of and adjoining any water course, the bed whereof, in whole or in part, belongs to him, desires to build a mill, or other machine useful to the public, on such land, and to erect a dam across or in such water course, for working said mill, or other machine, if he shall not own the land on the opposite side against which he would abut his dam, he may make application to the circuit court, having given ten days' notice to the proprietor thereof, if he be found in this District, or to his agent therein, if any he has, for a commission to three disinterested freeholders, to examine the land proposed for the abutment; to locate one acre thereof, and appraise the same at its true value; to examine the lands above and below, being the property of other persons than the applicant, which may probably be overflowed, and to say what damage the several proprietors will suffer, and whether the dwelling-house of any such proprietor, or the outhouses, yard, garden, or orchards belonging thereto, will be overflowed or taken; and to inquire whether, and in what degree, ordinary navigation and the passage of fish will be obstructed; whether and by what means such obstruction may be prevented; and whether, in their opinion,

the health of the neighborhood will be injured by the stagnation of the waters, or otherwise.

SEC. 2. Such commission shall be issued and executed accordingly, the commissioners having first each taken an oath to execute and return the same, with a true report of their proceedings thereon, to the circuit court, and having given reasonable notice to all parties interested of the time when they would proceed to execute the same.

SEC. 3. Upon the return of such commission, the circuit court shall direct all the parties interested to be summoned to show cause, if any they should have, why the party applying therefor should not have leave to build the said mill, or machine, and dam, and to have condemnation of said acre of land.

SEC. 4. In like manner, if the person proposing to build such mill, or machine, and dam, shall own the land on both sides of such water course, application shall be made to the circuit court for a like commission, except as to the location and appraisement of the acre of land for an abutment; which commission shall be issued, executed, returned, and proceeded upon as aforesaid.

SEC. 5. If, upon the report of the commissioners, or by other evidence, it should appear to the circuit court that the dwelling-house of any person other than the applicant, or the outhouses, yard, garden, or orchards thereto belonging, will be overflowed or taken, or that the health of the neighbors will be injured, the said court shall not give leave to build said mill, or machine, and dam. But if it should not so appear, the said court shall then grant or refuse the leave as may seem to it proper. If it be granted, the said court shall lay the applicant under such terms and conditions as shall seem to it right.

SEC. 6. The applicant to whom any such leave may be granted shall, upon paying to the several parties entitled thereto the compensation so ascertained, become seized in fee simple of the acre of land so located, and be authorized to proceed according to such leave.

SEC. 7. No person shall, by means of any such leave, draw the water from any mill pond of another, existing at the time of such leave, or do any thing in conflict with any vested right in any water works erected on such water course.

SEC. 8. If the applicant shall not begin his work within one year, and so far finish it within three years, after such leave, as then to

have his mill or machine in good condition for use, or if such mill or machine be at any time destroyed or rendered unfit for use, and the rebuilding or repair thereof shall not, within two years from the time of such destruction or unfitness, be commenced, and within four years from that time be so far finished as then to be in good condition for use, the title to the acre of land so located shall revert to the former owner, his heirs, and assigns, and the leave so granted shall then be in force no longer; unless, at the time of such destruction or unfitness, the owner thereof be an infant, married woman, in prison, or an insane person, in which case he shall be allowed the same terms for beginning and putting in condition for use such mill or machine, after any such disability is removed; and if such mill or machine, at the time of such destruction or unfitness, be in the possession of a tenant for life or years, other than the applicant, the person next entitled in remainder or reversion shall be allowed the same terms for beginning and completing the said mill or machine, after the determination of the said tenancy.

SEC. 9. The proceedings upon the said commission, however, shall not bar any prosecution or action which could have been maintained if this chapter had not been enacted, unless the prosecution or action be for an injury actually foreseen and estimated by said commissioners.

SEC. 10. When any owner of a mill or machine heretofore established, or hereafter to be established according to law, may think it necessary to raise his dam, the circuit court shall, upon application, issue a commission to value the damage which may be done thereby, under the regulations hereinbefore directed.

SEC. 11. At every mill which grinds grain, there shall be well and sufficiently ground all grain brought to the mill, for the consumption, when ground, of the person bringing or sending it, or his family, and in due turn as the same is brought; and there shall not be taken for the toll more than one-eighth part of any grain of which the remaining part is ground into meal, nor more than one-sixteenth part of any grain of which the remaining part is ground into hominy or malt. If at any mill there be a violation of this section, in any respect, the proprietor thereof shall, for every such violation, forfeit to the party injured five dollars: provided, however, that the proprietor shall not be obliged to run more than one pair of stones to grind grain brought to his mill for the consumption of the persons bringing or sending it,

or their families, and that the proprietor may grind grain for the consumption of his family in preference to that of others.

SEC. 12. Whenever a public road shall be injured by the building of any mill, or dam, or machine, or by the making of any mill race, or by turning or changing the course of any stream of water, it shall be the duty of the owner of such mill, dam, or machine, or race, or of the person so turning or changing the course of the stream, his heirs and assigns, to repair such road so injured, and to keep the same in good repair at his or their expense. If any person shall offend against any provision of this section, he shall forfeit twenty dollars.

CHAPTER 18.

OF FERRIES.

SECTION

1. Circuit court to grant licenses for ferries.
2. Bond to be given.
3. Penalty for keeping ferry without license.
4. No new ferry to be established, unless after notice.
5. Circuit court may prescribe rates of ferrriage.
6. Keepers of ferries shall keep exposed in a public place their license, rates, &c.

SECTION

7. Penalty for charging more than legal rates.
8. If ferry keeper dies, license may be granted for the residue of the year to a suitable person.
9. In certain case, ferry to be provided by Washington City, Georgetown, or the levy court.
10. If discontinued for one year, not to be deemed a public ferry.

SECTION 1. The circuit court shall have power to license any suitable person to keep a public ferry at any place within this District where a public ferry is now kept, and at such other places as the said court shall think proper. Such license shall be valid only for one year.

SEC. 2. Before any such license shall be granted, the person applying for the same shall give bond to the United States in the sum of five hundred dollars, with sureties to be approved by the circuit court, or by one of the judges thereof, with condition that he will faithfully and diligently keep the said ferry, with such boats and hands as the said court shall direct, from daylight in the morning until nine o'clock at night; and that he will not charge or receive any greater price for ferrriage than is allowed by law. For the license, bond, and a copy

of the rates of ferriage, the clerk of said court shall receive one dollar, to be paid by the party applying.

Sec. 3. If any person shall, without having obtained such license and entered into such bond, keep a public ferry, or shall, for hire or reward, within the time named in the preceding section, transport any person across any river in the District, at or near the place where there shall be any toll bridge or public ferry, such person, for each offence, shall forfeit and pay a fine of twenty dollars.

Sec. 4. No new ferry shall be established, unless at least three weeks' public notice of the intended application therefor shall be given by advertisement, inserted at least six times in some newspaper published in Washington City, so that all persons interested may have an opportunity to show cause why such new ferry shall not be established.

Sec. 5. The circuit court shall have power, from time to time, to regulate and establish the price of ferriage at each ferry, and to direct how many and what kinds of boats shall be kept, and what number of fit and proper hands shall be employed in the boats. Such directions shall be expressed in the license.

Sec. 6. Every person keeping a public ferry shall constantly keep set up in a public place at or near his ferry, a copy of his license, and of the prices allowed him for ferriage, under a penalty of ten dollars for every day such copy of his license, or of his prices aforesaid, shall not be kept set up as is herein required.

Sec. 7. If any licensed ferry keeper shall ask or receive more than the price allowed by the order of the court as aforesaid, he shall forfeit and pay a fine of twenty dollars for every such offence.

Sec. 8. If any ferry keeper shall die, or remove from this District, or shall cease to keep his ferry before the expiration of the year for which his license has been granted, the circuit court, or any judge thereof when said court is not in session, may grant a license to another suitable person for the residue of the year, upon such person giving the bond required by the second section of this chapter.

Sec. 9. Whenever the circuit court shall judge it necessary to establish a ferry, and no person shall apply to keep the same for the profits thereof, the corporations of Washington City and Georgetown, within their respective limits, or the levy court of the county of Washington outside such limits, shall provide one or more suitable persons to keep and attend the same, at such place, and at such times of the year,

and under such conditions, as shall be named by the circuit court ; and the expense of maintaining such ferry, beyond the amount received for ferriage, shall be paid by such corporation or the levy court, as the case may be.

SEC. 10. If any ferry shall be discontinued or disused, and generally unfrequented, for the space of one year, it shall be no longer deemed a public ferry.

TITLE XI.

Of religion, church property, and benevolent associations.

CHAPTER 19. Of religious freedom.

CHAPTER 20. Of church property and benevolent associations.

CHAPTER 19.

OF RELIGIOUS FREEDOM.

SECTION 1. No person in this District shall be compelled to frequent, nor, unless in consequence of his voluntary contract, to support any religious worship, place, or ministry whatsoever ; nor shall he be enforced, restrained, molested, or burdened in his body or estate, nor shall otherwise suffer on account of his religious opinions or belief ; but all persons shall be free to profess, and by argument to maintain, their opinions in matters of religion ; and the same shall in nowise diminish, enlarge, or affect their civil capacities.

CHAPTER 20.

OF CHURCH PROPERTY AND BENEVOLENT ASSOCIATIONS.

SECTION

1. Land for the use of a religious congregation may be held by trustees.
2. Conveyance not to be void for the want of trustees.

SECTION

3. The circuit court may appoint or change trustees.
4. Books and furniture to be held by trustees.
5. Trustees may sue, &c.

SECTION

6. Trustees to hold only a limited quantity of land.
7. Trustees may sell, &c., in certain cases.
8. Member of congregation may sue trustees.
9. Conveyances to benevolent, literary, and

SECTION

- scientific associations, subject to certain sections.
10. Books and furniture to be held by trustees.
11. Trustees may sell, &c., in certain cases.
12. Trustees to hold only a limited quantity of land.

SECTION 1. Any lot, or part of a lot, tract, or parcel of land, heretofore or hereafter conveyed or devised to one or more trustees, for the use and benefit of any religious congregation as a place of public worship, or as a burial place, or as a residence for a minister, shall, together with the buildings and improvements thereon, be held by such trustee or trustees, or their successors, for the purposes of such trust, and not otherwise.

SEC. 2. Any conveyance or devise heretofore or hereafter made of such property, for the use and benefit and purposes mentioned in the preceding section, shall not be void by reason of the want of trustees to take and hold the same; but trustees may be appointed in the manner directed by the succeeding section.

SEC. 3. In the case of any conveyance or devise for the use, benefit, and purposes mentioned in the first section of this chapter, the circuit court shall, on the application of the district attorney, on behalf of the authorized authorities of any religious congregation, have full power and authority, from time to time, to appoint trustees, either where there were or are none, or in place of former trustees, and to change those so appointed whenever it may seem to said court proper to effect or promote the purpose of such conveyance or devise; and the legal title shall for that purpose be vested in the said trustees for the time being, and their successors.

SEC. 4. When books or furniture shall be given or acquired for the benefit of a religious congregation, to be used in the ceremonies of public worship, or at the residence of their minister, the same shall stand vested in the trustees having the legal right to the land conveyed or devised for the use and benefit of such religious congregation, to be held by them, as said land is held, for the benefit of such religious congregation.

SEC. 5. The said trustees may, in their own names, sue for and recover such land or property, and be sued in relation thereto; and such action, notwithstanding the death of any of the said trustees or

the appointment of others, shall proceed in the names by or against whom it was instituted.

SEC. 6. Trustees, for the use of any religious congregation, shall not take or hold, at any one time, more than three acres of land in an incorporated town or city, nor more than fifty acres out of such town or city. Any conveyance, devise, or dedication of any greater quantity of land than as aforesaid, for the use of any religious congregation, shall be void.

SEC. 7. Nothing in this chapter contained shall be construed to forbid such trustees from selling or disposing of the property held by them for the use and benefit of a religious congregation, whenever they may be required so to do by the religious congregation of which they are the trustees; provided, that the proceeds of any such disposition shall be applied to the use and benefit of such religious congregation, and for the purposes mentioned in the first section of this chapter; and provided further, that no gift, donation, devise, or bequest, for the use of a religious congregation, shall be applied to purposes different from those declared of and concerning the same by the grantor, donor, or testator.

SEC. 8. Any one or more of the members of any religious congregation may, in his or their name, on behalf of such congregation, commence and prosecute a suit against any trustee, to compel him to apply the property vested in him, or fund in his possession, for the use of such religious congregation, as his duty shall require.

BENEVOLENT ASSOCIATIONS.

SEC. 9. When any conveyance or devise of land has been or shall be made to trustees for the use and benefit of any benevolent, or literary, or scientific association, or if, without the intervention of trustees, any such conveyance or devise has been or shall be hereafter made for such use or benefit, the second, third, fifth, and eighth sections of this chapter shall be construed as if they were expressly made applicable to such benevolent, or literary, or scientific association.

SEC. 10. When books, furniture, or apparatus shall be given or acquired for the benefit of any benevolent, literary, or scientific association, to be used by such association, the same shall stand vested in the trustees having the legal title to the land held by them for the benefit of such association.

SEC. 11. The trustees of any benevolent, literary, or scientific association may sell or otherwise dispose of the property held by them for the use and benefit of such association, whenever they may be required so to do by the association of which they are the trustees; provided, that the proceeds of any such disposition shall be applied to the use and benefit of such association; and provided further, that no property held by them for the use and benefit of such association shall be disposed of contrary to any trusts that may be declared of and concerning the same by the grantor, donor, or testator.

SEC. 12. The trustees of any benevolent, literary, or scientific association shall not hereafter, unless otherwise ordered or permitted by law, take or hold, at one time, any land exceeding three acres, nor for any other use than as a place of meeting for such association, and for the education and maintenance of children charitably provided for by them.

TITLE XII.

CHAPTER 21.

BOUNDARIES OF LANDS, AND VACANT LANDS.

SECTION

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|----------------------------|---|
| 1.
2.
3.
4.
5. | } Proceedings to be had when a proprietor wishes to ascertain, establish, or perpetuate corners or lines. |
|----------------------------|---|

SECTION

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| 6.
7. | } An appeal may be taken to circuit court.
Proceedings for taking up vacant land. |
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SECTION 1. When any person, being the owner or proprietor of any land in this District, wishes to ascertain, establish, or relocate, or perpetuate a corner or corners thereof, or any line or lines thereof, such owner or proprietor may require the proper surveyor to run such lines, or do such other things as may be necessary for the purposes aforesaid.

SEC. 2. Such owner or proprietor shall give ten days' previous notice of such survey to the owners of lands, or proprietors adjoining, to be affected by such survey, provided such owners or proprietors are residents of this District; and if not, such notice shall be given at

least once a week for two months in some newspaper published in Washington City.

SEC. 3. Such surveyor, on being satisfied that notice has been given as required in the preceding section, shall proceed to make the necessary survey of lines and location or relocation of corners, as the case may require.

SEC. 4. If a corner is to be ascertained, established, or relocated, and the owners or proprietors, or any of them, wish the same perpetuated, such surveyor shall deposit in the proper place a stone, or other durable material, with the letters and figures answering to such corner, thereon; and shall also enter into his field-notes one or more bearing trees, if there be such, or any other durable thing, the species and size, course and distance thereof; all of which proceedings shall be entered in a book to be kept for that purpose.

SEC. 5. Whenever all the owners or proprietors of lands adjoining any corner, which such surveyor may be required to establish or perpetuate, or any line which he may be required to view and establish, are present and consenting, or in writing shall so consent, the notice required by the second section of this chapter shall not be necessary.

SEC. 6. An appeal may be taken from any such survey to the circuit court at any time within three years, and such court may reverse such survey; and upon such appeal being prayed for by any person interested, such surveyor shall forthwith transmit the papers in his hands touching the same, and copies of the field-notes in the case complained of, and such court, in the trial of such appeal, may receive evidence of other surveys of the same premises; and if said court shall decide against such surveyor, it shall enter an order for a resurvey, and such new survey may be made by any surveyor whom the said court may designate, from whose decision an appeal may be in like manner had.

VACANT LANDS.

SEC. 7. If any vacant lands be found within this District, lying outside the limits of Washington City and Georgetown, application may be made to the General Land Office for warrants, which shall be directed to the surveyor for the county of Washington. The said surveyor shall make return to the Commissioner of the General Land Office. Upon presentation to the Commissioner of the General Land Office of the certificate of the Treasurer of the United States that payment for such vacant land has been made according to the laws

of the United States, the said Commissioner shall thereupon issue, in the usual form, a patent for such vacant land to the party entitled thereto. Nothing in this section contained shall apply to any land which may have been ceded to, or acquired by, the United States for public purposes.

TITLE XIII.

Of the regulation of trade in certain cases.

- CHAPTER 22. Of certain liens on personal property.
 CHAPTER 23. Of unclaimed property.
 CHAPTER 24. Of certain consignments.
 CHAPTER 25. Of weights and measures.
 CHAPTER 26. Of bills of exchange and promissory notes, and certain assignments.
 CHAPTER 27. Of money and interest.
 CHAPTER 28. Of limited partnerships.
 CHAPTER 29. Of factors and agents.
 CHAPTER 30. Of hotel and tavern keepers.

CHAPTER 22.

OF CERTAIN LIENS ON PERSONAL PROPERTY.

SECTION

1. Mechanics to have a lien on personal property for labor bestowed.
2. Common carriers and others to have a lien.

SECTION

3. Personal property may be sold if charges
4. be not paid, and within what time.
5. Provisions not to interfere with special agreement.

SECTION 1. Any person who, having possession of the same, shall make, alter, repair, or bestow any labor on any article of personal property, at the request of the owner or lawful possessor thereof, shall have a lien on such property so made, altered, or repaired, or upon which labor has been bestowed, for his just and reasonable charges for the labor he has performed and the materials he has furnished; and such person may hold and retain possession of the same until such just and reasonable charges shall be paid.

SEC. 2. Any person who is a common carrier, or who shall, at the request of the owner or lawful possessor of any personal property, carry, convey, or transport the same from one place to another; and any person who shall safely keep or store any personal property at the

request of the owner or lawful possessor thereof; and any person who shall depasture or feed any horses, cattle, hogs, sheep, or other live stock, or bestow any labor, care, or attention upon the same, at the request of the owner or lawful possessor thereof, shall have a lien upon such property for his just and reasonable charges for the labor, care, and attention he has bestowed, and the food he has furnished; and he may retain the possession of such property until such charges be paid.

SEC. 3. If such just and reasonable charges be not paid within six months after the care, attention, and labor shall have been performed or bestowed, or the materials or food shall have been furnished, the person having such lien may proceed to sell, at public auction, the property mentioned in the preceding sections of this chapter, or a part thereof, sufficient to pay such just and reasonable charges. Before selling, he shall give notice of such sale by advertisement, at least once a week for three weeks, in some newspaper published in this District, and the proceeds of such sale shall be applied, first, to the discharge of such lien, and the costs and expenses of keeping and selling such property, and the remainder, if any, shall be paid over to the owner thereof.

SEC. 4. Where the property is of a perishable nature and will be greatly injured by delay, or where the property bailed or kept be horses, cattle, hogs, sheep, or other live stock, the person to whom the charges may be due may, after the expiration of thirty days from the time when such charges shall have become due, proceed to dispose of so much of the property as may be necessary, as hereinbefore provided.

SEC. 5. The provisions of this chapter shall not interfere with any special agreement of the parties.

CHAPTER 23.

OF UNCLAIMED PROPERTY.

SECTION

1. Personal property, where the owner is unknown, may be sold by the person having possession.
2. Property to be advertised.
3. How proceeds shall be disposed of.

SECTION

4. Owner may prove his right within three years.
5. After three years, to be paid over to public schools.
6. Perishable property may be sold after thirty days.

SECTION 1. Whenever any personal property shall be consigned to or deposited with any forwarding merchant, wharf, warehouse, or tavern keeper, or the keeper of any depot for the reception and storage of trunks, baggage, merchandise, or other personal property, and the owner of such property shall be unknown, the person having possession of such property may, if the same be not claimed before the expiration of one year from the time of the consignment or delivery thereof, proceed to sell such property at public auction. Trunks shall be opened in the presence of a justice of the peace, and an inventory taken of the contents.

SEC. 2. Before selling, the person having possession of such property shall give notice of such sale by advertisement, at least once a week for three weeks, in some newspaper published in this District.

SEC. 3. The proceeds of such sale shall be applied, first, to pay the costs and expenses of keeping and selling such property, and the remainder, if any, shall be paid over to the clerk of the circuit court, together with a statement containing a description of the property sold, the gross amount of such sale, and the amount of costs, charges, and expenses. Such statement shall be filed in the clerk's office.

SEC. 4. If the owner of the property sold, or his legal representatives, shall, at any time within three years after such money shall have been deposited with the clerk of the circuit court, furnish satisfactory evidence to any judge of the said court of the ownership of such property, he or they shall be entitled to an order from such judge, directing the clerk to pay over the amount so deposited with him.

SEC. 5. If the amount so deposited with the clerk shall not be claimed by the owner of such property or his legal representatives within three years, the same shall be paid over by the clerk for the benefit of public schools in this District, in the manner provided in chapter seven.

SEC. 6. When the property is of a perishable nature, and will be greatly injured by delay, the person having the possession thereof as aforesaid may, after the expiration of thirty days from the time of the consignment or delivery, proceed to sell the same as hereinbefore provided.

CHAPTER 24.

OF CERTAIN CONSIGNMENTS.

SECTION

1. Who for certain purposes may be deemed the true owner of merchandise.
2. When the lien shall not exist.
3. When factor or agent may be deemed the true owner.

SECTION

4. Person with whom agent may deposit only to have the rights of agent.
5. Upon what terms true owner may reclaim merchandise.
6. Agent for storage or transportation not to sell or hypothecate.

SECTION 1. Hereafter, every person in whose name any merchandise shall be shipped or delivered to the keeper of any warehouse, or other factor or agent, to be shipped, shall be deemed the true owner thereof, so far as to entitle the consignee of such merchandise to a lien thereon—

1. For any money advanced or negotiable security given by such consignee, on the faith of such consignment, to or for the use of the person in whose name such shipment, or such delivery of merchandise to be shipped, shall have been made ;

2. For money or negotiable security received, on the faith of such consignment, by the person in whose name such shipment, or such delivery of merchandise to be shipped, shall have been made, to or for the use of such consignee.

SEC. 2. The lien provided for in the preceding section shall not exist when such consignee shall have notice, by the bill of lading or otherwise, at or before the advancing of any money or security by him, or at or before the receiving of such money or security by the person in whose name the shipment or the delivery of the merchandise to be shipped shall have been made, that such person is not the actual and bona fide owner thereof.

SEC. 3. Every factor or other agent entrusted with the possession of any bill of lading, custom-house permit, or warehouse keeper's receipt for the delivery of any such merchandise, and every such factor or agent, not having the documentary evidence of title, who shall be entrusted with the possession of any merchandise for the purpose of sale, or as a security for any advances to be made or obtained thereon, shall be deemed the true owner thereof, so far as to give validity to any contract made by such agent or factor with any other person for the sale or disposition of the whole or any part of such

merchandise, for any money advanced, or negotiable instrument, or other obligation in writing, given by such other person upon the faith thereof.

Sec. 4. Every person who shall hereafter accept any such merchandise in deposit from any such agent as security for an antecedent debt or demand, shall not acquire thereby or enforce any right or interest in or to such merchandise, other than was possessed or might have been enforced by such agent at the time of such deposit.

Sec. 5. Nothing contained in the two last preceding sections shall be construed to prevent the true owner of any merchandise so deposited from demanding or receiving the same, upon repayment of the money advanced, or on restoration of the security given on the deposit of such merchandise, and upon satisfying such lien as may exist thereon in favor of the agent who may have deposited the same; nor from recovering any balance which may remain in the hands of the person with whom such merchandise shall have been deposited, as the produce of the sale thereof, after satisfying the amount justly due to such person by reason of such deposit.

Sec. 6. Nothing in this chapter contained shall be construed to authorize a common carrier, warehouse keeper, or other person to whom merchandise or other property may be committed for transportation or storage only, to sell or hypothecate the same.

CHAPTER 25.

OF WEIGHTS AND MEASURES.

SECTION

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| 1. | } Respecting weights and measures, and authorizing certain regulations to be made in relation thereto. |
| 2. | |
| 3. | |
| 4. | |

SECTION 1. The Secretary of the Treasury is hereby directed to cause a complete set of all weights and measures, adopted as standards, to be delivered to the clerk of the circuit court of this District, for the use of this District, to be kept by the said clerk as the standards of weights and measures.

Sec. 2. The corporations of Washington City and Georgetown, respectively, and the levy court of Washington county, shall provide

and keep for the use and at the charge of said corporations, respectively, or county, a complete set of weights and measures, conformable to said standards, sealed by the clerk of said circuit court.

SEC. 3. The corporations of Washington City and Georgetown, respectively, shall have power to make provisions for the regulation of all weights and measures used in said cities, and to enforce such provisions by appropriate fines and penalties, to be recovered in the name, and applied for the use, of said corporations respectively.

SEC. 4. The said levy court shall have power to appoint a sealer of weights and measures for that part of Washington county which lies outside the corporate limits of Washington City and Georgetown, to prescribe his duties, and fix the compensation to be received by him for his services. Upon the appointment of any such sealer of weights and measures, if any person within the aforesaid part of Washington county shall sell, or offer to sell, any commodity, by weights or measures not sealed by such sealer, or shall keep for buying and selling any weights or measures not sealed by such sealer, he shall forfeit, for each offence, the sum of ten dollars, to be recovered in the name and for the use of said levy court.

CHAPTER 26.

OF BILLS OF EXCHANGE, PROMISSORY NOTES, AND CERTAIN ASSIGNMENTS.

SECTION

1. Certain notes to have the effect of inland bills of exchange.
2. Notes signed by agent to have same effect.
3. What is meant by "person" in preceding sections.
4. Who may maintain an action.
5. What notes to have the same effect as if payable to bearer.
6. }
7. }
8. } Of acceptances.
9. }
10. }
11. }
12. Grace to be allowed in certain cases.
13. When grace is not allowed.

SECTION

14. What days to be treated as Sunday.
15. } Damages on protested bills.
16. }
17. What shall be considered sufficient notice.
18. The foregoing provisions to apply to notes hereafter made, so far as they conflict, &c.

ASSIGNMENTS.

19. Certain instruments of writing made assignable.
20. Assignee may recover.
21. } What defences makers may set up.
22. }
23. Of whom assignee may recover, and what.

SECTION 1. All notes in writing made and signed by any person, whereby he shall promise to pay to any other person or his order, or to the order of any other person, or unto the bearer, any sum of money therein mentioned, shall be due and payable as therein expressed, and shall have the same effect, and be negotiable in like manner, as inland bills of exchange, according to the custom of merchants.

SEC. 2. Every such note, signed by the agent of any person, under a general or special authority, shall bind such person, and shall have the same effect, and be negotiable as above provided.

SEC. 3. The word "person," in the two last preceding sections, shall be construed to extend to every corporation capable by law of making contracts.

SEC. 4. The payees and endorsees of every such note payable to them or their order, and the holders of every such note, payable to bearer, may maintain actions for the sums of money therein mentioned, against the makers and endorsers of the same, respectively, in like manner as in cases of inland bills of exchange, and not otherwise.

SEC. 5. Such notes made payable to the order of the maker thereof, or to the order of a fictitious person, shall, if negotiated by the maker, have the same effect, and be of the same validity as against the maker, and all persons having knowledge of the facts, as if payable to bearer.

SEC. 6. No person within this District shall be charged as an acceptor on a bill of exchange, unless his acceptance shall be in writing, signed by himself or his lawful agent.

SEC. 7. If such acceptance be written on a paper other than the bill, it shall not bind the acceptor, except in favor of a person to whom such acceptance shall be shown, and who, on the faith thereof, shall have received the bill for a valuable consideration.

SEC. 8. An unconditional promise, in writing, to accept a bill before it is drawn, shall be deemed an actual acceptance in favor of every person who, upon the faith thereof, shall have received the bill for a valuable consideration.

SEC. 9. Every holder of a bill presenting the same for acceptance, may require that the acceptance be written on the bill; a refusal to comply with such request shall be deemed a refusal to accept, and the bill may be protested for non-acceptance.

SEC. 10. The last preceding four sections shall not be construed to impair the right of any person to whom the promise to accept a bill may have been made, and who, on the faith of such promise, shall have drawn or negotiated the bill, to recover damages of the party making such promise on his refusal to accept such bill.

SEC. 11. Every person upon whom a bill of exchange is drawn, and to whom the same is delivered for acceptance, who shall destroy such bill, or refuse, within twenty-four hours after such delivery, to return the bill, accepted or non-accepted, to the holder, shall be deemed to have accepted the same.

SEC. 12. On all bills of exchange payable at sight, or at a future day certain, within this District, and on all negotiable promissory notes, orders, and drafts, payable at a future day, within this District, in which there is not an express stipulation to the contrary, grace shall be allowed, except as is provided in the following section, in like manner as it is allowed by the custom of merchants in foreign bills of exchange payable at the expiration of a certain period after date, or at sight.

SEC. 13. The provisions of the last preceding section shall not extend to any bill of exchange, draft, or note payable on demand.

SEC. 14. The following days, namely, the first of January, the fourth day of July, the twenty-fifth day of December, shall, for all purposes whatsoever, as regards the presenting for payment or acceptance, and of the protesting and giving notice of the dishonor of bills of exchange, drafts, and negotiable notes, be treated and considered as is the first day of the week, usually called Sunday.

SEC. 15. Whenever any bill of exchange drawn or endorsed within this District, and payable without the limits of the United States, shall be duly protested for non-acceptance or non-payment, the party liable for the contents of such bill shall, on due notice and demand thereof, pay the same at the current rate of exchange at the time of the demand, and damages at the rate of fifteen per cent. upon the contents thereof, together with interest on the said contents, to be computed from the date of the protest; and said amount of contents, damages, and interest, shall be in full of all damages, charges, and expenses.

SEC. 16. If any bill of exchange, drawn or endorsed within this District, and payable at any place without this District, but within

the United States, shall be duly protested for non-acceptance or non-payment, the drawer or endorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill with legal interest, or according to its tenor and five per cent. damages, together with the costs and charges of protest.

SEC. 17. In all cases where a notice of non-acceptance of a bill of exchange, or non-payment of a bill of exchange, promissory note, or other negotiable instrument, may be given by sending the same by mail, it shall be sufficient if such notice be directed to the city, town, or place where the party sought to be charged resided at the time of drawing, making, or endorsing such bill of exchange, promissory note, or other negotiable instrument, unless such person, at the time of affixing his signature to such bill, note, or negotiable instrument, shall, in addition thereto, specify thereon the post office to which he may require the notice to be addressed.

SEC. 18. The foregoing provisions of this chapter, so far as the same are in conflict with the law as it existed before the passage of this act, shall apply only to such bills of exchange, promissory notes, and other negotiable instruments, as are made or drawn after this act takes effect.

ASSIGNMENTS.

SEC. 19. All bonds, due-bills, and other instruments of writing, not negotiable, hereafter made and signed by any person or corporation, whereby such person or corporation promises or agrees to pay any sum of money, or articles of personal property, or any sum of money in personal property, or acknowledges any sum of money, or articles in personal property, to be due to any other person, shall be, and the same are hereby made, assignable by endorsement thereon, so as absolutely to transfer and vest the property thereof in each and every endorsee successively.

SEC. 20. Any assignee to whom such bond, due-bill, or other instrument of writing, is made payable by any such endorsement or assignment, may, in his own name, institute and maintain an action, and recover thereon, against the person or corporation who shall have made or signed the same.

SEC. 21. The maker or obligor of any such bond, due-bill, or other instrument of writing, may set up and show any defence to such action which he had thereto, as against the payee or obligee, before

notice of the assignment thereof by such payee or obligee, and which he might have set up and shown, had an action been brought on such bond, due-bill, or other instrument of writing, in the name and for the use of the original payee or obligee.

SEC. 22. Such maker or obligor may set up and show any just matter of payment, set-off, or other defence in his favor, as against the plaintiff in such action; and also all just matters of payment, set-off, or other defence, which he had as against any assignor, before notice of the assignment thereof by such assignor, and which he might have set up and shown, had an action been brought against him by such assignor.

SEC. 23. If any assignee of any such bond, due-bill, or other instrument, having used due diligence, shall fail to recover from the maker or obligor thereof, the money or personal property named therein, he may recover from any previous assignor thereof the full value which he shall have paid for the assignment, with interest from the time of such payment; but shall allow to the defendant, if he be a remote assignor, any just defence which such defendant may have as against the plaintiff, or may have had as against any other intermediate assignor, before notice of assignment.

CHAPTER 27.

MONEY AND INTEREST.

SECTION

1. What shall be the money of account.
2. Accounts and entries otherwise expressed, not rendered invalid.
3. In action for foreign money, its value in money of account to be fixed.

SECTION

INTEREST.

4. Rate of interest to be six per cent., where there is no express contract in writing.
5. Parties may agree on any rate of interest, in writing.

SECTION 1. The money of account of this District shall be the dollar, cent, and mill; and all accounts of officers shall be so kept.

SEC. 2. No writing shall be invalid, nor the force of an account or entry be impaired, because a sum of money is expressed therein otherwise than in the said money of account.

SEC. 3. In any action for a sum of money expressed in any foreign currency, or otherwise than in the money of account of this District,

the jury, if there be one empaneled, and if not, the court, shall ascertain the value in the said money of account of the sum so expressed, making such allowance for the difference of exchange as shall be just; and the judgment may either be for what may be so ascertained, or for the sum of money expressed as aforesaid, to be discharged by the sum so ascertained.

INTEREST.

SEC. 4. When there is no express contract in writing fixing a different rate of interest, interest shall be allowed at the rate of six per cent. per annum, for all moneys after they become due on any bond, bill, promissory note, or other instrument of writing, on any judgment recovered before any court or justice of the peace of this District, for money lent, for money due on the settlement of accounts from the day on which the balance is ascertained, for money received to the use of another, and retained without the owner's consent, and for money due and withheld by unreasonable delay of payment.

SEC. 5. Parties may agree, in writing, for the payment of any rate of interest on money due, or to become due on any contract; and any judgment or decree rendered on such contract shall conform thereto, and shall bear the interest so agreed upon by the parties, and which shall be specified in the judgment or decree.

CHAPTER 28.

OF LIMITED PARTNERSHIPS.

SECTION

1. } Limited partnership; for what and how
2. } formed; names of partners, nature
3. } of business, &c., to be specified in a
4. } certificate, which shall be acknow-
5. } ledged, recorded, and published.
6. What shall be considered as dissolution.
7. What shall be done on a renewal.
8. How business of partnership is to be conducted.
9. Partners to account to each other.

SECTION

10. When capital not to be withdrawn, nor dividends made.
11. In certain cases a special partner not to be paid.
12. What preferences not to be valid.
13. Liability of special partners, if such preference be made or assented to.
14. Dissolution; how effected.
15. Suits by and against such partnerships.
16. Liability of partners in cases not provided for.

SECTION 1. Limited partnerships for the transaction of mercantile, mechanical, or manufacturing business within this District, may be

formed by two or more persons, upon the terms and subject to the conditions and liabilities prescribed by this chapter ; but nothing in this chapter contained shall authorize such partnerships for the purpose of banking or insurance.

SEC. 2. Any such partnership may consist of one or more persons as general partners, who shall be responsible as general partners, and of one or more persons as special partners, who, contributing to the common stock a specific sum, in actual cash payment, as capital, shall not be personally liable for any debts of the partnership, except as hereinafter mentioned.

SEC. 3. The persons forming any such partnership shall make and severally sign a certificate, which shall state the name and place of residence of each partner, the name or firm under which the partnership is to be conducted, who are general and who are special partners, the sum which each special partner contributes, the general nature of the business to be transacted, the place or places of the said business, and the duration of the partnership.

SEC. 4. No such partnership shall be deemed to be formed, until a certificate, made as aforesaid, shall be acknowledged by all the partners, before some officer authorized to take acknowledgment of deeds, and recorded in the office of the recorder of Washington county, in a book to be kept for that purpose, open to public inspection. If any false statement shall be made in any such certificate, the special shall be liable as general partners.

SEC. 5. The partners shall, for four successive weeks, immediately after such registry, publish a copy of such certificate in some newspaper published in Washington City ; if no such publication be made, the partnership shall be deemed general.

SEC. 6. The partnership shall be deemed to be dissolved, when there is an alteration in the name of the partners, in the nature of the business, in the capital thereof by a diminution of it otherwise than by losses, or in the ordinary course of business, or an alteration in any other matter specified in said certificate ; and if the partnership be thereafter carried on, it shall be deemed a general partnership, unless there be such renewal as is hereinafter in this chapter mentioned.

SEC. 7. Upon every renewal of a limited partnership, whether because of such alteration, or to continue the partnership beyond the

time originally fixed for its duration, a certificate thereof shall be made, acknowledged, recorded, and published, in like manner as is provided in this chapter for the original formation of limited partnerships; and every such partnership which shall not be renewed in conformity with the provisions of this section, shall be deemed a general partnership.

SEC. 8. The business of the partnership shall be conducted under a firm, in which the names of the general partners only shall be inserted, and the general partners only shall transact the business. If the name of any special partner shall be used in such firm, with his consent or privity, or if he shall personally make any contract respecting the concerns of the partnership, with any person except the general partners, he shall be liable as a general partner. This section, however, shall not prevent such special partner from examining into the state of the business, and advising as to its management.

SEC. 9. The general partners shall be liable to account to each other, and to the special partners, for their management of the concern, as in general partnerships.

SEC. 10. During the continuance of the partnership under the provisions of this chapter, no part of any sum, which any special partner may have contributed to the stock, shall be withdrawn, nor shall any division of interest or profits be made, so as to reduce the stock below the sum stated in the certificate before mentioned. If, at any time during the continuance, or at the termination of such partnership, the property or assets shall not be sufficient to pay the partnership debts, the special partners shall severally be held responsible for all sums by them in any way received, withdrawn, or divided, with interest thereon from the time when they were so withdrawn respectively.

SEC. 11. In case of the insolvency of such partnership, no special partner shall be paid as a creditor of the firm, until all its other creditors are satisfied.

SEC. 12. No sale, assignment, or transfer of the property or effects of any such partnership, or of any interest therein, nor any lien or incumbrance thereon, by judgment or otherwise, shall be valid, if made or created by such partnership at a time when it has not sufficient property or effects to pay all its debts, for the purpose of giving a preference to one or more of its creditors over any other creditor; or by any partner, whether general or special, at a time

when he has not sufficient property or effects to pay all his debts, or in contemplation that the partnership may not have sufficient property or effects to pay its debts, for the purpose of giving a preference over the creditors of the partnership to one or more creditors, whether of his own or the partnership.

SEC. 13. Every special partner who shall give any such preference as is named in the section next preceding, or who shall concur in or assent to any such preference given by the partnership, or by any individual partner, shall be liable as a general partner.

SEC. 14. No dissolution of a limited partnership shall take place, except by operation of law, before the time specified in the certificate before mentioned, unless a notice of such dissolution shall be recorded in the office in which said certificate was recorded, and be published for four successive weeks in some newspaper published in Washington City.

SEC. 15. All suits respecting the business of any partnership formed or renewed as hereinbefore prescribed, shall be prosecuted by and against the general partners only, except in those cases wherein it is provided in this chapter that a special partner shall be liable as a general partner, and that special partnerships shall be deemed general partnerships, in which cases all the partners so liable may join or be joined in such suits, and except, also, those cases where special partners shall be held severally responsible on account of any sum by them received or withdrawn from the stock, as before provided. A special partner shall also be liable to, and be suable by, the firm for debts contracted with it, in the same manner as if he were not a partner.

SEC. 16. In all cases not otherwise provided for in this chapter, the members of limited partnerships shall be subject to all the liabilities, and entitled to all the rights, of general partners.

CHAPTER 29.

OF FACTORS AND AGENTS.

SECTION 1. If any person shall transact business as a trader, with the addition of the words "factor," "agent," "and company," or "and co.," or any similar words, and fail to disclose the name of his

principal, or partner, by a sign, in letters easy to be read, placed conspicuously at the house wherein such business is conducted, or if any person transact such business in his own name, without any such addition, or if any person transact such business without the use of any name, all the property, stock, and choses in action acquired or used in such business, shall, as to the creditors of any such person, be liable for his debts. This section shall not apply to a person transacting such business as an auctioneer or commission merchant.

CHAPTER 30.

OF HOTEL AND TAVERN KEEPERS.

SECTION

1. Duty to provide a safe.
2. When applied to, shall keep money, plate, &c.

SECTION

3. When liable for loss.
4. Written or printed notices to be posted
5. When keeper not liable.

SECTION 1. It shall be the duty of every hotel or tavern keeper in Washington City and Georgetown to provide an iron safe or other secure depository for the safe keeping of any money, plate, or jewelry, belonging to their guests.

SEC. 2. Upon being applied to for that purpose by any guest, it shall be the duty of such hotel or tavern keeper to take charge of any such money, plate, or jewelry, and safely keep the same until called for by the proper party.

SEC. 3. If any such money, plate, or jewelry, or any part thereof, be lost or stolen while thus in the charge of such hotel or tavern keeper, he shall be liable for the full value of the same: provided, however, if such loss occurred through fire, proved to have happened without any negligence upon the part of himself or agents, he shall not be so liable.

SEC. 4. It shall be the duty of such hotel or tavern keeper to cause written or printed notices to be posted within the chambers or other conspicuous places about such hotel or tavern, notifying persons of the purport of this chapter, and requesting guests to deposit their money, plate, or jewelry, with the proper person for safe keeping.

SEC. 5. If any guest of any such hotel or tavern shall loose any money, plate, or jewelry, not deposited for safe keeping according to

the provisions of this chapter, such hotel or tavern keeper shall not be liable therefor if he has complied with the provisions of this chapter, unless such loss occurred through the actual negligence or fraud of such hotel or tavern keeper or his agents.

TITLE XIV.

Of incorporated companies.

CHAPTER 31. Of agencies of foreign insurance companies.

CHAPTER 32. Of turnpike, railroad, and canal corporations.

CHAPTER 33. General provisions respecting incorporated companies.

CHAPTER 31.

AGENCIES OF FOREIGN INSURANCE COMPANIES.

SECTION

- | | |
|--------------|---|
| 1. }
2. } | Duties of agents of foreign insurance
companies. |
|--------------|---|

SECTION

- | | |
|----|---------------------------------|
| 3. | Penalty for failure or neglect. |
|----|---------------------------------|

SECTION 1. Every person who shall undertake to make insurance in this District, as the agent for, or in behalf of, any corporation established in any State or foreign country, shall deposit with the recorder of Washington county, a copy of the charter of such foreign corporation, and a copy of the authority given to him by said corporation.

SEC. 2. Every such agent shall also, before making any contract of insurance as aforesaid, deposit with the said recorder, a statement signed and sworn to by a majority of the directors of the corporation for which he acts, specifying the amount of its capital, and the manner of its investment. Such agent shall also, on or before the first of March in every year, during the continuance of his agency, deposit a similar statement of the capital of the corporation, and the investment thereof, to be annually made out, signed, and sworn to, as before directed.

SEC. 3. If any person shall undertake, as agent for any such foreign corporation, to make or renew, directly or indirectly, any contract of insurance within this District, and with any person resident therein, without having complied with the requisitions of the two preceding sections, or in any way contrary to the true intent and meaning thereof, he shall forfeit for every such offence the sum of two hundred dollars.

CHAPTER 32.

OF TURNPIKE, RAILROAD, AND CANAL CORPORATIONS.

SECTION

1. How turnpike road to be constructed.
2. Land to revert on discontinuance.
3. Turnpike companies to keep publicly exhibited the rates of toll.
4. Penalty for taking illegal toll.
5. Proceedings when road is insufficient or out of repair.
6. Turnpike company liable for damages, and to indictment.
7. Foregoing provisions to apply to plank roads, &c.

RAILROADS.

8. Railroad not to obstruct turnpike.
9. Turnpike not to obstruct railroad.

SECTION

10. Bridges over or under turnpike roads to be kept in repair.
11. Penalty for injuries to railroads, &c.
12. Bell to be rung in certain cases.
13. Sign-boards to be placed at certain places.
14. Penalty for neglect.
15. What may be done to passenger refusing to pay his fare.
16. Penalty on conductor for intoxication.

CANALS.

17. Penalty for obstructing towing path.
18. Penalty for obstructing navigation of canal.

TURNPIKES.

SECTION 1. Where any turnpike road, hereafter established, shall intersect any then existing public highway, the proprietors of such road shall so construct the same that it shall be convenient for travellers to pass from such highway to said turnpike road.

SEC. 2. When any turnpike road shall be discontinued, in whole or in part, the land over which the part so discontinued was laid shall revert in the persons, their heirs and assigns, who were owners thereof at the time such land was taken or purchased for the purpose of making said turnpike road, any conveyance of said land by deed to the turnpike corporation notwithstanding.

SEC. 3. All turnpike corporations shall erect, and keep exposed to view, in some conspicuous place at every gate where the toll is collected, a sign-board, with all the rates of toll fairly and legibly

written or printed, in letters of a large size ; and unless such corporation shall so erect and keep such sign-board, they shall not be entitled to demand any toll at the said gate.

SEC. 4. If any turnpike corporation, or their toll-gatherer, or any other person in their employment, shall demand or receive of any person passing on their road, more toll than is by law established, such corporation shall, for every such offence, forfeit a sum not exceeding one hundred dollars, to be recovered by the party of whom such toll was demanded, to his own use, by an action.

SEC. 5. Whenever any turnpike road shall be suffered to be out of repair, the circuit court may order the gates thereof to be set open, first giving notice, at least fourteen days previously to making such order, to the president or treasurer of such corporation that complaint is made of their road ; and immediately upon making such order, and leaving an attested copy thereof with the said president or treasurer, the gates shall be set open, and no toll be demanded thereat until the said court shall otherwise order.

SEC. 6. Whenever any person shall sustain any injury by reason of any turnpike road being insufficient or out of repair, the corporation owning said road shall be answerable for such injury, and also liable to indictment for such insufficiency and want of repair of their road.

SEC. 7. The foregoing sections of this chapter shall apply to planned roads owned by any incorporated company.

RAILROADS.

SEC. 8. If any railroad shall be so laid out as to cross any turnpike or other way, it shall be so made as not to obstruct such turnpike road or way.

SEC. 9. If, after the laying out and making of any railroad, any turnpike road or other way shall be so laid out as to cross said railroad, the said turnpike road or other way may be so made as to pass under or over said railroad ; and said turnpike or way shall in all cases be so made as not to obstruct or injure such railroad.

SEC. 10. Every railroad corporation shall maintain, and keep in repair, all bridges, with their abutments, which such corporation shall construct over or under any turnpike road, canal, highway, or other way.

SEC. 11. If any person shall wilfully and maliciously obstruct the

passing of any carriage on any railroad, or in any way injure such road, or anything appertaining thereto, or any materials or implements in the construction or use thereof, such person, and all who shall be aiding and abetting in such trespass, shall forfeit to the use of the corporation, for every such offence, treble the amount of damages which shall appear on the trial to have been sustained thereby, and may be further punished as is provided in Part IV.

SEC. 12. Every railroad corporation shall cause a bell, of at least thirty-five pounds in weight, to be placed on each locomotive engine passing upon its road; and the said bell shall be rung at the distance of at least eighty rods from the place where said railroad crosses any turnpike or highway upon the same level with the railroad, and shall be kept ringing until the engine has crossed such turnpike or highway.

SEC. 13. Every railroad corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained, across each turnpike or highway where it is crossed by the railroad upon the same level therewith; the said posts and boards to be of such height as shall be easily seen by travellers, without obstructing the travel; and on each side of said boards the following inscription shall be printed, in capital letters of at least the size of nine inches each: RAILROAD CROSSING—LOOK OUT FOR THE ENGINE.

SEC. 14. If any railroad corporation shall unreasonably neglect or refuse to comply with the regulations contained in the two preceding sections, it shall forfeit, for every such neglect or refusal, a sum not exceeding five hundred dollars; and if any agent of any such company shall neglect or refuse to comply with the regulations aforesaid, he shall, for every such refusal or neglect, forfeit a sum not exceeding one hundred and fifty dollars; and the railroad company shall also be liable for all damages sustained by any person by reason of such neglect of any of their agents.

SEC. 15. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train, and the employees of the railroad corporation, to put him out of the cars at any stopping place the conductor shall select.

SEC. 16. If any person shall, while in charge of a locomotive engine running upon any railroad, or while acting as a conductor of a car or train of cars on any railroad, be intoxicated, he shall be deemed

guilty of a misdemeanor, and, on conviction thereof, shall be fined and imprisoned in the discretion of the court, said fine not to exceed one thousand dollars and such imprisonment not to exceed one year.

CANALS.

SEC. 17. Every person who shall lead, drive, or ride, or cause to be lead, driven, or ridden, any horse or other animal, drawing after it any wagon, cart, dray, or other carriage, upon the towing path of any canal constructed by any incorporated company, shall, for every such offence, forfeit ten dollars.

SEC. 18. If any person shall obstruct the navigation of any such canal, by sinking therein any stone, timber, vessel or other thing, or by placing any obstruction on the towing path thereof, such person shall, for every such offence, forfeit twenty dollars.

CHAPTER 33.

GENERAL PROVISIONS RESPECTING CORPORATIONS.

SECTION

1. Powers of corporations.
2. If not organized within one year, powers to cease.
3. Certificates of shares transferable by endorsement, delivery, &c.
4. Capital stock not to be reduced, and dividends to be declared only from the profits.
5. Debts not to exceed capital actually paid in.
6. Upon dissolution of corporation, directors shall be trustees of creditors.
7. Action not to abate.
8. Powers and responsibilities of such trustees.
9. } Circuit court, on dissolution, may ap-
10. } point receivers, and make orders, &c

SECTION

11. } Proceedings upon judgment and execu-
12. } tion against corporations authorize
13. } to receive toll.
14. }
15. }
16. } Rights of purchaser, and rights and
17. } duties of corporation after sale on
18. } execution.
19. Stock to be personal property, &c.
20. Book containing names, &c., of stockholders, to be kept.
21. Penalty for not properly keeping or exhibiting such book.
22. Neither dissolution or repeal of charter to affect remedies against company.
23. How corporation may be dissolved.

SECTION 1. Every corporation, as such, has power: 1. To have succession by its corporate name for the period limited; and when no period is limited, perpetually. 2. To sue and be sued in any court. 3. To make and use a common seal, and alter the same at pleasure. 4. To hold, purchase, and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount

limited by law. 5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation. 6. To make by-laws consistent with law for its government, the management of its property, and regulation of its affairs.

Sec. 2. If any corporation, hereafter formed, shall not organize and commence the transaction of its business within one year from the date of its incorporation, its corporate powers shall cease.

Sec. 3. Whenever the capital stock of any corporation is divided into shares, and certificates thereof are issued, such shares may be transferred by endorsement and delivery of the certificates thereof, such endorsement being by the signature of the proprietor, or his attorney or legal representative; but such transfer shall not be valid, except between the parties thereto, until the same shall have been so entered on the books of the corporation as to show the names of the parties by and to whom transferred, the number and designation of the shares, and the date of the transfer.

Sec. 4. It shall not be lawful for the directors or managers of any incorporated company in this District to make dividends, excepting from the surplus profits arising from the business of such corporation; and it shall not be lawful for the directors of any such company to divide, withdraw, or in any way pay to the stockholders, or any of them, any part of the capital stock of such company, or to reduce the said capital stock, without the consent of Congress; and in case of any violation of the provisions of this section, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large upon the minutes of the said directors at the time, or were not present when the same did happen, shall, in their individual and private capacity, jointly and severally, be liable to the said corporation, and to the creditors thereof, in the event of its dissolution, or expiration of its charter, to the full amount of the capital stock of the company so divided, withdrawn, paid out, or reduced; and no statute of limitations shall be a bar to any suit against such directors for any sums for which they are made liable by this section. Nothing in this section shall be construed to prevent a division and distribution of the capital stock of such company, which shall remain after the payment of all its debts, upon the dissolution of such company, or the expiration of its charter.

SEC. 5. The total amount of the debts which any incorporated company shall owe shall not at any time exceed the amount of the capital stock actually paid in ; and in case of any excess, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large on the minutes of the said directors at the time, and except those who were not present when the same did happen, shall, in their individual and private capacity, jointly and severally, be liable for such excess to the said corporation, and in the event of its dissolution, or expiration of its charter, to any of the creditors thereof, to the full amount of such excess, with legal interest from the time such liability accrued ; and no statute of limitation shall be a bar to any suit against such directors for any sums of money for which they are made liable by this section.

SEC. 6. Upon the dissolution of any corporation, unless other persons shall be appointed by Congress, or by some court of competent authority, the directors or managers of the affairs of such corporation at the time of its dissolution, by whatever name they may be known, shall be trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the corporation, collect and pay the outstanding debts, and divide among the stockholders the moneys or other property that shall remain after the payment of the debts and necessary expenses.

SEC. 7. No action pending in any court in favor of or against any corporation shall be discontinued or abate by the dissolution of such corporation, whether such dissolution occur by expiration of its charter or otherwise.

SEC. 8. The persons so constituted trustees shall have authority to sue for and recover the debts and property of the dissolved corporation, and shall have full power to settle the affairs of the corporation, and shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall come into their hands.

SEC. 9. Upon the dissolution of a corporation, the circuit court, on application of any creditor of the corporation, or of any stockholder or member thereof, may appoint one or more persons to be receivers or trustees of and for the corporation, to take charge of the estate and effects thereof, and to collect the debts and property due and

belonging to the corporation; and the power of such receivers may be continued as long as the said court shall think necessary.

SEC. 10. The circuit court shall have jurisdiction of such application, and of all questions arising in the proceedings thereon, and may make such orders, injunctions, and judgments thereon, as justice shall require.

SEC. 11. When any judgment shall have been recovered against any turnpike, or other corporation authorized to receive toll, the franchises of such corporation, with all the rights and privileges thereof, together with all its corporate property, real and personal, may be taken on execution and sold.

SEC. 12. The officer having such execution against any corporation mentioned in the preceding section, shall, thirty days at least before the day of sale of the franchise, or other corporate personal property, give notice of the time and place of sale, by advertisement to be published in some newspaper of this District.

SEC. 13. The officer who may levy an execution as prescribed in the preceding section, may adjourn the sale from time to time, until the same shall be completed.

SEC. 14. In the sale of the franchise of any corporation, the person who shall satisfy the execution, with all legal fees and expenses thereon, and shall agree to take such franchise for the shortest period of time, and to receive, during that time, all such toll as the said corporation would by law be entitled to demand, shall be considered the highest bidder.

SEC. 15. The officer's return on such execution shall transfer to the purchaser all the privileges and immunities which by law belonged to the corporation, so far as relates to the right of demanding toll; and the officer shall, immediately after such sale, deliver to the purchaser possession of all such toll-houses and gates belonging to such corporation, wherever the same may be situated in this District, and thereupon the purchaser may demand and receive all the toll which may accrue during the time limited by the terms of his purchase, in the same manner and under the same regulations as such corporation was before authorized to demand and receive the same.

SEC. 16. Any person purchasing, under the provisions of this chapter, the franchise of any turnpike or other corporation, and the assignee of such person, may recover any penalties imposed by law for any injury to the franchise, or for any other cause, which such

corporation would have been entitled to recover during the time limited in the said purchase of the franchise; and during that time the corporation shall not be entitled to prosecute for such penalties.

SEC. 17. The corporation whose franchise shall have been sold as aforesaid, shall in all other respects retain the same powers, and be bound to the discharge of the same duties, and liable to the same penalties and forfeitures, as before such sale.

SEC. 18. Such corporation may, at any time within six months after such sale, redeem the franchise by paying or tendering to the purchaser thereof the sum that he shall have paid therefor, with ten per cent. interest thereon, but without any allowance for the toll which he may have received; and upon such payment or tender, the said franchise, and all the rights and privileges thereof, shall revert and belong to said corporation, as if no such sale had been made.

SEC. 19. The stock of every incorporated company, unless where otherwise expressly declared, shall be deemed personal estate; prior to the issuing of certificates of stock, the shares may be transferred by a delivery of the receipts for instalments paid, and by an entry on the books of the corporation.

SEC. 20. It shall be duty of every incorporated company issuing stock to cause a book to be kept containing the names of all persons, alphabetically arranged, who are or shall become stockholders of the corporation, and showing the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares; which book, during usual business hours, shall be open for the inspection of the stockholders and creditors of the company, at the office or principal place of business of the company; and any stockholder or creditor shall have the right to make extracts from such book, or to demand and receive from the clerk or other officer having charge of such book a certified copy of any entry made therein. Such book or certified copy of any entry shall be presumptive evidence of the facts stated therein in any action or proceeding against such company, or against any one or more stockholders.

SEC. 21. If the clerk or other officer having charge of such book shall make any false entry, or neglect to make the proper entry therein, or shall refuse or neglect to exhibit the same, or to allow the same to be inspected, as provided in the preceding section, he shall be deemed guilty of a misdemeanor, and shall forfeit and pay, to the use

of the injured party, a penalty of one hundred and fifty dollars ; and for neglecting to keep such book for inspection as aforesaid, the corporation shall forfeit the sum of five hundred dollars.

SEC. 22. The amendment or repeal of the charter of any incorporated company shall not, nor shall the dissolution of any such incorporated company, take away or impair any remedy given against such incorporated company, its stockholders or officers, for any liability which shall have been previously incurred.

SEC. 23. Any incorporated company wishing to dissolve and disincorporate itself may present a petition to the circuit court, accompanied by a certificate, signed by the proper officers, and setting forth that at a general or special meeting of the stockholders called for that purpose, it was decided by a vote of two-thirds of the stockholders to disincorporate and dissolve the incorporation. The clerk of said court shall enter such petition and certificate on record, and the said court, after thirty days' notice by publication in some newspaper published in this District, may proceed to consider the same ; and if the said court be of opinion that such incorporated company has taken the necessary preliminary steps, and obtained the necessary vote to dissolve itself, and that all claims against said company are discharged, said court may declare such incorporated company dissolved.

TITLE XV.

Of the internal police of this District.

CHAPTER 34. Of paupers.

CHAPTER 35. Of the "Government Hospital for the Insane," and the care of insane persons.

CHAPTER 36. Of the maintenance of bastard children.

CHAPTER 37. Of the observance of Sunday.

CHAPTER 38. Of gaming.

CHAPTER 39. Of the law of the road.

CHAPTER 40. Of the restraint and destruction of dangerous and noxious animals.

CHAPTER 41. Of estrays, and vessels or boats found adrift.

CHAPTER 34.

OF PAUPERS.

SECTION

1. How and when paupers are to be provided for.
2. Circuit court may order assistance.
3. Proceedings against a pauper when not legally settled.

SECTION

4. Penalty for bringing paupers within this District.
5. Meaning of word "county" in this chapter.

SECTION 1. On application by or on behalf of any person unable to maintain himself, or by or on behalf of the family of a person when he is unable to maintain it, such person or family shall be provided for or assisted by the city or county to which such application be made, if he or they have a legal settlement therein. A person shall not be deemed to have a legal settlement in a city, unless he shall have resided therein for one year at one time, and shall not since that time have gained a legal settlement elsewhere.

SEC. 2. When, on such application, a city or county refuses provision or assistance, the circuit court may direct the same to be rendered by such city or county.

SEC. 3. If any pauper shall be found in any city in this District, not having a legal settlement therein, any justice of the peace residing therein, upon oath being made by the mayor, or other officer of such city, that he believes such pauper will become a charge upon such city, may order such pauper to be brought before him; and if, upon hearing, such justice shall see cause, he may, by warrant, order any such pauper, at the cost and charge of such city, to be removed,

if it can be done without danger, to the place where he was last legally settled, unless he shall enter into bond in a sum not exceeding four hundred dollars, payable to such city, with security to be approved by such justice, that he will not become chargeable for his support to such city.

SEC. 4. If any person shall bring into and leave in this District any pauper who has not a legal settlement therein, knowing him to be a pauper, he shall forfeit a sum not exceeding one hundred dollars for any such offence.

SEC. 5. The word "county" in this chapter shall be construed to mean that part of Washington county which lies outside the corporate limits of Washington City and Georgetown.

CHAPTER 35.

OF THE "GOVERNMENT HOSPITAL FOR THE INSANE," AND THE CARE OF INSANE PERSONS.

SECTION

1. Objects of the government hospital.
2. } Board of visitors; how many, by
3. } whom appointed, and when their
4. } term expires.
5. } Visitors to serve six years, and may
6. } be reappointed.
7. } Board to elect a president.
8. } Of the superintendent.
9. Powers and duties of superintendent.
10. Secretaries of War and Navy may direct certain persons to be received, &c.
11. How indigent insane in this District may be admitted.
12. Marshal and constables to assist in executing order, when necessary.

SECTION

13. What proceedings may be had when the person did not become insane within this District.
14. Proceedings where a party charged or convicted of crime is found to be insane.
15. Person become insane after conviction may be admitted in certain cases.
16. Proceedings in case of restoration to sanity.
17. How and on what terms patients not indigent may be admitted.
18. When insane person may be delivered over to a friend.
19. What may be done in case of an escape.
20. How appropriations shall be drawn and disbursed.

SECTION 1. There shall be an institution in this District, to be called the "Government Hospital for the Insane," the object of which shall be the most humane care and enlightened curative treatment of the insane of the army and navy of the United States and of this District.

SEC. 2. The board of visitors of said hospital shall consist of nine citizens of this District, appointed by the President of the United

States. The visitors in office when this chapter takes effect as a law shall continue to exercise their powers, according to the tenor of their commissions, until others are appointed.

SEC. 3. The term of office of three of said visitors shall expire on the thirtieth day of June, eighteen hundred and fifty-nine, and biennially thereafter on the same day of the year, in the order which has already been determined.

SEC. 4. The visitors whose term of office expires may be reappointed, or other citizens may be appointed in their stead. If a vacancy occurs from any cause other than the expiration of the term, it may be filled by appointment as aforesaid for the unexpired term.

SEC. 5. The term of office of every visitor hereafter to be appointed shall be six years, except in the case of the vacancy provided for by the preceding section. The office of visitor shall be honorary, and without compensation.

SEC. 6. The board of visitors shall elect one of their number to be president, who shall preside at their meetings for one year, or until a successor is elected.

SEC. 7. The chief executive officer of said institution shall be a superintendent, to be appointed by the Secretary of the Interior. The superintendent shall be a well educated physician, possessing competent experience in the care and treatment of the insane; he shall reside on the premises, and devote his whole time to the welfare of said institution. He shall, subject to the approval of the visitors, engage and discharge all needful and usual employees in the care of the insane, and all laborers on the farm, and determine their wages and duties. He shall be the responsible disbursing agent of said institution, and shall be secretary of the board of visitors. He shall receive a salary of two thousand five hundred dollars per annum.

SEC. 8. The said superintendent shall give bond for the faithful performance of the duties of his office, in such sum and with such securities as may be required by the Secretary of the Interior. Said bond shall be filed in the office of said Secretary.

SEC. 9. The board of visitors, subject to the approval of the Secretary of the Interior, may make any needful by-laws for the government of themselves, and of the superintendent and his employees, and of the patients, not inconsistent with law. They shall visit said hospital at stated periods, and exercise the most careful supervision

over its expenditures and general operations. They shall make annually, to the Secretary of the Interior, a report for the preceding year, ending June thirtieth, setting forth the condition and wants of said institution.

SEC. 10. The order of the Secretary of War and that of the Secretary of the Navy shall authorize the superintendent to receive insane persons belonging to the army and navy of the United States, respectively, and keep them in custody till they are cured or removed by the same authority which ordered their reception.

SEC. 11. The Secretary of the Interior shall have power to grant his order for the admission into the said government hospital of any insane person unable to support himself, or himself and family if he have one, who resided in this District at the time he became insane, and who is not charged with or convicted of any crime, upon the certificate of any judge of the circuit, criminal, or orphans' court, or any justice of the peace of this District, stating that two respectable physicians appeared before such judge or justice, and certified under oath and under their hands that they knew the party alleged to be insane, and that they believed him to be a fit and proper subject for treatment in said hospital, and also stating that two respectable persons, residents of this District, appeared before him and certified under oath and under their hands that such party alleged to be insane was a resident of this District at the time he became insane, and that he was unable to pay his board and other expenses in said hospital. The certificates of the physicians and residents aforesaid shall accompany the certificate of the said judge or justice. The application to the Secretary of the Interior for his said order for the admission of such indigent insane person into said hospital shall be made within five days after the granting of the aforesaid certificate by such judge or justice.

SEC. 12. The order of the Secretary of the Interior, granted in pursuance of the provisions of the preceding section, shall authorize the marshal or any constable to assist in carrying such indigent insane person to the said hospital, whenever such assistance is necessary, provided that the expense of any proceedings before the judge or justice, as aforesaid, or of carrying such patient to the hospital, shall not be chargeable to the United States.

SEC. 13. Any indigent insane person within this District, who did

not reside in this District at the time he became insane, may be admitted into the said hospital upon the application of the corporate authorities of Washington City or Georgetown, or of the levy court of the county of Washington, and at the expense of either of said corporations, or levy court, during the continuance of such insane person in said hospital, provided such application be accompanied by the certificate of two respectable physicians, taken in the manner and to the effect mentioned in section eleven of this chapter. The superintendent shall take charge of such insane person until the said corporations or levy court, as the case may be, shall cause him to be returned to his friends or to the authorities of the place from which he came.

SEC. 14. If any person charged with or convicted of crime be found, in the court before which he is so charged or convicted, to be an insane person, such court shall certify the same to the Secretary of the Interior, who may order such person to be confined in said hospital. If he be not indigent, he and his estate shall be charged with the expense of his support in said hospital.

SEC. 15. The Secretary of the Interior may order any person to be admitted into the said hospital, who, in the opinion of the appropriate physician, becomes insane during the continuance of his confinement in the jail or penitentiary of this District. If in the opinion of the superintendent of the hospital, however, such insane person is so depraved or furious as to render his custody in said hospital insecure or his example pernicious, such order shall not be given, or, if given, may be countermanded. Before any such order is given, the superintendent shall have due notice.

SEC. 16. When any person confined in said hospital charged with a crime and subject to be tried therefor, or convicted of a crime, and subject to be punished therefor, shall be restored to sanity, the superintendent of said hospital shall give notice thereof to the judge of the criminal court, and deliver him in obedience to the proper precept; and when any other person confined in said hospital as an insane person shall be restored to sanity, the said superintendent shall discharge him, and give him a certificate of such discharge.

SEC. 17. Independent or pay patients may be received into said hospital on the certificate of two respectable physicians of this District, stating they have properly examined the patient and believe

him to be insane at the time of giving said certificate, and a fit subject for treatment in said hospital, accompanied by a written request for the admission from one or more of the nearest relatives of such patient or his legal guardian or friend. Any application for such admission must be made within five days from the date of such certificate. Such patient may remain in said hospital until restored to sanity, provided his friends comply with the regulations of said hospital in relation to the payment of board and all other respects.

Sec. 27. If any person will give bond, with sufficient security to be approved by the circuit and criminal court, or by any judge thereof in vacation, payable to the United States, with condition to restrain and take care of any insane person not charged with or convicted of crime, whether in the said hospital or not, until such insane person is restored to sanity or delivered over to the superintendent of said hospital, in accordance with the provisions of this chapter, such court or judge may, in its discretion, deliver such insane person to the party giving such bond. If such insane person be an inmate of the hospital, the superintendent shall be notified before any bond be taken.

Sec. 19. If any insane person confined in said hospital shall escape, the superintendent or any justice of the peace may issue his warrant to the marshal or other officer to arrest and carry him back to said hospital.

Sec. 20. All appropriations of money by Congress for the support of said hospital shall be drawn from the United States treasury upon the requisition of the Secretary of the Interior, and shall be disbursed and accounted for in all respects according to the laws regulating ordinary disbursements of public money. All moneys received by the superintendent for the board of pay patients, or from the sale of the surplus products of the farm, shall be accounted for in like manner.

CHAPTER 36.

OF THE MAINTENANCE OF BASTARD CHILDREN.

SECTION

1. Proceedings when any person is charged as being the father of a bastard child.
2. What proceedings may be had on the recognizance.

SECTION

3. Party allowed to appeal.
4. Proceedings on the appeal.
5. What is meant by the word "county" in this chapter.

SECTION 1. If any woman shall be delivered of a bastard child, and shall, upon examination before any justice of the peace, charge any person upon oath with being the father of such child, such justice shall, by warrant, cause the person so charged to be brought before him, and if, upon hearing, he shall be satisfied that such person is the father of such child, he shall require him to enter into a recognizance to the United States, with good and sufficient security, in a sum not exceeding three hundred dollars, with condition to indemnify and save harmless any city, county, or person from all cost and charge for the maintenance of such child until it shall arrive at the age of seven years, and may order the person so charged to be committed to jail until such recognizance be given.

SEC. 2. Such recognizance shall be immediately returned to the clerk of the criminal court, and filed in his office. Execution, from time to time, may be issued thereupon by the said criminal court, upon motion and ten days' notice, for so much as may be due to any city, county, or person, for the maintenance of such child, until the amount of the penalty be exhausted. The person entering into any such recognizance, and his sureties, shall not be responsible for any sum greater than fifty dollars per annum for the maintenance of any such child.

SEC. 3. If any person charged as aforesaid with being the father of a bastard child, should think himself aggrieved by the judgment of the justice, he may appeal to the criminal court, upon his entering into bond, with sufficient security, for his appearance at the next term of said criminal court, and for the payment of the costs of such appeal in the event of the same being decided against him.

SEC. 4. Upon the trial of any such appeal, the issue to the jury shall be, whether the party so appealing is guilty or not guilty; and if the jury shall find him guilty, the recognizance returned by the justice, and filed in the office of the clerk of the criminal court, under the provisions of the second section of this chapter, shall be in full force, and execution may issue thereon, as is provided in said section; but if, on such trial, the party so appealing shall be found not guilty, the said criminal court shall discharge him and his sureties from such recognizance. The mother of the bastard child shall be a competent witness in any such trial.

SEC. 5. The word "county" in this chapter shall be construed to mean that part of Washington county which lies outside the corporate limits of Washington City and Georgetown.

CHAPTER 37.

OF THE OBSERVANCE OF SUNDAY.

SECTION

1. Penalty for laboring on Sunday.
2. Certain cases excepted.
3. Penalty for suffering servants, &c., to profane Sunday.

SECTION

4. Penalty for selling intoxicating liquors, &c., on Sunday.
5. Civil process not to be served on Sunday.
6. Within what time prosecutions to be begun for offences under this chapter.

SECTION 1. If any person on the sabbath day, usually called Sunday, be found laboring at any trade or calling, or shall employ his children, apprentices, servants, or slaves, in labor or other business, except in household or other work of necessity or charity, he shall forfeit and pay five dollars for every such offence.

SEC. 2. No forfeiture shall be incurred, under the preceding section, for the transportation on Sunday of the mails, or of passengers and their baggage. And the said forfeiture shall not be incurred by any person who conscientiously believes that the seventh day of the week ought to be observed as a sabbath, and actually refrains from all secular business and labor on that day; provided, he does not compel his children, apprentices, servants, or slaves, not of his belief, to do secular work or business on Sunday, and does not on that day disturb any other person.

SEC. 3. If any person shall suffer or permit his children, apprentices, servants, or slaves, to profane Sunday by gunning, fishing, fowling, hunting, or by any unlawful recreations, he shall forfeit and pay five dollars for every such offence.

SEC. 4. If any person shall sell any intoxicating liquors on Sunday, (except in cases of necessity,) or shall suffer any drunkenness, gaming, or unlawful sports in his house, or about his premises, on said day, he shall forfeit and pay twenty dollars for every such offence.

SEC. 5. No civil process shall be served on Sunday, except in such cases as shall be specially provided for by law. If any civil process, not so specially allowed, be served on said day, it shall be void.

SEC. 6. All prosecutions for the penalties incurred under any of the sections of this chapter, shall be begun within one month after the offence shall have been committed.

CHAPTER 38.

OF GAMING.

SECTION

1. Gaming contracts void.
2. Money lost by gaming may be recovered back.

SECTION

3. Defendant compelled to answer on oath.

SECTION 1. Every contract, conveyance, or assurance, of which the consideration, or any part thereof, is money, property, or other thing won, or bet at any game, sport, pastime, or wager, or money lent or advanced at the time of any gaming, betting, or wagering, to be used in being so bet or wagered, (when the person lending or advancing it knows that it is to be so used,) shall be void.

SEC. 2. If any person shall lose to another, within twenty-four hours, twenty dollars or more, or property of that value, and shall pay or deliver the same, such loser may recover it back from the winner by an action, to be brought within three months after such payment or delivery. It may be so recovered from the winner, notwithstanding the payment or delivery was to the endorsee or assignee of such winner.

SEC. 3. Every person liable by virtue of this chapter for the money or property so won as aforesaid, shall be compelled to answer on oath touching the money or property so won as aforesaid; but the testimony which may be given by such person shall in no other case or proceeding be used against him.

CHAPTER 39.

OF THE LAW OF THE ROAD.

SECTION

1. Travellers to take the right-hand side of roads.

SECTION

2. Certain penalties provided.

SECTION 1. Whenever any persons shall meet each other on any bridge, street, or road, travelling with carriages, wagons, carts, or other vehicles, each person shall seasonably drive his carriage or other vehicle to the right of the travelled part of such bridge, street, or road, so that the respective carriages or other vehicles may pass each other without interference.

SEC. 2. Every person offending against the provisions of the preceding section shall, for each offence, forfeit a sum not exceeding twenty dollars; and he shall further be liable to any party for all damages sustained by reason of such offence; provided, that every prosecution for such fine shall be instituted within three months after the offence shall have been committed; and that every such action for damages shall be begun within twelve months after the cause of action shall have occurred.

CHAPTER 40.

OF THE RESTRAINT AND DESTRUCTION OF DANGEROUS AND NOXIOUS ANIMALS.

SECTION

1. } Diseased or ex unaltered horses not to
2. } go at large.
3. Mad dogs, &c., to be killed.

SECTION

4. Fees of constables, &c., for executing orders.

SECTION 1. Any justice of the peace, on proof that a horse afflicted with the glanders or farcy is permitted by the owner or keeper thereof wilfully or negligently to go out of his enclosed grounds, shall order such horse to be killed, and to be buried (with the hide on) four feet deep, having first given to the owner of such horse, or to his agent, if any there be resident in this District, reasonable notice of the time and place when and where such order is proposed to be made. And such owner or keeper shall forfeit twenty dollars for such offence.

SEC. 2. If any owner or keeper of any unaltered horse, of the age of two years or more, shall wilfully or negligently permit such unaltered horse to go at large, he shall forfeit twenty dollars, and for the second offence double that sum, one-half of which forfeiture the informer shall have; and if, after a second conviction, such horse shall be found going at large, he shall be the property of any person who will take him up.

SEC. 3. Any justice of the peace, on proof that any dog is mad, or has been bitten by a mad dog, or has killed any sheep, shall order such dog to be killed and buried. If the owner of any dog so ordered to be killed shall conceal him, or cause him to be concealed, to prevent the order from being executed, he shall forfeit twenty dollars.

SEC. 4. The constable, or any other person who may execute the order of any justice to kill and bury any horse or dog as aforesaid, shall have the following fees: in the case of a horse four dollars, and for a dog one dollar, to be paid by the owner in each case, if he be known and able to pay, and if not, by the county or corporation in which such horse or dog may be found; and if any constable, to whom such order is directed, shall fail to execute it, he shall forfeit in each case an amount equal to said fees.

CHAPTER 41.

OF ESTRAYS, AND VESSELS AND BOATS FOUND ADRIFT.

SECTION

1. } Proceedings to be had when an estray,
2. } or boat adrift, is taken up.
4. } When to become the property of the
5. } taker up.
6. The owner may at any time recover valuation.

SECTION

7. Taker up not liable if death ensue without his fault.
8. Taker up to acquire no right unless publication be made.

SECTION 1. Any person may take up any estray found on his land, or a boat or vessel adrift. He shall immediately inform a justice of the peace, who shall issue his warrant to some disinterested freeholder, requiring him, upon oath, to view and appraise such estray, or boat, or vessel, and to certify the result, in writing, within three days, with a description of the kind, marks, brand, stature, color, and age of the animal, or kind, burden, and build of the boat or vessel.

SEC. 2. The said freeholder shall return his certificate, with the warrant, to said justice; and for his service he shall be allowed one dollar.

SEC. 3. A copy of such certificate, together with notice of the taking up, and of the name and place of residence of the person so taking up, shall be published three times in some newspaper published in this District, within ten days after the taking up of such estray, boat, or vessel.

SEC. 4. If the valuation of such property shall not exceed five dollars, and if the owner thereof shall not, within thirty days after such publication, claim the same and pay the expenses incurred, such

property shall become the property of the owners of the land upon which such estray shall have been taken up, or of the person taking up such boat or vessel found adrift.

SEC. 5. If the valuation of such property shall exceed five dollars, and the owner thereof shall not, within one year after such publication, appear and claim the same, and pay the expenses incurred, such property shall become the property of the owner of the land upon which such estray shall have been taken up, or of the person taking up such boat or vessel found adrift.

SEC. 6. The former owner, however, may at any time within five years after such publication, upon proving his property, demand and recover the valuation money, deducting therefrom all proper charges and expenses.

SEC. 7. If such estray die, or any such property be lost to said owner of the land, or person taking it up, without his fault, he shall not be liable for the same, or its valuation.

SEC. 8. The taker up of any such property shall not acquire any right thereto, and shall not receive any damages or charges for keeping the same, unless publication be made as is required by the third section of this chapter.

TITLE XVI.

Slaves and negroes.

- CHAPTER 42. Of the importation of slaves.
 CHAPTER 43. Of the the manumission of slaves.
 CHAPTER 44. Of petitions for freedom.
 CHAPTER 45. Of dealing with slaves, harboring them, and suffering them to go at large.
 CHAPTER 46. Of sunaway slaves.
 CHAPTER 47. General provisions respecting slaves and negroes.

CHAPTER 42.

OF THE IMPORTATION OF SLAVES.

SECTION

1. Slave to be free, if brought in contrary to this chapter.
2. Unlawful to bring in any slave for sale.
3. Depots to be broken up.
4. Unlawful to bring in any slave to reside, except, &c.
5. Slave may be brought in on bona fide removal.
6. Slaves brought in not to be sold within three years.
7. Sojourners not to be affected.

SECTION

8. Persons bound for years not to be slave for life.
9. When certain slaves may be brought back.
10. } When owners of lands in this District,
11. } or adjoining States, may bring in slaves.
12. Slave acquired by marriage, bequest, &c., may be brought in.
13. Slaves allowed to be hired or brought in, in certain cases.

SECTION 1. If any slave shall be brought into this District by its owner, or by the authority or consent of its owner, contrary to the provisions of this chapter, such slave shall thereupon become liberated and free.

SEC. 2. It shall not be lawful to bring into this District any slave whatever for the purpose of being sold, or for the purpose of being placed in depot, to be subsequently transferred to any State or place to be sold as merchandise.

SEC. 3. It shall and may be lawful for each of the corporations of Washington City and Georgetown, from time to time, and as often as may be necessary, to abate, break up, and abolish any depot or place of confinement of slaves brought into this District as merchandise contrary to the provisions of the preceding section, by such appropriate means as may appear to either of the said corporations

expedient and proper. The same power is vested in the levy court of Washington county, if any attempt shall be made within its jurisdictional limits to establish a depot or place of confinement for slaves brought into this District as merchandise for sale contrary to the provisions of the preceding section.

SEC. 4. It shall not be lawful to bring into this District any slave whatever to reside therein, except so far as may be allowed by this chapter.

SEC. 5. Any citizen of the United States, who shall come into this District with a bona fide intention of settling, may import or bring into this District, at the same time of his removal into the same, or within one year thereafter, any slave, the property of such citizen at the time of his removal, and the same to retain as a slave; provided such slave, or the mother of such slave, shall have been resident of the United States, or some one of them, three whole years next preceding such removal. If such citizen removing into this District with the bona fide intention of settling therein shall die within one year after such removal, his executor or administrator may import or bring into this District any such slave as aforesaid, the property of such citizen at the time of his death, and the issue of such slave born after such removal, at any time within one year after his death as aforesaid. Also the guardian of any infant entitled to any such slave as aforesaid, by virtue of any bequest by, or in course of distribution of the estate of, any such citizen who shall have removed and died as aforesaid, may import and bring into this District, at any time within one year from the commencement of his guardianship, any such slave as aforesaid, the property of such citizen at the time of his death, and the issue of such slave born after the removal of such citizen as aforesaid; and such infant, at any time within one year after arriving at age, may do the same.

SEC. 6. No person removing to this District, with the bona fide intention of settling therein, shall sell or dispose of any slave brought into this District by virtue of any of the provisions of this chapter, or the increase of such slave, unless such person has resided within this District three whole years next preceding such sale. Nothing in this section shall be construed to effect the disposition of such slave, or the increase of such slave, by last will and testament, and dispositions by law for bona fide debts, or consequent upon intestacy.

SEC. 7. Nothing in this chapter contained shall be construed or taken to effect the right of any person travelling or sojourning with any slave within this District, such slave not being sold or otherwise disposed of in this District, but carried by the owner out of this District, or attempted to be carried.

SEC. 8. No person brought into this District, bound to service for a term of years only under the laws of the State or country from which such person is brought, or in which he was so bound, shall be considered as a slave for life in this District; such person shall serve for the time which the laws of such State or country oblige him to serve, and no longer.

SEC. 9. If any slave be carried out of this District during the infancy, or without the consent or authority, of the real owner of such slave, such owner may, at any time, bring such slave into this District and hold him as his property.

SEC. 10. Any citizen and resident of this District, or of either of the States of Maryland or Virginia, seized and possessed of an estate of inheritance in his own right, or in right of his wife, in land lying in this District, or in Maryland, or in Virginia, and being the owner of any slave employed or worked on said land, may bring such slave within this District, on the land of such owner, for the use and benefit of such owner and his legal representatives, and not for sale; provided, that a list of such slaves, containing their names, sexes, and ages, signed by the owner or his agent, be delivered to the recorder within three months after such slave or slaves shall have been brought into this District; which said list, if title to such slave or slaves be acquired by will, shall contain the testator's name, the date of the will, and the place where such will is recorded; and if title to such slave or slaves be derived from marriage, the name of the married person from whom the title is derived, shall also be inserted in said list, and the whole shall be entered on record at the expense of the owner of such slave or slaves. This section shall only apply to such slaves as shall have been residents of this District, or of Maryland, or of Virginia, before the twenty-first day of April, in the year one thousand seven hundred and eighty-three, and to such slaves as are descendants of any slave being resident as aforesaid.

SEC. 11. If the record required in the preceding section be made within the time and in the manner therein stated, the owner of any slave brought into this District under the provisions of the said sec

tion, shall be allowed to remove such slave, or the issue of such slave, into and out of this District, as often as his interest may require, without being obliged to record such slave each time he may be brought into this District.

SEC. 12. Any citizen of this District acquiring property in any slave, being a resident in any one of the United States before the twenty-first day of April, in the year one thousand seven hundred and eighty-three, or in any descendant of such slave, being a resident as aforesaid, by marriage, bequest, in course of distribution, or as guardian, may remove and bring such slave into this District, for the purpose only of employing or working such slave within this District, as herein beforementioned, and not for sale; provided, that a list of such slave or slaves be rendered in the manner required by the tenth section of this chapter. The owners of slaves brought into this District under the provisions of this section, may sell them after such slaves have been residents for three years within this District.

SEC. 13. Nothing in this chapter contained shall be construed so as to prohibit such owners of slaves as reside in Maryland or this District from hiring them within or removing them to this District, in the same way as was practised prior to the twenty-seventh day of February, one thousand eight hundred and one. This section, however, shall not authorize any slave to be brought into this District contrary to the provisions of the second section of this chapter.

CHAPTER 43.

OF THE MANUMISSION OF SLAVES.

SECTION

1. Manumission by will.
2. Manumission by deed.
3. When manumission by deed or will shall not be effectual.

SECTION

4. What the condition of the issue of a female slave manumitted, to take effect at a future time.

SECTION 1. Any person capable in law of making a valid will and testament may grant freedom to, and effect the manumission of, any slave belonging to such person, by his last will and testament; and such manumission may be made to take effect at the death of the testator, or at such other period as may be limited in such last will and testament.

SEC. 2. Any person possessed of any slave within this District, of healthy constitution, and sound in mind and body, may, by writing, under his hand and seal, evidenced by two good and sufficient witnesses, and acknowledged before one justice of the peace for this District, grant to such slave freedom. Any deed granting freedom to such slave shall be good to all intents and purposes, from the time that such freedom is intended to commence by said deed. The justice before whom such deed is acknowledged shall, at the time of said acknowledgment, endorse on the back of such deed the time of the said acknowledgment and the name of the party making the same. The justice, or the parties concerned, shall cause the said deed to be recorded in the office of the recorder of this District, within six months after the date of such deed or its acknowledgment.

SEC. 3. No manumission made by last will and testament shall be effectual to grant freedom to any slave, if the same shall be in prejudice of creditors, or if such slave shall be over the age of forty-five years at the time prescribed by such manumission to take effect, or if such slave be not able to work and gain a sufficient maintenance and livelihood at the time prescribed for such manumission to take effect.

SEC. 4. The increase of any female slave manumitted by will or deed hereafter made, born between the death of the testator or the record of the deed, and the time when her right to the enjoyment of her freedom arrives, shall also be free at that time, unless the deed or will otherwise expressly provides.

CHAPTER 44.

OF PETITIONS FOR FREEDOM.

SECTION

1. When petition of freedom to be tried.
2. Trial by jury allowed.
3. Appeals as to matters of law allowed.
4. Peremptory challenge allowed.

SECTION

5. Attorney responsible for costs when petitioner fails.
5. Second petition not to be tried until the costs of the first be paid or secured.

SECTION 1. No petition for freedom shall be tried in this District unless the petitioner shall reside therein, under the direction of his master, mistress, or owner. The circuit court shall have full power and authority to issue process against such master, mistress, or owner, for the purpose of compelling his or her appearance.

SEC. 2. In all petitions for freedom, either the petitioner or defendant may apply for and have the benefit of a trial by jury.

SEC. 3. Where the facts have been tried by a jury, there shall be no appeal from the judgment of the circuit court upon petitions for freedom, except as to matters of law; the master, mistress, or owner of the petitioner, or the petitioner, at the election of either, shall have the right of appeal as to matters of law only, and to take bills of exception to the Supreme Court of the United States.

SEC. 4. Either the master, mistress, or owner of the petitioner, or the petitioner, shall have the right of challenging peremptorily, to the number of twelve, jurors empaneled to try the facts in issue in any case of petition for freedom.

SEC. 5. In all cases of petitions for freedom, where the petition shall be dismissed, or, upon trial, the judgment shall be against the petitioner, the attorney prosecuting or appearing to the same shall pay all legal costs arising thereon, unless the circuit court shall be of opinion, under all the circumstances, that there was probable ground to suppose the petitioner had a right to freedom.

SEC. 6. If any petition for freedom shall be dismissed, and a second petition be filed at the suit of the same party, the circuit court shall order a stay of proceedings until the costs of the former petition, and all reasonable damages and expenses sustained or incurred by the defendant, to be ascertained by said court, shall be paid or secured to be paid.

CHAPTER 45.

OF DEALING WITH SLAVES, HARBORING THEM, OR SUFFERING THEM TO GO AT LARGE.

SECTION

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|----|---|
| 1. | } Penalties for harboring and entertaining slaves. |
| 2. | |
| 3. | |
| 4. | |
| 5. | Penalty for encouraging slaves to meet in companies, &c. |
| 6. | Punishment may be inflicted by owner of premises, if slaves refuse to depart. |

SECTION

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|-----|---|
| 7. | Penalty for dealing with slaves. |
| 8. | Penalty for permitting a slave to go at large. |
| 9. | Unlawful for slave to hire himself. |
| 10. | Penalty for allowing slaves to be burdensome, &c. |
| 11. | Chapter not to apply to absconding slaves. |

SECTION 1. If any person shall knowingly entertain any slave unlawfully absenting himself from his master or owner, or shall permit

or suffer such slave to be about his house or land during the space of one hour or longer, such person shall forfeit and pay at the rate of two dollars for every hour such slave shall be by him so entertained or permitted or suffered to be about this house or land, one-half of which shall be for the use of the party aggrieved, provided prosecution for the same be begun within three months, otherwise to the use of the informer, provided prosecution for the same be commenced within twelve months after such offence.

SEC. 2. No master of a vessel coming into this District, and entering to trade therein, shall suffer any slave to frequent his vessel or come on board, or shall conceal such slave on his or other vessel. If any slave shall be kept concealed on board any vessel coming into and trading within this District for the space of one hour or longer, the master or commander of such vessel shall forfeit and pay at the rate of three dollars for every hour such slave shall be suffered to frequent his vessel, or shall be kept or concealed on board his vessel, to the party owning such slave: provided, however, it shall and may be lawful for any master or commander of such vessel to hire any slave from an inhabitant of this District to work on board his vessel.

SEC. 3. Any free negro harboring or entertaining any slave unlawfully absenting himself from his master or owner, shall forfeit twenty dollars, one-half to the use of the party aggrieved.

SEC. 4. Any slave knowingly harboring or entertaining any slave unlawfully absenting himself from his master or owner, for and during the space of one hour or longer, shall, on conviction before any justice of the peace, be punished by whipping with a number of stripes not exceeding thirty-nine, in the discretion of such justice.

SEC. 5. If any person shall encourage any slaves to meet in companies on his premises, unless on lawful occasions, he shall forfeit twenty dollars.

SEC. 6. The owner of any premises discovering thereon any slaves not belonging to him, unless such slaves be sent by their owners, on lawful occasions, shall warn such slaves to go home to their masters or owners; and if such slaves refuse or delay so to do, the said owner of the premises may punish them by whipping, not exceeding thirty-nine stripes.

SEC. 7. Any person who shall trade, barter, or deal with any slave belonging to any inhabitant of this District, without the consent of the master or owner of such slave, shall forfeit thirty dollars,

one-half to the United States and the other to the use of the master or owner of the goods sold or bartered. If the goods so traded or bartered exceed in value fifteen dollars, the owner thereof may also have and maintain an action against the person dealing with such slave for any damages sustained by him.

SEC. 8. Any person permitting and authorizing any slave belonging to him in his own right, or possessed by him in the right of another, to go at large, or hire himself within this District, except during ten days at harvest, shall forfeit twenty dollars for every month such slave shall be permitted to go at large, or hire himself.

SEC. 9. Any person who shall hire a slave by contract with such slave, except during ten days at harvest, shall forfeit twenty dollars per month; provided, that any person may permit his slave, being a pilot, to hire himself in such capacity, and any person may employ as a pilot any slave known or generally reputed to be a pilot.

SEC. 10. Any person who shall permit an insane, aged, or infirm slave owned by him, or under his control, to go at large, without adequate provision for his support, or shall suffer any slave belonging to him to become burdensome to other persons, shall forfeit a sum not exceeding fifty dollars. Such person may also be required by the criminal court to enter into a recognizance, with sufficient security, in the sum of one hundred dollars, that such slave shall not become burdensome to other people. If any person shall, by sale, gift, or otherwise, dispose of any insane, aged, or infirm slave, either such person, or the donee or vendee accepting the same, may be proceeded against as the owner of such slave under this section.

SEC. 11. If any slave shall run away, or abscond from the service of his master or owner, contrary to the will of such master or owner, such running away or absconding shall not be deemed or taken to be a departing and remaining at large, within the meaning of any section of this chapter.

CHAPTER 46.

OF RUNAWAY SLAVES.

SECTION

1. } Runaway slaves may be arrested ; proceedings to be had thereon.
2. }

SECTION 1. Any runaway slave may be arrested and taken before a justice of the peace, who may commit such runaway slave to the custody of the marshal of this District. It shall be the duty of said marshal, when any runaway slave shall be committed to his custody, to advertise the same, for a reasonable time, in some newspaper published in Washington City, within ten days after such commitment, giving a particular description of the clothing, person, and bodily marks of such runaway.

SEC. 2. If the master or owner of such runaway slave, or agent of such master or owner, shall not apply for such runaway, and prove his title to the same, within the space of sixty days from the date of the first advertisement as aforesaid, and pay, or secure to be paid, all such legal costs and charges as have accrued by reason of apprehending, imprisoning, and advertising such runaway, it shall be the duty of the marshal to carry such runaway before the judge of the criminal court, with his commitment. Such judge shall examine and inquire, by such means as he shall deem most advisable, whether such suspected runaway be a slave or not ; and if he have reasonable grounds to believe that such suspected runaway is a slave, he may remand him to jail, to be confined for such further time as he may think right and proper. If such judge shall have reason to believe that such suspected runaway is the slave of any particular person, he shall cause such notice to be given by the marshal to such supposed owner as he may think advisable. But if the said judge shall not have reasonable ground to believe such suspected runaway to be a slave, he shall order him to be released. If no person shall apply for such suspected runaway, after he has been remanded as aforesaid, within the time for which he may have been remanded, and prove his title, the marshal shall, at the expiration of such time, discharge him.

CHAPTER 47.

GENERAL PROVISIONS RESPECTING SLAVES AND NEGROES.

SECTION

1. Who are and shall be slaves.
2. Slave not permitted to carry a gun or offensive weapon.
3. Penalty on slave for selling intoxicating liquors.
4. Condemned slaves, &c., to be valued and paid for.

SECTION

5. What condemned slaves shall not be valued or paid for.
6. When negroes are competent witnesses, and when not.
7. Negro not entitled to vote or hold office.
8. Slaves to be personal property.
9. Who shall be deemed negroes.

SECTION 1. All slaves now within this District, or hereafter brought therein in accordance with the provisions of law, and the future descendants of female slaves, shall be slaves during their natural lives, unless manumitted and set free according to law.

SEC. 2. No slave shall be permitted, within this District, to carry any gun or other offensive weapon off his master's land, without a license from such master; if any slave offend against the provisions of this section, he may be carried before any justice of the peace, and by him ordered to be whipped, not exceeding thirty-nine stripes. Such gun or other offensive weapon shall be forfeited to him who shall seize the same and carry such slave before such justice.

SEC. 3. Any slave selling intoxicating liquor, or keeping entertainment at any muster ground, or other public place, without the order or permission of his owner in writing, shall be liable to be apprehended and punished, in the discretion of any justice of the peace, twenty stripes.

SEC. 4. The value of a slave condemned and executed, or reprieved for sale and transportation, shall be paid to the owner out of the treasury; such value shall be the cash price for which he would sell at public sale, with a knowledge of the crime for which he was condemned. It shall be fixed by the criminal court and entered of record, and paid by the marshal to the owner. If such slave be a slave only for a term of years, or for the life of another person, he shall be valued accordingly.

SEC. 5. A slave brought into this District contrary to law, or who, in passing through it, or temporarily sojourning in it, committed the offence for which he is condemned, shall not be valued by the criminal court, or paid for out of the treasury; nor shall a slave be so paid

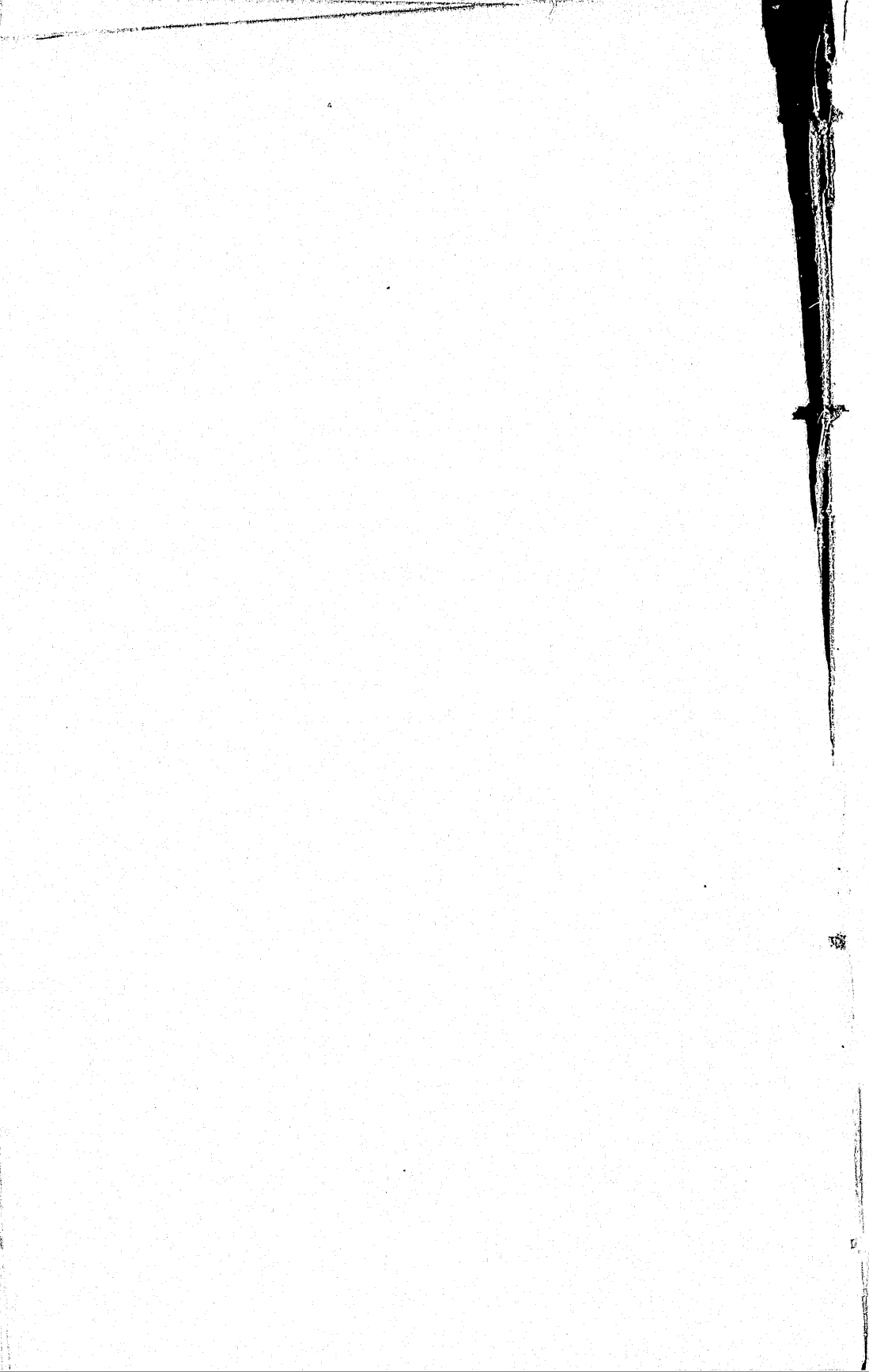
for who may be condemned for an offence, in the commission of which his owner was either principal or accessory, and convicted thereof.

SEC. 6. A negro shall be a competent witness for or against a negro in any criminal proceeding, and shall be a competent witness in any civil case to which only negroes are parties, but not in any other case.

SEC. 7. No negro shall be entitled to the privilege of voting at elections, or of being elected or appointed to any office of profit or trust.

SEC. 8. Slaves shall be deemed personal estate.

SEC. 9. Every person who has any negro blood, shall be deemed to be a negro within the meaning of any section of this Code, unless otherwise specially provided.



PART II.

OF THE ACQUISITION, THE ENJOYMENT, AND TRANSMISSION OF PROPERTY, REAL AND PERSONAL; THE DOMESTIC RELATIONS, AND OTHER MATTERS CONNECTED WITH PRIVATE RIGHTS.

TITLE I.

Of real and personal property, and the alienation thereof.

CHAPTER 48. Of alienation by deed, and of the legal formalities, the construction, and the operation of deeds for the conveyance of property, and general provisions concerning real estate.

CHAPTER 49. Of estates in dower and by the curtesy.

CHAPTER 50. Estates at will, and for years; and the rights and duties of landlords and tenants, and also respecting easements.

CHAPTER 48.

OF ALIENATION BY DEED, AND OF THE LEGAL FORMALITIES, THE CONSTRUCTION, AND THE OPERATION OF DEEDS FOR THE CONVEYANCE OF PROPERTY, AND GENERAL PROVISIONS CONCERNING REAL ESTATE.

SECTION

1. Conveyances of land may be made by a competent party, or his attorney duly authorized.
2. An alien may take, hold, transmit, and convey lands.
3. How a married woman may convey her estate or bar dower.
4. She may join in a power of attorney to convey same.
5. Estates tail may be created as heretofore; effect of conveyances by tenant in tail.
6. Party claiming title may convey though land in adverse possession.

SECTION

7. All estates in land (except leases not exceeding three years) created without deed, to have the effect of estates from year to year.
8. No estate in land for above three years to be assigned, &c., unless by deed.
9. Trusts in land to be manifested and proved by writing.

DEEDS, HOW ACKNOWLEDGED AND CERTIFIED.

10. Deed may be acknowledged by party or his attorney
11. Power of attorney; how acknowledged and recorded.

SECTION

12. Power of attorney; when deemed revoked.
13. Attorney to sign, &c., deed as attorney of party.
14. Deeds acknowledged within this District; before whom.
15. Deeds acknowledged out of the District, but within any State or Territory of the United States; before whom.
16. Deeds, before whom acknowledged in foreign countries.
17. Acknowledgments before such officer to be made at some place to which the jurisdiction of said officer or of the court to which he belongs extends.
18. How official character of officer certified, when acknowledgment is taken out of the District.
19. How the acknowledgment of a deed shall be certified by officer taking it.
20. Form of same.
21. When a married woman is a party, how to be examined, &c.
22. Form of certificate of acknowledgment of a married woman.

DEEDS, HOW RECORDED, AND EFFECT OF.

23. Recorder to admit to record all deeds acknowledged and certified as herein provided.
24. Effect of recording.
25. Contracts, &c., relative to land may be acknowledged and recorded as deeds; effect of same.
26. Trusts not effectual against purchaser without notice; recording constructive notice.

RULES OF CONSTRUCTION AND GENERAL PROVISIONS.

27. Freehold of real estate to be in grant as well as livery.
28. Possession, how annexed to use, under deeds of bargain and sale, &c.
29. Every conveyance of real estate by deed or devise shall pass all the estate of the grantor, unless a contrary intention appear.
30. Same to pass buildings and privileges on land, unless an exception be made.
31. Title of grantor acquired subsequent to a conveyance in fee, to inure to grantee.
32. A conveyance by a grantor of a larger estate than he could lawfully convey, shall not work a forfeiture.

SECTION

33. Modification of rule in Shelly's case.
34. Particular estate not necessary to a contingent remainder.
35. Sections thirty-two and thirty-four not to prevent the barring of estates tail, &c.
36. A fee-simple, &c., may be limited after a fee, by deed, as by will.
37. A freehold estate may be made to commence in futuro, by deed, as by will.
38. Conveyances of land to two or more, shall create estates in common, and not in joint tenancy.
39. Vendor's lien.
40. Vendor's lien preferred to claim for dower by wife of purchaser.
41. Mortgage, &c., given to secure purchase-money, preferred to previous judgments against purchaser, and also to dower.
42. When mortgagee entitled to possession of real estate.
43. What covenants an attorney, under an ordinary power to convey, may be required to enter into.
44. By what tenure lands are held.
45. Expressions dying without heirs, &c., how construed, in deed or will.

OF COVENANTS, AND SHORT FORMS THEREOF.

46. No covenants implied in conveyance of real estate.
47. Lineal and collateral warranties abolished.
48. The words "the said ——— covenants," how construed.
49. Short form of covenant of general warranty.
50. Short form of covenant of special warranty.
51. Effect of the words "with general warranty," or with "special warranty," in the granting part of a deed.
52. Short form of covenant of seizin on the part of grantor.
53. Short form of covenant by grantor, that he has a right to convey.
54. Short form of special covenant, that the grantee shall quietly enjoy.
55. Short form of general covenant for same.
56. Short form of covenant that grantor has done no act to encumber, &c.
57. Short form of covenant that premises are free and clear of all encumbrances.

SECTION

- 58. Short form of covenant for further assurance.
- 59. Measure of damages on breach of covenants.
- 60. Covenants of seizin and other personal covenants may be assigned and sued on, as those that run with land.

FORMS OF DEEDS.

- 61. Form of deeds for the conveyance of real estate.
- 62. Form of deeds in fee-simple
- 63. Form of deeds to convey a life estate.
- 64. Form of deeds to one for life and remainder over in fee-simple
- 65. Form of deed to two or more in fee, as tenants in common.
- 66. Form of deed to same as joint tenants.
- 67. Form of deed conveying to one for life, with contingent remainder to an unborn person.
- 68. Form of deed limiting a remainder after a grant in fee-simple, defeasible upon party's dying without child, &c., living, &c.
- 69. Form of deed to convey an estate for a term of years.
- 70. Form of marshal's deed for real estate sold under execution.
- 71. Form of deed of trustee for same, sold under authority of court.

DEEDS OF TRUST AND MORTGAGES OF REAL ESTATE.

- 72. Form of deed of trust of real estate.
- 73. Form of mortgage of real estate.
- 74. Short form of covenant to pay, therein.
- 75. Short form of covenant, that in default of payment the mortgagee may enter.
- 76. Short form of covenant that until default, the mortgagor shall possess, &c.
- 77. In the certificate of acknowledgment the word mortgage may be used instead of deed.
- 78. Form of assignment of a mortgage.
- 79. Effect of such assignment of a mortgage.
- 80. Effect of recording assignment.
- 81. Form of release of mortgage.
- 82. } Release of mortgage, how executed.
- 83. }
- 84. }

SECTION

- 85. Effect of release of mortgage.
- 86. No mortgage to arise from a deposit of title deeds.
- 87. On mortgage or deed of trust, without covenant to pay, or bond or other separate instrument, creditor not to be confined to the land.

LEASES.

- 88. Form of lease.
- 89. Effect of the words "the said _____ covenants."
- 90. Short form of covenant that lessee will not assign without leave.
- 91. Short form of covenant that lessee will leave the premises in good repair.
- 92. Short form of covenant that in default of payment of rent, &c., lessor may re-enter.
- 93. Short form of covenants by lessee, to pay rent, and to pay taxes.
- 94. Short form of covenant for the lessee's quiet enjoyment of his term.
- 95. A covenant by lessee to leave in good repair, not to bind him to rebuild after fire, unless, &c.

MORTGAGES AND DEEDS OF TRUST OF PERSONAL PROPERTY.

- 96. Form of mortgage of personal property.
- 97. Form of deed of trust of personal property.
- 98. Same acknowledged and recorded as deeds of real estate.
- 99. Same assigned and released as deeds of real estate.

BILL OF SALE.

- 100. Form of bill of sale.
- 101. How acknowledged and certified.

DEED OF MANUMISSION.

- 102. Form of.

MISCELLANEOUS.

- 103. Covenants.
- 104. Personal representative to include executor and administrator.
- 105. Nothing in this chapter to affect wills.
- 106. Saving as to deeds which fail to take effect by this chapter.

SECTION 1. Conveyances of land within this District, or of any estate or interest therein, may be made by deed executed by any

person competent to convey the same, or by his attorney duly authorized, as hereinafter provided in this chapter.

SEC. 2. An alien may take, hold, transmit, and convey lands in the same manner as if he were a citizen of the United States.

SEC. 3. Any married woman, uniting with her husband, may, by their joint deed acknowledged and certified as hereinafter provided, convey the real estate of the wife, or relinquish her right of dower in the husband's estate; but the wife shall not be bound by any covenant contained in such deed, further than to convey effectually from her and her heirs, her right of dower, or such other interest in the real estate as she may have at the date of the deed.

SEC. 4. A married woman may also join in a power of attorney with her husband, for the conveyance of her estate or interest as aforesaid; the same being acknowledged and certified as herein provided with regard to deeds executed by her.

SEC. 5. Estates tail may be created as heretofore, and any person seized thereof may convey the same as if he were seized in fee-simple, and such conveyance shall bar the estate tail and all remainders and reversions expectant thereon.

SEC. 6. Any person claiming title to land may convey his interest in the same, notwithstanding there may be an adverse possession thereof.

SEC. 7. All estates or interests in land, except leaseholds not exceeding the term of three years from the making thereof, created without deed, shall have the effect of estates from year to year only.

SEC. 8. No estate or interest in land for above three years shall be assigned, granted, or surrendered, unless by deed, or by act and operation of law.

SEC. 9. No trust concerning land, except such as may arise or result by implication of law, or be transferred or extinguished by operation of law, nor any assignment of any such trust, shall be manifested and proved, except by some writing subscribed by the party declaring the same.

DEEDS, HOW ACKNOWLEDGED AND CERTIFIED.

SEC. 10. The acknowledgment of a deed shall be by the grantor executing the same, or by his attorney duly authorized.

SEC. 11. Every power of attorney authorizing an agent to execute or acknowledge a deed, for the conveyance of real estate, shall be

acknowledged in the same manner as is herein provided for the acknowledgment of such deed, and shall be recorded with the deed executed in pursuance of such power of attorney.

SEC. 12. Such power of attorney shall be deemed to be revoked, when the instrument revoking it, acknowledged as hereinafter provided for deeds, shall be recorded in the office in which deeds are required to be recorded.

SEC. 13. Any person executing a deed as agent or attorney for another, may describe himself in the deed, and sign and acknowledge the same as agent or attorney for such party, and the deed so made shall be as effectual to convey the interests therein mentioned as if it were executed and acknowledged by the principal himself, or in his name by the agent or attorney.

SEC. 14. The acknowledgment of a deed may be made within this District, before either a justice of the peace, a judge of the circuit court, or the judge of the district, criminal, or orphans' court of said District, or before any notary public therein, or before the mayor of the city of Washington, or of Georgetown.

SEC. 15. Out of this District, but within any State or Territory of the United States, the acknowledgment of a deed may be made before any judge of a court of record and of law, or chancellor of a State, or before any judge of the supreme, circuit, district, or territorial courts of the United States, or before a justice of the peace, or magistrate of any State or Territory, or mayor of any city of same, or notary public, or before any commissioner appointed by the circuit court of this District for that purpose.

SEC. 16. In any foreign country, such acknowledgments may be made before any judge or chancellor of any court, master, or master extraordinary in chancery, notary public, or mayor of any city in such country, or any minister plenipotentiary, chargé d'affaires, consul general, consul, or commercial agent, appointed by the United States to any foreign country, or before any commissioner appointed by the circuit court of this District for that purpose.

SEC. 17. All acknowledgments made before any judicial officer, master in chancery, or other officer above specified, shall be made within some place or territory to which the jurisdiction of said officer or of the court to which he belongs shall extend.

SEC. 18. When such acknowledgments are made beyond the limits of this District, and before any judicial officer, there shall accompany

the same, a certificate of the clerk or register of the court to which the officer belongs, under the official seal thereof, that at the date of the certificate of acknowledgment such officer was in fact what he purports to be. The official character of a justice of the peace shall be certified in like manner by the clerk of a court of record of the county to which the justice belongs.

SEC. 19. The certificate of acknowledgment shall be under the hand of the officer taking it, and his official seal, where he has one. It shall be endorsed upon, or annexed to, the deed, and shall be in the form following, or substantially to like effect:

SEC. 20. ——— county, (or corporation.)

I, A B, justice of the peace [or other prescribed officer, giving title] in and for the county [or corporation, or parish, or district] aforesaid, in the State [or Territory, or District] of ———, do hereby certify that C D, a party [or C D and E F, parties] to a certain deed bearing date on the ——— day of ———, ———, and hereto annexed, personally appeared before me in my county [or corporation] aforesaid, and acknowledged the same to be his [or their] act and deed; the said C D [or C D and E F] being personally well known to me as [or proved by the oath of a credible witness before me to be] the person [or persons] who executed the said deed.

Given under my hand [and seal] this ——— day of ———, ———.

A B, [SEAL.]

SEC. 21. When any married woman shall be a party with her husband to any deed, it shall be the duty of any officer herein authorized to take acknowledgments, before whom she may appear, to examine her separately and apart from her husband, and to explain to her the deed fully, and on her declaring that she willingly signed, sealed, and delivered the deed, and that she wished not to retract the same, he shall certify such separate examination, acknowledgment and declaration, as provided in section nineteen of this chapter, and in form following, or substantially to like effect:

SEC. 22. ——— county, [or corporation,] to wit:

I, A B, a justice of peace [or other prescribed officer, giving title] in the county [or corporation, or parish, or district] aforesaid, in the State [or Territory, or District] of ———, do hereby certify that G H, the wife of C D, party to a certain deed bearing date on the ——— day of ———, ———, and hereto annexed, personally appeared before me, in my county [or corporation, &c.] aforesaid, and being by me exam-

ined separately and apart from her husband, and having the deed aforesaid fully explained to her, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it. And I further certify that the said G H is personally well known to me as [or is proved by the oath of a credible witness before me to be] the person who executed the said deed.

Given under my hand [and seal] this — day of —, —.

A B, [SEAL.]

DEEDS, HOW RECORDED, AND EFFECT OF.

SEC. 23. The recorder shall admit to record any deed, together with its accompanying plats and surveys, relating to land in this District, executed, acknowledged, and certified, according to the provisions of this chapter.

SEC. 24. All such deeds shall take effect as between the parties thereto and their privies, from the date of the certified acknowledgment thereof: provided, that, as against all subsequent purchasers and encumbrancers for a valuable consideration without notice, and all creditors, the same shall take effect and be valid only from the time of their delivery to the recorder for record, acknowledged and certified, as before provided, and the indexing thereof.

SEC. 25. Every title, bond, covenant, agreement, or other contract in relation to land, may be acknowledged, certified, and recorded, in the same manner as deeds for the conveyance of lands, and the delivery of the same, so acknowledged and certified, to the recorder for record, shall, on the indexing thereof, be held to be notice to subsequent purchasers of the existence thereof.

SEC. 26. No trust concerning land, whether implied by law or created or declared by the parties, shall defeat the title of a purchaser for a valuable consideration, and without notice thereof, nor prevent any creditor who had no notice of the trust from attaching the premises, or taking them in execution, as if no such trust had existed. But the recording and indexing of any instrument in writing, creating or declaring such trust, among the land records in the recorder's office, shall be constructive notice of the same.

RULES OF CONSTRUCTION AND GENERAL PROVISIONS.

SEC. 27. All real estate shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery.

SEC. 28. By deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to the use, or deed operating by way of covenant to stand seized to the use, the possession of the bargainor, releasor, or covenantor, shall be deemed transferred to the bargainee, releasee, or person entitled to the use, for the estate or interest which such person hath in the use, as perfectly as if the bargainee, releasee, or person entitled to the use, had been enfeoffed with livery of seizin of the land intended to be conveyed by such deed or covenant.

SEC. 29. No words of inheritance or perpetuity shall be necessary to create an estate in fee-simple; and every conveyance of real estate by deed or devise shall be construed to pass all the estate of the grantor, unless a contrary intention shall appear by express terms of such instrument, or be necessarily implied therein.

SEC. 30. Every deed or will conveying land shall, unless an exception be therein made, be construed to include all buildings, privileges, liberties, and appurtenances of every kind belonging to such land.

SEC. 31. All title to real estate acquired by the grantor subsequent to a conveyance in fee by him, shall inure to the grantee in such deed.

SEC. 32. A conveyance made by a tenant for life or for years, granting a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

SEC. 33. When a remainder shall by deed or will be limited to the heirs, or heirs of the body of a person to whom a life estate in the same premises shall be given, the persons who, on the termination of the life estate, shall be the heirs, or the heirs of the body of such tenant for life, shall be entitled to take as purchasers, by virtue of the remainder so limited to them.

SEC. 34. A contingent remainder, limited by deed, shall in no case fail for want of the creation of a particular estate to support it, nor shall the same be defeated or barred by any alienation or other act of the owner of the precedent estate, nor by the destruction of the precedent estate by a disseizin, forfeiture, surrender, merger, or otherwise.

SEC. 35. The preceding sections number thirty-two and thirty-four shall not be construed to prevent the barring of estates tail in the manner before provided in this chapter, nor to prevent any ex-

pectant estate from being defeated in any manner provided for or authorized by the party creating the estate.

SEC. 36. A fee-simple or other less estate may be limited by way of contingent remainder, after a fee-simple, by deed, in like manner as is now allowed by law in wills, and with the like limitations and restrictions.

SEC. 37. Any estate of freehold or inheritance may be made to commence in futuro, by deed, in like manner as can now be done by will, and with like limitations and restrictions.

SEC. 38. All conveyances and devises of land made to two or more persons, except such as are made to trustees, shall be construed to create estates in common, and not in joint tenancy, unless it shall be expressed therein that the grantees or devisees shall take the land to them and the survivor of them.

SEC. 39. The lien of a vendor of real estate for unpaid purchase-money shall remain and be recognised as heretofore, and the same may be transferred by the vendor, and shall, unless it be otherwise agreed, follow the assignment of the claim for the unpaid purchase-money, or the assignment of the bond, note, or other instrument evidencing the same.

SEC. 40. The lien of a vendor for unpaid purchase-money shall not be impaired by any claim for dower, by the wife of the vendee, in the premises sold, but shall be preferred to the same; and such wife shall have dower, subject to said lien, and, in the event of a sale, shall be endowed of the surplus remaining after the lien has been satisfied.

SEC. 41. When lands are sold and conveyed, and a mortgage or deed of trust is given by the purchaser, at the same time, to secure the payment of the purchase-money, or any part thereof, the same shall be preferred to any previous judgment which may have been obtained against such purchaser, and also to any claim for dower by the wife of the mortgagor or grantor in such deed.

SEC. 42. Unless a mortgage of real estate specially provides that the mortgagee shall have possession of the mortgaged premises, he shall not be entitled to the same.

SEC. 43. Every power to an agent or attorney to execute a conveyance of real estate shall, unless it contain restraining words, be taken to empower such agent or attorney to enter into, for his principal, all

covenants for title that might be demanded by the purchaser of the principal.

SEC. 44. All lands within this District are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners according to the nature of their respective estates.

SEC. 45. Every limitation in any deed or will contingent upon the dying of any person without heirs, or heirs of the body, or issue, or issue of the body, or children, or offspring, or descendants, or other relative, shall be construed as a limitation, to take effect when such person shall die, not having such heir, or issue, or child, or offspring, or descendant, or other relative, as the case may be, living at the time of his death, or born to him within ten months thereafter, unless the intention of such limitation be otherwise plainly declared on the face of the deed or will creating it.

OF COVENANTS, AND SHORT FORMS THEREOF.

SEC. 46. No covenants shall be implied in any conveyance of real estate, except where it is otherwise specially provided.

SEC. 47. Lineal and collateral warranties, with all their incidents, are abolished; but any covenant allowed by law may be inserted in a deed of real estate, and the heirs, devisees, and personal representatives of any covenantor, shall be liable to the extent of assets devised or descended, according to the terms of the covenants contained in the deed.

SEC. 48. When a deed uses the words "the said —— covenants," such covenant shall have the same effect as if it was expressed to be by the covenantor for himself, his heirs, personal representatives, and assigns, and shall be deemed to be with the covenantee, his heirs, personal representatives, and assigns.

SEC. 49. A covenant, by the grantor in a deed, "that he will warrant generally the property hereby conveyed," shall have the same effect as if the grantor had covenanted that he, his heirs, personal representatives, and devisees, will forever warrant and defend the said property unto the grantee, his heirs, personal representatives, and assigns, against the claims and demands of all persons whomsoever.

SEC. 50. A covenant by any such grantor, "that he will warrant specially the property hereby conveyed," shall have the same effect as if

the grantor had covenanted that he, his heirs, and personal representatives, will forever warrant and defend the said property unto the said grantee, his heirs, personal representatives, and assigns, against the claims and demands of the grantor, and all persons claiming, or to claim, by, through, or under him.

SEC. 51. The words "with general warranty," in the granting part of any deed, shall be deemed to be a covenant by the grantor that he will warrant generally the property hereby conveyed. The words "with special warranty," in the granting part of any deed, shall be deemed to be a covenant by the grantor that he will warrant specially the property hereby conveyed.

SEC. 52. A covenant by a grantor, in a deed for land, "that he is seized of the land hereby conveyed," shall have the same effect as if the grantor had covenanted that he, at the time of the execution and delivery of said deed, is and stands lawfully seized of, in, and to the said lands and premises hereby conveyed, or intended so to be.

SEC. 53. A covenant by a grantor, in a deed for land, "that he has the right to convey the land to the said grantee," shall have the same effect as if the grantor had covenanted that he has good right, full power, and absolute authority to convey the said land, with all the buildings thereon, and the privileges and appurtenances thereto belonging, unto the grantee, in the manner in which the same is conveyed or intended so to be by the deed, and according to its true intent.

SEC. 54. A covenant by a grantor, in a deed for land, "that the grantee shall have quiet possession of the said land," shall have the same effect as if he had covenanted that the grantee, his heirs, and assigns, might, at any and at all times thereafter, peaceably and quietly enter upon and have, hold, and enjoy the land conveyed by the deed, or intended so to be, with all the buildings thereon, and privileges and appurtenances thereto belonging, and receive and take the rents and profits thereof, to and for his and their use and benefit, without any eviction, interruption, suit, claim, or demand, whatever, by the grantor, his heirs, or assigns, or any other person whatsoever.

SEC. 55. A covenant by any such grantor, "that the grantee shall have quiet possession of said land, as against him the grantor and his heirs," shall have the same effect as if he had covenanted that the grantee, his heirs and assigns, might, at any and all times there-

after, peaceably and quietly enter upon, and have, hold, and enjoy the land conveyed by the deed, or intended so to be, with all the buildings thereon, and the privileges and appurtenances thereto belonging, and receive and take the rents and profits, to and for his and their use and benefit, without any eviction, interruption, suit, claim, or demand, whatever, by the grantor or his heirs, or by, or with his, or their acts, means, consent, default, privity, or procurement.

SEC. 56. A covenant by any such grantor, "that he has done no act to encumber the said lands," shall have the same effect as if he covenanted that he had not done or executed, or knowingly suffered any act, deed, or thing, whereby the lands and premises conveyed, or intended so to be, or any part thereof, are or will be charged, affected, or encumbered, in title, estate, or otherwise.

SEC. 57. A covenant by any grantor, in a deed for land, "that the premises are free and clear of all encumbrances," shall have the same effect as if he covenanted that the grantee, his heirs, and assigns might, at any and all times thereafter, hold and enjoy the land conveyed by the deed, or intended so to be, with all the buildings thereon, and the privileges and appurtenances thereto belonging, and receive and take the rents and profits thereof, to and for his and their use and benefit, fully, clearly, and absolutely indemnified by the said grantor, his heirs, or personal representatives, of, from, and against all former and other estates, rights, titles, lien, charges, and encumbrances, whatsoever.

SEC. 58. A covenant by any such grantor, "that he will execute such further assurances of the said lands as may be requisite," shall have the same effect as if he covenanted that he, the grantor, his heirs, or personal representatives, will, at any time, upon any reasonable request, at the charge of the grantee, his heirs, or assigns, do, execute, or cause to be done, or executed, all such further acts, deeds, or things, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, unto the grantee, his heirs, and assigns, in manner aforesaid, as by the grantee, his heirs, or assigns, or his or their counsel learned in the law, shall be reasonably advised or required.

SEC. 59. When on the breach of any covenant of seizin, of a right to convey, for quiet enjoyment, against encumbrances, or of warranty

general or special, the measure of damage to be recovered thereon shall be the consideration money paid, or part thereof, with interest and costs, the jury may allow such a rate of interest, not exceeding twenty per centum per annum, as they may deem just and equitable.

SEC. 60. The assignee or purchaser of real estate, immediate or remote, under a conveyance containing a covenant of seizin, a covenant of a right to convey, or a covenant against encumbrances, shall have the same right of action upon such covenants that such assignee or purchaser now has upon a covenant of warranty, or other covenant running with the land.

FORMS OF DEEDS.

SEC. 61. Deeds for the conveyance of real estate may be made in the forms following, or to like effect; and shall, as respects the form thereof, be deemed sufficient to convey such estates or interests as are hereinafter specified:

SEC. 62. A deed to convey an estate in land in fee-simple, from one to another, may be made in the following form, or to like effect:

This deed, made this — day of —, in the year —, by —, (here insert the name of the grantor,) witnesseth, that in consideration of (here insert the consideration) the said — (grantor) doth grant unto —, (here insert name of grantee,) all that (here describe the property.)

Witness his signature and seal.

—, [SEAL.]

SEC. 63. A deed to convey an estate in land for life may be made in the following form, or to like effect:

This deed, made this — day of —, in the year —, by —, witnesseth, that in consideration of —, the said — doth grant unto —, to hold during his life, all that —.

Witness his signature and seal.

—, [SEAL.]

SEC. 64. A deed to convey an estate in land for life to one, remainder in fee to another, may be made in the following form, or to like effect:

This deed, made this — day of —, in the year —, by —, witnesseth, that in consideration of —, the said — doth grant unto —, all that —, to hold the same during his life, and after the death of the said —, then to —.

Witness his signature and seal.

—, [SEAL.]

SEC. 65. A deed to convey an estate in land in fee-simple, to two or more, as tenants in common, may be made in the following form, or to like effect :

This deed, made this — day of —, in the year —, by —, witnesseth, that in consideration of —, the said — doth grant unto — and —, all that —, to hold the same as tenants in common.

Witness his signature and seal.

—, [SEAL.]

SEC. 66. A deed to convey an estate in land in fee-simple, to two or more, as joint tenants, may be made in the following form, or to like effect :

This deed, made this — day of —, in the year —, by —, witnesseth, that in consideration of —, the said — doth grant unto — and —, all that —, to hold the same as joint tenants, unto them, and the survivor of them.

Witness his signature and seal.

—, [SEAL.]

SEC. 67. A deed to convey an estate in land for life to one, with contingent remainder to an unborn person, may be in the following form, or to like effect :

This deed, made this — day of —, in the year —, by —, witnesseth, that in consideration of —, the said — doth grant unto — all that —, to hold the same for the life of the said —, and after the death of the said —, then to the eldest (or other) child of —.

Witness his signature and seal.

—, [SEAL.]

SEC. 68. A deed to convey an estate in lands in fee-simple to one, defeasible upon his dying without a child, or descendant of a child, living at the time of his death, and in that event remainder to another, may be made in the following form, or to like effect :

This deed, made this — day of —, in the year —, by —, witnesseth, that in consideration of —, the said — doth grant unto — all that —. But should the said — die without leaving a child, or descendant of a

child, living at the time of his death, then the said ——— grants the said ——— to ———.

Witness his signature and seal.

————, [SEAL.]

SEC. 69. A deed to convey an estate in land for a term of years may be made in the following form, or to like effect:

This deed, made this ——— day of ———, in the year ———, by ———, witnesseth, that in consideration of ———, the said ———, doth grant unto ——— all that ———, to hold the same for the term of ——— years; beginning on the ——— day of ———, in the year ———, and ending on the ——— day of ———, in the year ———.

Witness his signature and seal.

————, [SEAL.]

SEC. 70. A deed to convey real estate sold by the marshal, or other officer, under execution, may be made in the following form, or to like effect:

This deed, made this ——— day of ———, in the year ———, by ———, (giving name and title of officer,) witnesseth, that by virtue of an execution issued out of (here insert the style of the court,) and dated the ——— day of ———, in the year ———, in the case of ——— v. ———, the said ——— as (repeating title) has, for the sum of ——— dollars, sold to ——— the following property, to wit: (here describe the property.) Now, therefore, in consideration of the premises, the said ——— doth grant unto the said ——— all the right and title of ——— in and to said hereinbefore described property.

Witness his signature and seal.

————, [SEAL.]

SEC. 71. A deed to convey real estate sold by a trustee, under the authority of a court, may be made in the following form, or to like effect:

This deed, made this ——— day of ———, in the year ———, by ———, trustee, witnesseth: whereas, by a judgment (or order) of (here insert the style of court) passed on the ——— day of ———, in the year ———, in the case of ——— v. ———, the said ——— was appointed trustee to sell the land therein decreed to be sold, and has, for the sum of ——— dollars, sold the same to ———, who has fully paid the purchase-money therefor. Now, there-

fore, in consideration of the premises, the said ——— doth grant unto ——— all the right and title of all the parties to the aforesaid cause in and to ——— (here describe the property.)

Witness his signature and seal.

———, [SEAL.]

DEEDS OF TRUST AND MORTGAGES OF REAL ESTATE.

SEC. 72. A deed to convey real property in trust to secure debts, indemnify securities, or for other purposes, may be made in the following form, or to like effect:

This deed, made this ——— day of ———, in the year ———, by ———, witnesseth, that whereas, (here insert the consideration for making the deed) the said ——— doth grant unto ———, as trustee, the following property (here describe the property,) in trust for the following purposes: (here insert the purposes of the trust, including power to trustee to sell in case of default, and add any covenants that may be agreed upon.)

Witness his signature and seal.

———, [SEAL.]

SEC. 73. A mortgage of real estate to secure the payment of money may be made in the following form, or to like effect:

This mortgage, made this ——— day of ———, in the year ———, by ———, witnesseth, that in consideration of the sum of ——— dollars, with interest thereon from ———, now due from ——— to ———, the ——— doth grant unto the said ——— all (here describe the property,) provided, that if the said ——— shall pay, on or before the ——— day of ———, in the year ———, to the said ———, the sum of ——— dollars, with the interest thereon from ———, then this mortgage shall be void.

Witness his signature and seal.

———, [SEAL.]

SEC. 74. A covenant by a mortgagor or grantor in a deed of trust of real estate "that he will pay the aforesaid money," shall be construed and have the same effect as if the mortgagor or grantor had covenanted that he, his heirs, and personal representative shall well and truly pay, or cause to be paid, unto the said ———, (mortgagee or cestuy que trust,) his personal representative, heirs, and assigns, the said sum of ——— dollars, with interest for the same, at

such times and after such manner as hereinbefore set forth and agreed for the payment therefor.

SEC. 75. In a mortgage of real estate a covenant by the mortgagor "that in default of payment, the said ——— (the mortgagee) may enter," shall be construed and have the same effect as if the mortgagor had covenanted that if default shall be made in the payment of the sum of ——— dollars, with the interest, or any part thereof, at the times or in the manner aforesaid, then and from thenceforth it shall and may be lawful for the said ———, (the mortgagee,) his heirs, and assigns, to enter into and upon the said land and premises hereby granted, or intended so to be, with the appurtenances, and every part and parcel thereof, to have, hold, possess, and enjoy the same, and receive and take the rents, issues, and profits thereof, and every part thereof, to and for the use and benefit of the said ———, (the mortgagee,) his heirs, and assigns, without any lawful let, suit, interruption, disturbance, claim, or demand, whatever, from or by the said ———, (mortgagor,) his heirs, or any other person or persons whatever.

SEC. 76. In a mortgage or deed of trust of real estate, the following proviso: "provided, that until default of payment, the said ——— (mortgagor or grantor) shall possess the premises," shall be construed and have the same effect as if the following proviso had been therein inserted: provided, always, that until default is made in the payment of the said sum of ——— dollars and interest, or some part thereof, it shall and may be lawful for the said ———, (the mortgagor or grantor,) his heirs and assigns, to hold and enjoy the said land and premises hereby granted, or intended so to be, with all the appurtenances thereto, and the rents, issues, and profits thereof, to take and receive to his or their own use, without any suit, interruption, disturbance, claim, or demand, whatsoever, of, from, or by, the said ———, (the mortgagee or grantee,) his heirs, or any person or persons lawfully claiming by, from, or under them.

SEC. 77. In the certificate of acknowledgment of a mortgage of real estate, the word mortgage may be used instead of deed, as hereinbefore provided.

SEC. 78. An assignment of a mortgage of real estate may be made in the following form, or to like effect:

I hereby assign the within mortgage to — —, (the assignee.)
 Witness my signature and seal.

— —, [SEAL.]

Teste: — —.

SEC. 79. Every assignment made in the form above, or substantially to like effect, endorsed upon the original mortgage, and attested by one or more witnesses, shall be construed and deemed sufficient to convey to the assignee every right which the assignor possessed under the same at the time of the assignment thereof, in as full a manner as any instrument in writing whatever could do.

SEC. 80. The recording of the assignment of a mortgage shall not be deemed, of itself, notice to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them to the mortgagee, or any assignee, before actual notice of such assignment.

SEC. 81. A release of a mortgage or deed of trust of real estate may be in the following form, or to like effect :

I hereby release the above (or within) mortgage (or deed of trust.)
 Witness my signature and seal.

— —, [SEAL.]

Attest: — —.

SEC. 82. Such release may be written by the mortgagee or grantee, or the assignee of either, upon the record in the office where the mortgage or deed of trust is recorded, and be attested by the recorder ; and the recorder, at the time of recording every mortgage or deed of trust shall leave a blank space at the foot thereof for the purpose of entering such release.

SEC. 83. Or such release may be endorsed on the original mortgage by the mortgagee or his assignee, or on the deed of trust by the grantee therein, and upon such mortgage or deed of trust, with the release thereon endorsed, attested by at least one witness, being filed in the office in which the same is recorded, the recorder shall record such release at the the foot of the mortgage or deed of trust.

SEC. 84. When the mortgage or deed of trust, with the release thereon, is filed for the purpose of having the release recorded, the recorder shall retain the same in his office, and shall not permit it to be again withdrawn.

SEC. 85. Every release executed in either of the above modes shall

be construed and deemed sufficient to release such mortgage or deed of trust as fully as any instrument of writing whatever could do.

SEC. 86. A deposit of title deeds shall not be taken as evidence of an agreement to make a mortgage, nor shall a mortgage in equity arise therefrom.

SEC. 87. A mortgage or deed of trust shall be construed as implying a covenant to pay the sum intended to be secured; and though there shall be no express covenant for such payment contained in the deed or mortgage, and no bond, or other separate instrument, to secure such payment, shall have been given, the remedies of parties shall not be confined to the land mentioned in the mortgage or deed of trust.

LEASES.

SEC. 88. Leases may be made in the following form, or to like effect:

This lease, made this — day of —, in the year —, between — — and — —, witnesseth, that the said — — doth lease unto the said — —, his personal representatives or assigns, —, (here describe the property,) for the term of — years; beginning on the — day of —, in the year —, and ending on the — day of —, in the year —; the said — — paying therefor the sum of — dollars on the — day of — in each and every year, (or otherwise at stated intervals, as may be agreed upon.)

Witness their signatures and seals.

— —, [SEAL.]

— —, [SEAL.]

SEC. 89. When a lease uses the words, "the said — covenants," such covenant shall have the same effect as if it was expressed to be by the covenantor, for himself, his heirs, personal representatives, and assigns, and shall be deemed to be with the covenantee, his heirs, personal representatives, and assigns.

SEC. 90. A covenant in a lease that "he (the lessee) will not assign without leave," shall be construed and have the same effect as if the lessee had covenanted that he (the lessee) will not, during the continuance of said lease, assign, transfer, or let over, or otherwise by any act or deed procure the said premises, or any part thereof, to be assigned, transferred, or let over, to any person or persons whomso-

ever, without the consent in writing of the said — — —, (lessor,) his personal representatives, and assigns, first had and obtained.

SEC. 91. A covenant in a lease by the lessee that "he (the lessee) will leave the premises in good repair," shall be construed and have the same effect as if the lessee had covenanted that he (the lessee) will, at the expiration or other sooner determination of said lease, peaceably surrender and yield up unto the said lessor the said premises hereby leased, with all the appurtenances, together with all the buildings and fixtures now or hereafter to be built or erected thereon, in good and substantial repair and condition in all respects; reasonable wear and tear, and damage by fire, only excepted.

SEC. 92. A proviso in a lease in the following form, or to the like effect: "provided, that in default of payment of the rent, or breach of any covenant herein contained, the said (the lessor) may re-enter," shall be construed and have the same effect as the following proviso: "provided always, and it is expressly agreed, that if the rent hereby reserved, or any part thereof, shall remain unpaid after the day or days in which the same ought to have been paid, and after a demand shall have been made by the said (lessor) for the payment of the same, or in the case of the breach or non-performance of any of the covenants and agreements herein contained, on the part of (the lessee) his personal representatives and assigns, then and in either of such cases, it shall be lawful for (the lessor) at any time thereafter, into and upon the said demised premises, or any part thereof, in the name of the whole, to re-enter, and the same to have again, repossess, and enjoy as of his or their former estate, anything hereinafter contained to the contrary notwithstanding.

SEC. 93. In a lease a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the rent reserved by the deed shall be paid by the lessee, or those entitled under him, in the manner therein mentioned; and a covenant by him "to pay the taxes" shall have the effect of a covenant that all taxes, levies, and assessments upon the demised premises, or upon the lessor on account thereof, shall be paid by the lessee or those claiming under him.

SEC. 94. In a lease a covenant by the lessor "for the lessee's quiet enjoyment of his term" shall have the same effect as a covenant that the lessee, his personal representatives and lawful assigns, paying the rent reserved, and performing his or their covenants, shall peace-

ably possess and enjoy the demised premises for the term granted, without any interruption or disturbance from any person whatever.

SEC. 95. No covenant or promise by a lessee, that he will leave the premises in good repair, shall have the effect, if the buildings are destroyed by fire, or otherwise, without fault or negligence on his part, of binding him to erect such buildings again, unless there be other words showing it to be the intent of the parties that he should be so bound.

MORTGAGES AND DEEDS OF TRUST OF PERSONAL PROPERTY.

SEC. 96. A mortgage of personal property may be in the following form, or to like effect:

I, ———, of ———, being now indebted to ———, of ———, in the sum of ——— dollars, with interest from ———, in consideration thereof, do hereby mortgage to the said ——— the following personal property: (here describe the property,) provided, that if I, the said ———, shall pay to the said ——— the said sum of ——— dollars, with the interest thereon, on or before the ——— day of ———, then these presents shall be void.

Witness my signature and seal.

————, [SEAL.]

SEC. 97. A deed of trust on personal property may be made in the form hereinbefore provided for conveying real property in trust, substituting for the word "grant" the word "convey."

SEC. 98. Mortgages and deeds of trust of personal property may be acknowledged, certified, and recorded and indexed, as those of real estate, and with like effect.

SEC. 99. Mortgages and deeds of trust of personal property may be also assigned and released in the same manner as is hereinbefore prescribed with regard to mortgages of real estate.

BILLS OF SALE.

SEC. 100. A bill of sale may be made in the following form, or to like effect, and it shall be construed and deemed sufficient to convey all the right and title of the person executing the same:

I, ———, of ———, in consideration of ——— dollars paid me by ———, of ———, do hereby sell to the said ——— the following property: (here describe the property.)

Witness my signature and seal, this ——— day of ———, ———.

————, [SEAL.]

SEC. 101. A bill of sale may be acknowledged before any officer authorized to take acknowledgments of deeds of real estate, and the same may be certified in form following, or to like effect:

STATE (District or Territory) OF _____, } to wit:
 _____ county,

I hereby certify, that on this _____ day of _____, personally appeared before me, the subscriber, a justice of the peace for the _____ county aforesaid, (or other title,) _____, and acknowledged the foregoing bill of sale to be his act; the said _____ being personally well known to me as (or proved by the oath of a credible witness before me to be) the person who executed the said bill of sale.

DEED OF MANUMISSION.

SEC. 102. A deed of manumission may be made in the following form, or like effect:

I, _____, of _____, do hereby manumit and set free my slave _____, (description); his freedom to commence from the date of these presents, (or such other time as may be fixed.)

Witness my signature and seal, this _____ day of _____, _____.

_____ [SEAL.]

Witness: _____

MISCELLANEOUS.

SEC. 103. Any covenant, restriction, or proviso allowed by law may be introduced into any of the foregoing forms.

SEC. 104. The words "personal representative," in this chapter, shall be construed to mean, executor and administrator; and mortgages of land shall in like manner be included within the terms conveyances of land or real estate, or deed of real estate.

SEC. 105. Nothing in this chapter, otherwise than is specially provided, shall be taken to affect the transfer of property by last will and testament.

SEC. 106. Any deed or part of a deed which shall fail to take effect by virtue of this chapter, shall, nevertheless, be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will admit, as if these provisions had not been enacted.

CHAPTER 49.

OF ESTATES IN DOWER AND BY THE CURTESY.

SECTION

1. Widow entitled to dower as at common law.
2. Widow entitled to dower in trust estates.
3. Widow, how endowed of estate subject to a mortgage or deed of trust.
4. How endowed of surplus, when sold.
5. When mortgagee's wife may be endowed.
6. Widow dowerable of a right of entry.
7. Widow, how endowed in case of exchange.
8. Dower; how affected by divorce a vinculo matrimonii.
9. Dower barred by abandonment and living in adultery.
10. Dower; how barred by wife joining in conveyance with her husband or his guardian, &c.
11. Dower; when barred by jointure.
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13. Wife's assent to jointure; how evidenced.
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16. Election; how evidenced.
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18. Form of widow's renunciation of devise or bequest.
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SECTION

21. Widow responsible for waste.
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23. Widow entitled emblements.
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25. When widows's right not affected by judgment against her husband; saving in favor of the heirs.
26. Extent of dower to be recovered against heirs, devisees, or the assigns of either.
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36. Dower; how commuted, widow consenting to sale of all the estate.
37. When husband entitled to curtesy
38. When same barred by husband's abandonment.
39. Curtesy; how affected by divorce a vinculo matrimonii.

SECTION 1. A widow shall be entitled, as heretofore, to her dower at common law.

SEC. 2. When any person to whose use, or in trust for whose benefit, another is seized of lands, hath such inheritance in the use or trust as would, were it a legal right, entitle his widow to dower, such widow shall have dower therein, and may, by the remedy proper in similar cases, recover the same.

SEC. 3. If a husband shall be seized of lands subject to any mortgage or deed of trust which is valid against his wife, she shall never-

theless be entitled to dower in the encumbered premises, as against every person except the mortgagee or cestuy que trust, and those claiming under them; provided, that if the heir or other person claiming under the husband shall redeem such encumbrance, the widow shall either repay such part of the money paid by him as shall be equal to the proportion which her interest in the encumbered premises bears to the whole value thereof, or she shall, at her election, be entitled to dower only according to the value of the estate after deducting the money so paid for the redemption thereof.

SEC. 4. If, upon any such mortgage or deed of trust, the mortgagee or cestuy que trust, or those claiming under them, shall, after the death of the husband of such widow, cause the encumbered land to be sold, either by virtue of a judgment or under a power of sale contained in such deed of trust, and any surplus shall remain after payment or satisfaction of the encumbrance thereon and the charges of sale, such widow shall be entitled to the interest on one-third part of the surplus for her life, as her dower, or in lieu thereof.

SEC. 5. A widow shall not be endowed of lands conveyed to her husband by way of mortgage, unless during the marriage he acquire an absolute estate which finally bars the mortgagor's equity of redemption therein.

SEC. 6. When a husband or any one to his use shall have been entitled to any interest in land, and his widow would be entitled to dower out of the same if the husband or such other person had recovered possession thereof, she shall be entitled to dower although there shall have been no such recovery of possession.

SEC. 7. If lands subject to dower be exchanged for other lands, the widow shall not be entitled to dower of both, but shall make her election, to be endowed of the lands given or those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange, within six months after the death of her husband and such exchange becomes known to her, she shall be deemed to have elected to take her dower of the lands received in exchange.

SEC. 8. In case of a divorce, a vinculo matrimonii—from the bonds of matrimony—on account of the misconduct of the husband, the wife shall be entitled to dower in like manner as if he were dead; but in case of such a divorce on account of the misconduct of the wife, she shall not be endowed.

SEC. 9. If a wife willingly leave her husband and live in adultery, she shall be barred of her dower, unless, subsequent to such conduct, her husband shall become reconciled to her, and suffer her to dwell with him again.

SEC. 10. A married woman may bar her right of dower in any estate conveyed by her husband by joining with him in the deed conveying the same, and therein releasing her claim to dower, or by releasing the same by a subsequent deed executed jointly with her husband; such deed in either case being executed and acknowledged by her, and certified as hereinbefore prescribed by chapter forty-eight. She may in like manner bar her dower by joining with the guardian or trustee of her husband in the execution of any conveyance made under an order of the circuit court, or with the officer or trustee selling and conveying the real estate of the husband by virtue of an execution, judgment, or deed of trust.

SEC. 11. Whenever an estate in lands shall be conveyed to a person and his intended wife, or to such intended wife alone, or shall be conveyed in trust for such person and his intended wife, or in trust for such wife alone, for the purpose of creating a jointure for her benefit, such jointure, if assented to by the intended wife, shall be a bar to any right or claim of dower of such wife in any lands of the husband.

SEC. 12. Such jointure must not be less than a freehold estate in lands, for the life of the wife at least, to take effect in possession or profit immediately on the death of the husband.

SEC. 13. The assent of the wife to such jointure shall be evidenced, if she be of full age, by her becoming a party to the conveyance by which it shall be settled; if she be an infant, by her joining with her father or guardian in such conveyance.

SEC. 14. Any pecuniary provision made for the benefit of an intended wife, and in lieu of dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

SEC. 15. If any such jointure or pecuniary provision, in lieu of dower, be made before the marriage, and without the assent of the intended wife, or if it be made during marriage, it shall bar her dower, unless she shall, within six months after knowledge of her husband's death and of the existence of such jointure or provision, make her election to waive the same and receive her dower.

SEC. 16. A widow entitled to an election under the preceding section, shall be deemed to have elected to waive such jointure or provision, if within the period mentioned in said section she shall enter on the lands to be assigned to her for her dower, or commence proceedings for the recovery or assignment thereof.

SEC. 17. A devise of lands, or any estate therein, or bequest of personal property, to the wife of the testator, or to any other person in trust for her, shall, if intended to be in lieu of dower, bar her of all right to the same, unless within six months after the authentication or probate of the will, she shall transmit to the orphans' court a written renunciation to the following effect :

SEC. 18. I, ———, widow of ———, late of ———, deceased, do hereby renounce all claim to any devise or bequest made to me by the will of my husband, exhibited and proved according to law, electing to take in lieu thereof my legal rights.

SEC. 19. Every such devise shall be construed to be intended in lieu of dower, unless it be otherwise expressed in the will, as also shall every bequest of personal property, except a specific bequest not exceeding in value the sum of five per cent. of the amount of the personal estate of the deceased, the same to be ascertained from the appraisement of the estate, as returned by the executor or administrator to the orphans' court, or by appraisers specially appointed by said court.

SEC. 20. If a woman be lawfully evicted of lands assigned to her as dower, or settled upon her as jointure, or is so deprived of the provision made for her by will, or otherwise, in lieu of dower, she may be endowed anew, in like manner as if such assignment, jointure, or other provision had not been made.

SEC. 21. If a woman commit or suffer waste in the lands held in dower or jointure, she shall be liable to an action by the heir or devisee, or by his guardian ; and if she marry a second husband, he shall be answerable for any waste committed by her before marriage, or by himself ; but taking fuel necessary for her own use and proper materials for the necessary repair of the buildings and fences on land of which she may be endowed, shall not be considered waste.

SEC. 22. Every jointure, devise, or other provision in lieu of dower, shall be forfeited by the woman for whose benefit it shall have been made, in the same cases in which she would forfeit her dower, and

shall immediately vest in others, as if her estate or interest had determined by death.

SEC. 23. Crops growing on the dower or jointure land of a widow at the time of her death may be bequeathed by her, and if not bequeathed, shall go to her executor or administrator, in like manner as crops growing on any other lands held for life.

SEC. 24. A widow may remain in the dwelling house of her husband forty days after his death, and until her dower is assigned, without being chargeable to pay the heir or devisee rent for the same, and if deprived thereof, may, on complaint of unlawful entry or detainer, recover the possession with damages for the time she was so deprived.

SEC. 25. No widow shall be precluded from her dower or jointure by reason of the real estate whereof she claims the same having been recovered from her husband by a judgment if she would have been entitled to dower or jointure had there been no such judgment. Nor shall any heir, who was under the age of twenty-one years at the time dower was assigned to a widow, out of the lands of his ancestor, by his guardian, or by judgment by default or collusion against such guardian, be precluded from recovering the seizin of his ancestor from such widow, unless she show herself entitled to such dower.

SEC. 26. When a widow recovers dower of the heir or devisee of her husband, or the assigns of either, such recovery shall be of a third of the estate as it is at the time of the recovery, including improvements made by such heir, devisee, or assigns, and the increased value of the estate from other causes.

SEC. 27. When a widow recovers dower against one claiming under an alienation of the husband made in his lifetime, such recovery shall be of a third of the estate as it is at the time of the recovery, exclusive only of the permanent improvements made by the alienee.

SEC. 28. When, in an action brought for that purpose, a widow shall recover her dower, she shall be entitled also to recover damages for the withholding of such dower, or she may also maintain a separate action for the recovery of such damages.

SEC. 29. Such damages shall be one-third part of the annual value of the mean profits of the land, not estimating for the value of any permanent improvements made by the heir or devisee, or the assigns of either, after the death of the husband, nor for any such made by such alienee of the husband after the alienation.

SEC. 30. Against the heir or devisee of the husband, or the assigns of either, the damages shall be for such time, after the husband's death, as they have withheld the dower, not exceeding, in all, five years before the suit is commenced, and estimating the damages to the time of the recovery.

SEC. 31. Against one claiming under an alienation by the husband in his lifetime, the damages shall be from the commencement of the suit against such claimant to the time of the recovery.

SEC. 32. If, after such suit brought for damages, the widow or tenant die before recovery be had, the same may be recovered by her executor or administrator, or against his.

SEC. 33. A widow shall demand her dower within twenty years after the death of her husband; but if, at the time of his death, she be under the age of twenty-one years, or insane, or imprisoned on a criminal charge or conviction, the time during which such disability continues shall not form any part of the said term of twenty years.

SEC. 34. Dower may be assigned or recovered subject to the provisions of this chapter, as at common law, or as hereinafter provided in Part III of this Code.

SEC. 35. When the estate out of which dower is to be assigned consists of a mill or other tenement which cannot be divided without damage to the whole, dower may be assigned of the rents, issues, or profits thereof, to be had and received by the widow, as tenant in common with the other owners of the estate; or the circuit court may order a sale of the premises, free from dower, and order the investment of one-third of the net proceeds thereof, at interest, for the benefit of the widow during the term of her life, the same to go upon her death to those entitled to the premises sold.

SEC. 36. When the circuit court shall, for any purpose, order the sale of the real estate of a deceased person, and his widow, entitled to dower therein, shall consent to a sale of the whole estate, disencumbered of her right of dower, and signify the same in writing, to be filed with the clerk of said court, she shall receive, in commutation thereof, if in good health, the following proportion of the net proceeds of said sale:

If she be under thirty years of age, one-sixth.

If above thirty and under thirty-six, two-thirteenths.

If above thirty-six and under forty, one-seventh.

If above forty and under forty-five, two-fifteenths.

If above forty-five and under fifty-one, one-eighth.

If above fifty-one and under fifty-six, one-ninth.

If above fifty-six and under sixty-one, one-tenth.

If above sixty-one and under sixty-seven, one-twelfth.

If above sixty-seven and under seventy-two, one-fourteenth.

If above seventy-two and under seventy-seven, one-eighteenth.

If above seventy-seven, one-twentieth.

Her age and health shall be established by evidence satisfactory to the court, and if the latter be not good, the court may make her such an allowance, within the above limits, as shall seem just and equitable. In either case such award shall be a sufficient bar to every right of dower which such widow may claim in the estate so sold.

SEC. 37. When any man and his wife shall be seized in her right of any estate of inheritance, legal or equitable, in lands, and shall have issue born alive which might inherit the same, the husband shall, on the death of his wife, hold the lands for his life as tenant by the curtesy.

SEC. 38. If the husband shall abandon his wife without just cause, and live apart from her, he shall be barred of his right of taking as tenant by the curtesy; but if his wife become reconciled to him, and voluntarily live with him again, he shall be restored to such right.

SEC. 39. In case of a divorce, a vinculo matrimonii—from the bonds of matrimony—for the misconduct of the husband, he shall be debarred of his tenancy by the curtesy; but when such divorce is had on account of the misconduct of the wife, he shall still hold her real estate for the term of his life, subject to the power of the circuit court to make reasonable allowance for her sustenance, in accordance with the provisions of chapter sixty-nine.

CHAPTER 50.

ESTATES AT WILL, AND FOR YEARS, AND THE RIGHTS AND DUTIES OF LANDLORDS AND TENANTS; AND ALSO RESPECTING EASEMENTS.

SECTION

1. Tenacy at will to arise only on express contract.
2. General tenancies deemed to be from year to year.

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3. Character of tenancy when tenant holds over with landlord's consent.
4. Rents; when payable.
5. Tenancies from year to year, or for any

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- period over three months, determined by three months' notice.
6. Tenancies for three months or a period less than three months; how determined
 7. Estates at will determined by one month's notice.
 8. Notice to quit; how given and served.
 9. Tenancies; how determined on non-payment of rent.
 10. What not to evidence an agreement that a shorter notice than a legal one may be given.
 11. How an interesse termini may be disposed of.
 12. Effect of new lease after surrender of former one.

SECTION

13. Attornment of tenant; when not necessary.
14. Attornment of tenant void, except in certain cases.
15. Liability of guardians, husbands, &c., holding over after their estates have ceased.
16. Remedies of alienees, &c., of demised lands same as grantor's, &c., in certain cases.
17. Action for use and occupation.
18. Easements; how acquired.
19. } Adverse use; how interrupted by notice, &c.
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SECTION 1. A tenancy at will shall not arise or be created without an express contract or letting to that effect.

SEC. 2. All general tenancies, when no certain and determined estate, nor an estate at will, is specified or created, shall be deemed to be tenancies from year to year.

SEC. 3. When, on the expiration of any tenancy, the landlord consents to the tenant holding over, such holding, in the absence of other agreement, shall be upon the same terms and subject to the same rent, and all the covenants contained in the original lease; and when the original letting was for any period less than a year, the constructive tenancy shall be for a like period of time; and if for a year or more, the same shall be construed a tenancy from year to year.

SEC. 4. Upon any tenancy from year to year, or for any specified period over a year, rent shall, in the absence of an express agreement varying the same, be payable quarterly; and upon any tenancy at will, or for a period less than a year, it shall be payable, as aforesaid, monthly; the quarters or months to be computed, in either case, from the day of letting.

SEC. 5. All tenancies from year to year, or for any definite period of over three months, may be determined by at least three months' notice to quit prior to the expiration of the year or other period of letting.

SEC. 6. All tenancies which, by the agreement of parties, express or implied, are for three months, or for any period of less than three months' duration, may be determined by a notice to quit equal in point of time to the tenancy.

SEC. 7. All estates at will may be determined by a notice to quit of one month.

SEC. 8. Every such notice as is mentioned in the preceding sections of this chapter shall be given in writing, and shall be equally required of either the landlord or tenant to determine the tenancy. The same shall be served by delivering it to the tenant, or to some person of proper age residing upon the premises; or if the tenant cannot be found, and there be no such person residing on the premises, such notice may be served by affixing the same to a conspicuous part of the premises where it may be conveniently read.

SEC. 9. If in any case rent shall be due and payable, and the same shall be demanded by the landlord and be not paid, then twenty days' notice to quit, given in writing by the landlord to the tenant, shall be sufficient to determine the tenancy, unless the rent is paid before the expiration of that time.

SEC. 10. The mere acquiescence of a party served with a notice to quit shorter in point of time than that required by law to determine the tenancy, shall not be deemed prima facie evidence of an agreement between the parties that a notice of less than the regular period might be given.

SEC. 11. An interesse termini may not only be assigned or granted, but may also be surrendered and enlarged by a release, or otherwise disposed of in like manner as if the same were a term in possession.

SEC. 12. If any lease be surrendered in order to be renewed, and a new lease be made by the chief landlord, such new lease shall be good and valid to all intents and purposes without a surrender of all or any of the under leases derived out of the original lease so surrendered; and such landlord, his lessee, and the holders of such under leases, shall enjoy all their rights and interests in the same manner and to the same extent as if the original lease had still been continued, and the chief landlord shall have the same remedy for the rents secured by such new lease, so far as the same do not exceed the rents and duties reserved in the original lease so surrendered.

SEC. 13. Grants of rents, reversions, or other interest in lands occupied by tenants, shall be valid without the attornments of such tenants to the grantee; but the payment of rent to such grantor by his tenant before actual notice of the grant shall be binding upon the grantee; and such tenant shall not be liable to such grantee for any

breach of the condition of the demise until he shall have had notice as aforesaid of the grant.

SEC. 14. The attornment of a tenant to a stranger shall be absolutely void, and shall not in anywise affect the possession of his landlord, unless it be made,

First. With the consent of the landlord ; or,

Secondly. Pursuant to or in consequence of a judgment ; or,

Thirdly. To a purchaser at a sale under a deed of trust or under the foreclosure of a mortgage.

SEC. 15. Every person, as guardian or trustee for an infant, and every husband seized in right of his wife only, and every other person having an estate determinable upon any life or lives, who, after the determination of such particular estate, without the express consent of the party immediately entitled after such determination, shall hold over and continue in possession of any land, shall be adjudged to be a trespasser ; and every person, his executors, and administrators, who shall be entitled to such lands upon the determination of such particular estate, may recover in damages against every such person so holding over, and against his executor or administrator, the full value of the profits received during such wrongful possession.

SEC. 16. Sub-lessees shall have the same remedy upon the original covenant against the chief landlord, as they might have had against their immediate lessor ; and alienees of lessors and lessees of land shall have the same legal remedies in relation to such lands as their principals.

SEC. 17. Any person entitled thereto may recover a reasonable compensation for the use and occupation of any lands or tenements, from any person who has occupied the same, whenever the amount of rent has not been specified by any contract.

SEC. 18. No right of way, of air, light, or other easement, from, in, upon, or over the land of another, shall be acquired by adverse use, unless such use shall have continued uninterruptedly for twenty years.

SEC. 19. The owner of the land, or his agent, guardian, or committee, may give notice to the claimant of such right, that he will dispute the same.

SEC. 20. Such notice shall be in writing, and be served by an officer on the claimant, or, if the claimant be under the age of twenty-one

years, or insane, on his guardian, or committee, if he or they can be found. If such parties cannot be found, a copy of the notice shall be posted, for the space of one month, in some conspicuous place, on, or immediately adjoining, the premises where the right is claimed.

SEC. 21. Such service or notice shall be endorsed, by the officer serving the same, on the original paper, and be returned to the party giving such notice, who shall cause the original paper, with its accompanying endorsements of service or notice, to be recorded in the recorder's office, and such notice, thus served or posted and recorded, shall, at the time of record, be deemed an interruption of such use.

TITLE II.

CHAPTER 51.

OF TITLE TO REAL PROPERTY BY DESCENT.

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| 1. | } | General rules of descent of real estate. |
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| 5. | | When parties take by representation, and when equally. |
| 6. | | Posthumous children. |
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| 9. | Illegitimate children of parents intermarrying, may inherit and transmit. |
| 10. | Illegitimate child may inherit from its mother. |
| 11. | Estate of illegitimate child, dying intestate, to descend to his mother. |
| 12. | Dower, curtesy, or limitation by deed or will, not affected by this chapter. |

SECTION 1. When any person shall die seized of any estate in lands, or entitled to any interest therein, in fee-simple, or fee-tail general, not having lawfully devised the same, such estate or interest shall descend or pass, subject to the debts of the intestate, to his kindred, male and female, in parcenery, as herein prescribed.

SEC. 2. If the estate or interest shall have come to such intestate by descent, devise, or deed of gift from any ancestor, it shall descend or pass as follows:

First. To the children of such intestate, or their descendants.

Second. If there be no children, or descendants of children, it shall pass to the brothers and sisters of the intestate who may be of the blood of the ancestor from whom the estate or interest came, or their

descendants, whether such brothers and sisters be of the whole or half blood of the intestate.

Third. If there be no brothers or sisters of the intestate, of the blood of the ancestor from whom the estate or interest came, or descendants of such brothers or sisters, and if the estate or interest came by deed of gift from an ancestor who may be living, the same shall ascend to such ancestor.

Fourth. If the ancestor from whom the estate or interest came be deceased, it shall pass to and vest in the husband or wife, relict of such intestate, during his or her natural life.

Fifth. If such intestate leave no husband or wife, relict of himself or herself, or at the death of such relict, the estate or interest shall pass to and vest in the children of the ancestor from whom the same came, or their descendants. If there be no children of such ancestor, or their descendants, it shall pass to and vest in the brothers and sisters of such ancestor, or their descendants; and for want of such brothers or sisters, or their descendants, to the brothers and sisters of the intestate, of the half blood, or their descendants, though such brothers and sisters be not of the blood of the ancestor from whom the estate or interest came.

Sixth. If there be no brothers or sisters of the intestate, or their descendants, the estate or interest shall pass to the next of kin to the intestate of the blood of the ancestor from whom the estate or interest came.

SEC. 3. If the estate or interest come not by descent, devise, or deed of gift, it shall descend or pass as follows:

First. To the children of the intestate, and their descendants.

Second. If there be no such children, or their descendants, it shall pass to and be vested in the husband or wife, relict of such intestate, during his or her natural life.

Third. If such intestate leave no husband or wife, relict of himself or herself, or at the death of such relict, it shall pass to the brothers and sisters of the intestate of the whole blood, and their descendants.

Fourth. If there be no brothers or sisters of the intestate of the whole blood, or their descendants, it shall pass to the brothers and sisters of the half blood, and their descendants.

Fifth. If there be no brothers or sisters of the intestate of the half blood, or their descendants, it shall ascend to the father; if the father be dead, then to the mother.

Sixth. If the father and mother be dead, it shall pass to the next of kin to the intestate.

SEC. 4. When any person shall die intestate, seized of such estate in land as is mentioned in preceding section one, or entitled to an interest therein, and there shall be no person living entitled to inherit the same by the provisions of this chapter, the same shall pass to and be invested as an estate of inheritance in the husband or wife, relict of such intestate, and if there be no such relict, it shall escheat to the United States, and be appropriated to the use of the public schools of this District, in the same manner as is provided in Part I with regard to fires.

SEC. 5. The descendants of any intestate, when they are in the same degree of kindred, shall take equally, "per capita;" otherwise they shall take "per stirpes," according to the right of representation, and in the collateral lines, the descendants of any deceased ancestor shall take in like manner.

SEC. 6. No right to such estate or interest shall accrue to or vest in any person other than the children of the intestate and their descendants, unless such person is in being and capable in law to take as heir at the time of the intestate's death; but any child or descendant of the intestate begotten before but born after the death of the intestate, shall, in all cases, inherit as if he had been born in the lifetime of the intestate and had survived him.

SEC. 7. When any descendant of a person dying intestate as to his estate, or any part thereof, shall have received from such intestate in his lifetime, or under his will, any estate, real or personal, by way of advancement, and he or any descendant of his shall come into partition or distribution with the other heirs and distributees, such advancement shall be brought into hotchpot with the whole estate, real and personal, descended or distributable, and thereupon such party shall be entitled to his proper portion of the estate, real and personal.

SEC. 8. The maintenance or education of a descendant, or the gift of money to him without a view to a portion or settlement in life, shall not be deemed an advancement.

SEC. 9. If, after the birth of an illegitimate child, his parents shall intermarry, such child, if acknowledged by the father, shall, in virtue of the marriage and acknowledgment, be legitimated and made capable in law to inherit and transmit, as if born in wedlock.

SEC. 10. Every illegitimate child shall be considered as an heir of its mother, and shall inherit and transmit her estate, in whole or in part, as the case may be, in like manner as if he had been born in lawful wedlock.

SEC. 11. If any illegitimate child shall die intestate, without issue entitled thereto, his real estate shall descend to his mother and her heirs.

SEC. 12. The provisions of this chapter shall in nowise affect the estate of a widow as tenant in dower, or of a husband as tenant by the curtesy, nor shall the same affect any limitation of an estate by deed or will, except the limitation of an estate in fee-tail general.

TITLE III.

Title by devise and bequest.

CHAPTER 52.

OF WILLS OF REAL AND PERSONAL ESTATE.

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1. Who may make a will of real estate.
2. What may be devised.
3. When real estate subsequently acquired may pass by will.
4. What personal estate may be bequeathed.
5. Wills of real estate; how executed.
6. Appointments by will; how to be executed.
7. Who may make a will of personal estate.
8. When wills may be made by married women.
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15. } birth of child.
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17. Wills, once revoked, how revived.
18. Wills, &c.; when not to lapse by death of devisee in lifetime of testator.
19. Devises, &c., that lapse, &c., to pass under residuary clause in the will.
20. When property as to which the testator has a power of appointment shall pass by will.
21. } Legatees and devisees to contribute
22. } ratably to payment of debts.
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24. When and how a devisee, &c., a competent witness.
25. A creditor a competent witness, though debt be charged on the estate.
26. An executor a competent witness.
27. Penalty for not delivering will to the register.
28. Will; how opened and read.
29. Will relative to real or personal estate may be proved in the orphans' court.

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30. Authenticated copies of wills proved out of the District admitted to probate.
31. Depositions of witnesses ; when and how taken.
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35. Motion for probate may be made ex parte.
36. Saving in favor of certain parties.

SECTION

37. Record of what is proved at time of probate ; how used.
38. Executor, or party offering will ; how examined.
39. Will to be recorded and preserved in the register's office.
40. Purchasers from heirs not affected by will, unless it is recorded, &c.
41. Term will, in this chapter, to include codicil.
42. How far this chapter operates on wills now made, and hereafter to be made.

SECTION 1. Every person, except a married woman, may make a will devising real estate who, at the time of executing and acknowledging the same as hereinafter provided, is of the full age of twenty-one years, of sound mind, and capable of making a valid deed or contract.

SEC. 2. All real estate, except estates tail, which might pass by deed, or which would, in the event of the proprietor dying intestate, descend to his heirs or devolve on his other representatives, may be disposed of by will.

SEC. 3. Any right or interest acquired in real estate by a testator after the making of his will, shall pass thereby in like manner as if possessed at the time of making the will, if such shall appear by the will to have been the intention of the testator.

SEC. 4. All the personal estate of a testator remaining at his decease, and all his right thereto and interest therein, may be bequeathed and disposed of by him in his last will and testament, subject to his wife's distributive share at common law; and all such estate not disposed of by will shall be administered as an intestate's estate.

SEC. 5. No will shall be effectual to pass or in any way affect an interest in real estate, unless it be in writing, subscribed by the testator, or some other person in his presence and by his express direction; and, moreover, unless it be wholly written by the testator, the signature shall be made, or the will acknowledged by him, in the presence of two or more competent witnesses; and such witnesses shall subscribe the will in the presence of the testator and of each other, but no form of attestation shall be necessary.

SEC. 6. No appointments made by will, in the exercise of any

power, shall be valid, unless the same be so executed that it would be valid for the disposition of the property to which the power applies if it belonged to the testator; and every will so executed, except the will of a married woman, shall be a valid execution of a power of appointment by will, notwithstanding the instrument creating the power expressly require that a will made in execution of such power shall be executed with some additional or other form of execution or solemnity.

SEC. 7. Only such persons as have hereinbefore been authorized to make a devise of real estate shall be held competent to execute a bequest of personal estate.

SEC. 8. A married woman shall be competent to make a will disposing only of her separate estate, or in the exercise of a power of appointment.

SEC. 9. No will, except such nuncupative or unwritten will as is hereinafter provided for, shall be effectual to pass, or in any way dispose of, personal estate, unless the same be executed with all the formalities required in section five of this chapter in case of wills devising real estate: provided, however, that the will of any person domiciled out of this District at the time of his death shall be valid as to personal property therein, if it be executed according to the law of the State or country in which he was so domiciled.

SEC. 10. No nuncupative will shall be allowed by law, except those made by a soldier in actual military service, or a mariner at sea, who may make, as heretofore, nuncupative wills, provided he does not dispose therein of personal property exceeding in value the sum of two hundred dollars.

SEC. 11. No donatio mortis causa shall be valid or of any effect when the property delivered exceeds in value the sum of two hundred dollars.

SEC. 12. No will, or any clause therein, shall be revoked, except in the cases hereinafter mentioned, unless by some writing declaring the same, executed as required in the case of a will, or the same with intent to revoke be burnt, cancelled, torn, or obliterated by the testator, or by some person in his presence and by his direction.

SEC. 13. Every will made by a man or woman shall be revoked by his or her subsequent marriage, except a will made in exercise of a power of appointment, when the estate thereby appointed would not,

in default of such appointment, pass to his or her personal representative or next of kin.

SEC. 14. If any person die leaving a child, or his wife eniente of a child which shall be born alive, and leaving a will made when such person had no child living, wherein any child he might have is not provided for or mentioned, such will, except so far as it provides for the payment of the debts of the testator, shall be construed as if the devisees and bequests therein had been limited to take effect in the event that the child shall die under the age of twenty-one years, unmarried and without issue.

SEC. 15. If a will be made when a testator has a child living, and a child be born afterwards, such after-born child, or any descendants of his, if not provided for by any settlement, and neither provided for nor expressly excluded by the will, but only pretermitted, shall succeed to such portion of the testator's estate as he would have been entitled to had the testator died intestate, towards raising which portion the devisees and legatees shall, out of what is devised and bequeathed to them, contribute ratably, either in kind or in money, as the circuit court in the particular case, may deem most proper. If, however, any such after-born child die under the age of twenty-one years, unmarried and without issue, his portion of the estate, or so much thereof as may remain unexpended in his support and education, shall revert to the person to whom it was given by the will.

SEC. 16. No conveyance or other act subsequent to the execution of a will shall, unless it be an act by which the will is revoked, as before provided, prevent its operation with respect to such interest in the estate comprised in the will as the testator may have power to dispose of by will at the time of his death.

SEC. 17. No will, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil, executed in manner hereinbefore required, and then only to the extent to which an intention to revive the same is shown in such will or codicil.

SEC. 18. If a devisee or legatee die before the testator, leaving issue who survive the testator, such issue shall take the estate devised or bequeathed, as the devisee or legatee would have done if he had survived the testator, unless a different disposition be made or required by the will.

SEC. 19. Unless a contrary intention shall appear by the will, such real estate, or interest therein, as shall be comprised in any devise in such will, which shall fail, be void, or otherwise incapable of taking effect, shall be included in the residuary clause, if any, contained in such will.

SEC. 20. A devise or bequest shall extend to any real or personal estate, as the case may be, which the testator has the power to appoint, as he may think proper, and to which it would apply if the estate were his own property, and, unless a contrary intention appear, shall operate as an execution of such power.

SEC. 21. The estate, real and personal, given by will to any legatees or devisees shall be held liable to the payment of debts, in proportion to the value or amount of the several devises or legacies. If there shall be other sufficient estate, specific devises or legacies may be exempted.

SEC. 22. When an estate given by any will has been sold for the payment of debts, all the devisees and legatees shall be liable to contribute, according to their respective interests, to any devisee or legatee from whom the estate devised to him may have been taken for the payment of debts.

SEC. 23. If a witness to a will be competent at the time of attesting the execution of the same, his subsequent incompetency, from whatever cause it may arise, shall not affect the will; but the same may be proved and allowed as if he were dead.

SEC. 24. If a will be attested by a person to whom, or to whose wife or husband, a beneficial interest in any estate is thereby devised or bequeathed, if the will may not otherwise be proved, such person shall be deemed a competent witness; but such devise or bequest shall be void, except that if such witness would be entitled to any share of the estate of the testator in case the will were not established, so much of his share shall be saved to him as shall not exceed the value of what is so devised or bequeathed.

SEC. 25. If a will charging any estate with debts be attested by a creditor, or the wife or husband of a creditor, whose debt is so charged, such creditor shall, notwithstanding, be admitted as a witness for or against the will.

SEC. 26. No person shall, on account of his being an executor of a will, be incompetent as a witness for or against the will.

SEC. 27. If any person in whose possession or custody a will shall be, after the death of a testator, shall wilfully neglect to deliver the same to the register of wills for the space of three months after the testator's death shall be known to him, the person so offending shall be subject, on conviction in the criminal court, to such fine as the court, in its discretion, shall think proper, not exceeding the sum of five hundred dollars; and may, moreover, be imprisoned in close custody until he shall produce such will in court, or shall cause it to be delivered to some executor therein named, or to the register of wills.

SEC. 28. Any person having the custody of a will may, after the death of a testator, open and read the same in the presence of any near relatives of the deceased who may conveniently have notice thereof, and of other persons; and immediately thereafter he shall deliver the same to the register of wills, whose duty it shall be to keep it safe until proceedings may be had for proving it.

SEC. 29. Wills relating to real or personal property, or both, may be proved, as hereinafter directed, before the orphans' court; and the probate of a will devising real estate shall be conclusive as to the due execution of the will, in like manner as the probate of a will of personal estate.

SEC. 30. When a will relative to property within this District has been proved without it, an authenticated copy of the same, and the certificate of probate thereof, may be offered for probate in this District. The judge of the orphans' court shall presume, in the absence of evidence to the contrary, that the will was duly executed, and admitted to probate as a will of personal property in the State or country of the testator's domicile, and shall admit such copy to probate as a will of personalty in this District; and if it appear from such copy that the will was proved in the foreign court of probate to have been so executed as to be a valid will of lands in this District, by the laws thereof, such copy may be admitted to probate as a will of real estate.

SEC. 31. When any will, or any such authenticated copy, is offered for probate, and a witness attesting the same resides out of this District, or, though in the same, is unable, from sickness, age, or other infirmity, to attend the orphans' court, the judge thereof may cause a commission to take his deposition to issue, annexed to said will, or copy, and directed to any person authorized by law to take

depositions in other cases, or to a person specially named therein. The deposition of such witness shall be taken and certified, as in other cases, except that no notice need be given of the time and place of taking the same, unless it be in a case in which the probate is opposed by some person who has made himself a party, and the proof so given shall have the same effect as if it had been given in the orphans' court.

SEC. 32. Any person offering, or intending to offer, to the orphans' court, a will for probate, may obtain from the register process directed to the marshal of the District, requiring him to summon any person interested in the probate to appear in court by a certain day, named in the summons, not less than five days after the service thereof, to show cause why the said will should not be admitted to probate; or notice to parties interested, of the application for probate, and the time for hearing the same, may be given through some newspaper of the District, designated by the court, by publication therein twice a week for three successive weeks; the first publication to be twenty days, at least, before the time so assigned.

SEC. 33. The orphans' court may assign a guardian ad litem to any person so interested who is an infant or insane.

SEC. 34. When all the persons interested in such probate shall be properly convened by such summons, order of publication, or assignment of guardian, or shall otherwise appear as parties, the court shall proceed to hear the application for such probate, and its order thereon shall be final, subject only to an appeal to the circuit court.

SEC. 35. The orphans' court may, however, without summoning any party, or giving other notice to them, proceed to probate, and admit the will to record, or reject the same. But after an order, under this section, a person interested, who was not a party to the proceeding, may, within five years, proceed in the circuit court to impeach or establish the will; on which a trial by jury may be ordered, to ascertain whether any, and, if any, how much of what was so offered for probate is the will of the deceased. If no such proceeding be instituted within that time, the order shall be forever binding.

SEC. 36. The preceding section is subject to this proviso, that any person interested, who, at the time of the order, is within the age of twenty-one years, or is insane, may proceed, as aforesaid, to impeach or establish the will within one year after such disability shall cease;

and any person who shall have been proceeded against by publication may, unless he was personally summoned, or actually appeared as a party, so proceed within two years after such order.

SEC. 37. The record of what is proved or deposed in court by witnesses, on the motion to admit a will to probate and record in the orphans' court, and any depositions lawfully taken out of court, on such motion, may, on such trial, if the witnesses cannot be produced, be admitted as evidence.

SEC. 38. The judge of the orphans' court shall, in all cases, examine, on oath, every executor, or other person, offering a will for probate, as to the manner in which the same came to his hand, and whether or not he knows of any other.

SEC. 39. Every will, or authenticated copy, so admitted to probate, shall be recorded by the register, and shall remain in his office, except during such time as the same shall be taken to another court under a subpoena duces tecum.

SEC. 40. The title of a purchaser, in good faith and for a valuable consideration, from the heirs at law of any person who shall have died owning real estate in this District, shall not be defeated or impaired by virtue of any devise made by such person of the real estate so purchased, unless the will containing the same shall have been duly proved, and recorded in the office of the register, within four years after the death of the testator; except:

1. When it shall appear that the will containing such devise shall have been concealed by the heirs of such testator; or,

2. When, at the time of the testator's death, the devisee shall have been within the age of twenty-one years or insane. In which several cases the limitation contained in this section shall not commence until such will shall have been delivered to the devisee or his representative, or to the executor, or orphans' court, or until such disability shall have been removed.

SEC. 41. The term will, as used in this chapter, shall include all codicils as well as wills.

SEC. 42. The provisions of this chapter in relation to the jurisdiction of the probate of wills, and the proceedings thereon, and effect of same, shall apply as well to wills already made as to those hereafter to be made; but those provisions relating to the execution, revocation, and construction of wills, shall apply only to wills hereafter made,

and to such wills as are already made by a testator who shall be alive at the expiration of one year from the time this chapter shall take effect. The validity and effect of other wills shall be determined by the laws in force immediately before this chapter takes effect, in the like manner as if those laws had not been repealed.

TITLE IV.

Title by administration, and of the settlement of the estates of deceased persons.

CHAPTER 53. Of letters testamentary.

CHAPTER 54. Of letters of administration.

CHAPTER 55. Of letters of collection.

CHAPTER 56. Of the inventory and list of debts.

CHAPTER 57. Of sales of assets by administrators and payment of debts of deceased.

CHAPTER 58. Of accounts of administrators, payment of legacies, and distribution of estate of deceased.

CHAPTER 59. Miscellaneous provisions relative to administration.

CHAPTER 53.

OF LETTERS TESTAMENTARY.

SECTION

1. Letters testamentary; when granted.
2. Who can be an executor.
3. Qualifications; how determined.
4. What evidence to prove party infamous.
5. What evidence of citizenship.
6. What evidence of soundness of mind.
7. Every person named as executor presumed to be eighteen years old.
8. Married woman not to be entitled to letters testamentary unless husband bonds for her.
9. Executor may renounce trust.
10. When deemed to have renounced, being present at probate.
11. When deemed to have renounced, not present, but in the District.

SECTION

12. When deemed to have renounced, being without the District at probate.
13. One of several executors failing to qualify, letters may be granted as if he had not been named.
14. Powers of executor before he qualifies.
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16. Character of bond.
17. The condition of same.
18. Where recorded, and how sued upon.
19. Bond of executor, &c., when over eighteen years of age, binding.
20. Form of oath to be taken by executor.
21. Form of letters testamentary.

SECTION 1. When any will shall have been proved or authenticated, as hereinbefore provided, letters testamentary may forthwith be granted by the orphans' court to the executor named in the will, in accordance with the provisions of this chapter.

SEC. 2. Letters testamentary shall not be granted to a person named as executor who, at the time when administration ought to be granted, shall be under the age of eighteen years, or of unsound mind, incapable by law of making a contract, or shall stand convicted of any crime rendering him infamous, or shall not be a citizen of the United States.

SEC. 3. No question respecting the qualifications of an executor shall be determined unless he be summoned, if within the District, or, if without the same, notice be given him by advertisement or otherwise, as the court may direct.

SEC. 4. A transcript of the record of conviction shall be evidence to prove the party infamous.

SEC. 5. When any person named as executor is alleged not to be a citizen of the United States, his citizenship shall not be established otherwise than by a certificate, under the seal of the office or court where the party was naturalized, or by competent testimony that he is a natural born citizen of the United States.

SEC. 6. The unsoundness of mind of a party named as executor shall be conclusively established by the inquisition of a jury, on a writ issued by the circuit court, finding him an idiot, lunatic, or non compos mentis, and confirmed by the said court; and if such inquisition shall not have been had, at the time when letters ought to be granted, the circuit or orphans' court may, on the petition of any person interested, grant a writ de lunatico inquirendo; and the finding of the jury as above provided, on being returned to and confirmed by the court issuing the same, shall be conclusive against the party. A certificate from the clerk of the circuit court, under seal, stating the substance of the proceedings, shall be evidence in the orphans' court.

SEC. 7. Every person named in a will as executor shall be presumed to be eighteen years of age until the contrary is proved.

SEC. 8. No married woman shall be entitled to letters testamentary, unless her husband shall give bond, as is hereinafter required of executors, for the faithful performance of her duties.

SEC. 9. An executor may, by an attested writing to that effect filed in the orphans' court, renounce the trust: provided, however, that, notwithstanding such renunciation, or even failure to qualify as hereinafter provided, he may take out letters at any time before they are actually granted to another.

SEC. 10. Any executor who shall have been present at the probate or authentication of a will, and who shall not, within thirty days thereafter, qualify, shall be taken to have renounced.

SEC. 11. Any executor not present at the probate or authentication of a will, but within this District, shall be summoned by the orphans' court. Such summons shall be returnable not less than twenty nor more than forty days from its date; and if returned "summoned," and the executor shall not appear and qualify within twenty days thereafter, or if two summonses shall be returned "non est," and the executor shall not, within twenty days after the return of the second summons, appear and qualify, he shall be taken to have renounced the trust, unless, on reasonable excuse made by him, or on his behalf, the court shall allow him a further time, not exceeding forty days, after such return or appearance, within which to qualify.

SEC. 12. Any executor who may be out of the District at the time the will is proved or authenticated, shall be allowed four months thereafter within which to qualify; but if, within that period, he shall return to the District, he may, at the option of other parties, be proceeded against as if he had been in the District at the time of probate or authentication, and on failure to qualify, he shall be taken to have renounced.

SEC. 13. When more than one executor is named in a will, and any of them shall renounce, or be found incompetent to act, as hereinbefore provided, letters testamentary may be granted to the rest as if none others had been mentioned in the will.

SEC. 14. No executor shall, before letters testamentary are granted to him, dispose of any part of his testator's property, or interfere therewith, further than may be necessary for its preservation; but all acts done by an executor before obtaining letters shall, if he afterwards obtain them, be valid, and his bond shall be responsible therefor. In any action brought by him, a certificate of the register of wills of the grant of letters at any time before trial or final hearing shall be sufficient evidence of title to bring such action.

SEC. 15. Before letters testamentary are granted to an executor, he shall qualify by giving the bond and taking the oath herein required; provided that when the will directs that an executor shall not give security, the judge of the orphans' court shall not require it of him unless on the application of some person interested, or when from his own knowledge he thinks security should be required.

SEC. 16. Such bond shall be executed to the United States, with at least two sufficient sureties, to be approved by the orphans' court. In form it shall be joint and several, and the penalty thereof shall be double the value of the property of which the executor will have charge, which may be ascertained by the examination, on oath, by the judge, of the party applying, or any other person.

SEC. 17. The condition of such bond shall be, that the executor will faithfully execute the duties of his office according to law, and shall be in form following, or to the same effect:

“The condition of the above obligation is such, that if the above bounden — — shall faithfully perform the duties of his office as executor of — —, late of — —, deceased, according to law, then the above obligation shall be void; otherwise, it is to remain in full force.”

SEC. 18. Such bond shall be lodged and recorded in the register of wills' office; and any person may have on demand a copy of it, certified by the register under his hand and the seal of the orphans' court, upon which an action may be maintained in the name of the party interested.

SEC. 19. The bond of any executor above eighteen and under twenty-one years of age shall be binding as if he were of full age; as shall also the bond of any husband of like age given on letters granted to his wife.

SEC. 20. The oath to be taken by an executor shall be in the following form:

“I, — —, do swear, that I will faithfully discharge the duties imposed on me by law as executor of — —, deceased, late of — —, to the best of my knowledge: So help me God.

SEC. 21. The following shall be the form of letters testamentary, to be granted under the seal of the orphans' court:

UNITED STATES OF AMERICA.

Washington county, District of Columbia, set.

To all persons to whom these presents shall come, greeting.

Know ye, that the last will and testament of — —, late of — —, deceased, hath been, in due form of law, exhibited, proved, and recorded in the office of the register of wills for Washington county, District of Columbia, a copy of which is to these presents annexed; and administration of the estate of said deceased is hereby committed unto — —, of — —, the executor named in the will.

Witness — —, judge of the orphans' court for Washington county, District of Columbia, this — — day of — —.

Teste: — —,

— —, *Register of Wills.*

CHAPTER 54.

OF LETTERS OF ADMINISTRATION.

SECTION

1. Letters of administration, with the will annexed; when and how granted.
2. Letters of administration; when granted, and form of.
3. Qualifications of an administrator.
4. Proof of death and intestacy to be made before administration is granted.
5. Husband; how entitled to wife's choses in action without administering.
6. } Order of right to administration among
7. } certain relatives.
8. }
9. }
10. Same; next of kin applying.
11. } Same; rules of preference among par-
12. } ties in equal degrees of kin.
13. Largest creditor applying next preferred.
14. When administration granted at discretion of the orphans' court.
15. Administration may be granted to two or more persons with the consent of the one first entitled.
16. How same granted when married woman entitled.

SECTION

17. Proceedings on renunciation of party entitled.
18. Same, on party failing to qualify.
19. When judge of orphans' court or register of wills may have administration.
20. Administrator to give bond and take oath as required of executor.
21. Administration revoked by grant of letters testamentary on subsequent probate of will.
22. Such executor entitled to prosecute and defend actions commenced by or against administrator.
23. And how entitled to judgments obtained by administrator; and bound by those against him, except when, &c.
24. When and to whom letters of administration, de bonis non, may be granted.
25. The form of same, and authority conferred by them.
26. Bonds, &c., to be delivered over to administrator, de bonis non, by administrator or executor of deceased administrator or executor.

SECTION

- 27. If not done, what bonds shall be liable to suit.
- 28. Such administrator or executor to return, on oath, a list of such bonds, &c.
- 29. Commission thereon; when and how allowed him.
- 30. When letters of administration durante minoritate may be granted.

SECTION

- 31. When and to whom administration pendente lite may be granted.
- 32. How same revoked by grant of letters testamentary.
- 33. When administration shall be granted to the marshal.

SECTION 1. If no executor be named in a will, or if the sole executor or all the executors named therein, shall renounce or be found incompetent, letters of administration, with a copy of the will annexed, shall be granted as in cases of intestacy: provided, however, that, should there be a residuary legatee or legatees, he or they shall be preferred to all but a widow; and it shall be incumbent on the orphans' court to proceed in the manner hereinbefore directed with respect to executors within the District before administration shall be granted to any other person; and a male residuary legatee shall be preferred to a female.

SEC. 2. When any person hath died intestate, leaving in this District any chattels or personal property, administration may be granted thereon by the orphans' court, as hereinafter provided. The form of the letters of administration shall be as follows:

UNITED STATES OF AMERICA.

Washington county, District of Columbia, sct.

To all persons to whom these presents shall come, greeting:

Know ye, that whereas — —, late of — —, deceased, hath died intestate, as it is said, leaving certain goods, chattels, and personal estate to be administered, administration of all and singular the goods and chattels, rights and credits, of the said — —, deceased, is hereby granted and committed unto — —, of — —.

Witness — —, judge of the orphans' court for Washington county aforesaid, this — — day of — —, in the year — —.

Teste:

— —, *Register of Wills.*

SEC. 3. The qualifications of an administrator shall be the same as hereinbefore prescribed for an executor, save that, in respect to age, no one shall be appointed administrator who has not attained full

twenty-one years. All questions touching the competency of a party to act as administrator shall be tried and determined on like proofs and in the same manner as with an executor.

SEC. 4. It shall be incumbent on the person applying for administration to prove the intestacy of the party on whose estate he seeks to qualify, unless the same be notorious; and the court may examine such person, or any other, on oath, touching the time, place, and manner of death, and whether or not the party dying left any will; and if such intestacy be not proved to the satisfaction of the court, no administration shall be granted. In no event shall administration be granted until at least twenty days after the death of the supposed intestate, and five days after application for the same.

SEC. 5. If the intestate be a married woman, it shall not be necessary for her husband to administer, but all her choses in action shall devolve on him; provided, that if he shall not, in his lifetime, reduce such choses in action into possession, or obtain judgment thereon, they shall devolve on her representative, and administration may be granted accordingly.

SEC. 6. If the intestate leave a widow and a child or children, administration may be granted by the court, at its discretion, to either.

SEC. 7. If there be a widow and no child, the widow shall be preferred; if there be a child or children and no widow, the child or one or more of the children, shall be preferred; and next to the widow and children, a grandchild shall be preferred.

SEC. 8. If there be neither widow, child, nor grandchild, the father shall be preferred; and next to him, brothers or sisters shall be preferred; and next to them, the mother.

SEC. 9. It shall not be necessary to delay the granting of administration for such parties when they are without the District at the time of any application for the same. When they are within the District at such time, they shall be summoned as hereinbefore provided in the case of executors not present at the probate of a will but within the District, after which, and at any time before they do apply, administration may be granted, as if such parties were not entitled.

SEC. 10. If there be neither widow nor child, nor grandchild, nor father, nor brother, nor sister, nor mother, the next of kin applying for administration shall be preferred.

SEC. 11. In equal degrees of kin, males shall be preferred to females; relations on the side of a father to relations on the side of a mother; an unmarried woman to a married one; relations of the whole blood to those of the half blood; and, in the collateral lines, relations descending to those ascending.

SEC. 12. None shall be preferred in the ascending lines beyond a father or mother, or in the descending lines below a grandchild.

SEC. 13. If there be no relations entitled, administration shall be granted to the largest creditor applying for the same.

SEC. 14. If there shall be neither widow, nor child, nor grandchild, nor father, nor brother, nor sister, nor mother, or if these be incompetent, or renounce, or fail to appear and qualify, on proper summons, or if other relations and creditors shall fail to apply and qualify, administration may then be granted at the discretion of the orphans' court.

SEC. 15. Administration may be granted to two or more persons, with the consent of the person first entitled.

SEC. 16. When a married woman is entitled to administration, the same may be granted to her and her husband if he be competent.

SEC. 17. If any person entitled to administration shall deliver or transmit to the orphans' court a declaration, in writing, that he is willing to decline the trust, the court shall proceed as if such person were not entitled.

SEC. 18. If any person applying for administration shall fail to qualify within thirty days after his right to administer has been recognised by the orphans' court by an order to that effect, administration may be granted as if such party were not entitled.

SEC. 19. Neither letters testamentary nor of administration shall be granted in any case to the judge of the orphans' court or register of wills of this District.

SEC. 20. Before administration shall be granted to the party entitled, he must qualify, by taking an oath and executing a bond similar to those hereinbefore prescribed for an executor; and such bond shall be recorded, and shall be liable to suit, and be, in all respects, on the same footing as an executor's bond.

SEC. 21. If letters of administration be granted, and afterwards a will disposing of the personal property of the deceased be proved, and an executor shall apply for letters testamentary within thirty days.

thereafter, and shall qualify, letters testamentary shall be granted, and the same shall be construed as a revocation of letters of administration: provided, that all acts done by any administrator according to law, before any actual or implied revocation, shall be valid; and that he shall be entitled to costs incurred in conducting any suit, as if letters testamentary had not been granted.

SEC. 22. Such executor shall also be authorized to prosecute any action commenced by the administrator, and to obtain judgment thereon in his own name; and to defend any such suit commenced against the administrator, which suit may be prosecuted to judgment by the plaintiff, notwithstanding the grant of letters testamentary.

SEC. 23. Such executor shall have the benefit of all judgments obtained by the administrator, and shall be bound by all had against him, unless the same shall be revised, as hereinafter provided in Part III, by the court in which they were rendered. If such judgment shall have been obtained by fraud, the court may set it aside at any time without regard to the time of the application therefor.

SEC. 24. If an executor or administrator shall die before administration is completed, letters de bonis non, or letters de bonis non with the will annexed, may be granted, at the discretion of the court, giving preference, however, to the person entitled, if he apply for the same; and in no case shall the executor of an executor be entitled, as executor, to administration de bonis non of the first deceased.

SEC. 25. The form of such letters shall be the same as hereinbefore directed for administrators, except that the words "already not administered" shall be added in their proper place; and the authority thereby conferred shall be to administer all things hereinafter described as assets and debts, not converted into money, and not distributed, or delivered, or retained by the former executor or administrator under the court's direction.

SEC. 26. The orphans' court shall, on the application of an administrator de bonis non, order the administrator or executor of a deceased administrator or executor to account and deliver over all the bonds, notes, accounts, and evidences of debt, or other property, which the deceased administrator or executor may have taken or had in such capacity, at the time of his death, and also to pay over the money in his hands which came to the deceased administrator or executor in that capacity.

Sec. 27. The court shall indicate in such order a certain day by which the same shall be complied with; and, on proof of the service of the same, and the neglect or refusal of the party to comply therewith, it may order the bond of the deceased administrator or executor, or the bond of the party refusing or neglecting, to be put in suit by the administrator de bonis non; both of which bonds shall be liable.

Sec. 28. The executor or administrator of such deceased party shall return, upon oath, to the orphans' court, on or before the day named in the order, a list of such bonds, notes, accounts, evidences of debt, and moneys, as far as he can ascertain the same.

Sec. 29. If such administrator or executor shall return such list, he shall be entitled to retain, out of the money, bonds, notes, and accounts, such commissions as the court may, in its discretion, allow, not exceeding three per cent. thereon; and the same shall be accounted for by him in the settlement of the estate of his decedent. If he refuse or neglect to return such list, no commission shall be allowed; but he shall be bound to account, in the settlement of his decedent's estate, for the commissions so lost by his default.

Sec. 30. Administration durante minoritate of an executor may be granted by the orphans' court, to last until the executor attain the age of eighteen years.

Sec. 31. Administration pendente lite may be granted by the orphans' court, in all cases where the validity of a will is contested, to the executor therein named, or to the person to whom the largest portion of the personal estate is bequeathed by the will, or to the person entitled to administration, in the discretion of the court.

Sec. 32. The decision of such contest, and the grant of letters testamentary, shall, ipso facto, revoke the administration pendente lite; and such revocation shall have the same effect, and shall be subject to like rules and provisos as are hereinbefore mentioned on the revocation of administration by grant of letters testamentary.

Sec. 33. If at any time, except during a contest about the decedent's will, one year shall elapse from the death of the decedent, without some one qualifying on his estate, the orphans' court shall, on the application of any person, or of its own motion, order the marshal of the District to take into his possession the estate of such decedent and administer the same. The marshal shall thereupon, without taking any other oath of office, or giving any other bond or security

than he may have before taken or given, shall be administrator, or administrator de bonis non, with or without the will annexed, as the case may be, and shall thence forward be entitled to all the rights, and bound to perform all the duties of such administrator. The court may, however, at any time revoke such order, and allow any other person to qualify as executor or administrator.

CHAPTER 55.

OF LETTERS OF COLLECTION.

SECTION

1. When letters of collection may be granted.
2. Form of same.
3. Collector to give bond, and take oath, as is required of an executor.
4. } Duties of a collector.
5. }

SECTION

6. Collector may sue.
7. Compensation allowed collector.
8. On grant of letters of administration, &c., collector's authority revoked, and he to deliver up property.
9. Qualifications of a collector.

SECTION 1. When, from any cause whatever, there shall be any delay in granting letters testamentary or administration, the orphans' court may, at discretion, issue letters of collection, authorizing the collection and preservation of the personal property of the deceased, and the return of an inventory thereof.

SEC. 2. The form of such letter shall be as follows :

UNITED STATES OF AMERICA,

District of Columbia, Washington county, to wit:

To all persons to whom these presents shall come, greeting :

Know ye, that whereas ———, of ———, deceased had at the time of his death, personal property within this District, the administration whereof cannot be immediately granted, but which, if speedy care be not taken, may be lost, destroyed, or diminished ; to the end, therefore, that the same may be preserved for those who may appear to have an interest therein, I do hereby authorize ———, of ———, to collect, secure, and preserve the same, and to make a true and perfect inventory thereof, to be exhibited with due speed, together with an account of his collection, in the office of the register of wills.

Witness ———, judge of the orphans' court of Washington
city, District of Columbia, this ——— day of ———, ———.

—————, *Register of Wills.*

SEC. 3. Before such letters are granted, the person to be appointed collector shall, using his proper title, give bond and take oath as is required of executors. Such bond shall be filed, recorded, and sued on, as is hereinbefore prescribed for executors' bonds, and it shall, in all other respects, be on the same footing as an executor's bond.

SEC. 4. A collector shall have power to collect and preserve the goods, chattels, personal estate, and debts of the deceased, and to secure the same at such reasonable expense as may be allowed by the orphans' court. He shall cause the same to be appraised, and return an inventory thereof, in the manner hereinafter prescribed for an administrator; and he may, under an order of the orphans' court, sell perishable articles.

SEC. 5. Every collector shall, unless sooner superseded, return, within one month of the date of his letters, with an affidavit of the truth annexed, an inventory of the money of the deceased which has come to his hands.

SEC. 6. A collector may bring suit for the recovery of debts or other property belonging to the deceased, and in case his letters shall be revoked pending any such action, the administrator or executor receiving letters shall have the same control over such action, and the benefit of all judgments obtained thereon, as is hereinbefore given in chapter fifty-four, sections twenty-two and twenty-three, on the revocation of letters of administration.

SEC. 7. The orphans' court may allow a collector, as compensation, such a commission as it shall deem just, not exceeding three per cent., on the amount of property and debts collected and afterwards delivered to the executor or administrator.

SEC. 8. On the granting of letters testamentary or of administration, the collector's letters shall be deemed revoked, and his power shall cease. He shall, on demand, deliver to the executor or administrator the property and debts of the deceased collected by him, except such portion thereof as he may be allowed to retain as compensation, and such delivery may be enforced by attachment and a fine not exceeding two hundred dollars, and his bond may be sued by the executor or administrator.

SEC. 9. The qualifications of a person to be appointed collector shall be the same as those hereinbefore prescribed for an administrator, and when disputed they shall be tried in like manner.

CHAPTER 56.

OF THE INVENTORY AND LIST OF DEBTS.

SECTION

1. Certain terms; how construed.
2. Administrator to return inventory in one month.
3. Court to issue warrant to two appraisers.
4. Form of warrant to appraise.
5. On death, &c., of appraiser another warrant to issue.
6. Appraiser's oath.
7. When appraiser to notify parties interested.
8. Duty of appraisers.
9. Administrator failing to return inventory; penalty of.
10. How same may be returned by one of several administrators.
11. Administrator may adopt collector's inventory, or return a new one.
12. When and how administrator to return an additional inventory.

SECTION

13. What property of deceased exempt from appraisement.
14. The inventory to include all other assets of deceased, save debts due him.
15. What shall be deemed assets.
16. Party concealing assets; how proceeded against.
17. Administrator concealing or not returning same; how proceeded against.
18. Administrator to return, in one month, a list of money on hand and debts due deceased.
19. An administrator not answerable for debts returned good, if not collected.
20. How suit to be instituted, under order of the court, on such list.
21. Naming a party as executor not to extinguish claim against him.
22. When inventory may be dispensed with.

SECTION 1. Every executor and administrator shall observe the following provisions in the settlement of the estates of deceased persons; and the rights, duties, and liabilities of executors and administrators, unless otherwise hereinafter provided, shall be the same. The term decedent shall be taken to mean either a testator or intestate; and the word administrator hereinafter used in this title shall, unless otherwise expressly declared, be construed to mean both executors and administrators.

SEC. 2. Every administrator shall, within one month after the grant of administration, unless a longer time be allowed by the orphans' court, return thereto an inventory of the personal estate of his decedent, with an appraisement of the same, made in the following manner.

SEC. 3. At the time of granting administration, a warrant shall be issued by the court or register to two persons not related to the deceased, nor interested in the administration, directing them to make an appraisement.

SEC. 4. The form of such warrant shall be as follows:

WASHINGTON COUNTY, }
 District of Columbia. }

This is to authorize you jointly to appraise the personal estate of _____, late of _____, deceased, so far as it shall come to your sight or knowledge, each of you having first taken the oath hereto annexed, a certificate whereof you are to return attached to an inventory of such personal estate, in which inventory you are to set down the appraised value of each article in dollars and cents.

Witness _____, judge of the orphans' court.

Teste :

_____, *Register of Wills.*

SEC. 5. On the death of any appraiser, or his refusal or neglect to act, another warrant may be issued.

SEC. 6. Before proceeding to act, the appraisers shall take the following oath, before any person authorized to administer oaths :

"I, _____, do swear, that I will truly value, without partiality or prejudice, the personal estate of _____, deceased, so far as the same shall come to my sight or knowledge, and will in all respects perform my duty as appraiser to the best of my skill and judgment : So help me God."

SEC. 7. If there be any person interested in the administration within the District of Columbia, it shall be the duty of the administrator to give notice to such person, or, in case there be more than one, to at least two of them, of the time and place appointed for making the appraisement.

SEC. 8. The appraisers shall set down each article, with the value thereof in dollars and cents, and cast up the contents of each column and of the whole, and return the inventory, under their hands and seals, to the administrator, who shall deliver the same, with the warrant and the oaths of the appraisers annexed, to the court or register.

SEC. 9. If an administrator shall fail to return an inventory within the time herein directed, the orphans' court may attach and fine him, not exceeding fifty dollars. The court may also, ex-officio, or on the application of any person interested, issue a summons for such administrator, returnable in not less than ten nor more than thirty days, to show cause why such inventory has not been exhibited ; and

upon a return of "summoned," or two returns of "non est," if the party fail to appear, or, appearing, fail to show cause for his neglect, his administration may be revoked.

SEC. 10. Any one administrator may, upon the neglect of his co-administrator, return such inventory, and thenceforth the co-administrator shall cease to have any part in the administration, unless, within two months from such return, he shall assign to the court satisfactory excuse for his neglect.

SEC. 11. When an inventory has been returned by a collector, an administrator may, in his discretion, either return a new inventory, or, by an acknowledgment of his purpose, in writing, to be filed in the register of wills' office, adopt the inventory of the collector.

SEC. 12. Whenever personal property of the decedent, not mentioned in an inventory already returned, shall come to the possession or knowledge of an administrator, an inventory of the same shall be returned within one month from the discovery thereof, appraised by two disinterested sworn appraisers, appointed as hereinbefore provided; and the making and return of such inventory shall be enforced in the same manner as provided with respect to the first inventory.

SEC. 13. The following articles shall be exempt from appraisement, and be omitted in making the inventory, to wit:

First. All property not liable to have been taken at law, in the lifetime of the deceased, on an execution against him.

Second. All articles of apparel or ornament of the widow suitable to the station and estate of her husband; and also all the apparel of the minor children, if there be any.

Third. When the decedent shall leave a child, grandchild, or widow, his wearing apparel, not to include jewelry of any kind, shall be exempt from appraisement, and shall belong first to such child, and if no child, then to the grandchild, and if there be neither child nor grandchild, then to the widow of the decedent. If there be more than one child or grandchild entitled, the administrator shall make such a division among them as he shall think proper.

SEC. 14. With the exceptions provided for in the section immediately preceding, and the debts due the decedent, all his assets shall be included in such inventory.

SEC. 15. The following shall be deemed assets in the hands of an administrator, to wit: leases for years; estates for the life of another,

except those granted to the deceased and his heirs only; the crop on the land of the deceased by him begun; things annexed to the freehold or building which may be removed without prejudice to the building, and all debts due deceased, and negroes, produce, and every other species of personal property, except those things denominated heir looms.

SEC. 16. If an administrator shall believe that any person conceals any part of decedent's personal property, he may file a petition in the orphans' court alleging such concealment, and the court shall compel an answer thereto on oath, and if satisfied, upon an examination of the whole case, that the party charged has concealed any part of such property, may order the delivery thereof to the administrator, and may force obedience thereto by attachment and fine not exceeding three hundred dollars, or by sequestration of property.

SEC. 17. If any person interested in the decedent's estate shall, by petition, allege that the administrator has concealed, or has in his hands, and has not returned in the inventory or list of debts, any part of his decedent's assets, the orphans' court may compel an answer to such petition; and should it finally adjudge in favor of the allegations of the petition, in whole or in part, it shall order an additional inventory and appraisement, or list of debts, to be made, to comprehend the assets omitted, and may enforce obedience to such order as provided in the previous section, and may also revoke the administration.

SEC. 18. Every administrator shall, within one month from the grant of administration, return, with an affidavit of the truth annexed, an inventory of the money belonging to his decedent which has come to his hands, and also of the claims, debts, or demands due him which have come to his knowledge. He shall specify the nature of each debt, distinguishing such as are in his opinion good from those he shall deem desperate.

SEC. 19. Such return as to the character of the debts shall be made to enable the court, and others interested, to form a just estimate of the circumstances of the deceased, but shall not be held to fix upon the administrator a liability for a debt which he shall return as good if the same be not collected.

SEC. 20. The court shall examine every list of debts returned by an administrator, and for every debt which the court shall not mark as desperate or improper to be put in suit, the administrator shall com-

mence a suit, unless the debt be paid within four months, or unless the court shall think reasonable an excuse made by the administrator within one month after the lapse of the said four months for not bringing suit; and on failure to bring such suit, the party shall be liable on his administrative bond.

SEC. 21. The bare naming of an executor in a will shall not operate to extinguish any just claim against him, but he shall give in the same in the list of debts, and on failure he shall be proceeded against in the manner hereinbefore directed with respect to administrators not returning all the assets of their decedents.

SEC. 22. An inventory of the property of a decedent may be dispensed with in accordance with the provisions hereinafter contained in sections fourteen and fifteen of chapter fifty-eight.

CHAPTER 57.

SALES OF ASSETS BY ADMINISTRATOR, AND PAYMENTS OF CLAIMS AGAINST THE ESTATE OF DECEASED.

SECTION

1. Sales of decedent's personal estate; when ordered by orphans' court.
2. Terms of sale.
3. In case of collusion, &c., administrator to account for deficiency.
4. Growing crops may be finished or sold, and how.
5. Sales of real estate by executor to be confirmed by orphans' court.
6. Administrator not to pay claim against decedent unless passed by orphans' court or proved.
7. Effect of court passing such claim.
8. The register to record all claims passed, and effect of.
9. Claims not passed to be proved.
10. Judgment; how proved.
11. Claim of surety; how proved.
12. Bond, note, bill of exchange, &c.; how proved.
13. Same; all assignors to make oath.
14. Protest of bill of exchange.
15. Claim for rent; how proved.
16. Claim on open account; how proved.

SECTION

17. } Claims, &c., for dealings with a factor.
18. }
19. Affidavits made out of the District; how certified, &c.
20. Additional proof required when claimant is administrator.
21. When there are several creditors, the oath of one sufficient.
22. Administrator not bound to avail of the plea of limitation.
23. Claims on the part of an estate or against it; how arbitrated.
24. Award to be returned to orphans' court.
25. Manner of confirming same.
26. Public notices to be given by administrator.
27. Evidence of same; how preserved.
28. Administrator having given five months' notice as aforesaid, and paid away, &c., assets, not liable for claims not known to him.
29. Within what time administrator to pay debts.
30. How to distribute assets afterwards coming to hand.

SECTION	SECTION
31. How administrator may retain for a claim known to him but not exhibited.	when about to pay creditors and stop interest.
32. Same; for claims disputed or rejected.	34. } Order in which debts are paid.
33. How administrator may give notice	

SECTION-1. The orphans' court may direct a sale of decedent's personal estate, or any part thereof, whenever an administrator shall not have money to discharge the just claims against the estate, or whenever the court shall deem a sale advantageous to the persons interested in the administration.

SEC. 2. The orphans' court shall prescribe the terms of sale: provided, however, that when credit is given, it shall in no case exceed four months, and that bond, or note, with security or endorsement, shall always be taken.

SEC. 3. The court shall have power, in case of fraud, collusion, or improper management at such sale, to compel the administrator to account for all such deficiencies as may have arisen from his misconduct, always observing the inventory as the rule for ascertaining such deficiency.

SEC. 4. An administrator shall finish the growing crops begun by his decedent, or sell the same. If he finish them, he shall be allowed all the expenses thereof, and shall account for all the proceeds; if he sell, he shall give the person entitled to the land the privilege of taking the crops at the appraised value, for cash, notes, or bonds taken in conformity with preceding section number two, and if the person so entitled to elect refuse to take the crops, the administrator shall sell to any other person, on the same terms, and he may, with the sanction of the orphans' court, sell below the appraised value.

SEC. 5. Every sale of real estate made by an administrator with the will annexed, or an executor under the will of a decedent, shall be reported to the orphans' court, and, unless confirmed therein, shall be void. No sale shall be confirmed by the orphans' court until such notice, by publication, be given, as the court may direct, or until all the parties interested in the same shall consent in writing.

SEC. 6. An administrator shall pay no claim against his decedent, or be allowed therefor in his accounts, unless such claim has been passed by the orphans' court, or has been proved according to the following rules:

SEC. 7. The orphans' court may pass any claim against a decedent

it may deem just, and the same shall be full authority to an administrator to pay it, but shall not compel him so to do. The administrator may, notwithstanding such sanction, refuse to pay the claim, and contest the same, when the claim shall be proved in the same manner as if no such sanction had been given.

SEC. 8. The register of wills shall enter upon the records of the court the passage of each claim, with the name of the creditor, the character of the claim, in brief, and the amount thereof. Such entry shall be indexed in the name of the decedent, and shall be deemed notice to the administrator of the existence of the claim.

SEC. 9. Claims not passed by the orphans' court shall be proved, in the manner hereinafter directed, before an administrator shall pay the same.

SEC. 10. The voucher or proof of a judgment shall be a short copy thereof, under seal, attested by the clerk or register of the court where it was obtained, who shall certify that there is no entry or proceeding in the court to show that such judgment has been satisfied. There shall likewise be a certificate, by some person authorized to administer an oath, endorsed on or annexed to a statement of the debt due on such judgment, that the creditor, since the death of the decedent, hath taken before him the following oath, to wit: "That he hath not received any part of the sum for which the judgment was passed, except such part (if any) as is credited;" and if the creditor, on a judgment, be an assignee of the person who obtained it, the oath shall say further, "and that to the best of his knowledge and belief no other person hath received any part of the said sum, except what (if any) is credited." And an assignee shall also produce the assignment under the hand of the assignor, and if there be more than one assignment, such assignment shall be produced under the hand of the party.

SEC. 11. If a surety shall have discharged a judgment against the decedent, he shall be considered as the judgment creditor, and in case the plaintiff who obtained the judgment shall not have assigned the same, as he ought to do, to the surety, a receipt from him, given to the surety, shall be considered equivalent to an assignment.

SEC. 12. In case of a specialty, bond, note, or bill of exchange, the vouchers shall be the instrument of writing itself, or a proved copy in case it be lost, with a certificate of the oath made as aforesaid,

since the death of the decedent, and endorsed on or annexed to the instrument, or a statement of the claim, "that no part of the money intended to be secured by such instrument hath been received, or any security or satisfaction given for the same, except what (if any) is credited."

SEC. 13. If the creditor on such instrument be an assignee, there shall be the same oath of the original creditor with respect to the time of assignment, and in case of successive assignees, there shall be the same oath taken by each with respect to the time of each respective assignment.

SEC. 14. In case of a bill of exchange, the protest and other things which would be required if the decedent were alive, shall be necessary to justify an administrator in paying the same.

SEC. 15. If the claim be for rent, there shall be produced the lease itself, or the deposition of some credible witness, or an acknowledgment in writing of the decedent establishing the contract, and the time which has elapsed during which rent was chargeable, and a statement of the sum due for such rent, with an oath of the creditor endorsed thereon, "that no part of the sum due for said rent or any security or satisfaction for the same has been received, except what (if any) is credited;" and if the creditor be an assignee, there shall be the same oath of the original creditor with respect to the time of assignment.

SEC. 16. The voucher or proof of any claim on open account shall be the affidavit of any disinterested credible witness, to the delivery or payment of any money, or the delivery or sale of any goods, wares, or merchandise, or the performance of any work, labor, or service, or any other matter properly chargeable in account, and the price or value of the same, and also the certificate of an oath taken by the creditor as aforesaid since the death of the decedent, endorsed on or annexed to the account, "that the account is just and true, and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same, except what (if any) is credited."

SEC. 17. If the claim arise on a bond, note, or bill of exchange, or account for dealing with a factor, and the principal be out of the District, the factor who took the said bond, note, or bill, or who sold or delivered the articles in the account, may make oath, to be certi-

fied as aforesaid, and endorsed on a statement of the money due thereon, "that the said statement is just and true, and that he (the deponent) took the said bond, or note, or bill, or delivered the articles charged in the account, as factor to ———, living in (or lately of) ———, and that neither he the deponent, nor the principal, nor any other person for him or the principal, to his knowledge or belief, hath received any part of the money originally due on such bond, note, bill, or account, or any security or satisfaction for the same, except what (if any) is credited;" and the said oath, with the other respective vouchers and proofs as aforesaid, shall authorize the administrator in making payment or dividend.

Sec. 18. If the factor aforesaid be dead or out of the District, and the principal be also out of the District, and, in case of account, it shall appear that the same has been proved by a disinterested credible witness, as provided in preceding section sixteen of this chapter, an oath of any other factor, made after the death of the decedent, and certified and endorsed on the statement as aforesaid, "that the said bond, note, bill, or account, came into his hands as factor for the creditor, residing in ———, after the death (or removal) of ———, the factor who took the said bond, note, bill, or delivered the articles in the account; that he has reason to believe, and does believe, that the said statement is just and true, and that no part of the money originally due on such bond, note, bill, or account, or any security or satisfaction for the same, hath been received, except what (if any) is credited;" with the other respective vouchers or proofs as aforesaid shall authorize the administrator in making payment or dividend.

Sec. 19. When any affidavit or deposition to prove claims shall have been taken out of this District, the same shall be good, if taken and certified as aforesaid by the notary of the place, or by some person there authorized to administer oaths, and certified to be such under the seal of the governor, or mayor, chief magistrate, or clerk of any court of record, or notary public of such place.

Sec. 20. If the creditor be an administrator, the claim shall not be allowed, although proved as before provided, unless he make oath, to be certified as aforesaid, "that it does not appear from any book or writing of his decedent that any part of the said claim has been discharged, except what (if any) is credited;" and shall also have had such claim passed by the orphans' court.

SEC. 21. If there be more than one creditor, the oath of one, with the other vouchers, shall be sufficient.

SEC. 22. It shall not be the duty of an administrator to avail of the plea of limitation to bar what he supposes to be a just claim, unless requested in writing to do so by some person interested in the estate.

SEC. 23. The orphans' court may, with the consent of the parties, to be entered on its proceedings, arbitrate between a claimant and an administrator, or between an administrator and a debtor of the deceased, or may refer the whole matter to any person appointed by the parties and approved by the court.

SEC. 24. Every award made pursuant to the provisions of the preceding section shall be returned to the orphans' court, and shall be of no effect unless confirmed by the same. On being confirmed, the same shall be final and without appeal.

SEC. 25. No award shall be confirmed without notice to the parties, unless by consent, and either party may file exceptions thereto for matters apparent upon its face, or extrinsic, and the court may confirm or reject the same, and may send the case to the same or to other referees. The orphans' court shall also establish all necessary rules in regard to notice and exceptions.

SEC. 26. Every administrator shall, under the order of the orphans' court, publish, three times a week for two successive weeks, in such newspapers as the court shall direct, the following notice :

“ This is to give notice that the subscriber, of ———, hath obtained from the orphans' court of Washington county, District of Columbia, letters testamentary (or of administration) on the personal estate of ———, late of ———, deceased : all persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the ——— day of ——— next ; they may otherwise, by law, be excluded from all benefit of said estate.

Given under my hand, this ——— of ———, ———.”

SEC. 27. The administrator may report to the court the fact of having given such notice, with an affidavit of the truth thereof annexed, as also a copy of the advertisement, and the court, on being satisfied to that effect, shall endorse on the report a certificate that it

has been proved to its satisfaction that the notice has been given, as therein reported, and shall order such report and certificate to be recorded among the records of the court, and such report and certificate, or a copy thereof under the seal of the orphans' court, shall be legal and competent evidence in all cases of the giving of such notice.

SEC. 28. No administrator who, after the expiration of six months from the date of his letters, shall have paid away assets to the discharge of just claims, or who shall have delivered or distributed the same as hereafter directed, shall be answerable for any claim of which he had no notice or knowledge: provided, that he has given at least five months' notice in the manner hereinbefore prescribed in section twenty-six.

SEC. 29. It shall be the duty of an administrator, within six months after the date of his letters, or within such further time, not exceeding six months longer, as shall be allowed by the orphans' court, (on his making oath that the assets in his hands cannot sooner be converted advantageously into money to pay the debts of the deceased,) to discharge all just claims exhibited and proved as aforesaid, or to pay each claimant his just proportion of the same, retaining as hereinafter directed in certain cases.

SEC. 30. It shall also be his duty, every six months after his first payment, to make distribution of the assets which have since come into his hands until he shall have fully administered.

SEC. 31. An administrator may, with the sanction of the orphans' court, retain for any claim, or for a just proportion thereof, known to him, though the same be not exhibited, on his satisfying the court of the justice of the claim, or that it may probably be recovered; provided, that the sum so retained shall be accounted for as if such claim were unknown, if the creditor, on receiving a special notice from the administrator to that effect, shall not, within three months thereafter, prefer his claim, duly proved.

SEC. 32. An administrator may also retain, in like manner, for any claim disputed or rejected by him; and if, within the period of six months after such rejection, the claimant do not bring suit, the claim shall be forever barred.

SEC. 33. When an administrator is to make payment to creditors, he may give notice, for two consecutive weeks, by publication in some newspaper indicated by the court, of the time and place of making

it; and if any creditor shall fail to attend to receive the amount or proportionable part of his claim, all interest thereon shall cease: provided, that the administrator shall thereafter, on demand, pay the said claim or proportionable part.

SEC. 34. After discharging the necessary funeral expenses of the deceased, and those of his last sickness, and the charges of administration, his estate shall be applied to the payment of his debts, in the following order:

First. Debts entitled to a preference under the laws of the United States.

Secondly. Debts due as administrator, executor, guardian, or committee, where the qualification was in this District; in which shall be included a debt or demand for money or other property received by a husband acting as such fiduciary in right of his wife.

Thirdly. All other demands ratably, except those in the next class; and,

Fourthly. Voluntary obligations.

SEC. 35. If there be not enough to pay all the debts of any one class, all the creditors of that class shall be paid ratably in proportion to their respective debts, and no payment shall be made to creditors of any one class until all those of the preceding class or classes shall be fully paid.

CHAPTER 58.

ACCOUNTS OF ADMINISTRATORS, PAYMENT OF LEGACIES, AND DISTRIBUTION OF ESTATE OF DECEASED.

SECTION

1. Administrator to account in six months, unless a longer time be allowed by court.
2. Accounts; how stated; dr. side.
3. Accounts; how stated; cr. side.
4. Outstanding debts, or newly discovered assets; how accounted for.
5. Administrator to be charged with increase of estate, and credited with losses happening without his fault.
6. When claims against deceased are paid, administrator to distribute estate in hand.

SECTION

7. When court may authorize partial payment to distributee or legatee, before debts are paid.
8. Same in favor of specific legatee.
9. Executor or administrator, c. t. a., to retain for a contingency, under direction of the circuit or orphans' court.
10. An executor, &c., to account with orphans' court for proceeds of sales of real estate, and his commissions.
11. Administrator failing to account, his letters may be revoked, and his bond sued.

SECTION

12. The administrator of a deceased administrator to render his account.
13. The husband of an administratrix dying, to do the same.
14. } When an account and inventory need
15. } not be exhibited.
16. Compensation allowed to administrator.
17. Compensation left to an executor may be waived.
18. When administrator to make distribution, and how.
19. When widow shall be entitled to all.
20. When widow shall be entitled to one-half.
21. When widow shall be entitled to one-third.
22. Surplus; how disposed of
23. When to children.
24. When and how to a child, and the descendants of other children.
25. When to father.

SECTION

26. When to brothers and sisters, or their descendants.
27. When to the mother.
28. When to collateral relations generally.
29. When to grandfather.
30. On death of intestate without relations within the fifth degree, surplus to go to United States for public schools.
31. If any one entitled to distributive share, die before the same be made, it shall go to his representative.
32. Effect of advancement to a child or descendant.
33. How posthumous children may take.
34. How illegitimate children may take and transmit.
35. } Distribution; how made of specific ar-
36. } ticles.
37. All accounts of administrators to be verified by oath.
38. Widow's distributive share; when barred by devise or bequest.

SECTION 1. Every administrator shall, within six months after the date of his letters, unless a longer time be allowed in accordance with the provisions of section twenty-seven of previous chapter, return to the orphans' court a full account of his administration.

SEC. 2. In the accounts of an administrator shall be stated, on one side, the assets which have come to his hands, according to the inventory returned to court; also all moneys received by him, and the excess of the proceeds of sales of assets over appraised value thereof.

SEC. 3. On the other side, he shall state the credits claimed by him, as follows:

First. Funeral expenses, to be allowed at the discretion of the court, according to the condition and circumstances of the deceased, not exceeding three hundred dollars.

Secondly. The debts of the deceased, proved or passed as hereinbefore provided, and paid or retained for.

Thirdly. The allowance for things lost, or which have perished, without the administrator's fault, including losses on sales of assets.

Fourthly. His compensation.

Fifthly. His allowance for costs, and for extraordinary expenses,

(not personal,) which the court may think proper to allow, laid out in the recovery or security of any part of the estate.

SEC. 4. If the first account of an administrator, to be returned as aforesaid, shall not show the estate which was on hand to be fully administered, by reason of outstanding debts due the deceased which have not matured, or could not so soon be collected, other accounts shall be returned within every period of six months thereafter, until the estate shall appear to be fully administered: provided, however, that an administrator shall not be compelled to render such additional accounts, when it appears to the court that the estate has been fully administered, save as to debts which the court shall set down as desperate, unless the same shall afterwards be recovered. Whenever a discovery or receipt of assets shall occur after an administrator has rendered his account, another account shall be rendered by him within two months after such discovery or receipt.

SEC. 5. When it shall appear, by the account of an administrator, that all the claims against or debts of the deceased, which were known by, or notified to the administrator, have been discharged or retained for, it shall be his duty to deliver up the estate in his hands to those entitled, or to distribute the same, as hereinafter directed; provided that his power and duty as to future assets shall not cease.

SEC. 6. The orphans' court shall have power to make allowances to an administrator for property of the deceased which has perished or been lost without his fault; and no profit shall be made, nor loss be sustained, by an administrator in the increase or decrease of the estate, but he shall return an inventory and account of such increase, and may be allowed for such decrease on the settlement of his account.

SEC. 7. When a party entitled to any or all of the assets after the payment of debts, shall apply by petition, and satisfy the orphans' court that he is in want of subsistence, or greatly straitened in circumstances, and that there is no reason to apprehend that it will require more than one-half of the assets to pay the debts, the court may direct the administrator to deliver to the petitioner any part of what it shall suppose will be the petitioner's distributive share, or any part of a legacy or bequest in money, not exceeding one-half part of either, the petitioner giving bond, with security approved by the court, to the administrator, for returning the same, or an equi-

valent, with interest, whenever so directed by the court; and the orphans' court shall have power to determine, in a summary manner, on any such petition, after a summons against the administrator duly returned summoned.

SEC. 8. The court may also, in like manner, on the petition of any person in such circumstances to whom a specific legacy or bequest has been made, and on being satisfied that the assets, exclusive of all specific legacies, will not be nearly exhausted by debts, direct the administrator to deliver to the petitioner the specific legacy or bequest, on his giving bond as aforesaid.

SEC. 9. If, by the provisions of a will, it shall be necessary for an executor, or an administrator with the will annexed, to retain in his hands the personal estate or a part thereof, after all just claims are discharged, (as where money or some other thing is directed to be paid or delivered at a distant period, or upon a contingency,) the circuit court, or the orphans' court, shall have power, on the application of such executor or administrator, or of a party interested, to direct by its order what part of the personal estate shall be retained or appropriated for the purpose, and in what manner it shall be disposed of, and the legacy or benefit intended by the will shall be secured for the person to be entitled at a future period or contingency; and how the necessary part of the personal estate to be appropriated for the purpose shall be made productive, and be applied agreeably to the intent of the will, or the construction of law, in case the contingency shall not take place.

SEC. 10. An executor, or an administrator, with the will annexed, who shall be authorized by the will to sell real estate, shall account for the proceeds of sales with the orphans' court, and his bond shall be liable for the same. He may be allowed a commission on such sales, not exceeding that herein prescribed as compensation to administrators.

SEC. 11. If an administrator shall fail to return an account, as hereinbefore directed, his letters, on the application of any person interested, may be revoked, and the party who succeeds to the administrator may put the delinquent's bond in suit.

SEC. 12. The administrator of a deceased administrator, who shall die before an account of his administration has been rendered, shall

render the same, showing the amount of the assets received, and the payments made by his decedent.

Sec. 13. The husband of an administratrix, who shall die before a final account of her administration shall have been settled, shall render an account showing thereby the amount of assets received and payments made by such administratrix, or that have been received or paid by him, and not before accounted for with the court; and in case of the refusal so to do, the court may proceed against him by attachment, and may commit him until he shall comply.

Sec. 14. No executor, or administrator, with the will annexed, shall be obliged to exhibit an inventory or account, who, instead of the bond hereinbefore directed, will give one in such penalty, and with such security, as the court may approve, to be recorded and used on as before directed, conditioned "for paying all just debts of, and claims or demands against, the deceased, and also all legacies bequeathed by the will;" provided such party be residuary legatee, or the residuary legatee of full age shall notify his consent thereto in writing to the court. If such bond be given, the executor or administrator shall be answerable for all debts, claims, or demands as aforesaid, and any legatee may recover the full amount of his legacy, and in an action therefor, the giving of such bond shall be considered as an assent to the legacy.

Sec. 15. No administrator entitled to the whole residue, after payment of debts, claims, and demands against the intestate, shall be obliged to return an inventory or account, provided he will give bond with such security and in such penalty as the court shall approve, conditioned "for paying all debts, claims, and demands against the deceased;" and, in case he shall give such bond, he shall be answerable for all such debts, claims, and demands, as in the preceding section.

Sec. 16. An administrator shall be allowed the following commissions upon the amount of the assets collected and accounted for by him, excluding what is lost or hath perished, and the same shall be in full for all his ordinary services; that is to say: on the first thousand dollars, at the rate of ten per cent.; on all above that sum, and not exceeding five thousand dollars, at the rate of five per cent.; and on all above five thousand dollars, at the rate two per cent. And in

all cases such further allowances shall be made to reimburse his actual and necessary personal expenses as the court shall consider just and proper, not exceeding in amount one-half of the sum allowed him for commissions.

SEC. 17. If any provision be made in a will by way of compensation to an executor, the same shall be deemed a full satisfaction for his services, in lieu of the aforesaid allowances, or his share thereof, unless he shall, by writing, filed in the orphans' court, renounce all claim to the provision made in the will.

SEC. 18. When all the debts of an estate exhibited and proved, or known and not barred, shall have been discharged or allowed to be retained for, as hereinbefore directed, the administrator shall make distribution of the surplus as follows:

SEC. 19. If the intestate leave a widow and no child or descendant, parent, brother or sister, or the child of a brother or sister, the widow shall be entitled to the whole.

SEC. 20. If there be a widow and no child or descendants of an intestate, but the intestate shall leave a father or mother, a brother or sister, or a child of a brother or sister, the widow shall have one-half.

SEC. 21. If there be a widow and a child, or a descendant from a child, the widow shall have one-third only.

SEC. 22. The surplus, exclusive of the widow's share, or the whole surplus, if there be no widow, shall go as follows:

SEC. 23. If there be a child or children and no other descendants, the surplus shall go to such child, or be divided equally among them when there is more than one.

SEC. 24. If there be a child or children and a child or children of a deceased child, the child or children of such deceased child shall take such share as his or their deceased parent would, if alive, be entitled to; and every other descendant in existence at the death of the intestate shall stand in the place of his deceased ancestor: provided, however, that if all the children of the intestate be dead, and their descendants be related in equal degree to the intestate, they shall then take the surplus equally, and not by representation.

SEC. 25. If there be a father and no child or descendants, the father shall have the whole.

SEC. 26. If there be a brother or sister, or child or descendant of a brother or sister, and no child, descendant or father of the intestate,

such brother, sister, or child, or descendant of a brother or sister, shall have the whole. Every brother and sister shall be entitled to an equal share; and the child or descendant of a brother or sister of the intestate shall stand in the place of such brother or sister, except all the brothers and sisters be dead, when their descendants, if related to the intestate in equal degree, shall take equally, and not by representation.

SEC. 27. If the intestate leave a mother and no child, descendant, father, brother, sister, or descendant of a brother or sister, the mother shall be entitled to the whole; and in case there be no father, a mother shall have equal share with the brothers and sisters of the intestate and their descendants.

SEC. 28. After children, descendants, father, mother, and brothers and sisters of the intestate, and their descendants, the nearest collateral relations within the fifth degree shall take, and no representation amongst such collaterals shall be allowed; and there shall be no distinction between the whole and half blood.

SEC. 29. If there be no collaterals entitled to take, a grandfather may take, and if there be two grandfathers, they shall take alike; and a grandmother, in case of the death of her husband, the grandfather, shall take as he might have done. After them, other ancestors, in their order, may take in like manner.

SEC. 30. If any person entitled to distribution shall die before the same be made, his share shall go to his representative.

SEC. 31. If there be no relations of the intestate within the fifth degree—which among collaterals shall be reckoned by counting down from the common ancestors to the more remote member—the surplus shall go to the United States, and shall be divided among the public schools of this District, as is provided in Part I with regard to fines.

SEC. 32. The distributive share of any descendant of an intestate shall be taken, always subject to the provision of section seven, chapter fifty-one, of this Code, with regard to advancements. But the widow shall have no advantage by bringing such advancement into reckoning; and the maintenance or education of a descendant, or money given to him without a view to a portion or settlement in life, shall not be deemed an advancement.

SEC. 33. Posthumous children of intestates shall take in the same manner as if they had been born before the death of the intestate;

but no other posthumous relation shall be considered as entitled to distribution in his own right.

SEC. 34. The illegitimate child of any female may take and transmit personal estate from his mother, as if born in lawful wedlock. And if any illegitimate child shall die intestate, without issue entitled to same, his personal estate shall go to his mother.

SEC. 35. In case the surplus remaining in the administrator's hands, after payment of all just debts exhibited and proved, or known, and not barred, or after retaining for the same, shall consist of specific articles of property mentioned in the inventory, the same may be distributed in the manner provided in this and the following section. The administrator, if he cannot satisfy the parties, may apply to the orphans' court to make distribution, and, by summons, call upon the parties to appear; and the court may, at the appointed time, proceed to distribute. But if a majority, in point of value, shall neglect to appear, or, appearing, shall object to the distribution of the articles, or if the court shall deem a sale of such articles, or any of them, more advantageous, a sale shall be directed accordingly, and the rules hereinbefore laid down relative to sales by order of the orphans' court shall be observed.

SEC. 36. Or the orphans' court may appoint two disinterested persons, not in any way related to the parties concerned, to make such distribution among them as shall seem proper; and if, in their opinion, upon a view of such articles, no distribution among the parties entitled can be made which would operate equally, but a sale would appear more advantageous, these facts shall be certified to the court in writing, and the court shall thereupon order a sale, and the proceeds thereof, as also the proceeds of sales under the preceding section, shall be distributed among the parties entitled.

SEC. 37. Every account returned by an administrator to the orphans' court shall be verified by his oath.

SEC. 38. A devise of lands, or any estate therein, or bequest of personal property, to the wife of a testator, or to any other person in trust for her, shall, if intended to be in lieu of her distributive share of his estate, bar her of the same, unless she shall renounce the provision, as hereinbefore provided, to save dower; and the same rule of construction, to ascertain the intention of the testator, shall govern.

CHAPTER 59.

MISCELLANEOUS PROVISIONS RELATIVE TO ADMINISTRATION.

SECTION

1. When and how counter, new, or additional security may be required of an administrator.
2. On his failure to give it, his administration to be revoked, and the estate to be delivered up.
3. How joint administrator may proceed against his co-administrator, in the event of his misconduct.
4. Receipts and releases to an administrator; how acknowledged and certified; to be recorded by the register.
5. A copy of same, attested by register, evidence.
6. Such receipt or release to be retained in office of register.
7. Payments, &c., by administrators to guardians, irregularly appointed; when valid.
8. } When administration may be revoked.
9. }

SECTION

10. Appointment of a new administrator, and other proceedings, on such revocation.
11. Rights of succeeding administrator.
12. Executor de son tort.
13. Inventory of partnership effects.
14. When surviving partner to have management of partnership property.
15. Condition of bond to be given by him.
16. Power of orphans' court over surviving partner, and remedies of parties against him.
17. When administrator to have management of partnership effects.
18. Bond to be given.
19. Surviving partner to exhibit, &c., property of firm.
20. Proceedings in case of his refusal so to do.

SECTION 1. The orphans' court may, on the application of any surety on the bond of an administrator, or on the application of any person interested in the estate of such surety, who may conceive himself in danger of suffering from the suretyship, call upon the administrator to give counter security to be approved by the court. It may also require new or additional security of administrators, as hereinbefore provided in chapter six, Part I, of this Code.

SEC. 2. On the failure of an administrator to comply with the order of the court to give either counter, new, or additional security, his administration shall be revoked, and another administrator shall be appointed in his stead, and the delivery to such newly-appointed administrator of all the estate in the hands of the former administrator then unadministered, together with all books, papers, and evidences of debt of the deceased, may be ordered by the court, and a disobedience of same punished as a contempt.

SEC. 3. If any joint administrator shall represent, by petition, to the orphans' court, that he is likely to suffer by the improper use or application of the assets by his co-administrator, or by other miscon-

duct or negligence of his in the administration, and the court, after summoning such co-administrator, and giving him ten days' notice in writing of the character of the application, shall deem the complaint of the petitioner well founded, it shall revoke the letters of such co-administrator, and may order the delivery by him to the remaining administrator, of all the assets of the estate, and of all books, accounts, and evidences of debt belonging to the same, and may enforce a compliance therewith, as provided in the section immediately preceding. The remaining administrator may also recover for any loss or damage that he may be subjected to or suffer by the administrator whose powers have been revoked.

SEC. 4. Any receipt, release, or acquittance, to an administrator, (which shall be acknowledged and certified, as hereinbefore provided in chapter forty-eight in regard to deeds,) from a guardian, or from any heir, distributee, or legatee, of the age of twenty-one years, or of eighteen years if a female and married to a person of full age, her husband uniting, or from an attorney duly authorized by such parties to execute the same, may be recorded in the office of the register of wills; and when the same is executed in virtue of a power of attorney, such power of attorney shall be acknowledged and certified as the release or receipt is required to be, and shall likewise be recorded in the register's office.

SEC. 5. A copy of any such receipt or release, or of any such power of attorney, and of a receipt or release executed in pursuance thereof, duly attested by the register, under the seal of the orphans' court, shall at all times be admitted as sufficient evidence to prove the same.

SEC. 6. Every such receipt or release, and power of attorney, shall be retained and preserved in the office of the register after it is recorded.

SEC. 7. When any guardian shall be irregularly appointed by the orphans' court, and his appointment shall be liable to be revoked or declared void, for any cause whatever, any payment or delivery to him by an administrator, before his appointment shall have been revoked or declared void, of any legacy, distributive share, or personal property, shall have the same force and validity as if the appointment were regular and not liable to be revoked, and every such guardian so receiving money or other property shall be liable to account for the same, and his bond shall be responsible therefor.

SEC. 8. Administration may be revoked whenever an executor not authorized by will to sell, or an administrator shall sell, any part of a decedent's estate without an order of the orphan's court directing such sale.

SEC. 9. Administration may also be revoked whenever an administrator shall fail to comply with an order of the orphans' court directing him to bring into court, or place in bank or invest in bank or any other good security, any money or other funds or property received by him.

SEC. 10. Whenever the orphans' court shall revoke letters testamentary, or of administration, and there be no remaining administrator or executor, it shall be the duty of the court to appoint a new administrator; and if the party whose administration shall be revoked shall not, within a reasonable time, to be fixed by the court, deliver over to the new administrator, or to the remaining administrator or executor, all the property of the decedent remaining in his hands unadministered, and also all the books, bonds, notes, and evidences of debt, or funds, belonging to said decedent, the court may compel the delivery and payment of same by attachment for contempt, or sequestration of property, and may direct his bond to be put in suit.

SEC. 11. In all cases where an executor or administrator shall die, or be removed, and another administration shall be granted, the succeeding administrator shall have the benefit of and be bound by all judgments obtained by or had against his predecessor, subject to savings similar to those contained in section twenty-three of chapter fifty-four.

SEC. 12. Every person who shall unlawfully intermeddle with any property of a decedent shall be chargeable as executor of his wrong, and shall be liable to an action to the extent of the damage occasioned thereby. The measure of such damages shall be the value of the property taken, with interest thereon at the rate of ten per centum per annum, and compensation for any special damage sustained.

SEC. 13. An administrator or executor upon the estate of any deceased member of a copartnership, shall include in the inventory which by law he is required to return, the whole of the partnership property, rights, and credits, appraised at their true value, as in other cases; but the appraisers shall carry out in the footing an

amount equal only to the deceased's proportional part of the copartnership interest.

Sec. 14. The copartnership property thus appraised shall remain with, or be delivered over, as the case may be, to the surviving partners, who may be disposed to undertake the management thereof, agreeably to the condition of a bond which they shall be required to execute to the United States in such sum, and with such sureties, as are required in ordinary cases of administration.

Sec. 15. The condition of such bond shall in substance be as follows :

The condition of the above bond is, that if ———, (or ——— and ———,) surviving partner (or partners) of the late firm, shall use due diligence and fidelity in closing the affairs of the said copartnership, apply the proceeds thereof towards the payment of the copartnership debts, render a true account, on oath, to the orphans' court, whenever required so to do by said court, of all copartnership affairs, and pay over within six months, unless a longer time be allowed by said court, to the executor or administrator, the excess, if any there be, beyond satisfying the partnership debts ; then this bond shall be void, otherwise it shall remain in full force.

Sec. 16. The orphans' court shall have the same authority to cite such survivor or survivors to account, and to pass upon the same, as in the case of an ordinary administration ; and the parties interested shall have the like remedies, by means of such bond, for the misconduct or neglect of such survivor or survivors as may be had against administrators.

Sec. 17. In case the surviving partner or partners, having been duly cited for that purpose, shall neglect or refuse to give the bond required by law, the executor or administrator on the estate of such deceased partner, on giving a bond as provided in the following sections, shall forthwith take the whole partnership property, rights, and credits into his own possession, and shall be authorized to use the name of the survivor or survivors in collecting the debts due the late firm, and shall, with the partnership property, pay the debts due from the late firm, and return to the survivor or survivors his or their proportion of the excess, if any.

Sec. 18. Before proceeding to administer such partnership property, as provided in the preceding section, such executor or adminis-

trator shall be required by the orphans' court to give further bond, to its satisfaction, conditioned that he will faithfully execute his trust according to law, which bond may be enforced like other administration bonds.

SEC. 19. Every surviving partner, on the demand of any administrator or executor of a deceased partner, shall exhibit to the appraisers the partnership property belonging to the firm at the time of the death of such deceased partner, for appraisement; and in case the administration thereof shall devolve upon such administrator or executor, the said survivor shall surrender to him on demand all the property of such partnership, including their books, papers, and all necessary documents pertaining to the same, and shall afford him all reasonable information and facilities for the execution of his trust.

SEC. 20. Every surviving partner who shall neglect or refuse to comply with the provisions of the preceding section, may be cited for such neglect or refusal to appear before the orphans' court, and, unless he show cause to the contrary, shall be ordered by the orphans' court to comply with said provisions, and his obedience thereto enforced by attachment for contempt.

TITLE V.

Of title to real and personal property, by special provision of law.

CHAPTER 60. Of the sale of real estate of deceased persons for the payment of debts.

CHAPTER 61. Of the sale and conveyance of infants' real estate.

CHAPTER 62. Of judgment liens, and title by execution.

CHAPTER 60.

OF THE SALE OF REAL ESTATE OF DECEASED PERSONS FOR THE PAYMENT OF DEBTS.

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2. Sale by some of two or more executors; when valid.

SECTION

3. Petition to sell lands for the payment of debts.
4. Order for appearance of parties.
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18. When sale on credit, notes and real estate security to be taken.
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SECTION 1. When real estate or any interest therein is devised by will or directed to be sold for the payment of debts or legacies, the executor shall proceed to dispose of the estate and apply the sums according to the provisions of the will.

SEC. 2. When any real estate or interest therein is given or devised by any will legally executed to the executors therein named, or any of them, to be sold by them, or any of them, or where such estate is ordered by any will to be sold by the executors, and any executor or executors shall neglect or refuse to take upon him or them the execution of such will, then all sales made by the executor or executors who shall take upon himself or themselves the execution of such will, shall be equally valid as if the other executor or executors had joined in such sale.

SEC. 3. Whenever any executor or administrator shall discover that the personal estate of the decedent is insufficient to pay the liabilities thereof, the circuit court shall order to be sold the whole or any part of the real estate of the deceased, upon such executor or administrator filing a petition therefor setting forth :

1. The amount of personal property that has come into his hands ;
2. The amount of the debts outstanding against the estate of the deceased, and the insufficiency of the personal estate to pay the same ;
3. A description of all the real estate of the deceased, and the condition and value of the respective portions and lots ;
4. The names and ages of the heirs, legatees, or devisees, if any, of the deceased ; or if they are unknown, the fact shall be so stated ;
5. Such clauses in the will, if there be any, as require a distribution of the personal, making it necessary to sell the real estate to pay such liabilities.

SEC. 4. Upon the filing of any such petition, said court, or any judge thereof, may make an order directing all persons interested to appear before said court, at a time and place specified, to show cause why an order should not be granted for the sale of so much of the real estate of the deceased as shall be necessary to pay such debts.

SEC. 5. A copy of the order to show cause shall be personally served on all persons interested in the estate at least ten days before the time appointed for hearing the petition, or shall be published in such newspaper, and for such length of time, as shall be designated by the court or judge making such order.

SEC. 6. The court, at the time appointed in such order, or at such other time as the hearing may be adjourned to, upon proof of the due service or publication of a copy of the order, or upon filing the consent, in writing, to such sale, of all parties interested competent to consent, shall proceed to the hearing of such petition; and if such consent be not filed, shall hear and examine the allegations and proofs of the petitioner, and of all persons interested in the estate who may oppose the application.

SEC. 7. If any of the devisees or heirs of the deceased are minors and have a guardian, the copy of the order shall be served on the guardian if he be within this District. If they have no guardian, the court shall, before proceeding to act upon the petition, appoint some person as their guardian ad litem.

SEC. 8. If it shall appear to the court that it is necessary to sell a part of the real estate, and that by a sale of such part the residue of the estate, or some specific part or piece thereof, would be greatly injured, the court may authorize the sale of the whole estate, or of such part thereof as may be judged necessary and most for the interests of all concerned.

SEC. 9. If the court shall be satisfied, after a full hearing of the petition and an examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for the payment of debts, or if such sale be assented to by all the persons interested, the court shall make an order of sale authorizing the executor or administrator to sell the whole, or so much and such parts, of the real estate described in the petition, as it shall judge proper.

SEC. 10. Previous to the making of an order for any such sale, the

executor or administrator shall file in the office of the clerk of the circuit court a bond, payable to the United States, in a penalty not less than double the value of the real estate to be sold, with sufficient sureties to be approved by the court, and conditioned for the faithful discharge of his trusts and the proper administration of the assets arising from the sale of such real estate.

SEC. 11. The order shall specify the real estate to be sold, and the terms of sale, which may be either for cash or on a credit not exceeding twelve months, as the court may direct. If it appears that any part of such real estate has been devised and not charged in such devise with the payment of debts, the court shall order that part descended to heirs to be sold before that so devised.

SEC. 12. Any creditor, upon filing a petition therefor, verified by affidavit, setting forth the amount of the personal estate, the insufficiency of such personal estate to pay the debts outstanding, a description of the real estate of the decedent, the names and ages of the heirs, devisees, or legatees, if they be known, and if not known, so stating, may have an order for the sale of such real estate by the executor or administrator, under the same regulations as are provided in case of an application to sell real estate by an executor or administrator. Notice of the filing of such petition shall be given to the executor or administrator, and he shall be made a party to such proceeding.

SEC. 13. The circuit court may, in its discretion, upon such petition being filed by either the executor, administrator, or creditor, appoint any person other than the administrator or executor to make the sale, and such person, before proceeding to sell, shall give such bond as is hereinbefore required of an executor or administrator.

SEC. 14. When a sale is ordered, such notice of the time and place of sale shall be given as is prescribed in relation to sales of real estate upon execution.

SEC. 15. The executor, administrator, or other person making any sale of real estate as aforesaid, shall, at the next term of the circuit court, make a return of his proceedings. Any person interested in the estate may file written objections to the confirmation of the sale, and may be heard and may produce witnesses in support of his objections.

SEC. 16. If it appear to the court that the sale was legally made

and fairly conducted, the court shall make an order confirming the sale, and directing conveyances to be executed, and such sale from that time shall be confirmed and valid. If the court shall be of opinion that the proceedings were unfair, the sale shall be vacated, and another be directed to be had.

SEC. 17. Conveyances shall be executed to the purchaser by the executor, administrator, or other person making the sale. They shall contain and set forth the orders authorizing and confirming the sale and directing the conveyance, and shall be deemed to convey all the estate, right, and interest of the testator or intestate in the premises at the time of his death.

SEC. 18. When the sale is made upon a credit, notes of the purchaser for the purchase money, shall be taken, with a mortgage or deed of trust on the premises to secure their payment.

SEC. 19. When a testator shall have given any legacy by will that is effectual to pass or charge real estate, and his personal estate shall be insufficient to pay the legacy together with his debts, the executor or administrator with the will annexed may obtain an order to sell his real estate for that purpose, in the same manner and upon the same terms as are prescribed in this chapter in case of a sale for the payment of debts.

SEC. 20. When any sale is made pursuant to the provisions of this chapter, of real estate subject to any lien or mortgage, the purchase money shall be applied, after paying the necessary expenses of the sale, first to the payment and satisfaction of the mortgage or lien, and the residue in due course of administration. The court, however, in its discretion, may order the real estate to be sold subject to the mortgage or lien.

SEC. 21. No action for the recovery of any estate sold under the provisions of this chapter shall be maintained by any heir or other person claiming under the deceased testator or intestate, unless it be commenced within three years after the sale. This section shall not apply to minors or others under any legal disability to sue at the time when the right of action shall first accrue; but all such persons may commence such action within three years after the removal of the disability.

SEC. 22. In all cases of a sale of a part or the whole of the real estate of a testator or intestate by virtue of the provisions of this

chapter, the surplus of the proceeds of sale remaining on final settlement shall be considered as real estate, and shall be disposed of among the same persons and in the same proportion as the real estate would have been by the laws of this District, if it had not been so sold.

SEC. 23. All the real estate of any person as to which he may die intestate, or which, though he die testate, shall not by his will be charged with, or devised subject to the payment of, his debts, or which may remain after satisfying the debts with which it may be so charged or subject to which it may be so devised, shall be assets for the payment of the deceased's debts and all lawful demands against his estate, in the order in which his personal estate is directed to be applied.

SEC. 24. Any heir or devisee who shall sell and convey any real estate which may be assets for the payment of debts or demands against the estate of a deceased person, shall be liable to those entitled to be paid out of said assets, for the value thereof with interest.

SEC. 25. But no real estate thus descended or devised to such heir or devisee, and alienated by him in good faith after the final settlement of the personal estate of the ancestor or devisor, and before the commencement of an action to reach such assets and notice thereof, shall be liable. Notice of such action shall be given as is hereinafter required in section eight, chapter sixty-two.

SEC. 26. This chapter shall not affect any lien, by judgment or otherwise, acquired in the lifetime of the deceased, ancestor, or devisor.

CHAPTER 61.

OF THE SALE AND CONVEYANCE OF REAL ESTATE HELD BY INFANTS.

SECTION

1. When circuit court may order sale of infant's real estate.
2. Proceedings; what guardian to state in petition.
3. Who to be made defendants.
4. Allegations of petition not to be proved by admissions of answer.
5. Interest held in common, or as joint tenants; how sold.

SECTION

6. Interest in remainder, or reversion; how sold.
7. The circuit court may confirm any contract made on behalf of an infant, or the sale of his real estate.
8. If sale be made for maintenance, how proceeds disposed of.
9. How same disposed of, when the sale is for investment.

SECTION

10. Guardians to bond when authorized to sell.
11. Terms of sale.
12. On death of infant, &c., proceeds of sale to descend as real estate.
13. Guardian, or guardian ad litem, not to become purchaser.
14. Such estate not to be sold, if same be prohibited by the will or deed granting it.
15. When costs chargeable to infant's estate.

SECTION

16. When circuit court may authorize the guardian to mortgage infant's real estate.
17. When and how real estate of infant may be demised.
18. When infant's guardian may convey under decree.
19. The provisions of this chapter to extend to equitable as well as legal estate of infant.

SECTION 1. The circuit court shall have power to order the sale of an infant's real estate, in whole or in part, when satisfied, upon such proceedings and proof as are hereinafter prescribed, that the interest of the infant manifestly requires the same, and that the rights of others will not be violated.

SEC. 2. The guardian of such infant may file his petition for that purpose in the circuit court, and shall state therein plainly and distinctly, all the estate, real and personal, of such infant, and all the facts which, in his opinion, are calculated to show whether the interests of his ward will be promoted by such sale or not, and said bill shall be verified by the oath of the guardian.

SEC. 3. The infant, together with those who would be heirs to the estate if he were dead, shall be made parties defendants thereto, and it shall be the duty of the court to appoint some fit and disinterested person guardian ad litem for the infant, who shall answer such petition on oath; and the infant also, if above the age of fourteen years, shall answer the same in proper person, on oath.

SEC. 4. Whether the answer to the petition admit the facts alleged or not, before the court shall have authority to decree a sale, every fact material to ascertain the propriety thereof shall be clearly proved by competent evidence in such manner as the court may direct; depositions being taken in the presence of the guardian ad litem, or upon interrogatories agreed upon by him.

SEC. 5. When any infant shall have a joint interest or interest in common with others in any lands, and it shall appear, on the application of any of the parties concerned, and the appearance of such infant by guardian ad litem appointed by the court to defend the same, and after proof taken as before provided, to be to the interest of both the infant and others concerned, that such land or

any part thereof should be sold, the circuit court may order the sale thereof.

SEC. 6. The circuit court shall likewise have power, on proceedings and proof similar to those hereinbefore prescribed, to order the sale of any estate held by an infant in remainder or reversion, and when the tenants or holders of the particular estate, or prior or subsequent remainders, whose estates will complete the entire fee, will consent, the court may decree the sale of the whole estate, and shall adjudge such part of the proceeds of sale to be paid to such tenant or holder, or the annual interest of the proceeds of sale to be secured and paid to them, for such time and in such manner as the court shall deem equitable.

SEC. 7. The circuit court shall also have power to confirm any contract made for the sale of lands held as aforesaid for or on behalf of any infant, when, upon hearing and proofs as hereinbefore prescribed, it shall deem the same advantageous to the infant.

SEC. 8. The order of the court shall always specify whether the sale is made for the maintenance of the infant, or for reinvestment; and if the same be for maintenance, the guardian of such infant shall apply the proceeds of the sale, or the infant's share thereof, to that purpose, as far as may be necessary; and shall put out the residue until needed, on interest, or shall invest it as he is required to do in the case of the ward's personal estate.

SEC. 9. If the estate be sold for the purpose of reinvesting the proceeds, or the infant's share thereof, the guardian shall make the investment in accordance with any order that may be made by the circuit court relative thereto, and if no such order be made, he shall invest it as he is hereinafter required, in chapter seventy-two, to invest the proceeds of sale of personal property.

SEC. 10. Every guardian authorized to sell real estate of his ward, shall, before making the sale, give bond, with sufficient sureties to be approved by the circuit court, conditioned to sell the same, and to account for and dispose of the proceeds of sale as required by law.

SEC. 11. All sales authorized by this chapter shall be made in such manner and on such terms as the court shall direct, always retaining a lien upon the estate sold for the purchase money; and on the same being reported to the circuit court and confirmed by it, and payment in full of the purchase money being made, the court may order an absolute and complete title to be made to the purchaser.

SEC. 12. If the infant, after any such sale, shall die under the age of twenty-one years, or intestate, and without lawful issue, the proceeds thereof, or so much of the same as shall remain, or the investments made therewith, shall be considered as real estate, and shall descend accordingly to such persons as would have been entitled to the real estate had it not been sold.

SEC. 13. In no case shall the guardian of such infant, or his guardian ad litem, be admitted a purchaser at such sale, either by himself or through another, or in any manner whatever become the owner of the real estate during the infancy of the ward.

SEC. 14. No sale of an infant's real estate shall be ordered by virtue of this chapter, if the person from whom the same is derived shall, by his deed or will granting or devising the same, expressly direct otherwise.

SEC. 15. No part of the costs of such proceedings shall be chargeable to the infant's estate unless a sale is ordered, except that when the petition is filed by the guardian, and the court shall think he had reasonable grounds for so doing, and that he acted in good faith, the infant's estate shall be taxed with costs though no sale be ordered.

SEC. 16. In all cases where it shall appear, by proof as before provided, to be to the interest of an infant to raise money by way of mortgage to improve his real estate, or to pay any charges, liens, or encumbrances thereon, the circuit court may, on the application of the guardian or next friend of the infant, order the conveyance of any interest of such infant in any real estate, by way of mortgage, in such form and on such conditions as to the court may seem best.

SEC. 17. The circuit court may, in all cases where it has the power to order a sale of an infant's real estate, or a mortgage thereon, on like proceedings and proofs being had, order the same to be demised for any term of years within the nonage of the infant, and on such terms and yielding such rents as to the court shall seem proper.

SEC. 18. When an infant shall be seized or possessed of any real estate by way of mortgage, or as trustee for others, his guardian may be authorized or compelled to convey the same to the persons entitled thereto, in the manner prescribed in the case of a committee of an insane person; and where an infant holds real estate, bound by an agreement to convey, made by any one through whom he claims, the court may order a specific performance of such agreement on the part

of the guardian, and the deed made in either case shall be as valid as if made by the infant after attaining full age; saving to such infant the right to show cause, within six months after he shall attain full age, why such conveyance should not have been ordered, and on sufficient cause being shown, to have a reconveyance of the real estate by whomsoever possessed under the conveyance made by said guardian, and also a full account of the rents and profits thereof, from the person who shall have received the same.

Sec. 19. The provisions of this chapter shall extend as well to the equitable as legal estate of the infant.

CHAPTER 62.

OF JUDGMENT LIENS AND TITLE BY EXECUTION.

SECTION

1. } Lien of judgment or decree on real
2. } estate.
3. Judgments, &c., to be docketed.
4. Character of entry.
5. Penalty, &c., on clerk's failure to docket the same.
6. Judgment of justice of the peace; when to become a lien.
7. No recognizance to be a lien.
8. Lis pendens to be recorded to affect purchaser without actual notice.
9. When judgment creditors to be paid ratably.
10. How real estate liable, as between alienees of different parts thereof.
11. Execution; when to bind personal property.
12. Officer to endorse on writ of execution the time of its reception.
13. Priority of levy and satisfaction.
14. What real estate, &c., liable to execution.
15. } Equity of redemption; when not li-
16. } able.
17. }
18. Estates tail may be taken in execution.

SECTION

19. } Homestead exemption.
20. }
21. Exemption to be waived only by a writing acknowledged as a deed.
22. For what such exempt property may be sold.
23. } Proceedings in case the property
24. } claimed to be exempt exceeds in
25. } value seven hundred dollars.
26. Cost of such proceedings to be charged in the costs on such execution.
27. What land, &c., exempt from execution, as a private burial place.
28. Chattels, &c., taken in execution.
29. Interest of bailor in goods or chattels pledged, taken.
30. What personal property exempt from execution.
31. Not to extend to execution for purchase money.
32. Effect of reversal of judgment on real estate transferred, &c., by it.
33. Defendant to recover damages when estate cannot be restored.
34. } Proceedings when estate ~~to~~ be re-
35. } stored.
36. }

SECTION 1. Every judgment or decree rendered in the circuit court of this District, for any debt, damages, sum of money, or costs,

against any person, shall, for the space of twelve years thereafter, be a lien on all the real estate of or to which such person shall be possessed or entitled at or after the date of such judgment or decree.

SEC. 2. No judgment or decree shall be a lien on real estate, as against a purchaser thereof for a valuable consideration, without notice, unless it be docketed and indexed, as provided in sections three and four of this chapter, either within six months after the date thereof, or thirty days before the conveyance of said estate to such purchaser.

SEC. 3. The clerk of the circuit court shall keep in his office, in a separate and well bound book, a judgment docket, in which he shall enter, without delay, any judgment or decree rendered in said court; and also every judgment rendered by a justice of the peace of this District, on any person interested therein delivering to him an abstract of such judgment, certified under the hand and seal of the justice who gave the same.

SEC. 4. In such docket shall be stated the date and amount of such judgment or decree, the date of docketing it, the alternative value of any specific property recovered by it, and the amount and date of any credits, together with the names and residence of the parties, so far as they appear from the pleadings in the case, or from such abstract. The clerk shall also index the same in the name of each defendant therein.

SEC. 5. If the clerk fail to do anything required of him in the last two preceding sections, he shall pay a fine of not less than twenty-five nor more than one hundred dollars, to any person who will prosecute therefor, and shall answer in damages to any judgment creditor who shall suffer from his neglect.

SEC. 6. A judgment of any justice of the peace of this District, rendered for any debt, damages, sum of money, or costs, when certified and docketed as hereinbefore provided, shall be a lien on real estate, as fully, in all respects, as a judgment rendered by the circuit court, and execution may issue and be levied thereon as on a judgment of the circuit court.

SEC. 7. No recognizance taken by any court or officer shall be a lien on any real estate.

SEC. 8. No lis pendens shall bind or affect any purchaser of real estate, without actual notice thereof, unless and until a memorandum

setting forth the title of the cause, the general object thereof, a description of the land, and the name of the person whose estate is intended to be affected thereby, shall be left with the recorder, and be duly indexed by him; the recorder shall forthwith record said memorandum among the land records of this District, and index the same in the name of the person aforesaid.

SEC. 9. Where two or more judgments or decrees are rendered against the same person, and the lien thereof on his real estate commences on the same day, the creditors having the same shall be entitled to satisfaction out of said real estate ratably.

SEC. 10. Where the real estate liable to the lien of a judgment or decree is more than sufficient to satisfy the same, and it or any part of it has been aliened, as between the alienees for value, that which was aliened last shall be first liable, and so on with other successive alienations, until the whole judgment or decree is satisfied. And as between alienees who are volunteers under such judgment or decree debtor, the same rule as to the order of liability shall prevail. But any part of such real estate retained by the debtor himself, or aliened without valuable consideration, shall be first liable to the satisfaction of the judgment or decree.

SEC. 11. When an execution against the property of any person is delivered to an officer to be executed, the goods and chattels of such person within this District shall be bound from the time of the delivery. If, however, there be several executions, whether issued out of a court of record or by a justice of the peace, against the same defendant, in the hands of different officers, that execution, without regard to the time of the delivery, under which the first levy is made, shall have the preference, and all liens created by the prior delivery of any other execution shall be diverted in favor of the execution first levied. The title of a purchaser in good faith, of any goods or chattels acquired prior to the actual levy of any execution, without actual notice of such execution being issued, shall not be divested by the fact that such execution had been delivered to an officer to be executed before such purchase was made.

SEC. 12. Every officer receiving a writ of execution shall endorse thereon, the year, month, day, and time of day, of its reception.

SEC. 13. If there be several executions issued against the same defendant delivered to the same officer, that which was first delivered

to the officer, though two or more be delivered on the same day, shall be first levied and satisfied out of the personal estate of the debtor; and where several are delivered to the officer at the same instant of time, they shall be satisfied ratably.

SEC. 14. All the real estate of a debtor, except as hereinafter provided, whether in possession, reversion, or remainder, held by title legal or equitable, including lands fraudulently conveyed with the intent to defeat, delay, or defraud creditors, and also all rights of entry into lands, and rights of redeeming mortgaged lands, may be taken in execution for his debts, as prescribed in this chapter.

SEC. 15. Where a judgment shall be recovered for a debt secured by a mortgage of real estate, or for any part of such debt, it shall not be lawful for the marshal to sell the equity of redemption of the mortgagor, his heirs, or assigns, in such estate, by virtue of any execution upon such judgment, except upon their written request. Nothing herein contained shall be construed to restrain such sale upon a judgment of foreclosure, in accordance with the provisions of chapter one hundred and one, Part III, of the Code.

SEC. 16. When any execution against the property of the defendant shall be issued upon such judgment, the plaintiff's attorney shall endorse thereon a brief description of the premises mortgaged, referring to the page and book of the record in which such mortgage is recorded, with a direction to the marshal not to levy such execution upon said premises, or any part thereof.

SEC. 17. If such execution shall not be collected of the other property of the defendant, the marshal shall return the same unsatisfied in whole or in part, as the case may require.

SEC. 18. All estates tail may be taken in execution, in the same manner as estates in fee-simple, for the debts of those who could lawfully bar the same; and any person purchasing such premises under execution shall have an estate in fee-simple therein.

SEC. 19. The lot and buildings thereon occupied as a residence, and owned by the debtor, being a housekeeper, and having a family, shall, to the value of seven hundred dollars, be exempt by law from sale under execution for debt. Such exemption shall continue after the death of such owner for the benefit of his widow and family, one or more of them continuing to occupy such homestead, until the youngest child attains twenty-one years of age, and until the death of the widow.

SEC. 20. To entitle any property to such exemption, the conveyance of the same shall show that it is designed to be held as a homestead under the provisions of this chapter of the Code; or if such property be already purchased, or the conveyance does not show such design, a notice that the same is designed to be so held, shall be executed and acknowledged by the owner, which shall contain a full description of the property, and shall be recorded in the office of the recorder, in a book to be provided for that purpose, and known as the "Homestead Exemption Book." Such notice shall be indexed in the name of the party giving it; and shall be acknowledged before a justice of the peace or other officer authorized to take the acknowledgment of deeds.

SEC. 21. No release or waiver of such exemption shall be valid, unless the same shall be in writing, subscribed by such householder, and acknowledged in the same manner as conveyances of real estate are by law required to be.

SEC. 22. No such property, however, shall, by virtue of this chapter, be exempt from sale prior to the recording of the aforesaid deed or notice, or for a debt contracted for the purchase thereof, or for non-payment of taxes or assessment.

SEC. 23. If in the opinion of the officer holding an execution, the premises claimed to be exempt are worth more than seven hundred dollars, he shall summon six qualified jurors of the county of Washington, who shall, upon oath, to be administered by the said officer, appraise such premises. If, in the opinion of the jury, the property exceed in value the sum of seven hundred dollars, and the same can be divided without injury to the interest of the owner, they shall set off so much of said premises, including the dwelling-house, as, in their opinion, shall be worth seven hundred dollars, and the residue may be advertised and sold by the officer.

SEC. 24. In case the value of the premises shall, in the opinion of the jury, exceed seven hundred dollars, and the same cannot be divided as provided in the last section, they shall make and sign an appraisal thereof, and give it to the officer, who shall deliver a copy thereof to the execution debtor, or to some member of his family of a suitable age to understand the nature thereof, with a notice attached, that, unless such debtor shall pay to the officer the surplus over and above seven hundred dollars, within sixty days thereafter, such premises will be sold.

SEC. 25. In case such surplus shall not be paid within the time limited, it shall be lawful for the officer to advertise and sell said premises, and out of the proceeds of sale, to pay the execution debtor seven hundred dollars, which shall be exempt from execution for six months thereafter, and apply the balance towards satisfying the execution. But no sale shall be made unless more than seven hundred dollars be bid for the property.

SEC. 26. The cost and expenses of these proceedings shall be charged in the bill of costs in said execution.

SEC. 27. Land set apart, and a portion of which has been actually used, for a family or private burial ground, shall not be subject to levy and sale by execution or other legal process: provided, that this exemption shall not extend to more than one-quarter of an acre of land, or to any building or erection other than a vault, or other place of deposit for the dead.

SEC. 28. All chattels, real or personal, and all other personal property, may be taken and sold on execution, except as is otherwise provided in this chapter.

SEC. 29. When goods or chattels shall be pledged, assigned, or mortgaged, for the payment of money, or the performance of any contract or agreement, the right and interest therein of the person making such pledge, assignment, or mortgage, may be sold on execution against him, and the purchaser shall acquire all the right and interest of the defendant, and shall be entitled to the possession of such goods and chattels, on complying with the terms and conditions of the pledge.

SEC. 30. The following articles of personal property shall be exempt as herein provided from execution, to wit:

First. The necessary wearing apparel of the debtor and his family; one cow; one bedstead, bed, and the necessary bedclothes, for every two persons of the family; necessary cooking utensils; one table, six chairs, six knives and forks, six plates, six teacups and saucers, one sugar-dish, one milkpot, one teapot and six spoons; one pair of andirons, and a shovel and tongs, and one stove.

Secondly. All meat, fish, flour, and vegetables, provided for family use, not exceeding the necessary supply for thirty days, and fuel designed for family use to the value of five dollars.

Thirdly. The Bibles and school books, used in the family, and all family portraits or miniatures.

Fourthly. The tools and implements of the debtor necessary to the carrying on of his trade or business, not including machinery of any kind.

Fifthly. The uniform of an officer, non-commissioned officer, or private in the militia, and the arms and accoutrements required by law to be kept by him.

Sixth. No slave shall be taken in execution so long as there is other visible personal property of the defendant sufficient to satisfy the same.

SEC. 31. Provided, however, that such exemption shall not extend to any execution issued on a demand for the purchase money of any article of personal property hereinbefore mentioned.

SEC. 32. Unless otherwise specially provided, the reversal of any judgment by virtue of which any real estate has been sold or transferred or the title thereto affirmed, shall not avoid the sale, transfer, or title, if the person to be affected thereby shall be a purchaser in good faith, or claim under one, and not be a party to the record or attorney for either party.

SEC. 33. In every case of a sale, transfer, or confirmation of real estate upon execution or judgment, where the defendant cannot have restitution of his estate, he shall be entitled to recover of the judgment plaintiff such damages as he may have sustained.

SEC. 34. In every other case of a reversal of a judgment by virtue of which any real estate has been sold or transferred or the title confirmed, the judgment defendant shall have restitution thereof in the following manner:

SEC. 35. He may notify the purchaser, or his tenant, or other person in possession, that, at the next term, he will move the court which rendered the judgment to restore to him the possession of the premises.

SEC. 36. Upon proof that the notice has been served ten days, the court may proceed to hear and determine the issues made by the parties, and render judgment accordingly; or the judgment defendant may recover his real estate by the proper action.

SEC. 37. No judgment for the recovery thereof shall be rendered until the original judgment defendant shall bring into court, for the use of the proper party, any money he may have received from the officer under the execution.

TITLE VI.

CHAPTER 63.

GENERAL PROVISIONS RELATIVE TO ESCHEATS, WASTE, AND ALLOWANCES
FOR RENTS, PROFITS, AND IMPROVEMENTS.

SECTION

1. Escheated real estate shall be subject to trusts and charges.
2. Estates held in trust shall escheat, on cestuy que trust dying without heirs.
3. Proceedings to subject escheated property to trusts, &c.
4. } Waste action; by whom maintain-
5. } able.
6. Joint tenant, or tenant in common, liable to his co-tenant for waste.
7. If waste wanton, double damages given.
8. Rents and profits, &c., may be recovered in the same action that recovers the possession of real estate.
9. May be assessed by the jury in same action.
10. } Measure of rents and profits to be
11. } recovered.
12. }
13. }
14. } When defendant to be allowed for im-
15. } provements.
16. }
17. } Proceedings for obtaining such allow-
18. } ance.
19. The amount may be assessed by the jury on the trial.

SECTION

20. Or may be assessed afterwards.
21. How assessed in case of postponement, &c.
22. May be assessed by arbitrators.
23. Allowances for improvements; how limited.
24. Allowance for improvements set off against rents and profits, &c.
25. When plaintiff may recover rents and profits for more than six years.
26. Balance due for improvements; how secured.
27. Plaintiff's right against others saved.
28. Value of the premises without improvements may be determined.
29. How same ascertained.
30. Plaintiff may relinquish his estate, &c.
31. On failure of defendant to pay the sum due plaintiff, premises shall be sold.
32. Provision in case the plaintiff be under disability.
33. } When and how defendant, if evicted,
34. } may recover from plaintiff.
35. }
36. How plaintiff tenant for life, paying for improvements, to be reimbursed.
37. This chapter not to apply to a mortgagee.

SECTION 1. Real estate shall escheat for want of heirs, as hereinbefore provided; but the same, whether held by the United States or their grantees, shall be subject to such trusts, encumbrances, and charges, as it would have been subject to had it descended.

SEC. 2. Estates held in trust shall be liable to escheat, when the cestuy que trust dies without heirs, so far as it would if the person holding the equitable title had the legal.

SEC. 3. In all cases where real estate has escheated, any person

having a claim to any trust, charge, or encumbrance, may file his complaint to enforce the same, the circuit court making the United States attorney for this District defendant thereto, and there shall be such proceedings thereon as there might have been between the complainant and the heirs of the party whose title has escheated, had he left heirs. The circuit court shall have power to authorize and direct the district attorney to convey, when necessary, such real estate to the parties equitably entitled thereto, according to their respective rights.

SEC. 4. If any tenant in dower, tenant by the curtesy, or tenant for term of life or years, shall commit or suffer any waste on the premises, the person having the next immediate estate of inheritance therein may have an action against such tenant, wherein he shall recover the amount of damage he shall have suffered by reason of the waste complained of.

SEC. 5. Such an action may also be maintained by one who has the remainder or reversion, in fee-simple, or fee-tail, after an intervening estate for life, and also by one who has a remainder, or reversion for life, or years only, and each of them shall recover such damages as it shall appear he has suffered by the waste complained of.

SEC. 6. If one joint tenant, or tenant in common, shall commit waste of the estate held in joint tenancy or in common, he shall be subject to an action as aforesaid, at the suit of his co-tenant.

SEC. 7. Whenever it shall be found by the jury that any waste was committed wantonly, judgment shall be given for twice the amount of damages assessed therefor, but in no case shall there be a forfeiture of the place wasted.

SEC. 8. When any person shall recover possession of real estate he shall also be entitled to recover in the same action damages against the tenant for the rents and profits of the premises, from the time when the demandant's title accrued, subject to the limitations hereinafter contained; and he shall also recover damages for any destruction or waste of the same, for which the tenant is chargeable.

SEC. 9. If the plaintiff recover, the jury shall at the same time assess his damages, unless it shall be otherwise ordered by the court, as hereinafter provided.

SEC. 10. The rents and profits for which the occupant shall be liable, shall be the clear annual value of the premises, for the time

during which he was in possession thereof, after deducting all lawful taxes and assessments on the premises that shall have been paid by the defendant, and all necessary and ordinary expenses of cultivating the land, or otherwise collecting the rents, profits, or income, of the premises.

SEC. 11. In estimating the rents and profits, the value of the use by the defendant of any improvements made by himself or those under whom he claims, shall not be computed nor allowed to the demandant.

SEC. 12. The defendant shall never be liable for the rents and profits for any longer term than six years, nor for any waste or other damage committed before that time, except when the rents and profits are allowed by way of set-off to his claim for improvements, as hereinafter provided.

SEC. 13. When an occupant of land has color of title thereto, and in good faith has erected buildings or made improvements thereon, and is afterwards in the proper action found not to be the rightful owner thereof, he shall be entitled to compensation for the same in the manner hereinafter provided.

SEC. 14. The purchaser in good faith at any judicial or tax sale, made by the proper person or officer, shall be deemed to have color of title, whether such person or officer had sufficient authority to sell or not, unless the want of authority was known to the purchaser at the time of the sale.

SEC. 15. Any occupant of land who can show a connected title in law or equity, derived from the records of any public office, or who holds the same by purchase or descent from any person claiming title derived as aforesaid, or by deed duly recorded, shall be deemed to have color of title.

SEC. 16. The occupant may recover the value of such improvements made by the party under whom he claims as well as those made by himself; and any person holding the premises as purchaser from the party having color of title shall have this remedy also.

SEC. 17. When the defendant in any action claims allowance for any such improvements, he shall enter on the record his claim, stating the amount thereof as accurately as practicable, with a request that the value of the same may be ascertained and allowed to him, in conformity with the provisions of this chapter.

SEC. 18. The claim shall be entered at the same time with the defendant's answer, if any, unless the court shall, for sufficient reasons, allow it to be made afterwards.

SEC. 19. In the trial of any such cause, if the finding be for the plaintiff, the court or jury, as the case may be, shall at the same time determine the sum to be allowed the defendant for such improvements, unless it shall be otherwise ordered by the court, as provided in the following section.

SEC. 20. If it shall appear to the court, on the motion of either party, that it would be more convenient to postpone the assessment of the sums due, respectively, to the plaintiff for the rents and profits and damages, or the defendant for improvements, until after the trial of the title and verdict thereon, the court may make an order for that purpose at any time before the verdict is rendered.

SEC. 21. If the assessment of the sums due to either party is so postponed, the same shall be assessed by the court, unless either party shall move to have them assessed by a jury, or unless the court shall think proper to have them so assessed, in which cases a jury shall be empaneled to assess the same.

SEC. 22. The sum due for rents and profits, or other damages, or for improvements, may, in all cases, with the consent of parties, be assessed by arbitrators or assessors appointed by the court.

SEC. 23. The sum to be allowed for improvements shall never exceed the amount actually expended by the defendant and those under whom he claims, nor shall it exceed the amount to which the value of the premises is actually increased thereby at the time of the assessment.

SEC. 24. In all cases where any sum is allowed the defendant for improvements, it shall be set-off against the sum found due from him for rents and profits and other damages; and if there is a balance due from him, the plaintiff shall have judgment and execution therefor, as well as for the possession of the demanded premises.

SEC. 25. If the sum found due to the defendant for improvements exceed the sum due from him for the rents and profits and damages accrued within the six years, he shall be chargeable with the rents and profits and damages accrued before that time, and while he was in possession, so far as may be necessary to balance his claim for improvements; but in such case he shall not be liable to repay the excess, if any, of the rents and profits and damages, beyond the value of the improvements.

SEC. 26. If there is any sum due to the defendant for improvements after deducting the rents and profits and other damages for which he may be found chargeable, the plaintiff shall pay the same before he shall take out his execution for possession of the premises, and the money may be paid to the defendant himself, or to the clerk of the court for his use; and the plaintiff shall not be entitled to recover against the defendant, or any person claiming under him, any rents and profits that shall accrue after the judgment and before he shall have paid the sum so due the defendant.

SEC. 27. Nothing contained in this chapter shall prevent the plaintiff from maintaining an action for mesne profits, or damages done to the premises, against any other person than the defendant, who may have had possession of the premises, or may be otherwise liable to such action.

SEC. 28. When the defendant shall claim allowance for improvements, as before provided, the plaintiff may, by a like entry on the record, require that the value of his estate in the demanded premises, without the improvements, shall also be determined.

SEC. 29. The value of the premises in such case shall be estimated as it would have been at the time of the inquiry, if no such buildings or improvements had been made or erected on the premises by the defendant, or any person under whom he claims; and this sum shall be ascertained either by the court or jury, or by arbitrators or assessors, in the same manner as is provided for assessing the sums due for rents and profits, and for improvements.

SEC. 30. The plaintiff in such case, if judgment is rendered for him, may, at any time during the same term, or before judgment is rendered on the assessment of the value of the improvements, in person, or by his attorney in the cause, enter on the record his election to relinquish his estate in the premises to the defendant, at the value so ascertained, and the defendant shall thenceforth hold all the estate that the plaintiff had therein at the commencement of the action, provided he pay therefor the said value, with interest, in the manner in which the court may order it to be paid.

SEC. 31. The payments shall be made to the plaintiff, or to the clerk of the court for his use, and the land shall be bound therefor. If the defendant fail to make such payments within or at the times limited therefor, respectively, the court may order the land to be sold,

and the proceeds applied to the payment of said value and interest, and the surplus, if any, to be paid to the defendant; but if the net proceeds be insufficient to satisfy the said value and interest, the defendant shall not be bound for the deficiency.

SEC. 32. If the party by or for whom the land is claimed in the action, be a married woman, minor, or insane, such value shall be deemed to be real estate, and shall be so invested, under the direction of the court, as to secure to all parties interested therein, the same interest they would have had in the real estate.

SEC. 33. If the defendant, or his heirs or assigns, shall, after the premises are so relinquished to him, be evicted thereof by force of any better title than that of the original plaintiff, the person so evicted may recover from such plaintiff, or his executors, administrators, heirs, or devisees, as the case may be, the amount so paid for the premises, as so much money had and received by such plaintiff in his lifetime for the use of such person, with interest thereon from the time of such payment.

SEC. 34. If the person impleaded in such second action for the recovery of the premises shall give notice thereof to the party who is so liable to refund the purchase money, and shall permit him to defend the action, judgment, if rendered against such person, shall be conclusive as to his right to recover the amount so paid for the premises.

SEC. 35. If the person impleaded does not give notice as aforesaid to the other party and permit him to defend the action, the latter shall then be permitted, in the action afterwards brought against him for the price of the premises, to deny the title upon which the second recovery was had, and the party so evicted shall not recover the said price, unless he shall prove that he was evicted by force of a better title than that of the original demandant.

SEC. 36. If the plaintiff claim only an estate for life in the premises recovered, and pay any sum allowed to the defendant for improvements, he, or his executors or administrators, may recover at the determination of his estate, from the remainder man or reversioner, the value of the said improvements as they then exist, not exceeding the amount so paid by him, and shall have a lien therefor on the premises in like manner as if they had been mortgaged for the payment thereof, and he or they may keep possession of said premises until it be paid.

SEC. 37. Nothing contained in this chapter concerning the rents and profits to be recovered, or the allowance for improvements made on the premises demanded, shall extend or apply to any action brought by a mortgagee, or his heirs or assigns, against a mortgagor, or his heirs or assigns, for the recovery of the mortgaged premises.

TITLE VII.

CHAPTER 64.

OF THE CUSTODY OF THE PERSON, AND THE MANAGEMENT OF THE ESTATE, OF PERSONS INSANE.

SECTION

1. General power of the circuit court.
2. Mental condition of party; how ascertained.
3. Petition for commission to issue.
4. Court may award or refuse commission in its discretion.
5. Form of commission.
6. } How commission executed.
7. }
8. }
9. Return of commission.
10. Inquisition may be confirmed or quashed, &c.
11. The death of one of several persons composing a committee not to determine the powers of survivors.
12. Committee or trustee to give bond, &c.
13. Committee entitled to the custody of the person of insane party, and the care of his estate.
14. Committee to return inventory and appraisal of estate.
15. Committee to account at least once every year, &c.
16. Compensation allowed committee.

SECTION

17. Circuit court may decree sale of insane person's estate, real or personal, for the payment of debts.
18. Same, for the maintenance of himself and family, and the education of his children.
19. Or for reinvestment.
20. Circuit court may authorize lease of real estate of insane party, not exceeding ten years, &c.
21. Proceedings in such cases.
22. Committee may apply for order to convey real estate held by insane party, by way of mortgage, or in trust.
23. Party entitled thereto may also apply.
24. Effect of conveyances executed by committee.
25. Specific performances of contracts made by insane person may be compelled.
26. On recovery of insane person, committee to pass a final account, and restore his estate.
27. How insane person committed to government hospital, or to an institution out of District.

SECTION 1. The circuit court shall have power to superintend and govern the affairs of insane persons, both as to the care of their persons and the management of their estates, and may appoint a committee or trustee for every such person, and may make such orders respecting their persons and estates as to the court shall seem proper.

SEC. 2. The mental condition of a party shall be determined under a commission de lunatico inquirendo, to be issued by the court, and directed to the marshal, the proceedings under which, subject to the provisions of this chapter, shall be as heretofore.

SEC. 3. A petition may be filed by any one related to the insane person, or interested in his estate, asking the circuit court to issue a commission to inquire into the lunacy of the party. Such petition shall briefly state the character of the supposed mental alienation, and shall be verified by the affidavit of a physician or other competent person, deposing to the insanity of the party, or in such other manner as the court may direct.

SEC. 4. The court may then award such commission, or in its discretion refuse the same.

SEC. 5. When awarded, the clerk of the court shall issue, under the seal thereof, a commission to the marshal of the District, directing him to inquire, by the oaths of lawful jurors, whether the supposed insane person is non compos or not; and if he be non compos, how and in what manner he became so; and how long he has been so; whether from his birth or not; and if he enjoys lucid intervals. Proper notice of the time and place of the execution of said commission shall be given to the supposed lunatic.

SEC. 6. The marshal may empanel any number of jurors not less than twelve nor more than twenty-three, and the inquisition shall be good if signed and sealed by any twelve thereof and by the marshal, and shall be executed at the residence of the supposed insane person, if he have one, unless the court, for special reasons, shall direct its execution at a different place.

SEC. 7. The jury may require the personal attendance of the supposed insane person for the purpose of examination, and if the person in whose custody he is fail to obey the requisition of the jury, an order directing his production may be obtained from the circuit court, or, in vacation, from any judge thereof, and obedience thereto may be enforced by attachment for contempt.

SEC. 8. The proceedings before the jury shall be public. The marshal shall have power to summon and swear witnesses, and if they refuse or omit to attend or be sworn, an attachment may, on application to the circuit court or any judge thereof, be issued against them. The supposed lunatic or any friend may, in person or by counsel, examine and cross-examine witnesses.

SEC. 9. The commission shall be executed and returned to the circuit court with as little delay as possible. In it the jury shall respond to every inquiry in the commission, and in proper cases shall state with precision that the party is an idiot, or lunatic, or is of unsound mind, so that he is unfit for the government of himself or his estate.

SEC. 10. On the return of the commission to the circuit court, the inquisition of the jury may be confirmed, or, on petition filed to that effect, may be traversed or quashed, in the discretion of the court, and the proceedings thereon shall be as heretofore; and a new commission, if necessary, may issue.

SEC. 11. When two or more persons shall be associated as the committee of an insane person, and one shall die, the authority of the survivor or survivors shall not determine.

SEC. 12. Every person appointed as a committee or trustee of such party shall give bond, in a penalty and surety to be approved by the circuit court, and to be filed with the clerk thereof, conditioned for the faithful performance of his duties according to law. He may be required by the circuit court, as in the case of an administrator, to give counter, new, or additional security, and on failure so to do, may be removed, and be compelled to deliver the property of the insane person, together with all papers and evidences of debt belonging to him, to another committee or trustee appointed by the court.

SEC. 13. On filing such bond the committee of any insane person shall be entitled to the custody and control of his person (when he resides in the District, and is not confined in an asylum or prison) and also to the possession and management of his estate.

SEC. 14. Every committee of an insane person shall, within four months after his appointment, file in the office of the clerk of the circuit court, a true inventory and appraisement of all the estate, real and personal, of such insane party, the same to be executed in the manner hereinafter prescribed for the appraisement of the estates of wards.

SEC. 15. Every committee shall, at least once in every year after his appointment, pass, under oath, an account of his trust, verified by vouchers or proof. He shall charge himself therein with all the income of the estate, and other moneys which have come to his hands, and shall be allowed for all proper disbursements. The court shall determine, from time to time, but in advance of the expenditure

thereof, the sum of money to be applied to the support of the insane person, and the maintenance and education of his family.

SEC. 16. The court may allow to the committee or trustee charged with the care of the person or estate of the insane person, as compensation therefor, any sum not exceeding twelve per cent. on his income and personal expenditures.

SEC. 17. On the application of any creditor of an insane person, the circuit court may order a sale of the real or personal estate of such insane party, or such part thereof as may be necessary to pay his debts, if the court be satisfied of the justice thereof, and that there is no other means of paying the same.

SEC. 18. The circuit court may also authorize the committee or trustee of any insane person to sell the property, real or personal, of such insane party, or so much thereof as may be necessary, for the support and maintenance of himself or his family and the education of his children, or for the payment of all real and just expenses which said committee or trustee may have incurred.

SEC. 19. The circuit court may likewise, upon the application of the committee or trustee of any insane person, order the sale of any real or personal estate of such insane party, and direct the money arising therefrom to be invested in stocks or mortgages on real estate, or other safe securities, as the court may deem most advantageous; and on the death of such insane person, the principal sum arising from such sales of real estate, or so much thereof as may not be applied to his use and maintenance, or the maintenance and education of his family, shall descend to the persons to whom the real estate would have descended had the same not been sold.

SEC. 20. The circuit court may, on like application, authorize the committee or trustee of any insane person to lease his real estate for any period not exceeding ten years, when the same shall be deemed by the court advantageous to the interests of such insane party; and may, under like circumstances, order the surrender of any lease of the estate of such party to be accepted, and the same to be demised anew, as before provided; or may authorize the committee to renew any lease that the insane party shall have the privilege of renewing.

SEC. 21. In all applications to sell the real or personal property of any insane person, or to lease the former, the court shall, before making such order, have the appearance and answer of such person,

by his guardian ad litem, to be appointed by the court, and have proof taken as to the value, quantity, and condition of the property; and no sale or lease of such property shall be valid unless the same shall be reported to and confirmed by the court.

SEC. 22. When any insane person shall be seized or possessed of any real estate by way of mortgage, or as trustee for others in any manner, his committee may apply to the circuit court for authority to convey such real estate to the person entitled thereto in such manner as the court shall direct; and upon hearing all the parties interested, the court may order such conveyance to be made.

SEC. 23. On the application of any person entitled to such conveyance, the circuit court may compel the committee of any insane person, on the hearing of all parties interested, to execute such conveyance.

SEC. 24. Every conveyance made under the provisions of this chapter, in pursuance of an order of the circuit court, shall be as valid as if the same had been executed by such insane person when of sound mind and understanding.

SEC. 25. The circuit court shall have power to compel the specific performance of any bargain or contract which may have been made by an insane person while he was able to contract, or of any made by another person, and subject to which such insane person claims, and to direct the committee of such person to do and execute all necessary acts and coveyances for that purpose.

SEC. 26. When an insane person shall regain his right mind and become capable of conducting his affairs, his committee shall render a final account of his trust and restore to him his estate, or so much thereof as shall remain.

SEC. 27. Any insane person may be committed to the government hospital as provided in chapter thirty-five, or when, on application of the committee or trustee of any insane party, the circuit court shall be satisfied that there is in any of the United States an institution better calculated to promote his comfort or restoration, and that his estate will suffice for the costs of removal and maintenance, it may authorize the removal of the insane party by his committee or trustee and his committal to such institution.

TITLE VIII.

CHAPTER 65.

OF CONVEYANCES AND CONTRACTS, RELATIVE TO REAL AND PERSONAL PROPERTY, FRAUDULENT AND VOID.

SECTION	SECTION
1. No action to be maintained on certain contracts, unless in writing.	10. Saving as to bottomry, respondentia, and transfers of property at sea.
2. The consideration need not be in writing.	11. Conveyances to defraud subsequent purchasers, void.
3. Contracts for the sale of goods, &c., for the price of fifty dollars; when valid.	12. Effect of notice.
4. What to be a memorandum in sales at auction.	13. } Conveyances with power to revoke;
5. Section three extended to goods, &c., to be made, &c.	14. } void as to whom.
6. Powers of circuit court to compel specific performances not to be abridged by this chapter.	15. }
7. What conveyances, &c., of lands or goods, &c., to ministers or religious denominations, void.	16. Conveyances, &c., to defraud creditors, void.
8. Mortgages, &c., of goods, &c., mortgagor remaining in possession, to be recorded.	17. Conveyances, &c., of goods in trust for grantor, void as to his creditors.
9. "Creditors;" how construed.	18. Same; void as to heirs, executors, &c., of creditor or purchaser.
	19. Not to affect innocent purchasers.
	20. Fraudulent intent; when a question of fact.
	21. Assignments to trustees to prefer creditors; how to enure, &c.

SECTION 1. No action shall be maintained in any of the following cases unless the promise, contract, or representation upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and subscribed by the party to be charged therewith, or by some person thereunto by him lawfully authorized:

First. To charge an executor or administrator, upon any special promise, to answer damages, or to pay the debts of the testator or intestate out of his own estate; or,

Secondly. To charge any person upon any agreement made in consideration of marriage, except mutual promises to marry.

Thirdly. To charge any person upon any special promise to answer for the debt, default, or miscarriage of another; or,

Fourthly. To charge any person upon a special promise made by him, after attaining full age, to pay a debt contracted during infancy; or upon a ratification, after full age, of a promise or contract made during infancy; or,

Fifthly. To charge any person upon or by reason of any assurance or representation concerning the character, conduct, ability, trade, or dealings of another, made to the intent or purpose that such other may obtain thereby credit, money, or goods; or,

Sixthly. Upon any agreement that is not to be performed within one year from the making thereof; or,

Seventhly. Upon any contract for the sale of land, or the lease thereof, for more than three years.

SEC. 2. The consideration of any such promise, contract, agreement, or representation, need not be set forth or expressed in such writing, but may be proved by any legal evidence.

SEC. 3. No contract for the sale of any goods, chattels, or things in action, for the price of fifty dollars or more, shall be valid, unless

1st. A note or memorandum of such contract be made in writing, and be subscribed by the party to be charged therewith, or by some person thereunto by him lawfully authorized; or,

2dly. Unless the buyer shall accept and receive a part of such goods or chattels, or the evidences, or some of them, of such things in action; or,

3dly. Unless the buyer shall at the time pay some part of the purchase money.

SEC. 4. Whenever any property, real or personal, shall be sold at public auction, and the auctioneer shall at the time of sale enter in a sale-book, a memorandum specifying the nature and price of the property sold, the terms of sale, the name of the purchaser, and the name of the person on whose account the sale is made, such memorandum shall be deemed a note of the contract of sale within the meaning of the section immediately preceding, or of part seventh of section one.

SEC. 5. The provisions of section three shall extend to all contracts for the sale of goods of the value of fifty dollars or more, notwithstanding it may be intended to deliver the goods at some future day, or the same may not at the time of such contract be actually made, provided, or fit for delivery, but require some act for the making or completing thereof, and rendering the same fit for delivery.

SEC. 6. Nothing contained in this chapter shall be construed to abridge the powers of the circuit court to compel the specific performance of agreements, in cases of partial performance thereof.

SEC. 7. Every conveyance or devise of lands, and every gift or bequest of goods or chattels, to any minister of the gospel, as such, or to any religious sect or denomination, or for the support or in trust for the same, shall be void, except such as either of them are authorized to hold through trustees, by the provisions of chapter twenty, Part I, of this Code.

SEC. 8. No goods, chattels, or slaves, whereof the vendor, donor, mortgagor, or assignor, shall remain in possession, shall pass, or any property therein be transferred, as against the creditors of such vendor, donor, mortgagor, or assignor, or subsequent purchasers in good faith, except by an instrument in writing, acknowledged and certified as hereinbefore required with regard to deeds of real estate, and recorded and indexed, in the office of the recorder.

SEC. 9. The term creditors, as used in the last section, shall be construed to include all persons who shall be creditors of the vendor, donor, mortgagor, or assignor, at any time while such goods, chattels, or slaves, shall remain in his possession.

SEC. 10. Nothing contained in the last two sections shall avoid or defeat any contract of bottomry, or respondentia, nor any transfer, assignment, or hypothecation of any ship or goods, at sea or abroad, if the mortgagee or assignee shall take possession of such ship or goods, as soon as may be after the arrival thereof within this District.

SEC. 11. Every conveyance of any estate in lands, and every charge, trust, limitation of use, upon, or in any lands, made or created with intent to defraud prior or subsequent purchasers, for a valuable consideration, of the same lands, as against such purchaser for a valuable consideration, shall be void.

SEC. 12. No such conveyance, charge, estate, interest, use, or trust, otherwise valid, shall be deemed fraudulent in favor of a subsequent purchaser, who shall have actual or constructive notice thereof at the time of his purchase, unless it shall appear that the grantee in such conveyance, or person to be benefitted by such charge, estate, interest, use, or trust, was privy to the fraud intended.

SEC. 13. Every conveyance of, or charge upon, any estate in lands, containing any provision for revocation at the will of the grantor, shall be void as against subsequent purchasers, from such grantor, for a valuable consideration, of any estate or interest so liable to be revoked, although the same may not be expressly revoked.

SEC. 14. When a power to revoke a conveyance of any interest in lands, and to reconvey the same, shall be given to any person other than the grantor, and such person shall thereafter convey such interest to a purchaser, for a valuable consideration, such subsequent conveyance shall be valid.

SEC. 15. If a conveyance to a purchaser, under either of the last two preceding sections, shall be made before the person making the same shall be entitled to execute his power of revocation, it shall be valid from the time the power of revocation shall vest in such person.

SEC. 16. All conveyances or assignments, in writing or otherwise, of any estate in lands, of goods or things in action, every charge upon lands, goods, or things in action, and all bonds, contracts, evidences of debt, judgments, decrees, made or suffered with intent to hinder, delay, or defraud creditors of their lawful damages, forfeitures, debts, or demands, shall be void as to the persons sought to be defrauded.

SEC. 17. All deeds of gift, conveyances, transfers, or assignments, verbal or written, of goods or things in action, made in trust for the use of the person making the same, shall be void as against creditors, existing or subsequent, of such person.

SEC. 18. Every conveyance, charge, instrument, act, or proceeding, declared by the provisions of this chapter to be void as against creditors or purchasers, shall be void against the heirs, executors, administrators, or assignees, of such creditors or purchasers.

SEC. 19. The provisions of this chapter shall not be construed to affect the title of a purchaser for a valuable consideration, unless it shall appear that such purchaser had previous notice of the fraudulent intent of his immediate grantor or assignor, or of the fraud rendering void the title of such grantor or assignor.

SEC. 20. The question of fraudulent intent, in all cases arising under any of the provisions of this chapter, shall be deemed a question of fact, nor shall any conveyance or charge be adjudged fraudulent as against creditors or purchasers, solely on the ground that it was not founded on a valuable consideration.

SEC. 21. All assignments of property in trust which shall be made by debtors to trustees, in contemplation of insolvency, with the design to prefer one or more creditors to the exclusion of others, shall be held to enure to the benefit of all creditors in proportion to their respective

demands ; and such trusts shall be subject to the control of the circuit court, which may require security of the trustees for the faithful execution of the trusts, or remove them and appoint others, as justice may require.

TITLE IX.

Of trusts and powers ; and limitations of personal and real property.

CHAPTER 66. Of trusts and powers.

CHAPTER 67. Of the accumulation, suspension of ownership, and joint tenancy of personal property ; and limitations of real estate.

CHAPTER 66.

OF TRUSTS AND POWERS.

SECTION

1. Person interested in a trust for receipt of rents and profits cannot dispose of same unless, &c.
2. When conveyance is made to one and consideration paid by another, no trust to result.
3. Such conveyance presumed fraudulent as against creditors of person paying consideration.

SECTION

4. Exceptions to section two.
5. When purchaser not bound to see to application of purchase money.
6. On death of trustee of an express trust, trust to vest in the circuit court.
7. Trustee may be allowed to resign.
8. When trustee may be removed.

SECTION 1. No person beneficially interested in a trust for the receipt of the rents and profits of lands can dispose of such interest, unless the right to make disposition thereof is conferred by the instrument creating such trust ; but the interest of every person for whose benefit a trust for the payment of a sum in gross is created, is assignable.

SEC. 2. When a conveyance for a valuable consideration is made to one person and the consideration therefor is paid by another, no use or trust shall result in favor of the latter ; but the title shall vest in the former, subject to the provisions of the next two sections.

SEC. 3. Every such conveyance shall be presumed fraudulent as against the creditors of the person paying the consideration therefor; and where a fraudulent intent is not disproved, a trust shall, in all cases, result in favor of prior creditors to the extent of their just demands; and also in favor of subsequent creditors, if there be sufficient evidence of fraudulent intent.

SEC. 4. The provisions of the section next before the last shall not extend to cases where the alienee shall have taken an absolute conveyance in his own name, without the consent of the person with whose money the consideration was paid; or where such alienee, in violation of some trust, shall have purchased the land with moneys not his own, or where it shall be made to appear that by agreement, and without any fraudulent intent, the party to whom the conveyance was made, or in whom the title shall vest, was to hold the land, or some interest therein, in trust for the party paying the purchase money, or some part thereof.

SEC. 5. No person who shall in good faith pay money to a trustee authorized to receive the same, shall be responsible for the proper application of such money; nor shall any right or title derived by him from such trustee in consideration of such payment, be called in question in consequence of misapplication by the trustee of such money.

SEC. 6. Upon the death of a sole or surviving trustee of an express trust, the same shall vest in the circuit court, and such court shall forthwith appoint a successor in whom the trust shall vest.

SEC. 7. Upon petition of any trustee of an express trust, the circuit court may accept his resignation, and discharge him from the trust, upon such terms as the rights of the persons interested in the execution of the trust may require.

SEC. 8. Trustees having violated, or attempted to violate, any express trust, or becoming insolvent, or of whose solvency, or that of their sureties, there is reasonable doubt, or for other cause, in the discretion of the circuit court, may, on petition of any person interested, after hearing, be removed by such court, and all vacancies in express trusteeships may be filled by such court.

CHAPTER 67.

OF THE ACCUMULATION, SUSPENSION OF OWNERSHIP, AND JOINT TENANCY OF PERSONAL PROPERTY; AND LIMITATIONS OF REAL ESTATE.

SECTION

1. How long ownership of personal property may be suspended.
2. When the accumulation of interest to be valid.
3. Minor may have allowance for support.
4. Rights of survivor of persons holding in joint tenancy.
5. } Limitations of real estate; how far valid.
6. }

SECTION

7. Real estate limited in certain way may be sold.
8. } Proceedings therefor.
9. }
10. Sale not to be ordered if prohibited by deed or will.
11. Conveyance ordered to purchaser.
12. Proceeds of sale; how invested and disposed of.

SECTION 1. No limitation or condition shall suspend the absolute ownership of personal property longer than till the termination of lives in being at the time of the execution of the instrument containing such limitation or condition; or, if in a will, of lives in being at the death of the testator.

SEC. 2. Any provision for the accumulation of interest, or income of money, or other personal property, by any conveyance or will, shall be void, except as follows:

1. If the accumulation be directed to commence from the date of the instrument, or the death of the person executing the same, it may be for the benefit of one or more minors then in being, or in being at such death, and to terminate at the expiration of their minority.

2. If the accumulation be directed to commence at any period subsequent to the death of the person executing such instrument, it may be within the time allowed in the first section of this chapter for the suspension of ownership, and at some time during the minority of the persons for whose benefit it is intended, and must terminate at the expiration of their minority. Any provisions for accumulation beyond the minority of such persons shall be void only as respects the time beyond such minority.

SEC. 3. If a minor for whose benefit such accumulation may have been directed shall be destitute of means of support or of education, the circuit court may, on complaint of such minor or his guardian, cause a reasonable sum to be taken from such accumulation for his support or education, or both.

SEC. 4. The survivor of persons holding personal property in joint tenancy shall have the same rights only as the survivor of tenants in common, unless otherwise expressed in the instrument.

SEC. 5. The absolute power of aliening lands shall not be suspended by any limitation or condition whatever contained in any conveyance or devise, for a longer period than during the existence of a life or any number of lives in being at the creation of the estate conveyed or devised, and therein specified, with the exception that a contingent remainder in fee may be limited on a prior remainder in fee, to take effect in the event that the person to whom the first remainder is limited shall die under the age of twenty-one years, or upon any other contingency by which the estate of such person may be determined before he attains full age.

SEC. 6. Where a remainder for life shall be limited on any other than a life or lives in being at the creation of such estate, all the life estates subsequent to those persons entitled to take life estates according to the provisions of the preceding section, shall be void; and upon the death of those persons entitled to take, the remainder shall take effect, in the same manner as if such void estates had not been created.

SEC. 7. Where real estate is limited by deed or will to one or more for life or lives, with a contingent limitation over to such issue of one or more of the tenants for life as shall be living at the determination of the estate for life or for lives, the circuit court may, upon the application of the tenants for life, and proof that a sale is expedient, and that it will not be to the prejudice of any interested, order a sale of such real estate.

SEC. 8. The application for such sale shall be made by petition, verified by the oath of the party, in which shall be stated all facts showing the expediency of such sale. Such of the issue contemplated by the limitation as shall be in existence at the time of such application shall be made defendants, together with all who would take the estate in case the limitation over should never vest. If any be minors, guardians ad litem shall be appointed, who shall answer on oath, and any minors above the age of fourteen years shall answer, in proper person, in like manner.

SEC. 9. Whether the answer to the petition admit the facts alleged or not, the court, before it orders a sale, shall require every fact which

may be material to ascertain the propriety of such sale to be clearly proved to its satisfaction, and in such manner as it shall direct. Depositions shall be taken in the presence of the guardians ad litem, or on interrogatories agreed upon by them.

SEC. 10. No such sale shall be ordered if the deed or will limiting the estate shall prohibit the same.

SEC. 11. When such sale shall have been authorized and made, and the terms thereof complied with, and the purchase money paid in full, the court may order a conveyance to be executed to the purchaser.

SEC. 12. The proceeds of the sale of such real estate shall be invested in such manner and in such securities as the circuit court shall direct. The interest on such investment shall go to the tenants for life, and the principal thereof shall be deemed real estate, and as such shall be subject to the limitations of the deed or will.

TITLE X.

Of the domestic relations.

- CHAPTER 68. Of marriage, and the solemnization thereof.
 CHAPTER 69. Of divorce.
 CHAPTER 70. General provisions concerning husband and wife.
 CHAPTER 71. Of parents and children.
 CHAPTER 72. Of guardians and wards.
 CHAPTER 73. Of masters and apprentices.

CHAPTER 68.

OF MARRIAGE, AND THE SOLEMNIZATION THEREOF.

SECTION

1. Polygamy forbidden.
2. } Marriages of parties related within
3. } certain degrees, void.
4. }
5. }

SECTION

6. Marriages between whites and negroes, void.
7. Marriages of insane persons, and parties under certain ages, void, &c.

SECTION

- 8. Marriages of persons leaving the District to avoid this act.
- 9. Marriages; how celebrated; to be recorded and proved under the chapter.
- 10. By whom solemnized.
- 11. License to be obtained from clerk; form of.
- 12. License; how issued.
- 13. Consent of parents and guardians; when required.
- 14. Consent of master of slave; when required, and how given.

SECTION

- 15. Ministers to certify marriage to clerk, &c.
- 16. Clerk to record such certificate.
- 17. Clerk to grant certified copies of marriage record, and the same or marriage registry to be presumptive evidence of such marriage.
- 18. } Penalties on ministers and others.
- 19. }
- 20. }
- 21. }
- 22. } Penalties on parties.

SECTION 1. All marriages contracted whilst either of the parties has a former wife or husband living, shall be void, unless the former marriage shall have been dissolved, and no restraint shall have been imposed on the party contracting such second marriage.

SEC. 2. All marriages contracted by parties related within any of the degrees of consanguinity or affinity prohibited in the following sections three or four, shall be void.

SEC. 3. A man shall not marry his mother, grandmother, step-mother, wife's mother, daughter, grandfather's wife, wife's grandmother, father's sister, mother's sister, wife's daughter, son's wife, sister, granddaughter, grandson's wife, wife's granddaughter, brother's daughter, or sister's daughter.

SEC. 4. A woman shall not marry her father, grandfather, step-father, husband's father, son, grandmother's husband, husband's grandfather, father's brother, mother's brother, husband's son, daughter's husband, brother, grandson, granddaughter's husband, husband's grandson, brother's son, or sister's son.

SEC. 5. In all cases mentioned in the two sections immediately preceding, in which the relationship is founded upon a marriage, the prohibition shall continue in force, notwithstanding the dissolution of such marriage by death or by divorce, unless the divorce be for a cause which shows the marriage to have been originally void.

SEC. 6. All marriages between a white person on the one part and a negro on the other, shall be void.

SEC. 7. All marriages contracted by an insane person or by a party under the age of twelve years, shall be void; and any contracted by a person over that age but under fourteen, may be avoided by such party on his or her attaining the age of fourteen years, but not by others.

SEC. 8. When any persons, residents of this District, shall go out of the same, with intent to evade the previous provisions of this chapter, and be married, and shall return to the same, such marriage shall be deemed void in this District.

SEC. 9. For the purpose of being recorded and proved, as herein provided, marriages must be licensed and celebrated in accordance with the provisions of this chapter.

SEC. 10. The rites of marriage shall not be solemnized by any person but a minister of the gospel, who has been ordained according to the usage of his denomination; or in such manner as has been heretofore practised in this District by the society of people called Quakers, or by the Jews: provided, that as between persons belonging to any religious society which has no ordained minister, marriages may be solemnized by the person and in the manner prescribed by and practised in such society. The minister, or other person so authorized, shall receive as a fee for marrying parties the sum of one dollar, to be paid by the husband.

SEC. 11. No person shall marry without a license to that effect, to be issued by the clerk of the circuit court for this District, whose duty it shall be to grant the same, on application, and in form following:

DISTRICT OF COLUMBIA,

County of Washington, to wit:

Whereas, application has been made to me by ———, of ———, and ———, of ———, for license to be joined in holy matrimony: these are therefore to authorize you to solemnize the rites of marriage between those persons according to law, there appearing to you no lawful cause or just impediment to hinder the same.

Given under my hand and seal, this ——— day ———.

To the Rev. Mr. ———, (or any other person qualified by law to celebrate the marriage.)

SEC. 12. The clerk shall not issue a license for the marriage of any person under the age of twenty-one years if male, or eighteen if female, unless he or she shall have been previously married, without the consent of the father or guardian, or, if there be none, of the mother, given in a manner similar to that prescribed in the following section.

SEC. 13. No minister, or other person authorized to solemnize marriages, shall join in marriage any male under the age of twenty-one years, or any female under the age of eighteen years, unless he or she shall have been previously married, without the consent of the father or guardian, or, if there be none, of the mother of every such party, personally given, or signified by the parent or guardian in a writing attested by one witness.

SEC. 14. No slave shall be married without the consent of his or her owner, given personally, or in writing attested, or as provided in previous section.

SEC. 15. Every minister or other person who shall, under the provisions of this chapter, celebrate any marriage ceremony, shall, on the first day of January or July thereafter, certify the fact, in form following, to the clerk of the circuit court, stating the christian and surnames of the parties married by him; their places of residence, and their color, if not white; the time of the marriage, and also that the parties were known to him, or that their identity was proved by a credible witness. Such certificate shall be signed by the person performing the marriage ceremony, and be attested by one witness to the marriage.

The form thereof shall be as follows :

I, ———, (title, if any,) do certify, that on this ——— day of ———, ———, I have united in marriage ———, of ———, and ———, of ———, who are personally known to me, (or whose identity has been proved.)

Witness to the marriage:

—————

SEC. 16. The clerk shall preserve such certificates; and in a book to be kept by him, and called the Marriage Registry, he shall note every license of marriage granted by him, stating the christian and surnames of parties, their places of residence, and the time when such license was granted; and on the receipt of the certificate of marriage, he shall record it opposite the entry already made, and shall index such registry in the name of each party.

SEC. 17. The clerk shall, on the application of any person, grant a certified copy of such marriage record, and the registry shall be open to inspection at all times. The marriage registry, made and kept as

SEC. 8. When any persons, residents of this District, shall go out of the same, with intent to evade the previous provisions of this chapter, and be married, and shall return to the same, such marriage shall be deemed void in this District.

SEC. 9. For the purpose of being recorded and proved, as herein provided, marriages must be licensed and celebrated in accordance with the provisions of this chapter.

SEC. 10. The rites of marriage shall not be solemnized by any person but a minister of the gospel, who has been ordained according to the usage of his denomination; or in such manner as has been heretofore practised in this District by the society of people called Quakers, or by the Jews: provided, that as between persons belonging to any religious society which has no ordained minister, marriages may be solemnized by the person and in the manner prescribed by and practised in such society. The minister, or other person so authorized, shall receive as a fee for marrying parties the sum of one dollar, to be paid by the husband.

SEC. 11. No person shall marry without a license to that effect, to be issued by the clerk of the circuit court for this District, whose duty it shall be to grant the same, on application, and in form following:

DISTRICT OF COLUMBIA,

County of Washington, to wit:

Whereas, application has been made to me by _____, of _____, and _____, of _____, for license to be joined in holy matrimony: these are therefore to authorize you to solemnize the rites of marriage between those persons according to law, there appearing to you no lawful cause or just impediment to hinder the same.

Given under my hand and seal, this ____ day ____.

To the Rev. Mr. _____, (or any other person qualified by law to celebrate the marriage.)

SEC. 12. The clerk shall not issue a license for the marriage of any person under the age of twenty-one years if male, or eighteen if female, unless he or she shall have been previously married, without the consent of the father or guardian, or, if there be none, of the mother, given in a manner similar to that prescribed in the following section.

SEC. 13. No minister, or other person authorized to solemnize marriages, shall join in marriage any male under the age of twenty-one years, or any female under the age of eighteen years, unless he or she shall have been previously married, without the consent of the father or guardian, or, if there be none, of the mother of every such party, personally given, or signified by the parent or guardian in a writing attested by one witness.

SEC. 14. No slave shall be married without the consent of his or her owner, given personally, or in writing attested, or as provided in previous section.

SEC. 15. Every minister or other person who shall, under the provisions of this chapter, celebrate any marriage ceremony, shall, on the first day of January or July thereafter, certify the fact, in form following, to the clerk of the circuit court, stating the christian and surnames of the parties married by him; their places of residence, and their color, if not white; the time of the marriage, and also that the parties were known to him, or that their identity was proved by a credible witness. Such certificate shall be signed by the person performing the marriage ceremony, and be attested by one witness to the marriage.

The form thereof shall be as follows :

I, ———, (title, if any,) do certify, that on this ——— day of ———, ———, I have united in marriage ———, of ———, and ———, of ———, who are personally known to me, (or whose identity has been proved.)

Witness to the marriage: _____.

SEC. 16. The clerk shall preserve such certificates; and in a book to be kept by him, and called the Marriage Registry, he shall note every license of marriage granted by him, stating the christian and surnames of parties, their places of residence, and the time when such license was granted; and on the receipt of the certificate of marriage, he shall record it opposite the entry already made, and shall index such registry in the name of each party.

SEC. 17. The clerk shall, on the application of any person, grant a certified copy of such marriage record, and the registry shall be open to inspection at all times. The marriage registry, made and kept as

hereinbefore prescribed, or a copy thereof duly certified under the hand of the clerk and the seal of the court, shall be received in all courts and places within this District as presumptive evidence of the fact of such marriage.

SEC. 18. Any person knowingly uniting in marriage, parties within the degrees of relation herein prohibited; or any minor, without the consent of his parent or guardian, given as hereinbefore provided; or any person insane, or under the age of fourteen years, or any white person with a negro, shall be fined the sum of five hundred dollars.

SEC. 19. Any person uniting in marriage, parties who have not obtained a license from the clerk, as directed in this chapter, or a slave without the consent of his master, given as hereinbefore provided, shall be fined the sum of one hundred dollars. The clerk shall be subject to a like fine for issuing a license contrary to the provisions of this chapter.

SEC. 20. Any minister or other person solemnizing a marriage under the provisions of this chapter, who shall fail to return in proper form to the clerk, in the first week of January or July of every year, the certificates of marriage as required of him by this chapter, shall be fined the sum of two hundred dollars.

SEC. 21. Any person contracting marriage within the degrees of relation hereinbefore prohibited, shall be fined the sum of five hundred dollars; and for contracting the same without a license first obtained from the clerk, or before a person not authorized by this chapter to solemnize a marriage, the sum of one hundred dollars.

SEC. 22. When any white person and a negro shall intermarry, each party shall suffer such punishment as is provided in Part IV of this Code.

CHAPTER 69.

OF DIVORCE.

SECTION

1. Jurisdiction of divorces, and proceedings therein.
2. Proceedings therein.
3. Divorces a vinculo matrimonii; for what causes granted.

SECTION

4. Divorces a mensa et thoro; for what causes granted.
5. Cause happening out of District, party to have lived here two years before application.

SECTION

6. Divorce a vinculo may be granted, though one a mensa et thoro has been had.
7. On petition asking for divorce a vinculo, court may grant one a mensa et thoro.
8. How marriages denied or doubted, affirmed.
9. When issue deemed illegitimate.
10.)
11.) When issue deemed legitimate.
12.)

SECTION

13. Alimony for life, and provision out of her own property; how allowed.
14. Custody and maintenance of children.
15. On divorce for adultery, guilty party may be restrained from marrying again.
16. Alimony may be awarded to wife during pendency of suit.

SECTION 1. The circuit court for this District shall have jurisdiction of all applications for divorces, to be made by petition, upon which the same proceedings shall be had as are had in other cases, except so far as is otherwise provided in this chapter.

SEC. 2. The petition for a divorce shall specify the causes therefor with certainty, and upon the same being filed, the clerk shall issue summons for the defendant to appear and answer. If it shall appear by the affidavit of a disinterested witness, that the defendant is a non-resident of this District, or has been absent therefrom for the space of six months, the circuit court after the return of one summons not found, may authorize notice of the pendency of the petition to be given by publication, in such manner as it shall direct. The court shall proceed to hear and determine such cause whenever such summons shall have been served twenty days, or such publication made forty days, before the commencement of the term. No judgment for a divorce shall be rendered on default without proof; nor shall any admissions contained in the answer of the defendant be taken as proof of the facts charged as the ground of the application, but the same shall in all cases be proved by other evidence.

SEC. 3. A divorce a vinculo matrimonii—from the bond of matrimony—may be granted for any of the following causes, to wit:

First. For any cause, which, by the laws of this District, renders a marriage null and void, ab initio; and, also, when it is voidable, as before provided, by a person marrying above the age of twelve years and under fourteen.

Secondly. The impotence of either party at the time of the marriage.

Thirdly. For the adultery of either party during the marriage.

Fourthly. When either party is sentenced to confinement in the penitentiary for the term of life or seven years or more, when no pardon granted to the party so sentenced shall, after a divorce for that cause, restore such party to his or her conjugal rights.

Fifthly. When the female, before marriage, has been guilty of illicit carnal intercourse with a man, the same being unknown to the husband at the time of the marriage.

Sixthly. The abandonment by the party complained against of the other party for the uninterrupted period of three years, when the court shall be satisfied that such abandonment is deliberate, final, and unattended by any reasonable expectation of reconciliation.

SEC. 4. A divorce a mensa et thoro—or from bed and board—or, in the discretion of the court, a divorce a vinculo matrimonii, may be granted for either of the following causes, to wit :

First. Cruelty of treatment.

Secondly. Reasonable apprehension of bodily harm.

Thirdly. Abandonment and desertion.

SEC. 5. No divorce shall be granted for any cause which shall have occurred out of this District, unless the party applying for the same shall have resided within the District for two years next preceding the application.

SEC. 6. When a petition asks for a divorce a vinculo matrimonii, the fact that the parties have been divorced a mensa et thoro, shall not be taken to interfere with the jurisdiction of the court over the subject.

SEC. 7. Upon a petition filed asking for a divorce a vinculo matrimonii, the court may decree a divorce a mensa et thoro, if the cause proved be sufficient to entitle the party to the same.

SEC. 8. When the validity of any marriage shall be denied or doubted by either party, the other may file a petition in manner aforesaid for affirming the marriage, and upon due proof of the validity thereof, the court shall have power to affirm and declare valid such marriage, and its judgment thereon shall be conclusive upon all persons concerned.

SEC. 9. Upon the dissolution by divorce of any marriage that is prohibited on account of consanguinity or affinity of the parties, or of any marriage between a white person and a negro, the issue of such marriage shall be deemed to be illegitimate.

SEC. 10. Upon the dissolution of a marriage on account of either of the parties having a former wife or husband living, if it shall appear that the second marriage was contracted in good faith by the unmarried party, and with the full belief on his or her part that the former wife or husband was dead, that fact shall be stated in the judgment or sentence of divorce, and the issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent who, at the time of marriage, was capable of contracting.

SEC. 11. Upon the dissolution of a marriage on account of the non-age, insanity, or idiocy of either party, the issue of the marriage shall be deemed to be the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

SEC. 12. A divorce for other causes than those hereinbefore specially provided for, shall not affect the legitimacy of the issue of the marriage; but the legitimacy of such issue, if questioned, shall be tried and determined according to the course of the common law.

SEC. 13. In all cases where a divorce is granted, the court allowing the same shall have power to award alimony to the wife, and to award to the wife such property as she had when she was married, or such part thereof as the court may deem reasonable, or the value thereof, having a regard to the circumstances of the husband at the time of the divorce. The court may also, in granting a divorce, restore to the wife her maiden or other previous name.

SEC. 14. The court shall also have power to order and direct who shall have the guardianship and custody of the children, and be charged with their maintenance.

SEC. 15. In granting a divorce for adultery, the court may restrain by its judgment the guilty party from marrying again; in which case the bond of matrimony shall be deemed not to be dissolved as to any future marriage of such party, or in any prosecution on account thereof.

SEC. 16. The circuit court may also award alimony to the wife for her sustenance during the pendency of a petition for a divorce filed for any of the causes aforesaid.

CHAPTER 70.

GENERAL PROVISIONS CONCERNING HUSBAND AND WIFE.

SECTION

1. When wife is abandoned by her husband, circuit court may authorize her to sell her property.
2. Also to demand her personal property.
3. She may dispose of the proceeds of such sales and of such property, as if she were unmarried.
4. She may be authorized to contract and sue, &c.
5. And to execute all necessary deeds, &c.
6. The appearance and answer of husband in such proceedings; how obtained.
7. Such powers to continue during the absence of the husband.
8. Her contracts so made shall bind her husband, and in his absence she may be sued thereon.
9. Her general liability to be sued.
10. Suit not to abate on husband's return.
11. If husband does not become a party, judgment may be enforced against him.
12. Wife of a party sentenced to penitentiary, may be authorized to sell, &c. &c.

SECTION

13. Proceedings therein, &c.
14. How far husband responsible for debts of wife contracted before marriage.
15. Damages awarded in certain cases for land of a married woman; how disposed of.
16. Proceeds of wife's real estate, sold under an order; how disposed of.
17. Same of wife's dower interest in husband's real estate, when sold in certain cases.
18. How wife may dispose of her interest therein.
19. Same shall descend as real estate.
20. Wife may join husband's committee in sale of his lands, or his interest in hers.
21. Proceeds of such sale; how disposed of.
22. When wife insane; how dower released.
23. If female under fourteen years of age marry, a receiver of her estate to be appointed, &c.
24. Tenant by the curtesy may be required to bond for the support of wife's children.

SECTION 1. When any husband shall absent himself from the District, abandoning his wife and not making sufficient provision for her maintenance, if the wife is of the age of twenty-one years the circuit court may, on petition filed, and proceedings being had to establish such facts, authorize her to sell and convey her real estate, or any part thereof, and also any personal estate which shall at any time have come to the husband by reason of the marriage, and which may remain within the District undisposed of by him.

Sec. 2. The court may also, under like circumstances, authorize any person holding money or other personal estate to which the husband is entitled in her right, to pay and deliver the same to the wife, and may authorize her to give a discharge for the same, which discharge shall be as valid as if given by the husband.

Sec. 3. All the proceeds of such sales, and all other personal estate, which shall come to the hands of the wife by force of this chapter,

may be used and disposed of by her, during the absence of her husband, as her own property, in the same manner as if she were unmarried: provided, however, that the liability of the same, while in her hands, for the debts of her husband contracted prior to the order or judgment authorizing such sale or delivery, shall in nowise be affected.

SEC. 4. The court may further authorize such wife to make any contract, under seal or otherwise, in her own name, and also to commence, prosecute, and defend any action to final judgment and execution, in like manner as if she were unmarried.

SEC. 5. Every woman authorized as aforesaid may make and execute any deeds or other instruments in her own name, and do all other lawful acts that may be necessary and proper to carry into effect the powers so granted to her.

SEC. 6. In every such proceeding, the complaint shall be filed against the husband, and the same process, by publication or otherwise, shall be had, to procure his appearance, as is had on petitions for divorce.

SEC. 7. The powers so granted to a wife shall continue, and may be exercised, until her husband shall return into the District, and claim his marital rights.

SEC. 8. All contracts lawfully made by any wife, by virtue of such powers, shall be binding on her and her husband, in the same manner as if he were a party thereto; and she shall, during the absence of her husband from the District, be liable to be sued thereon, as if she were unmarried.

SEC. 9. She shall also be liable to be sued, in like manner, for all other acts and things done by her during the continuance of the power so granted to her.

SEC. 10. No action wherein a wife shall be a party under the provisions of this chapter shall abate by the return of the husband into the District, but he may, on his application, be admitted to prosecute or defend the action jointly with her, in like manner as if they had intermarried after the commencement of the same.

SEC. 11. If the husband shall not be admitted as a party to the action, it shall proceed to judgment and execution, as if he had not returned to the District; and any judgment recovered against the wife may be afterwards enforced against the husband, in like manner as one on a debt of his own may.

SEC. 12. When any husband shall be sentenced to confinement in the penitentiary of this District, his wife may, on her petition to the circuit court, be authorized to sell and convey her estate, and to do any and all the other acts which may, according to the provisions of this chapter, be done by a wife, when authorized as before provided, in the absence of her husband; and the authority so granted to the wife of a convict may continue and be exercised until the discharge of her husband from such confinement.

SEC. 13. The petition of the wife of such convict shall be presented, and the proceedings thereon shall be conducted, in the manner before prescribed in the case of a husband who has abandoned his wife; and she and her husband shall be bound, respectively, by all her lawful contracts, in the same manner as is hereinbefore provided with respect to the contracts of a wife who is authorized to act on the abandonment of her husband; and all actions relative to such contracts, and other acts of the wife of such convict, whether brought by or against them, or either of them, shall be conducted and disposed of in the same manner.

SEC. 14. Upon all marriages hereafter contracted, the husband shall not be responsible for the debts and liabilities of the wife contracted before marriage, further than is herein provided.

First. When he receives personal property with or through her, or derives the same from the rent, or profits, or sale of her real property, he shall be responsible to that extent; and such responsibility of the husband shall not be extinguished by the death of the wife.

Secondly. When the wife has at the time of marriage, or acquires thereafter during coverture, real property, judgment in respect to her previous liabilities may be rendered against her and her husband jointly, to be levied of such real property.

SEC. 15. When the real estate of any married woman shall be taken for a railroad, turnpike, way, or other public use, or shall be damaged by the laying out of a railroad, turnpike, way, or any other public work, the compensation awarded therefor may be so invested and disposed of as to secure to her the same right, use, and benefit of and in the sum so awarded, and the income thereof, that she would have had in the real estate, and the income thereof, had it not been so taken or damaged; and the circuit court shall, on the application of any such woman, hear and determine the case, and shall make such orders thereon as may be necessary to secure her rights and interests.

SEC. 16. When the real estate of the wife is sold at any time during coverture, under an order of the circuit court, the proceeds thereof shall be so invested, under the directions of the court, as to secure to her, free from any liabilities or claim of her husband, the same interest in the principal sum and interest thereon, that she would have had in the real estate had it not been sold.

SEC. 17. When any real estate in which the wife has her dower right is sold in the lifetime of her husband, under a deed of trust or mortgage executed by the husband before marriage, or in which the wife has joined with privy acknowledgment, certified as provided in chapter forty-eight, the trustee making such sale shall, under the direction of the circuit court, invest one-third of the proceeds of sale remaining after paying off the encumbrances that are valid against the wife, so that she may have secured to her, in the event of her surviving her husband, the interest thereon for the remainder of her life, from the date of his death, free of any liabilities of his.

SEC. 18. In either case provided for in the three sections immediately preceding, the wife may, by an instrument in writing signed and sealed by her, and acknowledged privily, as in case of a deed of real estate, before a commissioner to be appointed by the circuit court, and by him certified, authorize the payment of such fund held in trust for her to her husband; or, with his consent, to be indicated by his uniting in and acknowledging such instrument, to any other person.

SEC. 19. In the event of the wife dying before her husband, without having disposed, as aforesaid, of her interest therein, the investments made in accordance with preceding sections fifteen or sixteen shall descend as real estate of the wife, and subject to the same charges.

SEC. 20. When the committee of any insane person shall be authorized to sell the real estate of the latter, or shall be authorized to sell his interest in the real estate of his wife, the wife may, if she thinks fit, join with the committee in the conveyance, and thereby convey all her interest in the granted premises, as fully as she might have done by a conveyance executed jointly with her husband had he been under no legal disability.

SEC. 21. In case of any such release by the wife of her right of dower, or of any such conveyance of her own estate, the proceeds of sale may be so disposed of and invested as to secure to her the same right and benefit in the principal sum and the interest thereof, that

she would have had in the real estate had it not been sold. In the event of the husband's recovery, the wife may dispose of her interest in such investment as before provided in section eighteen, and the same, when received from the sale of her estate, shall descend as real property, and subject to the same charges, should she die before her husband.

SEC. 22. When a wife is insane, and her husband shall wish to sell his real estate, and have her right of dower therein released to the purchaser, he may apply by petition to the circuit court, and such court, should it deem it proper, may order a release thereof to be executed by a commissioner to be appointed for that purpose, and the same shall be as effectual to pass her right of dower as if duly executed and acknowledged by her while of sound mind, and properly certified. The wife's interest in the proceeds of sale shall be secured as provided in the preceding section, and, in the event of her recovery, may be transferred by her as provided in section eighteen.

SEC. 23. If any female of the age of twelve and under fourteen years shall marry without the consent of her father or guardian, or, if she have none, of her mother, the circuit court shall, upon the petition of her next friend, commit her estate to a receiver, who shall hold the same, and pay out, under the direction of the court, the rents and profits thereof, to her separate use during her coverture; and after the determination thereof, all such estate shall be delivered into the possession of the female, her heirs, and distributees, other than her husband.

SEC. 24. The circuit court, or the judge of the orphans' court, on application being made, shall require tenants by the curtesy, when the deceased wife shall have left infant children by a former marriage, to enter into bond, with sufficient surety, for the maintenance and education of such children in a manner consistent with the value of the estate and the number of her other children. Such bond, when required, shall be filed and recorded in the office of the register of wills.

CHAPTER 71.

OF PARENTS AND CHILDREN.

SECTION

1. When parents and children bound to maintain each other.
2. When father's ability to maintain and educate a child may be aided out of child's estate.
3. Father or mother may appoint, by will, a guardian to minor child.
4. Minor children may be bound as apprentices by father, or, in case of his death, by mother.

SECTION

5. } How circuit court may dispose of chil-
6. } dren on separation of parents.
7. }
8. The court may provide for the access of the mother, when the father has the custody.
9. Maintenance and education of child; how provided for.
10. Parents not allowed, by interfering with the custody of their children, to defeat provision made for them with their acquiescence.

SECTION 1. Parents, when of sufficient ability, shall be bound to maintain their children while poor and unable to work to maintain themselves; and children shall be bound to maintain their parents under like circumstances. This obligation shall extend to grandparents and grandchildren.

SEC. 2. If any minor who has a father living has property, the income of which is sufficient for his maintenance and education in a manner more expensive than the father can reasonably afford, regard being had to the situation of the father's family, and to all the circumstances of the case, the expenses of the maintenance and education of such child may be defrayed out of the income of his own property, in whole or in part, as shall be deemed reasonable by the judge of the orphans' court, and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian.

SEC. 3. Every father or mother may, by will, appoint a guardian for his or her minor children, as provided in the second section of chapter seventy-two.

SEC. 4. Minor children may be bound as apprentices by their father, and, in case of his decease, by their mother, in the manner provided in the fourth section of chapter seventy-three.

SEC. 5. When any husband and wife shall live in a state of separation, without being divorced, and shall have minor children of the marriage, the wife may apply to the circuit court for a habeas corpus, to have such minor child brought before it.

SEC. 6. On the return of such writ, the court, on due consideration, may award the charge and custody of the child so brought before it to the mother, for such time, and under such regulations and restrictions, and with such provisions, as the case may require.

SEC. 7. At any time after passing such order, the circuit court may, on the petition of either the father or mother, annul or modify the same, as circumstances may require.

SEC. 8. The court shall also have the power to provide, in its discretion, according to the circumstances of the case, for the access of the mother when the child is in the custody of the father.

SEC. 9. The court shall have power to compel the father or the mother, having the means, to pay such sum at stated periods, to be applied under the court's direction to the maintenance and education of the child, as under all the circumstances the court shall deem just and proper.

SEC. 10. If property be settled, or a fund provided, for an infant, upon condition that either or both parents shall surrender their right to the care and custody of the child, and the parents, or either of them, as the case may be, shall, by acquiescing for a time, and permitting the child to be educated and reared in a manner conformable to the provision, encourage in it corresponding expectations, such parent or parents shall not be allowed to resume the custody of the child, and disappoint those expectations.

CHAPTER 72.

OF GUARDIAN AND WARD.

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SECTION 1. The father of any infant child shall be his natural guardian, and, on the father's death, the mother, if she survive, shall, so long as she remains unmarried, enjoy the same right as to all her children who are without a testamentary guardian.

SEC. 2. Every father may, by his last will, appoint a guardian for his infant child, born or to be born, and in default of such appointment by the father, or on the death, removal, or failure to qualify, of such testamentary guardian, the mother shall, if she survive, have the same power of appointment.

SEC. 3. The orphans' court shall have power to appoint a guardian to any infant child who may have property of any kind within, or whose person and residence may be within, the jurisdiction of the court, unless such infant already have a natural or testamentary guardian.

SEC. 4. When a testamentary guardian shall renounce, fail to

qualify, be removed, or shall die, during the minority of the ward, the orphans' court shall appoint a guardian in his stead, saving to the mother of such ward her right as natural guardian, and her power of appointment, as hereinbefore provided.

SEC. 5. Such guardianship shall continue until the infant, whether male or female, attains the age of twenty-one years: provided, however, that the marriage of any female ward over eighteen years of age, to a person of full age, shall operate as a legal discharge of her guardianship, and the guardian shall account to the husband of such ward in the same manner as if she had arrived at full age.

SEC. 6. If the orphans' court be called on to appoint a guardian, and the infant be under the age of fourteen years, the court shall nominate and appoint the guardian; if the infant be above that age, he may, in the presence of the court, or by writing acknowledged before a justice of the peace, nominate his own guardian, who, if approved by the court, shall be appointed. If the guardian nominated by such infant shall not be appointed by the court, or if the infant shall neglect to nominate a suitable person, after being summoned, if he shall reside within this District, the court may nominate and appoint the guardian, in the same manner as if the infant were under the age of fourteen years. Any infant for whom the court has appointed a guardian while under the age of fourteen years, may, nevertheless, on attaining that age, nominate, as hereinbefore provided, his own guardian.

SEC. 7. When an infant whose father or mother shall be living, shall be entitled to any separate property, the orphans' court may compel such father or mother entitled to act as natural guardian, to give bond and security, and to account as in case of other guardians, and, in the event of his or her failing so to do, the court may appoint a guardian.

SEC. 8. The orphans' court shall require of every guardian it appoints, and of all testamentary guardians, unless it be otherwise directed in the will appointing them, to give bond for the faithful performance of their trust.

SEC. 9. No guardian required by this chapter to give bond shall have any authority to act until he shall have entered into such bond. The same shall be given to the United States, with two or more sureties to be approved by the court, and in a penalty double the

amount of the personal estate, and of the value of the annual rents and profits of the real estate of the ward. The condition thereof shall be as follows: That such person will render a true and just account to the orphans' court of all moneys and property received by him, and of the application thereof, and that he will, in all respects, faithfully discharge the duties of guardian according to law.

Sec. 10. Such bond shall be liable also for the proceeds of sales of the infant's real estate which may come into the possession of the guardian. It shall be filed and recorded, and be subject to be put in suit, and be in all respects on a footing with an administration bond.

Sec. 11. Either new, additional, or counter security may be required of a guardian, as is hereinbefore provided in the case of an administrator; and if the guardian shall fail to give the same within the period fixed by the court, his authority shall be revoked, and the delivery of the property of his ward to a newly appointed guardian may be enforced in like manner as hereinafter provided in section thirteen of this chapter.

Sec. 12. Every such guardian shall have the custody and tuition of the infant, and the care and management of his estate: provided, however, that the father of such minor, or, if there be no father, the mother, if suitable persons, respectively, shall have the custody of the person and the control of the education of the minor.

Sec. 13. The orphans' court may order the delivery of the ward's property to his guardian. In the case of a legacy or bequest, the court shall order the delivery so soon as the same can be delivered without prejudice to the person administering; and in the case of a distributive share, as soon as the same shall be ascertained; and the court may enforce such delivery by a former guardian, administrator, or executor, by attachment and fine not exceeding three hundred dollars, and by suit upon his bond, or by sequestration.

Sec. 14. Every guardian shall cause an inventory and appraisement of the personal estate of his ward to be made in the manner, and by parties appointed and sworn, as provided in chapter fifty-six for the appraisement of the personal estate of deceased persons, and shall return the same to the orphans' court, within three months after the execution of his bond. On the receipt of any additional property belonging to his ward, the guardian shall, within one month thereafter, return an inventory and appraisement thereof in like manner.

SEC. 15. Every guardian having the care of real estate shall cause the same to be viewed and reported on, by persons appointed in like manner as provided in previous section. It shall be incumbent on such persons, after taking an oath for the impartial discharge of their duties, to examine the real estate and estimate the annual value thereof, including any slaves, stock, or utensils thereon belonging to the ward, and proper to be leased with the same. They shall also report what dwelling houses, out-houses, or other improvements are thereon, and the condition thereof, and what proportion of any land is in woods, and shall annex a certificate of their appointment, and of their having taken the required oath. The same shall be returned by the guardian to the orphans' court, within three months after the execution of his bond, and shall be evidence against him in the event of any suit for misconduct.

SEC. 16. Such real estate shall either be cultivated by the guardian, with the slaves, stock, and utensils belonging to the ward or to be purchased with his money with the approbation of the orphans' court, or shall be leased by the guardian from year to year, or for any term not exceeding three years, and within the nonage of the ward; or he may, with the court's approbation, undertake the estate on his own account, and be answerable for the annual value, the same to be ascertained by appraisement every third year under the direction of the court.

SEC. 17. No guardian shall commit waste on the land of his ward, but the orphans' court may authorize him to cut and sell wood, and account for the same, should it deem it necessary to the ward's maintenance or education, or advantageous to his interests.

SEC. 18. Once in each year, or oftener if required, a guardian shall settle, under oath, an account, verified by vouchers or proof, of his trusts, with the orphans' court, and shall account therein for all profits and increase of the estate, or annual value as aforesaid, but shall not be answerable for any loss or decrease, unless caused by his negligence. In his first account the guardian shall state the property received by him from an executor or administrator, or previous guardian, as well as all profit thence arising.

SEC. 19. Every account of a guardian shall state his expenditures in maintaining his ward, and the amount to be expended annually for such purpose shall be ascertained by the orphan's court, regard

being had to the future situation and prospects of the ward. The court may, if it shall deem it advantageous to the ward, allow the guardian for such purposes to exceed the income of the estate, and to make use of the principal, or a part thereof; provided, that no part of the ward's real estate shall, on account of such maintenance and education, be diminished without the approbation of the circuit court, obtained as hereinbefore provided in chapter sixty-one.

SEC. 20. No guardian shall be summoned by the orphans' court, *ex officio*, to account when the annual income or profits of the estate of the ward shall not exceed fifty dollars.

SEC. 21. On a guardian failing to account as hereinbefore directed, he may be removed by the orphan's court, and he may be proceeded against by attachment, and fined not exceeding one hundred dollars. His bond may also be put in suit.

SEC. 22. The orphans' court may at any time, should it deem it advantageous to the ward, order a sale of his personal property, for the purpose of reinvestment. Such sale may be for ready money or on credit, the purchaser giving bond or note with security to the ward, bearing interest, and all proceedings relative thereto shall be as directed respecting sales by administrators.

SEC. 23. The court may also order the sale of any lease-hold estates of a ward under like circumstances.

SEC. 24. The proceeds of such sales shall, under an order of the orphans' court, be invested in the name of the ward, in any public or bank stock or other good security specified by the court, yielding at least six per cent. per annum, and no transfer or disposal thereof shall be made without the sanction of the orphans' court.

SEC. 25. All surplus money belonging to a ward shall, under an order of the court, be invested in like manner, and subject to like restrictions.

SEC. 26. A guardian who receives from a trustee or other officer of a court any proceeds of the real estate of his ward sold by such officer, shall, under an order of the orphans' court, invest the same in the manner prescribed in the section immediately preceding, and the surplus interest of such investment, after what may be needed in aid of the income from the personal estate for the maintenance and education of the ward, shall be invested in like manner, under the direction of the court. Such investments shall likewise be made in the

name of the ward, and shall be transferred only under an order of the orphans' court.

SEC. 27. No part of the principal of such fund received from the trustee shall be applied by the guardian to the maintenance or education of his ward, unless with the approbation of the circuit court first obtained, as hereinbefore provided in chapter sixty-one, in the case of the ward's real estate.

SEC. 28. In the event of the death of the ward before his arrival at full age, or his death intestate, and without lawful issue, the proceeds of such sale or such stock, or other security so held as an investment, with the surplus interest, shall be considered as real estate, and as such shall descend to those heirs or representatives who would be entitled to the real estate had it not been sold.

SEC. 29. A guardian shall receive as compensation for the care and trouble of the ward and his estate such commission as the orphans' court shall allow, not exceeding twelve per cent. on the income and personal expenditures of the ward.

SEC. 30. On a ward's arrival at age, the guardian shall exhibit a final account, and deliver up, in conformity with an order of the orphans' court, to such ward, or in case of a female ward married, to her husband, all the property of the ward, including bonds and other securities, and on failure his bond may be put in suit, and he shall also be liable to attachment and fine not exceeding three hundred dollars, and the process of sequestration.

SEC. 31. Upon complaint made to the judge of the orphans' court by any guardian, or by a ward, or by any person interested in his estate in expectancy, as heir or otherwise, against any one suspected of having concealed or embezzled any of the property of the ward, the judge may cite and examine such suspected person, and proceed with him as to such charge in the same manner as is provided in chapter fifty-six respecting persons suspected of concealing the effects of a deceased testator or intestate.

SEC. 32. Nothing contained in this chapter shall impair or affect the power of any court to appoint a guardian to defend the interest of any minor impleaded in such court, or interested in any suit or matter there pending; nor their power to allow any person as next friend for a minor, to commence, prosecute, or defend, any suit in his behalf.

SEC. 33. When any guardian appointed either by a testator, or by

the judge of the orphans' court, shall become insane, or otherwise incapable of discharging his trust, or evidently unsuitable therefor, the judge, after notice by summons or publication to such guardian, may remove him.

SEC. 34. The judge of the orphans' court may, on the application of any guardian, and notice being given by summons or publication to the ward, allow such guardian, whenever it shall appear just and proper, to resign, and the proceedings on any application of that character shall be in accordance with the provisions of the following three sections.

SEC. 35. The guardian shall first render to the judge of the orphans' court a full and true account, in writing, verified by oath and vouchers, or proof, of all his receipts and payments on account of his ward, and of all the property of every description which may be in his hands or under his control as guardian.

SEC. 36. If the judge shall be satisfied that such account is full and true, that the guardian has in all respects conducted himself honestly in the execution of his trust, and that the interests of the ward would not be prejudiced by allowing the guardian to resign, he may thereupon proceed to appoint a new guardian for such ward, and order that the former guardian deliver all papers, moneys, choses in action, and other property of the ward, of whatever description, to such new guardian, and take duplicate receipts for the same.

SEC. 37. On the delivery of one of these receipts to the register of wills, to be filed in the office, the judge may order that the former guardian be permitted to resign his trust, and he shall thereupon be discharged from any further custody or care of the ward, or of his estate; provided that nothing herein contained shall prevent the ward, or new guardian, from having a further account from such former guardian, in relation to all matters connected with his trust before he was permitted to resign the same, and that in respect to all such matters his sureties shall remain liable to the same extent as if such resignation had not been allowed.

SEC. 38. Whenever a sole guardian shall die or be removed, the judge of the orphans' court shall appoint a new one, saving to the mother her right as hereinbefore provided in section four.

SEC. 39. Every guardian who may be removed shall forthwith render an account in full of his guardianship, and shall deliver to the

new guardian all the property of the ward, and such delivery, under an order of the orphans' court, may be enforced by attachment and fine, or by sequestration. In the event of the removal of the guardian for insanity, such account and delivery shall be made by his committee.

SEC. 40. The executor or administrator of any guardian who shall die before his account is rendered, shall render the same, and deliver over to the new guardian all the property of the ward.

SEC. 41. The orphans' court may, upon the application of a guardian from any other Territory or District, or from any of the United States, who has there given good and sufficient security, and who has the custody of the person of his ward, and his filing a petition setting forth the premises and the entire amount of his personal property, and the income of his real estate, including that in this District, accompanied with a duly authenticated copy of the record of his appointment and qualification, and of the bond given by him, verified as to the truth of the facts by the affidavit of such guardian, and as to the sufficiency of the security by the affidavit of a disinterested credible witness, if satisfied of the truth of the facts set forth in such petition, and of the sufficiency of such security, order any executor, administrator, or trustee, appointed by last will, to pay over to such guardian any legacy, bequest, or distributive share in his hands belonging to such ward, as soon, and under the same circumstances in all respects as if such guardian had been appointed by the orphans' court of this District; and obedience to such order may be enforced as if it were an order to pay a domestic guardian.

SEC. 42. If any resident of this District shall be prospectively entitled to any remainder, reversion, or executory interest, in any such legacy or bequest, upon the determination of the estate of the infant therein, the court shall, before making such order, require the guardian, or some other person for him, to execute a bond to the United States, in double the amount of such legacy or bequest, conditioned that the said legacy or bequest shall, at the determination of the estate of the infant, be forthcoming in this District, for the benefit of the person so entitled.

SEC. 43. Such bond shall be recorded in the office of the register of wills, and any person interested therein shall be entitled to a copy of the same, certified under the hand of the register and seal of the orphans' court, and may maintain an action thereon as on the bond of an administrator, and recover such damages as he shall sustain.

SEC. 44. The circuit court may, upon similar petition and proof, and being satisfied of the truth of the facts, and the sufficiency of the security as aforesaid, order any trustee or other officer to pay over to a guardian from another Territory or District, or from any State, the proceeds of the sales of real estate in the hands of such officer belonging to the ward; and may, under circumstances similar to those mentioned in section forty-two, require the guardian, or some other person for him, to give bond as therein mentioned; which bond shall be recorded, and may be sued on as before provided.

SEC. 45. All receipts, releases, or acquittances, from any ward to his guardian, executed, acknowledged and certified as provided in the case of releases to administrators, may be recorded in the office of the register of wills, and may at all times be evidenced by a copy thereof, duly attested by the register, under the seal of the orphans' court. The originals shall in all cases be retained and preserved in the register's office, after they are recorded.

SEC. 46. The judge of the orphans' court shall in no case act as guardian of an infant.

CHAPTER 73.

OF MASTERS AND APPRENTICES.

SECTION

1. Who may be bound out by orphans' court.
2. May be relieved by relations, &c., bonding.
3. Who may be bound out by the levy court, or a member thereof.
4. Right of father or mother to bind their children.
5. To be bound by indenture.
6. Tradesmen, &c., to be preferred; substance of contract.
7. Money paid by master; to whom secured.
8. Indenture to be lodged with register, and recorded.
9. Remedies of apprentice against master.
10. } Remedies of apprentice against master.
11. Remedies of master against apprentice.

SECTION

12. Contract defective in form, but partly executed, may be enforced.
13. Apprentice absenting himself; how master compensated.
14. } Rights of widow of master of male
15. } apprentice.
16. Rights of widow of master of female apprentice.
17. Rights of widow of master of male and female apprentices.
18. Master not to carry apprentice out of the District.
19. Master, on paying certain fines for apprentice, shall be entitled to additional term of service.
20. Penalty on person enticing a har-
boring apprentice.

SECTION 1. The judge of the orphans' court shall bind out as apprentices, all orphan children, whose estate, real and personal, is not sufficient for their maintenance and education, all children suffering through the indigence of their parents, children of beggars, and all illegitimate children, until such children, if male, reach the age of twenty-one years, if female, the age of eighteen.

SEC. 2. When, however, any child shall be brought before the judge of the orphans' court to be bound out as an apprentice, if any relation or other person shall enter into bond, in the penalty of three hundred dollars, with sufficient surety to be approved by the said court, for the comfortable maintenance and clothing of the child, and also for his reasonable education, the court shall not bind him out, but such bond shall be filed in the orphans' court, subject to suit on the breach of its condition.

SEC. 3. The levy court, or any member thereof, may bind out any orphan, or other poor child under their care in the poor-house, subject to the provisions of this chapter, and it shall be the duty of the court, or such member, to return the indenture of apprenticeship to the orphans' court for record, as hereinafter provided.

SEC. 4. Any father, and in case of his death or incompetency, any mother, may bind out his or her child as an apprentice, on reasonable terms, until the age of twenty-one years, if male, or eighteen if female; and when any child is to be bound out by the orphans' court or by the levy court or a member of the same, the parent of such child, if living within this District, shall be summoned or notified to appear, and the wishes of such parent, so far as they may be reasonable, shall be consulted in the choice of the person to whom the child shall be bound.

SEC. 5. No child shall be bound out as aforesaid except by an indenture, executed under the hand and seal of the party taking the apprentice, and having the consent of the judge of the orphans' court, or of the levy court or some member thereof, or of the father or mother, as the case may require, endorsed thereon, and in such indenture shall be stated the name, sex, and age of such apprentice, and the terms or contract of apprenticeship.

SEC. 6. It shall be the duty of the judge of the orphans' court, or other court or person herein authorized to bind out apprentices, in selecting masters for them, to prefer tradesmen and mechanics, or others of useful occupation, who shall always be bound to teach the

apprentice the trade or occupation they follow. When it can be done, the indenture shall set out this obligation, and that the apprentice shall receive reasonable education in reading, writing, and arithmetic, as a part of the contract; and in all cases it shall recite as a part of the duty of the master that he shall provide suitable clothing and maintenance for the apprentice.

SEC. 7. When the judge of the orphan's court, or the levy court or a member thereof, shall bind out an apprentice, direction shall be given whether the master, besides maintaining the apprentice and teaching him as before provided, shall pay anything for his services, and if anything, how much, and for which year or years. The money which the master is to pay for the last year shall be paid at the end thereof to the apprentice; the rest may be paid at the end of each year to the father or mother, or part to each, as the court may direct, or it also may be reserved to be paid to the apprentice at the end of his term, with interest. To secure such payments, bond with security shall be taken, and the obligation of the master shall be recited in the contract of apprenticeship.

SEC. 8. Such indenture shall be lodged with the register of wills of the orphans' court, whose duty it shall be to receive and record the same, the fee therefor being paid by the master. When the apprentice is bound out by his father or mother, or by a member of the levy court, it shall be the duty of each of them, under a penalty of twenty dollars, to deliver the indenture within three months from the date of its execution to the register for record.

SEC. 9. If the terms of any contract of apprenticeship shall be considered by the judge of the orphans' court hard and unreasonable, he may, upon the petition in writing of the apprentice, reasonable notice being given by summons or publication to the master to appear, discharge the apprentice from the same and provide him with a new master.

SEC. 10. The judge of the orphan's court may, on the petition in writing of any apprentice, and notice as aforesaid to the master being given, inquire into the conduct of the master, and if it shall appear that the contract of apprenticeship has been violated on the part of the master, he shall be fined for the first offence a sum not exceeding twenty dollars, and for the second a sum not exceeding fifty dollars; and the said judge may, in his discretion, for such violation of the

contract, or any ill-behavior or imposition of the master, discharge the apprentice, and shall provide for him a new master, and one, if practicable, of the same trade or occupation with the first. Fines imposed under this section shall be for the use of the apprentice, and shall be secured for him as directed by the court.

SEC. 11. The judge of the orphans' court may also, on the petition in writing of the master, and the appearance of the apprentice by guardian, discharge the master from his contract, if it shall appear that the apprentice has shown incorrigible ill-temper, or has otherwise seriously misbehaved. The judge shall also have power, should the apprentice become seriously disabled by sickness or otherwise, to relieve the master from the payment, in whole or in part, of any money agreed upon.

SEC. 12. If it shall appear that a contract of apprenticeship, though defective in form, has been partly executed, the judge of the orphans' court may order the terms, or any part of the terms thereof, to be performed by the master or the apprentice, as justice and equity may require, and the master of any apprentice may detain him in his service until he be discharged by the judge aforesaid; and the master may maintain such actions against strangers, as he could, had the apprentice been legally bound to serve.

SEC. 13. If any apprentice shall absent himself from the service of his master, the judge of the orphans' court may, at any time during the remainder of his term, or within three years from the expiration thereof, award such compensation to be made by the apprentice to his master, either by service or the payment of money, as justice and equity may require; and may enforce the payment of the money so awarded by an attachment of contempt against his person, or by attachment and sequestration of his property.

SEC. 14. When the master of any male apprentice shall die, the widow of such master may, with the approbation of the orphans' court, if the apprentice was bound out by the same, or by the levy court or a member thereof; or with the approbation of the father or mother, if bound by either of them; assign the whole residue of the contract, on such consideration as she shall agree, to some other person of the same trade or occupation as the first master; and the new master and apprentice shall be bound to perform the residue of the contract as if the new master had been the original party thereto.

Sec. 15. When the consent of the father or mother of such apprentice is necessary and cannot be obtained by the widow to the assignment of the residue of the contract, it shall be the duty of the judge of the orphans' court to appoint three persons of the same trade or occupation with the deceased master, any two of whom shall value, upon oath, the residue of the contract, when, if the father or mother, as the case may be, fails to pay the widow such valuation, she may, with the approbation of the orphans' court, assign without his or her consent.

Sec. 16. Upon the death of any master of a female apprentice, such apprentice shall serve out the residue of her time with his widow, who shall comply strictly with the terms of the contract made by her deceased husband; provided, that if the widow shall prefer not to keep such apprentice, and shall, within four months after her husband's death, carry her to the orphans' court and deliver her up, the widow shall be released, and the apprentice be bound out anew, in accordance with the provisions of this chapter.

Sec. 17. Every apprentice whose master shall die leaving a widow, shall continue at his business, and be subject to the control of the widow, until otherwise ordered by the judge of the orphans' court, who shall have authority to continue any apprentice with the widow so long as she fulfils the contract made by her husband.

Sec. 18. No master of any apprentice bound out within this District shall, except in the case of a mariner's apprentice, send or carry him out of the same; and any justice of the peace having reason to suspect an intended violation of this section may demand of such master a bond, with good security, conditioned to be forfeited if the master shall, directly or indirectly, carry or send the apprentice away contrary to the provision of the same. If the master refuse to give such bond, the apprentice shall be discharged, and a new master be provided by the orphans' court.

Sec. 19. If any apprentice shall be convicted of an offence, on which judgment shall be entered against him for any fine or penalty and costs, the court passing the same shall enter on the record the time during which the apprentice shall serve his master, after the expiration of his apprenticeship, in case the master shall pay the fine or penalty and costs; and on the master paying the same, the apprentice shall be obliged to serve for the time so adjudged: provided, however, that he may free himself from such obligation to serve, by

reimbursing at any time his master the sum so paid, with interest thereon.

SEC. 20. Any person who shall conceal, harbor, or entice away, any apprentice, shall, on conviction thereof, be fined a sum not exceeding fifty dollars, and shall be liable in an action to the master for double the damages sustained by him.

TITLE XI.

CHAPTER 74.

MANAGEMENT OF CONVICT'S ESTATE.

SECTION

1. } Circuit court, on application, to appoint
a committee to take charge of con-
2. } vict's estate.
3. Committee may sue and be sued.
4. Provision for wife of convict.
5. Committee to account, &c.

SECTION

6. Disposition of convict's estate on his
return or death.
7. When marshal to act as committee.
8. Real estate of convict sold for payment
of his debts, as real estate of an insane
person.

SECTION 1. When any person other than a married woman shall be sentenced to confinement in the penitentiary, the estate of such convict, both real and personal, shall, subject to the provisions of sections twelve and thirteen of chapter seventy, be disposed of and managed as follows:

SEC. 2. On application being made to the circuit court, by the petition of any one interested therein, the estate of such convict shall be committed to a person selected by said court; who, on giving bond in such penalty as may be prescribed, shall have charge of said estate until such convict is discharged from confinement.

SEC. 3. Such committee may sue and be sued in respect to debts due by or to such convict.

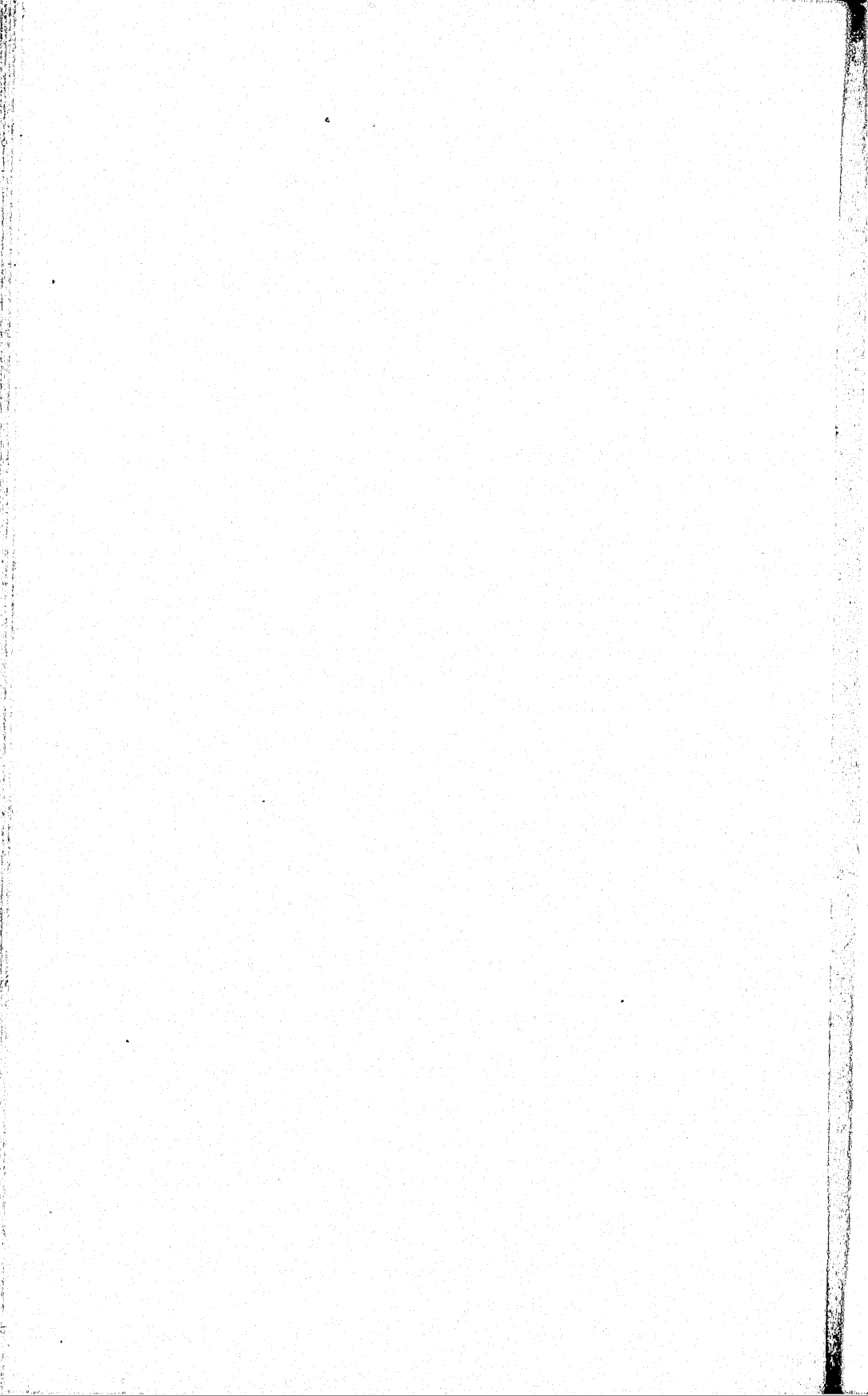
SEC. 4. The circuit court may direct, when it can be done without prejudice to the rights of creditors, an allowance to be made for the maintenance of the wife and family of the convict; and the wife shall be entitled, so long as the convict may be confined, to the profits of such portion of his estate as she could have if he had died intestate.

SEC. 5. The committee shall render accounts of his trust to the circuit court, and shall be entitled to like compensation for his services as is provided in the case of a guardian.

SEC. 6. Every committee shall deliver such estate as he may be liable for at that time, to the convict on his discharge, or to his real and personal representatives, on his death before being discharged.

SEC. 7. If the person appointed by the circuit court fail to give bond as aforesaid, and no other suitable person will accept the same and bond, the estate shall be committed to the hands of the marshal, who shall be entitled to all the rights of a committee, and shall act as such ; and he and the sureties in his official bond shall be responsible for the faithful performance of the trust.

SEC. 8. The real estate of such convict may be sold when necessary for the payment of his debts, in the same manner as the real estate of an insane person in the hands of a committee.



PART III.

OF COURTS AND JUDICIAL OFFICERS, AND PROCEEDINGS IN CIVIL CASES.

TITLE I.

Of courts and certain officers of courts.

CHAPTER 75. Of the circuit court.

CHAPTER 76. Of the clerk of the circuit court.

CHAPTER 77. Of the orphans' court, and proceedings therein.

CHAPTER 78. Of the register of wills.

CHAPTER 79. Of the district court of the United States for the District of Columbia.

CHAPTER 75.

OF THE CIRCUIT COURT.

SECTION

1. The circuit court to consist of three judges.
2. The present judges to continue in office.
3. Two judges to constitute a quorum.
4. Judges to take an oath,
5. }
6. }
7. }
8. }
9. }
10. } Jurisdiction of the circuit court, and
11. } powers of the judges thereof.
12. }
13. }
14. }
15. }
16. }
17. }

SECTION

18. How circuit court may be adjourned in the absence of the judges.
19. How writs and process shall be tested.
20. The circuit court, or judge thereof, may award writs of error in criminal cases.
21. Proceedings where the jury is not discharged at the beginning of a succeeding term.
22. Proceedings not to be discontinued on account of failure to hold a term.
23. Matters not determined, to be continued to next term.
24. Terms of court; when and where held.
25. Compensation of the judges.

SECTION 1. The circuit court of this District, consisting of one chief judge and two assistant judges, is hereby continued, with the powers and jurisdiction conferred by this Code upon the same. The said judges shall hold their respective offices during good behavior.

SEC. 2. The present judges of the circuit court of this District shall continue to hold their offices according to the tenor of their commissions; and as vacancies occur they shall be filled in the manner provided by law.

SEC. 3. Any two of the judges of the circuit court shall constitute a quorum for the transaction of any business that might be done by all the judges.

SEC. 4. Every person who shall be appointed a judge of the circuit court shall, before he begins to exercise the duties of his office, take an oath to support the constitution of the United States, and faithfully and impartially to perform the duties of his office to the best of his skill and judgment.

SEC. 5. The original jurisdiction of the circuit court shall extend to all civil cases not otherwise provided for; and said court shall have and exercise such appellate jurisdiction as may be prescribed by law.

SEC. 6. The circuit court, and the judges thereof, shall have, within this District, all the powers by law vested in the circuit courts of the United States, and the judges thereof, by the acts of the Congress of the United States now or hereafter in force, except so far as is otherwise provided.

SEC. 7. The circuit court, and the judges thereof, shall have power to issue all writs and process necessary and proper to the complete exercise of the power conferred upon said court, and upon the judges thereof, by law.

SEC. 8. When there shall be occasion for any process for which no form is prescribed by law, said court may frame a new writ in conformity with the principles thereof.

SEC. 9. The judges of the said court shall, at all reasonable times, when not engaged in holding court, transact such business at their chambers as may be done out of court at chambers; they may hear and dispose of all applications for orders and writs which are usually granted in the first instance upon an ex parte application, and may, in their discretion, also hear applications to discharge such orders and writs.

Sec. 10. The said court shall have power to make all proper judgments, sentences, decrees, orders, and injunctions, and to issue all processes, and to do such other acts as may be proper to carry into effect the same, in conformity with the laws of this District.

Sec. 11. The said court shall have power to make rules for regulating the practice and conducting the business of said court in all cases not provided for by law, and to revise the same from time to time, for the purpose of simplifying the proceedings, of expediting the decisions of causes, of presenting distinctly the points in issue in trials by jury, of diminishing costs, and of remedying the abuses and imperfections that may be found to exist in the practice.

Sec. 12. The said court shall have the general superintendence of all courts of inferior jurisdiction, to prevent and correct errors and abuses therein, when no other remedy is expressly provided by law.

Sec. 13. The said court shall be a court of record, and shall have an appropriate seal, devised by the judges thereof, a description of which shall be filed with the clerk of said court and recorded.

Sec. 14. The judges of said court shall have full authority to administer all necessary oaths, and to take all necessary recognizances to keep the peace, or to answer any criminal charge or offence in the court having jurisdiction.

Sec. 15. The said court shall have power to hear and determine upon all errors and matters of fact that may happen in the proceedings depending in said court, and to cause to be corrected any clerical error that may happen in making up the records of said court.

Sec. 16. The circuit court shall have power to hold adjourned sessions of said court.

Sec. 17. The circuit court shall have full authority to punish by fine and imprisonment, or either, all contempts of their authority and process.

Sec. 18. When no judge of the circuit court is present at the time and place appointed for holding said court, whether at the beginning of a term or at any adjournment, the clerk of said court shall adjourn the same, from day to day, until one or more of the judges of said court shall be present.

Sec. 19. All writs and processes whatsoever issuing from the circuit court shall be tested in the name of the chief judge of said court. In the event of a vacancy in the office of the chief judge, they shall be tested in the name of the senior assistant judge of said court.

SEC. 20. The circuit court, or any judge thereof during the vacation of said court, shall have power to award a writ of error in any criminal case whatever, wherein final judgment shall have been pronounced by the criminal court of this District, convicting any person of any crime or misdemeanor. Such writ of error shall be returned to the circuit court which may be in session, or to the next circuit court which may be held at the time fixed by law for holding the same. The circuit court may reverse the judgment pronounced by the criminal court, or remand the case, or order a new trial, or such other proceeding as the nature of the case may require. The judgment of the circuit court shall be certified to the clerk of the criminal court, and preserved amongst the original papers in the case.

SEC. 21. Where, at any term of the circuit court, a jury shall be empaneled to try any cause or issue, and it shall happen that no verdict shall be found, nor the jury otherwise discharged before the day appointed by law for the commencement of the next succeeding term, the said court shall and may, nevertheless, proceed with the trial by the same jury in every respect as if such term had not commenced; and all subsequent proceedings to final judgment, if such judgment shall be rendered, shall be entered and have legal effect and operation as of the term at which the jury shall have been empaneled.

SEC. 22. No action, cause, process, or proceeding pending in the circuit court shall be discontinued by reason of such court not having been held at any stated term, or any adjournment thereof, but they shall respectively be returned to, entered, and have day in the term which shall be held after such failure.

SEC. 23. If at the end of a term of the said court any matters depending therein are undetermined, the same, subject to the provisions of section twenty-two of this chapter, shall stand continued until the next term.

SEC. 24. The said court shall be held in the city of Washington, in this District. There shall be three regular terms thereof for each year, to wit: the first beginning on the first Monday of January; the second beginning on the first Monday of May; and the third beginning on the first Monday of October.

SEC. 25. The chief judge of said court shall receive an annual salary of three thousand seven hundred and fifty dollars; and each of the

associate judges shall receive an annual salary of three thousand five hundred dollars. The said salaries shall be paid in quarterly payments out of the treasury of the United States, and in the same proportion for any part of a quarter.

CHAPTER 76.

OF THE CLERK OF THE CIRCUIT COURT.

SECTION

1. Present clerk to continue, and vacancies to be filled by the court.
2. } Clerk to give bond and make oath.
3. }
4. } Clerk may appoint deputies and take
5. } from them bond.
6. Process to be issued in the name of clerk.
7. }
8. } The duties and powers of clerk.
9. }

SECTION

10. } The liabilities of clerk.
11. }
12. No clerk or deputy shall act as attorney at law.
13. The judges of circuit court shall examine the clerk's office.
14. The clerk shall deliver records, &c., to his successor.

SECTION 1. The present clerk of the circuit court shall continue to hold his office during the pleasure of the said court; and as a vacancy occurs the said court shall appoint a proper person to be clerk thereof, to serve as such during the pleasure of the said circuit court.

SEC. 2. Every clerk of the circuit court, before entering upon the duties of his office, shall give bond to the United States, to be approved by the circuit court, in a sum not less than ten thousand dollars, with two sufficient sureties, with condition for the faithful discharge of the duties of his office.

SEC. 3. He shall also be sworn to the faithful discharge of the duties of his office, which oath shall be administered by the chief judge of the circuit court.

SEC. 4. Such clerk may appoint one or more deputies, who, except where otherwise provided, shall have the same power as their principal; the appointment shall be in writing, and signed by such clerk, and shall be filed in the office of the recorder. He may revoke the appointment of any deputy at will, by writing, filed in the same office. Each deputy, before entering on his duties, shall take the oath of office, which shall be endorsed on his appointment.

SEC. 5. Such clerk may take from each of his deputies a bond, with sureties, for the faithful performance of his duties ; but the clerk and the sureties on his official bond shall be liable for all the official acts of each deputy.

SEC. 6. All processes issued by any deputy clerk shall be issued in the name of the principal.

SEC. 7. Such clerk shall, either by person or by deputy, attend each term of the circuit court. He shall keep his office in the building provided for that purpose, and shall take charge of and safely keep, or dispose of according to law, all books, papers, and records which may be filed or deposited in his office.

SEC. 8. Such clerk shall enter the proceedings of the circuit court in a book to be provided for that purpose. The proceedings of each day shall be drawn up at large, and read by the clerk in open court the next day, except that the proceedings of the last day of a term shall be drawn up and read the same day. After being corrected where necessary, the record shall be signed by the chief judge, or, in case of his absence, by the senior assistant judge. Said clerk shall endorse under his hand on all writings required to be filed in his office, the time of filing thereof; shall issue all writs and processes required to be issued from said court; shall enter into the proper record books, under direction of the court, all orders, judgments, and decrees proper to be entered; and shall keep such dockets and other books of record, each with its proper alphabetical index, as may be required by law, or by the rules of the court.

SEC. 9. Such clerk shall have power to administer all oaths.

SEC. 10. For any wrongful act, or any omission to perform any duty imposed on him by law, the clerk shall be liable on his bond to any person injured.

SEC. 11. If such clerk shall knowingly and wilfully do any act contrary to the duties of his office, or shall knowingly and wilfully fail to perform any act or duty required of him by law, he shall be deemed guilty of a misdemeanor; and, on conviction, shall be fined in any sum not exceeding one thousand dollars and be removed from office.

SEC. 12. No clerk or deputy clerk of any court in this District shall be permitted to practise as an attorney or counsellor at law in any action or proceeding in any court whatever. For violating the pro-

visions of this section he shall be deemed guilty of a misdemeanor, and fined a sum not exceeding one thousand dollars.

SEC. 13. The circuit court shall, at least once in every year, examine the clerk's office, and enter on record the manner in which the books and papers thereof are kept.

SEC. 14. Such clerk, on the expiration of his term of office, shall deliver to his successor all the records, books, and papers belonging to his office.

CHAPTER 77.

OF THE ORPHANS' COURT.

SECTION

1. The orphans' court to consist of one judge.
2. The present judge to continue in office.
3. The judge to take an oath.
4. The orphans' court to be a court of record, and have a seal.
5. } Jurisdiction and powers of the orphans'
6. } court.
7. }
8. } How, in cases of interest, they may be
9. } transferred to the circuit court.
10. } Power of issuing and enforcing pro-
11. } cess.
12. Service of summons.
13. Publication; when allowed.
14. Return of service.

SECTION

15. Jurisdiction as to estates of deceased persons.
16. Rules of proceeding and practice in force in orphans' court.
17. The judge to be a conservator of the peace, and to administer oaths.
18. The orphans' court may correct clerical errors, &c.
19. When and where orphans' court may be held.
20. Register may adjourn court in absence of judge.
21. Process to be tested in the name of the judge.
22. Power of court as to contempts.
23. Compensation of judge.

SECTION 1. The orphans' court of this District, consisting of one judge, is hereby continued, with the powers and jurisdiction conferred by this Code upon the same. The said judge shall hold his office during good behavior.

SEC. 2. The present judge of the orphans' court shall continue to hold his office according to the tenor of his commission; and as a vacancy occurs it shall be filled in the manner prescribed by law.

SEC. 3. Every person who shall be appointed a judge of the orphans' court shall, before he begins to exercise the duties of his office, take an oath to support the constitution of the United States, and faithfully and impartially to perform the duties of his office to the best of his skill and judgment.

SEC. 4. The orphans' court shall be a court of record, and shall have an appropriate seal, devised by the judge thereof, a description of which shall be filed with the register of said court and recorded.

SEC. 5. The orphans' court shall have cognizance of all matters relating to the probate of wills; the granting and revoking of letters testamentary; of administration and collection; the conduct and accounts of guardians, executors, administrators, and collectors of the effects of deceased persons; the securing the rights of orphans and legatees; the distribution of the personal estates of intestates, and to the administration of justice in the affairs and estates of deceased persons, according to law.

SEC. 6. Such court may appoint guardians to minors, and revoke such appointments, in cases provided by law.

SEC. 7. Such court shall have power and authority, in cases provided for by law, to examine and decide upon all accounts, claims, and demands existing between wards and their guardians, and between legatees, or persons entitled to any distributable part of an intestate's estate, and executors or administrators.

SEC. 8. If, in any case cognizable in the orphans' court, the judge thereof may be, or shall have been, interested, either as counsel, legatee, or otherwise, such case, and all matters relating thereto, shall be instituted and transacted, prosecuted and determined, in the circuit court; and the circuit court shall have full and complete jurisdiction thereof, and shall be governed in all matters touching the same by the provisions of law which govern the orphans' court in similar cases.

SEC. 9. If, during the pendency of any matter in the orphans' court, the judge thereof shall become disqualified to hear and determine the same for any of the causes specified in the last preceding section, such matter shall be transferred to the circuit court, with like effect as if the same had been instituted in the circuit court, according to the provisions of the last preceding section.

SEC. 10. The orphans' court shall have full power to grant and issue all process necessary or proper to carry into effect the powers of said court.

SEC. 11. The orphans' court, in the exercise of its powers and jurisdiction, may enforce obedience to, and execution of, its orders, decrees, or other process, by attachment of contempt or by sequestration.

SEC. 12. Whenever personal notice is required to be given to any party to a proceeding in the orphans' court, and no other mode of notice is prescribed, it shall be given by summons, issued from the court, and under the seal of the court, directed to the marshal, and requiring him to summon such person to appear before the court or judge, at a time and place to be named in the summons. In the body of the summons shall be briefly stated the nature or character of the proceeding.

SEC. 13. Where the appearance of a party required to be notified is necessary to the determination of any matter pending in the orphans' court, and it appears, by the return of an officer, that such person cannot be found, or by affidavit that such person is a non-resident of this District, or that his residence is unknown, notice may be given him of the pendency of the proceedings by publication, in such manner as the court may direct; and the court may proceed upon such notice as if the summons had been personally served.

SEC. 14. Summonses, unless otherwise required by law, shall be returned at such time as the orphans' court shall direct.

SEC. 15. The jurisdiction of the orphans' court shall extend over the estates of all persons deceased who, at the the time of their decease, were inhabitants of or residents in this District; and of all persons who shall die without this District, leaving personal estate within this District, or whose personal estate may afterwards be found therein.

SEC. 16. The rules of proceeding and practice in the circuit court, so far as the same may be applicable, shall be the rule of the orphans' court, except in such matters as are otherwise provided for by law. The orphans' court shall have power to make rules for regulating the practice and conducting the business of said court, in all cases not provided for by law, where the rules of proceeding and practice in the circuit court are not applicable.

SEC. 17. The judge of the orphans' court shall be a conservator of the peace, and shall have full authority to administer all necessary oaths.

SEC. 18. The orphans' court shall have power to hear and determine upon all errors and matters of fact that may happen in the proceedings depending in said court, and to cause to be corrected any clerical error that may happen in making up the records of said court.

SEC. 19. The orphans' court shall be held in the city of Washington on the first Monday of each month in every year, and at such other times, for the transaction of business, as the judge thereof may appoint.

SEC. 20. When the judge of the orphans' court is not present at the time and place appointed for holding said court, whether at the beginning of a term or at any adjournment, the register of wills shall adjourn it until the next regular day for holding the same.

SEC. 21. All process issuing from the orphans' court shall be tested in the name of the judge of said court.

SEC. 22. The orphans' court shall have authority to punish by fine and imprisonment, or either, all contempts of its authority and process.

SEC. 23. The judge of the orphans' court shall receive an annual salary of two thousand five hundred dollars, and shall be paid in quarterly payments out of the treasury of the United States, and in the same proportion for any part of a quarter.

CHAPTER 78.

OF THE REGISTER OF WILLS.

SECTION

1. The present register to continue in office.
2. The register to give bond and take an oath.
3. } Register may appoint deputies, and
4. } take from them bond.
5. Process to be issued in name of register.
6. }
7. } The duties and powers of register.
8. }

SECTION

9. The judge of orphans' court shall examine records in register's office.
10. Alphabetical index to be provided for each record book.
11. Register may administer oaths, and issue citations.
12. When he may act as judge.

SECTION 1. The present register of wills shall continue to hold his office, according to the tenor of his commission; and as a vacancy occurs, the orphans' court shall appoint a proper person to be register of wills, to serve as such during the pleasure of said court.

SEC. 2. Every person who shall be appointed register of wills, shall, before entering upon the duties of his office, give bond to the United States, to be approved by the judge of the orphans' court, in

a sum not less than eight thousand dollars, with two sufficient sureties, with condition for the faithful discharge of the duties of his office. He shall also be sworn to the faithful discharge of the duties of his office, which oath shall be administered by the judge of the orphans' court.

SEC. 3. The register of wills may appoint one or more deputies, who, except where otherwise provided, shall have the same power as their principal. The appointment shall be in writing, and signed by such register, and filed in the office of the recorder; he may revoke the appointment of any deputy, at will, by writing filed in the same office. Each deputy, before entering upon his duties, shall take an oath of office, which shall be endorsed on his appointment.

SEC. 4. Such register may take from each of his deputies a bond, with sureties, for the faithful performance of his duties; but the register and his sureties on his official bond shall be liable for all the official acts of each deputy.

SEC. 5. All process issued by any deputy register shall be issued in the name of the principal.

SEC. 6. Such register shall attend every sitting of the orphans' court. He shall keep his office in the building provided for that purpose, where he shall attend daily, and shall take charge of and safely keep, or dispose of according to law, all books, papers, and records, which may be filed or deposited in his office.

SEC. 7. The register shall record the proceedings of the orphans' court; shall endorse under his hand on all writings required to be filed in his office, the time of filing thereof; shall issue all process required to be issued from the orphans' court; shall keep such dockets and other books of record as may be required by law, or by the rules of the court; and shall record in books to be kept for that purpose, under the direction of the court, all orders, judgments, and decrees of said court, and also all wills proved in said court, with the probate thereof, all letters testamentary and of administration, returns, reports, accounts, and all bonds, and such other acts and proceedings as he shall, by the rules of said court, or by any special order of the judge thereof, be required to record.

SEC. 8. The provisions of sections ten, eleven, twelve, and fourteen, of chapter seventy-six, shall apply to the register of wills, as well as the clerk of the circuit court.

SEC. 9. The judge of the orphans' court shall, at least once in every year, examine the register's office, and enter on record the manner in which the books, records, and papers thereof are kept.

SEC. 10. The register shall have a proper alphabetical index to each record book in his office.

SEC. 11. Unless otherwise specially prescribed, the register shall have power to administer all oaths necessary and proper to be taken touching any matter pending in the orphans' court, or in any manner connected with any proceedings of which such court has jurisdiction; and he shall have power to issue citations and summonses upon the application of any party, without the order of the judge, except in those cases in which such order is specially required by law for the issuing of a citation or summons.

SEC. 12. In case of the disability or absence from this District of the judge of the orphans' court, the register of wills shall have authority to proceed in any matter depending in said court as fully as the said judge himself might do were he present and able to act.

CHAPTER 79.

OF THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA.

SECTION

1. Of the powers and jurisdiction of the district court.
2. Who shall hold the district court, and when.

SECTION

3. Who shall hold the district court in case of sickness or disability of judge.
4. Judge may sit in appeal upon his own decision.

SECTION 1. There shall be and hereby is continued a court in this District to be called the district court of the United States for the District of Columbia, which court shall have and exercise within this District the same powers and jurisdiction which are by law vested in the district courts of the United States, except where it is otherwise expressly provided.

SEC. 2. The chief judge of the circuit court of this District shall hold a district court of the United States in and for this District on the first Mondays in June and December in every year, and shall have, exercise, and perform within this District all the powers and duties possessed, exercised, and performed by the district judges of

the United States within their respective districts, except where it is otherwise expressly provided.

SEC. 3. In case of the sickness or other disability of the judge of the district court of the United States for this District, which shall prevent him from holding any stated or appointed term of the district court, upon the fact of such sickness or other disability being certified by the clerk of said district court to the assistant judges of the circuit court of this District, it shall be the duty of the senior assistant judge of said court to hold the district court, and discharge all the judicial duties of the district judge who shall be sick or otherwise disabled, so long as such sickness or disability shall continue. In case of the sickness or other disability of said senior assistant judge, the same duty shall devolve on the junior assistant judge of said circuit court. The acts and proceedings in said district court, by or before either of the said assistant judges so required to hold said district court, shall have the same force, effect, and validity as if done and transacted by and before the district judge of said district court.

SEC. 4. The associate judge holding the district court shall be empowered to sit in the circuit court in any case of appeal or of error from his own decision in said district court in the same manner as if said district court had not been held by him.

TITLE II.

Of the proceedings in civil cases in the circuit court of the District of Columbia.

CHAPTER 80. Of the forms of civil actions, and of the parties thereto.

CHAPTER 81. Of the manner of commencing civil actions.

CHAPTER 82. Of the pleadings in civil actions.

CHAPTER 83. Claim and delivery of personal property.

CHAPTER 84. Of injunctions.

CHAPTER 85. Of attachments.

CHAPTER 86. Of receivers and deposit in court.

CHAPTER 87. Of issues.

CHAPTER 88. Of trial by jury.

CHAPTER 89. Of trial by the court.

- CHAPTER 90. Of trial by referees.
 CHAPTER 91. Of exceptions.
 CHAPTER 92. Of new trial.
 CHAPTER 93. Of judgments.
 CHAPTER 94. Of executions.
 CHAPTER 95. Of proceedings supplementary to execution.
 CHAPTER 96. Of commissioner to convey real estate.
 CHAPTER 97. Of the limitation of actions.
 CHAPTER 98. Of costs.
 CHAPTER 99. Of proceedings to review judgments.
 CHAPTER 100. Of appeals.

CHAPTER 80.

OF THE FORMS OF CIVIL ACTIONS, AND THE PARTIES THERETO.

SECTION

1. Distinction between forms of action and between actions at law and suits in equity abolished.
2. Designation of parties.
3. Actions; how commenced.
4. Assignment of thing in action, not to prejudice defence.
5. What parties may bring actions, without joining the person beneficially interested.
6. Representatives may bring actions and defend the same, when they survive.
7. } Regulations respecting a married wo.
8. } man, when she is a party.
9. } Rules when an infant is a party.
10. }
11. Parties in interest must join as plaintiffs.
12. Who may be made a defendant.

SECTION

13. Parties to be plaintiffs or defendants, according to interest.
14. When one person or more may sue or defend for the benefit of many.
15. Parties severally liable, may be included in an action.
16. When an action shall not abate.
17. When the court may decide the controversy, or order other parties to be brought in.
18. Persons having an interest may, on application, be made parties.
19. When a party may substitute another in his place.
20. When an unmarried female may bring an action for seduction.
21. When father, or mother, may bring an action for seduction.

SECTION 1. The distinction between actions at law and suits in equity, and the forms of all such actions and suits heretofore existing, are abolished; and there shall be in this District hereafter but one form of action for the enforcement or protection of private rights and the redress of private wrongs, which shall be denominated a civil action.

SEC. 2. In such action, the party complaining shall be known as the plaintiff, and the adverse party as the defendant.

SEC. 3. Every action shall be prosecuted in the name of the real party in interest, except as otherwise provided in this chapter; but this section shall not be deemed to authorize the assignment of a thing in action not arising out of contract.

SEC. 4. In the case of an assignment of a thing in action, the action by the assignee shall be without prejudice to any set-off or other defence existing before notice of the assignment; but this section shall not apply to a negotiable promissory note or bill of exchange, transferred, in good faith and upon valuable consideration, before due.

SEC. 5. An executor, administrator, guardian, trustee of an express trust, a person with whom or in whose name a contract is made for the benefit of another, or a person expressly authorized by statute, may bring an action without joining with him the person for whose benefit it is prosecuted. It shall not be necessary to make an insane person a joint party with his guardian or committee, except as may be required by statute.

SEC. 6. In all cases where actions survive, they may be commenced by or against the representatives of the deceased, to whom the interest of the subject-matter of the action has passed.

SEC. 7. When a married woman is a party, her husband must be joined with her; except—

First. When the action concerns her separate property, she may sue alone.

Second. When the action is between herself and her husband, she may sue and be sued alone; but when her husband cannot be joined with her, as is herein provided, and she is an infant under twenty-one years of age, she shall prosecute and defend by her next friend.

SEC. 8. If a husband and wife be sued together, the wife may defend in her own right; and if the husband neglect to defend, she may defend in his right also.

SEC. 9. The action of an infant must be brought by his guardian or next friend. When the action is brought by his next friend, the court shall have power to dismiss it, if it is not for the benefit of the infant, or to substitute the guardian of the infant, or any person as the next friend.

SEC. 10. The defence of an infant shall be by guardian for the suit, who may be appointed by the court in which the action is prosecuted. The appointment may be made upon the application of the infant, if

he be of the age of fourteen years, and apply within fifteen days after the return of the summons. If he be under the age of fourteen, or neglect so to apply, the appointment may be made upon the application of any friend of the infant, or on that of the plaintiff in the action.

Sec. 11. All persons having an interest in the subject of the action and in obtaining the relief demanded, shall be joined as plaintiffs, except as otherwise provided in this chapter.

Sec. 12. Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein.

Sec. 13. Of the parties to the action, those who are united in interest shall be joined as plaintiffs or defendants; but if the consent of one who should have been joined as plaintiff cannot be obtained, he may be made a defendant, the reason being stated in the complaint.

Sec. 14. When the question is one of common or general interest of many persons, or when the parties are very numerous and it may be impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.

Sec. 15. Persons severally and immediately liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, may all or any of them be included in the same action, at the option of the plaintiff.

Sec. 16. No action shall abate by the death, marriage, or other disability of a party, or by the transfer of any interest therein during its pendency, if the cause of action survive or continue. In the case of the marriage of a female party, the fact being suggested on the record, the husband may be made a party with his wife; and in case of the death or other disability of a party, the court may allow the action to be continued by or against his representative or successor in interest. In case of any other transfer of interest, the action may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action.

Sec. 17. The court may determine any controversy between parties before it, when it can be done without prejudice to the rights of others, or by saving their rights; but when a complete determination of the

controversy cannot be had without the presence of other parties, the court shall cause them to be joined as proper parties.

SEC. 18. When, in an action for the recovery of real or personal property, any person having an interest in the property applies to be made a party, the court may order it to be done by the proper amendment.

SEC. 19. A defendant against whom an action is pending upon a contract, or for specific real or personal property, may, at any time before answer, upon affidavit that a person not a party to the action, and without collusion with him, makes against him a demand for the same debt or property, upon due notice to such person and to the adverse party, apply to the court for an order to substitute such person in his place, and discharge him from liability to either party, on his depositing in court the amount of the debt, or delivering the property or its value to such person, as the court may direct, and the court may, in its discretion, make the order.

SEC. 20. An unmarried female may prosecute as plaintiff an action for her own seduction, and recover such damages as may be assessed in her favor.

SEC. 21. A father, or, in case of his death or desertion of his family, the mother, may prosecute as plaintiff for the seduction of the daughter, though the daughter be not living with or in the service of the plaintiff at the time of the seduction or afterwards, and there be no loss of service.

CHAPTER 81.

OF THE MANNER OF COMMENCING CIVIL ACTIONS.

SECTION

1. } Actions ; how commenced.
2. }
3. What the summons shall require.
4. What the summons shall contain.
5. } How the summons shall be served.
6. }
7. } When and how service by publication
8. } may be allowed.
9. When a party proceeded against by publication may have a judgment opened.

SECTION

10. What proceedings necessary before a judgment shall be opened.
11. Purchasers in good faith not to be affected.
12. Proceedings when the names of parties are not known.
13. When clerk may issue another summons.
14. Proceedings where there are several defendants, and some only served.
15. Voluntary appearance equivalent to summons.

SECTION 1. Civil actions shall be commenced by the filing of a complaint with the clerk, and the issuing of a summons thereon. The action shall be deemed to be commenced from the time of issuing the summons ; but as to those against whom publication is made, from the time of the first publication.

SEC. 2. The clerk shall endorse on the complaint, the day, month, and year the same is filed ; and at any time after the filing, the plaintiff may have a summons issued, which shall be directed to the defendant, and shall be signed by the clerk, and issued under the seal of the court, and shall be made returnable on the first day of the next term of court.

SEC. 3. The summons shall require the defendant to appear and answer the complaint, or that judgment by default will be taken against him.

SEC. 4. There shall also be inserted in the summons a notice, in substance, as follows :

1. In an action arising on contract for the recovery of money or damages only, that the plaintiff will take judgment for a sum specified therein, if the defendant fail to answer the complaint.

2. In other actions, that if the defendant fail to answer the complaint, the plaintiff will apply to the court for the relief demanded therein.

SEC. 5. The summons shall be served by the marshal of this District, or by his deputy, or by a person specially appointed by him, or by a person appointed by the court. The summons shall be returned,

with the certificate of the officer of its service, to the office of the clerk from which the summons issued.

Sec. 6. The summons shall be served by delivering a copy thereof, as follows :

1. If the suit be against a corporation, to the president or head of the corporation, secretary, cashier, or managing agent thereof.

2. If against a minor, to such minor personally, and also to his father, mother, or guardian, or, if there be none within this District, then to any person having the care and control of such minor, or with whom he resides, or in whose service he is employed.

3. If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian or committee has been appointed, then to such guardian or committee.

4. In all other cases to the defendant personally.

Sec. 7. When the service of the summons cannot be made as prescribed in the last preceding section, and when that fact appears, by affidavit, to the satisfaction of the court, or any judge thereof, and it appears, in like manner, that a cause of action exists against the defendant, and that the case is one of those mentioned hereafter in this section, the court or judge may grant an order that service be made by publication, in either of the following cases :

1. In actions for the recovery of real property, or of an estate or interest therein, or for the partition of real property, or for the sale of real property under a mortgage, lien, or otherwise, where the real property is within this District, and where any or all of the defendants reside out of the same.

2. In actions brought to establish or set aside a will, where any or all the defendants reside out of this District.

3. In actions brought against a non-resident of this District, or a foreign corporation having in this District property or debts owing to them subject to the process of the court.

4. In actions which relate to, or the subject of which is, real or personal property in this District, where any defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists wholly or partly in excluding him from any interest therein, and such defendant is a non-resident of this District or a foreign corporation.

5. In all actions where the defendant, being a resident of this District, has departed therefrom with intent to delay or defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with a like intent.

Any person absent from this District shall be deemed to reside out of the same, within the meaning of the first four subdivisions of this section, whether he shall have acquired a residence elsewhere or not.

SEC. 8. The order shall direct the publication to be made in a newspaper to be published in this District, and for such a length of time as may be deemed reasonable, not less than once a week for six successive weeks, unless where otherwise provided. In case of publication, the court or judge shall direct a copy of the summons and complaint to be forthwith deposited in the post office, directed to the defendant at his place of residence, unless it shall appear that such residence is not known. When publication is ordered, personal service of a copy of the summons and complaint out of this District shall be equivalent to publication and deposit in the post office. In either case the service of the summons shall be deemed complete at the expiration of the time prescribed by the order for publication. The publication shall contain a summary statement of the object and prayer of the petition, mention the court wherein it is filed, and notify the person or persons thus to be served when they are required to answer.

SEC. 9. Parties against whom a judgment has been rendered without other notice than the publication in the newspaper in this chapter required, except in cases of divorce, may, at any time within five years after the rendition of the judgment, have the same opened, and be allowed to defend.

SEC. 10. But before any such judgment shall be opened, such party shall give notice to the original complainant, or his heirs, devisees, executors, or administrators, of his intention to make application to have the judgment opened, and shall file a full answer to the original complaint, and an affidavit stating that, during the pendency of the action, he received no actual notice thereof in time to appear in court and object to the judgment, and shall also pay all such costs of the action as the court shall direct. The adverse party shall be allowed to present counter affidavits to show that, during the pendency of the action, the applicant had notice thereof in time to appear in court and make his defence.

SEC. 11. If any property which was the subject of, or properly sold under, any judgment sought to be opened as provided in the last two preceding sections, shall have passed into the hands of a purchaser in good faith, he shall not be affected by any proceedings consequent upon the opening of the judgment.

SEC. 12. In cases where it shall be necessary to make any persons defendants to any action, and the names of any or all of them shall be unknown to the plaintiff, and he shall annex to his complaint an affidavit of his want of knowledge of their names, and that their residence is, as he verily believes, not in this District, proceedings may be had against them without naming them; and the court shall make such order respecting notice and the publication thereof as may be deemed proper.

SEC. 13. Whenever it shall appear by the return of the marshal, his deputy, or the person appointed to serve a summons, that he has not served it upon the defendants as prescribed in the sixth section of this chapter, the clerk shall, at the request of the plaintiff, issue another summons, and so on until service be had; or the plaintiff may proceed by publication in the manner before stated, at his election.

SEC. 14. Where the action is against two or more defendants, and the summons is served on one or more, but not all of them, the plaintiff may proceed as follows:

1. If the action be against defendants jointly indebted upon a contract, he may proceed against the defendants served, unless the court otherwise direct; and if he recover judgment, it may be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all, and the separate property of the defendants served; and if they are subject to arrest, against the persons of the defendants served; or,

2. If the action be against defendants severally liable, he may, without prejudice to his rights against those not served, proceed against the defendants served, in the same manner as if they were the only defendants.

SEC. 15. A voluntary appearance of the defendant shall be equivalent to a personal service of the summons upon him.

CHAPTER 82.

OF PLEADINGS IN CIVIL ACTIONS.

SECTION

1. Forms of pleading inconsistent with this Code abolished.
2. } What pleadings allowed.
3. }
4. What the complaint shall contain.
5. When defendant may demur.
6. Demurrer must specify the ground of objection.
7. Defendant may demur to the whole or part.
8. Proceedings when the complaint is amended.
9. When objection may be taken by answer.
10. When objection is deemed waived.
11. What the answer shall contain.
12. Defendant may set forth as many grounds of defence as exist.
13. What shall constitute a counter-claim.
14. No action allowed for a counter-claim not set up.
15. Party not to be deprived of counter-claim or set-off by assignment or death.
16. When set-off can be pleaded.
17. How defendant may bring a new party into court.
18. Defendants may answer jointly or severally.
19. When plaintiff may demur.
20. What party must deny complaint without oath.
21. All defences, except a denial, must be specially pleaded.
22. When there shall be no reply.
23. When the plaintiff may reply or demur.

GENERAL RULES OF PLEADING.

24. When pleadings shall be filed.
25. Failure to plead ground for entering judgment as upon a default, unless for cause shown.
26. Pleadings; when to be verified.
27. How pleadings may be verified.
28. Qualification of and exceptions to the rule of verification.
29. Rule as to items of account.

SECTION

30. How pleadings shall be construed.
31. Redundancy may be stricken out, and pleadings may be made certain by amendment.
32. } The genuineness and execution of certain instruments admitted unless denied on oath.
33. }
34. All fictions abolished.
35. How a judgment may be pleaded.
36. How conditions precedent may be pleaded.
37. How a private statute may be pleaded.
38. How libel and slander may be stated in the complaint.
39. Answer in such cases.
40. } When several causes of action may be united in the same complaint.
41. }
42. When allegations not denied, to be deemed true.
43. Qualification and exception to the rule in case of defendants constructively summoned.
44. What need not be stated in a pleading
45. If original pleading or paper be lost, copy may be substituted.

MISTAKES IN PLEADING AND AMENDMENTS.

46. } How material and immaterial variances are provided for.
47. }
48. What shall be deemed a failure of proof.
49. Amendments of course.
50. Pleading over after decision on demurrer.
51. What amendments may be allowed by the court.
52. The court may extend the time allowed for pleading, and relieve against mistakes.
53. How an unknown defendant may be designated.
54. Error or defect not affecting substantial rights shall be disregarded.
55. Supplemental pleadings allowed.
56. When postponement or continuances may be allowed.

SECTION 1. All the distinct forms of pleading heretofore existing inconsistent with the provisions of this Code, are abolished; and hereafter the forms of pleading in civil actions in courts of record, and the rules by which the sufficiency of the pleadings is to be determined, shall be those prescribed by this Code.

SEC. 2. The only pleadings on the part of the plaintiff shall be:

1. The complaint;
2. The demurrer; or,
3. The reply.

SEC. 3. The only pleadings on the part of the defendant shall be:

1. The demurrer; or,
2. The answer.

SEC. 4. The complaint shall contain:

1. The title of the cause; specifying the name of the court and the names of parties to the action, plaintiff and defendant;
2. A plain and concise statement of the facts constituting the cause of action, without unnecessary repetition;
3. A demand of the relief which the plaintiff claims. If the recovery of money or damages be demanded, the amount thereof shall be stated.

SEC. 5. The defendant may demur to the complaint only when it appears upon the face thereof, either—

1. That the court has no jurisdiction of the person of the defendant, or the subject of the action; or,
2. That the plaintiff has not legal capacity to sue; or,
3. That there is another action pending between the same parties for the same cause; or,
4. That there is a defect of parties, plaintiff or defendant; or,
5. That several causes of action have been improperly united; or,
6. That the complaint does not state facts sufficient to constitute a cause of action.

SEC. 6. The demurrer shall distinctly specify the grounds of objection to the complaint; unless it do so, it may be disregarded.

SEC. 7. The defendant may demur to the whole complaint, or to one or more of several causes of action stated therein, and answer the residue.

SEC. 8. If the complaint be amended, the amendments shall be filed and a copy served upon the defendant, or his attorney, if he has

appeared by attorney; the defendant shall answer the same within such time as may be prescribed by the court; and if he omit to do so, the plaintiff may proceed to obtain judgment, as in other cases of failure to answer.

SEC. 9. When any of the matters enumerated in section five of this chapter do not appear upon the face of the complaint, the objection may be taken by answer.

SEC. 10. If no objection be taken, either by demurrer or answer, the defendant shall be deemed to have waived the same, excepting only the objection to the jurisdiction of the court, and the objection that the complaint does not state facts sufficient to constitute a cause of action.

SEC. 11. The answer of the defendant shall contain—

1. In respect to each allegation of the complaint controverted by the defendant, a general or specific denial thereof, or a denial thereof according to his information and belief, or of any knowledge thereof sufficient to form a belief;

2. A plain and concise statement of any new matter constituting a defence, counter-claim or set-off, without unnecessary repetition.

SEC. 12. The defendant may set forth in his answer as many grounds of defence, counter-claim, or set-off, as he may have, whether they be such as have been heretofore denominated legal or equitable, or both. They shall be stated separately and refer to the causes of action which they are intended to answer, in any manner by which they may be intelligibly distinguished.

SEC. 13. The counter-claim mentioned in the last preceding section must be one existing in favor of a defendant and against a plaintiff between whom a several judgment might be had in the action, and arising out of the contract or transaction set forth in the complaint as the foundation of the plaintiff's claim, or connected with the subject of the action.

SEC. 14. If any defendant personally served with notice omit to set up a counter-claim arising out of the contract or transaction set forth in the complaint as the ground of the plaintiff's claim, he shall not afterwards maintain an action therefor. If the defendant omit to set up the set-off, he shall not recover costs against the plaintiff in any subsequent action thereon.

SEC. 15. When cross-demands have existed between persons under

such circumstances that if one had brought an action against the other, a counter-claim or set-off could have been set up, neither can be deprived of the benefit thereof by the assignment or death of the other, but the two demands must be deemed compensated so far as they equal each other.

SEC. 16. A set-off can only be pleaded in an action founded on contract, and must be a cause of action arising upon contract or ascertained by the decision of the court, held by the defendant at the time suit was commenced, and matured at or before the time it is offered as a set-off.

SEC. 17. Where it is necessary for the defendant to bring a new party before the court, he may state the matter relating thereto in his answer, and demand relief; and thereupon a summons shall issue, and other proceedings be had against him, as if such matter had been exhibited in the original complaint.

SEC. 18. Several defendants may answer, jointly or severally, as the facts set forth in the complaint may require.

SEC. 19. When the facts stated in the answer are not sufficient to constitute a cause of defence, the plaintiff may demur to one or more of several defences, under the same rules and regulations as are hereinbefore prescribed for demurring to the complaint. Unless the objection be taken by demurrer it shall be deemed as waived.

SEC. 20. It shall be the duty of the guardian of an infant, or committee of a person of a sound mind, or attorney for a person in prison, to file an answer denying the material allegations of the complaint prejudicial to such defendant, without oath.

SEC. 21. All defences, except the mere denial of the facts alleged by the plaintiff, shall be pleaded specially.

REPLY.

SEC. 22. There shall be no reply, except upon the allegation of a counter-claim or set-off, in the answer.

SEC. 23. When the answer contains new matter constituting a counter-claim or set-off, the plaintiff may reply to such new matter, denying, generally or specifically, each allegation controverted by him; and he may allege, in ordinary and concise language, and without repetition, any new matter, not inconsistent with the complaint, constituting a defence to such new matter in the answer; or

he may demur to the same for insufficiency, stating in his demurrer the grounds thereof; and he may demur to one or more of such defences set up in the answer, and reply to the residue.

GENERAL RULES OF PLEADING,

SEC. 24. The answer or demurrer by the defendant shall be filed on or before the fourth Saturday, and the reply or demurrer by the plaintiff on or before the seventh Saturday, after the return day of the summons or service by publication.

SEC. 25. If from any cause either party shall fail to plead or make up the issues within the time prescribed by law and the rules of the court, the court shall forthwith enter judgment as upon a default, unless, for good reasons shown, further time be given for pleading, on the payment of costs occasioned by the delay.

SEC. 26. Every pleading shall be subscribed by the party or his attorney, and when any pleading is verified every subsequent pleading, except a demurrer, must be verified also, except as is provided in the next two succeeding sections.

SEC. 27. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to those matters stated on information and belief, and as to those matters that he believes them to be true, and must be by affidavit of the party, or if there be several parties united in interest and pleading together, by one at least of such parties acquainted with the facts, if such party be within this District and capable of making the affidavit. The affidavit may also be made by the agent or attorney, if the action or defence be founded upon a written instrument for the payment of money only, and such instrument be in the possession of the agent or attorney, or if all the material allegations of the pleading be within the personal knowledge of the agent or attorney. When the pleading is verified by any other person than the party, he shall set forth in the affidavit his knowledge or the grounds of his belief on the subject, and the reasons why it is not made by the party. When a corporation is a party the verification may be made by any officer thereof; and when the United States, or any officer thereof in its behalf, is a party, the verification may be made by any person acquainted with the facts. The verification may be omitted when an admission of the truth of the allegation might subject the party to prosecution for

felony. And no pleading can be used in a criminal prosecution against the party as proof of a fact admitted or alleged in such pleading.

SEC. 28. Verification of a pleading shall not make other or greater proof necessary on the side of the adverse party, except where otherwise expressly provided. The verification shall not be required to the answer of a guardian defending for an infant, or insane person, or person imprisoned. In all cases where the party pleading is a non-resident of this District, or if he shall be absent from this District, an affidavit, made before filing the pleading, stating the substance of the facts afterwards inserted in the pleading, shall be a sufficient verification; and such affidavit shall be filed with the pleading intended to be verified thereby.

SEC. 29. It shall not be necessary for a party to set forth in the pleading the items of an account therein alleged; he shall deliver to the adverse party, within ten days after a demand thereof in writing, a copy of the account, which, if the pleading is verified, must be verified by his own oath, or that of his agent or attorney, if within the personal knowledge of such agent or attorney, to the effect that he believes it to be true, or be precluded from giving evidence thereof. The court may order a further account when the one given is defective; and the court may in all cases order a bill of particulars of the claim of either party to be furnished.

SEC. 30. In the construction of a pleading for the purpose of determining its effect, its allegations shall be liberally construed, with a view of substantial justice between the parties.

SEC. 31. If irrelevant or redundant matter be inserted in a pleading, it may be stricken out on motion of any person aggrieved thereby. And when the allegations of a pleading are so indefinite and uncertain that the precise nature of the charge or defence is not apparent, the court may require the pleading to be made definite and certain by amendment.

SEC. 32. When an action is brought upon a written instrument, and the complaint contains a copy of such instrument, or the original or a copy annexed thereto, the genuineness and due execution of such instrument shall be deemed admitted, unless the answer denying the same be verified.

SEC. 33. When the defence to an action is founded upon a written

instrument, and a copy thereof is contained in the answer, or the original or a copy is annexed thereto, the genuineness and due execution of such instrument shall be deemed admitted, unless the plaintiff file with the clerk, five days previous to the commencement of the term at which the action is to be tried, an affidavit denying the same.

SEC. 34. Objections in pleading are abolished.

SEC. 35. In pleading a judgment or decision of a court or officer of special jurisdiction, it shall not be necessary to state the facts conferring jurisdiction; but such judgment or determination shall be stated to have been duly given or made. If such allegation be controverted, the party pleading shall be bound to establish on the trial the facts conferring jurisdiction.

SEC. 36. In pleading the performance of conditions precedent in a contract, it shall not be necessary to state the facts showing such performance; but it may be stated generally that the party duly performed all the conditions on his part; and if such allegation be controverted, the party pleading shall be bound to establish on the trial the facts showing such performance.

SEC. 37. In pleading a private statute, or a right derived therefrom, it shall be sufficient to refer to such statute by its title and the day of its passage or approval, and the court shall thereupon take judicial notice thereof.

SEC. 38. In an action for libel or slander, it shall not be necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose; but it shall be sufficient to state generally that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff shall be bound to establish on the trial that it was so published or spoken.

SEC. 39. In the actions mentioned in the last section, the defendant may, in his answer, allege both the truth of the matter charged as defamatory, and any mitigating circumstances, to reduce the amount of damages; and whether he prove the justification or not, he may give in evidence the mitigating circumstances.

SEC. 40. The plaintiff may unite in the same complaint several causes of action, whether they be such as have been heretofore denominated legal or equitable, or both, when they are included in either one of the following classes:

1. The same transaction, or transactions connected with the same subject of action.

2. Contracts, expressed or implied.

3. Injuries, with or without force, to person and property, or either.

4. Injuries to character.

5. Claims to recover the possession of personal property, with or without damages for the withholding thereof.

6. Claims to recover real property, with or without damages for the withholding thereof, or for waste, and the rents and profits of the same.

7. Claims against a trustee, by virtue of a contract or by operation of law.

The causes of action so united must affect all the parties to the action, and not require different places of trial, and must be separately stated.

SEC. 41. When the action arises out of contract, the plaintiff may join such other matters in his complaint as may be necessary for a complete remedy and a speedy satisfaction of his judgment, although such other matters fall within some other one or more of the foregoing classes. When several causes of action are united belonging to any of the foregoing classes, the court may order separate trials for the furtherance of justice.

SEC. 42. Every material allegation of the complaint not controverted by the answer, and every material allegation of new matter in the answer constituting a counter-claim or set-off, not controverted by the reply, shall, for the purposes of the action, be taken as true; but the allegation of new matter in the answer not relating to a counter-claim or set-off, or of new matter in the reply, shall be deemed to be controverted by the adverse party, as upon a direct denial or avoidance, as the case may require. Allegations of value, or of amount of damage, shall not be considered as true by failure to contradict them.

SEC. 43. The allegations of a complaint against the defendant constructively summoned, and who has not appeared, except such as are for his benefit, shall not be taken as true, but shall be established by proof. If, however, the plaintiff in an action against a defendant constructively summoned, and who has not appeared, files with the

complaint his own affidavit, stating that any of the allegations thereof recited in the affidavit are true, and known to be so by the defendant, and that they cannot be proved or shown except by his answer, so far as the plaintiff knows or believes, such allegations, unless denied by the answer, shall be taken as true.

SEC. 44. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in a pleading.

SEC. 45. If an original pleading or paper be lost, or withheld by any person, the court may allow a copy thereof to be substituted.

MISTAKES IN PLEADING AND AMENDMENT.

SEC. 46. No variance between the allegation in a pleading and the proof is to be deemed material, unless it have actually misled the adverse party to his prejudice, in maintaining his action or defence upon the merits. Whenever it is alleged that a party has been so misled, that fact must be proved to the satisfaction of the court, and it must also be shown in what respect he has been misled; and thereupon the court may order the pleading to be amended upon such terms as may be just.

SEC. 47. When the variance is not material as provided in the last preceding section, the court may direct the fact to be found according to the evidence, and may order an immediate amendment without costs.

SEC. 48. When, however, the allegation of the cause of action or defence to which the proof is directed is unproved, not in some particular or particulars only, but in its entire scope and meaning, it shall not be deemed a case of variance within the last two sections, but a failure of proof.

SEC. 49. Any pleading may be once amended by the party, of course, without costs and without prejudice to the proceedings already had, at any time before the period of answering it shall expire; in such case a copy of the amended pleading shall be served on the adverse party, and he shall have the same time to answer, reply, or demur thereto as to the original pleading. At any time within ten days after a demurrer is filed, the adverse party may amend, of course, on payment of costs since the defective pleading; and in such case a copy of the amended pleading shall be forthwith served on the adverse party, who shall have the same time thereafter to answer or reply thereto as to an original pleading.

SEC. 50. After the decision upon a demurrer, if it be overruled, and it appears that such demurrer was interposed in good faith, the court may, in its discretion, allow the party to plead over upon such terms as may be proper. If the demurrer be allowed for the cause mentioned in the fifth subdivision of section five of this chapter, the court may, in its discretion, and upon such terms as may be just, order the action to be divided into as many actions as may be necessary to the proper determination of the causes of action therein mentioned.

SEC. 51. The court may, before or after judgment, in furtherance of justice, and on such terms as may be proper, amend any pleading, process, or proceeding, by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect, or when the amendment does not change substantially the claim or defence by conforming the pleading or proceeding to the facts proved.

SEC. 52. The court may likewise, in its discretion, and upon such terms as may be just, allow an answer or reply to be made, or other act to be done, after the time limited by this chapter, or by an order enlarge such time; and may also, in its discretion, and upon such terms as may be just, at any time within one year after notice thereof, relieve a party or his legal representatives from a judgment, order, or other proceeding, taken against him through his mistake, inadvertence, surprise, or excusable neglect; and may supply an omission in any proceeding.

SEC. 53. Whenever the plaintiff shall be ignorant of the name of a defendant, such defendant may be designated in any pleading or proceeding by any name, and when his true name shall be discovered, the pleading or proceeding may be amended accordingly.

SEC. 54. The court shall, in every stage of an action, disregard any error or defect in the pleadings or proceedings which shall not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect.

SEC. 55. The plaintiff and defendant, respectively, may be allowed, on motion, to make a supplemental complaint, answer, or reply, alleging facts material to the case, occurring after the former complaint, answer, or reply.

SEC. 56. When any party shall amend any pleading or proceeding,

and the court shall be satisfied, by affidavit or otherwise, that the adverse party could not be ready for trial in consequence thereof, a postponement may be granted to some day in term, or a continuance to another term of the court.

CHAPTER 83.

CLAIM AND DELIVERY OF PERSONAL PROPERTY.

SECTION

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| 1.
2.
3.
1.
5. | } | When and how personal property may be claimed. |
| 5. Proceedings by the marshal. | | |

SECTION

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| 6.
7. | } | Buildings and enclosures may be broken open after demand.
Attendance of defendant may be compelled for examination on oath as to situation of property. |
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SECTION 1. The plaintiff in an action to recover the possession of personal property, may, at the time of issuing the summons, or at any time before answer, claim the immediate delivery of such property as provided in this chapter.

SEC. 2. Where a delivery is claimed, an affidavit must be made by the plaintiff, or by some one in his behalf, showing :

1. That the plaintiff is the owner of the property claimed (particularly describing it) or is lawfully entitled to the possession thereof by virtue of a special property therein, the facts in respect to which shall be set forth.

2. That the property is wrongfully detained by the defendant.

3. That the same has not been taken for a tax, assessment, or fine, pursuant to a statute, or seized under an execution or attachment against the property of the plaintiff, or, if so seized, that it is by statute exempt from such seizure ; and

4. The actual value of the property.

SEC. 3. When such affidavit is filed with the clerk, he shall issue an order for the seizure of the property, and delivery thereof to the plaintiff upon his executing the undertaking specified in section five of this chapter.

SEC. 4. The order shall be directed and delivered to the marshal. It shall state the names of the parties to the action, and the court in which the action is brought, and direct the marshal to take the

property, describing it, and stating its value, as in the affidavit, and deliver it to the plaintiff upon his executing the undertaking specified in section five of this chapter.

SEC. 5. The marshal shall forthwith proceed to execute said order, but before taking possession of such property, he shall take from the plaintiff, or some person in his behalf, a written undertaking, payable to the defendant, with sufficient surety to be approved by the marshal, to the effect that the plaintiff will prosecute his action with effect and without delay, and that he will return the property to the defendant if return thereof be adjudged by the court, and that he will pay to the defendant all such sums of money as may be recovered against him by the defendant in the action for any cause whatever; which written undertaking shall be delivered to the marshal, and in default thereof the property shall remain with the defendant, but the action shall not be dismissed or delayed thereby. The return day of the order, when issued at commencement of the action, shall be the same as that of the summons; when issued afterwards, it shall be twenty days after it is issued.

SEC. 6. If the property, or any part thereof, be concealed in a building or enclosure, the marshal shall demand its delivery; if it shall not be delivered, he shall cause the building or enclosure to be broken open, and take the property in his possession; and if necessary he may call to his aid the power of the county. If the marshal cannot find the property, or any part thereof, the action shall not abate, but be prosecuted to final judgment.

SEC. 7. When it appears by the affidavit of the plaintiff, or other person in his behalf, or by the return of the officer, that the property claimed has been disposed of or concealed, so that the order cannot be executed, the court may compel the attendance of the defendant, examine him on oath as to the situation of the property, and punish a wilful obstruction or hindrance or the execution of the order, and a disobedience of the orders of the court in this respect, as in cases of a contempt.

CHAPTER 84.

OF INJUNCTIONS.

SECTION

1. Injunction may be granted by the court, or judge in vacation.
2. In what cases an injunction may be granted.
3. At what time an injunction may be granted.
4. Injunction after answer not allowed, except upon notice.

SECTION

5. Bond to be given.
6. Parties may be heard before injunction, if deemed proper.
7. } Proceedings for dissolution of injunction.
8. }
9. }

SECTION 1. The writ of order or injunction requiring a person to refrain from a particular act may be granted by the circuit court, or by a judge thereof in vacation, and when made by a judge may be enforced as the order of the court.

SEC. 2. An injunction may be granted in the following cases :

1. When it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.

2. When it shall appear by the complaint or affidavit that the commission or continuance of some act during the litigation would produce great or irreparable injury to the plaintiff.

3. When it shall appear during the litigation that the defendant is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.

4. In any case where it is specially authorized by statute.

SEC. 3. The injunction may be granted at the time of issuing the summons upon the complaint, and at any time afterwards, before judgment, upon affidavits. The complaint in the one case, and the affidavits in the other, shall show satisfactorily that sufficient grounds exist therefor. No injunction shall be granted on the complaint unless it be verified by the oath of the plaintiff, or some one in his behalf, that the person making the oath has read the complaint, or heard the complaint read, and knows the contents thereof, and the same is true of his own knowledge, except the matters therein stated on information and belief, and that as to those matters he believes it

to be true. When granted on the complaint, a copy of the complaint and verification attached shall be served with the injunction; when granted upon affidavit, a copy of the affidavit shall be served with the injunction.

SEC. 4. An injunction shall not be allowed after the defendant has answered, unless upon notice, or upon an order to show cause; but in such case the defendant may be restrained until the decision of the court or judge granting or refusing the injunction.

SEC. 5. On granting an injunction the court or judge shall require, except where the United States are a party plaintiff, a written undertaking on the part of the plaintiff, with sufficient sureties, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court shall finally decide that the plaintiff was not entitled thereto.

SEC. 6. If the court or judge deem it proper that the defendant, or any of several defendants, should be heard before granting the injunction, an order may be made requiring cause to be shown, at a specified time and place, why the injunction should not be granted, and the defendant may in the meantime be restrained.

SEC. 7. A party enjoined may, at any time before judgment, upon reasonable notice to the party who has obtained the injunction, move the court for additional security; and if it appear that the surety in the undertaking has removed from this District, or is insufficient, the court may dissolve the injunction, unless in a reasonable time sufficient security is given.

SEC. 8. If an injunction be granted without notice, the defendant, at any time before the trial, may apply, upon reasonable notice, to the judge who granted the injunction, or to the court, to dissolve or modify the same. The application may be made upon the complaint and the affidavit on which the injunction was granted, or upon affidavit on the part of the defendant, with or without answer. If the application be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other evidence in addition to that on which the injunction was granted.

SEC. 9. If upon such application it satisfactorily appear that there is not sufficient ground for the injunction, it shall be dissolved, or if it satisfactorily appear that the extent of the injunction is too great, it shall be modified.

CHAPTER 85.

OF ATTACHMENT.

SECTION

1. } When and in what cases an attach-
2. } ment may be issued.
3. Bond to be required of plaintiff.
4. What an attachment shall require the marshal to do.
5. The return day of the writ.
6. What may be taken on an attachment.
7. In what manner the writ shall be executed.
8. How the writ shall be returned.
9. If real estate be attached, the return shall be filed with the recorder.
10. Garnishee liable to plaintiff for amount in his hands.
11. Officer of corporation, &c., shall furnish certificate to the marshal.
12. The marshal may sell perishable property.
13. The marshal may redeliver property upon bond being given.
14. Marshal may summon a jury to try validity of a claim by a third person to personal property.
15. A garnishee may be required in certain cases to attend and be examined on oath.

SECTION

16. Written allegations and interrogatories may be exhibited.
17. Garnishee shall answer on oath.
18. When judgment may be rendered against garnishee upon default.
19. Answer of garnishee may be excepted to for insufficiency.
20. Plaintiff may deny answer.
21. When judgment may be given against garnishee.
22. How garnishee may discharge himself.
23. Rule as to debts not due.
24. How costs shall be adjudged.
25. Plaintiff and defendant may be required to attend and answer.
26. } How judgment shall be satisfied.
27. }
28. If defendant recover judgment, bond and property to be returned to him.
29. } After appearance, attachment may be
30. } discharged on bond being given.
31. Attachment may be discharged if improperly issued.
32. The marshal shall return his proceedings upon attachment.
33. } Attachment where debt is not due.
34. }

SECTION 1. In an action for the recovery of money, the plaintiff, at the time of issuing the summons, or at any time afterwards, may have the property of the defendant attached, in the cases and in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

SEC. 2. A writ of attachment shall be issued by the clerk whenever the plaintiff, or some other person in his behalf, shall make affidavit that a cause of action exists against such defendant, specifying the amount of such claim over and above all legal set-offs, and the nature thereof, and that, as the affiant verily believes, the defendant is either—

1. A foreign corporation ; or,
2. That he is not a resident of this District, or has departed therefrom with the intent to defraud his creditors, or to avoid the service of a summons ; or,

3. That he so conceals himself that a summons cannot be served upon him; or,

4. That he has assigned, secreted, removed, or disposed of, or is about to assign, secrete, remove, or dispose of, his property not exempt from execution, or a part thereof, with the intent to defraud his creditors; or,

5. That the debt was fraudulently contracted.

The affidavit required by this section shall be attached to the writ upon issuing the same. But no attachment shall issue on the ground that the defendant is a foreign corporation or a non-resident of this District, except for a debt or demand arising upon contract, judgment, or decree, or upon an injury to person or property committed within this District.

SEC. 3. Before issuing the writ, the clerk shall require a written undertaking on the part of the plaintiff, in a sum not less than two hundred dollars, and not exceeding the amount claimed by the plaintiff when the same is more than two hundred dollars, with sufficient sureties, to the effect that if the defendant recover judgment the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking.

SEC. 4. The writ shall be directed to the marshal, and require him to attach and safely keep all the property of the defendant within this District not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint, together with costs and expenses.

SEC. 5. The return day of the attachment, when issued at the commencement of the action, shall be the same as that of the summons; when issued afterwards, it shall be twenty days after it is issued.

SEC. 6. The rights or shares which the defendant may have in the stock of any corporation or company, together with the interest or profits thereon, all debts due such defendant, and all other property, real or personal, in this District, of such defendant, not exempt from execution, may be attached, and, if judgment be recovered against him, be sold or collected to satisfy the judgment and execution.

SEC. 7. The marshal to whom the writ is directed and delivered shall execute the same without delay, as follows:

1. Real property shall be attached by leaving with the occupant thereof, or, if there be no occupant, in a conspicuous place thereon, a copy of the writ and affidavit, certified by the marshal.

2. Personal property capable of manual delivery to the marshal shall be attached by taking it into custody.

3. Stock or shares, or interest in stock or shares of any corporation or company, shall be attached by leaving with the president or other head of the same, or the secretary, cashier, or managing agent thereof, a copy of the writ and affidavit, and a notice that the stock or interest of the defendant is attached in pursuance of such writ.

4. Debts and credits, and other personal property not capable of manual delivery, shall be attached by leaving with the person owing such debts, or having in his possession or under his control such credits or other personal property, a copy of the writ and affidavit, and a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession or under his control belonging to the defendant, are attached in pursuance of such writ.

SEC. 8. The marshal shall note on the writ of attachment the day, month, and year when the attachment was made, and shall make a full inventory of the property attached, and return the same with the writ.

SEC. 9. If real estate be attached by virtue of any writ of attachment, the marshal shall make a certified copy of said writ and of his return thereon, and deliver it within three days from the time of making such attachment to the recorder, who shall file and record the same in a book to be kept for that purpose in the recorder's office. When so filed within three days, the same shall be and continue a lien from the time of making the attachment, otherwise it shall be and continue a lien from the time it is filed, on the real estate mentioned or described in the return of the marshal, until the same shall be discharged. When the said lien shall be discharged by order of the court, or by satisfaction of the judgment rendered in the suit, it shall be the duty of the recorder, when requested, to record the satisfaction piece, or transcript of the record of such order, in the book kept for recording such liens; and he shall enter on the margin of the page or pages where the said writ and return are so recorded, a minute of such discharge or satisfaction.

SEC. 10. All persons having in their possession or under their control any credits or other personal property belonging to the defendant, or owing any debts to the defendant at the time of service upon them of a copy of the writ, affidavit, and notice, as provided in section seven of this chapter, shall, unless such property be delivered up or transferred, or such debts be paid to the marshal, be liable to the plaintiff for the amount of such credits, property, or debts, until the attachment be discharged, or any judgment recovered by him be satisfied; but where property is attached in the hands of a consignee, his lien thereon shall not be affected by the attachment.

SEC. 11. When the marshal, with a writ of attachment against the defendant, shall apply to any person mentioned in the third and fourth subdivisions of section seven of this chapter, for the purpose of attaching the property mentioned therein, such person shall furnish him with a certificate designating the number of shares of the defendant in the stock of the corporation or company, with any dividend or encumbrance thereon, or the amount and description of the property or credits held by such corporation, company, or person for the defendant, or the debt owing to the defendant. If such person refuse to do so, or if his certificate or statement be unsatisfactory to the plaintiff, he may be required, by an order of the court, or of any judge thereof, to attend before the court or judge, and be examined on oath concerning the same, as hereinafter prescribed in this chapter; and disobedience to the order may be punished as a contempt.

SEC. 12. If any of the property attached be perishable, the marshal shall sell the same in the manner in which such property is sold on execution. The proceeds thereof, and other property attached, shall be retained by him to answer any judgment that may be recovered in the action, unless it be delivered over as prescribed in the next section, or unless sooner subjected to execution upon another judgment recovered previous to the issuing of the writ of attachment. Debts and credits attached may be collected by the marshal, if the same can be done without suit. The marshal's receipt shall be a sufficient discharge for the amount paid.

SEC. 13. The marshal may deliver any of the property attached, to the defendant, or to any other person claiming it, and in whose possession it was attached, upon his giving a written undertaking therefor, executed by two or more sufficient sureties, engaging to redeliver

it, or pay the value thereof, to be ascertained by appraisement, to any marshal to whom execution upon a judgment obtained by the plaintiff in that action may be issued. If an action be brought upon such undertaking against the principal or his sureties, it shall be a defence that the property for which the undertaking was given did not, at the execution of the writ of attachment, belong to the defendant against whom it was issued.

Sec. 14. If any personal property attached be claimed by a third person as his property, the marshal may summon a jury to try the validity of such claim, and the same proceedings shall be had thereon, with the like effect, as in case of seizure upon execution.

Sec. 15. Whenever the marshal, with a writ of attachment against the defendant, shall apply to any person mentioned in section seven of this chapter, for the purpose of attaching the personal property therein mentioned, and such person shall deny that he has any personal property of the defendant, or shall refuse to give the certificate required in section eleven of this chapter, or if such certificate be unsatisfactory to the plaintiff, he may be required, by an order of the court, or of any judge thereof, to attend before such court or judge at a time therein stated, not less than ten days thereafter, and be examined on oath concerning the same.

Sec. 16. At any time after the allowance of such order, and before such person shall be required to attend, the plaintiff may exhibit written allegations and interrogatories touching the property, stock, or credits of the defendant, in the possession of, or held by such person as garnishee, or debts owing to the defendant by him; and such garnishee shall be required to make full, direct, and true answers to the same on oath.

Sec. 17. On the day when the garnishee, duly summoned, shall be required to attend before the court or judge, he shall exhibit on oath his answers to the allegations and interrogatories of the plaintiff, unless for good cause shown a further time shall be allowed; in default of such answer, such matters may be taken for confessed, or the court or judge may, upon motion, compel him to answer by attachment of his body.

Sec. 18. No final judgment, however, shall be rendered against the garnishee, until the action against the defendant in attachment is determined; and in no case for a greater amount than that sworn to by the plaintiff, with interest and costs.

SEC. 19. The plaintiff may except to the answer of any garnishee for insufficiency, and if the same shall be adjudged insufficient, the court or judge may allow the garnishee to amend his answer, in such time and on such terms as may be just, or the plaintiff may take as confessed the allegations not denied by such answer, or move the court or judge to attach the body of the garnishee to compel a sufficient answer.

SEC. 20. The plaintiff may deny the answer of the garnishee in whole or in part, and the issues shall be tried as ordinary issues between plaintiff and defendant. If the answer be not excepted to, or denied in such time as the court or judge may deem proper, it shall be taken to be true and sufficient.

SEC. 21. If by the answer not excepted to, nor denied, or if upon trial it shall appear that the garnishee is possessed of property or effects of the defendant, or is indebted to the defendant, the value of such property or effects or of the debt being ascertained, judgment may be rendered against the garnishee for the proper amount in money, and in such case the court may make him a reasonable allowance for his trouble in answering, to be paid out of the funds confessed in his hands.

SEC. 22. Whenever any property, effects, money, or debts belonging or owing to the defendant shall be confessed or found by the court, judge, or jury to be in the possession of the garnishee, he may at any time before final judgment discharge himself by delivering the same to the marshal.

SEC. 23. Debts not yet due to the defendant may be attached, but no execution shall be awarded against the garnishee for such debts until they shall become due.

SEC. 24. In all cases of controversy between the plaintiff and garnishee, the parties may be adjudged to pay or recover costs in the discretion of the court.

SEC. 25. The defendant or claimant may be required to attend before the court, judge, or jury, for the purpose of giving any necessary or proper information respecting the property attached, and may be thereupon examined on oath concerning the same.

SEC. 26. If judgment be recovered by the plaintiff against the defendant in such action, the marshal shall satisfy the same out of the property attached by him, if it be sufficient for that purpose :

1. By paying to the plaintiff the proceeds of all sales of perishable property sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment.

2. If any balance remain due, and an execution shall have been issued on the judgment, he shall sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in his hands; and in case of the sale of any rights or shares in the stock of a corporation or company, the marshal shall execute to the purchaser a certificate of the sale, and the purchaser shall thereupon have all the rights and privileges in respect thereto which were had by the defendant. Notices of the sales shall be given, and the sales conducted as in other cases of sales on execution.

SEC. 27. If after selling all the property attached by him remaining in his hands, and applying the proceeds, together with the proceeds of any debts or credits collected by him, deducting his fees, to the payment of the judgment and costs, any balance shall remain due, the marshal shall proceed to collect such balance as upon an execution in other cases. Whenever the judgment and all costs of the proceedings shall have been paid, the marshal, upon reasonable demand, shall deliver over to the defendant the residue of the attached property remaining in his hands, and any proceeds of the property attached unapplied on the judgment.

SEC. 28. If the defendant recover judgment against the plaintiff, any undertaking received in the action, all the proceeds of sales, and money collected by the marshal, and all property attached remaining in the marshal's hands, shall be delivered to the defendant or his agent, and the order of attachment discharged.

SEC. 29. Whenever the defendant shall have appeared in the action, he may apply, upon reasonable notice to the plaintiff, to the court, or any judge thereof in vacation, for an order to discharge the attachment upon the execution of the undertaking mentioned in the next section; and if the application be granted, all the proceeds of sales and moneys collected by the marshal, and all the property attached remaining in the marshal's hands, shall be released from the attachment and delivered to the defendant.

SEC. 30. Upon such application, the defendant shall deliver to the court or judge, an undertaking, executed by at least two sureties ap-

proved by the court or judge, to the effect that the sureties will, on demand, pay to the plaintiff the amount of the judgment that may be recovered against the defendant in the action, not exceeding the sum specified in the undertaking, which shall be sufficient to satisfy the amount claimed by the plaintiff in his complaint, and the costs. The sureties may be required to justify, on application to the court or judge, and the property attached shall not be released from the attachment without their so justifying, if it be required.

SEC. 31. The defendant may also, at any time before the time for answering expires, apply, on motion, upon reasonable notice to the plaintiff, to the court or judge, to discharge the attachment, on the ground that the writ was improperly issued. If the motion be made upon affidavit, on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other evidence, in addition to those on which the writ of attachment was issued. If upon such application it shall satisfactorily appear that such writ was improperly issued, it shall be discharged.

SEC. 32. When the writ of attachment shall be fully executed or discharged, the marshal shall return the same, with his proceedings thereon.

SEC. 33. Where a debtor has departed from this District with intent to defraud his creditors, or has assigned, secreted, removed, or disposed of, or is about to assign, secrete, remove, or dispose of, his property not exempt from execution, with intent to defraud his creditors, a creditor may bring an action on his claim before it is due, and have an attachment against the property of the debtor.

SEC. 34. The attachment authorized by the last section shall only be granted by the court or by the judge thereof; but before such action shall be brought, or such attachment shall be granted, the plaintiff, or some other person in his behalf, shall make an affidavit showing the nature and amount of the plaintiff's claim, that it is just, when the same will become due, and the existence of some one of the grounds for attachment mentioned in the preceding section. The order of the court or judge granting the attachment shall specify the amount for which it is allowed, not exceeding a sum sufficient to satisfy the plaintiff's claim and the probable costs of the action. The attachment shall not be issued by the clerk until the plaintiff has executed the undertaking required by section three of this chapter. In such

action the plaintiff shall not have judgment on his claim before it becomes due. The proceedings shall be as in other cases of attachment, except as otherwise provided.

CHAPTER 86.

OF RECEIVERS AND DEPOSIT IN COURT.

SECTION

1. When a receiver may be appointed.
2. No party or attorney shall be appointed a receiver.
3. Receiver to take an oath and give a bond.
4. Upon an admission, the court may order a fund to be deposited in court or delivered over.

SECTION

5. Disobedience of such order may be punished as for a contempt.
6. Receiver may bring and defend actions.
7. When plaintiff's claim is admitted, the court may order it to be satisfied.

SECTION 1. A receiver may be appointed by the court :

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.

2. In an action by a mortgagee for the foreclosure of the mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt.

3. After judgment, to carry the judgment into effect.

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or when an execution has been returned unsatisfied and the judgment debtor refuses to apply his property in satisfaction of the judgment.

5. In such other cases as may be provided by law ; or when, in the discretion of the court, it may be necessary to secure ample justice to the parties.

SEC. 2. No party, or attorney, or person interested in any action, shall be appointed receiver therein.

SEC. 3. Before entering upon his duties, the receiver must be sworn to perform them faithfully, and, with one or more sureties to be approved by the court, shall execute an undertaking to such person, and in such sum as the court shall direct, to the effect that he will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

SEC. 4. When it is admitted by the pleading or examination of a party that he has in his possession or under his control any money or other thing capable of delivery, which, being the subject of the litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same to be deposited in court, or delivered to such party, with or without security, subject to the further direction of the court.

SEC. 5. Whenever, in the exercise of its authority, a court shall have ordered the deposit or delivery of money, or other thing, and the order is disobeyed, the court, besides punishing the disobedience, as for a contempt, may make an order requiring the marshal to take the money, or thing, and deposit or deliver it in conformity with the direction of the court.

SEC. 6. The receiver shall have power, under the control of the court, to bring and defend actions; to take and keep possession of the property; to receive rents; collect debts; and generally to do such acts, respecting the property, as the court may authorize. He shall be allowed such compensation for his services as the court may deem just and proper, to be taxed as the court may order.

SEC. 7. Whenever the answer of the defendant admits part of the plaintiff's claim to be just, the court, on motion, may order the defendant to satisfy that part of the claim, and may enforce the order by execution or attachment.

CHAPTER 87.

OF ISSUES.

SECTION

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| 1. | } Of issues of law and fact. |
| 2. | |
| 3. | |
| 4. | } How issues shall be tried. |
| 5. | |
| 6. Actions to be entered in the order in which they were brought. | |

SECTION

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|-----|---|
| 7. | How the trial docket shall be made up. |
| 8. | } When actions shall be tried. |
| 9. | |
| 10. | Either party may bring an issue to trial. |
| 11. | Of motions to postpone trials on the ground of absence of evidence. |

SECTION 1. Issues arise upon the pleadings where a fact or conclusion of law is maintained by one party, and controverted by the other. They are of two kinds:

1. Of law; and,
2. Of fact.

SEC. 2. An issue of law arises upon a demurrer to the complaint, answer or reply, or to some part thereof.

SEC. 3. An issue of fact arises:

1. Upon a material allegation in the complaint, controverted by the answer; or,
2. Upon a counter-claim or set-off in the answer, controverted by the reply; or,
3. Upon new material matter in the answer or reply, which shall be considered as controverted by the opposite party, without further pleading.

SEC. 4. An issue of law shall be tried by the court, unless it be referred by consent, as provided by statute. An issue of fact in any action for the recovery of money, or of specific real or personal property, shall be tried by a jury, unless a jury trial is waived, or a reference be ordered, as provided by statute.

SEC. 5. All other issues of fact shall be tried by the court, subject to its power to order any issue or issues to be tried by a jury, in its discretion, or upon the application of either party, or referred as provided by statute.

SEC. 6. The clerk shall enter upon the appearance docket all actions in the order in which they were brought, the date of the summons, the time of the return thereof by the officer, and his return thereon, the time of filing the complaint, and all subsequent pleadings

SEC. 7. The trial docket shall be made out by the clerk at least twelve days before the first day of each term of the court; and the actions shall be set for particular days in the order in which the issues were made up, whether of law or fact, and so arranged that the causes set for each day shall be tried as nearly as may be on that day. For the purpose of arranging said docket, an issue shall be considered as made up when either party is in default of a pleading.

SEC. 8. The trial in each action shall be in the order on which it stands upon the trial docket, unless the court, for cause shown, shall otherwise direct.

SEC. 9. Actions shall be triable at the first term of the court after the issues therein are or should have been made up; and when by the times fixed for pleading the issues are or should have been made up either before or during a term of court, but after the period for preparing the trial docket of such term, the clerk, if required by the court, shall place such actions on the trial docket of that term.

SEC. 10. Either party may bring the issue to trial; and in the absence of the adverse party, unless the court for good cause otherwise direct, may proceed with his case, and take a dismissal of the action, or a verdict or judgment, as the case may require.

SEC. 11. A motion to postpone a trial on the ground of the absence of evidence shall only be made upon affidavit, showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it. The court may also require the moving party to state upon affidavit the evidence which he expects to obtain, and if the adverse party thereupon admit that such evidence would be given, and that it be considered as actually given on the trial, or offered subject to all proper objections, the trial shall not be postponed.

CHAPTER 88.

TRIAL BY JURY.

SECTION

1. Jurors; how chosen.
2. Challenges; how made.
3. Challenges for cause; for what taken.
4. Challenges for cause to be tried by the court.
5. Oath to the jurors.

SECTION

6. Ballots; when to be returned to the box.
7. The order of trial.
8. Jury may have a view if the court think proper.
9. Duties of officer having charge of jury.

SECTION

10. Before submission the jury may be kept together or allowed to separate, in the discretion of the court.
11. Jury may return to court for information.
12. Proceedings when a juror is sick.
13. Papers which a jury may take with them.

SECTION

14. } Proceedings when jury returns with
15. } verdict.
16. } Of verdicts, general and special.
17. }
18. Special finding to control general verdict.
19. Jury shall assess the amount of money recovered.
20. Verdict in actions for recovery of personal property.

SECTION 1. In any civil action where the parties are entitled to a trial by jury, and either party shall demand such trial, the clerk shall prepare separate ballots containing the names of the jurors summoned, who have appeared and not been excused, and deposit them in a box. He shall then draw from the box names sufficient in number to constitute the jury. If the ballots become exhausted before the jury is complete, the marshal shall summon, under the direction of the court, from citizens of this District, and not from bystanders, so many qualified persons as may be necessary to complete the jury. The jury shall consist of twelve persons, unless the parties consent to a less number. The parties may consent to any number not less than three, and such consent shall be entered by the clerk on the minutes of the trial. The parties may agree upon the jurors to compose a special jury, and notify the court thereof, and the court shall thereupon direct the clerk to empanel such special jury, if it can be done without unreasonable delay of the cause.

SEC. 2. Either party may challenge the jurors, but when there are several parties on either side, they shall join in a challenge before it can be made. The challenges shall be to individual jurors, and shall be peremptory, or for cause. Each party shall be entitled to three peremptory challenges.

SEC. 3. Challenges for cause may be taken on one or more of the following grounds:

1. A want of the qualifications prescribed by statute to render a person competent as a juror.
2. Consanguinity or affinity within the third degree to either party.
3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent to either party, or being a member of the family of either party, or being security on any undertaking or obligation in the cause for either party.

4. Having served as a juror or been a witness on a previous trial between the same parties for the same cause of action.

5. Interest on the part of the juror in the event of the action, or in the main question involved in the action.

6. Having formed or expressed an unqualified opinion or belief as to the merits of the action.

7. The existence of a state of mind in the juror evincing enmity against either party.

SEC. 4. Challenges for cause shall be tried by the court. The juror challenged, and any other person, may be examined as a witness on the trial of the challenge.

SEC. 5. As soon as the jury is completed, an oath or affirmation shall be administered to the jurors, in substance, that they and each of them will well and truly try the matter in issue between the plaintiff and defendant, and a true verdict give, according to the evidence.

SEC. 6. When the jury is completed and sworn, the ballots containing the names of the jurors sworn shall be laid aside till the jury so sworn is discharged, and then they shall be returned to the box; and every ballot drawn containing the name of a juror not so sworn shall be returned to the box as soon as the jury is completed.

SEC. 7. When the jury has been sworn, the trial shall proceed in the following order, unless the court for special reasons otherwise direct:

1. The plaintiff must briefly state his claim, and may briefly state the evidence by which he expects to sustain it.

2. The defendant must then briefly state his defence, and may briefly state the evidence he expects to offer in support of it.

3. The party who would be defeated if no evidence were given on either side, must first produce his evidence; the adverse party will then produce his evidence.

4. The parties shall then be confined to rebutting evidence, unless the court for good reasons in furtherance of justice permits them to offer evidence in their original case.

5. When the evidence is concluded, either party may request instructions to the jury on points of law, which shall be given or refused by the court; which instructions shall be reduced to writing, if either party require it.

6. The parties may then submit or argue the case to the jury. In the argument, the party required first to produce his evidence, shall have the opening and conclusion, but shall disclose in the opening all the points relied on in the cause; and if in the closing he refer to any new point or fact not disclosed in the opening, the adverse party shall have the right of replying thereto, which reply shall close the argument in the case.

SEC. 8. Whenever, in the opinion of the court, it is proper for the jury to have a view of the property which is the subject of litigation, or of the place in which any material fact occurred, it may order them to be conducted, in a body, under the charge of an officer, to the place, which shall be shown to them by some person appointed by the court for that purpose. While the jury are thus absent, no person other than the person so appointed shall speak to them on any subject connected with the trial.

SEC. 9. When the case is finally submitted to the jury, they may decide in court, or retire for deliberation. If they retire, they shall be kept together in a room provided for them, or some other convenient place, under the charge of an officer, until they agree upon a verdict, or are discharged by the court. The officer having them under his charge shall not suffer any communication to be made to them, or make any himself, except to ask them if they have agreed upon their verdict; and he shall not, before their verdict is rendered, communicate to any person the state of their deliberations, or the verdict agreed upon.

SEC. 10. The jurors may, in the discretion of the court, at any time before the submission of the case to them, be permitted to separate, or may be kept together in charge of a proper officer; in either case they may be admonished by the court that it is their duty not to converse with, or suffer themselves to be addressed by, any other person, on any subject connected with the trial, and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them.

SEC. 11. After the jury have retired for deliberation, if there be a disagreement between them as to any part of the testimony, or if they desire to be informed as to any part of the law arising in the case, they may request the officer to conduct them to the court, where the information upon the point of law shall be given, and the court

may give its recollection as to the testimony on the point in dispute, in the presence of or after notice to the parties or their counsel.

SEC. 12. If after the empanneling of the jury, and before a verdict, a juror become sick, so as to be unable to perform his duty, the court may order him to be discharged. In that case, unless the parties agree to proceed with the other jurors, a new juror may be sworn, and the trial begin anew; or the jury may be discharged and a new jury then or afterwards empanneled. The jury may be discharged by the court on account of any other accident or calamity requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

SEC. 13. Upon retiring for deliberation, the jury may take with them the pleadings in the cause, and all papers (except depositions) which have been received as evidence on the trial, or copies of such parts of public records or private documents given in evidence as ought not, in the opinion of the court, to be taken from the person having them in possession. They may also take with them notes of the testimony, or other proceedings on the trial, taken by themselves, or any of them, but none taken by any other person, except by consent of the parties.

SEC. 14. When the jury have agreed upon their verdict, they must be conducted into court by the officer having them in charge, their names called by the clerk, and the verdict rendered by their foreman. When the verdict is announced, either party may require the jury to be polled. If any juror dissent from the verdict, the jury shall be again sent out to deliberate.

SEC. 15. The verdict shall be written, signed by the foreman, and read by the clerk to the jury, and the inquiry made, whether it is their verdict. If any juror disagree, the jury must be sent out again; but if no disagreement be expressed, the verdict is complete, and the jury is discharged from the case. If, however, the verdict be defective in form only, the same may, with the assent of the jury before they are discharged, be corrected by the court.

VERDICT.

SEC. 16. The verdict of a jury is either general or special. A general verdict is that by which they pronounce generally upon all or any

of the issues, either in favor of the plaintiff or defendant. A special verdict is that by which the jury find the facts only, leaving the judgment to the court. The special verdict shall present the conclusions of fact as established by the evidence, and not the evidence to prove them; and those conclusions of fact shall be so presented as that nothing shall remain to the court but to draw from them conclusions of law.

SEC. 17. In all actions, the jury, unless otherwise directed by the court, may, in their discretion, render a general or special verdict; but the court shall, at the request of either party, direct them to find a special verdict in writing upon all or any of the issues; and in all cases, when requested by either party, shall instruct them, if they render a general verdict, to find specially upon particular questions of fact, to be stated in writing. This special finding shall be recorded with the verdict.

SEC. 18. When the special finding of facts is inconsistent with the general verdict, the former shall control the latter, and the court shall give judgment accordingly.

SEC. 19. In actions for the recovery of money, the jury shall assess the amount of the recovery.

SEC. 20. In actions for the recovery of specific personal property, the jury must assess the value of the property, as also the damages for the taking or detention, whenever, by their verdict, there will be judgment for the recovery or return of the property.

CHAPTER 89.

TRIAL BY THE COURT.

SECTION

1. How trials by jury may be waived.

SECTION

2. How the finding shall be stated in the trial of question of fact by the court.

SECTION 1. The trial by jury may be waived by the parties in actions arising on contract; and with the assent of the court, in other actions, in the following manner:

1. By the consent of the party appearing, when the other party fails to appear at the trial by himself or attorney.

2. By written consent in person, or by attorney, filed with the clerk.

3. By oral consent in open court, entered on the record.

SEC. 2. Upon trials of questions of fact by the court, it shall not be necessary for the court to state its finding, except generally for the plaintiff or defendant, unless one of the parties request it, with a view of excepting to the decision of the court upon the questions of law involved in the trial; in which case, the court shall state, in writing, the conclusions of fact found, separately from the conclusions of law, and judgment shall be entered accordingly.

CHAPTER 90.

TRIAL BY REFEREES.

SECTION

1. Issues may be referred.
2. When the court may order a reference.
3. How trial by referees shall be conducted.
4. How referees shall be appointed.

SECTION

5. Referees shall sign exceptions.
6. Judge in vacation may make a reference.
7. Referees shall be sworn.
8. Compensation of referees.

SECTION 1. All or any of the issues in the action, whether of fact or law, or both, may be referred upon the written consent of the parties, or upon their oral consent entered on the record.

SEC. 2. When the parties do not consent, the court may, upon the application of either, or of its own motion, direct a reference in either of the following cases:

1. When the trial of an issue of fact shall require the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

2. When the taking of an account shall be necessary for the information of the court, before judgment in cases which may be determined by the court, or for carrying a judgment into effect; or,

3. When a question of fact, other than upon the pleadings, shall arise, upon motion or otherwise, in any stage of the action.

SEC. 3. The trial before referees shall be conducted in the same manner as a trial by the court. They shall have the same power to summon and enforce the attendance of witnesses, to administer all necessary oaths in the trial of the case, and to grant adjournments as

the court upon such trial. They shall state the facts found, and the conclusions of law, separately, and their decisions shall be given, and may be excepted to and reviewed, in like manner. The report of the referees upon the whole issue shall stand as the decision of the court, and judgment may be entered thereon in the same manner as if the action had been tried by the court. When the reference is to report the facts, the report shall have the effect of a special verdict.

SEC. 4. In all cases of reference, the parties may agree upon a suitable person or persons, not exceeding three, and the reference shall be ordered accordingly; and if the parties do not agree, the court shall appoint one or more referees, not exceeding three, who shall be free from exception.

SEC. 5. It shall be the duty of the referees to sign any true exceptions taken to any order or decision by them made in the case, and return the same with their report to the court.

SEC. 6. A judge of the circuit court in vacation, upon the written consent of the parties, may make any order of reference which the court could make in term time. In such case the order of reference shall be made on the written agreement of the parties to refer, and shall be filed with the clerk with the other papers in the case.

SEC. 7. The referees shall be sworn or affirmed well and faithfully to hear and examine the cause, and to make a just and true report therein according to the best of their understanding. The oath may be administered by any one authorized to take depositions.

SEC. 8. The referees shall be allowed such compensation for their services as the court may deem just and proper, which shall be taxed as a part of the costs in the case.

CHAPTER 91.

OF EXCEPTIONS.

SECTION

1. What shall be deemed an exception.
2. The time and manner of an exception.
3. The form of an exception.
4. How an exception may be taken when decision is entered of record.

SECTION

5. How an exception may be taken when the decision is not entered on the record.
6. Only material exceptions regarded.
7. Exceptions may be withdrawn, &c.

SECTION 1. An exception is an objection taken to a decision of the court upon a matter of law.

SEC. 2. The party objecting to the decision must except at the time the decision is made; but time may be given to reduce the exception to writing, but not beyond the term, unless by special leave of the court. It shall not be necessary to copy a written instrument or any documentary evidence into a bill of exceptions, but it shall be sufficient to refer such evidence, if its appropriate place be designated by the words "here insert."

SEC. 3. No particular form of exception shall be required. The objection shall be stated with so much of the evidence as is necessary to explain it, and no more, and the whole as briefly as possible.

SEC. 4. Where the decision objected to is entered on the record, and the grounds of objection appear in the entry, the exception may be taken by the party causing to be noted at the end of the decision that he excepts.

SEC. 5. Where the decision is not entered on the record, or the grounds of objection do not sufficiently appear in the entry, the party excepting must reduce his exception to writing, and present it to the court for its allowance. If true, it shall be the duty of a majority of the judges to allow and sign it, whereupon it shall be filed with the pleadings as a part of the record. If the writing is not true the court shall correct it, or suggest the correction to be made, and it shall then be signed as aforesaid.

SEC. 6. No exception shall be regarded unless it is material, and affect the substantial rights of the party excepting.

SEC. 7. Exceptions taken to the decision of the court may, by leave of the court, be withdrawn from the files by the party taking the same at any time before proceedings in error are commenced, and before the exceptions are recorded.

CHAPTER 92.

OF NEW TRIAL.

SECTION

1. For what reasons a new trial may be had.
2. When smallness of damages not a cause.
3. When application for a new trial must be made.
4. How application must be made.

SECTION

5. When and how application must be made when a discovery is made after the term.
6. When motion shall be heard.
7. Provisions to apply to trials by court well as jury.

SECTION 1. A new trial is a re-examination in the same court of an issue of fact after a verdict by a jury, report of referees, or a decision by the court. The former verdict, report, or decision shall be vacated, and a new trial granted, on the application of the party aggrieved, for any of the following causes affecting materially the substantial rights of such party:

1. Irregularity in the proceedings of the court, jury, referee, or prevailing party, or any order of court or referee, or abuse of discretion, by which the party was prevented from having a fair trial.

2. Misconduct of the jury, or prevailing party.

3. Accident or surprise, which ordinary prudence could not have guarded against.

4. Excessive damages, appearing to have been given under the influence of passion or prejudice.

5. Error in the assessment of the amount of recovery, whether too large or too small, when the action is upon a contract, or for the injury or detention of property.

6. That the verdict, report, or decision, is not sustained by the evidence, or is contrary to law.

7. Newly discovered evidence, material for the party applying, which he could not, with reasonable diligence, have discovered and produced at the trial.

8. Error of law, occurring at the trial, and excepted to by the party making the application.

SEC. 2. A new trial shall not be granted on account of the smallness of damages in an action for an injury to the person or reputation, nor in any other action, where the damages shall equal the actual pecuniary injury sustained.

SEC. 3. The application for a new trial must be made at the term the verdict, report, or decision is rendered, and except for the cause of newly discovered evidence material for the party applying, which he could not with reasonable diligence have discovered and produced at the trial, shall be within ten days after the verdict, report, or decision was rendered, unless unavoidably prevented.

SEC. 4. The application must be by motion, upon written grounds filed at the time of making the motion. The causes enumerated in subdivisions two, three, and seven of section one of this chapter, must be sustained by affidavits showing their truth, and may be controverted by affidavits.

SEC. 5. Where the grounds for a new trial could not with reasonable diligence have been discovered before, but are discovered after the term at which the verdict, report of referee, or decision was rendered or made, the application may be made by complaint filed as in other cases, not later than the second term after the discovery; on which a summons shall issue as on other complaints, requiring the adverse party to appear and answer. The application shall stand for hearing at the term to which the summons is returned executed, and shall be summarily decided by the court, upon the evidence produced by the parties. But no such application shall be made more than one year after the final judgment was rendered.

SEC. 6. The motion for a new trial shall be heard so soon as the parties shall have had a reasonable time to prepare therefor.

SEC. 7. The provisions of this title respecting trials by jury apply, so far as they are in their nature applicable, to trials by the court.

CHAPTER 93.

OF JUDGMENTS.

SECTION

1. } For and against whom a judgment
2. } may be rendered.
3. When an action may be dismissed without prejudice to a future action.
4. Defendant may proceed on set-off or counter-claim, after dismissal by plaintiff.
5. Sale ordered on foreclosure of mortgage.
6. Effect of a judgment for a conveyance, release, or acquittance.
7. Judgment upon failure to answer.
8. Judgment, with the assent of the creditor, may be confessed.
9. Statement of the debt to be filed, and copied in judgment.
10. Defendant must make affidavit.
11. Parties may submit a controversy.
12. Statement, submission, and judgment form the record.
13. Judgment may be enforced as in other cases.
14. Offer to confess judgment.

SECTION

15. How judgment shall be entered.
16. Judgment to be in favor of the party entitled, notwithstanding the verdict.
17. Judgment may be given for excess of counter-claim or set-off.
18. Judgment in an action for the recovery of personal property.
19. Any damages to which plaintiff is entitled may be recovered.
20. What relief may be granted to plaintiff with and without answer.
21. Judgments and orders to be entered on the journal.
22. What constitutes the record.
23. The clerk to make a copy of record, when required.
24. How satisfaction of judgment shall be entered.
25. Judgment docket shall be a record.
26. Proceedings before rendering judgment against a defendant constructively summoned and who has not appeared.

SECTION 1. Judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants; it may determine the ultimate rights of the parties on either side, as between themselves.

SEC. 2. In any action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others whenever a several judgment may be proper.

SEC. 3. An action may be dismissed without prejudice to a future action:

1. By the plaintiff, before the final submission of the case to the jury or to the court, where the trial is by the court.

2. By the court, where the plaintiff fails to appear on the trial.

3. By the court, for the want of necessary parties.

4. By the court, on the application of some of the defendants, where there are others whom the plaintiff fails to prosecute with diligence.

5. By the court, for disobedience by the plaintiff of an order concerning the proceedings in the action.

In all other cases, upon the trial of the action, the decision shall be upon the merits.

SEC. 4. In any case where a set-off or counter-claim has been presented, the defendant shall have the right of proceeding to the trial of his claim, although the plaintiff may have dismissed his action or failed to appear.

SEC. 5. In the foreclosure of a mortgage, a sale of the mortgaged property shall, in all cases, be ordered.

SEC. 6. When a judgment shall be rendered for a conveyance, release, or acquittance, and the party against whom judgment shall be rendered does not comply therewith by the time appointed, such judgment shall have the same operation and effect, and be as available, as if the conveyance, release, or acquittance had been executed conformably to such judgment. If the judgment be for a conveyance of real estate, the same shall be duly recorded in the office of the recorder. This section shall apply to decrees rendered, or to be rendered, in suits now pending.

JUDGMENT UPON FAILURE TO ANSWER.

SEC. 7. If the taking of an account, or the proof of a fact, or the assessment of damages, be necessary to enable the court to pronounce

judgment upon a failure to answer, or after a decision of an issue of law, the court may, with the assent of the party not in default, take the account, hear the proof, or assess the damages ; or may, with the like assent, refer the same to a referee or commissioner, or may direct the same to be ascertained or assessed by a jury.

JUDGMENT BY CONFESSION.

SEC. 8. Any person indebted, or against whom a cause of action exists, may personally appear in a court of competent jurisdiction, and with the assent of the creditor or person having such cause of action, confess judgment therefor ; whereupon judgment shall be entered accordingly.

SEC. 9. The debt or cause of action shall be briefly stated in writing, to be filed and copied in the judgment. The confession shall operate as a release of errors.

SEC. 10. Whenever a confession of judgment is made by power of attorney or otherwise, the party confessing, at the time he executes such power of attorney, or confesses judgment, shall make affidavit that the debt is just, and that such confession is not made for the purpose of defrauding his creditors. The affidavit shall be filed.

JUDGMENTS IN AGREED CASES.

SEC. 11. Parties to a question which might be the subject of a civil action, may, without action, agree upon a case constituting the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought ; but it must appear by affidavit that the controversy is real, and the proceedings in good faith to determine the rights of the parties. The court shall thereupon hear and determine the case, and render judgment as if an action were pending.

SEC. 12. The statement of the case, the submission, and judgment shall constitute the record.

SEC. 13. The judgment may be enforced in the same manner as if it had been rendered in an action, and in like manner shall be with costs, subject to reversal, unless otherwise provided in the submission.

OFFER TO CONFESS JUDGMENT.

SEC. 14. The defendant may, at any time before the trial, serve upon the plaintiff an offer in writing to allow judgment to be taken

against him for the sum or property, or to the effect therein specified, with costs. If the plaintiff accept the offer in court in the presence of the defendant, or give notice of acceptance in writing within five days and before the trial, judgment shall be entered accordingly. If the offer is not accepted, or notice of the acceptance be given as above directed, the offer is to be deemed withdrawn, and shall not be given in evidence or commented on before the jury; and if the plaintiff fail to obtain a more favorable judgment, the defendant shall recover from the plaintiff the costs incurred after the offer.

MANNER OF GIVING AND ENTERING JUDGMENT.

SEC. 15. When a trial by jury has been had, judgment must be entered by the clerk in conformity with the verdict, unless it is special, or the court order the case to be reserved for future argument or consideration. Where the verdict is special, or where there has been a special finding on particular questions of fact, or where the court has ordered the case to be reserved, it shall order what judgment shall be entered.

SEC. 16. Where, upon the statements in the pleadings, one party is entitled by law to judgment in his favor, judgment shall be so rendered by the court, though a verdict has been found against such party.

SEC. 17. If a counter-claim or set-off established at the trial exceeds the plaintiff's claim so established, judgment for the defendant shall be given for the excess; or if it appear that the defendant is entitled to any affirmative relief, judgment shall be given therefor.

SEC. 18. In an action to recover the possession of personal property, judgment for the plaintiff may be had for the delivery of the property, or the value thereof in case a delivery cannot be had, and damages for the detention. Where the property has been delivered to the plaintiff, and the defendant claims a return thereof, judgment for the defendant may be for the return of the property, or its value in case a return cannot be had, and damages for the taking and withholding of the same.

SEC. 19. Whenever damages are recoverable, the plaintiff may claim and recover any damages to which he may be entitled for the cause of action established.

SEC. 20. The relief granted to the plaintiff, if there be no answer, shall not exceed the relief demanded in the complaint; but in any

other case the court may grant him any relief consistent with the case made by the complaint and embraced within the issue.

SEC. 21. All judgments and orders shall be entered on the journal of the minutes of the court, and specify clearly the relief granted or order made in the action.

SEC. 22. The record shall consist of the complaint, the process, returns, the pleadings subsequent thereto, reports, verdict, orders, judgment, and all material acts and proceedings of the court.

SEC. 23. Where any party to a cause requires it in writing, the clerk shall enter, into a well-bound book provided for that purpose, a complete copy of the record in such cause, at the cost of the party so requiring it. If neither party require it, no such copy shall be made.

SEC. 24. Satisfaction of a judgment shall be entered by the clerk in the judgment docket, when an execution shall be returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk, made in the manner of an acknowledgment of a conveyance of real property, by the judgment creditor, or within two years after the judgment, by the attorney of record, unless a revocation of his authority be previously filed. Whenever a judgment shall be satisfied in fact, otherwise than upon an execution, it shall be the duty of the party or attorney to give such acknowledgment, and upon motion the court may compel it, or may order the entry of satisfaction to be made without it.

SEC. 25. Such judgment docket shall be a record, and open, during the usual hours of transacting business, to the examination of any person desiring it.

JUDGMENT AGAINST A DEFENDANT CONSTRUCTIVELY SUMMONED.

SEC. 26. Before rendering judgment against a defendant constructively summoned, and who has not appeared, the court may cause the plaintiff to appear personally in court, or before a commissioner, and answer under oath interrogatories concerning the matters in the complaint, or any matters which might be set up in defence thereto, including matters of set-off and counter-claim, and may order the examination to be reduced to writing, and filed with the papers in the action. If, upon the examination, any matters of set-off or counter-claim are disclosed, the same may be adjusted by the judgment.

CHAPTER 94.

OF EXECUTIONS.

SECTION

1. Execution may be issued at any time within five years.
2. After five years, execution may be issued by leave of the court.
3. How judgments may be enforced.
4. Three kinds of execution.
5. When a particular execution shall not be issued.
6. No execution against body, unless expressly provided.
7. How an execution shall be issued, and what it shall require the marshal to do.
8. Within what time an execution is returnable.
9. Property of principal sold first, unless surety direct otherwise.
10. When an execution may be issued on Sunday.

STAY OF EXECUTION.

11. Defendant may have stay of execution for one hundred and eighty days.
12. The recognizance may be taken by the clerk.
13. Notice shall be given after execution to the marshal of the stay.
14. After stay, property and bonds to be relinquished by the marshal.
15. The effect of the recognizance.
16. Proceedings after the expiration of stay.
17. } In what cases no stay allowed.
18. }
19. In what case stay may cease.

LEVY.

20. }
21. }
22. } What may be levied on.
23. }
24. }
25. } Property designated by defendant to
26. } be first levied on.
27. Real estate to be exempt until personal is levied on and sold.
28. }
29. }
30. } Proceedings when claim is made by
31. } any other person than the defendant.
32. }

SECTION

DELIVERY BONDS.

33. Personal property may be returned upon giving a delivery bond.
34. } Proceedings upon forfeiture of deliv-
35. } ery bond.
36. }

SALE ON EXECUTION.

37. } Proceedings upon sale of real estate.
38. }
39. } How personal property shall be sold.
40. }
41. Sale may be postponed.
42. When another levy may be made.
43. Clerk to issue another execution upon the return of the former unsatisfied.
44. } Upon the sale of real estate, marshal
45. } to make a conveyance.
46. Penalty upon officer, and person taking down notice.
47. Omission not to affect validity of bona fide sale.
48. Proceedings against a purchaser failing to pay purchase money.
49. Surplus to be paid to debtor or his assigns.
50. Provisions when non-resident's property is sold on execution.
51. Proceedings not to be affected by death of execution defendant.

EXECUTIONS AGAINST THE BODY.

52. Affidavit to be filed.
53. What the affidavit shall specify.
54. Notice to be issued.
55. Proceedings if the debtor fail to appear.
56. Proceedings if the debtor appear.
57. } Provisions where judgment is against
58. } debtor.
59. }
60. How execution shall be served.
61. No female to be imprisoned.

INSOLVENTS DISCHARGED FROM CUSTODY.

62. } How a person arrested may discharge
63. } himself.

SECTION

64. Creditor to be notified.
 65. Property surrendered to be disposed of
 as if taken on execution.
 66. Marshal to make return.

SECTION

67. Provisions if party die in custody.
 68. Party escaping may be again arrested.
 69. Clerk to keep an execution docket.

SECTION 1. The party in whose favor judgment has been heretofore, or shall hereafter be rendered, may, at any time within five years after the entry thereof, proceed to enforce the same as prescribed in this chapter.

SEC. 2. After the lapse of five years from the entry of the judgment, an execution can be issued only on leave of the court upon motion, after ten days' personal notice to the adverse party, unless he be absent, or non-resident, or cannot be found, when service of notice may be made by publication as in an original action. Such leave shall not be given, unless it be established by the oath of the party, or other satisfactory proof, that the judgment, or some part thereof, remains unsatisfied and due.

SEC. 3. When a judgment requires the payment of money, or delivery of real or personal property, the same may be enforced in those respects by execution, as provided in this chapter. When it requires the performance of any other act, a certified copy of the judgment may be served on the party against whom it is given, or upon the person or officer who is required thereby, or by law, to obey the same, and his obedience thereto enforced; if he refuse, he may be punished by the court, as for contempt.

SEC. 4. There shall be three kinds of execution: one against the property of the judgment debtor, one against his person, and one for the delivery of the possession of real or personal property, or such delivery, with damages for withholding the same.

SEC. 5. No execution against the body shall be issued while an execution against the property remains unreturned, nor shall an execution against the property be issued while there is an execution against the body unreturned.

SEC. 6. No execution shall be issued upon any judgment against the body of a judgment debtor, except where it is so expressly provided by law.

SEC. 7. The execution shall be issued by the clerk in the name of the United States, sealed with the seal of the court, and shall be directed to the marshal. It shall intelligibly refer to the judgment,

stating the court where and the time when rendered, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and shall require the marshal, substantially, as follows:

1. If it be against the property of the judgment debtor, it shall require the marshal to satisfy the judgment out of the property of the debtor subject to execution. All property, real, and personal, of the judgment debtor, not exempt by law, shall be liable to execution.

2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, it shall require the marshal to satisfy the judgment out of such property.

3. If it be against the body of the judgment debtor, it shall require the marshal to arrest such debtor, and commit him to jail until he shall pay the judgment, or be discharged according to law.

4. If it be for the delivery of the possession of real or personal property, it shall require the marshal to deliver possession of the same, particularly describing it, to the party entitled thereto; and may, at the same time, require the marshal to satisfy any costs, damages, or rents and profits recovered by the same judgment, out of the property of the party against whom it is rendered, subject to execution; the value of the property for which the judgment was recovered shall be specified therein, so that if a delivery thereof cannot be had, the execution shall, in that respect, be deemed an execution against property.

Sec. 8. The execution shall be returnable within one hundred and eighty days from its date.

Sec. 9. If it appear upon the face of an execution, or by the endorsement of the clerk, that, of those against whom it issued, any one is surety for another, the property of the principal shall be first sold, unless the surety shall direct otherwise.

Sec. 10. An execution may be issued and executed on Sunday, whenever an affidavit shall be filed by the plaintiff, or some person in his behalf, stating he will lose his judgment, as he has reason to fear and believe, unless process issue on that day. The clerk shall endorse on such execution that the defendant is not privileged from service on Sunday.

STAY OF EXECUTION.

SEC. 11. When judgment has been rendered against any person for the recovery of money or sale of property, he may, by procuring one or more sufficient freehold securities to enter into a recognizance, acknowledging themselves bail for the defendant, for the payment of the judgment, together with the interest and costs accrued and to accrue, have a stay of execution for one hundred and eighty days from time of entering judgment.

SEC. 12. The bail for stay of execution may be taken and approved by the clerk, and the recognizance signed by the bail entered of record, at any time before the term of stay of execution expires. The undertaking in the recognizance shall be for the payment of the judgment, interest, and costs that may accrue at or before the expiration of the stay of execution.

SEC. 13. When the bail is entered after execution issued, the clerk shall immediately notify the marshal of the stay, who shall forthwith return the execution, noting his proceedings thereon.

SEC. 14. All property levied on before stay of execution, and all written undertakings for the delivery of personal property to the marshal, shall be relinquished by the marshal, upon bail for the stay of execution being entered.

SEC. 15. Every recognizance of bail taken as above provided shall have the effect of a judgment confessed, from the date thereof, against property of the bail. The date of the recognizance and the names of the bail shall be entered in the judgment docket.

SEC. 16. At the expiration of the stay, it shall be the duty of the clerk to issue a joint execution against the property of all the judgment debtors and bail; but the marshal shall first levy upon the property of the judgment debtors, if sufficient can be found, if not, he shall then, without delay, levy the execution upon the property of the bail. But no property of the bail shall be sold when property of the original judgment debtor subject to execution can be pointed out by the bail.

SEC. 17. No stay of execution shall be allowed upon any judgment recovered against any officer, person, or corporation, or the sureties of any of them, for money received in a fiduciary capacity, or for a breach of any official duty.

SEC. 18. When any court shall render judgment against two or more persons, any of whom are sureties for any other or others in the contract on which the judgment is founded, there shall be no stay of execution on the judgment, if the sureties object at the time of rendering the judgment, and it shall be so ordered by the court.

SEC. 19. Any bail for the stay of execution may file with the clerk an affidavit, stating that he verily believes he will have to satisfy the judgment, interest, and costs thereon, unless execution issues immediately; and the clerk shall thereupon issue execution forthwith, unless other sufficient bail be entered before the clerk, as in other cases. If other sufficient bail be entered, it shall have the force of the original bail entered before the filing of the affidavit, and shall discharge the original bail.

LEVY.

SEC. 20. When an execution against the property of any person is issued to the marshal, he shall proceed, without unreasonable delay, to levy the same upon the property, rights, credits, and effects of the defendant subject to execution.

SEC. 21. Current coin may be levied upon and retained on execution, without sale, as so much money collected.

SEC. 22. Bills, notes, drafts, and checks, or other evidences of debt, issued by any moneyed corporation, company, individual, or bank, or by any State or the United States, and circulating as money, may be levied upon as personal property, and sold on execution. Bonds or other evidences of debt, capable of transfer by delivery, issued by any corporation, or company, or town, county, State, or country, may be levied upon as personal property, and sold on execution.

SEC. 23. Shares of stock in any corporation or company may be levied upon and sold, when the office and books showing the shares of stock and stockholders of the corporation or company are kept in this District; and the marshal shall transfer the stock, subject to the rights of the corporation or company. The marshal shall have access to the books of any such corporation or company for the purpose of making the levy, and if refused access, the court, or any judge in vacation, shall enforce the right, and may proceed against any person so refusing as for a contempt. The shares of stock subject to be levied upon shall be bound by the execution from the time of the levy, and

when such levy is made, the marshal shall leave the notice with the officers of the corporation or company, and such levy shall constitute a lien upon such stock from the time of such levy.

SEC. 24. Any debt or thing in action, legally or equitably assignable, may be levied on, when given up by the defendant, and sold on execution, in the same manner as other personal property. The marshal making the sale of any such debt or thing in action shall assign and deliver the same to the purchaser, and the assignment shall have the same effect as if made by the execution defendant at the time of making the levy thereon, and shall be treated as so made.

SEC. 25. When any execution shall issue against the property of any person, it shall be the duty of the marshal to levy the same first upon that part of the property designated by such person, if there be no reasonable doubt that he is the owner thereof, and if designated in time to enable the marshal to levy and sell without unnecessary delay. If no property be thus designated, it shall be the duty of the marshal to levy the execution upon any property of the debtor which can be found subject to execution.

SEC. 26. If the property thus designated shall be insufficient to satisfy the execution, the marshal shall levy the same upon such other property subject to execution as can be most readily found, sufficient, in addition to the property designated, to satisfy the execution.

SEC. 27. The messuage, lands or tenements of the debtor, upon which he may reside, shall not be levied upon if other property subject to execution be found sufficient to satisfy the execution in the hands of the marshal, unless the debtor shall otherwise direct.

SEC. 28. When personal property shall be seized by virtue of any execution, and any person other than the defendant shall file with the marshal his claim thereto, verified by affidavit, the marshal shall summon six persons, qualified as jurors, to try the validity of the claim; giving three days' notice of the time and place of the trial to the plaintiff in the execution or his attorney.

SEC. 29. The marshal, at the request of either party, shall summon witnesses, and compel them to attend and give testimony; and he shall administer the necessary oaths to the jurors and witnesses. The verdict of such jury being rendered in writing, and signed by the foreman, shall be a full indemnity to the marshal proceeding in accordance therewith.

SEC. 30. The marshal may levy the costs of such proceeding upon the goods and chattels of the party liable to pay them, as on execution.

SEC. 31. If at any time before the jury return, the claimant withdraw his claim, the trial shall proceed no further, and the claimant shall pay the costs of such unfinished trial.

SEC. 32. Notwithstanding the verdict of the jury be for the claimant, yet the marshal shall proceed to sell the property seized in satisfaction of the execution, if the plaintiff tender to him a written undertaking, executed by two or more good and sufficient sureties, residents of this District, in double the value of the property, to the effect that he will indemnify the marshal against all damages and costs which he may sustain in consequence of the seizure and sale of such property, and, moreover, that he will pay to any person claiming title to such property all damages which he may sustain in consequence of such seizure and sale. If such undertaking be given, it shall be returned by the marshal, together with the execution, and filed with the clerk; and the claimant may prosecute his suit upon such undertaking, and recover such damages as may be assessed.

DELIVERY BONDS.

SEC. 33. Any personal property taken in execution may be returned to the execution defendant by the marshal, upon the delivery by the defendant to him of a written undertaking, payable to the execution plaintiff, with two good and sufficient sureties to be approved by the marshal, to the effect that the property shall be delivered to the marshal at a time and place named in the undertaking, to be sold according to law.

SEC. 34. In case of the non-delivery of the property according to the undertaking, it shall be the duty of the marshal to levy upon and sell the same, or any other property of the defendant subject to execution, as soon as practicable at any time before the return day of the execution. Upon the forfeiture of the written undertaking, the marshal shall forthwith return it, endorsed "forfeited," to the clerk's office, for the use of the plaintiff.

SEC. 35. An action may be had on such undertaking, whenever the condition thereof is broken, and on recovery the value of the property so taken, with ten per cent. damages, shall be assessed in favor of the plaintiff; but the recovery shall not exceed the amount due on the execution and ten per cent. on the principal.

SEC. 36. On judgment obtained on such written undertaking, execution shall forthwith issue, without stay, returnable in thirty days; and the marshal shall not return any property to the execution defendant levied on thereby, except upon payment of the judgment and costs.

SALE ON EXECUTION.

SEC. 37. Real estate taken by virtue of any execution shall be sold at public auction at the door of the court-house; and if the estate shall consist of several lots, tracts, and parcels, each shall be offered separately; and no more of any real estate shall be offered for sale than shall be necessary to satisfy the execution, unless the same is not susceptible of division.

SEC. 38. The time and place of making sale of real estate on execution shall be publicly advertised by the marshal for at least twenty days successively next before the day of sale, by posting up written or printed notice thereof at the door of the court-house, and also by advertising the same at least once a week for four weeks successively in one or more newspapers published in this District.

SEC. 39. Previous notice of the time and place of the sale of any personal property on execution shall be given for ten days successively, by posting up a written or printed notice thereof at the place where the sale is to be made, and also by advertising the same in some newspaper published in this District, said advertisement to be inserted at least three times, and the first insertion to be at least ten days before the day of sale: provided, however, if the property be perishable, only such notice of the time and place of sale shall be given as may be reasonable, considering the character and condition of the property.

SEC. 40. Personal property capable of manual delivery shall not be sold, unless the same shall be present and subject to the view of those attending the sale; and it shall be sold at public auction, in such lots and parcels as shall be calculated to bring the highest price.

SEC. 41. If at the time appointed for the sale the marshal or other officer shall deem it expedient, and for the interest of all parties concerned, to postpone a sale for want of purchasers, he may postpone it for any time not exceeding ten days, and so from time to time, for such cause, until the sale shall be completed, giving notice of every

such adjournment, by a public declaration thereof, at the time and place previously appointed for a sale, and also by an advertisement inserted in some newspaper of this District three days at least prior to such adjourned sale.

SEC. 42. If the property levied upon shall not sell for a sum sufficient to satisfy the execution, the marshal shall make a further and sufficient levy, if sufficient property can be found, and proceed as upon the first levy, and return his proceedings thereon.

SEC. 43. The clerk, upon the return of an execution unsatisfied, shall, if required, issue another execution upon the judgment, and endorse thereon the amount of money levied by the former, if any.

SEC. 44. Upon the sale of real estate by virtue of an execution, and the payment of the purchase money, the marshal shall execute and deliver to the purchaser a deed of conveyance for the premises, which shall be valid and effectual to convey all the right, title, and interest of the execution debtor to the purchaser.

SEC. 45. In case the purchaser of any real estate upon execution, having paid the purchase money therefor, shall die before a deed of conveyance shall have been executed to him, the marshal shall convey such real estate to the heirs or devisees of the deceased person.

SEC. 46. Any officer selling without the notice prescribed by this chapter, shall forfeit and pay one hundred dollars to the party injured, in addition to his actual damages; and a person wilfully taking down or defacing the notice posted, if done before sale or the satisfaction of the judgment, (if the judgment be satisfied before sale,) shall forfeit one hundred dollars.

SEC. 47. An omission by the marshal to give the notice of sale required by law shall not affect the validity of any sale made to a purchaser in good faith without notice of such omission.

SEC. 48. Whenever the purchaser of any property sold on execution shall fail or refuse to pay the purchase money, he shall be liable, on motion to be made by the marshal or the execution plaintiff, in the proper court, five days' notice being given, to a judgment for the amount of the purchase money, and damages not exceeding ten per cent., and interest, with costs, and no stay of execution shall be allowed on the judgment; or the marshal may re-expose and sell the property on the same or any subsequent day according to law; and if the amount bid at the second sale shall not equal the amount bid

at the first sale and the costs of the second sale, the first purchaser shall be liable for the deficiency, and damages thereon not exceeding ten per cent., and interest and costs, to be recovered by a like notice and motion as before provided.

SEC. 49. When property shall be sold on execution for more than will satisfy the execution, including interest and costs, the marshal shall pay the overplus to the execution debtor of whom it was levied, or to his assigns.

SEC. 50. When the marshal has sold the property of a non-resident or other person upon an execution issued on a judgment recovered against him in a case where publication is provided for, and no personal notice of the pendency of the action was given to such defendant, the plaintiff shall not be entitled to receive any of the proceeds of such sale until he has filed in the clerk's office a written undertaking, with two sureties to be approved by the clerk, to the effect that he will refund the money about to be received by him, or so much thereof as shall be necessary, if the judgment shall afterwards be annulled or set aside, and the defendant shall show the plaintiff's claim is unfounded in whole or in part. But surety to refund shall not be required in cases of attachment.

SEC. 51. The death of the defendant, after the execution is placed in the hands of the marshal to be executed, shall not affect his proceedings thereon.

EXECUTIONS AGAINST THE BODY.

SEC. 52. Before any execution shall be issued upon any judgment against the body of the execution debtor, the plaintiff shall file with the clerk an affidavit, charging the debtor with fraudulently concealing, removing, conveying, or transferring his property subject to execution, with intent to defraud and delay the plaintiff, or charging that the debtor has money, rights, credits, or effects, with which the judgment, or some part thereof, might be paid, and which he fraudulently withholds, or conceals, with a view to delay or defraud the creditor.

SEC. 53. The affidavit need not designate specifically any property, moneys, or effects, fraudulently removed, transferred, concealed, conveyed, or withheld by the debtor, but the jury or court, in determining the matters in issue between the parties, if the finding be for the

creditor, shall designate, in the finding, the moneys, effects, property, debt or things in action subject to execution, which have been thus removed, concealed, transferred, conveyed, or withheld, and the value thereof.

SEC. 54. Upon the filing of the affidavit, the clerk shall issue a notice requiring the debtor to appear at the next term of the court, and show cause why such execution should not issue against him. After ten days' notice, or after the return of two notices of "not found," the court shall hear and determine the matters and things contained in the affidavit.

SEC. 55. If the debtor shall fail to appear and show cause, the court may hear and determine the same in the absence of the debtor, or a jury for that purpose may be empaneled, if desired by the creditor.

SEC. 56. If the debtor appear, and plead to the affidavit any sufficient matter to bar the issuing of the execution, and an issue be taken thereon, the same may be tried by the court, or a jury, as in other cases.

SEC. 57. If the issue be determined against the debtor, the court, unless good cause be shown, shall forthwith order an execution against his body, subject to the rules and restrictions of the two next succeeding sections.

SEC. 58. If the debtor shall surrender such moneys, effects, property, debts or things in action, to the use and for the benefit of the creditor, or pay the value thereof, as found by the court or jury, no execution shall for that cause be issued against his body.

SEC. 59. If the debtor fail to surrender or pay, as provided in the preceding section, upon the return of such finding, an execution shall issue forthwith against his body upon the judgment.

SEC. 60. The execution against the body shall be served by arresting the defendant, and unless discharged by due course of law, committing him to jail.

SEC. 61. No female shall be imprisoned upon an execution against the body.

INSOLVENTS DISCHARGED FROM CUSTODY.

SEC. 62. Any person arrested or imprisoned on execution may discharge himself from custody by delivering to the marshal a sufficiency of property, either real or personal, to discharge the debt or damages

due on the execution, together with the interest and costs thereon; or by delivering to the marshal all the property, both real and personal, which he may have, not included in the finding of the court or jury, subject to execution, if any, together with the property, credits, and effects, included in the finding of the court or jury, and all his choses in action, if any, exceeding, with other property retained, the amount exempt by law from execution. He shall also make oath that he has no more or other property, either real or personal, subject to execution, and that he has no money, rights, credits or effects, in his possession or under his control, or in the possession or under the control of any other person for his use, exceeding, with other property retained, the amount exempt from execution, and that he has neither directly nor indirectly disposed of, transferred, or concealed any of his property, rights, credits, moneys, or effects, nor confessed or suffered any judgment, with intent to delay or defraud any of his creditors.

SEC. 63. For the purpose of enabling the defendant to take the oath, it shall be the duty of the marshal, upon the prisoner's request, to take him before some person authorized to administer an oath, who shall reduce the oath to writing, explain it to the prisoner, and cause him to be sworn to and subscribe it, and having certified the oath, deliver it to the marshal, who shall make it a part of his return by appending it to the execution.

SEC. 64. The execution creditor shall be notified of the time and place at which the oath will be taken; the notice shall be served upon the creditor, or his agent or attorney, by the marshal. When the oath is administered, the execution creditor, his agent or attorney, may propound to the prisoner any relevant questions touching his property, moneys, rights, credits, and effects, and the person administering the oath shall reduce the questions and answers to writing, and forthwith file the same with the clerk. When the prisoner has strictly complied with the foregoing provisions he shall be discharged.

SEC. 65. Any property given up by the person under arrest shall be disposed of by the marshal in the same manner as property taken on execution against property.

SEC. 66. The marshal shall make return of all his proceedings therein, the discharge of the debtor, and the sale of the property, according to the facts, to the court.

SEC. 67. The arrest of any person who may die while in custody shall not discharge the judgment, or any lien upon property, but the same may be enforced by any legal proceedings.

SEC. 68. Any person escaping from custody may be retaken by the same or a new execution against his body, or his property may be proceeded against in the same manner as if his body had never been taken in execution.

SEC. 69. The clerk shall keep an execution docket, in which he shall enter all executions as they are issued by him, specifying in proper columns the names of the parties, the amount of the judgment, and the interest due at the issuing of the execution, and the costs, and prepare an additional column, in which he shall enter at length the return of the marshal, and such docket entries shall be taken and deemed to be a record.

CHAPTER 95.

PROCEEDINGS SUPPLEMENTARY TO EXECUTION.

SECTION

1. } In what cases an execution defendant
2. } may be required to appear before
3. } the court or judge and answer.
4. Not to be excused from answering by reason of fraud.
5. Debtor of judgment debtor may pay marshal after execution issued.
6. Any person or corporation indebted to judgment debtor may be required to attend and answer.

SECTION

7. } Witnesses may be required to attend.
8. }
9. Order of the court or judge upon such proceedings.
10. Court or judge may appoint a receiver.
11. Receiver to give bond.
12. Disobedience punishable as a contempt.
13. Costs shall be as in other cases.

SECTION 1. When an execution against the property of the judgment debtor, or any one of several debtors in the same judgment is returned unsatisfied, in whole or in part, the judgment creditor, after such return is made, shall be entitled to an order, to be issued by the court, or any judge thereof, requiring such debtor to appear and answer concerning his property before the court, or any judge thereof, at a time and place specified in such order.

SEC. 2. After the issuing of an execution against property, and upon proof by the affidavit of the judgment creditor or otherwise, to the satisfaction of the court, or any judge thereof, that the judgment

debtor has property which he unjustly refuses to apply to the satisfaction of the judgment, the court or judge may, by order, require the judgment debtor to appear before the court, or any judge thereof, to answer concerning the same; and such proceedings may thereupon be had for the application of the property of the judgment debtor towards the satisfaction of the judgment as are prescribed by law.

SEC. 3. Instead of the order requiring the attendance of the judgment debtor, as provided in the two preceding sections, the court or judge may, upon satisfactory proof, by affidavit of the party or otherwise, that there is danger of the debtor leaving this District or concealing himself to avoid said examination, issue a warrant requiring the marshal to arrest such debtor and bring him before the court or judge. Upon being brought before the court or judge, he shall be examined on oath, and other witnesses may be examined on either side, and if on such examination it appears that there is danger of the debtor leaving this District, and that he has property which he unjustly refuses to apply to such judgment, he may be ordered to enter into an undertaking in such sum as the court or judge may prescribe, with one or more sureties, in the discretion of such court or judge, that he will, from time to time, attend for examination before the court or judge, as may be directed.

SEC. 4. No person shall, on examination pursuant to this chapter, be excused from answering any question on the ground that his examination will tend to convict him of a fraud, but his answers shall not be used as evidence against him in any prosecution for such fraud.

SEC. 5. After the issuing of execution against property, any person indebted to the judgment debtor may pay to the marshal the amount of his debt, or so much thereof as may be necessary to satisfy the execution, and the marshal's receipt shall be a sufficient discharge for the amount so paid or directed to be credited by the judgment creditor on the execution.

SEC. 6. After the issuing or return of an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, and upon proof, by affidavit or otherwise, to the satisfaction of the court, or any judge thereof, that any person or corporation has property of such judgment debtor, or is indebted to him, the court or judge may, by an order, require such person or corporation, or any officer or member thereof, to appear at a specified time and place, and answer concerning the same. The court or judge may also, in their

discretion, require notice of such proceeding to be given to any party in the action, in such manner as may seem proper.

SEC. 8. Witnesses may be required, upon the order of the judge, or by a subpoena issued by the clerk, to appear and testify upon any proceedings under this chapter, in the same manner as upon the trial of an issue.

SEC. 8. The party or witness may be required to attend before the court or any judge thereof, or before a referee appointed by the court or judge thereof. All examinations and answers shall be on oath, except that when a corporation answers, the answer shall be on the oath of an officer thereof.

SEC. 9. The court or judge may order any property of the judgment debtor, not exempt from execution, in the hands either of himself or any other person or corporation, or any debt due to the judgment debtor, to be applied to the satisfaction of the judgment; but the earnings of the debtor for his personal services, at any time within three months next preceding the time of the order, shall not be so applied.

SEC. 10. The court or judge may also, by order, appoint the marshal or other suitable person a receiver of the property of the judgment debtor, and may forbid a transfer or other disposition of the property of the judgment debtor not exempt from execution, and any interference therewith.

SEC. 11. If the marshal shall be appointed receiver, he and his sureties shall be liable for the faithful discharge of his duties as such receiver; if any other person shall be appointed receiver, he shall give a written undertaking, in such sum as shall be prescribed by the court or judge, with one or more sureties, to the effect that he will faithfully discharge the duties of a receiver, and he shall also take an oath to the same effect, before acting as such receiver. The undertaking mentioned in this section shall be to the United States, and actions may be prosecuted for a breach thereof, by any person interested, in the same manner as upon the marshal's official bond.

SEC. 12. If any person, party, or witness, disobey an order of the court, judge, or referee, duly served, in any proceedings under this chapter, such person, party, or witness, may be punished by the court or judge as for a contempt.

SEC. 13. Costs shall be awarded and taxed in the proceedings under this chapter as in other cases.

CHAPTER 96.

COMMISSIONER TO CONVEY REAL ESTATE.

SECTION

1. When real property may be conveyed by a commissioner.
2. } Requisites and effect of a conveyance by the commissioner.
3. }
4. }
5. }
6. }

SECTION

7. The court may compel a conveyance or appoint a commissioner.
8. Compensation of commissioner.

SECTION 1. Real property may be conveyed by a commissioner appointed by the court:

1. Where, by the judgment in an action, a party is ordered to convey real property to another, or any interest therein;
2. Or where real property, or any interest therein, has been sold and the purchase money paid.

SEC. 2. The deed of the commissioner shall so refer to the judgment authorizing the conveyance, that the same may be readily found, but need not recite the record in the case generally.

SEC. 3. A conveyance made in pursuance of a judgment shall pass to the grantee the title of the parties ordered to convey the land.

SEC. 4. A conveyance made in pursuance of a sale ordered by the court shall pass to the grantee the title of all the parties to the action or proceeding.

SEC. 5. A conveyance by a commissioner shall not pass any right until it has been examined and approved by the court, which approval shall be endorsed on the conveyance and recorded with it.

SEC. 6. It shall be sufficient for the conveyance to be signed by the commissioner only, without affixing the names of the parties whose title is conveyed; but the names of the parties shall be recited in the body of the conveyance.

SEC. 7. In case of a judgment to compel a party to execute a conveyance of real estate, the court may enforce the judgment by attachment or sequestration, or appoint a commissioner to make the conveyance.

SEC. 8. The compensation of any commissioner appointed by the circuit court to sell or convey real estate shall be regulated and determined by said court.

CHAPTER 97.

OF THE LIMITATION OF ACTIONS.

SECTION	SECTION
1. } Within what period actions must be	12. If judgment be reversed, &c., action may
2. } brought.	be brought within one year afterwards.
3. }	13. If action be stayed by injunction, &c.,
4. When a cause of action accrues in the	the time of injunction, &c., shall not
case of mutual, open, and current ac-	be included.
counts.	14. Provision where defendant conceals a
5. Limitations to apply to actions brought	fact, without any negligence of plain-
by United States, or for their benefit.	tiff.
6. When an action shall be deemed to be	15. When a person shall not avail himself
commenced.	of a disability.
7. Limitation in case of absence of the	16. Provision as to promise or acknowledg-
defendant,	ment.
8. Limitation where plaintiff is an infant,	17. Limitation where the cause of action
insane, a married woman, or im-	arises in another State.
prisoned.	18. Rules where only part of plaintiffs are
9. Provision when a person entitled dies	barred.
before limitation expires.	19. Provision as to joint debtors.
10. Provision where a person subject to an	20. Husband not barred from joining wife in
action dies before limitation expires.	an action during coverture.
11. In actions by aliens, time of war to be	21. } Provisions of this chapter not to extend
deducted.	22. } to certain actions.

SECTION 1. Civil actions can only be commenced within the periods prescribed in this chapter, after the cause of action shall have accrued, except where a different limitation is specially prescribed by statute.

Sec. 2. The periods prescribed in the preceding section for the commencement of actions shall be as follows :

Within ten years.—1. Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery, unless it appear that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action; 2. An action upon a judgment or decree of any court of the United States, or of any State or Territory of the United States.

Within six years.—1. An action upon any agreement, contract, or promise in writing, excepting those mentioned in the preceding subdivision; 2. An action for waste, or trespass upon real property.

Within three years.—1. An action upon a contract not in writing, express or implied; 2. An action upon a liability created by statute,

other than a forfeiture or penalty; 3. An action for taking, detaining, or injuring personal property, including an action for the specific recovery thereof; 4. An action for an injury to the rights of the plaintiff, not arising on contract, and not hereinafter enumerated; 5. An action for relief on the ground of fraud, the cause of action in such case not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud.

Within two years.—1. An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; 2. An action upon a statute for a penalty or forfeiture.

SEC. 3. An action for relief, not hereinbefore provided for, shall be commenced within five years after the cause of action shall have accrued.

SEC. 4. In an action brought to recover a balance due upon a mutual, open, and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item proved in the account on either side.

SEC. 5. The limitations prescribed in this chapter shall apply to actions brought in the name of the United States, or for the benefit of the United States, in the same manner as to actions by private parties.

SEC. 6. An action shall be deemed to be commenced, within the meaning of this chapter, when the complaint has been filed in the proper court, and a summons directed to be issued.

SEC. 7. If, when the cause of action shall accrue against a person, he is, out of this District, the action may be commenced within the term hereinbefore limited, after his return into this District, and if after the cause of action shall have accrued, he depart from this District, the time of his absence shall not be part of the time limited for the commencement of the action.

SEC. 8. If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, be, at the time the cause of action accrued, either within the age of twenty-one years, or insane, or a married woman, or imprisoned on a criminal charge, or in execution under the sentence of a criminal court, for a term less than his natural life, the time of such disability shall not be a part of the time limited for the commencement of the action.

SEC. 9. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives after the expiration of the time and within two years from his death.

SEC. 10. If a person against whom an action may be brought die before the time limited for the commencement thereof, and the cause of action survive, an action may be commenced against his representatives after the expiration of that time, and within two years after the issuing of letters testamentary or administration.

SEC. 11. When a person shall be an alien subject or citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

SEC. 12. If an action be commenced within due time, and a judgment therein for the plaintiff be reversed, or if the plaintiff fail in such action otherwise than upon the merits, and the time limited for the same shall have expired, the plaintiff, or, if he die and the cause of action survive, his representatives, may commence a new action within one year after such reversal or failure.

SEC. 13. When the commencement of an action shall be stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

SEC. 14. If any person liable to an action shall conceal the fact from the knowledge of the person entitled thereto, and there is no negligence on the part of the latter, the action may be commenced at any time within the period of limitation, after the discovery of the cause of action.

SEC. 15. No person shall avail himself of a disability, unless it existed when his right of action accrued. When two or more disabilities co-exist at the time the right of action accrues, the limitation shall not attach until they all be removed.

SEC. 16. In any cause founded on contract, when an acknowledgment of existing liability, debt or claim, or any promise to pay the same shall have been made, an action may be brought on such case within the period hereinbefore prescribed for the same, after such acknowledgment, or promise, but such acknowledgment or promise

must be in writing, signed by the party to be charged thereby. When any part of the principal or interest shall have been paid, and that fact shall be evidenced by a memorandum in writing made or signed by the party sought to be charged, the same shall be deemed to be an acknowledgment within the meaning of this section.

SEC. 17. Where the cause of action has arisen in another country or State between non-residents of this District, and by the laws of the country or State where the cause of action arose an action cannot be maintained thereon by reason of the lapse of time, no action shall be maintained thereon in this District.

SEC. 18. In cases where part only of the persons entitled to bring an action are barred by limitation, all may be joined as plaintiffs; and when it shall appear to the satisfaction of the court, by admission or otherwise, that part of the plaintiffs are barred, the court, upon motion, shall order the names of such plaintiffs to be struck from the record, and the action may be prosecuted by those not barred.

SEC. 19. Neither a joint debtor or his representatives, in whose favor the limitation has operated, shall be liable to a joint debtor or surety, or their representatives, upon payment by such joint debtor or surety, or their representatives, of the debt or any part of it.

SEC. 20. The statute of limitations shall in no case bar the right of the husband to join with his wife, at any time during coverture, in any action which would survive to her after the removal of her disability.

SEC. 21. The limitations in this chapter shall not extend to cases where the right of action has already accrued, but the laws relating to limitations in force on the day before the passage of this act shall be applicable to such cases, according to the subject of the action, and without regard to form: provided, however, that nothing in this section contained shall extend any limitation to any greater length of time beyond the time of the passage of this act, than is in the preceding sections of this chapter provided. No cause of action barred by the laws in force relating to limitations on the day before the passage of this act shall be revived by the provisions of this chapter.

SEC. 22. The limitations in this chapter shall not apply in the case of a continuing and subsisting trust, or to an action by a vendee of real property, in possession thereof, to obtain a conveyance of it.

CHAPTER 98.

OF COSTS.

SECTION

1. Non-resident plaintiff to give security for costs.
2. Without security, action may be dismissed.
3. If plaintiff become non-resident, security must be given.
4. Court may require additional security.
5. Judgment may be given for costs.
6. Costs to be taxed as the court may direct.

SECTION

7. } How costs shall be allowed.
8. }
9. }
10. Plaintiff not to recover costs, when damages below ten dollars.
11. Costs on appeal from orphans' court.
12. Costs where an executor, trustee, &c., is a party.
13. What shall be taxed as costs.
14. No attorney received as security

SECTION 1. In all cases in which the plaintiff is a non-resident of this District, before commencing such action the plaintiff must furnish a sufficient surety for costs. The surety must be a resident of this District, and approved by the clerk. This obligation shall be complete simply by signing his name on the complaint as surety for costs. He shall be bound for the payment of all costs which may be adjudged against the plaintiff in the court in which the action is brought, and for the costs of the plaintiff's witnesses, whether the plaintiff obtain judgment or not.

SEC. 2. An action in which security for costs is required by the preceding section, and has not been given, shall be dismissed on the motion and notice by the defendant, at any proper time before judgment, unless in a reasonable time, to be allowed by the court, such security for costs shall be given.

SEC. 3. If a plaintiff in an action after its commencement become a non-resident of this District, he shall give security for costs, in the manner and under the restrictions provided in the two preceding sections.

SEC. 4. In an action in which security for costs has been given, the defendant may, at any time before judgment, after reasonable notice to the plaintiff, move the court for additional security on the part of the plaintiff; and if on such motion the court shall be satisfied that the surety has removed from this District, or is not sufficient, the case may be dismissed, unless in a reasonable time, to be fixed by the court, sufficient surety be given by the plaintiff.

SEC. 5. After final judgment has been rendered in an action in

which security for costs has been given as required by this chapter, the court, on motion of the defendant, or any other person having the right to such costs or any part thereof, after ten days' notice of such motion, may enter up judgment in the name of the defendant or his legal representatives, against the surety for costs, his executors, or administrators, for the amount of costs adjudged against the plaintiff, or so much thereof as may be unpaid. Execution may be issued on such judgment, as in other cases, for the use and benefit of the persons entitled to such costs.

SEC. 6. Unless otherwise provided by statute, the costs of motions, continuances, amendments, and the like, shall be taxed and paid as the court, in its discretion, may direct.

SEC. 7. Where it is not otherwise provided, costs shall be allowed, of course, to the plaintiff, upon a judgment in his favor, in actions for the recovery of money only, or for the recovery of specific real or personal property.

SEC. 8. Costs shall be allowed, of course, to any defendant, upon a judgment in his favor, in the actions mentioned in the preceding section.

SEC. 9. In other actions, the court may award and tax costs, and apportion the same between the parties on the same or adverse sides, as in its discretion it may think right and equitable.

SEC. 10. In all actions for libel, slander, malicious prosecution, assault, assault and battery, false imprisonment, criminal conversation, or seduction, actions for nuisance, or against a justice of the peace for misconduct in office, if the damages assessed be under ten dollars, the plaintiff shall not recover any costs.

SEC. 11. Upon an appeal from the orphans' court to the circuit court, costs shall be recovered in the circuit court by the party substantially prevailing.

SEC. 12. In an action prosecuted or defended by an executor, administrator, guardian, next friend, trustee of an express trust, or a person expressly authorized by statute, costs shall be recovered as in an action by or against a person prosecuting or defending in his own right, but such costs shall be chargeable only upon, or collected off, the estate, fund, or party represented, unless the court shall direct the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in such action or defence.

SEC. 13. When any party recovers costs, the clerk shall include in the costs, for the fee of such party's attorney, (if he have one,) five dollars. The clerk shall also tax, in favor of the party recovering costs, the allowance to his witnesses, the fees of officers, the compensation of referees, the necessary expenses of taking depositions by commission or otherwise, and any further sum for any other matter which the court may deem reasonable and direct to be taxed.

SEC. 14. No attorney, counsellor, or other officer of the court shall be received as security for costs, or in any proceeding in court.

CHAPTER 99.

OF PROCEEDINGS TO REVIEW JUDGMENTS.

SECTION

1. Who may have and when may be had a review.
2. Granting a review in the discretion of the court.
3. Notice to be given to the adverse party.

SECTION

4. Court may order a supersedeas.
5. Upon hearing of review, the court may affirm, reverse, or modify the judgment.

SECTION 1. Any person who is a party to any judgment rendered in the circuit court, or the heirs, devisees, or personal representatives of a deceased party, may file in said court a petition for a review of the proceedings and judgment at any time within three years next after the rendition thereof. Any person under legal disabilities may file such a petition at any time within one year after the disability is removed. But no petition shall be filed for a review of a judgment of divorce. If any facts be set forth in the petition as grounds for a review, they shall be verified by affidavit.

SEC. 2. The circuit court may, in furtherance of justice, grant a review of such judgment on such terms as it may deem proper and reasonable, or may, in its discretion, refuse the same.

SEC. 3. Notice of the filing of any such petition shall be given to the adverse party. If the review be granted, the parties shall proceed to form issues of law and fact, as in other cases.

SEC. 4. If the execution in the original action has not been satisfied, the court may order a stay or supersedeas thereof, upon security being given by the petitioner to the adverse party to pay whatever shall

appear to be due to him after the final judgment in the review, or upon such other terms as the court shall deem just and reasonable.

SEC. 5. Upon the hearing of the review, the court may reverse or affirm the judgment, in whole or in part, or modify the same, as the justice of the case may require, and award costs according to its discretion.

CHAPTER 100.

OF APPEALS.

SECTION

APPEALS TO THE SUPREME COURT.

1. Final judgments or orders may be re-examined, reversed, or affirmed in the supreme court.
2. An appeal or writ of error in certain cases allowed in the discretion of judge of supreme court.
3. Provisions to apply to judgments, &c., rendered in circuit court on appeal.
4. Cases may be removed on writ of error or appeal.

SECTION

5. Regulations respecting writs of error or appeals in circuit courts of the United States, to apply.

APPEALS TO THE CIRCUIT COURT FROM THE ORPHANS' COURT.

6. What may be appealed from.
7. How appeal may be taken.
8. Bonds to be given.
9. Appeal as to what not a supersedeas.
10. Circuit court to determine.
11. Judgment of circuit court to be transmitted to orphans' court.

OF APPEALS FROM THE CIRCUIT COURT TO THE SUPREME COURT OF THE UNITED STATES.

SECTION 1. Any final judgment, decree, or order in the circuit court wherein the matter in dispute, exclusive of costs, shall be of the value of one thousand dollars or upwards, may be re-examined and reversed or affirmed in the supreme court of the United States by writ of error or appeal.

SEC. 2. Where the matter in dispute in the circuit court, exclusive of costs, shall be of the value of one hundred dollars, and of less value than one thousand dollars, upon the presentation to any judge of the supreme court of the United States of a petition in writing, accompanied by a copy of the proceedings complained of and an assignment of errors relied on, he may, in his discretion, upon the execution of a proper undertaking, with sufficient security, by the party applying, by his order to the clerk of the circuit court, direct an appeal to be allowed, or a writ of error to be issued; which shall

be done accordingly. When any writ of error or appeal shall be directed in the manner prescribed by this section, and the order of the judge of the supreme court shall be filed in the office of the clerk of the circuit court within thirty days after the end of the term at which the final judgment, decree, or order shall have been rendered or made, such writ of error or appeal shall operate as a supersedeas of all proceedings under such judgment or order.

SEC. 3. The two preceding sections of this chapter shall extend to any final judgment, decree, or order rendered or made in the circuit court on an appeal from any inferior court, except that of a justice of the peace.

SEC. 4. Cases in which either party would be entitled to a trial by jury, and when the amount in dispute is of sufficient value, may be removed to the supreme court of the United States by writ of error. Other cases, where the amount in dispute is of sufficient value, may be removed to said supreme court by appeal. In cases where a party would be entitled to an appeal, and where the matter in dispute, exclusive of costs, shall be of the value of one thousand dollars or upwards, the evidence shall be reduced to writing, under the direction of the circuit court.

SEC. 5. Subject to the foregoing provisions of this chapter, writs of error and appeals shall be prosecuted in the same manner, and the same proceedings shall be had therein, and with like effect, as is or shall be provided in cases of writs of error on judgments, or appeals upon orders or decrees, rendered in the circuit courts of the United States.

APPEALS FROM THE ORPHANS' COURT TO THE CIRCUIT COURT.

SEC. 6. Every final order, judgment, or decree of the orphans' court, and every order of the said court for the granting or refusing probate of a will or codicil, or for granting, or refusing, or revoking letters testamentary, or of administration, or guardianship, or for passing a final account of administration or guardianship, or for the distribution of an estate, or for assigning dower, or confirming a sale of real estate, may be reversed, affirmed, or modified by the circuit court, on appeal.

SEC. 7. Any person interested in or affected by the decision of the orphans' court, may appeal therefrom, by giving notice in open court

during the term at which the decision complained of is made, (an entry of which notice shall be made on the minutes of the court,) or by filing a notice of appeal with the register of wills, and serving written notice upon all others interested, if within this District, at any time within thirty days after the decision complained of is made.

SEC. 8. The appeal shall be deemed waived, unless the appellant shall, within ten days after the appeal is taken, file in the orphans' court the bond of himself or some other person, in a sum and with security to be approved by the judge of the orphans' court, conditioned that he will prosecute the appeal, and pay such damages and costs, and perform such order or decree in the cause as may be adjudged against him by the circuit court. The bond shall be payable to the United States, and, upon any breach of the condition thereof, may be sued upon by any one or more of the parties interested, in his or their own names; but the appeal of any executor or administrator shall be complete and effectual without any bond filed.

SEC. 9. The appeal shall not be a supersedeas in any other matter relating to the administration of the estate, except that upon which the appeal is specially taken. When the appeal is taken and perfected by giving bond as aforesaid, when such is necessary, the register shall deposit in the office of the clerk of the circuit court all the original papers in his office relating to the subject-matter of the appeal, and shall also file in said clerk's office a copy of so much of the record of the proceedings in the orphans' court as may be necessary to elucidate the points in dispute between the parties.

SEC. 10. Upon the filing of the papers and a copy of the record in the circuit court, that court shall be possessed of the cause, and shall proceed to hear, try, and determine the same anew, as in other civil cases, without regarding any error, defect, or other imperfection in the proceedings of the orphans' court.

SEC. 11. When judgment upon an appeal from the orphans' court has been rendered by the circuit court, the clerk shall return into the orphans' court all the original papers, together with a certified transcript of the judgment or decree, and the orphans' court shall carry the same into effect.

TITLE III.

Of actions in particular cases

- CHAPTER 101. Of the foreclosure of mortgages.
 CHAPTER 102. Of actions for a nuisance.
 CHAPTER 103. Of actions to recover possession of real property, and to determine conflicting claims thereto.
 CHAPTER 104. Of partition of real property.
 CHAPTER 105. Of the enforcement of mechanics' liens on buildings.
 CHAPTER 106. Of the enforcement of liens on boats, and other water craft.
 CHAPTER 107. Of proceedings to enforce judgments against joint debtors, and the real estate of deceased judgment defendants.
 CHAPTER 108. Of remedies of sureties against their principals.
 CHAPTER 109. Of actions by and against executors and administrators.
 CHAPTER 110. Of the action for dower.
 CHAPTER 111. Of mandamus and prohibition.
 CHAPTER 112. Of certiorari.
 CHAPTER 113. Of informations.
 CHAPTER 114. Of habeas corpus.

CHAPTER 101.

OF THE FORECLOSURE OF MORTGAGES.

SECTION	SECTION
1. Equity of redemption may be foreclosed.	6. Proceedings when debt is due by instalments.
2. } Judgment on foreclosure.	7. Property may be sold in parcels.
3. }	8. Surplus to be paid to mortgage debtor.
4. Proceedings of marshal.	
5. Plaintiff shall not foreclose when he has brought another action on the debt.	

SECTION 1. When default is made in the performance of any condition contained in a mortgage, the mortgagee or his assigns may proceed to foreclose the equity of redemption contained in the mortgage.

SEC. 2. In rendering judgment of foreclosure, the court shall order the mortgaged premises, or so much thereof as may be necessary, to be sold to satisfy the mortgage and costs of the action. The payment of the mortgage debt, with interest and costs, at any time before sale, shall satisfy the judgment.

SEC. 3. The court shall direct in the order of sale that the sum

due on the mortgage and costs which may remain unsatisfied after the sale of the mortgaged premises, shall be levied on any property of the mortgage debtor.

SEC. 4. A copy of the order of sale and judgment shall be issued and certified by the clerk, under the seal of the court, to the marshal, who shall thereupon proceed to sell the mortgaged premises, or so much thereof as may be necessary to satisfy the judgment, interest, and costs, as upon execution, and if any part of the judgment, interests, and costs shall remain unsatisfied, the marshal shall forthwith proceed for the residue against the other property of the defendant.

SEC. 5. The plaintiff shall not proceed to foreclose his mortgage while he is prosecuting any other action for the same debt or matter which is secured by the mortgage, or while he is seeking to obtain execution of any judgment in such other action; nor shall he prosecute any other action for the same matter while he is foreclosing his mortgage, or prosecuting a judgment of foreclosure.

SEC. 6. Whenever a complaint is filed for the foreclosure of a mortgage upon which there shall be due any interest, or instalment of the principal, and there are other instalments not due, if the defendant pay into court the principal and interest due, with costs, at any time before final judgment, the complaint shall be dismissed; if such payment be made after final judgment, proceedings thereon shall be stayed, subject to be enforced upon a subsequent default in the payment of any instalment of the principal or interest thereafter becoming due. In the final judgment, the court shall direct at what time and upon what default any subsequent execution shall issue.

SEC. 7. In such cases, after final judgment, the court shall ascertain whether the property can be sold in parcels, and if it can be done without injury to the interest of the parties, the court shall direct so much only of the premises to be sold as will be sufficient to pay the amount then due on the mortgage, with costs, and the judgment shall remain, to be enforced upon any subsequent default, unless the amount due shall be paid before execution of the judgment is perfected. If the mortgaged premises cannot be sold in parcels, the court shall order the whole to be sold, and the proceeds of the sale shall be applied, first, to the payment of the principal due, interest, and costs, and then to the residue secured by the mortgage and not

due; and if the residue do not bear interest, a deduction shall be made therefrom by discounting the legal interest.

SEC. 8. In all cases where the proceeds of sale shall be more than sufficient to pay the amount due and costs, the surplus shall be paid to the mortgage debtor, his heirs, or assigns.

CHAPTER 102.

ACTION FOR A NUISANCE.

SECTION

1. What shall be deemed a nuisance.

SECTION

2. Judgment in an action for a nuisance.

SECTION 1. Whatever is injurious to health, or indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance, and the subject of an action.

SEC. 2. Such action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated as well as damages recovered.

CHAPTER 103.

OF ACTION TO RECOVER THE POSSESSION OF REAL PROPERTY, AND TO DETERMINE CONFLICTING CLAIMS THERETO.

SECTION

1. Interest in real property may be recovered by the party entitled.
2. Landlord may be substituted for tenant.
3. Service where defendant is a non-resident.
4. What the complaint shall contain.
5. What the answer shall contain.
6. Judgment against tenant conclusive where landlord has received notice.
7. No proof of possession necessary where there is defence.

SECTION

8. When judgment for damages and costs only.
9. Action not prejudiced by alienation.
10. Foreclosure and sale necessary.
11. Provision as to leases.
12. Court may allow a party to enter for the purpose of survey or measurement.
13. Jury may award exemplary damages.
14. Action for quieting title.
15. Provision as to an action against a co-tenant.

SECTION 1. Any person having a valid subsisting interest in real property, and a right to the possession thereof, may recover the same by action, to be brought against the tenant in possession; if there is

no such tenant, then against the person claiming the title or some interest therein.

SEC. 2. Whenever it appears that the defendant is only a tenant, the landlord may be substituted, reasonable notice thereof being given.

SEC. 3. When the defendant is a non-resident, service may be had upon his resident agent for the property with the like effect as though made upon the principal; or service may be had by publication, as in other cases.

SEC. 4. The plaintiff in his complaint shall state that he is entitled to the possession of the premises, particularly describing them, the interest he claims therein, and that the defendant unlawfully keeps him out of possession, and the damages, if any, which he claims for withholding the property.

SEC. 5. The answer of the defendant shall set forth under what claim of right, if any, he holds possession; and if as mere tenant, the name and residence of his landlord shall be given; and if he does not defend for the whole premises, he shall specify for what particular part he does defend.

SEC. 6. In an action against the tenant, the judgment shall be conclusive against a landlord who has received notice as hereinbefore provided.

SEC. 7. Where the defendant makes defence, it shall not be necessary to prove him in the possession of the premises.

SEC. 8. If the interest of the plaintiff expire before the time in which he could be put in possession, he shall obtain a judgment for damages and costs only.

SEC. 9. An action for the recovery of real property against a person in possession, shall not be prejudiced by any alienation made by such person either before or after the commencement of the action.

SEC. 10. A mortgage of real property shall not be deemed a conveyance, so as to enable the owner of the mortgage to recover possession of the real property without foreclosure and a sale according to law.

SEC. 11. When, in case of a lease of real property and the failure of the tenant to pay rent, the landlord has a right to re-enter for such failure, he may bring an action to recover possession of the property; but if at any time before judgment in such action the lessee, or his successor in interest, pay to the plaintiff or bring into

court the amount of rent then in arrear, with interest and the costs of action, and perform the other covenants and agreements on the part of the lessee, he shall be entitled to the possession according to the terms of the lease.

SEC. 12. The court, on motion, and after notice to the opposite party, may, for cause shown, grant an order allowing the party applying therefor to enter upon the property in controversy, and make survey and admeasurement thereof for the purposes of the action. The order shall describe the property, and a copy thereof shall be served upon the owner or person having the occupancy and control of the land.

SEC. 13. In case of a wanton aggression on the part of a defendant, the jury may award exemplary damages.

SEC. 14. An action may be brought by any person either in or out of possession, or by one having an interest in remainder or reversion, against another who claims title to, or interest in, real property, adverse to him, although the defendant may not be in possession thereof, for the purpose of determining and quieting the question of title. The rules in this chapter prescribed shall in such cases be observed as far as they are applicable. If in such cases the defendant disclaim in his answer any interest or estate in the property, or suffer judgment to be taken against him without answer, the defendant shall recover costs.

SEC. 15. In an action by a tenant in common or joint tenant of real property, against his co-tenant, the plaintiff must show, in addition to his evidence of right, that the defendant either denied the plaintiff's right, or did some act amounting to such denial.

CHAPTER 104.

OF PARTITION OF REAL PROPERTY.

SECTION

1. Who may be compelled to divide lands.
2. } Proceedings on a petition for a partition.
3. }
4. }
5. }
6. }
7. No partition against the will of a testator.

SECTION

8. Three commissioners to be appointed.
9. Commissioners to take an oath.
10. Two or more shares may be set off together.
11. Commissioners to give notice.
12. Acts of a majority valid.
13. Guardians may act for their wards.

SECTION

14. Return of commissioners.
15. Return of commissioners may be set aside.
16. Any lien to remain in full force upon the part assigned.
17. Widow to be made a party and have her dower assigned.
18. Court may order a sale.
19. Sale to be made by a commissioner.
20. Court may order a conveyance.

SECTION

21. Commissioner not to become a purchaser.
22. Money to be paid by commissioner to the parties entitled.
23. Proceedings not to abate by death of a party.
24. Court to make proper allowance to commissioners.
25. Rights of lessee not to be affected.
26. Who may appear and have the proceedings opened.

SECTION 1. All persons holding lands as joint tenants, or tenants in common, or tenants in coparcenary, may be compelled to divide the same in the manner hereinafter provided.

SEC. 2. Any such tenant may apply to the circuit court by petition, setting forth a description of the premises, and the rights and titles therein of the parties interested.

SEC. 3. On the filing of such petition, a summons to appear and answer thereto shall be issued by the clerk, and served personally on each of the said parties, if they shall be found; if not found, by leaving a copy thereof at their last place of residence; or if any of them are non-residents of this District, or if in the petition it is alleged that their names are unknown to the petitioner, and such non-residence or want of knowledge be verified by affidavit, or if it shall appear by affidavit, or by the return of the officer having the summons to serve, that the residence of such defendants is unknown, the court, or any judge thereof, may order notice of the pendency of such petition to be given at least for three weeks successively in some newspaper published in this District.

SEC. 4. It appearing to the court that such summons has been served ten days before the first day of the term, and when publication as aforesaid is required, that the same has been made thirty days previous to such term, the court shall proceed to hear such petition. Any person interested in such estate may appear and show why the petitioner ought not to have partition as prayed for; and the further pleadings shall be conducted, and the issues joined shall be determined as in other cases.

SEC. 5. If any person not named in the petition shall appear and plead as a defendant, or allege any title to any part of the premises, the petitioner may reply that such person has no estate in the premises,

and also any other matter in like manner as if he had not disputed such person's right to appear. If it shall appear that such person has no estate in the lands, the matter of his objection to the partition shall be no further inquired of.

SEC. 6. If, upon trial, or upon default, or otherwise, it shall appear that partition ought to be made, the court shall make an order that partition be made to the parties who may desire the same, specifying therein the share assigned to each. and taking into consideration the advancements to heirs of a person dying intestate; and the residue of the premises shall remain for the persons entitled thereto, subject to a future partition.

SEC. 7. The court shall not order or affirm partition of any real estate contrary to the intention of a testator expressed in his will.

SEC. 8. Upon an order for partition, the court shall appoint three disinterested freeholders, not of kin to any of the parties, as commissioners, who shall make partition of such lands in pursuance of the order of the court.

SEC. 9. Before proceeding to discharge their duties, such commissioners shall take an oath faithfully to perform the same, which oath shall be administered by any judge of the court, and a certificate thereof shall be endorsed on the warrant issued to the commissioners to make such partition.

SEC. 10. Two or more persons may, if they choose, have their shares set off together.

SEC. 11. The commissioners shall give sufficient notice of the time and place appointed for making the partition to all persons interested therein who are known and within this District, that they may be present at the making thereof.

SEC. 12. All the commissioners shall meet for the performance of any of their duties, but the acts of a majority of them shall be valid. Vacancies shall be filled by the court, or by a judge in vacation.

SEC. 13. In all proceedings under this chapter guardians may act for their wards as their wards might have acted being of age. The guardian of an infant, and the person entitled to the custody and management of the estate of an insane person, or other person adjudged incapable of conducting his own affairs, may consent to a partition without any proceeding by petition as aforesaid, and agree upon the share to be set off to such infant or other person entitled,

and may execute a release in his behalf to the owners of the shares, of the parts to which they may be respectively entitled, upon an order of the court to that effect.

SEC. 14. The commissioners shall make a return of their proceedings, under their hands and seals, together with their warrant, to the court, specifying by divisions, or by metes and bounds, each share, whenever partition is made. They shall also report the value of the whole and of each share. If their proceedings are confirmed by the court, judgment shall thereupon be rendered that the said partition be firm and effectual forever; and the return shall then be recorded in the clerk's office, and also in the office of the recorder.

SEC. 15. The court may, for any sufficient reason, set aside the return and commit the duty of partition anew to the same, or other commissioners, to be appointed and qualified as aforesaid, whereupon the same proceedings shall be had as before directed.

SEC. 16. Any person having a mortgage, attachment, or other lien on the share of any part owner, shall be concluded by the judgment of the court, so far as it respects the partition and assignment of the shares, but his lien shall remain in full force upon the part that shall be assigned to or left for such part owner.

SEC. 17. In all cases of petition for a partition of real estate, the widow entitled to dower therein, if any there be, shall be made a party to the proceedings, unless dower shall have been previously assigned. And whenever a widow is entitled to dower in real estate, of which partition is demanded, the commissioners making partition shall set off to such widow her dower therein.

SEC. 18. When such commissioners shall report to the court that the whole or part of the lands of which partition is demanded cannot be divided without damage to the owners, the court, in its discretion, may order the whole or such part of the premises to be sold at public or private sale on such terms and conditions as it may prescribe. And if a part only be sold, the remainder may be partitioned, subject to the rules provided in this chapter. If, under such partial partition, duly confirmed, the shares assigned be full shares, the residue reserved for sale shall be discharged from all title or claim of the parties so receiving assignment of their shares.

SEC. 19. Such sale shall be made by a commissioner, to be appointed by the court, other than one of the commissioners appointed to make

partition ; and such commissioner shall file bond, payable to the United States, with such surety and in such penalty as the court may direct, conditioned for the faithful discharge of the duties of his trust.

Sec. 20. Whenever it shall appear to the court that the purchase-money for the land sold has been duly paid, the court shall order such commissioner, or some other person, to execute conveyances to the purchaser, which shall bar all claims of such owners to said lands as effectually as if they themselves had executed the same.

Sec. 21. Commissioners to make partition or to sell, shall not become purchasers of said land.

Sec. 22. The moneys arising from such sale, after payment of just costs and expenses, shall be paid by such commissioners to the persons entitled thereto, according to their respective shares, under the direction of the court.

Sec. 23. If any party to such partition die, the proceedings therein shall not abate, except as to him ; nor shall the same abate as to him, if the heirs of such decedent are made parties instead.

Sec. 24. The court shall make such allowance to the commissioners for their services, and for surveying, marking, chaining, platting, and the execution of the necessary conveyances, as to the court shall seem reasonable ; and all costs and necessary expenses shall be awarded and enforced in favor of those entitled thereto, against the petitioners, in such proportion against each, as the court may determine.

Sec. 25. Any person who, before the partition or sale, was lessee of any lands divided or sold, shall hold the same of him to whom such land is allotted or sold, on the same terms on which by his lease he held it before partition.

Sec. 26. Upon showing sufficient cause, any person not served with summons may, within one year after such partition is confirmed, appear and open the proceedings, and obtain a review thereof, and also any person of unsound mind, or any infant whose guardian did not attend and approve such partition, may, within one year after the removal of his disability, have a review of such partition.

CHAPTER 105.

OF THE ENFORCEMENT OF MECHANICS' LIENS ON BUILDINGS.

SECTION

1. Who may have a lien.
2. Notice of lien to be filed.
3. When lien shall cease.
4. What the complaint shall contain.
5. Service of summons.
6. Proceedings in such cases.
7. Precedence of such lien.

SECTION

8. What amount of land shall be subject to such lien.
9. Several parties may join.
10. Satisfaction to be entered on the record
11. } Provisions as to sub-contractor, or
12. } laborer, or journeyman.
13. Liens may be released by bond and surety to be approved by the court.

SECTION 1. Any person who shall hereafter by virtue of any contract with the owner of any building, or with the agent of such owner, perform any labor upon, or furnish any materials, engine, or machinery for the construction or repairing of such building, shall, upon filing the notice prescribed in the next following section, have a lien upon such building, and the lot of ground upon which the same is situated, for such labor done or materials, engine, or machinery furnished, when the amount shall exceed twenty dollars.

SEC. 2. Any person wishing to avail himself of the provisions of this chapter, whether his claim be due or not, shall file in the recorder's office, at any time within three months after the completion of such building or repairs, a notice of his intention to hold a lien upon the property declared by this chapter liable to such lien, for the amount due or to become due to him, specifically setting forth the amount claimed. Upon his failure to do so, the lien shall be lost. The recorder shall file and record such notice in a book provided for that purpose.

SEC. 3. Such lien shall cease to exist at the expiration of one year after the completion of the building or repairs, unless before that time an action to enforce the same shall have been commenced in the circuit court by the person having such lien against the owner with whom, or with whose agent, the contract was made, unless such claim be not due at the expiration of one year after such completion, in which case the action shall be commenced within three months after the same shall have become due.

SEC. 4. The complaint of the plaintiff shall contain a brief statement of the contract on which the claim is founded, the amount due thereon, the time when the notice was filed with the recorder, the

time when the building was completed, if it be completed, with a description of the premises, and any other material facts, and shall pray that the premises may be sold, and the proceeds of the sale applied to the discharge of the lien.

SEC. 5. The summons shall be served as in other cases, or instead of service by publication, it may be made by delivering a copy thereof to the person in possession of the premises. If the defendant shall have sold or disposed of the premises before the service of the summons, the court shall direct notice of the proceedings to be served on the purchaser or his agent for the premises, who may thereupon, if he desire it, be made a party defendant in the action.

SEC. 6. The proceedings in an action to enforce such lien shall be the same as in other actions, except as otherwise provided in this chapter; and if judgment be rendered for the plaintiff, he may have execution issued against the premises, and thereupon the marshal shall proceed as upon other executions against real property.

SEC. 7. The liens created in pursuance of the provisions of this chapter shall have precedence over all other liens or encumbrances which attached upon the premises subsequent to the time at which the building was commenced, or the materials were furnished. If, upon a sale of the premises on execution, the proceeds be insufficient to pay all such liens, the court shall order them to be paid in proportion to the amount respectively due to each, and any other property of the defendant not exempt from execution may be sold to satisfy such execution.

SEC. 8. If the building be on any land lying outside the corporate limits of Washington City and Georgetown, the land upon which the same is erected, together with the space around the same, not exceeding five hundred square feet clear of the building, shall also be subject to the said lien, if the said land at the time of the erection or repair of such building shall have been the property of the person contracting for the erection or repair of the same. If the building be in Washington City or Georgetown, the ground on which the same is erected; and a space of ground equal to the front of the building, and extending to the depth of the lot or lots on which it is erected, shall also be bound by the said lien, subject to the foregoing proviso.

SEC. 9. All or any number of persons having liens on the same building pursuant to the provisions of this chapter, may join in one

action, but their claims shall be stated distinctly as in a separate action, and the judgment shall show the amounts to which they are respectively entitled. If several such actions be brought by different claimants, and be pending at the same time, the court may order them to be consolidated.

SEC. 10. Whenever any person having a lien by virtue of the provisions of this chapter shall have received satisfaction for his claim, and the costs of his proceedings thereon, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction, within six days after such payment or tender, enter satisfaction of his demand in the office of the recorder, and upon failure to do so he shall forfeit fifty dollars to the party aggrieved, and all damages which he may have sustained in consequence of such failure or neglect.

SEC. 11. Any sub-contractor, journeyman, or laborer employed in the construction or repairing of any building, or in furnishing any materials or machinery for the same, may give the owner thereof notice in writing, particularly setting forth the amount of his claim, and the service rendered, for which his employer is indebted to him, and that he holds the owner responsible for the same; and the owner of the building shall be liable for such claim, but not to exceed the amount due from him to the employer at the time of notice, or subsequently, which may be recovered in an action.

SEC. 12. Whenever any sub-contractor, journeyman, or laborer shall recover any such claim from the owner of the building, the same may be set off by such owner in any action brought against him by the person who otherwise would be entitled to recover the same under the contract.

SEC. 13. In all proceedings commenced under this chapter, the defendant may file a written undertaking, with surety to be approved by the court, to the effect that he will pay the judgment that may be recovered, and costs, and thereby release his property from the lien hereby created.

CHAPTER 106.

OF THE ENFORCEMENT OF LIENS ON BOATS AND OTHER WATER CRAFTS.

SECTION

1. For what boats shall be liable.
2. Claims to be liens.
3. Precedence of such liens.
4. Action may be had against boat or owners.
5. Several parties may join.

SECTION

6. Judgment may be enforced by execution.
7. Attachment may be discharged by entering into bond with surety.
8. Upon whom summons may be served.
9. When action may be brought before justice of the peace.

SECTION 1. All boats, vessels, and water crafts of every description, found in the waters of this District, shall be liable :

1. For all debts contracted by the master, owner, agent, clerk, or consignee thereof, on account of supplies furnished for the use of the same, on account of work done or services rendered for the same, by boatmen or mariners, or any other persons, or on account of work done or materials furnished in building, repairing, fitting out, furnishing, or equipping such boat, vessel, or water craft.

2. For all sums due for wharfage, anchorage, or tonnage of such boats, vessels, or water crafts within this District.

3. For all demands or damages arising out of any contract of affreightment, or any wilful or negligent act of the master, owner, or agent thereof, done in connexion with the business of such boat, vessel, or water craft, or any contract relative to the transportation of persons or property entered into by the master, owner, agent, clerk, or consignee thereof.

4. For all injuries to persons or property by such boat, vessel, or water craft, or by the officers or crew, done in connexion with the business of the same.

SEC. 2. Claims growing out of the above causes shall be liens upon the boat, vessel, or water craft, their apparel, tackle, furniture, and appendages, including barges and lighters belonging to the owners of the boat, vessel, or water craft, and used therewith at the time the action is commenced.

SEC. 3. Liens under the provisions of this chapter shall have precedence of all other liens or claims against such boat, vessel, or water craft; and, as between the liens enumerated in the first section of this chapter, mariners' and boatmen's wages shall be first preferred.

SEC. 4. Any person aggrieved may have an action against such boat, vessel, or water craft by name, or the owners thereof, to enforce any such lien ; and if the complaint in such action shows the particulars of the demand, the amount due, and a demand made upon the owner, master, clerk, or consignee thereof, and refusal of payment, and verified by the affidavit of the plaintiff, or other person in his behalf, a writ of attachment shall be issued by the clerk of the circuit court against the boat, vessel, or other water craft, and the tackle and furniture thereof, which shall be directed, executed, and returned as a writ of attachment in other cases.

SEC. 5. In all actions contemplated in the section next preceding, all or any of the persons having demands of the description therein mentioned may join in a complaint against such boat, vessel, or water craft, either at the commencement of the action or at any time afterwards before judgment, upon filing the requisite complaint and affidavit.

SEC. 6. In such actions proceedings shall be had, judgment rendered and enforced by execution or other proper means, as in other cases.

SEC. 7. If the master, owner, or consignee shall, before final judgment in any action commenced in pursuance of the provisions of this chapter, enter into a written undertaking in favor of the plaintiff, with sufficient security to be approved by the marshal, conditioned for the performance of the judgment of the court, the attachment shall be discharged, and restitution made of the boat, vessel, or water craft.

SEC. 8. In cases arising under the first section of this chapter the summons may be served upon the officer or consignee making the contract ; if such cannot be found, then upon the clerk, or if he cannot be found, upon any other officer of the boat, vessel, or water craft, or any person having charge thereof ; if that cannot be done, by affixing a copy of the summons in some conspicuous place in the boat, vessel, or water craft.

SEC. 9. The action may be brought before any justice of the peace, when the amount claimed is within his jurisdiction ; and in such actions justices of the peace shall have the powers and perform the duties prescribed for the clerk and court, and constables shall have the powers and perform the duties of marshal.

CHAPTER 107.

OF PROCEEDINGS TO ENFORCE JUDGMENTS AGAINST JOINT DEBTORS, AND THE REAL ESTATE OF DECEASED JUDGMENT DEFENDANTS.

SECTION	SECTION
1. Proceedings against parties jointly indebted.	4. What the summons shall contain.
2. Heirs, devisees, &c., may be summoned.	5. } The pleadings
3. An affidavit to be filed.	6. }

SECTION 1. When a judgment shall be recovered against one or more persons jointly indebted upon contract as provided in section fourteen of chapter eighty-one, those who were not originally summoned to answer the complaint may be summoned to show cause why they should not be bound by the judgment in the same manner as if they had been originally summoned.

SEC. 2. In case of the death of any judgment debtor, the heirs, devisees, or legatees of such debtor, or the tenant of real property owned by him and affected by the judgment, and the personal representatives of the decedent, may, after the expiration of one year from the time of granting letters testamentary, or of administration upon the estate of the decedent, be summoned to show cause why the judgment should not be enforced against the estate of the judgment debtor in their hands, respectively.

SEC. 3. The judgment creditor, his representatives or attorney, shall file an affidavit that the judgment has not been satisfied to his knowledge or information and belief, and shall specify the amount due thereon; and in the cases arising under the second section of this chapter, shall also specify the property sought to be charged.

SEC. 4. The summons shall describe the judgment, and require the person summoned to show cause, and shall be issued, served, and returned as a summons in an original action.

SEC. 5. The party summoned may answer, denying the judgment, or setting up any defence which may have arisen subsequently, or suffer a default; and, in addition thereto, if he be proceeded against according to the first section of this chapter, he may make the same defence which he might have originally made to the action, and no other.

SEC. 6. The party issuing the summons may demur or reply to the

answer, and the party summoned may demur to the reply; and the pleadings shall be verified in like cases and manner as in an action, and issues may be tried and judgment rendered and enforced by execution.

CHAPTER 108.

OF REMEDIES OF SURETIES AGAINST THEIR PRINCIPALS.

SECTION

1. Sureties, &c., may give notice.
2. When surety may be discharged.
3. Trial of suretyship.
4. Execution first to be levied upon the property of principal.
5. In what cases judgment may remain open for the benefit of sureties, &c.

SECTION

6. Remedy against co-sureties.
7. Surety not to confess judgment where he is notified of defence.
8. The provisions of the chapter to extend to heirs, executors, &c.

SECTION 1. Any person bound as surety, guarantor, or endorser, upon any contract in writing for the payment of money, or the performance of any act, when the right of action has accrued, may require, by notice in writing, the creditor or obligee forthwith to institute an action upon the contract.

SEC. 2. If the creditor or obligee shall not proceed within a reasonable time to bring his action upon such contract, and prosecute the same to judgment and execution, the surety shall be discharged from all liability thereon.

SEC. 3. When any action is brought against two or more defendants on a contract, any one or more of the defendants being surety for the others, the surety may, upon a written complaint to the court, cause the question of suretyship to be tried and determined, upon the issue made by the parties, at the trial of the cause, or at any time before or after the trial, or at a subsequent term; but such proceedings shall not affect the proceedings of the plaintiff.

SEC. 4. If the finding upon such issue be in favor of the surety, the court shall make an order directing the marshal to levy the execution first upon and exhaust the property of the principal, before a levy shall be made upon the property of the surety; and the clerk shall endorse a memorandum of the order on the execution.

SEC. 5. When any person, being surety in any undertaking, has

been or shall be compelled to pay any judgment, or any part thereof, or shall make any payment which is applied upon such judgment by reason of such suretyship, the judgment against the principal shall not be discharged by such payment, but shall remain in force for the use of such surety making such payment; and after the plaintiff is paid, so much of the judgment as remains unsatisfied, may be prosecuted to execution for such surety's use.

SEC. 6. Any surety, being one of several judgment defendants, against whom a judgment has been obtained on the contract for which he was surety, having paid and satisfied the plaintiff, shall have the remedy provided in the last preceding section against the co-sureties, to collect of them the ratable proportion which each is bound to pay.

SEC. 7. No surety, or his representatives, shall confess judgment, or suffer judgment by default, in any case where he is notified that there is a valid defence, if the principal will enter himself defendant to the action, and tender to the surety, or his representatives, good security to indemnify him, to be approved by the court.

SEC. 8. The foregoing provisions of this chapter shall extend to heirs, executors, and administrators of deceased person; but the provisions of the first section of this chapter shall not operate against persons under legal disabilities.

CHAPTER 109.

OF ACTIONS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

SECTION

1. When an action may be brought by or against representatives.
2. When executor may maintain an action.
3. Action against executor for waste.
4. Executors who have qualified, only to be joined.
5. Proof only necessary; when.
6. Actions by or against executors not to abate.

SECTION

7. Executor may prosecute appeal.
8. Executor of executor not to act.
9. } Powers of non-resident executors, and
10. } jurisdiction of court over the same,
11. }
12. By whom an executor may be sued on his bond.
13. The effect of a judgment against an executor.

SECTION 1. An action may be brought by or against the representatives of a deceased person, where the cause of action survives.

SEC. 2. Every executor or administrator shall have full power to maintain an action, where the cause of action survives, in any court of competent jurisdiction, in his name, as such executor or administrator, for any debt or personal demand, which the testator or intestate himself might have maintained, for the recovery of any property properly belonging to such executor or administrator, and for trespass or waste committed on the estate of the decedent in his lifetime.

SEC. 3. Any person or his personal representatives may maintain an action against the executor or administrator of any decedent for any debt or personal demand which might have been maintained against such decedent, and against the executor or administrator of any testator or intestate who in his lifetime shall have wasted, destroyed, taken, or carried away, or converted to his own use the goods and chattels of any such person, or committed any trespass or waste upon the real estate of such person.

SEC. 4. In actions brought by or against executors, it shall not be necessary to join those as parties to whom letters shall have been issued, and who have not qualified.

SEC. 5. In any action by an executor or administrator, it shall not be necessary to make proof of his letters, nor shall his right to sue as such executor or administrator be questioned, unless the opposite party shall by affidavit deny such right; in which case a copy of such letters, duly authenticated, shall be evidence to establish such right.

SEC. 6. If at any time any executor or administrator shall die, or resign, or be removed, and an action or proceeding be pending in any court, in which his name, in his fiduciary capacity, is used, such action or proceeding shall not abate or be discontinued, but the same shall be prosecuted or defended by the remaining executor or administrator, if there be one, or by his successor; the name of such survivor or successor being substituted in such action or proceeding instead of that of the executor or administrator whose authority has ceased; nor shall such action or proceeding be continued to another term, unless at the option of such survivor or successor.

SEC. 7. Any executor or administrator shall have power to prosecute any writ of error or appeal taken by the testator or intestate, or by his predecessor, and may have execution and other legal process issued on a judgment obtained by the testator or intestate, without further proceedings against, or notice to the judgment defendant.

SEC. 8. An executor of an executor shall have no authority to commence or maintain any action or proceeding relating to the estate or rights of the testator of the first executor, or to take control thereof as such executor.

SEC. 9. A non-resident executor or administrator duly appointed in any State or country may commence and prosecute any action in any court of this District, in his capacity of executor or administrator, in like manner and under like restrictions as a resident; and a copy of his letters, duly authenticated, being produced and filed in the court in which the action is brought, shall be sufficient evidence of his due appointment: provided, however, that he shall give security for costs as other non-residents.

SEC. 10. When a will is executed in another State or country and admitted to record in this District in pursuance of law, the executor, or administrator with the will annexed, and any trustee appointed by such will, or by any court of this District, to perform any duty or carry into effect any trust created by such will, shall have all the rights, powers, and authority, and shall be subject to the same liabilities respecting their respective duties and trusts, as executors, administrators with the will annexed, and trustees under wills duly executed and admitted to probate in this District, except where otherwise expressly provided.

SEC. 11. The court having jurisdiction of the subject-matter shall in all cases have the same jurisdiction and powers over the appointment, filling vacancies, requiring sureties, and enforcing directions, and restraining the performance and execution of the duties and trusts of such executors, administrators with the will annexed, and trustees, as are given to such court respecting the same matters arising under wills duly executed and admitted to probate in this District.

SEC. 12. An executor or administrator may be sued upon his bond by any creditor, heir, legatee, or succeeding executor or administrator, co-executor or co-administrator of the same estate, for a violation of the duties of his trust.

SEC. 13. In an action against an executor or administrator the judgment shall determine the rights of the parties; but execution against such executor or administrator shall only issue for such sum as, in the due course of administration, shall appear to be the proper share of such judgment plaintiff. Such judgment shall not be a lien upon the property of the estate.

CHAPTER 110.

OF THE ACTION FOR DOWER.

SECTION

1. } Proceedings for the assignment of dower-
2. } er by the orphans' court.
3. }
4. When circuit court may assign dower.
5. Action to be brought against tenant.

SECTION

6. } Proceedings in circuit court for the
7. } assignment of dower.
8. When orphans' court shall not assign
dower.
9. Entire dower may be assigned.

SECTION 1. When a widow is entitled to dower, and her right to dower is not disputed by the heirs or devisees, or any person claiming under them, or either of them, it may be assigned to her by the judge of the orphans' court, upon application of the widow, or any other person interested in the lands; notice of which application shall be given to such heirs, devisees, or other persons, in such manner as such judge shall direct.

SEC. 2. For the purpose of assigning such dower, the judge of the orphans' court shall issue his order to three discreet and disinterested persons, authorizing and requiring them to set off the dower by metes and bounds, when it can be done without injury to the whole estate.

SEC. 3. The said commissioners shall be sworn by a judge of any court of record faithfully to discharge their duties, and shall, as soon as may be, set off the dower according to the command of such order, and make return of their proceedings, with an account of their charges and expenses, in writing, to the orphans' court; and the same being accepted and recorded, and an attested copy thereof filed in the office of the recorder, the dower shall remain fixed and certain, unless such confirmation be set aside or reversed.

SEC. 4. When any woman is entitled to dower, and it is not set out to her by the heir or other tenant of the freehold to her satisfaction, nor assigned to her by the judge of the orphans' court according to the foregoing provisions of this chapter, she may recover the same by an action in the circuit court, in the manner hereinafter provided.

SEC. 5. The action shall be brought against the person who is tenant of the freehold at the time when it is commenced.

SEC. 6. If the demandant recovers judgment for her dower, the

circuit court shall appoint three discreet and disinterested persons to act as commissioners, whose duty it shall be to set off the dower by metes and bounds, when it can be done without injury to the whole estate.

SEC. 7. The commissioners shall be sworn by a judge of any court of record faithfully to discharge their duties, and shall, as soon as may be, set off the dower according to the order of the court, and make return of their proceedings, with an account of their charges and expenses, in writing, to the circuit court; and the same being accepted and recorded, and an attested copy thereof filed in the office of the recorder, the dower shall remain fixed and certain.

SEC. 8. When the estate out of which dower is to be assigned consists of any tenement which cannot be divided without damage to the whole, and in cases where the estate cannot be divided by metes and bounds, the judge of the orphans' court shall not assign dower, but the same may be assigned by the circuit court, or a sale of the premises ordered by said circuit court as is provided in section thirty-five of chapter forty-nine.

SEC. 9. Where there are several tracts of land, entire dower may be assigned out of one or more of such tracts.

CHAPTER III.

OF MANDAMUS AND PROHIBITION.

SECTION

1. Circuit court may issue mandamus and prohibition.
2. To whom, and for what issued.
3. How the writ may be issued.
4. When not to issue.
5. May be in the alternative or peremptory.
6. Issues of law and fact may be joined.
7. If judgment be for applicant he may recover damages.

SECTION

8. How writ shall be served.
9. Court may enlarge the time, &c.
10. How obedience enforced.
11. Writ of prohibition.
12. Any judge in vacation may issue writs of prohibition, or alternative writs of mandamus.

SECTION 1. Writs of mandamus and prohibition may issue from the circuit court.

SEC. 2. Writs of mandamus may be issued to any inferior tribunal, corporation, board, or person, to compel the performance of an act

which the law specifically enjoins, or a duty resulting from an office, trust, or station.

SEC. 3. The writ shall be issued upon an affidavit and motion, and made returnable as the court shall direct; and the person, body, or tribunal to whom the same shall be directed and delivered, shall make return, and for neglect to do so shall be proceeded against as for a contempt.

SEC. 4. The writ shall not issue where the applicant has a plain, speedy, and adequate remedy in the ordinary course of law.

SEC. 5. The first writ shall be in the alternative or peremptory, as the court shall direct.

SEC. 6. Whenever a return shall be made to any such writ, issues of law and fact may be joined, and like proceedings shall be had for the trial of issues and rendering judgment as in civil actions.

SEC. 7. If judgment be given for the applicant, he shall recover the damages which he shall have sustained, together with costs; and a peremptory mandamus shall be granted without delay.

SEC. 8. The writ shall be served in the same manner as a summons in a civil action, except when otherwise expressly directed by order of the court.

SEC. 9. The court shall have the same power to enlarge the time of making a return, and pleading to such writ, and for filing any subsequent pleadings, and to continue such cause, as in civil actions.

SEC. 10. Obedience to such writs may be enforced by attachment and fine, or imprisonment, or both.

SEC. 11. The writ of prohibition shall command the court and party to whom it shall be directed to refrain from any further proceedings in the matter therein specified, until the return of the writ and the further order of the court thereon; and upon the return to show cause why they shall not be absolutely restrained from any further proceedings in the matter. The court shall render judgment, either that a prohibition absolute, restraining the court and party from proceeding in the matter, do issue, or authorizing the court and party to proceed in the matter in question.

SEC. 12. Any judge of the circuit court shall have power, in vacation, to issue writs of prohibition and alternative writs of mandamus, and for good cause to rescind any such order made by himself previous to the next session of the court; and may, in case of disobedience to any such writ, proceed against the party as for a contempt.

CHAPTER 112.

OF CERTIORARI.

SECTION

1. When and by whom certiorari may be granted.
2. Application to be made on affidavit.
3. } To whom the writ may be directed,
4. } and what it shall command.
5. }

SECTION

6. How writ to be served.
7. Bond to be given.
8. Proceeding upon return.
9. Copy of judgment to be transmitted.

SECTION 1. The writ of certiorari may be granted by the circuit court, or by any judge thereof in vacation. It shall be granted in all cases where an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court or judge, any plain, speedy, and adequate remedy.

SEC. 2. The application shall be made on affidavit by the party beneficially interested, and the court or judge may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed, or may grant the writ without notice.

SEC. 3. The writ may be directed to the inferior tribunal, board, or officer, or to any other person having the custody of the record or proceedings to be certified. When directed to a tribunal, the clerk, if there be one, shall return the writ with the transcript required.

SEC. 4. The writ of certiorari shall command the party to whom it is directed, to certify fully to the circuit court, at a special time, and annex to the writ a transcript of the record and proceedings, that the same may be reviewed by the court; and requiring the party in the meantime to desist from further proceedings in the matter to be reviewed.

SEC. 5. If a stay of proceedings be not intended, the words requiring the stay shall be omitted from the writ; these words may be inserted or omitted in the sound discretion of the court or judge; but if omitted, the power of the inferior court, board, or officer shall not be suspended nor the proceedings stayed.

SEC. 6. The writ shall be served in the same manner as a summons in a civil action, except where otherwise expressly directed by the court or judge.

Sec. 7. Before any writ of certiorari shall be granted, the party applying, his agent or attorney, shall execute a written undertaking to the adverse party, with one or more sureties, and in a sum to be approved by the court or judge, to the effect that the party applying will prosecute the writ of certiorari to final judgment, and abide the order which the court may make therein.

Sec. 8. If the return to the writ be defective, the court may order a further return to be made. When a full return shall be made, the court shall, after hearing the parties, determine whether the inferior tribunal, board, or officer has regularly pursued the authority of such tribunal, board, or officer, and may thereupon give judgment, either affirming, annulling, or modifying the proceedings below, and issue execution thereon as upon other judgments.

Sec. 9. A copy of the judgment, signed by the clerk, shall be transmitted to the inferior tribunal, board, or officer having custody of the record or proceeding certified up.

CHAPTER 113.

OF INFORMATIONS.

SECTION

1. For what an information may be filed.
2. By whom the information may be filed.
3. } Of what an information may consist.
4. }
5. After information filed, a summons shall issue.
6. } Of the judgment, and how it shall be
7. }
8. } enforced.

SECTION

9. Plaintiff may have his action for damages, if he has not claimed them in the information.
10. Provision where several persons claim.
11. Of judgment in certain cases.
12. Of judgment against a corporation.
13. Information on escheat.
14. District attorney not liable for costs on informations.

SECTION 1. An information may be filed against any person or corporation in the following cases:

1. When any person shall usurp, intrude into, or unlawfully hold or exercise any public office or any franchise within this District, or any office in any corporation created by the authority of the laws of this District.

2. Whenever any public officer shall have done or suffered any act which, by the provisions of law, shall work a forfeiture of his office.

3. Where an association or number of persons shall act within this District as a corporation without being legally incorporated.

4. Or where any corporation does or omits acts which amount to a surrender of its rights and privileges as a corporation, or where it exercises powers not conferred by law.

SEC. 2. The information may be filed by the district attorney in the circuit court, on his own relation, whenever he shall deem it his duty to do so, or shall be directed by the circuit court, or any judge thereof, or by any other person on his own relation, whenever he claims an interest in the office, franchise, or corporation which is the subject of the information.

SEC. 3. The information shall consist of a plain statement of the facts which constitute the grounds of the proceeding, addressed to the court.

SEC. 4. Whenever an information shall be filed against a person for usurping an office by the district attorney, he shall also set forth therein the name of the person rightfully entitled to the office, with an averment of his right thereto; and when filed by any other person he shall show his interest in the matter, and he may claim the damages he has sustained.

SEC. 5. Whenever an information is filed, a summons shall issue thereon, which shall be served and returned as in other actions. The defendant shall appear and answer, or suffer default, and subsequent proceedings be had as in other cases.

SEC. 6. In every case contesting the right to an office, judgment shall be rendered upon the rights of the parties, and for damages the relator may show himself entitled to, if any, to the time of the judgment.

SEC. 7. If judgment be rendered in favor of the relator, he shall proceed to exercise the functions of the office after he has been qualified as required by law; and the court shall order the defendant to deliver over all the books and papers in his custody, or within his power, belonging to the office from which he shall have been ousted.

SEC. 8. If the defendant shall neglect or refuse to deliver over the books and papers, pursuant to the order, the court shall enforce the order by attachment and imprisonment.

SEC. 9. When the judgment is rendered in favor of the plaintiff, he may, if he has not claimed his damages in the information, have his action for the damages at any time within one year after the judgment, and within the time limited by law for maintaining such an action.

SEC. 10. When several persons claim to be entitled to the same office or franchise, one information may be filed against any or all such persons, in order to try their respective rights to the office or franchise.

SEC. 11. Whenever any defendant shall be found guilty of any usurpation of, or intrusion into, or unlawfully exercising any office or any franchise within this District, or any office in any corporation created by the authority of the laws of this District, or when any public officer thus charged shall be found guilty of having done or suffered any act which by the provisions of law shall work a forfeiture of his office, or when any association or number of persons shall be found guilty of having acted as a corporation without being legally incorporated, the circuit court shall give judgment of ouster against the defendant, and exclude him from the office, franchise, or corporate rights, and in cases of corporations, that the same shall be dissolved, and said court may adjudge costs in favor of the plaintiff.

SEC. 12. If under the proceedings authorized by this chapter judgment be rendered against any corporation, or against any persons claiming to be a corporation, the court may cause the costs to be collected by execution against the persons claiming to be a corporation, or by attachment against the directors or other officers thereof, and shall restrain the corporation, appoint a receiver of its property and effects, take an account, and make a distribution among the creditors. The district attorney shall immediately institute proceedings for such purpose.

SEC. 13. Whenever any property shall escheat or be forfeited to the United States, the legal title shall be deemed to be in the United States from the time of the escheat or forfeiture; and an information may be filed by the district attorney in the circuit court for the recovery of the property, alleging the ground on which the recovery is claimed; and like proceedings and judgment shall be had as in a civil action for the recovery of property.

SEC. 14. When an information is filed by the district attorney, under the provisions of this chapter, he shall not be liable for costs; but when it is filed upon the relation of a private person, such person shall be liable for costs, unless the same are adjudged against the defendant.

CHAPTER 114.

OF THE WRIT OF HABEAS CORPUS.

SECTION

1. Habeas corpus; to whom and by whom granted.
2. What the writ shall command.
3. }
4. } Of the service and return of the writ.
5. }
6. }
7. } Proceedings on the return.
8. }
9. When the legality of a judgment or process shall not be inquired into.
10. When a person shall not be discharged from an order of commitment.

SECTION

11. Writ may be had for letting to bail.
12. Court or judge may compel the attendance of witnesses.
13. Marshal not liable to action for obeying writ of habeas corpus.
14. }
15. } Proceedings when there is reason to believe a person will be removed
16. } from the jurisdiction of court or
17. } judge.
18. Habeas corpus may be served on Sunday.
19. How writs shall be issued and returned.
20. In favor of what parties writ may issue.

SECTION 1. The writ of habeas corpus shall be granted forthwith by the circuit court, or by the criminal court, or by any judge of either of said courts in vacation, to any person who shall apply for the same by petition, showing, by affidavit or other evidence, probable cause to believe that he is detained without lawful authority. Application in like manner for the writ may also be made by any person in behalf of the person illegally restrained.

SEC. 2. The writ shall be directed to the officer or party having the person under restraint, commanding him to have such person before the court or judge, at such time and place as the court or judge shall direct, to do and receive what shall be ordered concerning him, and to have then and there the writ. If the person to whom the writ is directed is absent from the place where the petitioner is confined, it may be served on the person having the immediate custody of such petitioner.

SEC. 3. If the writ be directed to the marshal, it shall be delivered by the clerk to him without delay. If the writ be directed to any other person, it shall be delivered to the marshal, and shall be served by him by delivering the same to such person without delay.

SEC. 4. If the person to whom such writ is directed cannot be found, or shall refuse admittance to the marshal, the same may be served by leaving it at the residence of the person to whom it is directed, or by affixing the same on some conspicuous place, either of his dwelling-house or where the petitioner is confined or under restraint.

SEC. 5. The marshal or other person to whom the writ is directed shall make immediate return thereof, and if he refuse, after due service, to make return, the court or judge shall enforce obedience by attachment.

SEC. 6. The return must be signed by the person making it, and shall be sworn to by him, unless he is a sworn public officer and shall make the return in his official capacity. The person making the return shall state:

1. The authority or cause of the restraint of the party in his custody.

2. If the authority be in writing, he shall return a copy and produce the original on the hearing.

3. If he has had the party in his custody, or under his restraint, and has transferred him to another, he shall state to whom, the time, place, and cause of the transfer. He shall produce the party on the hearing, unless prevented by sickness or infirmity, which must be shown in the return.

SEC. 7. The court or judge, if satisfied of the truth of the allegation of sickness or infirmity, may proceed to decide on the return, or the hearing may be adjourned until the party can be produced, or for other good cause. The petitioner may except to the sufficiency of, or controvert the return or any part thereof, or allege any new matter in avoidance; the new matter shall be verified, except in cases of a commitment on a criminal charge. The return and pleadings may be amended without causing any delay.

SEC. 8. The court or judge shall thereupon proceed, in a summary way, to hear and determine the case; and if no legal cause be shown for the restraint, or for the continuation thereof, shall discharge the party.

SEC. 9. No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge him when the term of commitment has not expired, in either of the cases following:

1. Upon process issued by any court or judge of the United States, where the court or judge has conclusive jurisdiction; or,

2. Upon any process issued on any final judgment of a court of competent jurisdiction; or,

3. For any contempt of any court, officer, or body having authority to commit;

4. Upon a warrant issued from the criminal court, upon an indictment or information.

SEC. 10. No person shall be discharged from an order of commitment, issued by any judicial or peace officer, for want of bail or in cases not bailable, on account of any defect in the charge or process, or for alleged want of probable cause; but in all such cases the court or judge shall summon the prosecuting witnesses, investigate the criminal charge, and discharge, let to bail, or recommit the prisoner, as may be just and legal, and recognise witnesses to appear.

SEC. 11. The writ of habeas corpus may be had for the purpose of letting a prisoner to bail in bailable cases.

SEC. 12. The court or judge shall have power to require and compel the attendance of witnesses, and to do all other things necessary to determine the case. If it appears that any person has an interest in the detention of the prisoner, the court or judge shall cause such person to be duly notified.

SEC. 13. The marshal or other officer shall not be liable to a civil action for obeying any writ of habeas corpus, or order of discharge made thereon.

SEC. 14. Whenever it shall appear by affidavit that any one is illegally held in custody or restraint, and that there is good reason to believe that such person will be carried out of the jurisdiction of the court or judge before whom the application is made, or will suffer some irreparable injury before compliance with the writ can be enforced, such court or judge may cause a warrant to be issued, reciting the facts and directed to the marshal or any constable, commanding him to take the person thus held in custody or restraint, and forthwith bring him before the court or judge to be dealt with according to law.

SEC. 15. The court and judge may also, if the same be deemed necessary, insert in the warrant a command for the apprehension of the person charged with causing the illegal restraint.

SEC. 16. The officer shall execute the writ by bringing the person therein named before the court or judge, and the like return and proceedings shall be required and had, as in case of writs of habeas corpus.

SEC. 17. The court or judge may make any temporary orders in the cause, or disposition of the party, during the progress of the proceed-

ings, that justice may require. The custody of any party restrained may be changed from one person to another, by order of the court or judge.

SEC. 18. Any writ or process authorized by this chapter may be issued and served in cases of emergency on Sunday.

SEC. 19. All writs and other process authorized by the provisions of this chapter shall be issued by the clerk of the court, sealed with the seal of such court; and shall be served and returned forthwith, unless the court or judge shall specify a particular time for such return. And no writ or other process shall be disregarded for any defect therein, if enough is shown to notify the officer or person of the purport of the process. Amendments may be allowed, and temporary commitments, when necessary.

SEC. 20. Writs of habeas corpus shall be granted in favor of parents, guardians, masters, married women, and husbands; and to enforce the rights, and for the protection of infants and insane persons; and the proceedings shall in all such cases conform to the provisions of this chapter.

TITLE IV.

CHAPTER 115.

OF EVIDENCE.

SECTION

COMPETENCY OF WITNESSES.

1. Parties or persons interested or convicted of crime not disqualified as witnesses.
2. Not to extend to the settlement of estates of infants, or persons deceased, or insane.
3. Nor to certain cases where the adverse party is an executor or administrator.
4. Party, before testifying, to give reasonable notice to the adverse party, his agent, or attorney.
5. Witness not incompetent from want of religious belief, &c.
6. Want of religious belief; how established.
7. Facts which heretofore rendered a witness incompetent may now be shown to affect his credibility.

SECTION

8. Who deemed incompetent witnesses:
 1. Persons of unsound mind.
 2. Children incapable of receiving just impressions.
 3. Husband and wife, for or against each other.
 4. An attorney; when.
 5. Clergyman, priest, surgeon, etc.; when.
 6. Public officers; when.
9. Party offering himself as a witness shall be deemed to have consented to the examination of an attorney, clergyman, etc.
10. Presumption as to the capacity of children, etc.
11. Negroes; how far incompetent as witnesses.

SECTION

MEANS OF PRODUCING WITNESSES.

12. When clerk or register of court may issue summons.
13. When judge, justice of the peace, commissioner, etc., may.
14. Character and form of summons.
15. Summons; how and by whom served.
16. When no cost of service allowed.
17. Persons present in court, etc., may be compelled to testify as if summoned.
18. Witness failing to attend, etc., responsible to party in damages.
19. Disobedience to a summons, etc., punished as a contempt.
20. Persons in confinement; how examined as witnesses.

MODE OF TAKING THE TESTIMONY OF WITNESSES.

21. Testimony of witnesses taken:
 1. By affidavit.
 2. By deposition.
 3. By oral examination.
22. For what an affidavit may be used.
23. Before whom an affidavit may be made.
24. Deposition may be used:
 1. When witness is beyond process of court.
 2. When, from age, etc., he is unable to attend, or is dead.
 3. When same has been taken by consent.
25. Deposition may be taken; when.
26. Before whom depositions may be taken in this District.
27. Before whom depositions may be taken without this District.
28. Officer not to be a relative, etc., of either party.
29. Commission; when necessary.
30. Notice to be given to adverse party.
31. Manner of serving notice.
32. How deposition reduced to writing.
33. } How certified and transmitted by
34. } officer.
35. Official character of officer; how evidenced.
36. Depositions; how published.
37. Depositions; when filed.
38. Deposition may be used in another action, for same cause, etc., first being dismissed.

SECTION

39. Depositions so taken, etc., may be used before a justice of the peace, and arbitrators.
40. Fees of officer for taking deposition, etc.
41. } Exceptions to depositions; when taken,
42. } and when tried.
43. }
44. When commission set aside, etc., court, in its discretion, may continue cause.
45. Testimony; how perpetuated.
46. Petition to be filed with the clerk of the circuit court; its contents.
47. Order by circuit court, or judge; its character.
48. Proceedings when notice cannot be given to adverse parties.
49. How deposition taken and returned.
50. When and how deposition may be used on being approved by court.
51. Applicant to pay costs.

DEPOSITIONS IN GENERAL.

52. Commission may be remanded for the correction of errors.
53. Errors unimportant and not prejudicial, not to exclude a deposition.

DEPOSITIONS TO BE USED OUT OF THIS DISTRICT.

54. Commissioner may issue subpoenas.

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55. How the laws of the District may be evidenced.
56. Statute law of any State, or foreign government, etc.; how evidenced.
57. Legislative acts of any State or foreign government, etc.; how evidenced.
58. Common law of any State or foreign government, etc.; how evidenced.
59. Records and judicial proceedings of a court of record of or within the United States and territory; how evidenced, etc.
60. Office books, etc., in a foreign country; how evidenced.
61. Deeds, etc., recorded, etc., in a foreign country; how evidenced.
62. Deeds, etc., recorded in District; how evidenced.
63. Receipt of same, and time thereof; how evidenced.
64. Certain book accounts; how proved.

SECTION

65. Service of process or notice ; how evidenced.

66. Clerk's endorsement of time of filing paper, evidence thereof.

ADMISSION AND INSPECTION OF PAPERS.

67. A party may be required to admit the genuineness of a paper, or pay cost of proving it.

68. Inspection and copy of a paper, etc.; how obtained.

GENERAL PROVISIONS.

69. Witnesses ; how sworn.

70. Interpreters may be sworn when necessary.

SECTION

71. Party summoning more than three witnesses to prove a fact, to pay the costs.

72. Counsel becoming witness, to retire from case.

73. } Presumption of death, from absence of
74. } party for seven years, and effect of.

75. Party allowed to contradict his own witness.

76. Pleading truth, or justification, on slander, or libel, not of itself evidence of malice.

77. What proof in such actions may be given in mitigation of damages.

COMPETENCY OF WITNESSES.

SECTION 1. No person shall be disqualified as a witness, in any civil action or proceeding, by reason of his interest in the event of the same, as a party or otherwise, or by reason of his conviction of a crime ; and any party to a civil action or proceeding may compel an adverse party, or person for whose benefit the same is instituted, prosecuted, or defended, to testify as a witness at the trial, or by deposition, in the same manner and subject to the same rules as other witnesses.

SEC. 2. Nothing in the preceding section contained shall in any manner affect the provisions of the Code relating to the estates of infants, or persons deceased, or insane, or the attestation of the execution of last wills and testaments, or any other instrument required by law to be attested.

SEC. 3. No person shall be allowed to testify by virtue of the provisions of section one, when the adverse party is the executor or administrator of a deceased person, when the facts to be proved transpired before the death of such deceased person.

SEC. 4. No party shall be allowed to testify unless he has given reasonable notice to the adverse party, his agent or attorney.

SEC. 5. No religious opinions, or the want thereof, shall render a witness incompetent.

SEC. 6. No witness shall be compelled to answer any question touching his religious belief, but want of the same may be established as heretofore.

SEC. 7. Any fact which might heretofore be shown to render a witness incompetent, may hereafter be shown to affect his credibility.

SEC. 8. The following persons shall, as herein provided, be incompetent to testify :

1. Persons who are of unsound mind at the time of their production for examination.

2. Children who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

3. Husband and wife, for or against each other, or concerning any communication made by one to the other during the marriage, whether called while that relation subsists or afterwards.

4. An attorney concerning any communication made to him by his client in that relation, or his advice therein, without his client's consent.

5. A clergyman, priest, physician, or surgeon, concerning any communication entrusted to him in his professional capacity, and necessary and proper to enable him to discharge the duties of his profession, according to the usual course of practice or discipline, unless with the consent of the party in whose favor this provision is enacted.

6. A public officer, concerning any communication made to him in official confidence, when, in the opinion of the court, the public interest would suffer by the disclosure.

SEC. 9. If a party offer himself as witness, that is to be deemed a consent to the examination also of an attorney, clergyman, priest, physician, or surgeon, on the same subject, within the meaning of the fourth and fifth subdivisions of the preceding section.

SEC. 10. Children under twelve years of age are presumed to be incompetent witnesses ; those over twelve are presumed to be competent ; but the court may examine children of tender age, and persons of alleged unsound mind, as to their capacity, and decide upon their competency.

SEC. 11. Negroes shall be incompetent witnesses, as provided in section six, chapter forty-seven, Part I of this Code.

MEANS OF PRODUCING WITNESSES.

SEC. 12. The clerk or register of the proper court shall, on the application of any person having a cause, or any matter depending therein, issue a subpoena for witnesses.

SEC. 13. When the attendance of the witnesses is required before any judge, justice of the peace, commissioner, referee, or other officer authorized to administer oaths or take testimony, the subpoena shall be issued by such judge, justice of the peace, commissioner, referee, or other officer, except where otherwise specially provided.

SEC. 14. The names of all or any portion of the witnesses required by the applicant shall, when desired by him, be inserted in the same subpoena. All subpoenas shall be directed to the officer or person who is to serve the same, and shall require the person therein named as witness, to attend at a particular time and place to testify. They may also contain a clause directing the witness to bring with him any book, writing, or other thing under his control, which he is bound by law to produce as evidence.

SEC. 15. A subpoena may be served by the marshal, coroner, or any constable of the county, or by the party or any person designated by him. Such service shall be by reading it to the witness, so far as it relates to him, or giving him a copy of the same, or by leaving a copy thereof at his usual place of residence.

SEC. 16. No costs shall be allowed for the service of a subpoena, except when served by an officer.

SEC. 17. Any person present in court or before a judicial officer may be required to testify in the same manner as if he were in attendance upon a subpoena issued from such court or by such officer.

SEC. 18. If any person duly served with a subpoena as a witness shall fail to attend, without any reasonable excuse, he shall be liable to the aggrieved party for all damages occasioned by such failure, to be recovered in a civil action. If a witness being present refuse to be sworn, or refuse to testify, or give his deposition, or produce any book, writing, or other thing under his control, in accordance with the tenor of the subpoena, he shall be liable to the aggrieved party for all damages occasioned by such refusal.

SEC. 19. Disobedience to a subpoena, or a refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when required, may be punished as a contempt; and if the witness be a party, his complaint may be dismissed or his answer stricken out.

SEC. 20. A person confined in any prison within this District may, by order of any court of record therein, be required to be produced for oral examination before such court; but in all other cases his

deposition must be by deposition, an order of access having been first obtained from the circuit or criminal court, or, in vacation, from one of the judges thereof. Such order in either case shall only be made upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality. While a prisoner's deposition is being taken, he shall remain in the custody of the officer having him in charge, who shall afford reasonable facilities for taking such deposition.

MODES OF TAKING THE TESTIMONY OF WITNESSES.

SEC. 21. The testimony of witnesses may be taken in three modes:

1. By affidavit, or a written declaration under oath, made without notice to the adverse party.

2. By a deposition, or a written declaration under oath, taken upon notice to the adverse party for the purpose of enabling him to attend and cross-examine, or upon written interrogatories.

3. By oral examination, or an examination in the presence of the jury or tribunal which is to decide the fact, or act upon it, the testimony being heard by the jury or tribunal from the lips of the witness.

SEC. 22. An affidavit may be used to verify a pleading, to prove the service of a summons, notice, or other process in an action to obtain a provisional remedy, an examination of a witness, a stay of proceedings, or upon a motion, and in any other case permitted by law.

SEC. 23. An affidavit may be made in and out of this District before any person authorized to take depositions, and must be authenticated in the same way, except that in case of an affidavit for the verification of a pleading made beyond the District, the certificate of such officer, signed officially by him, shall be evidence that the affidavit was duly made, and that he was such officer.

SEC. 24. The deposition of any witness may be used only in the following cases:

1. When the witness is beyond the reach of the process of the court.

2. When from age, infirmity, or imprisonment, the witness is unable to attend court, or is dead.

3. When the deposition has been taken by the agreement of parties.

SEC. 25. Either party may commence taking testimony by depo-

sitions as hereinafter provided, at any time after service of summons upon the defendant; but when it is offered to read the same in evidence, a sufficient cause therefor must appear to the satisfaction of the court.

SEC. 26. Depositions may be taken in this District before any judge of the circuit court, the judge of the criminal or orphans' court, or any clerk or register thereof, before a justice of the peace, notary public, mayor of the city of Washington, or of Georgetown, or before a commissioner, or any person specially empowered.

SEC. 27. Depositions may be taken out of this District by a judge, justice, or chancellor of any court of record, a justice of the peace, notary public, mayor or chief magistrate of any city or a town corporate, a commissioner appointed by the President of the United States, or any of the circuit courts of the United States, to take depositions, or any person specially authorized by a commission from the clerk of the circuit court of this District.

SEC. 28. The officer before whom depositions are taken must not be a relative or attorney of either party, or otherwise interested in the result of the action or proceeding.

SEC. 29. When a deposition is to be taken within this District, no commission shall be necessary for taking the same. When taken out of the District, the clerk of the circuit court shall, upon the request of a party taking the deposition, issue a commission therefor generally, or to the officer or commissioner designated; and no affidavit or order of the court shall be necessary to authorize the issuing of such commission.

SEC. 30. Prior to the taking of any deposition, unless taken under a special agreement, a written notice, specifying the action or proceeding, the name of the court or tribunal in which it is to be used, and the time and place of taking the same, shall be served upon the adverse party, his agent or attorney of record, or left at his usual place of abode. The notice shall be served so as to allow the adverse party sufficient time to attend by the usual route of travel, and one day for preparation, exclusive of Sundays and the day of notice; and the examination may, if so stated in the notice, be adjourned from day to day.

SEC. 31. The notice may be served in the same manner and by any person, other than a party, authorized to serve a subpoena for witness.

When the party against whom the deposition is to be used is absent from or a non-resident of the District, and has no agent or attorney of record therein, he may be notified of the taking of the deposition by publication. The publication must be made three consecutive weeks in some newspaper of general circulation printed within the District, and must contain all that is required in a written notice. The same may be proved as required in the manner prescribed in section sixty-five of this chapter.

SEC. 32. The deposition shall be written down by the officer, or the deponent, or some disinterested person, in the presence and under the direction of the officer, and after the same has been carefully read to or by the deponent, it shall be subscribed by him.

SEC. 33. The officer taking the deposition shall annex a certificate thereto stating the following facts :

1. That the deponent was sworn according to law.
2. By whom the deposition was written ; and, if written by the deponent, or some disinterested person, that it was written in the presence and under the direction of the officer.
3. That the deposition was read to or by the deponent, and signed by him.
4. The time and place of taking the deposition.

SEC. 34. The officer taking the deposition shall sign the certificate, giving his title, and if he have a seal of office, shall affix the same thereto. He shall then seal up the deposition, endorse on the envelope the title of the cause, and address and transmit the same to the clerk of the court where the action or proceeding is pending, or to such other tribunal or person as hereinafter provided in section thirty-nine of this chapter.

SEC. 35. Depositions taken pursuant to this chapter, by any judicial or other officer herein authorized to take the same, having a seal of office, shall be admitted in evidence upon the certificate and signature of such officer under the seal of the court of which he is an officer, or his official seal, and no ether or further act of authentication shall be necessary. If the officer taking the same have no official seal, the deposition, if not taken in this District, shall be certified and signed by him, and shall be further authenticated either by parol proof adduced in court, or by the official certificate and seal of any secretary or other officer of state keeping the great seal thereof, or of the clerk

or prothonotary of any court having a seal, attesting that such judicial or other officer was at the time of taking the deposition authorized to take the same, within the meaning of this chapter. But if the deposition be taken within this District by an officer having no seal, or within or without this District under a special commission, it shall be sufficiently authenticated by the official signature of the officer or commissioner taking the same.

SEC. 36. Depositions, after being filed, may be published by the clerk at the request of either party, after giving to the other, his agent or attorney, reasonable notice of the time thereof, or they may be published by order of the court, on the motion of either party.

SEC. 37. Every deposition intended to be read in evidence must be filed in court at least one day before the time at which the cause in which the same is to be used, stands on the docket for trial; or if filed afterwards and claimed to be used on the trial, the adverse party shall be entitled to a continuance in the discretion of the court.

SEC. 38. When an action has been dismissed and another instituted for the same cause, depositions taken in the first action may, subject to all proper exceptions, be used in the second or other action between the same parties or their representatives, if it appear that the same were duly filed in the court when the previous cause was pending, and have remained on file since.

SEC. 39. Depositions taken pursuant to this chapter may be used as provided in section twenty-four, on the trial of any civil action or proceeding pending before any justice of the peace or before any arbitrator or referee, and the same shall be sealed up and endorsed as before prescribed, and be addressed and transmitted by the officer taking them to such justice of the peace, arbitrator, or referee.

SEC. 40. Every person authorized to take depositions shall receive for reducing the same to writing, one dollar for every hour he shall be so engaged, not to exceed five dollars a day. For all other services attending the execution of the same, he shall be entitled to such fees as are allowed to a justice of the peace for like services. Witnesses attending before him shall be each entitled to one dollar per day. He may retain the depositions until his fees and charges are paid. He shall also tax the costs of the marshal or other party who shall serve the process aforesaid, and fees of the witnesses, and may, if directed by the persons entitled thereto, retain the depositions until such fees are paid.

SEC. 41. Objections to the competency of a deponent, or to the propriety of any question put to him, or answer given by him, may be made at the time of taking his deposition, or afterwards in court, whether made at the time of taking the deposition or not.

SEC. 42. No exception other than for incompetency or irrelevancy shall be regarded unless made and filed before the commencement of the trial. But any deposition may, after the commencement, be suppressed, if any matter which is not disclosed in the deposition appears sufficient to authorize such suppression.

SEC. 43. Such exceptions shall be in writing, specifying the grounds of objection, and filed with the papers in the case, and the court shall, on the motion of either party, hear and determine the questions arising thereon before the commencement of the trial.

SEC. 44. Whenever any testimony taken under a commission is suppressed, or the commission, on return thereof, set aside for any irregularity or omission in the commission, or proceedings under it, the court or tribunal, or officer before whom the cause is pending, may, in his or its discretion, continue the same.

TESTIMONY—HOW PERPETUATED.

SEC. 45. The testimony of witnesses may be perpetuated in the following manner :

SEC. 46. The applicant shall file in the office of the clerk of the circuit court a petition, to be verified, in which he shall set forth specially the subject-matter relative to which the testimony is to be taken and the names of the persons interested, if known to the applicant ; and if not known, such general description as he can give of them, as heirs, devisees, alienees, or otherwise. The petition shall also state the names of the witnesses to be examined, and the interrogatories to be propounded to each ; that the applicant expects to be a party to an action in a court of this District, in which such testimony will, as he believes, be material, and the obstacles preventing the immediate commencement of the action, when the applicant expects to be the plaintiff.

SEC. 47. The court, or, in vacation, a judge thereof, may forthwith make an order allowing the examination of such witnesses. The order shall prescribe the time and place of the examination, how long and the manner in which the parties interested shall be notified thereof.

SEC. 48. When it appears satisfactorily to the court or judge that the parties interested cannot be personally notified, such court or judge shall appoint a competent attorney to examine the petition, and prepare and file cross-interrogatories to those contained therein. The witnesses shall be examined upon the interrogatories of the applicant, and upon cross-interrogatories, when they are required to be prepared, and no others shall be propounded to them; nor shall any statement be received which is not responsive to some one of them. The attorney filing the cross-interrogatories shall be allowed a reasonable fee therefor, to be taxed in the bill of costs.

SEC. 49. Such depositions shall be taken before some one authorized by law to take depositions, or before some one specially authorized by the court or judge, and shall be returned to the office of the clerk of the circuit court, certified in the manner hereinbefore prescribed.

SEC. 50. The court or judge, if satisfied that the depositions have been properly taken, shall approve the same and order them to be filed; and if a trial be had between the parties named in the petition, or their privies or successors in interest, such depositions may be given in evidence by either party, when the witnesses are dead or insane, or when their attendance for oral examination cannot be had; but such depositions shall be subject to the same objections for irrelevancy or incompetency as may be made to depositions taken pending an action.

SEC. 51. The applicant shall pay all costs under this proceeding to perpetuate testimony.

DEPOSITIONS IN GENERAL.

SEC. 52. Upon the return of a commission to take testimony, the circuit court, if in session, or a judge thereof in vacation, may remand the commission for the correction of errors or supplying omissions, and if the same be not returned in time for the trial, the cause may, at the discretion of the court, be continued.

SEC. 53. An unimportant deviation from any direction relative to taking depositions shall not cause a deposition to be excluded where no substantial prejudice would be done to the opposite party.

DEPOSITIONS TO BE USED OUT OF THE DISTRICT—HOW TAKEN.

SEC. 54. Any commissioner or other officer authorized by any State, Territory, or District of the United States to take depositions within this District shall have power, at the instance of the party wishing to

obtain the deposition of any witness therein, to cause such witness, by process of subpoena, to appear before him, on reasonable notice, at a certain time and place therein specified.

DOCUMENTARY AND OTHER WRITTEN EVIDENCE.

SEC. 55. The laws of the District of Columbia, printed and published under the authority of Congress, shall be received as evidence in the courts of this District, and in all the tribunals and public offices of the United States, for any purpose for which the original acts could be received, and with as much effect.

SEC. 56. Printed copies, in volumes, of statutes, code, or other written law enacted by the United States, or any State or Territory of the United States, or any foreign government, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts or tribunals of such State, Territory, or government, shall be admitted by the courts and officers of this District, on all occasions, as presumptive evidence of such laws.

SEC. 57. The unwritten or common law of any such State, Territory, or foreign government may be proved as facts by parol evidence; and the books of reports of cases adjudged in their courts may also be admitted as presumptive evidence of such law.

SEC. 58. Every act of any one of the legislatures of the States or Territories of the United States, certified by the secretary, and having the seal of the State or Territory affixed thereto, shall be deemed authentic, and receive full faith and credit when offered in evidence in any court within this District.

SEC. 59. The records and judicial proceedings of any court of the United States, or of any State, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, and certified by the judge, chief justice, or presiding magistrate of such court, to be attested in due form, shall have such faith and credit given to them in every court within this District as they have in the courts of the State, Territory, or District whence the said records came. The records and judicial proceedings of the courts of any foreign country, attested and certified in like manner, shall be admitted as evidence thereof in the courts of this District.

SEC. 60. All records and exemplifications of official books, kept in

any public office of the United States, or of a State, not appertaining to a court, shall be evidence in any court or office in this District, if attested by the keeper of the said records or books, and the seal of his office annexed, if there be a seal, and certified by the presiding justice of the county or district in which such office is, or by the governor, the secretary of state, the chancellor, or the keeper of the great seal of the State, to be attested in due form and by the proper officer; such certificate, if given by the presiding justice of a court, shall be certified by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or if said certificate be given by the governor, the secretary of state, the chancellor, or keeper of the great seal, it shall be under the great seal of the State or Territory in which the certificate is made. The records and exemplifications so certified shall have such faith and credit given to them in every court and office within this District as they have, by law or usage, in the courts or offices of the State or Territory whence the same shall be taken.

SEC. 61. A copy of the record or register of any deed, will, or other instrument of writing, which the laws of any foreign country require to be recorded, or lodged for safe-keeping in any office or court, and which are recorded or so lodged agreeably to such law, under the hand of the keeper of such record or register, and the seal of the court or office in which the same is kept, shall be good and sufficient evidence in any court of this District to prove such deed, will, or instrument of writing.

SEC. 62. The record of a conveyance or other instrument of writing authorized or required to be recorded in the recorder's office, and duly recorded, or a transcript thereof, certified by the recorder to be a full, true, and correct copy, may be read in evidence with the like force and effect as the original conveyance or other instrument of writing.

SEC. 63. The endorsement by the recorder or clerk of any court on any such deed or other instrument of writing, of the time it was received to be recorded, shall be evidence of such time as well as such receipt; and the copy from the record of the usual entry of such time and receipt, certified as provided in the previous section, or the record itself, shall be evidence both of the receipt and the time in like manner as the original endorsement.

SEC. 64. On the trial of any action wherein any claim or defence is founded on book accounts, any original entry therein, on proof of the death of the party making such entry, and that the same is in his handwriting, may be admitted as evidence, the weight to be given to it to be determined by the court or jury, as the case may be.

SEC. 65. The proof of the service of any process issued by the court, or of any notice to be served upon any party, shall be as follows:

1. If served by the marshal or other officer, his certificate thereof; or,
2. By any other person, his affidavit thereof; or,
3. In case of publication, a printed copy, with the affidavit of the printer, his foreman or clerk, or any competent witness, and an affidavit of the deposit of a copy of the summons and complaint in the post office, if the same shall have been so deposited; or,
4. The written admission of the defendant. The affidavit or admission must state the time and place of service.

SEC. 66. The clerk's endorsement upon every paper filed in his office or in open court, and upon every process returned to him or to court, except subpoenas, shall be presumptive evidence of the time of the filing and return.

ADMISSION AND INSPECTION OF PAPERS.

SEC. 67. Either party may exhibit to the other, or his attorney, at any time before the trial, any paper or document material to the action, and request an admission, in writing, of its genuineness. If the adverse party or his attorney refuse to give such admission within five days after the request, and the party exhibiting the paper or document be afterwards put to any cost to prove its genuineness, and the same be admitted on the trial, such costs, to be ascertained at the trial, shall be paid by the party refusing to make the admission, unless it shall appear to the satisfaction of the court that there were good reasons for the refusal.

SEC. 68. Either party, or his attorney, may demand, in writing, of the adverse party, an inspection and copy, or permission to take a copy, of a book, paper, or writing in his possession, or under his control, containing evidence relating to the merits of the action or defence therein. Such demand shall specify the book, paper, or writing, with sufficient particularity to enable the other party to distinguish it, and if compliance with the demand within five days be refused, the court

or in vacation a judge thereof, may, on motion, and notice to the adverse party, order him to give the other, within a specified time, an inspection and copy, or permission to take a copy, of such book, paper, or writing; and on failure to comply with such order, the court may exclude the book, paper, or writing from being given in evidence by the party so refusing, or, if wanted as evidence by the party applying, may direct the jury to presume it to be such as the party by affidavit alleges it to be. This section is not to be construed to prevent a party from compelling another to produce any book, paper, or document when he is examined as a witness.

GENERAL PROVISIONS.

SEC. 69. Before testifying, witnesses shall be sworn to testify the truth, the whole truth, and nothing but the truth. The mode of administering the oath shall be such as is most binding upon the conscience of the witness.

SEC. 70. Interpreters may be sworn to interpret fully, when necessary.

SEC. 71. If any party summon more than three witnesses to prove the same fact, he shall, in the discretion of the court, pay the costs occasioned by the additional number of witnesses.

SEC. 72. When counsel engaged in a case shall be examined as a witness therein, on behalf of his own client, he shall thereupon retire from the same, and cease to take any part therein as counsel. This section is not to preclude counsel from proving facts incidental to the trial, such as the loss of a paper, service of notice to produce, and the like, without abandoning the case.

SEC. 73. If any person who shall have resided in this District go from, and do not return to the same for seven years successively, he shall be presumed to be dead, in any case wherein his death shall come in question, unless proof be made that he was alive within that time.

SEC. 74. If the person so presumed dead be found to have been living, any person injured by such presumption shall be restored to the rights of which he shall have been deprived by reason thereof.

SEC. 75. A party producing a witness shall not be allowed to impeach his credit by evidence of bad character, unless it was indispensable that the party should produce him, or in case of manifest

surprise ; but he may in all cases contradict him by other evidence, and by showing that he has made statements different from his present testimony.

SEC. 76. If the defendant in any action for slander, or for publishing a libel, shall plead in his justification that the words spoken or published were true, such plea, though not maintained by the evidence, shall not in any case be of itself proof of the malice alleged in the complaint.

SEC. 77. In actions for defamation, the defendant may prove, in mitigation of damages, that subsequent to uttering the words, or publishing the libel, he retracted the charge or imputation, or acknowledged he had been mistaken, or offered to apologize, or that the words were not spoken in earnest, or circumstances which induced him erroneously to make the charge, or he may show the general bad character of the plaintiff in respect to the matter imputed, and the jury shall allow to all such proof the weight to which they may think it entitled.

TITLE V.

Of justices of the peace, and their jurisdiction and procedure in civil cases.

CHAPTER 116. Of justices of the peace.

CHAPTER 117. Of proceedings in civil cases before justices of the peace.

CHAPTER 116.

OF JUSTICES OF THE PEACE.

SECTION

1. President may appoint justices of the peace.
2. Justices to take an oath.
3. Justices to give bond.
4. Where bond to be filed.
5. Jurisdiction co-extensive with the county.

SECTION

6. } Powers of justices.
7. }
8. Docket records to be deposited with clerk of circuit court, upon termination of office.
9. Penalty for not delivering docket, &c.
10. Justice may be removed for certain causes.

SECTION 1. The President of the United States, by and with the advice and consent of the Senate, may appoint such a number of proper and discreet persons to be justices of the peace for the county of Washington, as he from time to time shall think expedient, to continue in office three years.

SEC. 2. Every person appointed to the office of justice of the peace shall, before he enters upon the duties of his office, take an oath to support the constitution of the United States, and to discharge faithfully and impartially the duties of his office.

SEC. 3. Every person hereafter appointed to the office of justice of the peace shall, before he enters upon the duties of his office, give bond to the United States in the sum of five thousand dollars, with two or more resident freehold sureties to be approved by the circuit court, conditioned for the faithful performance of his duties, and for paying over on demand to the person entitled or authorized to receive the same, all moneys that may come into his hands as a justice of the peace during his continuance in office.

SEC. 4. Such bond shall be filed in the office of the clerk of the circuit court, and any person aggrieved by a breach of the condition thereof may recover against the justice and his sureties such sum as he may show himself entitled to, with costs and twenty-five per cent. damages.

SEC. 5. The jurisdiction of justices of the peace shall be co-extensive with the limits of the county of Washington, and no other or greater, unless so expressly provided by law.

SEC. 6. Every justice of the peace shall, by virtue of his office, be a conservator of the peace. He shall have power to administer any oath required by law to be taken or administered, except where otherwise provided, and to grant and issue subpoenas for witnesses, and to coerce their attendance in a cause or matter pending before him, or in any other cause or matter wherein he may be required to take testimony.

SEC. 7. Every justice of the peace shall have power to take all necessary recognizances and obligations for good behavior, to keep the peace, to appear and answer any offence or criminal charge in the court having jurisdiction thereof.

SEC. 8. If any justice of the peace shall die, resign or remove from this District, or if his term of office be in any manner terminated, the

docket, books, records, and papers appertaining to his office, or relating to any action, matter, or controversy committed to him in his official capacity, shall be delivered to the clerk of the circuit court. In the event of the death of any justice of the peace, such docket, books, records, and papers shall be so delivered to the said clerk by the executor or administrator of such justice.

SEC. 9. Every person whose duty it is to deliver over the docket, books, records, and papers, as prescribed in the section next preceding, shall forfeit and pay to the United States one hundred dollars for every three months' neglect to perform such duty.

SEC. 10. The circuit court may, for incompetency, habitual drunkenness, or any wilful misconduct in the discharge of the duties of his office, remove any justice of the peace from office. The justice may be proceeded against in the manner provided in chapter one hundred and thirteen.

CHAPTER 117.

PROCEEDINGS IN CIVIL CASES BEFORE JUSTICES OF THE PEACE.

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JUSTICES OF THE PEACE—JURISDICTION.

SECTION 1. Every justice of the peace is hereby authorized to hold a court for the trial of all actions in the section next succeeding enumerated, and to hear, try, and determine the same according to law; and all laws of a general nature shall apply to such justice's court as far as the same may be applicable, and not inconsistent with the provisions of this chapter.

SEC. 2. Every justice of the peace shall have jurisdiction over and cognizance of the following actions and proceedings, subject to the provisions hereinafter made:

1. Of an action arising on contract, express or implied, for the recovery of money only, if the sum claimed do not exceed one hundred dollars.

2. Of an action for an injury to the person or to real property, or for taking, detaining, or injuring personal property, if the damages claimed do not exceed one hundred dollars.

3. Of an action for a fine, penalty, or forfeiture less than one hundred dollars, imposed by the laws of this District or the ordinances of an incorporated city within the same, where such fine, penalty, or forfeiture accrues wholly to any other party than the United States.

4. Of an action upon a bond conditioned for the payment of money not exceeding one hundred dollars, though the penalty exceed that sum, the judgment to be given for the sum actually due; when payments are to be made by instalments, an action may be brought for each instalment as it shall become due, if not more than one hundred dollars be claimed.

5. Of an action to recover possession of personal property, where the value of such property does not exceed one hundred dollars.

6. Of an action for damages for fraud in the sale, purchase, or exchange of personal property, if the damages claimed do not exceed one hundred dollars.

7. Of an action for a forcible or unlawful entry upon, or forcible or unlawful detention of lands, tenements, or other possessions.

8. A justice may take and enter judgment on the confession of a defendant, when the amount confessed does not exceed one hundred dollars.

SEC. 3. The jurisdiction conferred by the next preceding section shall not extend, however, to a civil action in which the title to real property shall come in question, nor to an action for false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction, or upon a promise to marry.

SEC. 4. All actions and proceedings now pending in any justice's court shall be conformed to the provisions of this chapter, so far as the same can be done.

COMMENCEMENT OF ACTION.—SERVICE AND RETURN OF PROCESS.

SEC. 5. Every justice of the peace shall keep in a bound book a docket, in which he shall enter—

1. The names of the plaintiff and defendant;
2. The object of the action or proceeding, and if a sum of money be claimed, the amount of the demand;
3. The date of the summons, and the time of its return; if a writ of attachment be issued, a statement of the fact;
4. The time when the parties, or either of them, appear, or their non-appearance, if default be made;
5. A brief statement of the nature of the plaintiff's demand; and if any set-off be claimed, a similar statement of set-off, and the amount estimated;
6. The demand of a trial by jury—when the same is made, and by whom made; the order for the jury, and the time appointed for the trial, and return of the jury;
7. The names of the jury who appear and are sworn; the names of the witnesses sworn, and at whose request;
8. The verdict of the jury, and when received; if the jury disagree and are discharged, the facts of such disagreement and discharge;
9. The judgment of the court, specifying the costs, and the time when rendered;
10. The time of issuing execution, and the name of the officer to whom delivered; the renewals thereof, if any, and when made;
11. The fact of an appeal, if any, having been made and allowed, and the time when;
12. Satisfaction of the judgment, or any money paid thereon, and when, and to whom, and by whom;
13. Any such other entries as may be material.

SEC. 6. The several particulars of the last preceding section specified shall be entered under the title of the action to which they relate, and at the time when they occur. Such entries in a justice's docket, or a transcript thereof certified by the justice, or by the clerk of the circuit court after the docket has been delivered to him, shall be prima facie evidence to prove the facts so stated therein. The justice or the clerk, as the case may be, shall, on being paid at the rate of ten cents per hundred words therefor, furnish to any person demanding the same, a certified transcript of such docket entries.

SEC. 7. An omission to keep a docket in the manner prescribed by the fifth section of this chapter shall not affect the validity of the justice's proceedings.

SEC. 8. Whenever the plaintiff is a non-resident of this District, the justice may require of him security for costs.

SEC. 9. All processes issued by justices of the peace shall run in the name of the United States, be dated the day they issued, and shall be signed by the justice granting the same, and shall be directed to the marshal, or any constable of the county of Washington.

SEC. 10. Actions may be instituted before a justice of the peace by the voluntary appearance and agreement of the parties; or by process.

SEC. 11. Before the issuing of any summons, the plaintiff shall file with the justice the account, note, bill, bond, or instrument, or a copy thereof, upon which the action is brought, or a concise statement in writing of the cause of action.

SEC. 12. In all cases not otherwise specially provided for, the first process shall be a summons, directed to the marshal or constable, commanding him to summon the defendant to appear before such justice, or some other justice of the peace of the county of Washington, at a certain time, (not more than twenty days from the date thereof,) to answer the complaint of the plaintiff. In an action for money or damages, the summons shall state the amount claimed. In an action for the recovery of personal property, the property claimed shall be described with reasonable certainty, where no affidavit is filed at the time of issuing the summons for the immediate delivery thereof.

SEC. 13. The summons shall be served by delivering a copy thereof as follows:

1. If the action be against a corporation, to the president or other head of the corporation, secretary, cashier, or managing agent thereof.

2. If the action be against an infant, to such infant, and also his father, mother, or guardian; or if there be none within this District, then to any person having the control or care of such infant, or with whom he resides, or in whose service he is.

3. If against a person judicially declared of unsound mind, or incapable of conducting his affairs, and for whom a committee has been appointed, to such committee, and to the defendant personally.

4. In all other cases to the defendant personally, or, if he be not found, to some white person of the family, above the age of fourteen years, at the dwelling-house or usual place of abode of the defendant.

If, however, the defendant shall be absent from this District, service of the summons shall not be made by leaving a copy thereof at his dwelling-house or usual place of abode.

SEC. 14. The marshal or constable serving any process shall return thereon, in writing, the time and manner of service, and shall sign his name to such return.

SEC. 15. If the summons be returned not served, it shall be the duty of the justice to renew the same from time to time as occasion may require.

SEC. 16. If the defendant on service shall rule the action for trial before some other justice than the one who issued the summons, the papers in the cause shall be delivered or transmitted by the justice who issued the summons to the justice before whom the action may be ruled, who shall proceed therein and have the same jurisdiction, powers, and duties in all respects, as if such action had been originally instituted before him.

SEC. 17. In an action for a fine, penalty, or forfeiture imposed by the laws of the corporations of Washington City and Georgetown, the summons shall be returnable, as may be directed by the ordinances of said corporations respectively, both as to the time of the return and the justice before whom the summons is returnable. If said ordinances do not make any direction as to the return, the summons shall be returnable before the justice issuing the same, and none other; and in all other actions for fines, penalties, and forfeitures before justices, the same regulation shall be observed.

SEC. 18. Parties in justices' courts may prosecute or defend in person or by attorney, and any person may act as attorney in justices' courts, except such as are prohibited by law.

SEC. 19. The authority of a person to act as attorney for another may be oral or written, but, unless admitted by the adverse party, must be proved, by the oath of the attorney or otherwise, to the satisfaction of the justice.

SEC. 20. No action shall be commenced by an infant plaintiff, except by his guardian, or until a next friend for such infant shall have been appointed. Whenever requested, the justice shall appoint some suitable person, who shall consent thereto in writing, to be named by such plaintiff, to act as his next friend in such action.

SEC. 21. After the service and return of process against an infant

defendant, the action shall not be further prosecuted until a guardian for such infant shall have been appointed. Upon the request of such defendant, the justice shall appoint some person, who shall consent thereto in writing, to be guardian of the defendant in defence of the action; and if the defendant shall not appear on the return day of the process, or if he neglect or refuse to nominate such guardian, the justice may, at the request of the plaintiff, appoint any discreet person as such guardian. The consent of the guardian or next friend shall be filed with the justice.

SEC. 22. The parties shall be entitled to one hour in which to make their appearance after the time mentioned in the summons for appearance, but shall not be required to remain longer than that time, unless both parties appear, and the justice being present, is actually engaged in the trial of another action or proceeding; in such case, he may postpone the time of appearance until the close of such trial.

PLEADINGS AND ADJOURNMENTS.

SEC. 23. The pleadings in justices' courts shall take place upon the appearance of the parties, unless they shall have been previously filed, or unless the justice, for good cause shown, allow a longer time than the time of appearance.

SEC. 24. The pleadings in justices' courts shall be :

1. The complaint of the plaintiff, which shall state in a plain and direct manner the facts constituting the cause of action.
2. The answer of the defendant, which may contain a denial of the complaint, or any part thereof, and also a statement, in a plain and direct manner, of any facts constituting a defence.
3. When the answer claims a set-off by way of defence, the reply of the plaintiff.

SEC. 25. The pleadings shall be in writing, when the action is for a forcible or unlawful entry upon, or a forcible or unlawful detention of lands, tenements, or other possessions. In all other cases the pleadings may be oral or in writing.

SEC. 26. When the pleadings are oral, the substance of them shall be entered by the justice in his docket; when in writing, they shall be filed in his office, and a reference made to them in his docket. Pleadings shall not be in any particular form, but shall be such as to enable a person of common understanding to know what is intended.

SEC. 27. A statement in answer or reply, that the party has not sufficient knowledge or information in respect to a particular allegation in the previous pleading of the adverse party to form a belief, shall be deemed equivalent to a denial.

SEC. 28. When the cause of action or set-off arises upon an account or instrument for the payment of money only, it shall be sufficient for the party to deliver the account or instrument, or a copy thereof, to the justice, and to state that there is due to him thereon from the adverse party a specified sum, which he claims to recover or set-off.

SEC. 29. Every complaint, answer, or reply shall be verified by the oath of the party pleading; or if he be not present, by the oath of his attorney or agent, to the effect that he believes it to be true; the verification shall be oral, or in writing, in conformity with the pleading verified.

SEC. 30. Every material allegation in a complaint, or relating to a set-off in an answer not denied by the pleading of the adverse party, shall on the trial be taken to be true, except that when a defendant who has not been personally served with a copy of the complaint fails to appear and answer, the plaintiff cannot recover without proving his case.

SEC. 31. Either party may object to a pleading by his adversary, or to any part thereof, that it is not sufficiently explicit to enable him to understand it, or that it contains no cause of action or defence, although it be taken as true. If the justice deems the objection well founded, he shall order the pleading to be amended, and if the party refuse to amend, the defective pleading shall be disregarded.

SEC. 32. A variance between the proof on the trial and the allegations in a pleading shall be disregarded as immaterial, unless the justice be satisfied that the adverse party has been misled to his prejudice thereby.

SEC. 33. The pleadings may be amended at any time before the trial, or during the trial, or upon the appeal to supply any deficiency or omissions in the allegations or denials, necessary to support the action or defence, when by such amendment substantial justice will be promoted. If the amendment be made after the issue, and it be made to appear to the satisfaction of the justice that an adjournment is necessary to the adverse party in consequence of such amendment, an adjournment shall be granted. The justice may also, in his

discretion, require, as a condition of an amendment, the payment of costs to the adverse party.

SEC. 34. To entitle the defendant to any set-off he may have against the plaintiff, he must allege the same in his answer, and the laws regulating set-off in the circuit court shall in all respects be applicable to a set-off in a justice's court, if the amount claimed to be set off do not exceed the plaintiff's demand more than one hundred dollars, and judgment may, in like manner, be rendered by the justice in favor of the defendant for the sum found due from the plaintiff.

SEC. 35. If the defendant have a set-off exceeding the plaintiff's demand to an amount which, if found for him by the justice or the jury, would be more than the justice is authorized to render judgment for, such defendant may withhold setting off such excess, and a recovery for the amount set off and allowed, or any part thereof, shall not be a bar to his subsequent action for the amount so withheld.

SEC. 36. Whenever any judgment shall be set off, it shall be the duty of the justice before whom such set-off is allowed, to give the plaintiff a certificate thereof, under his hand and seal. Such certificate, when filed with the proper justice or clerk, shall stay all further proceedings on the judgment so set off and allowed, and shall be a satisfaction thereof, except in cases where the judgment so set off and allowed exceed the plaintiff's demand more than one hundred dollars; and in such cases so much of the judgment as was set off and allowed before the justice shall be specified in such certificate, and shall be a credit on such judgment when filed as aforesaid.

SEC. 37. No judgment upon which an appeal has been taken, and is pending, shall be allowed as an offset.

SEC. 38. When the pleadings of the parties shall have taken place, the justice may, upon the application of either party, and upon sufficient cause being shown on oath, adjourn the case for any time not exceeding forty days. If the adjournment be on account of the absence of testimony, it shall be for such reasonable time as will enable the party to procure such testimony, and shall be at the cost of the party applying therefor, unless otherwise ordered by the justice.

SEC. 39. An adjournment on account of the absence of testimony shall only be allowed upon affidavit showing the materiality of the testimony expected to be obtained, and that due diligenece has been

used to procure it. The justice may also require the party applying to state upon affidavit the evidence which he expects to obtain, and if the adverse party thereupon admit that such evidence would be given, and that it be considered as actually given on the trial, or offered and subject to being overruled as improper, the trial shall not be postponed.

SEC. 40. The party applying for the adjournment shall also, if required by the adverse party, consent that the testimony of any witness of such adverse party, who is in attendance, be taken by deposition before the justice, which shall be done accordingly, and the testimony so taken may be read on trial with the same effect and subject to the same objections as if the witness were produced.

TITLE TO LANDS.

SEC. 41. If it appear in any action instituted before a justice of the peace, at any time before trial, by the pleadings, or if it appear from the evidence of either party on the trial, that the title to lands is in question, which title is disputed by the other party, the justice shall immediately make an entry thereof in his docket, and cease all further proceedings in the cause, and shall certify and return to the circuit court a transcript of all the entries made in his docket relating to the case, together with all the process and other papers relating to the action, in the same manner and within the same time as upon an appeal; and thereupon the circuit court shall proceed in the cause to final judgment and execution in the same manner as in an action originally begun therein, and the costs shall abide the event of the suit; provided, however, if such transfer of the cause be made upon the answer of the defendant, he shall file an undertaking, with two sufficient sureties to be approved by the justice, to the effect that they will pay all costs of the action if it be decided against him in the circuit court.

TRIAL, AND INCIDENTS THEREOF.

SEC. 42. At the time and place appointed for the trial, if no jury shall have been demanded by either party, the justice shall proceed to try the cause, to hear the proofs and allegations of the parties, and to determine the same according to law and the right of the case, and give judgment accordingly.

SEC. 43. When parties agree to enter without process before any justice any action in this chapter made cognizable before him, such justice shall enter the same in his docket, and proceed to trial, judgment, and execution, in all respects in the same manner as if a summons had been issued, served, and returned.

SEC. 44. Before the justice shall commence an investigation of the merits of the cause by an examination of the witnesses or the hearing of any other testimony, either of the parties may demand of the justice that the cause be tried by a jury, whenever the sum claimed shall exceed twenty dollars. If such demand be made by one of the parties only, the other may have his election entered upon the docket of the justice that the case be transferred to the circuit court, and if such election be made, the justice shall cease all further proceedings in the case, and shall certify and return to the circuit court a transcript of all the entries made in his docket relating to the case, together with all the processes and other papers relating to the action, in the same manner and within the same time as upon an appeal; and thereupon the circuit court shall proceed in the cause to final judgment and execution, in the same manner as in an action originally begun therein, and the costs shall abide the event of the action: provided, however, that the party so electing to transfer the case to the circuit court shall file an undertaking, with two sufficient sureties to be approved by the justice, to the effect that he will pay all the costs of the action if it be decided against him in the circuit court. If no such election be made the case shall be tried by a jury, and no appeal shall be allowed from a judgment rendered upon the verdict of such jury.

SEC. 45. Thereupon the justice shall issue a venire, directed to the marshal or any constable, commanding him to summon twelve (or such number as the parties may have agreed upon) good and lawful men of the county of Washington, qualified to serve as jurors in the circuit court, who shall be nowise of kin to either party, nor interested in the action, to appear before said justice, at a time and place to be named therein, to make a jury for the trial of the cause between the parties therein named.

SEC. 46. Parties may agree upon any number of jurors less than twelve to try the cause, in which case the jury shall consist of such number, not exceeding twelve, as the parties may agree upon.

SEC. 47. If the plaintiff shall demand a jury in any cause where a

sum of money is claimed, and the jury shall not find a verdict for at least twenty dollars in his favor, such plaintiff shall pay the fees of such jury and all additional costs occasioned by such jury trial.

SEC. 48. The marshal or constable to whom the venire may be directed shall execute the same fairly and impartially, and shall not summon any person whom he has reason to believe is biased or prejudiced for or against either of the parties; he shall summon the jurors personally, and shall make a list of the persons summoned, which he shall certify and annex to the venire and return to the justice. If a sufficient number of competent jurors cannot be obtained from the panel returned, the marshal or constable shall immediately summon others to serve in their places.

SEC. 49. Either party may challenge the jurors, but when there are several parties on either side they shall join in a challenge before it can be made. The challenges shall be to individual jurors, and shall be peremptory or for cause. Each party shall be entitled to a peremptory challenge of one-third of the jury.

SEC. 50. Challenges for cause may be taken on any ground that would be a good cause of challenge on the trial of an action in the circuit court. Challenges for cause shall be tried by the justice in a summary way.

SEC. 51. When the jury is selected the justice shall administer to them the following oath or affirmation: "You and each of you do solemnly swear (or affirm) that you will well and truly try the matter of difference between — —, plaintiff, and — —, defendant, and a true verdict give according to the evidence: So help you God."

SEC. 52. After the jury are sworn they shall sit together and hear the allegations and proofs of the parties, which shall be delivered publicly in their presence.

SEC. 53. The rules of evidence and the competency of witnesses shall be the same as in the circuit court, except as in this chapter is otherwise provided.

SEC. 54. If a witness, on being produced, shall be objected to as incompetent, such objection shall be tried and determined by the justice, and evidence may be given in support of or against such objection as in other cases, or the proposed witness may be examined on oath by the party objecting; and in such last case no other testimony shall be received from either party as to the competency of such witness.

Sec. 55. After hearing the proofs and allegations of the parties, the jury shall be kept together in some convenient place, under the charge of a constable, until they have agreed upon their verdict, or shall be discharged by the justice, and for that purpose the justice shall administer to such constable the following oath: "You do swear that you will, to the best of your ability, keep the persons sworn as jurors on this trial together in some private and convenient place, without meat or drink, except such as shall be ordered by me; and that you will not suffer any communication to be made to them; that you will not communicate with them yourself, unless by my order, or to ask them if they have agreed on their verdict, until they shall be discharged; and that you will not, before they render their verdict, communicate to any person the state of their deliberations, or the verdict which they have agreed upon."

Sec. 56. When the jury have agreed upon their verdict, they shall deliver it to the justice publicly, who shall enter it in his docket.

Sec. 57. Whenever the justice shall be satisfied that the jury sworn in any civil action before him cannot agree on their verdict after having consulted for a reasonable time, he may discharge them, and issue a new venire, unless the parties consent that the justice may render judgment on the evidence before him, or upon such other evidence as they may produce.

Sec. 58. Every person who shall be duly summoned as a juror and shall not appear, nor render a reasonable excuse for his default, or, appearing, shall refuse to serve, shall be deemed guilty of a contempt, and may be proceeded against as is hereafter in this chapter provided.

Sec. 59. A new trial may be granted by the justice at any time within three days after entering judgment, according to the regulations to be observed in the circuit court, notice of the motion therefor having been given to the adverse party, his agent or attorney. The justice shall name the time for hearing such motion.

Sec. 60. No more than one new trial shall be granted to either party.

Sec. 61. When a new trial is granted, the justice shall set a day for the same, and cause at least five days' notice thereof to be given to the party against whom the motion was granted.

JUDGMENT.

Sec. 62. Judgment that the action be dismissed without prejudice to a new action may be entered, with costs, in the following cases:

1. When the plaintiff voluntarily dismisses the action before it is finally submitted.

2. When he fails to appear at the time specified in the summons, or upon adjournment, or within one hour thereafter.

SEC. 63. When the defendant fails to appear and answer at the time specified in the summons, or within one hour afterwards, judgment shall be given as follows :

1. When the defendant has been served with a copy of the complaint, judgment shall be given in all cases founded on contract, without further evidence, for the sum specified in the summons, provided the account, note, bill, or other instrument, or a copy thereof, upon which the action was brought, was filed with the justice at the time the summons was issued.

2. In all other cases the justice shall hear the evidence of the plaintiff, and render judgment for such sum only as shall appear by the evidence to be just ; but in no case exceeding the amount specified in the summons.

SEC. 64. Upon the verdict of a jury the justice shall immediately render judgment thereon. When the trial is by the justice, judgment shall be entered within three days after the close of the trial.

SEC. 65. If the defendant at any time before trial offer in writing to allow judgment to be taken against him for a specified sum, the plaintiff may immediately have judgment therefor, with the costs then accrued ; but if he do not accept such offer before the trial, and fail to recover in the action a sum greater than the offer, such plaintiff shall not recover any costs that may accrue after he shall have been notified of the offer of the defendant, but such costs shall be adjudged against him, and, if he recover, deducted from his recovery. But the offer and failure to accept it, shall not be given in evidence to affect the recovery otherwise than as to costs as above provided.

SEC. 66. When the prevailing party is entitled to costs by this chapter, the justice shall add their amount to the judgment, and in case of a failure of the plaintiff to recover, or in case of dismissal of the action, he shall enter up judgment in favor of the defendant for the amount of costs.

SEC. 67. Whenever any person shall voluntarily confess judgment in favor of another, before entering judgment on such confession, the justice shall administer an oath or affirmation to the person so

confessing, that he does not confess such judgment to defraud any of his creditors, but that he is justly indebted to the person in whose favor such judgment is to be entered for the full amount for which he so confesses judgment; which oath or affirmation, together with the grounds or considerations of such indebtedness, shall be reduced to writing, and filed with the justice; and no appeal shall lie from a confessed judgment.

SEC. 68. Every judgment confessed without a compliance with the provisions of the section next preceding shall be void as against all persons except a purchaser in good faith of any goods or chattels, lands, or tenements, under such judgment, and except as between the plaintiff or his assigns and the defendant, their heirs, executors, and administrators.

SEC. 69. When a summons issued by a justice of the peace shall be returned served as to one or more of the defendants, and "not found" as to another or other of the defendants therein, the justice shall, if the plaintiff, his agent, or attorney, require it, enter the return on his docket, and proceed to trial and judgment against the parties served with process or appearing, as in other cases where process has been served on all the defendants; and the plaintiff may, at any time afterwards, proceed against those not found, or any of them.

SEC. 70. It shall be the duty of such justice, on the request of such plaintiff, his agent, or attorney, who may be desirous of proceeding against the other defendants, to permit him to withdraw the note, agreement, or obligation on which he may have obtained such judgment, the justice retaining a copy thereof.

STAY OF EXECUTION.

SEC. 71. The execution upon a judgment by a justice of the peace for a sum of money may be stayed in the manner hereinafter provided, for a period of six months, to be calculated from the date of the judgment.

SEC. 72. To entitle any person to such stay of execution, some responsible person, to be approved by the justice rendering the judgment, and not being a party to the judgment, must, within ten days after the rendering of the judgment, enter into an undertaking before such justice, to the adverse party, in a sum sufficient to secure the payment of the judgment and costs, conditioned to be void upon

such payment at the expiration of the stay. Such undertaking shall be signed by the person entering into the same.

SEC. 73. If the justice rendering the judgment have no authority to act as a justice of the peace at the time when a party may be entitled to a stay of execution, such party, upon filing a certified transcript of such judgment with, and entering into the aforesaid undertaking before, any other justice of the peace, shall be entitled to a stay of execution as aforesaid.

SEC. 74. If at the expiration of such stay the judgment be not paid, the execution, upon which no stay shall be allowed, shall issue against both the principal and bail; if the principal do not satisfy the execution, and the officer cannot find sufficient property belonging to him upon which to levy, he shall levy upon the property of the bail, and in his return shall state what amount of money collected by him on the execution was collected from the bail, and the time when the same was received.

SEC. 75. After the return of such execution, the bail shall be entitled, on application to the justice, to have the judgment, or so much thereof as may have been collected from him in satisfaction of the execution, transferred to his use, and he may collect the same from the defendant, by execution, together with interest at the rate of twelve per cent. per annum.

SEC. 76. If a judgement be stayed in the manner above provided, after an execution has been issued thereon, the justice shall revoke such execution.

OF EXECUTIONS, AND PROCEEDINGS THEREON.

SEC. 77. Executions for the enforcement of a judgment in a justice's court may be issued on the application of the party entitled thereto, in the manner hereinafter prescribed, but after the lapse of two years from the date of the judgment no execution shall issue, except by leave of the justice before whom such judgment may be, upon affidavit filed, showing that such judgment is unsatisfied, and upon reasonable notice to the defendant.

SEC. 78. When any judgment shall have been rendered by any justice of the peace, and the same shall not be satisfied during his continuance in office, any other justice of the peace may issue execution upon such unsatisfied judgment in the same manner and with

like effect as if he himself had rendered the judgment, provided that a certified transcript of such judgment be filed with such justice. But in no case shall execution be issued upon a judgment by any other justice than the one rendering the judgment, if the justice rendering the judgment have authority to act as a justice of the peace.

Sec. 79. The execution shall be directed to the marshal or any constable; shall be dated on the day it is issued, and made returnable within forty days from the date; and shall be against the goods and chattels, rights and credits, not exempted by law, of the person against whom it is issued. No execution against real property shall be issued by any justice.

Sec. 80. Before any execution shall be delivered, the justice shall state in his docket, and also on the back of the execution, the amount of the debt or damages and costs, and of the fees due to each person separately; and the officer receiving such execution shall endorse thereon the time of the reception of the same.

Sec. 81. If an execution be not satisfied, it may, at the request of the party entitled thereto, be renewed from time to time by the justice who issued the same, or the justice with whom a certified transcript of the judgment is filed as aforesaid, by an endorsement thereon to that effect, signed by him, and dated when the same shall be made. If any part of such execution has been satisfied, the endorsement of renewal shall express the sum due on the execution. Every such endorsement shall renew the execution in full force, in all respects, for forty days and no longer, and an entry of such renewal shall be made in the docket of the justice.

Sec. 82. The sales of property under execution issued by any justice, and the manner in which the officer shall proceed under the same, shall, except where otherwise provided in this chapter, be governed by the provisions of this Code which regulate the sales of personal property under an execution issued from the circuit court.

Sec. 83. After the issuing of an execution, and upon proof, by affidavit of a party or otherwise, to the satisfaction of the justice, that the judgment debtor has property or effects which he unjustly refuses to apply towards a satisfaction of the judgment, such justice may, by an order, require the judgment debtor to appear and answer under oath concerning the same before such justice at the time and place specified in the order, and disobedience to such order may be punished as a contempt.

Sec. 84. The judgment debtor, on his appearance, may be examined on oath concerning his property, and his answers reduced to writing and filed with the justice.

Sec. 85. If there be no goods and chattels found subject to execution, or if the goods and chattels levied on be not sufficient to satisfy such execution, the justice shall, on demand of the plaintiff, summon in writing, as garnishees, such persons as may be named to him by the plaintiff or his agent, to appear before such justice, on the return day of the execution, to answer such interrogatories as may be put to them touching their liabilities as garnishees; and the like proceedings shall be had thereupon before the justice to final judgment and execution as in proceedings by attachment.

Sec. 86. After the issuing of execution, any person indebted to the judgment debtor may pay to the officer to whom the execution may be directed the amount of his debt, or so much thereof as may be necessary to satisfy the execution, provided the judgment on which such execution was issued be not subject to an appeal, and the officer's receipt shall be a sufficient discharge for the amount so paid.

Sec. 87. Execution against the body shall not be issued by any justice, except as is provided in this chapter.

Sec. 88. If the proceeding before the justice be an action for the recovery of a fine, penalty, or forfeiture, brought by the corporation of Washington City, Georgetown, or the levy court of Washington county, and judgment be against the defendant, an execution against the body of such defendant may be issued by such justice, either before the issuing of an execution against the goods and chattels of such defendant or after the return of any such execution unsatisfied in whole or in part. Any person arrested on such execution against his person shall be imprisoned in the public jail until such execution is satisfied or he is legally discharged.

Sec. 89. In other cases, any judgment creditor wishing an execution against the body, or the agent or attorney, of such judgment creditor, may file with the justice an affidavit, charging the debtor with fraudulently concealing, removing, or transferring his property subject to execution, with intent to defraud or delay such creditor, or that he has money, rights, credits or effects, with which the judgment of such creditor or some part thereof might be paid, and which he fraudulently withholds or conceals with a view to delay or defraud his creditor.

Sec. 90. Such affidavit need not designate specifically any property, money, or effects fraudulently removed, transferred, concealed, or withheld by such debtor; but the justice or jury in determining the matters in issue between the parties, if the finding be for the creditor, shall designate in such finding the moneys, effects, property, or things in action which have been thus removed, concealed, transferred, or withheld, and also the value thereof.

Sec. 91. Upon the filing of such affidavit, such justice shall issue a summons, requiring such debtor to appear and show cause why execution against the body should not issue. Such summons shall be made returnable in five days from date, and be served and returned as other summonses.

Sec. 92. If such debtor fail to appear on the return day, after being duly summoned, the justice may hear and determine the same in his absence, or a jury may be empaneled for that purpose at the request of the creditor.

Sec. 93. If such debtor appear to such affidavit and issue be taken thereon, it shall be tried by the justice, or a jury shall be empaneled at the request of either party to try the same as in other cases.

Sec. 94. No appeal shall be allowed in the cases provided for in the two preceding sections, nor shall a request for a jury in such cases authorize their removal to the circuit court.

Sec. 95. If such trial be determined against such debtor, and he will not forthwith surrender, for the benefit of such creditor, the moneys, effects, property, or things in action which may be found to have been removed, concealed, transferred, or withheld, or pay the value thereof, an execution shall issue against his body, and he shall be arrested and committed to jail, there to be confined until duly discharged according to law.

ABSTRACT OF JUSTICE'S JUDGMENT.

Sec. 96. It shall be the duty of every justice, when requested by the plaintiff or his agent, to make out and certify an abstract of any judgment rendered by him, if there be no outstanding execution upon the same, for the purpose of having the same docketed in the office of the clerk of the circuit court. After such abstract has been delivered to the plaintiff or his agent, no execution shall be issued by any justice of the peace on such judgment; but execution upon the same may be issued by the clerk of the circuit court, as upon a judgment rendered in said court.

RECOVERY OF POSSESSION OF PERSONAL PROPERTY.

SEC. 97. The plaintiff in an action before a justice to recover the possession of personal property may, at the time of issuing the summons, or at any time before answer, claim the immediate delivery of such property, as herein provided.

SEC. 98. When a delivery is claimed, an affidavit shall be made by the plaintiff, or some person in his behalf, showing—

1. That the plaintiff is owner of the property claimed, (particularly describing it,) or is lawfully entitled to the possession thereof by virtue of a special property therein, the facts in respect to which shall be set forth ;

2. That the property is wrongfully detained by the defendant ;

3. The alleged cause of detention thereof, according to his best knowledge, information, or belief ;

4. That the same has not been taken for a tax, assessment, or fine, pursuant to a statute, or seized under execution or attachment as the property of the plaintiff, or, if so seized, that it is by statute exempt from such seizure ;

5. The actual value of the property, not exceeding one hundred dollars.

SEC. 99. The plaintiff may also claim damages for the detention or taking of such property, not exceeding one hundred dollars.

SEC. 100. The justice shall thereupon, by an endorsement in writing upon the affidavit, order the marshal or constable to take the said property from the defendant, and deliver it to the plaintiff, upon receiving a proper undertaking.

SEC. 101. Upon the receipt of the affidavit and order, with a written undertaking, executed by two or more sufficient sureties approved by the marshal or constable, to the effect that they are bound in double the value of the property as stated in the affidavit, for the prosecution of the action, for the return of the property to the defendant if a return thereof be adjudged, and for the payment to him of such sum as may for any cause be recovered against the plaintiff, the marshal or constable shall forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent. He shall also, without delay, serve on the defendant a copy of the affidavit, order, and undertaking, by delivering the same to him personally, if he can be found in this District, or to his agent from whose possession the

property may have been taken ; or if neither can be found in this District, by leaving them at the usual place of abode of either within this District ; or if neither have any known place of abode in this District, by putting them in the post office, directed to the defendant at the post office nearest to him.

SEC. 102. If the property, or any part thereof, be concealed in a building or enclosure, the officer shall publicly demand its delivery, and if it be not delivered, he shall cause the building or enclosure to be broken open, and take the property in his possession.

SEC. 103. When the officer shall have taken property as in this chapter provided, he shall deliver it to the plaintiff, upon receiving his lawful fees for the taking and his necessary expenses for keeping the same.

SEC. 104. Such cause shall be tried as other causes before justices ; if the cause shall be dismissed or the defendant prevail, judgment shall be rendered in his favor for his costs, and that he have return of the property ; if the plaintiff prevail, he shall have judgment for damages for the taking or detention of the same, not exceeding one hundred dollars, and costs.

SEC. 105. If the property claimed, or any part thereof, cannot be found by the marshal or constable, the action shall proceed as if it had been so found ; and if such property, not so found, is adjudged to be the property of the plaintiff, and liable to have been recovered in that action if it had been found, he shall recover the value thereof in damages, whether he shall have claimed that amount in damages in his complaint or not.

OF ATTACHMENT.

SEC. 106. Attachments against the property, rights, credits, moneys, and effects of defendants may be issued in the cases mentioned in chapter eighty-five, upon any claim for the recovery of money within the jurisdiction of a justice of the peace, upon filing with the justice the affidavit and undertaking prescribed in said chapter. The justice shall perform the duties required of the circuit court, or any judge or clerk thereof, and the marshal or constable shall perform the duties required of the marshal by the provisions of said chapter eighty-five, except so far as in this chapter is otherwise provided. The marshal or constable shall return the writ of attachment within fifteen days, with his doings thereon ; and in case where a summons has not been

served, and property has been attached, the justice shall require three weeks' notice of the attachment to be given in some newspaper published in Washington City, and fix the day of trial at the expiration of such notice.

SEC. 107. If the defendant does not appear and give bond with security for the release of the property attached before the day of trial, the justice shall proceed to hear and determine the cause. If the defendant appears, or appears and gives bond with security for the release of the property attached, the proceedings shall be as in similar cases before the circuit court, except as otherwise provided.

SEC. 108. No attachment shall be issued by any justice on the ground that the defendant is a foreign corporation or a non-resident of this District, except for a claim arising upon contract, judgment, or decree, or from an injury to person or property within the jurisdiction of the justice, committed within this District.

SEC. 109. Garnishees may be summoned, judgment rendered, execution issued, and other proceedings in attachment be had before the justice, as is provided in cases of attachment before the circuit court, except where otherwise specially provided. If real estate, however, be attached, and judgment be rendered against the defendant, no execution shall be issued by the justice upon such judgment against such real estate. In any such case, the abstract of the judgment may be docketed in the office of the clerk of the circuit court, and execution may issue upon the same, as if such judgment had been rendered in the circuit court. If, in such case, the summons had not been personally served upon the defendant, and he had not appeared, he may, at any time within one year after such abstract is docketed, have the judgment opened in the circuit court, and be allowed to defend, with the same effect, as in similar cases in the circuit court. And in every other case of attachment, when the summons has not been personally served upon the defendant, and he has not appeared, and judgment has been rendered against him, the justice, upon the return of the execution, shall certify and return to the circuit court a transcript of all the entries made in his docket relating to the case, together with all the processes and other papers relating to the action, and such defendant, at any time within one year thereafter, may have the judgment opened in the circuit court, and be allowed to defend with the same effect, as in similar cases, in the circuit court.

OF THE UNLAWFUL DETENTION OF LANDS.

SEC. 110. Whenever, in pursuance of legal notice or otherwise, any landlord, or his legal representative, shall be entitled to the possession of lands, he may, by himself or his agent, have any tenant who shall unlawfully hold over, removed from such lands, on complaint in writing before a justice of the peace, specifying the matters relied on to justify such removal, and the damages claimed for detention. The premises shall be described in the complaint with reasonable certainty.

SEC. 111. The justice shall forthwith issue a summons directed to the marshal or constable, commanding him to summon such tenant to appear before him not less than three, nor more than ten, days after the issuing thereof. A copy of the complaint shall be served with the summons.

SEC. 112. Such summons shall be served on such tenant, or, if he cannot be found, by delivering a copy thereof to some person of proper age and discretion residing on the premises, or, if no such person be found, by affixing a copy thereof on a conspicuous part of said premises.

SEC. 113. Subpœnas may be issued and served, the attendance of witnesses enforced, continuance granted, pleadings amended, juries empaneled and sworn, and challenges allowed, as in other cases before justices. If a jury be demanded by one of the parties, the other may elect that the case be transferred to the circuit court; and thereupon the justice shall proceed as is, in similar cases, hereinbefore provided.

SEC. 114. Where notice to quit is required by law, a copy of the same, with proof of service, shall be necessary for the recovery of the plaintiff.

SEC. 115. If the verdict of the jury, or the finding of the justice, be for the plaintiff, judgment shall be rendered thereon that he have possession of said premises, and recover the damages assessed, and his costs; and, if required by such plaintiff or his agent, the justice shall issue a writ, directed to the marshal or constable, commanding him to deliver said premises to said plaintiff, by removing the defendant and his goods therefrom, or otherwise, so that the plaintiff have complete possession thereof, and also to levy such damages and costs of the goods of said defendant.

SEC. 116. Such writ, as to delivery, shall, subject to the provisions of the next succeeding section, be forthwith executed, and in other respects shall be governed by the regulations respecting executions issued by a justice of the peace.

SEC. 117. If, however, when there has been no trial by jury, a party, at the time judgment is rendered against him, or within twenty-four hours afterwards, gives notice of an appeal and files a proper appeal bond, all further proceedings before the justice shall cease and be stayed. If there be a trial by jury, no appeal shall be allowed.

SEC. 118. If the verdict of the jury or the finding of the justice be for the defendant, he shall have judgment thereon for his costs.

SEC. 119. Any person who shall make unlawful or forcible entry into lands, and shall either peaceably or forcibly detain the same against any person having right to possession thereof, or any person having peaceably obtained the possession of lands, who shall unlawfully and forcibly keep the same against any person having right to the possession thereof, may be ousted from such premises, and the possession thereof restored to the person entitled to the same, and damages for the retention recovered, on complaint by him made in the same manner as provided in the case of tenants holding over.

OF APPEALS.

SEC. 120. In all civil cases, where it is not otherwise provided, either party may appeal from the final judgment of any justice of the peace to the circuit court.

SEC. 121. Where there are two or more plaintiffs or defendants, one or more of such plaintiffs or defendants may appeal without joining the others in such appeal.

SEC. 122. The party appealing shall, within ten days from the rendition of the judgment, file a notice of the appeal with the justice, and enter into an undertaking to the adverse party, with at least one good and sufficient surety, to be approved by the justice, in a sum not less than fifty dollars in any case, nor less than double the amount of the judgment and costs, conditioned that the appellant will prosecute his appeal to effect, and that, if judgment be rendered against him on the appeal, he will satisfy such judgment and costs. If the appellant be a non-resident, any person may enter into the undertaking in his stead.

SEC. 123. On the filing of such bond, the justice shall make out and certify a complete transcript of all the proceedings had before him, and transmit the same, together with such bond and all the other papers in the case, to the clerk of the circuit court, within twenty days thereafter, or, failing so to do, shall forfeit all his costs in the case; but no such appeal shall be dismissed for such failure of the justice.

SEC. 124. If it appear to the satisfaction of the circuit court that such bond is insufficient, the said appeal may be dismissed, unless the appellant, within a reasonable time, to be fixed by the court, file a sufficient bond.

SEC. 125. Upon the filing of the bond with the justice as aforesaid, all further proceedings before the justice shall cease and be stayed. If any execution has issued, the same shall be revoked.

SEC. 126. The clerk of the circuit court, on the receipt of the transcript from the justice, shall docket the appeal, and issue a notice of such appeal to the appellee. If the appellee be a non-resident of this District, or absent from the same, the notice may be served upon his agent or attorney. If the appellant do not appear on or before the second day of the term next after such appeal be docketed, and file his petition, such appeal shall be dismissed and the judgment affirmed. The plaintiff before the justice shall be the plaintiff in the circuit court, and the parties shall proceed as in cases originally instituted before said court, and the said court shall render such judgment and issue such execution as shall be proper in the case.

SEC. 127. Such cause shall stand for trial in the circuit court at the first term after the filing of the transcript as aforesaid, subject to the power of the court to order the same to be tried during the term at which any transcript may be filed. The issue before the justice shall be tried in said court, without other or new pleadings, unless otherwise directed by the court.

SEC. 128. Costs shall follow judgment in the circuit court on appeals with the following exceptions:

1. If either party against whom judgment has been rendered, appeal and reduce the judgment against him five dollars or more, he shall recover his costs in the circuit court, when the appellant appeared before the justice.

2. If either party in whose favor judgment has been rendered,

appeal and do not recover at least five dollars more than he recovered before the justice, the appellee shall recover his costs in the circuit court.

But the foregoing exceptions shall not apply to any case pending on appeal in the circuit court when this Code takes effect.

MISCELLANEOUS PROVISIONS.

SEC. 129. A justice of the peace may punish as for contempt, persons guilty of the following acts, or any of them :

1. Disorderly, contemptuous, or insolent behavior towards the justice while holding the court, tending to interrupt the due course of a trial, or other judicial proceeding.

2. A breach of the peace, boisterous conduct, or violent disturbance in the presence of the justice, or in the immediate vicinity of the court held by him, tending to interrupt the due course of a trial, or other judicial proceeding.

3. Disobedience or resistance to any lawful order or process made or issued by him.

4. Disobedience to a subpoena duly served, or refusing to be sworn or answer as a witness.

5. Rescuing any person or property in the custody of any officer by virtue of any order or process issued by such justice.

SEC. 130. When a contempt is committed in the immediate view and presence of the justice, it may be punished summarily, for which an order shall be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein prescribed. When the contempt is not committed in the immediate view and presence of the justice, a warrant of arrest may be issued by such justice, on which the person so guilty may be arrested and brought before the justice immediately, when an opportunity to be heard in his defence, or excuse, shall be given. The justice may thereupon discharge him, or may convict him of the offence.

SEC. 131. A justice may punish for contempts by fine or imprisonment, or both ; such fine not to exceed in any case twenty dollars, and such imprisonment not to exceed one day. The conviction, specifying particularly the offence and the judgment thereon, shall be entered by the justice on his docket.

SEC. 132. Whenever there shall be no constable convenient, and, in the opinion of the justice, an emergency exists for the immediate services of one, such justice may appoint a special constable to act in a particular case; and shall note such appointment in such case on the docket, and shall direct process to him by his name; and such constable so appointed shall discharge the duties, receive the fees, and have the powers in such case appertaining to the office. The justice appointing such special constable shall, with his sureties, be liable on his official bond for any neglect of duty or illegal proceedings by such constable in such cause.

SEC. 133. No justice or constable shall purchase any judgment or interest therein rendered by any justice of the peace; and any such purchase shall operate as a satisfaction of such judgment to the extent of the interest therein purchased.

SEC. 134. Justices may receive money tendered them on any judgment on their docket, and shall pay over the same on proper demand to the person authorized to receive the same.

SEC. 135. When a judgment is obtained before any justice, and the execution defendant shall die after levy and before sale, the property levied on shall be sold in the same manner as if he was alive; but if no levy has been made in such case, such execution shall be returned without further proceedings, and its lien on the goods of the defendant divested; and if the plaintiff die after execution has issued, the same shall be executed and returned as if such plaintiff were living.

SEC. 136. Writs of scire facias before justices are abolished, and actions by complaint and summons substituted.

SEC. 137. The execution defendant shall be entitled to the custody of goods levied upon by virtue of any execution issued by any justice, by executing a delivery bond, with surety, payable to the execution plaintiff, under the rules and provisions prescribed in chapter ninety-four in respect to delivery bonds.

SEC. 138. In case of the sickness, or other disability, or necessary absence of a justice at the time appointed for trial, another justice may, at his request, attend in his behalf, and shall thereupon become vested with the power, for the time being, of the justice before whom the summons was returnable. In that case, the proper entry of the proceeding before the attending justice, subscribed by him, must be made in the docket of the justice before whom the writ was returnable.

If the case be adjourned, the justice before whom the summons was returnable must resume jurisdiction, if his disability has ceased.

SEC. 139. In all cases where it is not otherwise provided, proceedings before justices shall be governed by the practice and usages of the circuit court and the rules of the common law, so far as the same are in force in this District.

FORMS IN CIVIL ACTIONS.

SEC. 140. The following forms may be used by justices as nearly as circumstances will permit; but no writ or judgment shall be invalid for want of form if it contain the substance:

Summons.

DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county:

In the name of the United States, you are hereby commanded to summon A B to appear before me at my office, or before some other justice of the peace of Washington county, on the — day of —, —, at — o'clock in the — noon, to answer C D in a complaint wherein he claims — dollars; and return then and there this writ.

Given under my hand, this — day of —, —.

— —, *Justice of the Peace.*

Subpoena.

DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county:

In the name of the United States, you are hereby commanded to summon A B to appear before me at my office, on the — day of —, —, at — o'clock in the — noon, to testify on the part of the plaintiff, (or defendant, as the case may be,) in the case of C D vs. G H; and have then and there this writ.

Given under my hand, this — day of —, —.

— —, *Justice of the Peace.*

Venire.

DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county:

In the name of the United States, you are hereby commanded to summon — good and lawful men of your county, to be and

appear before me at my office, on the — day of —, —, at — o'clock in the — noon, to make a jury in the case of A B vs. C D; and have then and there this writ.

Given under my hand, this — day of —, —.

— —, *Justice of the Peace.*

Execution against goods and chattels.

DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county :

Whereas judgment against A B for the sum of — dollars, and for — dollars costs, was recovered on the — day of —, —, before the undersigned, (or before C D, whose term of office has expired, and a certified transcript of whose judgment is filed with the undersigned,) at the suit of G H: You are, therefore, in the name of the United States, commanded to levy on the goods and chattels, rights and credits, of the said A B not exempt by law, and make sale thereof according to law to the amount of said sum and all accruing costs; and make return thereof within forty days from date.

Given under my hand, this — day of —, —.

— —, *Justice of the Peace.*

Execution against body.

DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county :

Whereas judgment against A B for the sum of — dollars, and for — dollars costs, was recovered on the — day of —, —, before the undersigned, (or before C D, whose term of office has expired, and a certified transcript of whose judgment is filed with the undersigned,) at the suit of G H; and whereas an execution against the body has been awarded on said judgment against A B: You are, therefore, in the name of the United States, commanded to take said A B, and, unless he pay said judgment, costs, and accruing costs, commit him to jail until discharged by law.

Given under my hand, this — day of —, —.

— —, *Justice of the Peace.*

*Attachment.*DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county:

Whereas A B has filed with me the affidavit and bond necessary to entitle him to a writ of attachment against C D for the sum of — dollars, claimed to be due said A B from the said C D: You are, therefore, in the name of the United States, commanded to attach the goods, chattels, rights, credits, moneys, and effects of the said C D, except such as the law exempts, to be kept and disposed of according to law; and make legal return thereof.

Given under my hand, this — day of —, —.
 — —, *Justice of the Peace.*

*Order in replevin.*DISTRICT OF COLUMBIA, *Washington County, ss.*

To the marshal or any constable of said county:

In the name of the United States, you are hereby commanded to take the personal property mentioned and described in the within affidavit, and deliver the same to the plaintiff, upon receiving a proper bond.

Given under my hand, this — day of —, —.
 — —, *Justice of the Peace.*

Verdict and judgment in unlawful detention of lands.

We, the jury, find that A B did, at the commencement of this action, unlawfully detain from C D possession of the following described piece of land, to wit: (here describe it,) and that C D is entitled to the possession thereof, and to recover of said A B — dollars for its detention.

— —, *Foreman.*

It is therefore adjudged that the said C D have restitution of the premises in said verdict named, and that he recover of A B the sum of — dollars, with interest from this date, and costs, and accruing costs.

— —, *Justice of the Peace.*

*Writ of restitution, on complaint for unlawful detention of lands.*DISTRICT OF COLUMBIA, *Washington county, ss.*

To the marshal or any constable of said county:

In the name of the United States, you are hereby commanded forthwith to put C D in possession of the following described piece of land, to wit: (here describe it,) by removing therefrom A B and his goods; and that of the goods of the said A B, by distress and sale thereof, you make the sum of ——— dollars, with interest from ——— day of ———, ———, together with ——— dollars costs, and accruing costs, for which said C D has judgment against A B, as appears upon my docket; and of this writ make legal service and return.

—————, *Justice of the Peace.*

SEC. 141. In all other cases not herein provided for, justices may adopt and use the forms used in the circuit court in similar cases, with such variations as circumstances may require.

TITLE VI.**Miscellaneous provisions.**

- CHAPTER 118. Of attorneys and counsellors.
 CHAPTER 119. Of arbitrations and umpirages.
 CHAPTER 120. Causes of action that survive.
 CHAPTER 121. Of the assignment of judgments and decrees.
 CHAPTER 122. Of the change of names of persons and corporations.
 CHAPTER 123. Of rent, its recovery and apportionment.
 CHAPTER 124. Of contempts.
 CHAPTER 125. Of privilege from arrest.
 CHAPTER 126. Of petit jurors.
 CHAPTER 127. Miscellaneous provisions.

CHAPTER 118.**OF ATTORNEYS AND COUNSELLORS.**

SECTION

1. Who may be admitted as an attorney.
2. Circuit court may make rules as to admission.

SECTION

3. Certificate of admission to be a license.
4. Criminal court may admit attorneys.
5. Attorneys to take an oath.

SECTION

6. Attorneys of highest courts admitted to practise in this District.
7. Clerk to keep a roll of attorneys.
8. Persons not admitted, practising law, guilty of contempt.
9. } Power of courts as to suspension of at-
10. } torneys.
11. }

SECTION

12. Attorney responsible to client for neglect of duty.
13. How attorney may be proceeded against for failing to pay over money.
14. Parties may appear in person or by attorney.
15. Attorneys to have lien on execution.
16. Who shall not practise as an attorney.
17. Attorney to include counsellor.

SECTION 1. Any white male citizen of this District, of the age of twenty-one years, of good moral character, and who possesses the necessary qualifications of learning and ability, shall be entitled to admission as attorney in all the courts of this District.

SEC. 2. The circuit court shall have full power and authority, from time to time, to make such rules, subject to the provisions of this chapter, as said court shall deem proper, respecting the qualifications, examination, and admission of attorneys to practise in the several courts in this District.

SEC. 3. If the applicant be found duly qualified, the said court shall admit him as an attorney, and shall direct an order to be entered to that effect upon its records, and that a certificate of such record be given to him by the clerk of the court, which certificate shall be his license.

SEC. 4. The criminal court of this District shall have full power and authority to admit as an attorney in said court, any white male citizen of this District, of the age of twenty-one years, and of good moral character, who possesses the proper qualifications, and may direct the clerk of said court to give a certificate of such admission, which certificate shall be his license to practise in said court.

SEC. 5. Every person on his admission shall take an oath to support the constitution of the United States, and to discharge the duties of attorney to the best of his knowledge and ability. A certificate of such oath shall be endorsed on the license.

SEC. 6. Any person who shall have been admitted as an attorney in the highest courts of any State of which he is or was an inhabitant, may be admitted to practise as such in any of the courts of this District.

SEC. 7. The clerk shall keep a roll of attorneys of the court of which he is clerk, which shall be a record of the court.

SEC. 8. If any person shall practise law in any court of this District, except a justice's court, without having received a license as aforesaid, he shall be deemed guilty of a contempt of court, and be punished as in other cases of contempt.

SEC. 9. Any court before which any attorney has been admitted to practise, on proof being made to it that he has been convicted of a felony or misdemeanor involving moral turpitude, committed since his admission to practise, may suspend or annul his license.

SEC. 10. Each of the courts of record in this District shall have power to suspend or revoke the license of any attorney, as to such court, for any mal-practice therein, which mal-practice shall come under the observation of such court. Such party shall have an opportunity of being heard in his defence. The cause of such suspension or revocation shall be entered of record.

SEC. 11. Upon complaint in writing, verified by affidavit, made to the circuit court, of mal-practice by any attorney concerning any matter depending, or to be brought in any of the courts of this District, the party accused shall be summoned by said circuit court to show cause why an information should not be filed therein against him; and if such information be ordered, and the accused be found guilty, the said court may suspend his license for a time, or revoke it. Such suspension or revocation shall extend to practice in any of the courts of this District.

SEC. 12. Every attorney shall be liable to his client for any damages sustained by such client in consequence of any neglect of duty by such attorney.

SEC. 13. Every attorney receiving money belonging to his client, and refusing to pay the same when demanded, shall be liable to be proceeded against in the same manner as the marshal is for money received on execution and not paid over, and may be proceeded against as is provided in the eleventh section of this chapter.

SEC. 14. Parties may manage, prosecute, or defend their own suits personally, or by such attorney as they may see fit to engage, but no more than two persons for each party shall, without permission of the court, be allowed to manage any case therein.

SEC. 15. Every attorney who shall be lawfully possessed of an execution in favor of his client, shall have a lien thereon for the amount of his fees and disbursements in the cause, provided that this

shall not prevent the payment of the execution to the judgment creditor, by any officer or other person, without actual notice of the lien.

SEC. 16. Neither any judge or clerk of any court in this District, or the register of wills, or the recorder, or marshal, or the deputy of any such clerk, register, recorder, or marshal, shall be permitted to practise as an attorney or conveyancer, nor shall any such ask or receive any fee or reward for advice respecting anything to be brought before or depending in any of the courts of this District. No justice of the peace shall practise as an attorney in any justice's court in this District. If any person shall violate the provisions of this section, he shall, in every case not otherwise specially provided for, be fined a sum not exceeding five hundred dollars.

SEC. 17. The word attorney in this chapter shall be construed to include counsellor.

CHAPTER 119.

OF ARBITRATIONS AND UMPIRAGES.

SECTION

1. Controversies that may be submitted.
2. When submission not to be made.
3. Bonds to be executed.
4. In absence of agreement, either party may fix a time and place for hearing.
5. Arbitrators to be sworn.
6. Witnesses may be required to attend.
7. Award of a majority to be valid, unless otherwise stipulated.
8. The award must be in writing.
9. Fees to be the same as in cases before a justice of the peace.
10. Copy to be served on each party.
11. If either party fail to comply, the award may be filed in the circuit court, and rule issued.

SECTION

12. Award to be confirmed, unless vacated.
13. Causes for vacating an award.
14. For what causes an award may be modified.
15. } Judgment upon the award.
16. }
17. Costs as in civil cases.
18. When judgment may be enforced by attachment.
19. When proof shall be required by the court of submission, award, and service.
20. Submission and award according to common law, not precluded.
21. Fees of arbitrators.

SECTION 1. All persons, except infants, married women, and insane persons, may, by an instrument in writing, submit to the arbitration or umpirage of any person or persons, to be by them mutually chosen, any controversy existing between them which might be the subject

of an action, except as otherwise provided in the next succeeding section, and may agree that such submission be made a rule of the circuit court.

SEC. 2. No such submission shall be made respecting the claim of any person to any estate in fee, or for life to any real estate; but any claim to an interest in a term for years, or for one year or less, in real estate, and controversies respecting the partition of lands between joint tenants or tenants in common, or concerning the boundaries of lands, or concerning the assignment of dower, may be submitted to arbitration.

SEC. 3. When an agreement is made according to the preceding sections, the parties shall execute bonds, with condition to abide and faithfully perform the award or umpirage, specifying therein the name of the arbitrator or arbitrators, and the matters submitted to their determination, and an agreement to make the submission a rule of the circuit court. After the execution of such bonds, neither party shall have power to revoke such submission, without the consent of the other.

SEC. 4. As soon as such bonds are duly delivered, if no time and place be fixed by agreement, either party may appoint a time and place for the arbitrator or arbitrators to meet, by giving to the opposite party and to such arbitrator or arbitrators at least five days' written notice.

SEC. 5. Before proceeding to hear any testimony, such arbitrator or arbitrators shall be sworn faithfully and fairly to hear and examine the matters in controversy, and to make a just award, to the best of his or their understanding. Such oath, and oaths to witnesses, may be administered by any person authorized to administer oaths.

SEC. 6. Witnesses may be required to attend before arbitrators on behalf of either party by summons issued by any justice of the peace, in the same manner and subject to the same process and penalties for disobedience, to be enforced by such justice, as in trials before justices of the peace.

SEC. 7. As soon as the arbitrator or arbitrators are ready to proceed to business, the parties may exhibit their proofs. All the arbitrators must meet together and hear the allegations of the parties, but the award of a majority shall be valid, unless otherwise required by the submission. The arbitrators may adjourn the hearing, from time to time, as may be necessary.

SEC. 8. The award shall be in writing, and signed by the arbitrator or arbitrators agreeing thereto.

SEC. 9. The fees of the justice issuing process, and of the witnesses in such case, shall be ascertained and estimated by the arbitrators, and returned with the award, including therein their own proper fees.

SEC. 10. A true copy of the award, and of the costs aforesaid, shall be delivered to each of the parties, or left at his last usual place of residence, by any one of the arbitrators, within ten days after the signing of such award.

SEC. 11. If either of the parties shall fail or refuse to comply with such award, the other party may file the same, together with the agreement of submission, in the circuit court, and thereupon the said court shall grant a rule thereon, against the adverse party, to show cause, at that or the succeeding term of the court, why judgment should not be rendered by the court upon said award.

SEC. 12. Upon the return of the rule, the court shall cause such submission and award to be entered of record, and confirm the award and render judgment thereon, unless the award be vacated.

SEC. 13. In all cases where an award or umpirage shall be presented to the court for a judgment to be entered thereon, the adverse party may show for cause against the rendition of said judgment any of the following grounds:

1. That such award was obtained by fraud, corruption, or other undue means; or that there was evident partiality or corruption in the arbitrators, or any of them.

2. That the arbitrators were guilty of misconduct or committed gross error in refusing, on cause shown, to postpone the hearing, or in refusing to hear pertinent and material evidence, or otherwise acted improperly, in a manner by which the rights of the party were prejudiced.

3. That the arbitrators exceeded their powers in making their award; or that they refused, or improperly omitted, to consider a part of the matters submitted to them; or that the award is indefinite, or cannot be performed.

SEC. 14. Any party to such submission may move the court to modify or correct such award or umpirage in the following cases:

1. When there is an evident miscalculation of figures, or an

evident mistake in the description of any person, thing, or property referred to or mentioned in such award or umpirage, or any evident mistake apparent on the face of such award or umpirage.

2. When the arbitrators shall have awarded upon some matter not submitted, and not affecting the merits of the decision upon matters which were submitted.

3. When the award shall be imperfect in some matter of form, not affecting the controversy, and when, if it had been a verdict, such defect could have been properly amended or disregarded by the court.

Sec. 15. The court shall hear the proof and allegations of the parties to invalidate or sustain such award, and decide thereon, either confirming such award, or may modify and correct the same in the cases prescribed in the last preceding section so as to effect the intent thereof, and shall render judgment on such original or corrected award; or the court may vacate such award for any of the causes hereinbefore specified, at the cost of the parties seeking to enforce such award.

Sec. 16. If such award be confirmed, judgment shall be given in favor of the party to whom any sum of money or damages shall have been awarded, that he recover the same; and if the award shall have ordered any act to be done by either party, judgment shall be entered that such act be done according to such award.

Sec. 17. The costs of the proceedings in court shall be as in civil actions; and if no provision for the fees and expenses of the arbitration shall have been made in the award, the court shall make the allowance therefor.

Sec. 18. When by any judgment of the court on the award, any party shall be required to perform any act other than the payment of money, the court shall have power to enforce the same by attachment until the terms of such judgment shall be complied with.

Sec. 19. If the rule to show cause why judgment should not be rendered on the award be not served personally on the party against whom it was issued, the court shall require proof of the submission and award, and of service of the award.

Sec. 20. Nothing in this chapter contained shall preclude the submission and arbitration of controversies according to the common law.

Sec. 21. Arbitrators shall be allowed five dollars per day each for their services, when there is no agreement otherwise.

CHAPTER 120.

CAUSES OF ACTION THAT SURVIVE.

SECTION

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| 1. }
2. } | What actions do and what do not survive. |
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SECTION

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| 3. | When death ensues an action may be maintained. |
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SECTION 1. All causes of action shall survive except where otherwise provided in this chapter.

SEC. 2. All causes of action for an injury to the person or reputation shall survive against the personal representatives of the person committing the injury in favor of the party injured. If such action be brought by the party injured in his lifetime, it shall survive also in favor of his personal representatives against the person committing the injury and his personal representatives. If it be not so brought, it shall not survive, except in the case mentioned in the following section.

SEC. 3. When the death of one is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter and his personal representatives. Such action must be commenced within two years, and the damages recovered shall inure to the exclusive benefit of the widow and children, if any, of the deceased, to be distributed in the same manner as his personal property.

CHAPTER 121.

OF THE ASSIGNMENT OF JUDGMENTS AND DECREES.

SECTION

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| 1. | Judgments may be assigned. |
| 2. | Payments before actual notice valid. |
| 3. | How execution shall issue. |

SECTION

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| 4. | How actions may be maintained by or against assignees. |
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SECTION 1. Judgments and decrees of a court of record for the recovery of money, and judgments obtained before a justice of the peace, may be assigned by the plaintiff or complainant, and the assignees thereof, successively, by an entry on the judgment docket; which assignment shall vest the title to such judgment or decree in each assignee thereof successively.

Sec. 2. Payments or satisfaction on such judgment or decree to the assignor shall be valid if made before actual notice of the assignment to judgment debtor, but not otherwise.

Sec. 3. In case of assignment, execution shall issue in the name of the original plaintiff or complainant, but shall be endorsed, by the clerk or justice, to be for the use of the assignee.

Sec. 4. Any action or proceeding on such judgment or decree which could have been had by or against the plaintiff or complainant, may be maintained by or against such assignee in his own name.

CHAPTER 122.

OF THE CHANGE OF NAMES OF PERSONS AND CORPORATIONS.

SECTION

1. Circuit court may change the names of resident persons or corporations.
2. Public notice to be given by applicant.

SECTION

3. Court, on proof of publication, may make the proper order.

SECTION 1. The circuit court may change the names of persons and corporations on application by petition. The applicant, if a person, must be a resident within this District; and if a corporation, must have its principal office located therein.

Sec. 2. Upon a petition being filed for such change, the applicant shall give notice thereof, by at least four weekly publications in some newspaper published in Washington City, twenty days prior to the first day of the term at which such petition shall be heard.

Sec. 3. Upon proof of the publication required by this chapter, the court shall proceed to hear and determine such petition, and make such order therein as shall seem just and proper.

CHAPTER 123.

OF RENT, ITS RECOVERY AND APPORTIONMENT.

SECTION

1. How rent may be recovered.
2. How warrant of distress may be obtained.
3. What may be distrained.
4. Upon what terms holder of a lien may remove goods subject to rent.
5. When officer may enter by force to levy a distress.

SECTION

6. Distress not void for subsequent irregularity.
7. Proceedings where rent is reserved otherwise than in money.
8. Apportionment of rent, hire, or money, in case of death of one interested.

SECTION 1. Rent of every kind may be recovered by distress or by action. It may be recovered from the lessee or other person owing it, or his assignee, or the personal representatives of either. It shall not, however, be recovered from a mortgage not in possession, or a trustee not in interest, except by express agreement.

SEC. 2. Rent may be distrained for, within three years from the time it becomes due, and not afterwards, whether the lease be ended or not. The distress shall be made by the marshal or any constable, under a warrant from a justice of the peace, founded upon an affidavit of the person claiming the rent, or his agent, that the amount of money or other thing to be distrained for, (to be specified in the affidavit,) as he verily believes, is due to the claimant for rent reserved upon contract from the person from whom it is claimed.

SEC. 3. The distress may be levied upon any goods and chattels of the lessee, or his assignee or under-tenant, found on the premises, or which may have been removed therefrom not more than thirty days; but the goods and chattels of the under-tenant shall be liable only for rent becoming due after his under-tenancy commenced. If the goods and chattels of such lessee, assignee, or under-tenant, when carried on the premises, are subject to a lien which is valid against his creditors, his interest only in such goods and chattels shall be liable to distress. If any lien be created thereon while they are upon the leased or rented premises, they shall be liable to distress, but for not more than one year's rent, whether it shall have accrued before or after the creation of the lien. No distress shall be levied on any goods and chattels exempt from execution; and no other goods and chattels shall be liable to distress than such as are declared to be so liable by this section.

SEC. 4. If, after the commencement of any tenancy, a lien be obtained or created by deed of trust, mortgage, or otherwise, upon the interest or property in goods and chattels on premises leased or rented, of any person liable for the rent, the party having such lien may remove said goods and chattels from the premises, if in other respects entitled so to do, upon his paying to the person entitled to the rent so much as is in arrear, and securing to him so much as is to become due, the whole amount paid and secured not being more, altogether, than a year's rent in any case. Nothing in this or the preceding section shall affect any lien for taxes.

SEC. 5. Any officer having such distress warrant, if there be need for it, may, in the day time, break open and enter into any house or close in which there may be goods liable to the distress; and may either in the day or night break open and enter into any house or close wherein there may be any goods so liable which have been fraudulently or clandestinely removed from the leased or rented premises.

SEC. 6. Where distress shall be made for rent justly due, and any irregularity or unlawful act shall be afterwards done by the party distraining or his agent, the distress shall not be deemed to be unlawful, nor the party making it be therefore deemed a trespasser from the beginning; but the party aggrieved by such irregularity or unlawful act may, by action, recover full satisfaction for the special damage he shall have sustained thereby.

SEC. 7. Where goods are distrained for rent reserved in a share of the crop, or in any other thing than money, the claimant of the rent having given the tenant ten days' notice, or if the tenant be out of this District, having set up the notice in some conspicuous place on the premises, may apply to the circuit court; and said court having ascertained the value, either by its own judgment, or, if either party require it, by the verdict of a jury empaneled without pleading, may order the goods distrained to be sold, to pay the amount so ascertained.

SEC. 8. On the determination by death or otherwise of the estate or other thing, from or in respect of which any rent, hire, or money coming due at fixed periods, issues, or is derived, or on the death of any person interested in such rent, hire, or money, the person or the personal representative or assignee of the person who would have been entitled but for such death or determination to the rent, hire, or money coming due at any such period, shall have a proportion thereof, according to the time which shall have elapsed of the time for which the said rent, hire, or other money was growing due, including the day of such death or determination, deducting a proportional part of the charges. For the recovering of such proportion, the said person, representative, or assignee shall, after such fixed period, have such remedies as he would have had for recovering the whole of such rent, hire, or other money, if entitled thereto.

CHAPTER 124.

OF CONTEMPTS.

SECTION

1. What shall be deemed contempts.
2. When the contempt is committed in presence of the court or judge.
3. Attachment may issue.
4. } Proceedings upon attachment.
5. }
6. }
7. }

SECTION

8. }
9. } Proceedings upon the return of the attachment.
10. }
11. }
12. Judgment to be final.
13. What offences before referees or arbitrators shall be deemed contempts.
14. What offences before a commissioner to take depositions shall be deemed contempts.

SECTION 1. The following acts or omissions shall be deemed contempts :

1. Disorderly, contemptuous, or insolent behavior towards the court, or any judge thereof whilst holding court, or whilst engaged in judicial duties at chambers, tending to interrupt the due course of a trial or other judicial proceeding.

2. A breach of the peace, boisterous conduct, or violent disturbance in presence of the court or its immediate vicinity, tending to interrupt the due course of a trial or other judicial proceeding.

3. Disobedience of, or resistance to, any lawful writ, order, rule, or process issued by the court, or judge at chambers.

4. Disobedience of a subpoena duly served, or refusal to be sworn as a witness, or to subscribe an affidavit or deposition when required.

5. Rescuing any person or property, in the custody of any officer by virtue of an order or process of the court, or judge at chambers.

6. Any other act or omission specifically declared by statute to be a contempt.

SEC. 2. When a contempt is committed in the immediate view and presence of the court, or judge at chambers, it may be punished summarily; for which an order shall be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein prescribed. When the contempt is not committed in the immediate presence of the court, or judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt.

SEC. 3. When the contempt is not committed in the immediate view and presence of the court or judge, a warrant of attachment may be issued to bring the person charged, to answer.

SEC. 4. Whenever a warrant of attachment is issued pursuant to this chapter, the court or judge shall direct whether the person charged may be let to bail for his appearance upon the warrant, or detained in custody without bail; and if he may be bailed, the amount in which he may be let to bail. The directions given in this respect shall be specified in the warrant or endorsed thereon.

SEC. 5. Upon executing the warrant of attachment, the marshal shall keep the person in custody, bring him before the court or judge, and detain him until an order be made in the premises, unless the person arrested entitle himself to be discharged, as provided in the next succeeding section.

SEC. 6. When a direction to let the person arrested to bail is contained in the warrant of attachment or endorsed thereon, he shall be discharged from the arrest upon executing and delivering to the officer, at any time before the return day of the warrant, a written undertaking, with two sufficient sureties, to the effect that the person arrested will appear on the return day of the warrant, and abide the order of the court or judge thereupon, or they will pay as may be directed the sum specified in the warrant.

SEC. 7. The officer shall return the warrant of attachment and the undertaking, if any, received by him from the person arrested, by the return day specified therein.

SEC. 8. When the person arrested has been brought up or appeared, the court or judge shall proceed to investigate the charge, and shall hear any answer which the person arrested may make to the same, and may examine witnesses for or against him, for which an adjournment may be had from time to time, if necessary.

SEC. 9. Upon the answer and evidence taken, the court or judge shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he is guilty of the contempt, a fine may be imposed on him not exceeding two hundred dollars, or he may be imprisoned not exceeding four days, or both.

SEC. 10. When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be

imprisoned until he shall have performed it, and in that case the act shall be specified in the warrant of commitment.

SEC. 11. When the warrant of attachment has been returned served, if the person arrested do not appear on the return day, the court or judge may issue another warrant; or may order the undertaking to be prosecuted, or both. If the undertaking be prosecuted, the measure of damages in the action shall be the extent of the injury or loss sustained by the aggrieved party by reason of the misconduct for which the warrant was issued, and the costs of the proceedings.

SEC. 12. The judgment and orders of the court or judge made in cases of contempt shall be final and conclusive. The punishment shall be by fine or by imprisonment, but no fine shall exceed the sum of two hundred dollars, and no imprisonment shall exceed the period of four days, except as is provided in section ten of this chapter.

SEC. 13. Disorderly, contemptuous, or insolent behavior towards referees or arbitrators sitting on a reference or arbitration, tending to interrupt the due course of the same, may be punished as a contempt by the circuit court, or by a judge thereof in vacation, in the manner hereinbefore provided, upon an affidavit being presented to the court or judge of the facts constituting the contempt.

SEC. 14. Disorderly, contemptuous, or insolent behavior towards any person duly authorized by law to take depositions within this District, or duly appointed by any State or Territory of the United States to take depositions within this District, whilst engaged in the taking of depositions, tending to interrupt the same, or disobedience of a subpoena issued by such person and duly served, or refusal to be sworn or answer as a witness, or to subscribe an affidavit or deposition when required by such person, may be punished as a contempt by the circuit court, or any judge thereof in vacation, in the manner hereinbefore provided, upon an affidavit being presented to the court or judge of the facts constituting the contempt. If such person authorized to take depositions be a justice of the peace, this section shall not apply; but the offending party in such case may be proceeded against in the manner provided in cases of contempts before justices.

CHAPTER 125.

OF PRIVILEGE FROM ARREST.

SECTION

1. Who shall be privileged from arrest.
2. Service of summons may be made.

SECTION

3. Persons wrongfully arrested may be discharged on motion, or habeas corpus.
4. Attachment of contempt, a civil process.

SECTION 1. The following persons shall be privileged from arrest on civil process, and from obeying any subpoena to testify:

1. All voters, during attendance at and going to and returning from elections.
2. Members of the levy court, during the session of said court, and while going to and returning from the same.
3. Justices of the peace, while engaged in hearing any trial.
4. All persons while engaged in necessary attendance upon any court, and in going to and returning from the same.
5. All persons while actually engaged in the discharge of military duty.

SEC. 2. Nothing in the preceding section contained shall be so construed as to privilege any person therein named from being served at any time with a summons or notice to appear.

SEC. 3. Any person arrested contrary to the provisions of this chapter shall be forthwith discharged, on motion before the court issuing the process, or on habeas corpus, at the costs of the officer making the arrest.

SEC. 4. An attachment of contempt, in not obeying the command of a subpoena to testify, shall be deemed a civil process within the meaning of this act.

CHAPTER 126.

OF PETIT JURORS.

SECTION

1. Who shall furnish lists of persons subject to assessment.
2. Clerks and recorder to deposit one hundred and fifty names in a box.
3. Marshal to draw twenty-six names from the box.

SECTION

4. Court may order marshal to summon talesmen.
5. Persons serving as jurors not again to be required to serve until others have served.
6. Who are competent to serve as jurors.

SECTION

7. Who shall be exempt from liability to serve as jurors.
8. When a person may be excused from serving as a juror.
9. Who may be jurors when Washington, Georgetown, or the county may be interested.

SECTION

10. When exception or challenge must be taken.
11. When a challenge to the panel must be taken, and when only it shall be allowed.
12. Court may discharge jury at any time.
13. Compensation of jurors.

SECTION 1. It shall be the duty of the register of Washington City, and of the respective clerks of the corporation of Georgetown and the levy court of Washington county, within one month after the passage of this act, and on or before the first day of February annually thereafter, to furnish to the clerks of the circuit and criminal courts of this District, respectively, lists of all white male persons within the said jurisdictions, respectively, subject to assessment.

SEC. 2. On the fourth Monday before the commencement of any term of the circuit or criminal court, the clerk of the circuit court, the clerk of the criminal court, and the recorder, shall write, on separate slips of paper, the names of one hundred and fifty respectable householders, competent to serve as jurors, selected from said lists, and distributed as nearly as may be between Washington City, Georgetown, and Washington county, in proportion to population, and deposit such slips in a box to be provided for that purpose. If any of the officers mentioned in this section are interested in any action or proceeding pending in said circuit or criminal courts, the chief judge of the circuit court may appoint some fit and proper person to discharge said duty in his stead.

SEC. 3. The marshal, in the presence of any judge of the circuit or criminal court, shall draw from such box the names of twenty-six persons to serve as petit jurors for such term, who shall accordingly be summoned at least five days before the commencement of the term for which they are to serve. If the persons so selected do not appear, the court may order the marshal to summon other reputable householders to supply the deficiency.

SEC. 4. If at any time there should not be, by reason of challenge or otherwise, a sufficient number of jurors present to make up the panel, the court shall order the marshal to summon a sufficient number of talsmen to make up the deficient number.

SEC. 5. The jurors whose names are drawn from the box under the provisions of the third section of this chapter, and who shall have

served as jurors for any term, shall not have their names again deposited in said box until at least two-thirds of those who were qualified to serve, at the time their names were drawn, have served.

SEC. 6. A person shall not be competent to act as a juror unless he be a citizen of the United States, a resident of this District, over twenty-one and under sixty-five years of age, and in the possession of his mental faculties; nor shall any person be competent to act as a juror who has been convicted of a felony or misdemeanor involving moral turpitude.

SEC. 7. A person shall be exempt from liability to act as a juror, if he be—

1. A judicial officer;
2. Any civil officer of this District or of the United States, whose duties are, at the time, inconsistent with his attendance as a juror;
3. An attorney or counsellor;
4. A minister of the gospel, or priest of any denomination;
5. A teacher in a college, academy, or school;
6. A practising physician;
7. An officer, keeper, or an attendant of an alms house, poor house, hospital, asylum, or other charitable institution, created by or under the laws of this District;
8. The captain, master, or other officer, or any person employed on board of a steamer, vessel, or boat, navigating the waters of this District; also keepers of public ferries.

SEC. 8. A person may be excused by the court from acting as juror, when, for any reason, his interests or those of the public will be materially injured by his attendance, or when he is a party in any action or proceeding to be tried or determined by the intervention of a jury at the term for which he may be summoned, or when his own health, or the death or sickness of a member of his family, requires his absence.

SEC. 9. Citizens of Washington City, Georgetown, or of that part of Washington county which lies outside of said cities, if otherwise qualified, shall be competent jurors in a case or proceeding wherein either or all of said places may be interested.

SEC. 10. No exception or challenge shall be taken to a juror after he shall have been sworn, unless by leave of the court; nor shall any verdict be set aside for any exceptions to a juror which would have been good cause of challenge.

SEC. 11. A challenge to the panel shall only be allowed in the case of a material departure from the forms prescribed by law in respect to the drawing and return of the jury. Such challenge shall be taken before the jury is sworn, and shall be in writing, specifying plainly and distinctly the facts constituting the ground of challenge. The court shall try the sufficiency and truth of such challenge.

SEC. 12. The court, at any time during the term, may discharge the whole or any number of the jurors, when their services are not required; after such discharge, at the same term, should a jury be required, the court shall direct the marshal to summon one from other competent residents of this District.

SEC. 13. Jurors shall be entitled to two dollars for each day's services, counting, in case of the regular panel, from the commencement of the term to the time of their discharge, and deducting the days on which they shall not have attended. Those casually summoned shall only be paid for the time they actually serve.

CHAPTER 127.

MISCELLANEOUS AND GENERAL PROVISIONS.

SECTION

1. Writing to a person dead at the time of its execution valid.
2. Joint obligations may be enforced against representative of deceased.
3. Provision as to tender.
4. Where christian name is abbreviated.
5. How a partnership, company, or association, not incorporated, may be proceeded against.
6. Person injured by violation of a statute may recover damages.
7. Insulting words actionable.
8. Any case seven years pending, may be discontinued.
9. Courts or officers authorized to take bail or surety may examine a party on oath.

SECTION

10. When new party introduced, he is entitled to notice.
11. Notice to be given in writing.
12. Marshal may discharge debtor, if maintenance be not paid.
13. Rule as to actions already commenced.
14. } Rules of construction, and provisions
15. } as to the operation and effect of the
16. } Code.
17. }
18. No discontinuance, when day for commencing any term is changed.
19. No discontinuance of any cause or matter pending in any court on the day before this Code takes effect.

SECTION 1. A bond, note, or other writing to a person who is dead at the time of its execution shall be as valid as if such person were then alive, and may be proceeded on in the name of the representative of such person.

SEC. 2. The representative of one bound with another either jointly or as partner, by judgment or otherwise, for the payment of a debt, or the performance or forbearance of an act, or for any other thing, and dying in the lifetime of the latter, may be charged in same manner as such representative might have been charged if those bound jointly or as partners had been bound severally as well as jointly, otherwise than as partners.

SEC. 3. If an action be brought on any writing obligatory, promise, or contract, for the payment of money, and the defendant shall answer and prove that he did tender payment of the money due on such writing obligatory, promise, or contract, at the time and place where he was holden to pay the same, or at any time before the commencement of said action thereon, and shall bring into court the money so due and tendered, the plaintiff shall not have judgment for more than the money so due and tendered, without costs, and shall pay the defendant his costs.

SEC. 4. In all actions upon bills of exchange, or promissory notes, or other written instruments, whenever any of the parties thereto are designated by the initial letter or letters, or some contraction of the christian or first name or names, it shall be sufficient to designate such person by the same initial letter or letters or contraction of the first name or names, instead of stating the christian name or the first name or names in full.

SEC. 5. Any company or association of persons formed for the purpose of carrying on any trade or business, or for the purpose of holding any species of property in this District, and not incorporated as such, may be sued by such usual or ordinary name as such company, partnership, or association may have assumed to itself or be known by, unless the names of the persons composing such company, partnership, or association be disclosed by a sign, in letters easy to be read, placed conspicuously at the place where such trade or business is conducted; and in such case, it shall not be necessary to set forth in the process or pleadings, or to prove at the trial, the names of the persons composing such company, partnership, or association. Process against any such company, partnership, or association may be served by leaving a copy thereof at their usual place of business; and execution issued on any judgment rendered in such proceedings shall operate only on the partnership property. If such execution

be returned unsatisfied in whole or in part, any one or more persons composing such company, partnership, or association may be summoned to show cause why he or they should not be bound by the judgment in the same manner as if he or they had been originally summoned, and proceedings may be had therein, and judgment rendered, and execution issued, as in other cases. The remedies given by this section shall be construed as being in addition to such as otherwise exist against companies, partnerships, or associations.

SEC. 6. Any person injured by a violation of a statute may recover from the offender such damages as he may sustain by reason of the violation, although a penalty or forfeiture for such violation be thereby imposed, unless the same be expressly mentioned to be in lieu of such damages.

SEC. 7. All words which from their usual construction and common acceptance are construed as insults, and tend to violence and breach of the peace, shall be actionable.

SEC. 8. Any court in which is pending any case wherein for more than seven years there has been no order or proceeding but to continue, may, in its discretion, order such case to be struck from its docket; and it shall thereby be discontinued. Any such case, upon good cause shown, may be reinstated, on motion, within two years from the date of such order, but not after.

SEC. 9. Every court and officer authorized to take any bail or surety shall have power to examine on oath the person offering to become such bail or surety, concerning his property and sufficiency as such bail or security.

SEC. 10. When a new party is introduced into an action as a representative or successor of a former party, such new party shall be entitled, except where otherwise expressly provided, to the same notice, to be given in the same manner as required for defendants in the commencement of an action.

SEC. 11. In all cases where notice is required by this Code, except where otherwise provided, it must be in writing.

SEC. 12. No person shall be detained in jail by virtue of any execution issued by any judgment creditor, unless such judgment creditor, his agent, or attorney, shall, on demand of the marshal, pay the cost of the maintenance of the debtor in jail, or give such security therefor as shall be satisfactory to the marshal. If such sum

be not paid or such security given, the debtor may be discharged, and no execution against the body of such debtor shall again issue upon such judgment.

SEC. 13. In actions already commenced, the pleadings to be had to form issues, the manner of procuring testimony, the examination of witnesses, the trial and rendition of judgment, and all other proceedings, shall conform to the provisions of Part III of this Code as far as practicable.

SEC. 14. The provisions of Part III of this Code shall be liberally construed.

SEC. 15. No part of this Code shall be retroactive, unless expressly so declared. The liens of judgments and decrees rendered when it takes effect, shall be preserved.

SEC. 16. All rights of action secured by existing laws may be prosecuted, subject to the provisions of the next succeeding section, in the manner provided by this Code. If ever a case arise in which an action for the enforcement or protection of a right, or the redress or prevention of a wrong, cannot be had under the provisions of this Code, the practice heretofore in use, subject to such modifications as may be ordered by the court, may be adopted, so far as may be necessary to prevent a failure of justice.

SEC. 17. Where by any statute in force a civil action, legal or equitable, is given, and the mode of proceeding therein is prescribed, the same may be followed; but in all such cases, as far as may be consistent with the statute giving such action, and practicable, the proceedings shall be conducted in conformity to this Code. Where the statute designates by name or otherwise the kind of action, but does not prescribe the mode of proceeding therein, such action shall be commenced and prosecuted in conformity to the provisions of Part III of this Code. Where the statute gives an action, but does not designate the kind of action, or prescribe the mode of proceeding therein, such action shall be held to be a civil action, to be commenced and prosecuted in conformity to the provisions of Part III of this Code.

SEC. 18. When the day for commencing any term of a court is changed, there shall be no discontinuance, but every notice, recognizance, or process given, taken, or returnable to the day fixed before such change, and all matters ready for the court to act upon if it had

been held on any such day, shall be in the same condition and have the same effect as if given, taken, or returnable or continued to the substituted term.

SEC. 19. Nothing in this Code shall operate to discontinue any cause or matter, civil or criminal, which shall be depending and undetermined in any court on the day before this Code takes effect; but every such cause and matter shall be proceeded in, tried, and determined in such court. The papers and records of such causes and matters, and all books, records, and papers whatever, which on said day may be in the custody of any clerk or register of a court, shall remain in the custody of the clerk or register of the same, or be delivered over to the proper clerk, or recorder, as the case may be.

PART IV.

ORGANIZATION OF THE CRIMINAL COURT OF THE DISTRICT OF COLUMBIA; OF CRIMES AND THE PUNISHMENT THEREOF, AND PROCEEDINGS IN CRIMINAL CASES.

TITLE I.

CHAPTER 128.

OF THE CRIMINAL COURT OF THE DISTRICT OF COLUMBIA.

SECTION

1. The criminal court of the District of Columbia continued.
2. Tenure of present judge; and vacancy, how filled.
3. Judge to take oath.
4. } Jurisdiction of the criminal court.
5. }
6. Criminal court to be a court of record, and to have a seal.
7. Terms of court, ordinary and special.
8. Power of judge to make rules.
9. Power of criminal court to issue necessary writs, &c.
10. Power of judge to administer oaths, and punish contempt.
11. }
12. }
13. } Powers of court and judge in general.
14. }
15. }

SECTION

16. Salary of judge of criminal court.
17. } By whom criminal court held, in case
18. } of the death, sickness, or other disability of judge.
19. Effect of such proceeding.
20. Record may be certified to the circuit court, when accused is related to the judge of the criminal court.
21. All writs tested in name of the judge of the criminal court.
22. Matters not determined, to be continued to next term.
23. When execution of sentence to be stayed.
24. Questions of law; how adjourned to circuit court.
25. Judge of criminal court may appoint a clerk.
26. Clerk to take oath and give bond.
27. Powers, duties, and disabilities of clerk.

SECTION 1. The criminal court of the District of Columbia, consisting of one judge, shall continue, and said court and the judge thereof shall have and exercise such jurisdiction and powers as are hereinafter conferred.

SEC. 2. The present judge of the said criminal court shall continue to hold his office according to the tenor of his commission, and as a

vacancy occurs it shall be filled by appointment, made by the President of the United States, by and with the advice and consent of the Senate.

SEC. 3. Every person who shall be appointed a judge of the said criminal court shall, before he exercises any of the duties of his office, take an oath that he will administer justice without respect to persons, and that he will faithfully and impartially discharge all the duties incumbent on him as a judge of the criminal court of the District of Columbia, according to the best of his abilities and understanding, and agreeably to the constitution and laws of the United States and the laws of the District of Columbia.

SEC. 4. The said criminal court shall, except when otherwise expressly provided by law, have exclusive jurisdiction in the trial and punishment of all crimes and offences committed within the District, and also in the recovery of all fines, forfeitures, and penalties arising under the laws thereof, except such as shall accrue wholly to any other party than the United States.

SEC. 5. The criminal court and judge thereof shall, except so far as is otherwise expressly provided, have the same jurisdiction in the trial and punishment of crimes and offences against the laws of the United States as is vested in the circuit courts of the United States, or the judges thereof, by the acts of Congress of the United States now in force or hereafter to be passed.

SEC. 6. The criminal court shall be a court of record, and shall have an appropriate seal, to be devised by the judge thereof, a description of which shall be filed with the clerk of said court, and be recorded by him.

SEC. 7. The said criminal court shall hold three terms in each year, in the city of Washington: the first beginning on the first Monday of March; the second beginning on the first Monday in June; and the third beginning on the first Monday of December; and the judge of said court shall have power to hold special terms thereof, when it shall appear proper to him to order the same; of which order ten days' public notice shall be given previous to the time of holding such special term.

SEC. 8. The judge of the criminal court shall have power to make all needful rules, not inconsistent with law, for regulating the practice of said court, and for conducting speedily and orderly the business thereof, and may revise the same from time to time.

Sec. 9. The judge of the criminal court shall have power to issue all such executions, and other writs and processes, and to do all such other acts, as may be necessary and proper to carry into full effect the powers and authority given by law to said court.

Sec. 10. The judge of the criminal court shall have full power to administer necessary oaths or affirmations, and to punish by fine and imprisonment, or either, all contempts.

Sec. 11. The criminal court shall have power to hear and determine upon all errors and matters of fact that may happen in the proceedings depending therein, and to cause to be corrected any clerical errors that may happen in making up the records of said court.

Sec. 12. The criminal court shall have power to compel the attendance of witnesses and jurors by attachment and fine, and to fine the marshal, or his deputies, or the coroner, or elizors, for not returning any writ or process issued by said court, or for disobeying any of its lawful orders.

Sec. 13. The judge of the criminal court shall be a conservator of the peace. He shall also have power to take all necessary recognizances, and obligations for good behavior, to keep the peace, and to appear or to answer any offence or criminal charge in the court having jurisdiction thereof.

Sec. 14. The judge of the criminal court may order any person presented or indicted to be committed to jail for want of security; may render judgment against such as plead guilty; may receive the submission of any person presented or indicted for any offence punishable by fine or imprisonment, or both; and may, without a jury, and with the consent of the party so presented or indicted, hear and consider the evidence and the law, and either acquit or pass sentence against such party accordingly.

Sec. 15. The judge of the criminal court, on being satisfied by a prisoner indicted for any crime or offence that he is too poor to employ counsel, may, on the request of such party, assign him counsel; and the counsel so assigned shall faithfully defend the cause of such prisoner, to the best of his skill, without fee or reward.

Sec. 16. The judge of the criminal court shall receive an annual salary of thirty-five hundred dollars; to be paid in quarterly payments out of the treasury of the United States, and in the same proportion for any part of a quarter.

SEC. 17. If the judge of the criminal court shall be prevented by sickness or other disability from holding any stated or appointed term thereof, or if there be no judge of the criminal court at the time for holding a stated or appointed term of said court, it shall be the duty of the clerk thereof to certify any such case to the chief judge of the circuit court, and thereupon the said chief judge shall hold the said criminal court, and perform the judicial duties of judge thereof; and in case of sickness, death, or other disability, of the chief judge of the circuit court, the same duty shall devolve on the senior assistant judge of the circuit court.

SEC. 18. If after the criminal court shall have commenced its session the judge thereof be taken sick, so as not to be able to continue the session of said court from day to day, until the business of the term is disposed of, it shall be lawful for him, or, in his absence, for the clerk of said court, to adjourn the same from day to day, or from week to week, until such time as said judge shall be able to attend to the business of the court; when the same shall be resumed as if the session had not been interrupted. But if such sickness of the judge shall continue for the space of one month, the provisions of preceding section shall apply, and said court shall be held as therein provided.

SEC. 19. The acts or proceedings in the said criminal court, by or before the chief judge of the circuit court, or senior assistant judge thereof, required by the next two preceding sections, shall have the same force, effect, and validity, as if done and transacted by or before the judge of the criminal court. The said chief judge, or senior assistant judge of the circuit court, shall be empowered to sit in the circuit court in any case of a writ of error from his own judgment in said criminal court, in the same manner as if the criminal court had not been held by him.

SEC. 20. If in any case the parties accused, or any of them, shall be related by consanguinity or affinity to the judge of the criminal court, such case, and the record and proceedings therein, may, in the discretion of the said judge, be certified by the clerk of the criminal court to the circuit court, to be there tried and determined. And in any such case, upon conviction, the circuit court shall have full power to pass and execute sentence.

SEC. 21. All writs and processes which shall issue from the criminal court shall be tested in the name of the judge thereof.

SEC. 22. When at any term of the criminal court a jury shall be empaneled to try any issue, and it shall happen that no verdict shall be found, nor the jury otherwise discharged before the day appointed by law for the commencement of the next succeeding term, the said court shall, nevertheless, proceed with the trial by the same jury in every respect as if such term had not commenced; and all subsequent proceedings to final judgment, if such judgment shall be rendered, shall be entered, and have legal effect and operation, as of the term at which the jury shall have been empaneled.

SEC. 23. In all cases where the judgment of the criminal court shall be death, or confinement in the penitentiary or jail, said court shall, on the application of the convicted party, in order to enable him to apply for a writ of error, postpone the final execution of such judgment for a reasonable time beyond the next stated term of the circuit court, not exceeding in any case thirty days after the end thereof.

SEC. 24. The criminal court may, in any case, with the consent of the person accused, adjourn any question of law to the circuit court, which may be there argued and decided, though such accused person be not present.

SEC. 25. The judge of the criminal court shall have power to appoint a clerk to said court, to serve as such during the pleasure of said judge.

SEC. 26. Every clerk of the criminal court shall, before entering upon the duties of his office, be sworn by the judge of said court to the faithful discharge of the same. He shall likewise give, in manner aforesaid, a bond to the United States, to be approved by said judge, in a sum not less than ten thousand dollars, with two sufficient sureties, conditioned for the faithful discharge of the duties of his office.

SEC. 27. The clerk of the criminal court shall have the same powers, shall discharge like duties, and be subject to like disabilities as are hereinbefore conferred or imposed by chapter seventy-six upon the clerk of the circuit court.

TITLE II.

Of crimes, and the punishment thereof.

- CHAPTER 129. Of treason, and advising insurrection of slaves.
 CHAPTER 130. Of offences against the lives and persons of individuals.
 CHAPTER 131. Of offences against private property.
 CHAPTER 132. Of forgery and counterfeiting.
 CHAPTER 133. Of offences against public justice.
 CHAPTER 134. Of offences against the public peace.
 CHAPTER 135. Of offences against morality and decency.
 CHAPTER 136. Of offences against the public health.
 CHAPTER 137. Of offences against public policy.
 CHAPTER 138. Of offences by negroes.
 CHAPTER 139. General provisions concerning crimes and punishments.

CHAPTER 129.

OF TREASON, AND ADVISING INSURRECTION OF SLAVES.

SECTION

1. Treason and misprision of treason.

SECTION

2. Advising or conspiring with slaves to rebel, &c.

SECTION 1. Treason, and misprision of treason, against the government of the United States, as defined by the constitution and laws thereof, shall be proved and punished as therein prescribed.

SEC. 2. If any person, free or slave, advise or conspire with any other person, free or slave, to make an insurrection of slaves, or with any person to induce a slave to make insurrection, he shall, on conviction thereof, be punished with death, whether such insurrection be made or not.

CHAPTER 130.

OF OFFENCES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

SECTION

MURDER AND MANSLAUGHTER.

1. Murder in the first degree defined and punished.
 2. Murder in the second degree defined and punished.

SECTION

3. Manslaughter, voluntary and involuntary, defined and punished.
 4. Manslaughter, assisting at self-murder.
 5. Manslaughter by dangerous animals at large.

SECTION

DUELING.

6. Murder in duel fought out of this District.
7. Accessory before fact.
8. Duel or challenge, though no death ensue; how punished.
9. Carrying or accepting challenge, &c.; how punished.
10. Persons leaving District to evade provisions against dueling; how punished.
11. Former conviction or acquittal out of this District may be plead in bar.
12. Assaulting, posting, or upbraiding another for not fighting a duel, &c.; how punished.

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13. Mingling poison with food, drink, or in wells, with intent to kill; how punished.
14. Administering, or attempting to administer, poison in other ways, with intent to kill; how punished.
15. Producing death by abortion; how punished.
16. Abortion, or attempts at, without death; how punished.
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18. Physician, while intoxicated, administering poison and producing death; how punished.
19. Same, when death does not ensue.

MAIMING AND ASSAULTING WITH INTENT TO MURDER, ROB, ETC.

20. Maiming; how punished.
21. Assaulting with intent to murder; how punished.
22. Assaulting with intent to commit manslaughter or to maim; how punished.
23. Robbery, being armed.
24. Assault with intent to rob, being armed.
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SECTION

26. Assault with intent to rob or steal, not being armed.
27. Assault with intent to commit a rape.
28. Assault with intent to commit other felonies than those hereinbefore provided for.
29. Assaults, or assaults and batteries; how punished.

EXTORTION.

30. Extorting money by threats to person, &c.
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RAPE.

32. Rape of daughter or sister; how punished.
33. Other rape, or carnal knowledge of a child under twelve years of age; how punished.
34. Carnal knowledge of an insane woman; how punished.

SEDUCTION.

35. Seduction; when and how punished.

ABDUCTION.

36. Abducting female under twenty-five years, unmarried and chaste; how punished.
37. Taking away female under fourteen years for marriage, concubinage, or prostitution; how punished.

KIDNAPPING.

38. Kidnapping and inveigling; how punished.
39. Kidnapping free person for sale.

INJURIES FROM PUBLIC CONVEYANCES.

40. Injuries by drivers, &c., of public conveyances.

CARELESS HANDLING OF DANGEROUS WEAPONS.

41. Pointing gun, &c., at another in sport or carelessly.

MURDER.

SECTION 1. If any person shall purposely and of deliberate and premeditated malice, or in the perpetration, or attempt to perpetrate, any rape, robbery, arson, or burglary, or by administering poison, or causing the same to be done, kill another; every such person shall,

except as hereinafter specially provided, be deemed guilty of murder in the first degree, and, upon conviction thereof, shall suffer death.

SEC. 2. If any person shall purposely and maliciously, but without deliberation and premeditation, kill another, every such person shall be deemed guilty of murder in the second degree, and, upon conviction thereof, shall be imprisoned in the penitentiary during life.

MANSLAUGHTER.

SEC. 3. If any person shall unlawfully kill another, without malice, either upon a sudden quarrel or unintentionally, while the slayer is in the commission of some unlawful act, every such person shall be deemed guilty of manslaughter. Voluntary manslaughter shall be punished by confinement in the penitentiary not less than two nor more than twenty years. Involuntary manslaughter, by confinement, as aforesaid, not less than one nor more than ten years, or as a misdemeanor, in the discretion of the court.

SEC. 4. Every person deliberately assisting another in the commission of self-murder, or advising him thereto, shall be deemed guilty of manslaughter, and be punished by confinement in the penitentiary not less than one nor more than ten years.

SEC. 5. If the owner of a dangerous animal wilfully suffer it to go at large, or shall keep it without ordinary care, and such animal, while so at large or not confined, kill a human being who shall have taken all the precautions which the circumstances may permit to avoid such animal, such owner shall be deemed guilty of manslaughter, and be punished by confinement in the penitentiary not less than one nor more than five years.

DUELING.

SEC. 6. If any person, by previous agreement made within this District, fight a duel without the limits of the same, and, in so doing, inflict a mortal wound, he shall be deemed guilty of murder in the first degree within this District, and, on conviction thereof, shall suffer death.

SEC. 7. If any person, by like agreement, be the second of either party in such duel as is mentioned in the preceding section, and be present when such mortal wound is inflicted, he shall be deemed an accessory before the fact to the crime of murder in the first degree within this District, and, on conviction thereof, shall suffer death.

SEC. 8. If any person fight a duel with any deadly weapon, though no death ensue, or send or deliver to another a challenge, or message intended to be a challenge, oral or written, to fight with him a duel, he shall, on conviction thereof, though no duel ensue, be punished by imprisonment in the penitentiary for a term not exceeding five years, in the discretion of the court.

SEC. 9. If any person accept, or knowingly carry or deliver any such challenge or message, or the acceptance thereof, or advise, encourage, or promote such duel, whether such duel take place or not, he shall, on conviction thereof, be punished by imprisonment in the penitentiary for a term not exceeding three years, in the discretion of the court.

SEC. 10. If any person leave this District for the purpose of eluding the provisions of the Code respecting dueling or challenges to fight, and without the District engage in a duel, though no death ensue; or challenge another; or send or deliver a message intended to be a challenge to fight such duel; or accept, or knowingly carry or deliver any such challenge or message; or be present at the fighting of such duel with deadly weapons, as an aid, second, or surgeon; or advise, encourage, or promote such duel, he shall be deemed as guilty, and subject to the like punishment, as if the offence had been committed within this District.

SEC. 11. Every offender may plead a former conviction or acquittal for the same offence in any State or county, and the same, being established, shall be a bar to any further proceedings against such person, under preceding sections six, seven, and ten.

SEC. 12. If any person shall assault or beat another, or cause him to be assaulted or beaten, within the District of Columbia, for not fighting a duel with a deadly instrument, or for not sending or accepting a challenge to fight such duel; or shall post another; or, in writing or in print, use any contemptuous or reproachful language to or concerning another, for not fighting such a duel, or for not sending or accepting a challenge to fight such a duel, he shall be confined in jail not more than two years, and be fined not exceeding five hundred dollars.

POISONING AND ABORTION.

SEC. 13. If any person shall mingle any poison or destructive thing

with any food, drink, or medicine, with intent to kill or injure any other person, or shall wilfully poison any spring, well, or reservoir of water, with such intent, he shall be punished by imprisonment in the penitentiary not less than ten nor over thirty years.

SEC. 14. If, except as provided in preceding section, any person administer, or attempt to administer, poison or any destructive thing to another, with intent to kill or injure the person to whom the same shall be administered, or if poison shall be prepared, with the intent aforesaid, and the same be taken by any person, whereby an injury to such person may ensue, the person so offending shall, upon conviction, be imprisoned in the penitentiary not less than five nor more than twenty years.

SEC. 15. Any physician or other person who shall administer to any woman pregnant with a quick child, any medicine, drug, or substance whatever, or shall use any instrument or other means with intent to destroy such child, shall, in case of the death of such child or mother in consequence thereof, be imprisoned in the penitentiary not less than two nor more than ten years.

SEC. 16. Any physician or person who shall wilfully administer to any pregnant woman, any medicine, drug, or substance whatever, or use any instrument or other means, with the intent thereby to procure the miscarriage of such woman, shall, upon conviction, be punished by imprisonment in the penitentiary not less than one nor more than five years.

SEC. 17. No person shall be punished by reason of any act mentioned in the two sections immediately preceding, where such act is done in good faith, with the intention of saving the life of such woman or child.

SEC. 18. If any physician, while in a state of intoxication, shall, without a design to take life, administer any poison, drug, or other medicine, or do any act to a patient which shall produce the death of such patient, he shall, on conviction thereof, be imprisoned in the penitentiary not less than two nor more than ten years.

SEC. 19. If any physician, while in a state of intoxication, shall prescribe any poison, drug, or medicine to a patient which shall endanger the life of such patient, he shall, on conviction thereof, be

adjudged guilty of a misdemeanor, and be sentenced to confinement in the jail for a term not less than six nor more than twelve months, and be fined not exceeding one thousand dollars.

MAIMING, AND ASSAULTING WITH INTENT TO MURDER, ROB, ETC.

SEC. 20. If any person, with malicious intent to maim or to disfigure, shall cut or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or cut off or disable a limb or member, of any other person, or shall castrate another person, every such offender, and every person privy to such intent, who shall be present aiding in the commission of such offence, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 21. If any person shall assault another with intent to commit murder, he shall be punished by confinement, in the penitentiary, not less than two nor more than fifteen years.

SEC. 22. If any person shall assault another with intent to commit manslaughter, or to maim or disfigure his person in any of the ways mentioned in preceding section twenty, he shall be punished by imprisonment, in the penitentiary, not less than one nor more than five years.

SEC. 23. If any person shall assault another, and shall feloniously rob or steal from his person, any money or other property which may be the subject of larceny, such robber being armed with a dangerous weapon, with intent, if resisted, to kill or maim the person robbed, or if, being so armed, he shall wound or strike the person robbed, he shall be imprisoned in the penitentiary not less than three nor more than fifteen years.

SEC. 24. If any person, being armed with a dangerous weapon, shall assault another with intent to rob, he shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 25. If any person, not being armed with a dangerous weapon, shall, by force and violence, or by assault, and putting in fear, feloniously rob from the person of another any money or property which may be the subject of larceny, he shall be punished by imprisonment, in the penitentiary, not less than one nor more than ten years.

SEC. 26. If any person, not being armed with a dangerous weapon, shall assault another with force and violence, and with intent to rob, he shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

SEC. 27. Any person who shall be guilty of an assault with intent to commit a rape, shall, on conviction thereof, be punished by confinement in the penitentiary not less than three nor more than fifteen years.

SEC. 28. If any person shall assault another with intent to commit any felony, the punishment of which assault is not hereinbefore prescribed, he shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

SEC. 29. If any person shall unlawfully assault or threaten another in a menacing manner, or shall unlawfully strike or wound another, the person so offending shall, upon conviction thereof, be confined in the county jail not less than ten days nor more than twelve months, or be fined not exceeding five hundred dollars, or be both fined and imprisoned as aforesaid, at the discretion of the court.

EXTORTION.

SEC. 30. If any person threaten injury to the character, person, or property of another person, or to accuse him of any offence, and thereby extort money or a pecuniary benefit, he shall be confined in the penitentiary not less than one nor more than five years.

SEC. 31. If any person take or secrete a child from a person having lawful charge of him, with intent to extort money or other pecuniary benefit, he shall, on conviction, be confined in the penitentiary not less than one nor more than five years.

RAPE, ETC.

SEC. 32. If any person shall have carnal knowledge of his daughter or sister, forcibly or by fraud, and against her will, he shall be deemed guilty of a rape, and, upon conviction thereof, shall be imprisoned, at hard labor, in the penitentiary, for life.

SEC. 23. If any white person shall have carnal knowledge of any woman or female child, other than his daughter or sister, as aforesaid, forcibly or by fraud, and against her will; or if any male person of the age of sixteen years and upwards, shall carnally know and abuse any female child under the age of twelve years with her consent;

every such person, so offending, shall be deemed guilty of a rape, and upon conviction thereof shall, for the first offense, be imprisoned, at hard labor, in the penitentiary, not less than five nor more than twenty years; and for the second offence, during the period of his natural life.

SEC. 34. If any white male person, sixteen years of age and upwards, shall have carnal knowledge of any insane woman, other than his wife, he knowing her to be insane, he shall, upon conviction thereof, be imprisoned, at hard labor, in the penitentiary, not less than two nor more than ten years.

SEDUCTION.

SEC. 35. Any person who shall, under promise of marriage, seduce and have illicit intercourse with an unmarried female of previous chaste character, shall, upon conviction thereof, be imprisoned in the penitentiary not less than one nor more than five years; provided that the subsequent marriage of the parties may be plead in bar of a conviction.

ABDUCTION.

SEC. 36. Any person who shall inveigle, entice, or take away, any unmarried female of previously chaste character, under the age of twenty-five years, from her father's house or elsewhere, for the purpose of prostitution at a house of ill-fame, assignation, or elsewhere, and every person who shall aid or assist in such abduction, shall be imprisoned in the penitentiary not less than one nor more than five years.

SEC. 37. Any person who shall take a female under the age of fourteen years, from her father, mother, guardian, or other person having the legal charge of her person, without his or her consent, either for the purpose of prostitution, concubinage, or marriage, shall, upon conviction thereof, be punished by imprisonment in the penitentiary not less than one nor more than five years.

KIDNAPPING.

SEC. 28. Every person who shall, without lawful authority, seize and confine another, or shall inveigle another, with intent either—

1. To cause such other person to be secretly confined or imprisoned in this District against his will; or,

2. To cause him to be sent out of this District against his will;—

Shall, upon conviction, be imprisoned in the penitentiary not less than one nor more than five years, or, in the discretion of the court, be fined not exceeding one thousand dollars, and confined in jail not over one year.

SEC. 39. If any person shall sell a free person as a slave, or kidnap or attempt to kidnap a free person with intent to sell or use him as a slave, knowing him to be free, he shall, on conviction, be confined in the penitentiary not less than three nor more than fifteen years, and be fined not exceeding five thousand dollars.

INJURIES BY DRIVERS, ETC., OF PUBLIC CONVEYANCES.

SEC. 40. If any driver, conductor, or captain of any vehicle or boat for public conveyance, shall, in the management of such boat or vehicle, wilfully or negligently inflict bodily injury on any person, he shall, on conviction thereof, be punished as for a misdemeanor.

CARELESS HANDLING OF DANGEROUS WEAPONS.

SEC. 41. Every person who shall point any fire-arm, or brandish, or thrust a knife, sword, or other dangerous weapon, at or towards another person, carelessly, or in sport, shall be fined not less than five nor more than twenty dollars; and if such offender shall cause thereby death or other injury to another person, he shall be punished by imprisonment in jail not more than one year, and fine not exceeding two hundred dollars.

CHAPTER 131.

OF OFFENCES AGAINST PRIVATE PROPERTY.

SECTION

BURNING HOUSES AND OTHER PROPERTY.

1. Burning a dwelling house, prison, &c., in the night time; how punished.
2. Burning such building in day time; how punished.
3. What not deemed a dwelling house.
4. Burning meeting house, or other public building.
5. Burning barn, &c., wheat, wood, &c.; how punished.

SECTION

6. Burning other houses than those before mentioned.
7. Burning a bridge, dam, vessel, &c.
8. Burning fences, woods, &c., capable of spreading fire on land.
9. Burning building insured, with intent to injure the insurer.

BURGLARY AND HOUSE BREAKING.

10. Burglary; what, and how punished.

SECTION

11. Entering dwelling or other house, or vessel, with intent to commit murder, rape, or robbery.
12. Same, with intent to commit other felony or larceny.

LARCENY.

13. Stealing from the person of another; how punished.
14. Stealing at a fire.
15. Stealing a slave.
16. Stealing a horse.
17. Grand larceny defined and punished.
18. Petty larceny defined and punished.
19. Bank notes, checks, or other valuable papers, the subject of larceny.
20. Same of things that savor of the realty.
21. Dogs, the subject of petty larceny.
22. Persons buying, receiving, or concealing stolen goods, &c., knowing the same, guilty of larceny.

EMBEZZLEMENT.

23. Embezzlement by public officers and bank officers; how punished.
24. } Embezzlement by agents, clerks, or
25. } servants.
26. Embezzlement by carriers.
27. Persons buying or receiving embezzled property; how punished.
28. Fraudulent entries in accounts by officers and clerks.

DESTROYING WILL.

29. Custodian of will altering, destroying, or concealing the same; how punished.
30. Other person doing same; how punished.

FALSE PRETENCE.

31. Obtaining money, &c., under false pretence.

BURNING HOUSES AND OTHER PROPERTY.

SECTION 1. If any person, in the night, maliciously burn the dwelling house of another, or any alms house, jail, or prison, or maliciously set fire to anything, by the burning whereof such dwelling house, alms house, jail, or prison shall be burnt, in the night, he shall be punished with death; but if the jury find that, at the time of committing the offence, there was no person in the dwelling house, alms house, jail, or prison, the offender shall be confined in the penitentiary not less than two nor more than ten years.

SECTION

FRAUDULENT CONVEYANCES OF PROPERTY.

32. Conveyances to defraud purchasers, creditors, &c.
33. Knowingly selling land without title.

FRAUDULENT DESTRUCTION OF PROPERTY.

34. Willfully destroying vessels, with intent to defraud, &c.
35. Fitting out vessels with intent to destroy them, &c.

MALICIOUS INJURIES TO PROPERTY.

36. Maliciously endangering train on railroad, &c.
37. Maliciously killing, maiming, or poisoning animals.
38. Malicious injuries to dams, reservoirs, canals, &c.
39. Malicious injuries to bridges, turnpikes, gates, &c.
40. Injury to cemetery, and desecration thereof.
41. Malicious injury, &c., to boundary monuments, mile stones, &c.
42. Malicious injuries to trees, fences, &c.

TRESPASSES.

43. Trespass by cutting timber, wood, &c.
44. Trespass in gardens, orchards, &c.
45. Trespassing on enclosed lands to hunt.
46. Shooting, &c., from public road.

CARRYING AWAY, ETC., SLAVES.

47. Carrying away slave with intent to defraud master.
48. What evidence of such intent.
49. Master of vessel harboring slave on board.
50. Advising or aiding escape of slave.

SEC. 2. If any person, in the day time, maliciously burn the dwelling house of another, or any alms house, jail, or prison; or maliciously set fire to any building or other thing, by the burning whereof such dwelling house, alms house, jail, or prison shall be burnt, he shall be confined in the penitentiary not less than one nor more than ten years.

SEC. 3. No out house, not adjoining a dwelling house, nor under the same roof, although within the curtilage thereof, shall be deemed parcel of such dwelling house, within the meaning of this chapter, unless some person usually lodge therein at night.

SEC. 4. If any person maliciously burn any meeting house, court house, college, academy, or other building erected for public use, (except a jail or prison or alms house,) or any banking house, ware house, store house, manufactory, or mill, of another person, not usually occupied by persons lodging therein at night, or if he maliciously set fire to anything, by the burning whereof any building mentioned in this section shall be burnt, he shall be confined in the penitentiary, when such building, with the property therein, is of the value of two thousand dollars, or upwards, not less than two nor more than ten years, and when it is of less value than two thousand dollars, not less than one nor more than five years.

SEC. 5. If any person maliciously burn any barn, stable, or cow house; or stack of wheat or other grain, or of fodder, straw, or hay; or any pile or parcel of wood, boards, or other lumber, he shall be confined in the penitentiary not less than one nor more than five years.

SEC. 6. If any person maliciously burn any building, the burning whereof is not punishable under any other section of this chapter, he shall, if the building, with the property therein, be of the value of two thousand dollars, or more, be confined in the penitentiary not less than two nor more than ten years; and if the same be of less value, he so confined not less than one nor more than five years.

SEC. 7. If any person maliciously burn any bridge, lock, dam, or any ship, boat, or other vessel, of the value of two hundred dollars, or more, he shall be confined in the penitentiary not less than one nor more than five years; and if the value be less than two hundred dollars, he shall be confined in jail not exceeding two years, and be fined not exceeding five hundred dollars.

SEC. 8. If any person maliciously set fire to any woods, fence, grass, straw, or other thing capable of spreading fire on lands, he shall be confined in jail not less than two nor more than twelve months, and be fined not exceeding two hundred dollars.

SEC. 9. If any person wilfully burn any building, or any goods or chattels which shall be, at the time, insured against loss or damage by fire, with intent to injure the insurer, whether such person be the owner of the property burnt or not, he shall be imprisoned in the penitentiary not less than one nor more than ten years.

BURGLARY AND HOUSE BREAKING.

SEC. 10. If any person shall, in the night time, break and enter into a mansion house, with intent to commit a felony or petty larceny, or to commit personal violence upon any inmate, he shall be deemed guilty of burglary, and shall, on conviction thereof, be confined in the penitentiary not less than two nor more than ten years.

SEC. 11. If any person shall, in the night, enter, without breaking, or shall, in the day time, break and enter, a dwelling house, or any out house adjoining thereto and occupied therewith, or shall, in the night time, enter without breaking, or break and enter, either in the night or day time, any office, shop, store house, ware house, banking house, or other house not adjoining to or occupied with a dwelling house, or any ship or vessel, with intent to commit murder, rape, or robbery, he shall be confined in the penitentiary not less than two nor more than ten years.

SEC. 12. If any person do any of the acts mentioned in the preceding section, with intent to commit petty larceny, or any felony, other than murder, rape, or robbery, he shall be confined in the penitentiary not less than one nor more than five years.

LARCENY.

SEC. 13. If any person shall commit the offence of larceny, by stealing from the person of another, he shall be imprisoned in the penitentiary not less than one nor more than five years.

SEC. 14. If any person commit the offence of larceny, by stealing in any building that is on fire, or by stealing any property that is removed in consequence of alarm caused by fire, he shall be punished by confinement in the penitentiary not less than one nor more than five years.

SEC. 15. If any person steal a slave, he shall be confined in the penitentiary not less than two nor more than fifteen years.

SEC. 16. If any person shall steal any horse, mare, gelding, foal or filly, ass or mule, of any value, or if any person shall receive, buy, or conceal any such animal that has been stolen, knowing the same to have been stolen, with intent, by so doing, to defraud the owner, he shall, upon conviction thereof, be imprisoned in the penitentiary not less than two nor more than ten years.

SEC. 17. If any person commit simple larceny of goods or chattels or personal property, otherwise than hereinbefore provided, he shall, if such property be of the value of twenty dollars, or more, be deemed guilty of grand larceny, and be confined in the penitentiary not less than one nor more than five years.

SEC. 18. If any person commit a larceny as provided in preceding section, and the value of the property stolen be under twenty dollars, he shall be deemed guilty of petty larceny, and be confined in jail not more than one year and fined not exceeding one hundred dollars.

SEC. 19. If any person steal any bank note, check, or other writing or paper of value, or any book of accounts for or concerning money or goods due or to be delivered, he shall be deemed guilty of larceny thereof, and receive the same punishment, according to the value of the thing stolen, that is prescribed for the punishment of larceny of goods or chattels. In a prosecution under this section, the money due on or secured by the writing, paper, or book, and remaining unsatisfied, or which might, in any event, be collected thereon, or the value of the property or money affected thereby, shall be taken to be the value of the article stolen.

SEC. 20. Things which savor of the realty, and are, at the time they are taken, part of the freehold, whether they be of the substance or produce thereof, or affixed thereto, shall be deemed the subjects of which larceny may be committed, although there be no interval between the severing and taking away; and the larceny thereof shall be punished in like manner as larceny of goods and chattels.

SEC. 21. Dogs may be the subject of larceny when any corporation or other tax imposed by law is duly paid thereon; and the larceny thereof may be punished as petty larceny of goods and chattels.

SEC. 22. If any person shall buy or receive from another person, or aid in the concealing of any stolen goods, money, or property, know-

ing the same to have been stolen, he shall be deemed guilty of larceny thereof, and may be proceeded against, although the principal offender be not convicted.

EMBEZZLEMENT.

SEC. 23. If any officer of public trust, belonging either to the city of Washington or Georgetown, or to the county of Washington, or any director or officer of an incorporate bank, embezzle, or fraudulently convert to his own use, bullion, money, bank notes, or other security for money, or any effects or property of another person, which shall have come to his possession, or been placed under his care or management, by virtue of his office, place, or employment, he shall be deemed guilty of larceny, and imprisoned in the penitentiary not less than one nor more than ten years.

SEC. 24. If any clerk or servant of any private individual, or of any copartnership, except apprentices and persons within the age of sixteen years, or if any officer, agent, clerk, or servant of any incorporated company, shall embezzle or convert to his own use, or fraudulently take, make way with, or secrete, with intent to embezzle, or fraudulently convert to his own use, without the assent of his master or employers, any money, goods, rights in action, or other valuable security or effects whatever, belonging to another person, which shall have come into his possession, or under his care or control, by virtue of such employment or office, he shall, upon conviction, be punished in the manner prescribed by law for feloniously stealing property of the value of the article so embezzled, taken, or secreted, or of the value of any sum of money payable upon any right in action so embezzled.

SEC. 25. Every embezzlement of any evidence of debt, negotiable by delivery only, and actually executed by the master or employer of any such clerk, agent, officer, or servant, but not delivered or issued as a valid instrument, shall be deemed an offence within the meaning of the preceding section.

SEC. 26. If any carrier, or other person to whom any goods, money, right in action, or any valuable personal property or effects shall have been delivered, to be transported or carried for hire, or any person employed in such transportation or carrying, shall, without the assent of his employer, take, embezzle, or convert to his own use, or secrete with intent to do so, such goods, money, right in action,

property, or effects, or any part of them, before the delivery thereof at the place to which, or to the person to whom, they were to be delivered, he shall, upon conviction, be punished in the manner prescribed by law for feloniously stealing property of the value of the article so taken, embezzled, or secreted.

SEC. 27. Every person who shall buy, or in any way receive, any money, goods, rights in action, or any valuable security or effects whatever, knowing the same to have been embezzled, taken, or secreted, contrary to the provisions of the four preceding sections, shall, upon conviction, be punished as hereinbefore provided in the case of grand or petty larceny, according to the value of the property so bought or received.

SEC. 28. If any officer or clerk of any bank or joint stock company, make, alter, or omit to make, any entry in any account kept in such bank, or by such company, with the intent in so doing to conceal the true state of such account, or to defraud said bank or company, or to enable or to assist any person to obtain money to which he was not entitled, such officer or clerk shall be imprisoned in the penitentiary not less than one nor more than five years.

DESTROYING WILL.

SEC. 29. If any person to whom a will shall be delivered for safe custody shall alter or destroy the same without the direction of the testator, or shall wilfully secrete it for the space of six months after the death of the testator shall be known to him, he shall, on conviction thereof, suffer the same punishment as is inflicted by law in case of grand larceny.

SEC. 30. If any person other than such custodian of a will shall destroy or cancel the same as aforesaid, he shall be confined in the penitentiary not less than one nor more than three years.

FALSE PRETENCE.

SEC. 31. If any person, with intent to defraud another, shall designedly, by color of any false token or writing, or by any false representation in writing, obtain the signature of any person to any written instrument, the false making whereof would be forgery, or obtain from any person any money, note, bond, receipt, or other thing of value, such person shall, upon conviction thereof, be imprisoned in the penitentiary not less than one nor more than five years.

FRAUDULENT CONVEYANCES OF PROPERTY.

SEC. 32. Every person, being a party to any conveyance or assignment of any estate or interest in lands, goods, or things in action, or of any rents and profits issuing therefrom, or to any charge on any such estate, interest, rents, or profits, made with intent to defraud prior or subsequent purchasers, or to hinder, delay, or defraud creditors or other persons, and every person being privy to or knowing of such conveyance, assignment, or charge, who shall wilfully put the same in use as having been made in good faith, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and be confined in jail not less than three nor more than twelve months, and fined not exceeding one thousand dollars.

SEC. 33. If any person shall, knowingly, sell or convey any tract or lot of land without having a title to the same in law or equity, with intent to defraud the purchaser, he shall, upon conviction, be deemed guilty of a misdemeanor, and be punished as in the preceding section.

FRAUDULENT DESTRUCTION OF PROPERTY.

SEC. 34. If any person shall wilfully cast away, burn, sink, or otherwise destroy any ship or vessel, with intent to injure or defraud any owner of such vessel, or the owner of property laden on board the same, or any insurer of any such vessel or property, or any part thereof, he shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

SEC. 35. If any person shall lade, equip, or fit out, or assist in lading, equipping, or fitting out, any ship or vessel, with intent that the same shall be wilfully cast away, burnt, sunk, or otherwise destroyed, to injure or defraud any owner or insurer of such vessel, or of any property laden on board the same, he shall be punished by confinement in the penitentiary not less than one nor more than five years.

MALICIOUS INJURIES TO PROPERTY.

SEC. 36. Every person who shall wilfully and maliciously place any obstruction upon the track of any railroad, or change any switch, or remove the fastenings therefrom, so as to endanger the passage of trains, or wilfully and maliciously commit any other act to throw the cars or engine from the track, shall be imprisoned in the penitentiary not less than two nor more than ten years; and if from any such act

an accident ensue, and any person be so injured that death results, as the immediate consequence thereof, the person so offending shall be guilty of murder in the first degree, and shall suffer the punishment thereof.

SEC. 37. Every person who shall wilfully and maliciously kill, maim, or disfigure any horse, cattle, or other beast of another person, or shall wilfully and maliciously administer poison to any such beast, or expose any poisonous substance with intent that the same shall be taken by them, or shall wilfully and maliciously destroy or injure the property of another in any manner or by any means not particularly described or mentioned in this chapter, shall be punished by confinement in the jail for a period not less than one nor more than twelve months, and by fine not exceeding one thousand dollars.

SEC. 38. Every person who shall wilfully and maliciously break down, injure, remove, or destroy, any dam, reservoir, canal, or any lock gate, or other appurtenances thereof, or any of the wheels, mill gear, or machinery of any mill, or shall wilfully or wantonly, without color of right, draw off the water contained in any mill pond, reservoir, or canal, shall be punished by imprisonment in jail not less than two nor more than twelve months, and fine not exceeding five hundred dollars.

SEC. 39. Every person who shall wilfully or maliciously break down, injure, remove, or destroy, any public or toll bridge, or any turnpike gate, or in any manner obstruct a public highway, shall suffer the same punishment as is provided in the next preceding section.

SEC. 40. Every person who shall wilfully disfigure or injure any tombstone, monument, fence, tree, or shrubbery around or within a cemetery, or shall wantonly use such cemetery for any other purpose than a burying ground, shall be punished by confinement in jail not more than six months, or fine not exceeding two hundred dollars, or by both, in the discretion of the court.

SEC. 41. Every person who shall wilfully and maliciously break down, injure, remove, or destroy any monument erected for the purpose of marking the boundaries of either of the cities of Washington or Georgetown, or the county of Washington, or of any tract or lot of land, or any tree marked for that purpose; or shall so break down, injure, remove, or destroy, any mile stone, mile board, or guide board,

erected upon any public way; or shall wilfully and maliciously mar or deface any building, or any sign board, lamp, or railing, erected on any bridge, sidewalk, highway, or canal, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred dollars.

SEC. 42. Every person who shall wilfully and maliciously, or wantonly and without cause, cut down or destroy, or by girdling, lopping, or otherwise, shall injure any fruit or other tree, not his own, standing or growing for shade, ornament, or other useful purpose, or shall maliciously break down or injure any fence enclosing or belonging to another's land, or shall maliciously sever from the freehold of another any product thereof, or any thing attached thereto, shall be punished by imprisonment in the county jail not more than three months, or by fine not exceeding one hundred dollars.

TRESPASSES.

SEC. 43. Every person who, without color of right, shall wilfully commit any trespass by cutting down or destroying any timber or wood standing on the land of another, or by carrying away any kind of timber or wood cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf, or mould, from such land, or any roots, fruit, or plant there being, or by cutting down or carrying away any grass, hay, grain, or corn standing or being on such land, shall be punished by imprisonment in the county jail not more than sixty days, or by fine not exceeding fifty dollars.

SEC. 44. Every person who, without color of right, shall wilfully commit any trespass by entering upon the garden, orchard, or other improved land of another, with intent to cut, take, carry away, destroy, or injure the trees, grain, grass, hay, fruit, or vegetables there growing or being, shall be punished by imprisonment in the county jail not over thirty days, or by fine not exceeding twenty dollars.

SEC. 45. Every person who, without color of right, shall wilfully commit any trespass by entering upon the enclosed lands of another to hunt with gun or dog, shall be punished by a fine not exceeding twenty dollars. The offender may be committed to jail until payment be made or the fine shall be otherwise collected according to law; and to meet the same, any gun or other hunting implement in the possession

of the offender at the time of the trespass may be taken and sold. If any such trespass shall be committed on Sunday, or in disguise, or secretly in the night time, the fine shall not be less than ten dollars. Confinement in jail for the space of sixty days shall be considered a satisfaction of any fine imposed under this section so as to entitle the party to be released.

SEC. 46. Every person who, from a public road, shall shoot fire-arms or throw stones upon or over the land of another to the injury of the trees or other property thereon, shall be deemed a trespasser, and be punished as provided in the preceding section.

CARRYING AWAY SLAVES, ADVISING OR AIDING THEM TO ABSCOND.

SEC. 47. Any person who shall carry, or cause to be carried, out of this District, any slave, without the consent of his owner, or of the guardian or committee of the owner, with intent to defraud or deprive the owner of such slave, shall be imprisoned in the penitentiary not less than two nor more than ten years, and shall, moreover, in lieu of damages, be liable to the owner for double the value of the slave, and for all reasonable expense incurred in regaining or attempting to regain such slave.

SEC. 48. Any master of a vessel having a slave on board, and going with him beyond the limits of this District, without the consent aforesaid, and any person travelling by land, who shall aid any slave to escape out of this District, shall be considered as carrying off such slave within the meaning of the preceding section.

SEC. 49. If the master or skipper of any vessel knowingly receive on board any runaway slave, and permit him to remain on board without proper effort to apprehend him, he shall be confined in the penitentiary not less than one nor more than five years; and if such slave be on board the vessel after leaving port, the master or skipper shall be presumed to have knowingly received him.

SEC. 50. If a free person advise any slave to abscond from his master, or aid such slave to abscond by procuring for or delivering to him a pass, register, or other writing, or furnishing him money, clothes, provisions, or other facility, he shall be confined in the penitentiary not less than one nor more than five years.

CHAPTER 132.

OF FORGERY.

SECTION

1. Forging records, certificates of public officers, or knowingly uttering same.
2. Forging, or keeping an instrument for forging, certain public seals.
3. Forging coin and bank notes, or knowingly uttering same.
4. Having in possession, knowingly, forged or base coin or bank notes, with intent to utter.
5. Forging or uttering any writing not before specified.
6. Making, or having in possession, any thing designed for forging any writing or other thing.
7. Justice of peace, &c., delivering blank affidavits and certificates to be filled up and used.

SECTION

8. Justice of peace, &c., giving false certificates.
9. Total erasure; when deemed forgery.
10. Putting together parts of several instruments with intent to defraud.
11. What deemed written instruments within this chapter.
12. Making or uttering notes of a fictitious bank.
13. Affixing pretended signatures to notes of corporations.
14. Testimony of president and cashier of banks dispensed with in certain cases of forgery.

SECTION 1. If any person forge a public record, or a certificate, return, or attestation of a clerk of a court, notary public, judge, justice of the peace, or any public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof; or utter or attempt to employ as true such forged record, certificate, return, or attestation, knowing the same to be forged, he shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 2. If any person forge, or keep or conceal any instrument for the purpose of forging, the seal of a court, or of any public officer, or body politic or corporate, in this District, he shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 3. If any person forge any coin, current by law or usage in this District, or any note or bill of a banking company, or fraudulently make any base coin, or a note or bill purporting to be the note or bill of a banking company, when such company does not exist, or utter or attempt to employ, as true, such false, forged, or base coin, note, or bill, knowing it to be so, he shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 4. If any person have in his possession forged bank notes, or pieces of forged or base coin, such as are mentioned in the preceding

section, knowing the same to be forged or base, with intent to utter or employ the same as true, he shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

SEC. 5. If any person forge any writing, other than such as is mentioned in the preceding sections of this chapter, to the prejudice of another's rights, or utter or attempt to employ as true such forged writing, knowing it to be forged, he shall be punished by confinement in the penitentiary not less than two nor more than ten years.

SEC. 6. If any person knowingly engrave, stamp, or cast, or otherwise make or mend any plate, block, or press, or other thing designed for the forging or false-making any writing or other thing, the forging or false-making whereof is punishable by the provisions of this chapter; or if any person have in his possession any such plate, block, press, or other thing, with intent to use it, or cause or permit it to be used in forging or false-making any such writing or other thing, he shall be punished by confinement in the penitentiary not less than two nor more than ten years.

SEC. 7. If any justice of the peace or other proper officer shall affix his name to any blank form of affidavit, or certificate of acknowledgment of any instrument proper to be acknowledged, and deliver the same so signed to any other person, with intent that such blank form shall afterwards be filled up and used as an affidavit, or acknowledgment, such justice of the peace or other officer, and also the person so filling up such affidavit or acknowledgment, shall be deemed guilty of forgery, and shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 8. Any justice of the peace or other officer authorized to take an affidavit, or to take the acknowledgment of any conveyance of real or personal property, or any other instrument which by law may be recorded, who shall wilfully and falsely certify that such affidavit, conveyance, or other instrument, was made or acknowledged before him by any named party thereto, when, in truth, no such affidavit or acknowledgment was made, shall be deemed guilty of forgery, and be punished by imprisonment in the penitentiary not less than one nor more than ten years.

SEC. 9. The total erasure, obliteration, or destruction, with intent to defraud, of an instrument by which any pecuniary obligation or any right, interest, or claim to property shall be or shall be intended

to be created, increased, diminished, destroyed, or in any manner affected, shall be deemed forgery, and be punished in the same manner as the false alteration of any such instrument or writing.

Sec. 10. When different parts of several genuine instruments shall be so placed or connected together as to produce one or more instruments, with intent to defraud, the same shall be deemed forgery, and be punished in like manner as if the parts so put together were falsely made or forged.

Sec. 11. Every instrument partly printed and partly written, or wholly printed, with a written signature thereto, and every signature of an individual, firm, or corporate body, or of any officer of such body, shall be deemed a writing and written instrument within the meaning of the provisions of this chapter.

Sec. 12. If any person shall make, or utter, or put in circulation, any note or bill purporting to be the note or bill of a bank, company, or association, which never did in fact exist, such person knowing at the time of uttering or putting in circulation any such note or bill that the bank, company, or association purporting to have issued the same never did exist, he shall be deemed guilty of forgery, and be punished as hereinbefore provided in section three of this chapter.

Sec. 13. If any fictitious or pretended signature, purporting to be the signature of an agent or officer of any corporation, shall be fraudulently affixed to any instrument of writing purporting to be a note, draft, or other evidence of debt issued by such corporation, with intent to pass the same as true, it shall be deemed a forgery though no such person may ever have been an officer or agent of such corporation, nor ever have existed.

Sec. 14. In all prosecutions for forging or counterfeiting any notes or bills of banks, or for uttering or tendering in payment as true any forged or counterfeit bank notes or bills, or for being possessed thereof with intent to utter and pass the same as true, the testimony of the president and cashier of such banks may be dispensed with if their place of residence shall be more than one hundred miles from this District; and the testimony of any person acquainted with the signature of the president or cashier of such bank, or who has knowledge of the difference in appearance of the true and counterfeit bills or notes thereof, may be admitted as evidence, for the purpose of proving the same to be forged or counterfeit.

CHAPTER 133.

OF OFFENCES AGAINST PUBLIC JUSTICE.

SECTION

PERJURY AND SUBORNATION OF PERJURY.

1. Perjury in proceedings in court; how punished.
2. What deemed perjury, &c.
3. Subornation of perjury; how punished.
4. Inciting to perjury; how punished.
5. Proceedings when perjury is suspected by a court.
6. Witnesses bound over to appear, &c.
7. Papers, &c., may be secured.

BRIBERY OF AND ACCEPTING BRIBES BY JURORS AND OTHERS.

8. Giving or offering bribes to officers.
9. Accepting bribes by officers.
10. Corrupting jurors, referees, arbitrators, &c.
11. Accepting bribes by jurors, referees, arbitrators, &c.

ESCAPES FROM PRISON, AND ASSISTING THEREIN.

12. Escaped prisoners to be retaken and serve out full punishment.
13. Punishment for escaping from the penitentiary.
14. Punishment for convict escaping from jail.
15. Punishment for prisoner confined on criminal charge breaking jail.
16. Attempt, by violence to person, to escape from penitentiary.
17. Attempt by force, &c., to escape from jail.
18. Aiding escapes, &c., from prisons of prisoners charged with felony.
19. Aiding escapes, &c., from prisons of prisoners charged with misdemeanor.
20. Rescuing prisoners.

PERJURY AND SUBORNATION OF PERJURY.

SECTION 1. Every person who, being lawfully required to depose the truth in any proceedings in a court of justice, shall commit perjury, shall be punished, if such perjury was committed on the trial of an indictment for a capital crime, by imprisonment in the penitentiary for life, or for any term of years not less than five, in the discre-

SECTION

21. Aiding prisoners to escape from officer's custody.

22. Officers suffering voluntary escapes from prison.

23. Officers suffering negligent escapes.

FAILING TO EXECUTE PROCESS.

24. Officers refusing or omitting to execute criminal process.

25. Refusing to aid officer.

26. Refusing to aid justice of the peace.

MISCELLANEOUS.

27. Disguising to resist the execution of the law.

28. Concealing and compounding offences.

29. Officers taking rewards for omitting their duty.

FALSELY ASSUMING TO BE A JUSTICE OF THE PEACE.—EXTORTION.

30. Falsely assuming to be a justice of the peace or other officer.

31. Extortion by officers in receiving fees.

32. Issuing bills for services not entitled to charge for.

FALSE ENTRIES IN RECORDS, AND EMBEZZLING OR DESTROYING RECORDS.

33. Officer making false entries in records of his office, or destroying, &c., such records.

34. Others stealing, destroying, or altering public records.

MALICIOUS PROSECUTION.—BARRATRY.

35. Malicious prosecution; how punished.

36. Barratry; how punished.

tion of the court; and if committed in any other case, by imprisonment in the penitentiary not less than five nor more than twenty years.

SEC. 2. If any person, of whom an oath shall be required by law, shall wilfully swear falsely in regard to any matter or thing respecting which such oath is required, he shall be deemed guilty of perjury, and shall be punished by imprisonment in the penitentiary not less than five nor more than twenty years.

SEC. 3. Every person who shall procure another to commit the crime of perjury, as aforesaid, shall be guilty of subornation of perjury, and shall be punished in like manner as the perjury itself is by law punished.

SEC. 4. If any person shall endeavor to incite or procure another to commit the crime of perjury, though no perjury be committed, he shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 5. Whenever it shall appear to any court of record that any witness or party who has been legally sworn and examined in any cause, matter, or proceeding pending before such court, has testified in such manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may immediately commit such witness or party, by an order or process for that purpose, or may take a recognizance, with sureties, for his appearing to answer to an indictment for perjury.

SEC. 6. Thereupon, such court may, in its discretion, bind over the witnesses, to establish such perjury, to appear at the criminal court, to testify before the grand jury, and on the trial, should an indictment be found, notice of the proceedings shall forthwith be given to the district attorney.

SEC. 7. If, on the hearing of such cause, matter, or proceeding in which perjury shall be reasonably presumed, as aforesaid, any papers, books, or documents produced by either party shall be deemed necessary to be used on the prosecution for such perjury, the court may by order detain the same from the person producing them so long as may be necessary, and direct their delivery to the district attorney.

BRIBERY OF, AND ACCEPTING BRIBES BY, JURORS AND OTHERS.

SEC. 8. Every person who shall give, offer, or promise to any officer,

executive, legislative, or judicial, holding an office under or by virtue of the laws of this District, after his election or appointment, and whether before or after he shall have qualified or taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision, or judgment in any matter, question, cause, or proceeding then pending, or which may, by law, be brought before him in his official capacity, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years, and by fine not exceeding one thousand dollars.

SEC. 9. Every such officer who shall accept any gift or gratuity, or any promise to make any gift, or to do any other act beneficial to such officer, under an agreement, or with an understanding that his vote, opinion, or judgment shall be given in any particular manner, or upon a particular side of any question, cause, or proceeding which is or may be by law brought before him in his official capacity, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years, and by fine not exceeding five thousand dollars. Such officer shall also, on conviction, forfeit his office, and be forever thereafter disqualified from holding any public office, trust, or appointment existing under the laws of this District.

SEC. 10. Every person who shall corrupt, or attempt to corrupt, any other person, drawn or summoned as a juror, appointed a referee, or chosen an arbitrator or umpire, by giving, offering, or promising any gift or gratuity whatever, with intent to bias the mind of such juror, referee, or arbitrator or umpire, in relation to any cause or matter which may be pending in the court or inquest to which such juror shall have been summoned, or for the decision of which such referee, or arbitrator or umpire shall have been chosen or appointed, shall be punished by imprisonment in the penitentiary not less than one nor more than five years, or, in the discretion of the court, by confinement in the county jail not exceeding two years, and fine not exceeding one thousand dollars.

SEC. 11. If any person drawn or summoned as a juror, or if any person chosen or appointed a referee, arbitrator, or umpire, shall take anything to give his verdict, award, or report, or shall, while in the discharge of his duties, receive any gratuity or gift whatever from any party to any suit, proceeding, or prosecution for the trial of which such person shall have been drawn or summoned, or for the hearing

of which he shall have been appointed or chosen referee, arbitrator, or umpire, he shall be punished by imprisonment in the penitentiary not less than one nor more than five years, or, in the discretion of the court, by confinement in the county jail not exceeding two years and fine not exceeding one thousand dollars.

ESCAPES FROM PRISON AND ASSISTING THEREIN.

SEC. 12. If any prisoner confined in the penitentiary or jail, upon conviction for a criminal offence, shall escape therefrom, he may be pursued, retaken, and imprisoned again, notwithstanding the term for which he was sentenced to be imprisoned may have expired, and shall suffer such additional imprisonment as may be necessary to make up the full term of his sentence. He shall also remain in custody until tried for such escape, or until he be discharged for a failure to prosecute therefor.

SEC. 13. If any prisoner confined in the penitentiary for any term less than for life, shall forcibly break such prison and escape therefrom, he shall, upon conviction, be punished by imprisonment therein for a term not exceeding five years, to commence from the expiration of his original term.

SEC. 14. If any prisoner confined in jail upon any conviction for a criminal offence, shall forcibly break such jail and escape therefrom, he shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding two years, to commence from the expiration of his former sentence.

SEC. 15. If any prisoner confined in jail upon a criminal charge, shall, before conviction, forcibly break jail and escape therefrom, he shall be punished by imprisonment in the penitentiary not exceeding two years, if the charge on which he stood committed was a felony, and if a misdemeanor, by confinement in jail not exceeding one year.

SEC. 16. Every person imprisoned in the penitentiary for any period less than life, who shall attempt by force or violence to any person to escape from such prison, although no escape be effected, shall, upon conviction, be adjudged to imprisonment in the penitentiary for a term not exceeding five years, to commence after the termination of his former sentence.

SEC. 17. Every person confined in jail for any cause whatever, who shall forcibly break the same with intent to escape therefrom or who shall attempt by any force or violence to escape from such prison,

although no escape be effected, shall, upon conviction, be punished by imprisonment in jail not exceeding one year.

SEC. 18. Every person who shall convey into the penitentiary, jail, or other place of confinement, any disguise, instrument, weapon, or other thing proper or useful to aid any prisoner in his escape, with intent thereby to facilitate the escape of any prisoner, then lawfully committed or detained for any felony whatever, or on a charge of any felony, or shall, by any means whatever, aid or assist any person so detained in his endeavors to escape therefrom, whether such escape be effected or attempted or not, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

SEC. 19. If the prisoner, whose escape was effected or attempted, was charged with or committed for any offence other than a felony, the punishment for aiding his escape or his attempt thereat, in the manner recited in the preceding section, shall be by confinement in the county jail not exceeding two years.

SEC. 20. Every person who shall forcibly rescue any prisoner held in custody, upon conviction or charge of any offence, shall be punished in like manner as provided in the two preceding sections, according as said offence is felony or otherwise.

SEC. 21. Every person, who shall aid or assist a prisoner in escaping or attempting to escape from the marshal or other officer or person having the lawful custody of such prisoner, shall be punished by confinement in jail not over two years and fine not exceeding five hundred dollars.

SEC. 22. If any jailer or other officer shall voluntarily suffer any prisoner in his custody upon conviction, or upon any criminal charge, to escape, he shall be fined, and imprisoned in the penitentiary from one to twenty years in the discretion of the court, not to exceed in any case the punishment to which the prisoner was sentenced or that he would be liable to suffer upon conviction for the offence wherewith he stood charged.

SEC. 24. If any jailer or other officer shall, through negligence, suffer any prisoner in his custody upon conviction, or upon any criminal charge, to escape, he shall be punished by confinement in jail not more than one year and fine not to exceeding five hundred dollars.

FAILING TO EXECUTE PROCESS.

SEC. 24. If any marshal, constable, coroner, jailer, or other officer shall wilfully and corruptly refuse to execute any lawful process directed to him requiring the apprehension or confinement of any person charged with or convicted of a criminal offence, or shall corruptly and wilfully omit to execute such process, by which such person shall escape, he shall be punished by confinement in the penitentiary not over five years and a fine not exceeding one thousand dollars.

SEC. 25. If any person being required by the marshal, coroner, constable, or other officer, shall neglect or refuse to assist him in the execution of his office in any criminal case, or in the preservation of the peace, or in apprehending or securing any person for a breach of the peace or in any case of escape or rescue, he shall be punished by confinement in jail not more than six months and a fine not exceeding one hundred dollars, or either, in the discretion of the court.

SEC. 26. If any person being required by a justice of the peace, upon view of any breach of the peace, or other offence, to apprehend and bring before him the offender, shall refuse or neglect to obey the justice, he shall be punished as is provided in preceding section for refusing assistance to the marshal, and no person to whom such justice shall be known or shall declare himself to be a justice of the peace, shall be allowed to plead ignorance of his office as an excuse.

MISCELLANEOUS.

SEC. 27. Every person who shall in any manner disguise himself with intent to obstruct the due execution of the law, or with intent to intimidate, hinder, or interrupt any officer or any other person in the legal performance of his duty, or the exercise of his rights, shall, whether such intent be effected or not, be punished by confinement in the county jail not over one year, and a fine not exceeding three hundred dollars. Such offender may also be bound over for good behavior for the term of one year after the expiration of such confinement.

SEC. 28. If any person, having knowledge of the commission of an offence, shall take any money or reward, or engagement therefor, upon an agreement, express or implied, to compound or conceal such offence, or not to prosecute therefor, or not to give evidence therefor,

he shall, if the same be a felony, be punished by confinement in the county jail not over two years and fine not exceeding five hundred dollars; and if such offence be other than a felony, by confinement as aforesaid not over six months and fined not exceeding one hundred dollars.

SEC. 29. If any marshal, constable, or other officer authorized to serve legal process, shall receive from a defendant, or other person, any money or other valuable thing, as a reward or inducement for omitting or delaying to arrest any defendant, or to carry him before any officer, or for delaying to take any defendant to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his office in a civil proceeding, he shall be punished by confinement in the county jail nor more than two years and fine not exceeding five hundred dollars.

FALSELY ASSUMING TO BE A JUSTICE OF THE PEACE, ETC.—EXTORTION.

SEC. 30. If any person shall falsely assume or pretend to be a justice of the peace, marshal, deputy marshal, coroner, or constable, and shall take upon himself to act as such, or to require any person to aid or assist him in any matter pertaining to the duty of a justice of the peace, marshal, deputy marshal, coroner, or constable, he shall be punished by confinement in jail not more than one year and by fine not exceeding five hundred dollars.

SEC. 31. If any officer, for performing an official duty for which a fee or compensation is allowed or provided by law, knowingly demand or receive a greater fee or compensation than is so allowed or provided, he shall be deemed guilty of extortion, and be imprisoned in jail not over one year and fined not exceeding one hundred dollars.

SEC. 32. If any person authorized by law to charge fees for services performed by him, and issue bills therefor, fraudulently issue a fee bill for a service not performed by him, or for a service that he is not entitled to charge for, he shall be imprisoned in jail not over one year and fined not exceeding one hundred dollars.

FALSE ENTRIES IN RECORDS.—EMBEZZLING OR DESTROYING RECORDS.

SEC. 33. If a clerk or register of any court, or other public officer, fraudulently make a false entry, or erase, alter, secrete, or destroy any record in his possession and belonging to his office, he shall be

confined in jail not more than two years and fined not exceeding one thousand dollars, and be forever incapable of holding any office of trust existing under the laws of this District.

SEC. 34. If any person, other than such public officer, steal, or fraudulently secrete or destroy, a public record, or part thereof, or fraudulently make a false entry therein, or fraudulently alter or erase the same, he shall be confined in jail not more than two years and fined not exceeding one thousand dollars.

MALICIOUS PROSECUTION AND BARRATRY.

SEC. 35. If any person shall maliciously, without probable cause, cause, or attempt to cause, any indictment to be found, or other prosecution, for any felony or misdemeanor, to be commenced against another; or if two or more shall conspire together for any such purpose, the person so sought to be indicted or otherwise prosecuted being innocent, such person so offending shall be punished by imprisonment in jail not over one year, or fine not exceeding five hundred dollars.

SEC. 36. Every person who shall frequently excite quarrels or law suits among the citizens of this District, shall be deemed a common barrator, and, upon conviction, be punished by confinement in jail not more than six months, or fine not exceeding two hundred dollars.

CHAPTER 134.

OF OFFENCES AGAINST THE PUBLIC PEACE.

SECTION

1. Riot punished by fine or imprisonment, or both.
2. Rout punished by fine or imprisonment, or both.
3. Affray punished by fine or imprisonment, or both.
4. Rioters, &c., destroying dwelling house.
5. Unlawful assemblies; how suppressed.
6. Refusing assistance when required, or refusing to leave when commanded, deemed rioting.
7. Officer failing to discharge his duty guilty of a misdemeanor.

SECTION

8. } When and how the military force may
9. } be called out.
10. Military, on reaching place of tumult, to act under orders of civil officers.
11. People not to be fired on before notice given to disperse, &c.
12. Officers, &c., to be held guiltless, though death ensue; if officers, &c., be killed, rioters guilty.
13. Carrying, habitually, concealed weapons.
14. Forceful entry of detainer.
15. Printing, publishing, &c., libel; how punished.

SECTION 1. If three or more persons shall, upon a common cause, do an unlawful act with force and violence, they shall be deemed guilty of a riot, and shall be punished by confinement in the county jail not more than two years, or fine not exceeding five hundred dollars, or, in the discretion of the court, by both fine and imprisonment as aforesaid.

SEC. 2. If three or more persons shall meet together to do an unlawful act upon a common cause, and shall make advances towards the commission thereof, they shall be deemed guilty of a rout, and shall be punished by confinement in the county jail not more than six months, or fine not exceeding three hundred dollars, or, in the discretion of the court, by both fine and imprisonment as aforesaid.

SEC. 3. If two or more persons fight, by agreement, in any public place, they shall be deemed guilty of an affray, and be punished by confinement in the county jail not more than three months, or fine not exceeding one hundred dollars, or, in the discretion of the court, by both fine and imprisonment as aforesaid.

SEC. 4. If any rioter, or person unlawfully assembled, shall pull down, in whole or in part, any dwelling house, or assist therein, he shall be punished by imprisonment in the penitentiary not less than one nor more than five years, or by fine not exceeding one thousand dollars and confinement in the county jail not more than two years; and such offender shall also be answerable to any person injured, to the full amount of the damage, in a civil action.

SEC. 5. In case of any unlawful assembly or riot, in either the city of Washington or Georgetown, or the county of Washington, the mayor of either of such corporations, when such assembly shall take place within the limits of his respective corporation, or the marshal of the District, and every justice of the peace, wheresoever such assembly may take place within this District, may demand the full assistance of the police and constabulary force of the District, and may summon any and every citizen, and require them to aid in suppressing the same.

SEC. 6. If any person present, being commanded by any officer mentioned in the preceding section to aid in securing such rioters or persons unlawfully assembled, or in otherwise suppressing such riotous or unlawful assembly, shall refuse or neglect to obey such command, or when required by any such officer to depart from the

place of such riotous or unlawful assembly, shall refuse or neglect so to do, he shall be punished by imprisonment in jail not more than six months, or fine not exceeding five hundred dollars, or, in the discretion of the court, by both fine and imprisonment as aforesaid.

SEC. 7. If any mayor, marshal, or other officer, having notice of such riotous, or unlawful assembly within the limit of his authority, shall fail to exercise the powers with which he is invested by this chapter, he shall be deemed guilty of a misdemeanor, and be punished by a fine not exceeding five hundred dollars.

SEC. 8. If the police and constabulary force, with the aid of the citizens who shall obey such summons as aforesaid, shall be insufficient to suppress the said riotous or unlawful assembly, the said mayors, respectively, and the said marshal, and the said justices of the peace, upon due proof thereof, may require the aid of the volunteer force and militia of this District to suppress the same; provided that if the said riotous or unlawful assembly be so great, or the danger therefrom be so imminent, that it would be unsafe to attempt its suppression by the civil powers, the said officers, respectively, may at once, on satisfactory proof thereof, call for military aid.

SEC. 9. The application for the military aid, as provided in the preceding section, may be made to the President of the United States, or to the major general, or other officer commanding the militia of this District; and if the President shall see fit, on due proof of the insufficiency or the inefficiency of the civil power, and the volunteer or militia forces of said District, to suppress such assembly, he may order so much and such parts of the regular forces of the United States to aid therein as he may deem expedient.

SEC. 10. Whenever the military force is so ordered out in aid of the civil authority, the officer in command shall be directed to report himself to, and act under the direction of, the civil officer having the chief authority at the place of assembly.

SEC. 11. No assembly of the people shall be fired upon, or attacked with deadly weapons, by any military force under the authority of such civil officer, until notice shall have been given to them to disperse, and that unless they do so, they will be attacked by the military; and time shall have been given for them to disperse.

SEC. 12. If by any means taken under authority of this act to suppress any such assembly, or arrest and secure those engaged in it,

any person present, as spectator or otherwise, be killed or wounded, any mayor or other officer hereinbefore mentioned, and every one acting under his orders, shall be held guiltless and fully justified in law, civilly and criminally; but if either of said officers, or any person acting under his orders or direction, shall be killed or wounded, all persons so unlawfully, or riotously, assembled, shall be held answerable therefor.

SEC. 13. If any person habitually carry about his person, concealed from common observation, any pistol, dirk, bowie knife, or other weapon of like kind, he shall be fined not exceeding fifty dollars for the first offence, and for any after like offence, imprisonment in jail not over six months may be imposed in addition to said fine.

SEC. 14. Every person who shall violently take or keep possession of lands, with menaces, force and arms, and without authority of law, shall be deemed guilty of forcible entry or forcible detainer, as the case may be, and be punished by confinement in jail not more than one year, or fine not exceeding five hundred dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 15. If any person shall write, print, or publish any malicious libel of or concerning another, or shall cause or procure any such libel to be written, printed, or published, he shall, upon conviction thereof, be confined in jail not more than one year, or fined not exceeding one thousand dollars.

CHAPTER 135.

OF OFFENCES AGAINST CHASTITY, MORALITY, AND DECENCY.

SECTION

1. Adultery.
2. Polygamy.
3. Excepted cases.
4. Punishment on whites and negroes intermarrying.
5. Punishment on such parties married elsewhere living here.
6. Misdemeanor to counsel or aid such marriage.
7. Lewd and lascivious cohabitation, and open and gross lewdness.

SECTION

8. Fornication.
9. Concealment, by the mother, of the death of a bastard child.
10. Offence in preceding section may be inserted in indictment for murder of bastard child.
11. Parents abandoning child.
12. Keeping a house of ill-fame, or renting a house for that purpose.
13. Lease of house so kept void at the option of lessor.

SECTION

14. Importing, selling, receiving, &c., obscene books or prints, &c.
15. Justice of peace may issue search warrant for obscene books, &c., and cause the same to be destroyed.
16. Incest.
17. Crime against nature.

SECTION

18. Public indecencies.
19. Profane cursing and swearing.
20. Drunkenness.
21. Violation of sepulchur.
22. Making roads, canals, &c., through burial grounds.
23. Cruelty to animals.

SECTION 1. Every person who shall commit the crime of adultery shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars; and when the crime is committed between a married woman and a man who is unmarried, the man shall be deemed guilty of adultery, and be liable to the same punishment.

SEC. 2. If any person who has a former husband or wife living shall marry another person, or shall continue to cohabit with such second or other husband or wife in this District, he or she shall, except in the cases mentioned in the following section, be deemed guilty of the crime of polygamy, and shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 3. The provisions of the preceding section shall not extend to the following cases or persons:

1. To any person, by reason of any former marriage, whose husband or wife by such marriage shall have been absent for five successive years, without being known to such person within that time to be living; nor,

2. To any person, by reason of any former marriage, which shall have been dissolved by a competent court without such person being restrained by the court from marrying again.

3. To any person, by reason of any former marriage, which shall have been pronounced void by a competent court on the ground of the nullity of the marriage contract; nor,

4. To any person, by reason of any former marriage, contracted by such person within the age of legal consent, and which shall have been annulled by a competent court.

SEC. 4. No negro shall be permitted to marry any white woman within this District, nor shall any white man be permitted to marry any negro woman; and every person who shall knowingly marry in violation of the provision of this section shall, upon conviction thereof, be imprisoned in the penitentiary not less

than one nor more than five years, and be fined not exceeding one thousand dollars.

SEC. 5. Such persons intermarrying elsewhere and removing to this District, and cohabiting here as man and wife, shall be punished by confinement in jail not over one year, and fine not exceeding one hundred dollars.

SEC. 6. Every person who shall knowingly counsel or assist in any manner any such marriage shall be guilty of a misdemeanor.

SEC. 7. If any man and woman, not being married to each other, shall lewdly and lasciviously associate and cohabit together, or if any man or woman, married or unmarried, shall be guilty of open and gross lewdness and lascivious behavior, every such person shall be punished by imprisonment in jail not more than six months, or by fine not exceeding three hundred dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 8. If any man shall commit fornication with any single woman, each of them shall be punished by imprisonment in jail not more than one month, or by fine not exceeding twenty dollars.

SEC. 9. If any woman shall conceal the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by fine not exceeding one hundred dollars, or by imprisonment in jail not more than one year.

SEC. 10. Any woman who shall be indicted for the murder of her infant bastard child may also be charged in the same indictment with the offence described in the preceding section; and if on the trial the jury shall acquit her of the charge of murder, and find her guilty of the other offence, judgment and sentence may be awarded against her for the same.

SEC. 11. If the father or mother of any child under the age of ten, or any other person to whom such child shall have been confided, shall expose such child in any highway, street, field, house, or out-house, with intent wholly to abandon it, he or she shall, upon conviction, be imprisoned in jail not more than twelve months, and fined not exceeding one hundred dollars.

SEC. 12. Every person who shall keep a house of ill-fame, resorted to for the purpose of prostitution or lewdness, and every person who

shall knowingly let a house to be so kept, shall be punished by imprisonment in jail not more than one year, or by fine not exceeding three hundred dollars, or by both fine and imprisonment, as aforesaid, in the discretion of the court.

Sec. 13. Whenever the lessee of any dwelling house shall be convicted of the offence mentioned in the preceding section, the lease or contract for letting such house shall, at the option of the lessor, become void, and such lessor shall thereupon have the like remedy, to recover possession, as against a tenant holding over after the expiration of his term.

Sec. 14. If any person shall import, print, publish, sell or distribute any book or any pamphlet, ballad, or printed paper or other thing containing obscene language, or obscene prints, pictures, figures, or descriptions, manifestly tending to the corruption of the morals of youth, or shall introduce into any family, school, or place of education, or shall buy, procure, receive, or have in his possession any such book, pamphlet, ballad, printed paper, or other thing, either for the purposes of sale, exhibition, loan, or circulation, or with intent to introduce the same into any family, school, or place of education, he shall be punished by imprisonment in the penitentiary not more than five years, or confinement in jail not more than two years, and a fine not exceeding one thousand dollars.

Sec. 15. Any justice of the peace may issue a search warrant for the purpose of searching for any such obscene books, pamphlets, ballads, printed papers, or other things mentioned in the preceding section, in the manner provided in chapter one hundred and forty-one; and all such things which shall be found by any officer in executing such warrant, or which shall be produced or brought into court, shall be safely kept, so long as shall be necessary, for the purpose of being used as evidence in any case, and, as soon as may be afterwards, shall be destroyed by order of the court before whom the same shall be brought.

Sec. 16. All persons being within the degrees of consanguinity within which marriages are prohibited, or declared by law to be incestuous and void, who shall intermarry with each other, or who shall commit adultery or fornication with each other, shall be punished by imprisonment in the penitentiary not more than ten years, or in jail not more than three years.

SEC. 17. Every person who shall commit the abominable and detestable crime against nature, either with mankind or with any beast, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

SEC. 18. Every person who shall expose his person publicly in an indecent manner, or shall be guilty of any other like public indecency, shall, upon conviction, be punished by imprisonment in jail not over six months, or fine not exceeding one hundred dollars, or by both fine and imprisonment, as aforesaid, in the discretion of the court.

SEC. 19. If any person who has arrived at the age of discretion shall profanely curse or swear in public, or use indecent language in public, he shall, on conviction thereof before any justice of the peace, be punished by fine not exceeding ten dollars nor less than one dollar, saving to any person so convicted the right to a trial by a jury, upon appeal to the criminal court of this District, as is hereinafter provided; but no such prosecution shall be sustained unless it shall be commenced within ten days after the commission of such offence.

SEC. 20. Any person who shall be guilty of the offence of drunkenness, by the voluntary use of intoxicating liquor, and shall expose himself to public view, shall, for the first offence, be punished by a fine not exceeding five dollars, and for any like offence, committed after the first conviction, shall be punished by a fine not exceeding ten dollars, or by confinement in jail for a term not exceeding three months; but no prosecution for such offence shall be sustained, unless it shall be commenced within six months after the commission thereof; and justices of the peace shall have jurisdiction of such offence, subject to appeal, as hereinbefore provided in section nineteen.

SEC. 21. If any person shall, without the consent of the near relatives of a deceased person, or without the consent of such deceased person being had in his lifetime, or the direction of the coroner, wilfully dig up, disinter, remove or convey away any human body, or the remains thereof, or shall knowingly aid in such disinterment, removal or conveying away, every such offender, and every person accessory thereto, either before or after the fact, shall be punished by imprisonment in the penitentiary not more than two years, or by confinement in jail not more than one year and fine not exceeding one thousand dollars.

SEC. 22. If any person shall open or make any highway or town

way, or shall construct any railroad, turnpike, or canal, or any other thing in the nature of a public easement, over, through, in, or upon, such part of any enclosure, being the property of a town, religious society, or of private proprietors, as may be used or appropriated for the burial of the dead, unless an authority for that purpose shall be specially granted by law, or unless the consent of such town, or religious society, or proprietors, respectively, shall be first obtained, he shall be punished by fine not exceeding two thousand dollars, or imprisonment in jail not more than one year.

Sec. 23. Every person who shall cruelly beat or torture any horse, ox, or other animal, whether belonging to himself or to another, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding one hundred dollars.

CHAPTER 136.

OF OFFENCES AGAINST THE PUBLIC HEALTH.

SECTION

1. Selling unsound provisions, food, or liquor, without notice.
2. Adulterating food or liquors.
3. Adulterating drugs or medicines.

SECTION

4. Knowingly selling adulterated food, liquor, drugs, or medicines.
5. Nuisance; how punished.
6. Sale, &c., of poisons; how regulated.

SECTION 1. If any person shall knowingly sell any diseased, corrupted, or unwholesome provisions, whether meat or drink, without making the condition of the same known to the buyer, he shall be punished by confinement in jail not more than one year and fine not exceeding two hundred dollars.

Sec. 2. If any person shall fraudulently adulterate, for the purpose of sale, anything intended for food, or any wine, spirits, malt, or other liquor, with any substance injurious to health, he shall be punished by confinement in jail not more than two years and fine not exceeding four hundred dollars, and the articles so adulterated shall be forfeited and destroyed.

Sec. 3. If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine, in such manner as to render the same injurious to health, or impair its efficacy as a prescription, he shall be

punished by confinement in jail not more than two years and fine not exceeding four hundred dollars; and such adulterated drug or medicine shall be forfeited and destroyed.

SEC. 4. Any person who shall knowingly sell any drug or medicine adulterated in the manner mentioned in the preceding section, without making the condition of the same fully known to the buyer, shall be punished by confinement in jail not more than one year and fine not exceeding one hundred dollars.

SEC. 5. If any person shall erect or continue any dam or other obstruction in any river or stream of water in this District, and thereby raise an artificial pond, or produce stagnant water, which shall be injurious to the public health or safety, he shall, upon conviction thereof, be fined not exceeding two hundred dollars; and the court shall moreover order every such nuisance to be removed.

SEC. 6. No apothecary, druggist, or other person, shall sell or give away, except upon the prescription of a physician, or the personal application of some responsible white resident of the District, of full age, any article of medicine belonging to the class usually known as poisons. The word poison shall, in all cases, be carefully and legibly marked upon the label or wrapper of each package, and when such poison is sold or given away on the application of other than a physician, the apothecary, druggist, or person so disposing of the same, shall observe strictly the following directions:

1. To register, in a book to be kept for that purpose, the name, age, and sex of the person obtaining the poison.
2. The quantity sold, and day and date of sale.
3. The purpose for which it is required.
4. The name and place of abode of the person for whom it is intended.

Any person offending against the provisions of this section shall, on conviction thereof, be punished as for a misdemeanor.

CHAPTER 137.

OF OFFENCES AGAINST PUBLIC POLICY.

SECTION

GAMING.

1. Keeping, &c., faro bank or gaming table; how punished.
2. Acting as stool pigeon to same.
3. Bank or table with money staked, &c.; how seized and forfeited.
4. Those aiding as door keepers, &c.; how punished.
5. Allowing faro bank, &c., to be kept on premises in one's occupation.
6. Penalty for betting at such tables, &c., and publicly.
7. Penalty for losing elsewhere over twenty dollars in twenty-four hours.
8. Penalty for keeper of ordinary, &c., permitting gambling at his house, &c.
9. Permission; how presumed.
10. Penalty on owner of house renting it for unlawful gaming.
11. Intent; how presumed.
12. Penalty, &c., for cheating at gaming.
13. Offending parties competent witnesses against each other.

LOTTERIES AND LOTTERY TICKETS.—RAFFLES.

14. Setting up or promoting illegal lotteries, &c.
15. Selling lottery tickets, or aiding therein.
16. Advertising lottery tickets for sale; exhibiting a representation of a lottery.
17. Making or selling tickets in a fictitious lottery.
18. Defendant to prove genuineness of tickets sold by him.
19. All contracts of sale of such tickets, &c., void, and money paid recoverable back.
20. All prizes forfeited, and how disposed of.

ILLEGAL CIRCULATION.

21. Penalty for making or issuing notes under five dollars as a circulating medium.

SECTION

22. Penalty for passing same.
23. Preceding sections to be construed as remedial.

IMPORTING CONVICTS AND TRANSPORTED SLAVES

24. Person importing certain convicts or transported slaves; how punished.

ELECTION FRAUDS, ETC., AND BETTING ON ELECTIONS.

25. Fraudulent deed to render one eligible to office.
26. Giving or receiving reward, &c., for vote.
27. Certain frauds on voters; how punished.
28. Penalty on officers of election for certain misconduct.
29. Illegal voting; how punished.
30. Using threats, &c., to voters, and public threats.
31. Betting on elections.

VIOLATING SECRECY OF TELEGRAPHIC DESPATCHES AND LETTERS.

32. Disclosing telegraph despatch.
33. Opening, &c., sealed letters.
34. Publishing contents of same maliciously.
35. Not to extend to cases punished under United States laws.

MISCELLANEOUS.

36. Penalty on party refusing to give assessor a list of all taxable property.
37. Disturbing religious or public meetings.
38. Nuisances.
39. Selling liquor to minor or slave, or person intoxicated.
40. Horse racing on public highway.
41. Cruelty to beasts.
42. Penalty on certain officers loaning money &c., in their hands.
43. Penalty on certain officers deriving a benefit from a deposit of same.

GAMING.

SECTION 1. Any person who shall keep or exhibit a faro bank or table, or other gaming table, under any denomination, whether the

game be played with cards, dice, or otherwise, or who shall be a partner or concerned in interest in keeping or exhibiting such bank or table, or who shall deal faro, or bank for others to deal faro, shall be punished by confinement in jail not less than six months nor more than two years, or fine not exceeding one thousand dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 2. If any person, acting in behalf of or for any such gambling establishment, shall, through invitation or device, persuade another to visit the same, he shall, upon conviction thereof, be punished as provided in the preceding section.

SEC. 3. Any such table or faro bank, and all implements used hereat, together with all money staked or exhibited to allow persons to bet at the same, may be seized by order of the criminal court, or under a warrant of the justice of the peace, and the money so seized, after deducting therefrom one half for the person making the seizure, shall be forfeited and go as hereinbefore provided in regard to fines, and the faro bank or other table, with its implements, shall be burnt.

SEC. 4. If any person shall knowingly act as doorkeeper, guard, or watch, or employ another to act as such for a keeper or exhibitor of a gaming table or faro bank, or shall resist, or by any means or device prevent or delay the lawful arrest of such keeper or exhibitor, or the seizure of the table, bank, implements, or money exhibited or staked thereat, or shall unlawfully take the same from the person seizing it, he shall be punished by confinement in jail not over one year, or fine not exceeding five hundred dollars, or, in the discretion of the court, by both fine and imprisonment as aforesaid.

SEC. 5. If any person knowingly permit a faro bank or gaming table of any kind to be kept or exhibited on any premises in his occupation, he shall be punished by confinement in jail not more than one year, or fine not exceeding five hundred dollars, or, in the discretion of the court, by both fine and imprisonment as aforesaid.

SEC. 6. If any person bet or play at any such bank or table as is mentioned in section one of this chapter, or if at any ordinary, race field, or other public place, he play at any game except chess, backgammon, draughts, or a licensed game, or bet on the sides of those who play, he shall be fined not exceeding one hundred dollars, and

shall, if required by the court, give security for his good behavior for one year, or, in default thereof, may be confined in jail not exceeding three months.

SEC. 7. If any person, by playing at any game or making a wager, elsewhere than at a public place, lose or win, within twenty-four hours, a greater sum, or anything of greater value than twenty dollars, he shall be punished as in the preceding section.

SEC. 8. If a keeper of an ordinary or house of entertainment permit unlawful gaming at his house, or at any out house, booth, arbor, or other place appurtenant thereto or held therewith, he shall be fined not exceeding one hundred dollars, and forfeit his license, and shall, if required by the court, give security for his good behavior for one year, or, in default of such security, be confined in jail not more than three months.

SEC. 9. In a prosecution under the preceding section, if the gaming be proved, it shall be presumed it was permitted by the keeper of the house, unless it appear that such gaming was carried on without his knowledge or suspicion, or that he endeavored to prevent it, and gave immediate information of it, with the names of the players, to some justice of the peace.

SEC. 10. If any person, being the owner of any house, arbor, booth, shed, or tenement, shall rent or let the same to be used for unlawful gaming, he shall be fined not exceeding five hundred dollars.

SEC. 11. It shall be sufficient evidence that such building, arbor, booth, shed, or tenement, specified in the preceding section, was rented or let for the purpose of unlawful gaming, if such gaming was actually carried on, and the owner or lessor thereof knew or had good reason to believe that the lessee suffered such gaming therein, and such owner or lessor took no sufficient means to prevent or restrain the same.

SEC. 12. If any person playing at any game, or making a wager, or having a share in any stake or wager, or betting on the hands or sides of others playing at any game, or making a wager, shall cheat, or by fraudulent means win or acquire for himself or another, money or other valuable thing, he shall be punished by confinement in jail not more than one year and fine not exceeding five hundred dollars.

SEC. 13. Every person violating the provisions of this chapter with regard to gambling and keeping gaming houses, shall be a competent witness against every other person so offending, and may be compelled to appear and give testimony, but the same shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

LOTTERIES AND LOTTERY TICKETS.—RAFFLES.

SEC. 14. Every person who shall set up or promote any lottery or raffle not authorized by law, for money, or shall dispose of any property of value, real or personal, by way of lottery, and every person who shall aid, either by printing or writing, or shall in any way be concerned in the setting up, managing, or drawing of any such lottery or raffle, or who shall, in any house, shop, or building owned or occupied by him, or under his control, knowingly permit the setting up, managing, or drawing of any such lottery, or the sale of any lottery ticket, or share thereof, or any other writing, certificate, bill, token, or other device, purporting or intended to entitle the holder, bearer, or any other person to any prize to be drawn in such lottery, or who shall knowingly suffer money or other property to be raffled for in such house, shop, or building, by throwing or using dice, or by any other game of chance, shall, for every such offence, be punished by confinement in jail not over six months, or fine not exceeding five hundred dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 15. Every person who shall sell, either for himself or for another person, or shall offer for sale, or shall have in his possession with intent to offer for sale, or to exchange, or negotiate, or shall in anywise aid or assist in the selling, negotiating, or disposing of a ticket, or share thereof, in any such lottery or raffle, or any such writing, certificate, bill, token, or other device, as is mentioned in the preceding section, shall be punished, for every such offence, by confinement in jail not over four months, or fine not exceeding three hundred dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 16. Every person who shall advertise any lottery or raffle ticket, or share thereof, for sale, either by himself or by another, or who shall set up, or exhibit, or shall devise or make, for the purpose of being set up or exhibited, any sign, symbol, or any emblematic or

other representation of a lottery, or raffle, or the drawing thereof, in any way indicating when or where a lottery or raffle ticket, or share thereof, or any such writing, bill, token, or other device before mentioned, may be purchased or obtained or shall in any way invite or entice, or attempt to invite or entice, any person to purchase or receive the same, shall be punished, for every such offence, by a fine not exceeding one hundred dollars.

SEC. 17. Every person who shall make or sell, or have in his possession with intent to sell, or to exchange or negotiate, or who shall assist in making or selling, or attempting to sell, exchange, or negotiate, any false or fictitious lottery or raffle ticket, or share thereof, or any writing, certificate, bill, token, or device before mentioned, or any ticket, or share thereof, in any false or fictitious lottery or raffle, knowing the same to be false or fictitious, shall, for every such offence, be punished by imprisonment in the penitentiary not less than one nor more than five years, and fine not exceeding one thousand dollars.

SEC. 18. In a prosecution under the preceding section, any ticket, or share of a ticket, or any other writing or thing before mentioned, which the accused sold, or offered for sale, or the lottery or raffle in which the same was sold, shall be presumed to be false or fictitious, unless it be proved that the same is true and genuine, and that such lottery or raffle was existing and undrawn, and that such ticket, or share thereof, or other thing before mentioned, was issued by lawful authority, and was binding upon the person who issued the same.

SEC. 19. All contracts for the sale of such lottery or other ticket, or share, shall be void; and the person paying money on account thereof shall have a right to recover back the same, with interest, on suit brought within one year of the date of said payment.

SEC. 20. All money and things of value drawn as a prize by any inhabitant of this District, and all money or things of value received by such person by reason of his being the holder of a ticket, or share of a ticket, in any lottery or raffle, contrary to the provisions of this chapter, shall be forfeited, and go as hereinbefore provided with regard to fines.

ILLEGAL CIRCULATION.

SEC. 21. If any person within this District shall make, issue, or endorse any bank note, promissory note, or other instrument of

writing, for the payment or delivery of money or other valuable thing, of a less denomination than five dollars, to be used as a circulating medium, he shall be fined not exceeding the sum of five hundred dollars.

SEC. 22. If any person shall pass, or offer to pass, within this District, any such note or instrument of writing as is specified in the preceding section, he shall be fined not exceeding one hundred dollars.

SEC. 23. All the provisions of this chapter for suppressing gaming, lotteries, and illegal circulation, shall be construed as remedial.

IMPORTING CONVICTS AND TRANSPORTED SLAVES.

SEC. 24. If the master of a vessel, or other person, knowingly import or bring into this District, from any place out of the United States, any person convicted of crime, or any slave sold and transported for crime, he shall be confined in jail not more than one year and fined not exceeding five hundred dollars.

ELECTION FRAUDS, ETC., AND BETTING ON ELECTIONS.

SEC. 26. If a deed, purporting to convey real estate, executed, not in good faith, but for the purpose of making the grantee eligible to office, and with the understanding of the parties thereto that such deed is not to vest any beneficial interest in the property conveyed, every party to such deed shall be fined not exceeding two hundred dollars, and may, in the discretion of the court, be confined in jail not exceeding three months.

SEC. 27. If any person, directly or indirectly, give to a voter, in any election, any money, goods, or chattels, under an agreement, express or implied, that such voter shall give his vote for a particular candidate, such person, and also the voter receiving said property, shall be punished as for a misdemeanor.

SEC. 28. If any person shall, at any election held pursuant to law, furnish a voter who cannot read the English language with a ticket, representing the same to contain a name different from the one printed or written thereon, or if any one at such an election shall otherwise fraudulently cause, or attempt to cause, any such voter to vote for a person different from the one he intended to vote for, every such offender shall be deemed guilty of a misdemeanor.

SEC. 29. If any judge, commissioner, or clerk of an election, held

in pursuance of law, shall attempt to induce, by persuasion, menace, or reward, or promise thereof, any voter to vote for a person, or if any such officer shall open or mark, by folding or otherwise, any ticket presented by such voter, or attempt to find out the names thereon, or suffer the same to be done by any other person, before the ticket is deposited in the ballot box, every such offender shall be deemed guilty of a misdemeanor.

SEC. 30. If any person not having the legal qualifications of a voter, at an election authorized by law, shall vote thereat, or if any person shall vote, or attempt to vote, more than once at such an election, or shall knowingly hand in two or more tickets together, every such offender shall be deemed guilty of a misdemeanor.

SEC. 31. If any person shall, at any election held pursuant to law, or previous thereto, use any threats, menaces, force, or any corrupt means, towards any voter, to hinder or deter him from voting, or shall, on the day of the election, give any public treat, or authorize another to do so, to obtain votes, every one so offending shall be deemed guilty of a misdemeanor.

SEC. 32. If any person shall, within this District, make any bet or wager upon the event of any election held under the laws of this District, or of the United States, or any State thereof, or shall make any bet or wager upon the election or nomination of any person to or for any office or situation which, by the law of this District, or of the United States, or any State thereof, is elective, every one so offending shall, upon conviction thereof, be fined not less than ten nor more than one hundred dollars.

VIOLATING SECRECY OF LETTERS AND TELEGRAPHIC DESPATCHES.

SEC. 33. If any operator, clerk, servant, or messenger of a telegraph company shall disclose the contents of a despatch or message received at or sent from any office of such company, except to a court of justice, or to a person authorized to know the same, he shall, on conviction, be imprisoned in jail not more than six months, or fined not exceeding five hundred dollars.

SEC. 34. If any person shall wilfully and without lawful authority open and read, or cause to be read, any sealed letter not addressed to himself, he shall be punished by confinement in jail not more than six months, or by fine not exceeding two hundred dollars.

SEC. 35. Whoever shall maliciously publish the contents of such letter, in whole or in part, without the authority of the writer thereof or of the person to whom the same shall be addressed, knowing the same to have been so opened, shall, upon conviction, be adjudged guilty of a misdemeanor, and punished as prescribed in the preceding section.

SEC. 36. The two preceding sections shall not extend to any cases which shall be punishable by the laws of the United States.

MISCELLANEOUS.

SEC. 37. If any person, when requested by an assessor, or any deputy of such officer, fail to give a true list of all his taxable property, or to take or subscribe any oath in that behalf that may be required by law, he shall, upon conviction, be fined not exceeding five hundred dollars.

SEC. 38. If any person shall disturb a religious society, or any member thereof, when met or meeting together for public worship, or shall disturb any collection of people convened in public meeting for any lawful purpose, he shall be confined in jail not more than three months, or be fined not exceeding one hundred dollars.

SEC. 39. Every person who shall erect or continue any public nuisance, other than such as are punished in section five, chapter one hundred and thirty-six, of the Code, to the injury of any part of the inhabitants of this District, shall be fined not exceeding two hundred dollars.

SEC. 40. If any person shall give or sell any intoxicating liquor to a minor, without the consent of his parents or guardian, or to any slave without the consent of his owner, or shall sell or give any intoxicating liquor to any person at the time in a state of intoxication, he shall be fined not exceeding fifty dollars.

SEC. 41. Any person who shall run or drive his horse, or shall knowingly suffer his horse to be run or driven along any public highway in this District, and any person who shall act as rider or driver in such race, shall be fined not exceeding twenty dollars.

SEC. 42. If any officer elected or appointed by virtue of a law of this District, or under the provisions of the charter of the city of Washington or Georgetown, shall loan out, with or without interest or return, any money or valuable security received by him or which may be in his possession or under his control, by virtue of his office,

he shall, upon conviction, be fined not exceeding one thousand dollars, and shall, moreover, be adjudged to have forfeited his office, and be incapable afterwards for the space of five years of holding any office under the laws of this District.

SEC. 43. If any such officer shall make any contract or agreement with any person, by which said officer is to derive any benefit or advantage from the deposit with such person of any money or valuable security held by such officer, he shall be subject to the same fine and disability as are imposed by the preceding section. Such contract shall, as to the said officer, be void, but an action shall lie in favor of the corporation or other body entitled to the money or security so loaned or deposited, for the recovery of all advantage accruing by the terms of said contract or agreement to such officer; and payment to said officer shall not be a bar to such action.

CHAPTER 138.

OF OFFENCES COMMITTED BY FREE NEGROES AND SLAVES.

SECTION

1. Preceding provisions to apply to free negroes, &c., and slaves, except where otherwise specially provided.
2. Slave committing a misdemeanor, punished by stripes.
3. In certain felonies, slave may be punished by stripes.
4. In all felonies committed by slave, shall substitute stripes in place of fine.
5. Character of punishment by stripes.

SECTION

6. Punishment on negro or mulatto raping a white woman or child.
7. Punishment on negro, &c., of sixteen years of age, having carnal knowledge of white woman or child insane.
8. Assault with intent to commit said offences.
9. Punishment on negro, &c., committing those offences on negro woman or child.

SECTION 1. The provisions of the preceding chapter, defining punishment for criminal offences, shall apply to negroes, free or slave, except so far as may be otherwise specially provided.

SEC. 2. If a slave commit an offence, the commission whereof by a free person is punishable as a misdemeanor, he shall, upon conviction, be punished by stripes.

SEC. 3. In the following cases of felony, to wit: larceny, simple or compound, (except robbery,) embezzlement, false pretence, malicious injury to property, when committed by a slave, the court, upon

conviction being had, may, in its discretion, substitute, in lieu of the prescribed punishment, punishment by stripes.

SEC. 4. In all cases where a slave is convicted of felony, and the punishment of such offence is in part by fine, the court shall substitute stripes in lieu of such fine.

SEC. 5. Whenever punishment by stripes is prescribed, the number of stripes shall be in the discretion of the court by which the offence is tried, so as not to exceed thirty-nine at one time and one hundred in all. Such punishment shall be inflicted privately.

SEC. 6. If any negro, free or slave, shall have carnal knowledge of any white woman or white female child, forcibly or by fraud, and against her will, or if any negro, free or slave, of the age of sixteen years or upwards, shall carnally know and abuse any female white child under the age of twelve years with her consent, every such person so offending shall be deemed guilty of a rape, and, upon conviction thereof, shall suffer death.

SEC. 7. If any negro, free or slave, sixteen years of age or upwards, shall have carnal knowledge of any insane white woman or child, he knowing her to be insane, he shall, upon conviction, be deemed guilty of rape, and suffer death.

SEC. 8. All assaults committed by any such negro upon a white woman or child, with intent to perpetrate either of the offences mentioned in the preceding two sections, shall be punished by death, or, in the discretion of the court, by imprisonment in the penitentiary not less than five nor more than twenty years.

SEC. 9. If a negro, free or slave, commit an offence upon the body of a negro woman or child, similar to either of those mentioned in the preceding sections six and seven, he shall, upon conviction thereof, be imprisoned not less than two nor more than twenty years, and for the second offence, during the period of his natural life.

CHAPTER 139.

GENERAL PROVISIONS CONCERNING CRIMES AND PUNISHMENTS.

SECTION

1. Felonies and misdemeanors defined.
2. Death punishment; when only inflicted.

SECTION

3. Common law offences; how punished.
4. Benefit of clergy abolished

SECTION

5. Petit treason abolished.
6. Suicide, &c., not to work a corruption of blood or forfeiture of estate.
7. Felony not to merge civil remedy.
8. } Principals in the second degree and
9. } accessories; how punished.
10. }
11. Attempts to commit offences; how punished.
12. Approvers abolished.
13. } Punishment in case of second or third
14. } conviction of penitentiary offences.
15. Second conviction of petty larceny; how punished.
16. Person convicted of two or more offences at one time; how sentenced.
17. Person out of District committing offence within same by agent, &c.; how punished.
18. Persons stricken, &c., in this District, and dying without same; offender, how punished.
19. Person bringing stolen property within this District, punished as if larceny committed here.

SECTION

20. Former conviction or acquittal for same offence elsewhere may be plead, &c.
21. How far truth may be given in evidence in justification on prosecution for libel.
22. Embezzlement; indictment and evidence thereof.
23. Statement and proof of ownership of property embezzled, &c.
24. Public officer, &c., neglecting any duty, guilty of a misdemeanor.
25. Doing any act prohibited by law, a misdemeanor in the absence of penalty.
26. Punishment of misdemeanor in general
27. Term "infamous crime," defined.
28. Effect of sentence to penitentiary for life.
29. Effect of sentence to penitentiary for less than life.
30. Convict's person protected by law.
31. Convict to be kept at hard labor.
32. On conviction of person under twenty-one years of age of penitentiary offence, court may substitute confinement in jail.
33. When court may substitute confinement in house of correction for confinement in jail, or penitentiary.

SECTION 1. All offences are either felonies or misdemeanors. Such offences as may be punished with death or confinement in the penitentiary, are felonies; all other offences are misdemeanors.

SEC. 2. No crime shall be punished with death, unless it be directed by statute.

SEC. 3. A common law offence, for which punishment is prescribed by statute, shall be punished only in the mode so prescribed. All common law offences not herein specially provided for, nor covered by the provisions of a law of the United States, shall be punishable as follows:

1. Felonies, by imprisonment in the penitentiary not more than ten years, or fine not exceeding one thousand dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

2. Misdemeanors, by confinement in jail not over one year, or fine not exceeding two hundred dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 4. There shall be no plea of benefit of clergy in any criminal proceeding.

SEC. 5. The killing of a master by his servant, or of a husband by his wife, shall not be deemed any other or higher offence than if committed by any other person.

SEC. 6. No suicide, nor attainder of felony, shall work a corruption of blood, or forfeiture of estate.

SEC. 7. The commission of a felony shall not stay or merge any civil remedy.

SEC. 8. On the commission of a felony, every principal in the second degree, and every accessory before the fact, shall be punished as if he were the principal in the first degree; and every accessory after the fact shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

SEC. 9. No person in the relation of husband or wife, parent or grandparent, child or grandchild, mother or sister, by consanguinity or affinity, or servant, to the offender, who, after the commission of a felony, shall aid or assist a principal felon, or accessory before the fact, to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

SEC. 10. An accessory, either before or after the fact, may, whether the principal felon be convicted or not, or be arrested or not, be indicted, convicted, and punished. Such accessory may be indicted either with such principal or separately.

SEC. 11. Every person who attempts to commit an offence, and in such attempt does any act towards its commission, but fails to commit, or is prevented from committing it, shall, when it is not otherwise provided, be punished as follows:

If the offence attempted be punishable with death, the person making such attempt shall be confined in the penitentiary not less than one nor more than ten years.

If it be punishable by confinement in the penitentiary, he shall be confined in jail not less than six nor more than twelve months.

If it be punishable by confinement in jail or fine, or both, he shall be confined in jail not more than six months, or fined not exceeding one hundred dollars.

SEC. 12. Approvers shall not be admitted in any case.

SEC. 13. When any person is convicted of any offence and sentenced to confinement therefor in the penitentiary, and it is alleged in the indictment on which he is convicted, and is admitted, or by the jury

found, that he has been before sentenced in the United States to a like punishment, he shall be sentenced to be confined not less than one nor more than five years, in addition to the time which he is or would be otherwise sentenced.

SEC. 14. When any such convict shall have been twice before sentenced in the United States to confinement in a penitentiary, and it is so alleged in the indictment and admitted, or by the jury found, he shall be sentenced to be confined in the penitentiary for life, or for any period not less than twenty years, in the discretion of the court.

SEC. 15. When a free person is convicted of petit larceny, and it is alleged in the indictment on which he is convicted, and admitted, or by the jury found, that he has been before sentenced in the United States for a like offence, he shall be sentenced to confinement in the penitentiary for one year. If two such convictions shall have been previously had, and be so alleged, admitted, or found, such person shall be sentenced to confinement in the penitentiary for the space of five years.

SEC. 16. When any person is convicted of two or more offences, the confinement to which he may be sentenced upon the second or any subsequent conviction, shall commence on the termination of the previous term or terms of confinement.

SEC. 17. Every person, being without this District, who shall commit any offence by an agent or means within the same, is liable to be punished by the laws thereof in the same manner as if he were present, and had commenced and consummated the offence within said District.

SEC. 18. If a person be stricken or poisoned in this District, and by reason thereof die without the same, the offender shall be as guilty, and be prosecuted and punished in like manner, as if the death had occurred in this District.

SEC. 19. Every person who shall feloniously steal the property of another beyond the limits of this District, and shall bring the same within this District, may be convicted and punished in like manner as if such larceny had been committed within this District.

SEC. 20. Every person prosecuted under the preceding section may plead a former conviction or acquittal for the same offence in any State or country; and if such plea be admitted or established, it shall be a bar to any further or other proceeding against such person for the same offence.

SEC. 21. In every prosecution for writing or publishing a libel, the defendant may give in evidence, in his defence upon the trial, the truth of the matter contained in the publication charged as libellous; provided, that such evidence shall not be deemed a sufficient justification, unless it shall further appear that the matter charged as libellous was published with good motives and for justifiable ends.

SEC. 22. In any prosecution for the offence of embezzling the money, bank notes, checks, drafts, bills of exchange, or other security for money, of any person, by a clerk, agent, or servant of such person, it shall be sufficient to allege generally in the indictment the embezzlement of money to a certain amount, without specifying any particulars of such embezzlement, and on the trial evidence may be given of any such embezzlement committed within six months next after the time stated in the indictment, and prior to the finding thereof; and it shall be sufficient to maintain the charge in the indictment, and free from variance, if it shall be proved that any money, bank note, check, draft, bill of exchange, or other security for money, of such person, of whatever amount, was fraudulently embezzled by such clerk, agent, or servant, within the said period of six months.

SEC. 23. In the prosecution of any offence committed upon or in any way affecting any real estate, or any offence committed in stealing, embezzling, destroying, injuring, or fraudulently receiving or concealing any stolen money, goods, or other personal estate, it shall be sufficient, and free from variance, if it be proved on the trial that at the time when the offence was committed, either the actual or constructive possession, or the general or special property, in the whole or in any part of such real or personal estate was in the person or community alleged in the indictment or other accusation to be the owner thereof.

SEC. 24. When any duty is or shall be enjoined by law upon a public officer, or upon any person holding any public trust or employment, every wilful neglect to perform such duty, where no special provision shall have been made for the punishment of such delinquency, shall be a misdemeanor, punishable as herein prescribed.

SEC. 25. When the performance of any act is prohibited by law, and no penalty for the violation thereof is imposed, either in the same section containing such prohibition or elsewhere in the Code, the doing of such act shall be deemed a misdemeanor.

SEC. 26. Every person who shall be convicted of any offence made by the Code a misdemeanor, or punishable under the same as such, shall, in the absence of other provision, be punished by imprisonment in jail not over one year, or by fine not exceeding two hundred dollars, or, in the discretion of the court, by both fine and imprisonment, as aforesaid.

SEC. 27. The term "infamous crime," as used in this Code, shall be construed as including every offence punishable with death, or by imprisonment in the penitentiary, and no other.

SEC. 28. A person sentenced to imprisonment in the penitentiary for life, shall thereafter be deemed civilly dead.

SEC. 29. A sentence of imprisonment in the penitentiary, for any term less than life, shall suspend all the civil rights of the person so sentenced, and forfeit all public offices, and all private trusts, authority, or power, during the term of his imprisonment.

SEC. 30. The person, however, of a convict sentenced to imprisonment in the penitentiary shall be under the protection of the law; and any injury thereto, not authorized by law, is punishable in the same manner as if he was not sentenced.

SEC. 31. Whenever any person is imprisoned in the penitentiary, he shall be kept at hard labor therein during the period for which he was sentenced.

SEC. 32. Whenever any person under the age of twenty-one years shall be convicted of any crime punishable by imprisonment in the penitentiary, the court may substitute confinement in the county jail for any definite period not exceeding two years.

SEC. 33. Whenever any person under the age of sixteen years shall be convicted of any offence punishable by imprisonment in the penitentiary or confinement in the county jail, the court may substitute therefor, confinement in the house of refuge or correction, now or hereafter to be established, for any definite period not exceeding one year.

SEC. 34. In every case of a conviction of a capital crime, the judge of the criminal court may, in his discretion, order the body of the convict, after his execution, to be given up for dissection. The marshal in such case shall deliver the dead body of such convict to a professor of anatomy and surgery in some college or seminary within this District, if requested; otherwise, he may deliver it to any surgeon who will attend to receive it, and will engage for the dissection thereof.

Sec. 35. Any person who shall have been imprisoned in the penitentiary of any State or Territory of this Union, or in any prison in a foreign country, under a sentence for the commission of any crime which by the laws of this District is punishable by death or imprisonment in the penitentiary, shall be subject to all the disabilities imposed upon those who have been convicted of similar offences within this District.

TITLE III.

Of proceedings in criminal cases.

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- CHAPTER 140. Of rights of persons accused,
 - CHAPTER 141. Of proceedings to prevent and detect the commission of crimes.
 - CHAPTER 142. Of the arrest and examination of offenders, commitment for trial, and taking bail.
 - CHAPTER 143. Of indictments and proceedings before trial.
 - CHAPTER 144. Of trials in criminal cases.
 - CHAPTER 145. Of judgments in criminal cases, and the execution thereof.
 - CHAPTER 146. General provisions concerning proceedings in criminal cases.

CHAPTER 140.

OF THE RIGHTS OF PERSONS WHO ARE ACCUSED OF CRIMES AND OFFENCES.

- | SECTION | SECTION |
|--|--|
| 1. What offences to be prosecuted only by indictment. | 4. Former acquittal, when a bar to a subsequent prosecution. |
| 2. Party accused may have counsel, defend himself, produce evidence, &c. | 5. No person to be punished until legally convicted. |
| 3. Persons indicted, how convicted. | |

SECTION 1. No person shall be held to answer, in any court, for an alleged crime or offence, unless upon indictment by a grand jury, except in the following cases:

First, when a prosecution by information is expressly authorized by statute;

Secondly, in proceedings before a justice of the peace; and,

Thirdly, in proceedings before courts martial.

SEC. 2. On the trial of every indictment, the party accused shall be allowed to be heard by counsel, and he may defend himself, and he shall have a right to produce witnesses and proofs in his favor, and to be confronted with the witnesses who are produced against him.

SEC. 3. No person indicted for an offence shall be convicted thereof, unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury, accepted and recorded by the court.

SEC. 4. No person shall be held to answer on a second indictment for any offence of which he has been acquitted by the jury, upon the facts and merits, on a former trial; but such acquittal may be pleaded by him in bar of any subsequent prosecution for the same offence, notwithstanding any defect in the form or in the substance of the indictment on which he was acquitted.

SEC. 5. No person who is charged with any offence against the law, shall be punished for such offence, unless he shall have been duly and legally convicted thereof in a court having competent jurisdiction of the cause and of the person.

CHAPTER 141.

OF PROCEEDINGS TO PREVENT AND DETECT THE COMMISSION OF CRIMES.

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SECTION 1. The judge of the criminal court, or any judge of the circuit court, in vacation as well as in term, and also all justices of the peace, shall have power to cause all laws made for the preservation of the public peace to be kept, and, in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

SEC. 2. Whenever complaint shall be made to any such magistrate that any person has threatened to commit an offence against the person or property of another, the magistrate shall examine the complainant, and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant. A wife may pray surety of the peace against her husband, or anybody else may pray such surety, in her behalf, against him, and such person shall, in such proceeding, be deemed the complaining witness.

SEC. 3. If, upon examination, it shall appear that such affidavit is made only to secure the protection of the law, and not from anger or malice, and that there is just cause to fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed forthwith to apprehend the person complained of and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

SEC. 4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may be required to enter into a recognizance, with sufficient sureties, in such sum as the

magistrate shall direct, to keep the peace towards all the people of this District, and especially towards the person requiring such security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to the next court, unless he is also charged with some other offence for which he ought to be held to answer at such court.

SEC. 5. Upon complying with the order of the magistrate, the party complained of shall be discharged.

SEC. 6. If the person so ordered to recognise shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognise; stating in the warrant the cause of commitment, with the sum and the time for which security was required.

SEC. 7. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous, or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

SEC. 8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecution; but in all cases where a person is required to give security for the peace, or for his good behavior, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

SEC. 9. Any person aggrieved by the order of any justice of the peace requiring him to recognise as aforesaid, may, on giving the security required, appeal to the criminal court at its next session to be discharged therefrom.

SEC. 10. The magistrate from whose order an appeal is so taken shall require such witnesses as he may think necessary to support the complaint, to recognise for their appearance at the court to which the appeal is made.

SEC. 11. The criminal court may affirm the order of the justice or

discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution as may be deemed just and reasonable.

SEC. 12. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

SEC. 13. Any person committed for not finding sureties, or refusing to recognise, as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required.

SEC. 14. Every recognizance taken pursuant to the foregoing provisions shall be transmitted by the magistrate to the criminal court on or before the first day of the next term, and shall be there filed by the clerk.

SEC. 15. Every person who shall, in the presence of any officer mentioned in the first section of this chapter, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such officer, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognise for keeping the peace, or being of good behavior, for a term not exceeding one year, and in case of refusal may be committed as before directed.

SEC. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.

SEC. 17. If any justice of the peace suspect any person of selling, by retail, wine or ardent spirits, or a mixture thereof, contrary to law, he shall summon the person and such witnesses as he may think

proper, to appear before him; and, upon such person appearing, or failing to appear, if the justice, on examining the witnesses on oath, find sufficient cause, he shall inform the district attorney, or other proper officer, that a prosecution or suit may be instituted, and shall recognise the material witnesses to appear at the next term of the court before which the case is heard. Such justice may also require the person suspected to enter into a recognizance to keep the peace and be of good behavior for any time not exceeding one year. If such recognizance be given, the condition thereof shall be deemed to be broken if, during the period for which it is given, such person shall sell, by retail, wine or ardent spirits, or a mixture thereof, contrary to law.

SEC. 18. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have authority and right to take and surrender his principal, and, upon such surrender, shall be discharged and exempt from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance. Such person may recognise anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and be thereupon discharged.

SEARCH WARRANTS.

SEC. 19. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases, that personal property has been stolen or embezzled, or obtained by false tokens or pretences, and that the complainant believes that it is concealed in any particular house or place, the magistrate, if he be satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such property.

SEC. 20. Any such magistrate may also, upon a like complaint made on oath, issue search warrants, when satisfied that there is reasonable cause, in the following cases, to wit:

First, to search for and seize any counterfeit or spurious coin, forged bank notes, and other forged instruments, or any tools, machines, or materials, prepared or provided for making either of them;

Secondly, to search for and seize any books pamphlets, ballads, printed papers, or other things containing obscene language, or obscene prints, pictures, figures, or descriptions, manifestly tending

to corrupt the morals of youth, and intended to be sold, loaned, circulated or distributed, or to be introduced into any family, school or place of education;

Thirdly, to search for and seize lottery tickets, or materials for a lottery, unlawfully made, provided, or procured, for the purpose of drawing a lottery;

Fourthly, to search for and seize any gaming apparatus or implements used, or kept and provided to be used, in unlawful gaming, in any gaming house, or in any building, apartment, or place resorted to for the purpose of unlawful gaming;

Fifthly, to search for any harbored runaway slave.

Sec. 21. All search warrants shall be directed to the marshal of the District, or his deputy, or to any constable, commanding such officer to search, in the day time, the house or place where the stolen property or other things, for which he is required to search, are believed to be concealed, which place and property or things to be searched for shall be designated and described in the warrant; and to bring such stolen property or other things, when found, and the persons in whose possession the same shall be found, before the magistrate who issued the warrant, or before some other magistrate or court having cognizance of the case.

Sec. 22. If there be satisfactory evidence that any property stolen or embezzled, or obtained by false tokens or pretences, or that any of the other things for which a search warrant may be issued by the provisions of this chapter, are concealed, kept, prepared or used, in any particular house or place, a warrant may be issued by any two magistrates, to authorize a public officer to search such house or place in the night time, and to bring the property or things described in the warrant, if found, and the persons in whose possession the same shall be found, before either of the magistrates who issued the warrant, or before some other magistrate or court having cognizance of the case.

Sec. 23. If any such search warrant be executed by the seizure of a runaway slave, he shall be returned to the owner, or committed to jail as a runaway, by the justice before whom he is brought; and if it be executed by the seizure of other property, or of any of the things aforesaid, the same shall be safely kept by order of the justice, to be used in evidence; and as soon afterwards as may be, such stolen

or embezzled property shall be restored to its owner, and the other things specified burnt or otherwise destroyed under the direction of such justice.

CORONERS' INQUESTS.

SEC. 24. Coroners shall take inquests upon the view of the dead bodies of such persons only as shall be supposed to have come to their death by violence, and not when death is believed to have been occasioned by casualty, or to have happened in a course of nature.

SEC. 25. As soon as the coroner shall have notice of the dead body of any person, supposed to have come to his death by violence, found or lying within this county, he shall make his warrant to a constable requiring him forthwith to summon six good and lawful men of the county to appear before such coroner, at the time and place expressed in the warrant, which may be issued with or without a seal, and in substance as follows:

_____, ss.

To A B, constable of _____, Greeting :

You are hereby required immediately to summon six good and lawful men of the county of _____, to appear before me, _____, coroner of said county, at the dwelling house of _____, (or at a place called _____,) within the city, (or town, or county) of _____, at the hour of _____, then and there to inquire, upon the view of the body of _____, there lying dead, when, how, and by what means he came to his death. Hereof fail not.

Given under my hand the _____ day of _____, in the year _____.
_____, Coroner.

SEC. 26. The constable to whom such warrant shall be directed and delivered shall forthwith execute the same, and shall, at the time mentioned in the warrant, repair to the place where the dead body is, and make return thereof to the coroner, and of his doings thereon, under his hand; and any constable who shall unnecessarily neglect or fail to execute or return such warrant, shall be fined the sum of twenty dollars; and if any person summoned as a juror shall fail to appear, without reasonable excuse therefor, he shall be fined the sum of ten dollars. If the six jurors returned shall not all appear, the coroner may require the constable, or any other officer whom he shall appoint, to return other jurors, from the body of the county, and not from bystanders, to complete the number.

SEC. 27. When the jurors who have been summoned appear, the coroner shall call over their names, and then, in view of the body, he shall administer to each the following oath:

You solemnly swear that you will diligently inquire, and true presentment make, on behalf of the United States, when, how, and by what means, the person, whose body lies here dead, came to his death; and you shall return a true inquest thereof, according to your knowledge and such evidence as shall be laid before you: So help you God.

SEC. 28. The coroner may issue subpoenas for witnesses, returnable forthwith, or at such time and place as he shall therein direct; and the attendance of all persons served with such subpoena may be enforced in the same manner, by the coroner, and subject to the same penalties, as if they had been served with a subpoena to attend a court of justice.

SEC. 29. An oath to the following effect shall be administered to the witnesses by the coroner:

You solemnly swear that the evidence which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God.

SEC. 30. The coroner, in all cases where the cause of death shall be doubtful, shall call to his aid some competent surgeon, who, when he may deem the same necessary, shall make a post mortem examination of the body, and report, in writing, signed by him, the condition of the same, together with his opinion as to the cause of death. The coroner shall also cause to be made, by a competent person, an analysis of the stomach and its contents, when poison is supposed to have been taken or administered; and a like report shall be made by the chemist or other person employed, as is required of a surgeon. Fees for said services shall be paid out of the treasury of the United States, and shall, within the following limits, be determined by the judge of the criminal court. For the external examination of the body, from five to ten dollars; for dissection of body before interment, from ten to twenty dollars; for dissection of body after disinterment, from twenty to thirty dollars; for making a chemical analysis, from ten to forty dollars. The expenses of analysis, apart from the fee, shall be paid in like manner, but shall in no case exceed the sum of

ten dollars, unless previously sanctioned by the judge of the criminal court.

SEC. 31. The testimony of all witnesses examined before any inquest shall be reduced to writing by the coroner, or some other person by his direction, and be subscribed by the witnesses.

SEC. 32. The jury, upon the inspection of the dead body, and after hearing the testimony of the witnesses, and making all needful inquiries, shall draw up and deliver to the coroner their inquisition, under their hands, in which they shall find and certify when, how, and by what means the deceased person came to his death, and his name, if it was known, a minute description of his person, together with all the material circumstances attending his death; and if it shall appear that he was killed feloniously, the jurors shall further state who were guilty, either as principals or accessories, if known, or were in any manner the cause of his death; which inquisition may be, in substance, as follows:

— — ss. An inquisition taken at — —, in the county of — —, on the — — day of — —, in the year — —, before — —, corner of the said county, upon the view of the body of — —, (or a person,) there lying dead, by the oaths of the jurors whose names are hereunto subscribed, who, being sworn to inquire, on behalf of the United States, when, how, and by what means the said — — (or person) came to his death, upon their oaths do say, (then insert description of person, and when, how, and by what persons, means, weapon, or instrument he was killed.) In testimony whereof, the said coroner and the jurors of this inquest have hereunto set their hands, the day and year aforesaid.

SEC. 33. If the jury find that any murder, manslaughter, assault, or other offence has been committed on the person of the deceased, the coroner shall bind over, by recognizance, such witnesses as he shall think proper, to appear and testify at the next session of the criminal court; he shall also return to the same court the inquisition, written evidence, and all recognizances and examinations by him taken, and may commit to jail any witnesses who shall refuse to recognise in such manner as he shall direct.

SEC. 34. If any person charged by the inquest with having committed such offence shall not be in custody, the coroner shall have the same power as a justice of the peace to issue process for his

apprehension, and such warrant shall be made returnable before any justice of the peace, or other magistrate or court having cognizance of the case, who shall proceed therein as if such person had been arrested on complaint duly made.

SEC. 35. When the coroner shall take an inquest upon the view of the dead body of a stranger, or, being called for that purpose, shall not think it necessary, on view of such body, that any inquest should be taken, he shall cause, in the absence of other provision, the body to be decently buried; and if the coroner shall certify that, to the best of his knowledge and belief, the person found dead was a stranger, not belonging to this District, the expenses of burial, with the coroner's fees, and all the expenses of the inquisition, if any was taken, shall be paid to the coroner from the treasury of the United States, the account of such expenses being first examined and allowed by the judge of the criminal court; in all other cases the expenses of the inquisition only shall be paid, in like manner, by the United States.

SEC. 36. The coroner shall require the jury empaneled, to make a report, signed by them and the coroner, and to be returned with the inquisition, giving the amount of money or other valuables found on or with the dead body, and such money or other property, if there be no person to take charge of the same, shall be placed in the hands of the judge of the orphans' court, and by him paid over to the person authorized to receive the same, on being called for. But so much thereof as may be necessary may, in the event of the deceased being a stranger, be appropriated to paying his burial expenses.

SEC. 37. In case the body shall not be identified, it shall be the duty of the coroner to publish, in some newspaper printed in this District, a description of the deceased, and the amount of money or other valuables found in his possession. And though the body may be identified, if money or other valuables be found thereon, and no person entitled thereto shall claim the same within sixty days, it shall be the duty of the coroner to give public notice, as aforesaid, of the facts. The cost of such advertising shall be paid in like manner as the expense of the inquisition.

SEC. 38. It shall be the duty of the said judge, if said money shall not be called for within one year from the time of his receiving the

same, to loan it out on the most advantageous terms he can, taking bond and good security, and the proceeds therefrom shall be applied to the maintenance of the public schools, in the manner hereinbefore provided with regard to fines. Such money, without interest, may be claimed at any time thereafter by the parties entitled to the same.

SEC. 39. If any coroner shall fail to pay to the judge of the orphan's court the money or other property which may come into his hands as aforesaid, within three months of its receipt, it shall be the duty of said judge to sue for and collect the same in his own name, annexing his title, before the circuit court; and for such delinquency the coroner shall be fined a sum not exceeding five hundred dollars.

SEC. 40. The judge of the orphans' court shall cause to be sold, as property is sold on execution, by the marshal, all property found on a dead body and remaining unclaimed sixty days, and the proceeds of such sale shall be disposed of as is required in case of money so found.

SEC. 41. When the coroner shall be absent from the District, or unable to attend, any justice of the peace may hold the inquest, and shall proceed in all respects as coroners are directed by the foregoing provisions, and subject to the same penalties.

CHAPTER 142.

OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL, AND TAKING BAIL.

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SECTION 1. For the apprehension of persons charged with offences, the judge of the criminal court, any judge of the circuit court, in vacation as well as in term time, and justices of the peace, are authorized to issue process to carry into effect the provisions of this chapter.

SEC. 2. Upon complaint made to any such magistrate that a criminal offence has been committed, he shall examine, on oath, the complainant, and any witnesses produced by him, and shall cause the same to be subscribed by the complainant, and if it shall appear that any such offence has been committed, the magistrate shall issue a warrant, reciting the substance of the accusation, and requiring the officer to whom it shall be directed, forthwith to take the person accused, and to bring him before the proper court or magistrate having jurisdiction, to be dealt with according to law, and in the same warrant may require the officer to summon such witnesses as shall be therein named, to appear and give evidence on the examination.

SEC. 3. In all cases where the offence charged in the warrant is a misdemeanor, or a felony not punishable by exceeding five years' imprisonment in the penitentiary, with or without fine, any justice of the peace shall have power to bail in his discretion. In all cases the judge of the criminal court, or any judge of the circuit court, may bail, except where the charge is treason, piracy, or murder, and the presumption of guilt is strong from the evidence.

SEC. 4. In all misdemeanors, except those punishable by a justice of the peace, if the person arrested shall request that he may be brought before a justice of the peace for the purpose of entering into a recognizance without an examination, the officer who made the arrest shall carry him before a justice, who may take from the person arrested a recognizance, with sufficient sureties, for his appearance at the court having cognizance of the offence, and the party arrested shall thereupon be liberated.

SEC. 5. The magistrate who shall so let the person arrested to bail, shall certify that fact upon the warrant, and shall deliver the same, with the recognizance by him taken, to the person who made the arrest, who shall deliver them without unnecessary delay to the clerk of the criminal court, and on the application of the complainant, the magistrate who issued the warrant, or the district attorney, shall cause such witnesses as he may think necessary to be summoned to the same court.

SEC. 6. A magistrate may adjourn an examination pending before himself, from time to time, as occasion shall require, not exceeding, without the consent of the person charged, ten days at any one time, and to the same or a different place in the District, as he shall think necessary; and in such case, if the party is charged with an offence not bailable, he shall be committed in the mean time, otherwise, he may be recognised in a sum, and with sureties, to the satisfaction of the magistrate, for his appearance for such further examination, and for want of such recognizance, he shall be committed to prison.

SEC. 7. If the person so recognised shall not appear before the magistrate at the time appointed for his further examination, according to the condition of such recognizance, the magistrate shall record the default, and shall certify the recognizance, with the record of such default, to the criminal court, and like proceedings shall be had thereon, as upon the breach of the condition of a recognizance for appearance before that court.

SEC. 8. When such person shall fail to recognise, he may be committed to prison, by an order under the hand of the magistrate, stating concisely, that he is committed for further examination on a future day, to be named in the order, and on the day appointed he may be brought before the magistrate, by his verbal order to the same officer by whom he was committed, or by an order in writing to a different person.

SEC. 9. The magistrate before whom any person is brought, upon a charge of having committed an offence, shall, as soon as may be, examine the complainant, and the witnesses to support the prosecution, on oath, in presence of the party charged, in relation to any matters connected with such charge which may be deemed pertinent.

SEC. 10. The magistrate shall then proceed to examine the prisoner himself in relation to the offence charged. Such examination shall not be on oath; and before it is commenced, the prisoner shall be informed of the charge against him, and that he is at liberty to refuse to answer any question put to him; and he shall be allowed a reasonable time to send for and advise with counsel, who may be present during the examination of the prisoner.

SEC. 11. The answers of the prisoner to the several interrogatories shall be reduced to writing by the magistrate, or under his direction; shall be read to the prisoner, who may add to or correct them, and, when made conformable to what he declares is the truth, shall be certified and signed by the magistrate.

SEC. 12. The witnesses in the case shall not be present during such examination of the prisoner.

SEC. 13. Nothing contained in the preceding sections shall be construed to require any magistrate before whom a prisoner shall be brought, charged with a misdemeanor, to take his examination, except when such magistrate may deem the same necessary. After the testimony to support the prosecution is taken, the witnesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel, in such examination, and also in the examination and cross-examination of the witnesses in support of the prosecution.

SEC. 14. The magistrate, while examining any witness, may, at his discretion, exclude from the place of examination all the other witnesses for and against the prisoner; he may also, if requested, or if he see cause, direct the witnesses, for or against the prisoner, to be kept separately, so that they cannot converse with each other, until they shall have been examined.

SEC. 15. The testimony of the witnesses examined shall be reduced to writing by the magistrate, or under his direction, when he shall think it necessary, and shall be signed by the witnesses, if required by the magistrate.

SEC. 16. If it shall appear to the magistrate, upon the whole examination, that no offence has been committed, or that there is not probable cause for charging the prisoner with the offence, he shall be discharged.

SEC. 17. If it shall appear that an offence has been committed, and that there is probable cause to believe the prisoner guilty, and if the offence be bailable by the magistrate, and the prisoner, on being admitted, offer sufficient bail, it shall be taken, and the prisoner discharged; but if no sufficient bail be offered, or the offence be not bailable by the magistrate, or bail be refused, the prisoner shall be committed to prison for trial.

SEC. 18. When the prisoner is admitted to bail, or committed by the magistrate, he shall also bind, by recognizance, such witnesses, for or against the prisoner, as he shall deem material, to appear and testify at the next term of the criminal court, in which the prisoner shall be held to answer.

SEC. 19. If the magistrate shall be satisfied that there is good cause to believe that any such witness will not perform the condition of his recognizance, unless other security be given, such magistrate may order the witness to enter into a recognizance, with such sureties as may be deemed necessary, for his appearance at court.

SEC. 20. When any married woman or minor is a material witness, any other person may be allowed to recognise for the appearance of such witness, or the magistrate may, in his discretion, take the recognizance of such married woman or minor, in a sum not exceeding one hundred dollars, which shall be valid and binding in law, notwithstanding the disability of coverture or minority.

SEC. 21. All witnesses required to recognise, either with or without sureties, shall, if they refuse, be committed to prison by the magistrate, there to remain until they comply with such order, or be otherwise discharged according to law.

SEC. 22. When any person shall be committed for want of bail, the amount required shall be specified in the warrant of commitment, and the marshal may take the recognizance, and approve the bail.

SEC. 23. Any person may, in the place of giving recognizance, deposit with the clerk of the criminal court the sum of money mentioned in the order for bail, and, on delivering to the officer having him in custody, the certificate of deposit, shall be discharged.

If such person, at any time before the forfeiture of such money, shall give sufficient special bail, or shall surrender himself, or be in any manner legally discharged, the court shall order a return of the deposit to him.

SEC. 24. Any justice of the peace to whom complaint is made, or before whom any prisoner is brought, may associate with himself one or more of the justices of the same county, and they may together execute the powers and duties before mentioned; but no fees shall be taxed for such associates.

SEC. 25. All examinations and recognizances of witnesses taken by any magistrate pursuant to the provisions of this chapter, shall be certified and returned by him to the clerk of the court before which the party charged is bound to appear, on or before the first day of the sitting thereof; and if such magistrate refuse or neglect to return the same, he may be compelled so to do, forthwith, by rule of court, and in case of disobedience, may be proceeded against by attachment, as for a contempt.

SEC. 26. When any person shall be committed to prison, or shall be under recognizance, to answer to any charge of assault and battery, or other misdemeanor, for which the party injured may have a remedy by civil action, except where the offence was committed by or upon any sheriff or other officer of justice, or riotously, or with intent to commit a felony, if the party injured shall appear before the magistrate who made the commitment or took the recognizance, and acknowledge, in writing, that he has received satisfaction for the injury, the magistrate may, in his discretion, on payment of all the costs which have accrued, discharge the recognizance, or supersede the commitment, by an order under his hand; and may also discharge all recognizances and supersede the commitment of all witnesses in the case.

SEC. 27. Every such order of the magistrate, discharging the recognizance of the party or witnesses, shall be filed in the office of the clerk, before the sitting of the court at which they are bound to appear; and every order superseding the commitment of the party charged, or of any witness, shall be delivered to the keeper of the jail in which he is confined, who shall forthwith discharge him; and every such order, if so filed and delivered, and not otherwise, shall forever bar all remedy by civil action for such injury.

SEC. 28. When a bail desires to surrender his principal, he may procure a copy of the recognizance from the clerk, by virtue of which, the bail or any officer authorized by him may take the principal, and by surrendering him in open court or to the marshal before the recognizance is forfeited, shall be discharged from any further responsibility upon such recognizance. Any principal so surrendered may give other bail or remain in custody until discharged in due course of law.

SEC. 29. When any person, under recognizance in any criminal prosecution, either to appear and answer, or to testify in any court, shall fail to perform the condition of such recognizance, his default shall be recorded, and the recognizance or money deposited as bail, thereupon forfeited, and process shall be issued against the persons bound by the recognizance, or such of them as the prosecuting officer shall direct. The action thereon, in the criminal court, shall be governed by the rules of civil pleading, so far as the same may be applicable.

SEC. 30. Any surety in such recognizance may, by leave of the criminal court, after default, and either before or after process has been issued against him, pay to the clerk of said court the amount for which he was bound as surety, with such costs as the court shall direct, and be thereupon forever discharged.

SEC. 31. When any action is brought against a principal or surety in any recognizance, entered into either by a party or a witness, in any criminal prosecution, the criminal court may, on application of the party defendant, remit any part or the whole of such penalty, and may render judgment thereon according to the circumstances of the case and the situation of the party, and upon such terms and conditions as to such court shall seem just and reasonable.

SEC. 32. No such action brought on a recognizance, as mentioned in the preceding section, shall be barred or defeated, nor shall judgment thereon be arrested by reason of any neglect or omission to note or record the default of any principal or surety, at the term when such default shall happen, nor by reason of any defect in the form of the recognizance, if it sufficiently appear, from the tenor thereof, at what court the party or witness was bound to appear, and that the court or magistrate, before whom it was taken, was authorized by law to require and take such recognizance.

SEC. 33. Any recognizance forfeited by the principal, unless remitted

by the court on cause shown, shall be collectable upon judgment and execution, although after such forfeiture such principal is again arrested on the original charge.

SEC. 34. No judgment of the criminal court, on any forfeited recognizance, shall be a lien on real estate, unless certified to the clerk of the circuit court and by him docketed and indexed as required in chapter sixty-two. On being so docketed and indexed it shall be a lien as is provided in said chapter with respect to judgments of the circuit court.

ARREST OF FUGITIVES FROM JUSTICE.

SEC. 35. The judge of the criminal court of this District may appoint agents to demand of the executive authority of any State or Territory any fugitive from justice, charged in this District with treason, felony, or other crime; and such fugitive shall be delivered up in the manner prescribed by the laws of the United States for the delivery of fugitives from justice, to be removed to this District.

SEC. 36. In all cases where the laws of the United States provide that fugitives from justice, escaping from one State into another, shall be delivered up, the judge of the criminal court of this District is empowered and required to cause to be apprehended and delivered up such fugitive from justice who shall be found in this District, in the same manner and under the same regulations as the executive authority of a State or Territory is required to do the same.

SEC. 37. Whenever any person shall be found within this District, charged with treason, felony, or other crime, committed in any State, any justice of the peace may, upon complaint on oath, or other satisfactory evidence, that such person committed the offence, issue a warrant to bring the person so charged before him.

SEC. 38. If it shall appear to the justice that there is reasonable cause to believe that the complaint is true, he shall, if such accused person would have been bailable in case the offence had been committed in this District, require him to recognise, with sufficient sureties, in a sufficient sum, to appear before the criminal court of this District at a future day, allowing a reasonable time to obtain the warrant of the executive, and to abide the order of said criminal court; and if such person shall not so recognise, he shall be committed to jail, and be there detained until such day. The recognizance, if

any, shall be returned to said court without delay ; and if the person so recognising shall fail to appear according to the condition of the recognizance, the like proceedings shall be had as in the case of other recognizances entered into before a justice ; but if such person would not have been bailable in case the offence had been committed in this District, he shall be committed to jail, and there detained until the day so appointed for his appearance before said court.

SEC. 39. The justice by whom such person may be so recognised or committed shall immediately inform the judge of the criminal court of the fact, who shall thereupon communicate the same to the executive of the State where the crime is charged to have been committed.

SEC. 40. If the person so recognised or committed shall appear before said court upon the day ordered, he shall be discharged, unless he shall be demanded by some person authorized by the warrant of the executive to receive him, or unless said court shall see cause to commit him, or to require him to recognise anew for his appearance at some other day ; and if, when ordered, he shall not so recognise, he shall be committed and detained as before. But whether the person so charged shall be recognised, committed, or discharged, any person authorized by the warrant of the executive may, at all times, take him into custody, and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

SEC. 41. No person under prosecution for any offence alleged to have been committed within this District shall be delivered up to the executive authority of the State, until such prosecution shall be determined, and the person prosecuted shall be punished, if condemned ; nor shall any person under recognizance to appear as a witness in any such prosecution be so delivered up until said prosecution shall be determined.

SEC. 42. The President of the United States may offer a reward for apprehending and securing any person convicted of an offence, or charged therewith, who shall have escaped from prison, or for apprehending and securing any person charged with an offence, who, there is reason to fear, cannot be arrested in the common course of proceeding. But no such reward shall be paid to any marshal or other officer who may arrest such person by virtue of any process in his hands to be executed.

CHAPTER 143.

OF PRESENTMENTS, INDICTMENTS, INFORMATIONS, AND PROCEEDINGS
BEFORE TRIAL.

SECTION

1. Grand jurors; when and how summoned.
2. Grand jurors drawn, &c., like jurors for trial.
3. Sixteen to form a quorum.
4. Deficiency of grand jurors; how supplied.
5. Grand jurors; how empaneled and sworn.
6. Court to charge grand jury.
7. Grand jurors to elect a foreman.
8. And in his absence to elect another.
9. Who may swear witnesses before grand jury, &c.
10. Jurisdiction of grand jury.
11. Indictment; when only exhibited to grand jury.
12. Presentments and indictments; how found.
13. Indictment; how endorsed by foreman, and returned.
14. Return of indictment, &c.
15. A second indictment may be sent to the grand jury after one returned not found.
16. Grand jury may be discharged and re-summoned any time during same term.
17. Secrecy of grand jurors.
18. Ditto, and as to what they may testify.
19. Within what time person confined on criminal charge to be indicted, or discharged.
20. Process; how issued on finding and return of indictment.
21. When accused entitled to a copy of indictment and list of jurors.
22. District attorney may appear, &c., before grand jury.
23. Accused to have same means to compel the attendance of witnesses as United States.
24. District attorney may summon witnesses.
25. Not necessary to tender fees to witnesses in criminal cases.

SECTION

26. Indictment, &c.; when stayed on injured party acknowledging satisfaction.
27. In prosecution for misdemeanor, court may require prosecutor to give security for costs.
28. By what time accused to be tried, or bailed upon his own recognizance.
29. What not to work a discontinuance of a criminal case.
30. } Limitation on criminal prosecution.
31. } Limitation on criminal prosecution.
32. Criminal prosecution in name of United States.
33. Words used in an indictment; how construed.
34. } What need not be stated in an indictment,
35. } ment,
36. Words defining an offence need not be strictly pursued in an indictment or information.
37. What sufficient allegations in an indictment or information.
38. For what defects indictment or information not set aside or quashed.
39. Manner of pleading a judgment.
40. Intent to defraud; how alleged in indictment and proved.
41. In prosecution for forgery, not necessary to set forth *fac similito*.
42. What criminal actions may be prosecuted by information.
43. } Information; by whom and how filed,
44. } &c.
45. Duty of justice of peace on recognising, &c., any person for an offence prosecuted by information.
46. Witnesses' names endorsed on information.
47. Information; when amended.
48. Other fines recoverable on information filed in criminal court.

SECTION 1. The marshal of the District, at least five and not more than thirty days before the commencement of each term of the criminal court, shall summon twenty-three grand jurors, to be returned to that

court, who shall have all the qualifications of petit jurors, and be held to serve until discharged by the judge thereof.

SEC. 2. All grand jurors shall be drawn, summoned, and returned, in the same manner as jurors for trial.

SEC. 3. Any sixteen or more of such persons shall be a competent grand jury.

SEC. 4. In case of a deficiency of grand jurors occurring at any time, the marshal shall return forthwith from the citizens of this District, and not from bystanders, such further number as may be required.

SEC. 5. The clerk of the court shall prepare an alphabetical list of the names of all the persons returned as grand jurors, and when the jury is to be empaneled, the three persons first named on the list shall be called, and the following oath be administered to them: You, as grand jurors of this inquest for the body of the county of Washington, do solemnly swear, that you will diligently inquire, and true presentment make, of all such matters and things as shall be given you in charge; the government's counsel, your fellows', and your own, you shall keep secret; you shall present no man for envy, hatred, or malice, neither shall you leave any man unrepresented for love, fear, favor, affection, or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding: So help you God. The other jurors shall then be called, in such divisions as the court may deem proper, and the following oath shall be administered to them: The same oath which your fellows have taken on their part, you, and each of you, on your behalf, shall well and truly observe and keep: So help you God.

SEC. 6. The grand jury, after being sworn, shall be charged as to their duty by the judge of the criminal court.

SEC. 7. After the grand jurors have been empaneled, and have received their charge from the court, they shall retire with the officer appointed to attend them, and before they proceed to discharge the duties of their office, they shall elect, by ballot, one of their number to be their foreman, and give notice thereof to the court, and the clerk shall record the same.

SEC. 8. The foreman elected by the grand jury shall be foreman during the whole period they are required to serve, but in his absence

another foreman shall be elected in the same manner, who shall perform the duties of foreman during such absence, and in case of the death of the foreman, for the residue of their term of service.

SEC. 9. The foreman of every grand jury, and the district attorney, or other prosecuting officer, who shall be before them, shall have authority to administer all oaths and affirmations, in the manner prescribed by law, to witnesses who shall appear before such jury for the purpose of testifying in any matter of which they may have cognizance; and the foreman shall return to the court a list, under his hand, of all witnesses who shall have been sworn before the grand jury during the term, and the same shall be filed of record by the clerk.

SEC. 10. The jurisdiction of the grand jury shall extend to all offences which may be punishable capitally, or in whole or in part by confinement in the county jail or penitentiary, except such as are within the exclusive jurisdiction of justices of the peace, and they shall have power to make presentments or find indictments therein.

SEC. 11. No indictment shall be exhibited to the grand jury without a previous presentment, unless the offender be bound over to such court.

SEC. 12. At least twelve of the grand jury must concur in making or finding a presentment or indictment. They may make a presentment upon the information of any of their own body, or on the testimony of witnesses called on by the grand jury, or sent to it by the court or district attorney. The names of the grand jurors giving the information, or of the witnesses, shall be written on the foot of the presentment or indictment.

SEC. 13. Every indictment found by the grand jury must be endorsed by the foreman, "A true bill, A B, foreman," and be returned into open court and filed by the clerk.

SEC. 14. Each indictment must be signed also by the district attorney or prosecuting officer, and when the grand jury return an indictment into court the judge must examine it, and if the foreman has neglected to endorse it, as required, or if the prosecuting attorney has omitted to sign his name, the court must cause the foreman to endorse or the prosecuting attorney to sign it, as the case may require, in the presence of the jury.

SEC. 15. Although a bill of indictment be returned "not found,"

another bill of indictment against the same person for the same offence may be sent to and acted on by the same or another grand jury.

Sec. 16. The judge of the criminal court may discharge the grand jury in attendance thereon when, in his opinion, the public interest will be subserved thereby. When the grand jury shall have been dismissed before the court is adjourned without day, they may be summoned to attend again in the same term, at such time as the court shall direct, for the despatch of any business that may come before them.

Sec. 17. No grand juror or officer of the court shall disclose the fact that an indictment has been found against any person not in custody or under recognizance, otherwise than by issuing or executing process on such indictment, until such person has been arrested.

Sec. 18. No grand juror shall be allowed to state or to testify in any court in what manner he or any other member of the jury voted on any question before them, or what opinion was expressed by any juror in relation to such question; and in charging the grand jury the court should remind them of the provisions of this and the preceding sections. They may, however, be called on to testify whether the evidence of a witness examined before them is consistent with or different from the evidence given by such witness in the progress of the trial; and they may also be required to disclose the testimony given before them by any person, upon a complaint against such person for perjury, or upon his trial for such offence.

Sec. 19. Any person held in jail charged with an indictable offence shall be discharged if he be not indicted before the end of the term of the court at which he is held to answer, unless it shall appear to the satisfaction of the court that the witnesses on the part of the government have been enticed or kept away, or are detained and prevented from attending the court by sickness or some inevitable accident, or that the delay occurred in consequence of the insanity of the accused.

Sec. 20. If the grand jury shall find and return to the court an indictment for an offence not bailable, process shall be immediately issued by the court for the arrest of the party charged therewith, if he be not already in custody. And when an indictment shall be found and returned as aforesaid, or an information be filed, for a bailable offence, process shall issue in like manner, if the party be not

already in custody or under recognizance, and the court shall specify therein in what amount the party may be let to bail.

SEC. 21. In all trials for treason or felony, the accused, if in custody or under recognizance, shall, on demand made upon the clerk by himself or his counsel, at any time before trial or sentence, have a copy of the indictment, and all endorsements thereon, and a list of the jurors returned, without paying any fees therefor.

SEC. 22. The district attorney may appear before the grand jury, on their request, for the purpose of giving information relative to any matter cognizable by them, and may be permitted to interrogate witnesses before them when they shall deem it necessary. But neither he, nor any other person, except the grand jurors, shall be present during the expression of their opinion, by vote or otherwise, upon any matter before them.

SEC. 23. Every person charged with an offence by indictment or information, shall have the same means of compelling the attendance of his witnesses as the United States have or shall have for compelling the attendance of witnesses. Witnesses in criminal proceedings, except as otherwise specially provided, shall be subpoenaed, produced, and sworn, as in civil cases.

SEC. 24. The district attorney, or other prosecuting officer, may in all cases issue subpoenas for witnesses to appear and testify on behalf of the United States, and the subpoena under the hand of such officer shall have the same force, and be obeyed in the same manner, and under the same penalty, in case of default, as if issued by the clerk.

SEC. 25. It shall not be necessary to pay or tender any fees to any witness who is subpoenaed on behalf of the United States or the accused, to testify in any criminal prosecution, but every such witness shall be bound to attend, and be punishable for non-attendance, in the same manner as if the fees allowed by law had been paid to him.

SEC. 26. Whenever an indictment shall be found or information be filed against any person for an assault and battery, or other misdemeanor for which the party injured may have a remedy by civil action, except when the offence was committed by or upon the marshal or other officer of justice, or riotously, or with intent to commit a felony, if the party injured shall appear in court where such indictment or information is pending, and acknowledge satisfaction for the injury sustained, the court may, on the payment of the costs

accrued, order all further proceedings to be stayed, and discharge the defendant, and the same shall forever bar a remedy for such injury by civil action.

SEC. 27. In a prosecution for a misdemeanor, the name of the prosecutor, if there be one, shall be written at the foot of the presentment, indictment, or information, when it is made, found, or filed; and for good cause the court may require the prosecutor to give security for costs, and if he fail to give the same, may dismiss the prosecution at his cost.

SEC. 28. Every person held in jail upon an indictment or information shall, if he require it, be tried at the next term of the court after the same was found or filed, or shall be bailed upon his own recognizance, unless it shall appear to the satisfaction of the court that the witnesses on behalf of the United States have been enticed or kept away, or are detained and prevented from attending court by sickness or some inevitable accident.

SEC. 29. There shall be no discontinuance of any criminal prosecution by reason of the failure of the court to award process, or to enter a continuance on the record.

SEC. 30. Prosecutions for murder may be commenced at any time after the commission of the offence. For all other felonies, and treason, the prosecution shall be commenced within five years after the commission thereof; and in misdemeanors, except when otherwise specially provided, within two years.

SEC. 31. If any person who has committed an offence shall flee from the District, or so conceal himself therein that process cannot be served upon him, the time of such absence or concealment shall not be included in computing the period of limitation.

SEC. 32. All criminal prosecutions must be in the name of the United States.

SEC. 33. The words used in an indictment or information must be construed in their usual acceptance in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.

SEC. 34. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an indictment or information.

SEC. 35. Except when time is an essential ingredient in the offence, the precise time of the commission thereof need not be stated in the

indictment or information; but it shall be sufficient if the same be shown to be within the period of limitation prescribed for commencing the prosecution.

SEC. 36. Words used in any of the provisions of the Code, in defining an offence, need not be strictly pursued in an indictment or information; but other words conveying the same meaning shall be sufficient.

SEC. 37. An indictment or information shall be sufficient, if it can be understood therefrom—

1. That the indictment was found by the grand jury, or the information presented by the district attorney;

2. That the accused is named therein; or described, in an indictment, as a person whose name is unknown to the grand jurors, or in an information to the district attorney;

3. That the offence was committed within the jurisdiction of the court, or is triable therein;

4. That the offence charged is clearly set forth in plain and concise language, without repetition, and with such a degree of certainty that the court may pronounce judgment upon a conviction, according to the right of the case.

SEC. 38. No indictment or information shall be quashed or set aside for any of the following defects:

1. For a mistake in the name of the court or county, in the title thereof.

2. For the omission or misstatement of the title, occupation, estate, or degree of the accused, or of the name or place of his residence.

3. For the want of an allegation of the time or place of any material fact, when the venue and time have once been stated in the indictment or information.

4. That dates and numbers are represented by figures.

5. For an omission to allege that the grand jurors were empaneled, sworn, or charged.

6. For an omission of any of the following allegations, viz: "with force and arms," "against the form of the statute," or "against the peace and dignity of the United States."

7. For any surplusage or repugnant allegation, when there is sufficient matter alleged to indicate the offence and the person charged.

8. For any other defect or omission which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

SEC. 39. In pleading a judgment or other determination of a court or officer of special jurisdiction, it shall be sufficient to allege, generally, that the judgment or determination was duly made or had before such officer; but the facts constituting the jurisdiction must be established on the trial.

SEC. 40. In any case where an intent to defraud is required to constitute the offence of forgery, or any other offence that may be prosecuted, it shall be sufficient to allege in the indictment an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded, and on the trial of such indictment, such allegation shall be sufficient, if there appear to be an intent to defraud the United States, or any State, Territory, city, town, or parish, or any body corporate, or any public officer in his official capacity, or any copartnership or members thereof, or any particular person whatever.

SEC. 41. In a prosecution for forging, or attempting to employ as true any forged instrument or other thing, it shall not be necessary to set forth any fac similitie thereof, but it shall be sufficient to describe the same in such manner as would sustain an indictment for stealing such instrument or other thing, supposing it to be the subject of larceny.

SEC. 42. Criminal actions that may be prosecuted by information, include all offences not within the jurisdiction of the grand jury or the exclusive jurisdiction of justices of the peace.

SEC. 43. Informations shall be filed by the district attorney in the criminal court, upon affidavits duly made.

SEC. 44. When any person has knowledge of the commission of an offence which may be prosecuted by information, he may make his affidavit before any person authorized to administer oaths, setting forth in plain and concise language the offence and the person charged therewith, and file the same with the clerk of the criminal court, who shall notify the district attorney thereof.

SEC. 45. When a justice of the peace recognises or commits any person for an offence which may be prosecuted by information, he must file the affidavit in the office of the clerk of the criminal court, for the action of the district attorney.

46. The names of the witnesses in the case must be endorsed on the affidavit, and as soon as practicable after notice of the filing thereof, the district attorney must file an information.

SEC. 47. An information may be amended without leave, in matter of substance or form, at any time before the accused pleads; and it may be amended on the trial, as to all matters of form or variance, at the discretion of the court, when the same can be done without prejudice to the rights of the accused.

SEC. 48. Fines accruing in other than criminal cases, and which go wholly or in part to the United States, may also be recovered on information filed before the criminal court.

CHAPTER 144.

OF TRIALS IN CRIMINAL CASES, AND PROCEEDINGS THEREON.

SECTION

1. Issues of fact in criminal cases; how tried.
2. No member of grand jury to be on the trial jury.
3. } Who incompetent to serve on jury.
4. }
5. Jurors; how examined to determine competency.
6. Challenges for cause allowed as in civil causes.
7. What peremptory challenges allowed accused.
8. What peremptory challenges to prosecuting officer.
9. Oath administered to jurors.
10. When accused must be present to be tried.
11. How arraigned.
12. General issue may be plead orally; evidence under same.
13. Accused refusing to answer, court to enter plea of not guilty.
14. Accused indicted, &c., by wrong name, to declare his true name before pleading.
15. Pleas in abatement, &c., to be proved by affidavit.
16. Order of proceedings on trial.

SECTION

17. When court may order the discharge of one of several accused persons to be witness on behalf of prosecution, or another accused.
18. Jurors must testify in court to facts within their personal knowledge.
19. } Proceedings when mistake made in
20. } charging proper offence.
21. } Proceedings for an offence of several degrees, of what accused may be found guilty.
22. Accused may be found guilty of any offence included in the one charged.
23. Counts for murder in the 1st and 2d degree and for manslaughter may be joined.
24. Presumption of innocence.
25. Who competent witnesses in criminal cases.
26. Certain provisions as to witnesses and evidences in civil cases to apply to criminal proceedings.
27. Corroborative proof required in prosecutions for seduction, &c.
28. Proof in rape.
29. Jury, when allowed to separate, how admonished by court.

SECTION

- 30. Custody, &c., of jury, while deliberating on verdict.
- 31. Verdict; how rendered and by what number.
- 32. When court may order jury to be discharged.
- 33. Writs of error to judgment of criminal court; how awarded.

SECTION

- 34. Bills of exception may be taken.
- 35. What bills of exception must contain.
- 36. When to be made out, &c.
- 37. Prosecuting officer may except to settle the law.
- 38. Motions on arrest of judgment, as heretofore.
- 39. New trials.

SECTION 1. Issues of fact joined upon an indictment or information shall be tried by a jury drawn, returned, and empaneled in the manner prescribed by law for the trial of issues of fact in civil causes.

SEC. 2. No member of the grand jury which found the indictment shall be put upon the jury for the trial of the same.

SEC. 3. No person whose opinions are such as to preclude him from finding an accused guilty of an offence punishable with death, shall be compelled or allowed to serve as a juror on the trial of an indictment for such offence.

SEC. 4. Any person is incompetent to serve as a juror who has formed or expressed an opinion of the guilt or innocence of the accused.

SEC. 5. When the jurors are called, each may be examined on oath by either party, whether he has formed or expressed an opinion of the guilt or innocence of the accused, and upon such examination, and other questions put by leave, the court may determine upon the competency of the juror.

SEC. 6. The same challenges for cause may be made in criminal prosecutions that are allowed by law to parties in civil causes.

SEC. 7. In prosecutions for capital offences, the accused may challenge peremptorily twenty jurors; in prosecutions for offences punishable by imprisonment in the penitentiary, with or without fine, ten jurors; in other prosecutions, three jurors. When several defendants are tried together, they must join in their challenges.

SEC. 8. The prosecuting officer, in capital cases, may challenge peremptorily, six jurors; in other cases, three jurors.

SEC. 9. The following oath shall be administered to the jurors in all criminal cases, not capital: You shall well and truly try the issue between the United States and the prisoner (or prisoners, as the case may be) according to the evidence: So help you God. In capital cases, the following oath shall be administered to the jurors: You shall well and truly try, and true deliverance make, between the

United States and the prisoner at the bar whom you shall have in charge, according to the evidence: So help you God.

SEC. 10. No person indicted for a capital offence, or one that may be punished by imprisonment in the penitentiary, shall be tried unless personally present during the trial; persons accused of other offences may, at their own request, by leave of the court, be put on trial in their absence, by an attorney duly authorized for that purpose.

SEC. 11. The accused shall be arraigned by reading to him the indictment or information, and requiring him to plead thereto. The court may, for cause shown, grant a reasonable time to answer the same.

SEC. 12. In all criminal prosecutions, the defendant may plead the general issue orally, which shall be entered on the minutes of the court, and under it every matter of defence may be proved.

SEC. 13. If the accused shall refuse to plead to an indictment or information, a plea of not guilty must be entered by the court, and the trial proceed.

SEC. 14. If an accused be indicted, or an information be filed against him by a wrong name, unless he declare his true name before pleading, he shall be proceeded against by the name in the indictment or information.

SEC. 15. When a plea in abatement, or other dilatory plea to an indictment or information shall be offered, the court shall refuse to receive such plea, until the truth thereof shall be supported by affidavit.

SEC. 16. The jury being empaneled and sworn, the trial shall proceed in the following order:

First. The prosecuting officer must state the case of the prosecution, and offer evidence in support thereof.

Second. The defendant or his counsel may then state his defence, and offer evidence in support thereof; or the court may allow defendant's counsel, in the statement of the defence, to follow the prosecuting officer.

Third. The parties may then respectively offer rebutting evidence only, unless the court, for good reason shown, and in furtherance of justice, shall permit them to offer evidence in chief.

Fourth. When the evidence is concluded, unless the case is

submitted without argument, the prosecuting officer shall commence; the defendant or his counsel follow; and the prosecuting officer conclude the argument to the jury.

Fifth. The court may be called upon by either the prosecution or defence, at any time in the progress of the trial after the evidence is closed, to instruct the jury as to the law of the case.

SEC. 17. When two or more persons are included in one prosecution, the court may, at any time before the defendant has gone into his defence, direct any one of the accused parties to be discharged, that he may be a witness for the United States. An accused party may, also, when there is not sufficient evidence to put him upon his defence, be discharged by the court, or, if not discharged by the court, shall be entitled to an immediate verdict, for the purpose of giving testimony for others accused with him. Such order of discharge shall be a bar to another prosecution for the same offence; and the same, or a verdict, may be had when the evidence in chief of the prosecution shall be closed, or afterwards.

SEC. 18. If a juror have personal knowledge of any fact material to the cause, he must declare it to the court, and not to his fellow jurors out of court. If a juror declare a fact material to the cause to his fellow jurors, without the knowledge of the court and the accused, he may be punished as for a contempt. His fellow jurors, or any of them, shall be competent witnesses to establish such fact, and the same shall be good ground for a new trial, should the verdict be against the accused.

SEC. 19. When it shall appear at any time before verdict that a mistake has been made in charging the proper offence, the accused shall not be discharged if there appear to be good cause to detain him in custody; but the court must recognise him to answer to the offence, and, if necessary, recognise the witnesses to appear and testify.

SEC. 20. When a jury has been empaneled in a case contemplated by the preceding section, such jury may be discharged without prejudice to the prosecution.

SEC. 21. Upon an indictment for an offence consisting of different degrees, the jury may find the accused not guilty of the degree charged in the indictment, and guilty of any degree inferior thereto or of an attempt to commit any such offence.

SEC. 22. In all other cases the accused may be found guilty of an offence the commission of which is necessarily included in that which is charged in the indictment.

SEC. 23. Counts for murder in the first and second degree and for manslaughter may be joined in the same indictment, and on the trial the accused may be convicted of either offence.

SEC. 24. An accused person is presumed to be innocent until the contrary is proved. Where there is a reasonable doubt whether his guilt is satisfactorily shown, he must be acquitted. Where there is such a doubt in which of two or more degrees of an offence he is guilty, he may be convicted of the lowest degree only.

SEC. 25. The following persons shall be competent witnesses in all prosecutions:

1. All persons who are competent in civil actions, except the accused.

2. The party injured by the offence committed.

3. Accomplices, when they consent to testify.

SEC. 26. The provisions of chapter one hundred and fifteen, Part III of the Code, relating to documentary and other written evidence, shall apply, so far as the same are applicable, to criminal proceedings, as also shall the rules therein relating to presumptions of death, impeaching the credit of witnesses, and the examination of counsel as witnesses.

SEC. 27. In prosecutions for the offences of seduction, and abduction of females for the purpose of prostitution, no conviction shall be had on the evidence of the female offended against, unsupported by other evidence, but corroborating proof shall be required.

SEC. 28. Proof of actual penetration into the body shall be sufficient evidence to sustain a prosecution for rape or for the crime against nature.

SEC. 29. When the jurors are permitted to separate after being empaneled, they must be admonished by the court that it is their duty not to converse among themselves, or suffer others to converse with them, on any subject connected with the trial, or to form or to express an opinion thereon, until the cause is finally submitted to them.

SEC. 30. After the arguments are concluded, and the instructions of the court upon the law, if any are asked, are received, the jury may decide immediately in court, or retire for deliberation. They may

retire under the charge of an officer sworn to keep them together in some private and convenient place, with such accommodations as the court shall order, and not permit any person to speak or communicate with them, nor do so himself, unless by order of the court, or to ask them whether they have agreed upon their verdict, and return them into court when they shall have agreed, or when it is ordered by the court. The officer shall not communicate to any person the state of their deliberations.

SEC. 31. When the jury have agreed upon their verdict, they must be conducted into court by the officer having them in charge. In all cases the jury shall be unanimous in their opinion to render a verdict. Before the verdict is accepted the jury may be polled at the request of either the prosecution or defence.

SEC. 32. When it shall appear in any criminal case that the jury cannot agree on a verdict, or that there is other manifest necessity for their discharge, the court may order them to be discharged, and the accused may be arraigned again.

SEC. 33. Writs of error to judgments of the criminal court may be awarded as hereinbefore prescribed in section twenty-one, chapter seventy-five of the Code, and the proceedings thereon shall be as therein indicated.

SEC. 34. Any accused person aggrieved by an opinion, direction, or judgment of the criminal court in any case where a writ of error is allowed, may allege exceptions thereto, which, being reduced to writing in a summary mode, and presented to said court, and being found conformable to truth, shall be allowed and signed by said court.

SEC. 35. All bills of exception in criminal causes must state clearly so much of the record, evidence, and proceedings as may be necessary for a fair ascertainment of the question reserved.

SEC. 36. All such bills of exception must be made out and presented to the judge at the time of the trial, or within such time thereafter during the term as the court may allow. The exception must be taken at the time of the decision.

SEC. 37. The prosecuting officer may except to any opinion of the court during the prosecution of the cause, and reserve the point of law for the decision of the circuit court, to be made at any time within two years from the date of the exception taken. The judge of the

criminal court, on receiving due notice, from the prosecuting officer, of his purpose to submit such reserved point to the decision of the circuit court, shall designate some competent member of the profession, whose duty it shall be to argue such point against the prosecuting officer, for which he shall receive a fee not to exceed one hundred dollars, to be fixed by said judge, and payable by the United States. In such proceedings the circuit court shall not be authorized to reverse the judgment of the criminal court, but only to pronounce an opinion upon the law involved in the point reserved, for the future guidance of said criminal court.

SEC. 38. A motion in arrest of a criminal judgment may be entertained and determined as at common law, subject to the provisions of Part IV of the Code.

SEC. 39. The criminal court shall have power to grant a new trial, for any cause for which, by law, a new trial may and ought to be granted.

CHAPTER 145.

OF JUDGMENTS IN CRIMINAL CASES, AND THE EXECUTION THEREOF.

SECTION

1. When judgment shall be pronounced.
2. Prisoner to be present.
3. } He may show cause why judgment
4. } should not be pronounced.
5. Court may, in addition to judgment, bind prisoner over, &c.
6. Proceedings on breach of such recognizance.
7. } Sentence to pay fine or be confined in
8. } jail; how executed.
9. } Sentence of imprisonment in the peni-
10. } tentiary; character of, and how ex-
11. } ecuted.
11. } Sentence of death; how executed.
12. }

SECTION

13. Marshal's return.
14. } Proceedings when convict under sen-
15. } tence of death becomes insane, or is
16. } found to be pregnant.
17. }
18. }
19. President of the United States may pardon, reprieve, and remit fines.
20. President may grant conditional pardon.
21. President may call upon district attorney for information as to case.
22. Proceedings when pardon, &c., is granted.

SECTION 1. After a verdict of guilty, if judgment be not arrested, or a new trial granted, the court shall pronounce judgment.

SEC. 2. The prisoner must be present for the purpose of receiving judgment, in all cases punished in whole or in part by imprisonment.

SEC. 3. When the prisoner appears for judgment, he must be informed by the court of the verdict of the jury, and asked whether he have any legal cause to show why judgment should not be pronounced against him.

SEC. 4. If no such cause be alleged or appear to the court why judgment should not be pronounced, it shall thereupon be rendered.

SEC. 5. In case of a conviction for an offence not punishable by death or imprisonment in the penitentiary, the court may, in addition to the punishment prescribed by law, require the prisoner to enter into a recognizance, with surety, in a reasonable sum, to keep the peace or be of good behavior, or both, for any time not exceeding two years, and to stand committed until he shall so recognise.

SEC. 6. In case of the breach of the condition of any such recognizance, the same proceedings shall be had thereon as are prescribed in chapter one hundred and forty-two.

SEC. 7. When any person convicted of an offence shall be sentenced to pay a fine or costs, or to be imprisoned in jail, the clerk of the court shall, as soon as may be, make out and deliver to the marshal, a transcript of the minutes of the court of such conviction and sentence, duly certified, which shall be a sufficient authority to the marshal for executing such sentence, and he shall execute the same without delay.

SEC. 8. When a person is sentenced to pay a fine and costs, the court may order him to be committed to jail until the same are paid.

SEC. 9. In every case in which the punishment of imprisonment in the penitentiary is adjudged against any convict, the form of the sentence shall be, that he be punished by imprisonment therein at hard labor.

SEC. 10. When any person shall be sentenced to imprisonment in the penitentiary, the clerk of the court shall make out a warrant, under the seal of the court, directed to the marshal, requiring him, as soon as may be, to cause such convict to be removed from the jail to the penitentiary; and the clerk shall also annex to the warrant a certified transcript of such conviction and sentence, and shall deliver the same to the marshal, who shall cause them to be transmitted to the warden, to the end that the warden may cause the warrant to be executed in the manner prescribed in the one hundred and forty-seventh chapter.

SEC. 11. The punishment of death prescribed by law must in every case be inflicted by hanging the convict by the neck until he is dead, at such time, not less than fifteen days after the sentence, as the court may adjudge.

SEC. 12. The marshal shall be present at the execution, unless he shall be prevented by sickness or other casualty, and also two of his deputies, to be designated by him, and he shall request the presence of the district attorney, the clerk of the criminal court, and twelve reputable citizens, including a physician or surgeon; and he shall permit the counsel of the criminal, such ministers of the gospel as the criminal shall desire, and his relations, to be present, and also such officers of the prison, deputies and constables, military guard or other assistants, as he shall see fit.

SEC. 13. Whenever the marshal shall inflict the punishment of death upon any convict, in obedience to a warrant, he shall make return thereof under his hand, as soon as may be, to the clerk's office of the court where the conviction was had, and the clerk shall subjoin a brief abstract of such return to the record of the conviction and sentence.

SEC. 14. If after any convict shall have been sentenced to the punishment of death, he shall become insane, the marshal, with the concurrence of the judge of the criminal court, or, in his absence, of any judge of the circuit court, may summon a jury of twelve men, to inquire into such insanity, and shall give immediate notice thereof to the district attorney.

SEC. 15. The district attorney shall attend such inquiry, and may produce witnesses before the jury. The inquisition shall be signed by them and the marshal, and if it be found that such convict is insane, the marshal shall suspend the execution of the warrant directing the death of the convict until he shall receive a warrant from the President of the United States directing the execution.

SEC. 16. The marshal shall transmit immediately such inquisition to the President, who may, as soon as he shall be convinced of the sanity of such convict, issue a warrant appointing a time for his execution.

SEC. 17. If a female convict sentenced to the punishment of death be pregnant, the marshal shall in like manner summon a jury of

six physicians, who, on like proceedings being had as in case of an insane convict, shall return an inquisition signed by them and the marshal.

SEC. 18. If, by such inquisition, it shall appear that such female convict is quick with child, the marshal shall in like manner suspend the execution of her sentence, and shall transmit the inquisition to the President, who, on being satisfied that such woman is no longer in that condition, shall issue a warrant appointing a day for her execution.

SEC. 19. Except in cases of impeachment, the President of the United States shall have power to grant reprieves and pardons, and remit fines and forfeitures, for all criminal offences cognizable within this District.

SEC. 20. In all cases in which the President is authorized by the preceding section to grant pardons, he may, upon the petition of the person convicted, grant a pardon upon such conditions, and with such restrictions, and under such limitations, as he may think proper; and he may issue his warrant to all proper officers to carry into effect such conditional pardon, which warrant shall be executed instead of the sentence, if any, which was originally adjudged.

SEC. 21. Whenever an application shall be made to the President for a pardon, he may call upon the district attorney to furnish him with a concise statement of the case as proved on the trial, together with any other facts or circumstances having a bearing upon the question of granting or refusing a pardon.

SEC. 22. When any convict is pardoned or reprieved by the President, or has his punishment commuted, the officer to whom the warrant for that purpose is issued shall, as soon as may be, make return thereof, under his hand, with what he has done stated therein, to the Attorney General's office. He shall also file in the office of the court in which the conviction took place, an attested copy of the warrant and return, a brief abstract whereof the clerk shall subjoin to the record of conviction and sentence.

CHAPTER 146.

GENERAL PROVISIONS CONCERNING PROCEEDINGS IN CRIMINAL CASES

SECTIONS

1. Power of the President of the United States to grant nolle prosequi.
2. Power of the President to remit forfeited recognizances.
3. Prosecuting officer may, with sanction of court, enter a non pros.
4. Judge of criminal court, &c., may remit forfeited recognizance of party or witness in criminal cases.
5. Court may order view of place.
6. Criminal arrest; how made.

SECTION

7. } Stolen property unreclaimed; how dis-
8. } posed of.
9. Effect of prisoner serving out time of punishment.
10. Jurisdiction of justices of the peace in certain criminal cases.
11. Appeals from justice of peace to criminal court
12. }
13. } Costs in criminal proceedings; how
14. } paid, &c.

SECTION 1. The President of the United States shall have power to grant a nolle prosequi in any criminal proceeding before sentence or judgment; and he may grant the same on such conditions, and under such limitations and restrictions, as may appear to him most advisable.

SEC. 2. The President of the United States shall have power to grant remissions of forfeitures of all recognizances acknowledged and taken before any court, judge, justice, or other magistrate within this District, either in the course of any criminal prosecution or for surety of the peace.

SEC. 3. The prosecuting officer also may, with the sanction of the judge of the criminal or district court, obtained on motion, non pros. any criminal proceeding before verdict.

SEC. 4. On the forfeiture of the recognizance of any party or witness in a criminal proceeding, the judge of the criminal court may remit any part or the whole of the penalty named in the recognizance, according to the circumstances of the case and the situation of the party, and upon such terms and conditions as to said judge may seem just and reasonable.

SEC. 5. Whenever in the opinion of the criminal court it is proper for the jury to have a view of the place in which any material fact occurred, it may order them to be conducted in a body, under the charge of an officer, to the place, which shall be shown to them by some person appointed by the court. While the jury are thus absent, no person other than the officer having them in charge, and the person appointed to show them the place, shall speak to them on any subject connected with the trial.

SEC. 6. To make an arrest in criminal cases, the officer may break open any outer or inner door or window of a dwelling house, or other building, or any enclosure, if, after notice of his office and purpose, he be refused admittance.

SEC. 7. When any stolen property shall, after the first trial of the person charged with the larceny thereof, or receiving the same, remain in the possession of any officer, unclaimed by the owner, for the space of three months, the same shall, after public notice in some newspaper printed in this District, be sold at auction to the highest bidder, under the direction of the prosecuting officer, and the avails thereof paid over to the use of the common schools, to be distributed among them as in case of fines.

SEC. 8. In case any such stolen property shall remain in the custody of the officer for one year, unclaimed as aforesaid, and the thief shall not within that time be taken, it shall be disposed of in like manner, and for like purpose, as indicated in the preceding section.

SEC. 9. If any criminal shall serve out the full period of his sentence according to law, such service shall have, to all intents and purposes, the effect of a pardon for the offence for which he was convicted.

SEC. 10. In all cases of malicious mischief or trespass specified in sections thirty-seven, forty-two, forty-three, forty-four, forty-five, and forty-six, of chapter one hundred and thirty-one, where the value of the property injured, destroyed, or taken away, or the injury occasioned by the trespass, shall not be alleged to exceed the sum of ten dollars, justices of the peace shall have exclusive jurisdiction therein, and in such cases the punishment shall be by imprisonment in jail not more than twenty days, or fine not exceeding thirty dollars, saving to the party convicted before such justice the right to a trial by jury, on his appeal to the criminal court.

SEC. 11. Every person convicted before a justice of the peace of an offence, and appealing therefrom, shall be committed to abide the sentence of the criminal court until he shall recognise, with sureties, in such reasonable sum as the justice of the peace shall require, with condition to appear at said court, there to prosecute his appeal and to abide the sentence thereon. On such appeal being taken and bond filed, the justice shall make a copy of the conviction and other proceedings in the case, and transmit the same, together with the recognizance, to the clerk of the criminal court.

SEC. 12. The United States shall be responsible for all costs and fees in criminal proceedings, except such as accrue to justices of the peace and constables in cases of misdemeanor, and to witnesses of the accused upon any preliminary examination. No fees, however, for the attendance or travel of any witness for the accused on the trial shall be paid by the United States, unless the judge before whom the case is pending, upon the affidavit of the accused stating that he believes such witness material to his defence, shall, in vacation or term, have ordered the clerk to issue the subpoena.

SEC. 13. Where any person accused of an offence shall be convicted thereof, the United States may have execution against the body and property of such convict to the extent of the fees and costs of prosecution paid by them. Upon the conviction of any person of a felony, any justice of the peace before whom proceedings shall have been had in connection therewith, shall certify to the court above, the bill of costs and fees for same, and the amount thereof shall be included in the execution.

SEC. 14. All fees and costs accruing to a justice of the peace or constable, in cases of felony, or to witnesses, when the United States is responsible therefor, shall be paid by the marshal, upon the approval of the judge of the criminal court, subject to the revision of the accounting officers of the Treasury and appeal to the Secretary of the Interior.

TITLE IV.

Of prisons; their organization and discipline.

CHAPTER 147. Of the organization and discipline of the penitentiary.
CHAPTER 148. Of the discipline of the jail.

CHAPTER 147.

OF THE ORGANIZATION AND DISCIPLINE OF THE PENITENTIARY.

SECTION

1. } Who may be confined in the peniten-
2. } tary.

SECTION

3. Inspectors of penitentiary; their appointment, salary, &c.

SECTION

4. Inspectors to appoint secretary, and hold certain meetings.
5. Duties and powers of inspectors.
6. Inspectors to examine accounts of penitentiary.
7. Inspectors to report yearly to Congress.
8. Warden; how appointed, his salary, &c.
9. His oath and bond.
10. Bond, where deposited; how sued on.
11. Warden's powers and duties.
12. } Warden to contract for labor.
13. }
14. } Warden to classify convicts.
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16. Warden to contract for supplies.
17. Accounts; how certified, &c., before payment.
18. Warden's reports.
19. Clerk, how appointed; his salary and duties.
20. Inspectors to make rules.
21. Inspectors to furnish religious instruction, &c.
22. Chaplain, how appointed; his salary and duties.
23. } Inspectors nor warden to have any
24. } interest in contracts.
25. On death of warden, who to act.
26. Delivery of convict at penitentiary.
27. Treatment of convict and his clothes, on reception.

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28. Warden to preserve convict's money, &c.
29. Rules for government of inspectors, wardens, &c.
30. What punishment warden may inflict.
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32. Inspectors to appoint a physician; his salary.
33. Infirmary to be fitted up; how regulated.
34. Inspectors to make rules for its government.
35. } Duty of physician.
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37. Warden may appoint deputy, and other officers, &c.; their salaries.
38. Warden, &c., to be exempt from military duty and service on jury.
39. Certain offences misdemeanors in warden, &c.
40. Visitors to penitentiary.
41. Notice of certain regulations to be posted in some conspicuous place.
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43. Each convict to be furnished with a Bible.
44. What furnished convict on his discharge.
45. } Provisions for the apprehension of
46. } escaped convicts.
47. }
48. }
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SECTION 1. The penitentiary of the District of Columbia shall be used for confining such persons only as may be convicted of offences which now are or may hereafter be punishable with imprisonment and labor therein under the laws of the United States or of the District of Columbia.

SEC. 2. Any person who shall have been duly convicted of a crime punishable with death, and been pardoned on condition of being confined, either for life or a term of years, in the penitentiary, may be committed thereto and retained according to the terms of the commutation of his punishment.

SEC. 3. The President of the United States shall appoint three respectable inhabitants of the District of Columbia to be inspectors of the penitentiary, who shall hold their offices for four years,

and receive an annual salary of two hundred and fifty dollars each, payable quarterly out of the treasury of the United States, and in the same proportion for any part of a quarter.

SEC. 4. Said inspectors shall appoint one of their number to be their secretary, who shall keep a regular record of their proceedings. A majority shall be a quorum for the transaction of all business, and all questions shall be decided by a majority of those present. They shall hold regular meetings of the board at least once a month, and oftener, if they shall find it necessary, and shall singly, in turns, visit and inspect the penitentiary, at least once in each week.

SEC. 5. Said inspectors shall direct in what labor the convicts shall be employed; they shall provide that the strictest attention be paid to preserving cleanliness throughout the buildings, kitchens, cells, bedding, and, as far as may be, in the persons and clothing of the convicts; and it shall be their duty to prepare a system of rules and regulations, minutely providing for the discipline, health, and cleanliness of the penitentiary, the hours of labor, meals, and confinement, and the government and behavior of the officers and convicts, so as best to carry into effect the several requirements of law. They shall cause such rules and regulations to be made known to the officers of the prison and the convicts; and the warden, for himself and his assistants, shall be held responsible for the observance and enforcement of the same.

SEC. 6. Said inspectors shall, from time to time, examine the accounts of the penitentiary, and see that the affairs thereof are conducted with economy and integrity; and it shall be their duty so to manage the same, if possible, that the proceeds of the labor of the convicts shall pay the expenses of the penitentiary.

SEC. 7. They shall, in the month of January of every year, report to Congress a detailed account of the income and expenses of the penitentiary; the number of convicts received, discharged, or deceased during the year; and, should the penitentiary fail to support itself, they shall state what, in their opinion, was the cause of such failure. They shall report, also, the rules and regulations passed, altered, or repealed within such year, and such other matters relating to the management and discipline of the prison as may be proper to make known its condition.

SEC. 8. The President of the United States, by and with the advice and consent of the Senate, shall appoint a warden of said penitentiary, who shall hold his office for the period of four years, and receive an annual salary of eighteen hundred dollars, to be paid monthly out of the treasury of the United States, and in the same proportion for any part of the month.

SEC. 9. The warden shall take an oath faithfully to discharge the duties of his office, and before he enters thereon shall give bond to the United States in the sum of ten thousand dollars, with sufficient surety, to be approved by the inspectors of the penitentiary, conditioned that he will truly account for all goods, money, or other articles belonging to the United States or to individuals, which may, in the discharge of the trusts of his office, come into his custody, and in all other respects faithfully perform the duties imposed on him by law.

SEC. 10. Said bond shall be deposited with the clerk of the circuit court, and may be sued in the name of the United States, or of any individual who may have a claim thereon, as often as the condition thereof may be broken.

SEC. 11. The warden shall be the executive officer of the penitentiary, and he shall, under the superintendence of the inspectors, oversee and manage all the affairs of the same, and shall be responsible for the due enforcement of its rules, by-laws, and discipline. It shall be his duty also to make all contracts and purchases for the necessary supplies for the penitentiary, and to keep accurate accounts of all materials bought or furnished for the use or labor of the convicts.

SEC. 12. The warden shall have power, subject to the provisions of this chapter and to the rules and regulations of the penitentiary, to let out by contract the labor of the convicts. All such contracts shall be given to the highest responsible bidder, after two weeks' notice given in one of the daily papers published in the city of Washington, and to be indicated by the inspectors, or, with the sanction of the inspectors, the warden may make suitable contracts without said notice. All contractors shall be required by the warden to give security for the faithful performance of their contracts in such amount as he shall deem proper.

SEC. 13. It shall be the duty of the warden to make such arrangements with those who now hold contracts for convict labor, and so make all future contracts, as will permit the convicts to have a certain amount of labor allotted to them daily, after the performance of which they may be allowed to attend the prison school, or to labor for the contractor at such prices as may be agreed upon by the warden, convict, and contractor, with the sanction of the inspectors. The money so earned shall be collected by the warden as money due the institution by contractors, and he shall permit the convict to send the same to his family, or retain it in the office of the institution for the use of the convict when his term expires. An accurate and detailed account of all such moneys, from whom received, the time when, the amount, and to whom payable, shall be kept by the warden in a book to be provided for that purpose, and in case of the death, removal, or resignation of the warden before the expiration of the sentence of the convict who has funds in his hands, such moneys shall be accounted for as the funds of the institution are.

SEC. 14. It shall be the duty of the warden to classify the convicts according to their age and disposition. He shall place all young men under twenty-one years, unless the conduct of some shall forbid it, as much by themselves as possible, and give them such work as will be most beneficial to them when discharged. The inspectors shall make such regulations therefor as may, in their judgment, best conduce to the reformation and instruction of such youthful convicts.

SEC. 15. All persons convicted of the higher crimes, or who shall be convicted a second time of penitentiary offences, or whose conduct may require it, shall, if it be practicable, be worked in a shop by themselves, at such employment as the warden may deem most fitting for them, or profitable to the revenue of the institution.

SEC. 16. All contracts for provisions, clothing, medicine, fuel, or other supplies for the penitentiary, shall, when the amount exceeds one hundred dollars, be given to the lowest bidder, provided the same be reasonable and not higher than the usual market price, and be approved by the inspectors. Notice of the time and place of letting each contract shall be given, three times a week for at least two consecutive weeks, in one of the daily papers published in the city of Washington, and to be designated by the inspectors. When any two

bids shall be equal, the warden may select either, and every contractor shall give security, to the satisfaction of the inspectors, for the performance of his contract. The warden may also, with the sanction of the inspectors, make suitable contracts for such supplies without notice as aforesaid.

SEC. 17. All accounts for claims against the penitentiary, for salaries of subordinate offices, provisions, clothing, medicines, fuel, &c., shall be certified by the warden, countersigned by the clerk, endorsed on the back, approved, by at least one of the inspectors.

SEC. 18. The warden of the penitentiary shall make out and deliver to the inspectors, at each of the monthly meetings, an account of all moneys received and expended by him on account of the institution, during the preceding month, specifying from whom received, to whom paid, and for what. The same shall be sworn to by the warden, and shall be preserved among the papers of the board of inspectors. He shall also, on the first Monday of January, April, July, and October, in each year, make out and exhibit to the proper accounting officers of the Treasury Department, a statement of all moneys received and paid on account of the penitentiary for the last three preceding months, specifying from whom received, to whom paid, and for what, and shall settle the same with the said Department.

SEC. 19. The inspectors may appoint a clerk, at an annual salary of twelve hundred dollars, payable quarterly. The duties of the clerk shall be as follows :

1. To attend at the prison daily during the proper business hours, unless by the direction of the inspectors he is otherwise engaged in transacting business on account thereof.

2. He shall keep a register of convicts, in which their names shall be arranged alphabetically, and in which shall be entered, under appropriate headings, the date of conviction, where born, age, occupation, complexion, stature, marks, crime, court in which convicted, term of sentence, number of previous convictions, to what prisons previously sent, when discharged, and how. The inspectors may require such additional facts to be stated on the register as they may deem proper.

3. To keep all the books and accounts of the financial transactions of the penitentiary, and report, on the last Monday of December of every year, to the inspectors, the number of convicts remaining in

prison at the commencement of the year; the number received during the year; the number discharged by pardon, expiration of service, or otherwise; the number of deaths and escapes; the number removed to the lunatic asylum, and the number then remaining in prison.

4. To have charge and custody of all the books of accounts, registers, and other documents relating to the affairs of the penitentiary; all of which shall remain and be preserved in the prison as public property, and shall be open at all times to the examination of the inspectors and warden.

5. To preserve in the prison a copy of all official reports.

6. And to discharge such other duties as the inspectors may, from time to time, require of him.

SEC. 20. The inspectors shall prescribe such rules for the government of the subordinate officers of the penitentiary as will prevent all tyrannical or violent behavior to the convicts; all unnecessary conversation between them and the convicts, or with each other, and within the hearing of the convicts; also, such rules as will best preserve order, silence, sobriety, and correct deportment throughout the establishment.

SEC. 21. It shall be the duty of the inspectors to provide for all the convicts the means of religious worship and moral instruction, so far as can be done consistently with the discipline herein prescribed.

SEC. 22. The inspectors shall appoint a chaplain, removable at their pleasure, who shall receive a salary of six hundred dollars a year, payable quarterly out of the treasury of the United States, and in like proportion for any part of a quarter. The chaplain shall be a regularly ordained minister of the Gospel, in good standing in some one of the denominations of this District, and competent to teach the first rudiments of an English education. He shall devote a portion of every day to the interests of the convicts, and shall, besides his clerical duties, teach such of the convicts as he and the warden, with the approbation of the inspectors, may select, the art of reading, writing, arithmetic, and geography, at such hours as may be found most conducive to the interests of the institution.

SEC. 23. If the warden of the penitentiary shall have any interest in a contract made by him touching the affairs of the same, with a

view of gaining for himself, directly or indirectly, any profit or advantage thereby, he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by fine not exceeding two thousand dollars, and be dismissed from his office. Every such contract shall be declared void also by the inspectors.

SEC. 24. The inspectors, also, shall not be concerned in any contract relating to the affairs of the penitentiary; and if any contract shall be made, in which any of them have, directly or indirectly, an interest, the same, so far as it relates to that interest, shall be void.

SEC. 25. In case of the death of the warden, or his resignation, or removal, or other temporary vacancy of the office, or his absence, sickness, or other disability, such keeper or officer as may be specially designated by the inspectors shall have power to exercise the authority and discharge the duties of the warden, as prescribed by this chapter and the rules of the penitentiary.

SEC. 26. Every person sentenced to imprisonment in the penitentiary, agreeably to the provisions of this Code for the punishment of crimes, shall immediately thereafter be carried there and delivered into the custody of the warden, together with a copy of the sentence of the court ordering such imprisonment, there to be safely kept until the term of his confinement shall have expired, or until he shall have been pardoned by the President of the United States.

SEC. 27. Every such convict, immediately upon being received into the penitentiary, shall be washed, cleansed, and remain in separate lodgings until it shall be certified by a physician that he may safely be admitted among the other prisoners. The clothes which the convict shall wear on his admission to the penitentiary shall either be burned or fumigated, at the discretion of the physician; and in case of their preservation, they shall be restored to the owner at the expiration of his period of confinement, but in the event of their destruction, the warden shall furnish such convict, at the time of his discharge, with a good suit of coarse clothes.

SEC. 28. The warden shall take charge of all money or other property belonging to the convict and brought with him at the time of his commitment, and shall report the same to the inspectors at their next meeting, who shall provide as may be necessary for the preservation of such property, and the return thereof to the convict at the expiration of his time of service.

SEC. 29. The following provisions shall be strictly regarded by the inspectors, warden, and other officers of the penitentiary, as a portion of the prison discipline:

1. The convicts shall be clothed at the public expense during the whole period of their confinement, in habits of coarse and cheap materials, uniform in color and make, and so striped, or otherwise conspicuously marked, as clearly to distinguish them from the ordinary dress of other persons.

2. The bedding and other personal accommodations of the convicts shall be of the cheapest and coarsest kind consistent with strength and durability. They shall be fed on the cheapest food that will support strength, with as little change or variety in the diet as may be consistent with their health and the economy of the penitentiary.

3. They shall be kept, with due regard to their age, health, sex, and ability, to labor of the hardest and most servile kind, and where the work or materials is less likely to be spoiled by ignorance, neglect, or obstinacy, and shall be made to labor diligently and in silence.

4. The male and female convicts shall labor and be kept separate and apart from each other, nor shall any of them be permitted to converse with each other, or with strangers, except in the presence of some officer of the prison, and with his special permission, given in accordance with the provisions of the by-laws.

5. Every convict shall be confined singly in a separate cell at night, and at such time of the day as he may not be employed at labor, except at such hours and places as may be assigned by the rules of the penitentiary for religious or other instruction, or for meals, or when transferred to the infirmary on account of sickness.

SEC. 30. The warden of the penitentiary shall have power to punish, by confinement in solitary cells, by diet on bread and water, and by putting in irons or in the stocks, any convict in the penitentiary who shall wilfully violate, or refuse to obey, the rules of the establishment, or to perform the work assigned him, or who shall wilfully destroy any property, tools, or materials, or who shall resist by violence any of the officers of the penitentiary in the lawful exercise of their authority.

SEC. 31. All such punishments shall be regularly reported to the

visiting inspector at his next weekly call, and to the board of inspectors at its next monthly meeting; and it shall be the duty of the board to adopt and enforce special rules and by-laws, regulating the times, measure, extent, and mode of such punishments, in relation to the several offences against the discipline of the penitentiary, and report the same to Congress, as in case of other regulations.

SEC. 32. The inspectors shall appoint one regular practising physician, to be physician and surgeon of the penitentiary, at such compensation as the inspectors shall direct, not exceeding the sum of five hundred dollars a year, payable quarterly out of the treasury of the United States, and in the same proportion for any part of a quarter.

SEC. 33. One apartment, or more, as may be needed, shall be fitted up as an infirmary, and in the event of sickness a convict may, upon the examination and order of the physician, be admitted therein. The name of the convict shall be entered in a hospital book to be kept for that purpose; and whenever the physician shall report to the warden that such convict is in proper condition to return to the ordinary employment of the penitentiary, such fact shall also be recorded in the same book, and the convict shall, so far as may be consistent with his health and strength, be again subjected to the discipline of the prison.

SEC. 34. Special rules for the order and government of the infirmary may be made by the inspectors, and they shall have power to relax the ordinary discipline of the prison in favor of the sick.

SEC. 35. It shall be the duty of the physician to visit the penitentiary at such stated times as may be prescribed by the inspectors, and to render all medical and surgical aid that may be necessary.

SEC. 36. It shall be the further duty of such physician :

1. To examine weekly the cells of the convicts, for the purpose of ascertaining whether they are kept in a proper state of cleanliness and ventilation, and report any defects to the warden, and, in the event of the same not being remedied, to the inspectors.

2. To examine frequently into the quality and state of the provisions delivered to the prisoners, and when he shall have reason to believe that any of them are prejudicial to health, he shall immediately report the fact to the warden and inspectors, as before

provided. It shall also be his duty to prescribe the diet of sick convicts, and his directions shall be followed by the warden and his subordinates.

3. To report monthly to the inspectors the number of patients received into the hospital during the preceding month, stating the dates of their admission, discharge, or death, and the character of the diseases under which they labored.

4. To make yearly reports to the inspectors of the sanitary condition of the penitentiary for the past year, in which shall be condensed the statements of his monthly reports, and other matters illustrating, in his opinion, such condition.

Sec. 37. The warden shall have power to appoint and remove a deputy warden, and all other subordinate officers or guards necessary to the maintenance of the prison discipline and care of the convicts; and they shall receive such compensation monthly or quarterly as the inspectors shall direct.

Sec. 38. The warden of the penitentiary and all his subordinates shall, during their continuance in office, be exempt from military duty and service as jurors.

Sec. 39. If the warden of the penitentiary, or any of his subordinates, or any person employed in or about the establishment, shall convey out of or bring into the same, to or from any convict confined there, any letter or writing, or shall bring into the penitentiary to sell or give away any spirituous or vinous liquors, or any other thing whatsoever, without the consent, in writing, previously obtained, of the inspectors, he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by fine not exceeding five hundred dollars, and by imprisonment in the county jail not exceeding one year.

Sec. 40. No person shall be permitted to visit the penitentiary without a written order from one or more of the inspectors thereof, except the President of the United States, the heads of the several departments of the government, members of Congress, and the judges of the courts of the United States.

Sec. 41. It shall be the duty of the inspectors to cause to be placed, in some conspicuous place about the prison, so much of the laws of this District, and of the regulations adopted by them, as relate to the government of the convicts by the warden and his subordinates, and the conduct of visitors.

SEC. 42. All children born of any convict during her period of confinement, shall either be handed over by the warden to a relative chargeable with its support or willing to take it, or, in default of such person, to the poor-house of the District of Columbia, there to be maintained and disposed of as other minor inmates.

SEC. 43. The warden shall furnish each convict with a Bible.

SEC. 44. The warden shall furnish to each convict who shall be discharged from the penitentiary, by pardon or otherwise, necessary clothing, not exceeding ten dollars in value, and a sum of money, not exceeding three dollars, to provide for his immediate support.

SEC. 45. When any convict confined in the penitentiary shall escape therefrom, it shall be the duty of the warden to take all proper measures for his apprehension; and he may, in his discretion, offer a reward, not exceeding fifty dollars, for the apprehension of such convict, and, with the consent of the inspectors, such reward may be increased to a sum not exceeding two hundred and fifty dollars. The rewards and reasonable sums paid in advertising an escaped convict shall be paid out of the treasury of the United States.

SEC. 46. The warden of the penitentiary shall arrest, or cause to be arrested, and again committed to safe keeping in the penitentiary, any convict who may have escaped therefrom and shall be found at large within this District, whether the term for which such convict was sentenced to imprisonment has expired or not.

SEC. 47. It shall be the duty of the marshal and his deputies, and all constables, to arrest every escaped convict, and forthwith deliver him to the warden of the penitentiary.

SEC. 48. If any guard or other employee of the penitentiary shall, in the attempt to prevent the escape of a convict therefrom, or in attempting to retake a convict who has escaped, or in attempting to prevent or suppress a mutiny, take the life of any convict, he shall not be held responsible therefor, unless the same was done unnecessarily and wantonly.

SEC. 49. The physician of the penitentiary shall, when called upon by the superintendent of the lunatic hospital, give such medical and surgical aid to the insane convicts confined in the hospital as the nature of their cases may require.

CHAPTER 148.

DISCIPLINE OF JAIL.

SECTION	SECTION
1. For what purpose jail is to be used as prison.	8. Both to remain in jailer's office, &c.
2. Judge of criminal court to prescribe rules for the government of jail.	9. Grand jury to visit jail, and report on its condition.
3. Notice of said rules; how given.	10. Judge to charge them as to their duty regarding the jail.
4. Judge may revise, &c., rules.	11. } Marshal's duty with regard to jail.
5. Marshal to have charge of jail and prisoners.	12. }
6. Jail register; its entries.	13. Marshal to appoint jailer, &c.
7. Report book; its entries.	14. Marshal or jailer violating rules, &c., to be guilty of a misdemeanor.

SECTION 1. The jail in Washington county, District of Columbia, shall be used as a prison for the following purposes:

1. For the detention of persons charged with offences, and duly committed for trial.

2. For the detention of persons who may be duly committed to secure their attendance as witnesses on the trial of any criminal cause.

3. For the confinement of persons committed pursuant to a sentence upon conviction of an offence.

4. For the confinement of all other persons duly committed for any cause authorized by law.

SEC. 2. The judge of the criminal court shall, from time to time, as he may deem necessary, prescribe, in writing, rules for the regulation and government of the jail for this District upon the following subjects:

1. The cleanliness of the prison.

2. The classification of prisoners, in regard to sex, age, crime, and insanity.

3. Beds and clothing.

4. Warming, lighting, and ventilating the prison.

5. The intercourse between prisoners and their counsel, and other persons.

6. The punishment of prisoners for violating the rules of the prison.

7. On such other subjects as the judge may deem necessary to promote the welfare of the prisoners, or the efficiency of the prison.

as a place of confinement. Provided, that none of said rules be contrary to law.

Sec. 3. Said judge shall, as soon as may be, cause a copy of such rules to be delivered to the marshal, who shall cause the same to be printed, and a copy thereof to be posted up in some conspicuous place, in every compartment of the jail.

Sec. 4. Said judge may, from time to time, revise, alter, and amend such rules; and such revised, altered, or amended rules, shall be printed and disposed of in like manner, as prescribed in the preceding section.

Sec. 5. The marshal shall have charge of the jail, and of all persons by law confined therein, and he shall conform in all respects to the rules prescribed as aforesaid by the judge of the criminal court.

Sec. 6. The marshal shall keep a proper book, to be called the jail register, in which, by himself or deputy, he shall make such entries as required by section twenty-five, Part I of the Code.

Sec. 7. The marshal shall keep a report book, open at all times to the judge of the criminal court and members of the grand jury, in which shall be entered—

1. What sickness, if any, has prevailed in the jail during the year, and, if known, what were the causes of such disease.

2. The practice observed during the year of whitewashing and cleansing the cells, and the time and season of so doing.

3. The character of prisoners' diet.

4. The operation of the rules prescribed by the judge.

5. All other entries required by the rules, or, in the opinion of the marshal, deemed proper.

Sec. 8. Said jail register and report book shall be kept and preserved in the office of the jailer, and on the expiration of the marshal's term of office, shall be delivered to his successor.

Sec. 9. The grand jury shall, at the commencement of every term, visit the jail, examine its state, inquire into the discipline and treatment of prisoners, their habits, diet, and accommodations, and report thereon, in writing, to the judge of the criminal court. They shall also report whether the jail is a safe and proper place of confinement, and if not, why; whether the rules have been observed, pointing out in particular any violations thereof, and such other matters as may come under their notice.

SEC. 10. It shall be the duty of the judge of the criminal court to charge the grand jury as to their duties with regard to the jail at every term of the court, and lay before them any rules established by him, and such other matters relating to discipline of the prison as he may see fit.

SEC. 11. It shall be the duty of the marshal to provide fuel, bed clothing, and board generally for the prisoners; and he shall be allowed therefor at the rate of thirty-five cents per day for each prisoner.

SEC. 12. The marshal shall visit the jail in person, and examine into the condition of the prisoners, once every month; and it shall be his duty to cause all the cells and rooms used for the confinement of prisoners to be thoroughly whitewashed at least twice a year.

SEC. 13. The jailer, and other keepers of the prison, shall be appointed by the marshal.

SEC. 14. If the marshal, or any jailer having charge of the jail, shall refuse or neglect to conform to all the rules established by the judge of the criminal court, or to discharge any other duties required by this chapter, he shall be deemed guilty of a misdemeanor, and be punished accordingly.

CHAPTER 149.

OF THE REPEAL OF STATUTES AND ACTS HERETOFORE PASSED.

SECTION

1. British statutes repealed.
2. What Maryland statutes are repealed.
3. Acts of Congress repealed.
4. Saving of rights under former laws.
5. Penal and criminal liabilities remain unaffected, except, &c.

SECTION

6. Repeal not to affect prosecutions or actions pending, &c.
7. Tenure of offices, preserved, except, &c.
6. No repealed law to be revived by this repeal.

SECTION 1. The statutes of England, or of Great Britain, as such, shall not have any force or validity in this District; but the same, so far as they were in force therein, are hereby repealed.

SEC. 2. The statutes of the State of Maryland, as such, except those which relate expressly to this District, or some part thereof, and were enacted prior to the twenty-seventh day of February,

eighteen hundred and one, shall not have any force or validity within this District; but the same, so far as they were of any force therein, are hereby repealed. Any provision in any statute exempted from repeal by the foregoing clause of this section, which is repugnant to this Code, or the subject of which is revised therein, is hereby repealed.

SEC. 3. The following acts, and parts of acts, of the Congress of the United States, are hereby repealed:

1. An act concerning the District of Columbia, approved February 27, 1801, excepting the sixteenth section thereof.

2. An act supplementary to the act entitled "An act concerning the District of Columbia," approved March 3, 1801.

3. The twenty-fourth section of an act to amend the judicial system of the United States, approved April 29, 1802.

4. An act additional to, and amendatory of, an act entitled "An act concerning the District of Columbia," approved May 3, 1802, excepting the eleventh and twelfth sections thereof.

5. An act more effectually to provide for the organization of the militia of the District of Columbia, approved March 3, 1803.

6. An act for the relief of insolvent debtors within the District of Columbia, approved March, 3, 1803.

7. An act for the regulation of the time of holding the courts of the District of Columbia, and for other purposes, approved April 21, 1806.

8. An act further supplementary to the act entitled "An act concerning the District of Columbia," approved February 24, 1807.

9. An act to reduce the expenses attending the administration of justice in the District of Columbia, approved March 3, 1807.

10. An act to revive and continue certain causes and proceedings in the district court of the District of Columbia, approved February 10, 1808.

11. An act authorizing the proprietors of squares and lots in the city of Washington to have the same subdivided and admitted to record, approved January 12, 1809.

12. An act to increase the salaries of the judges of the circuit court for the District of Columbia, approved March 3, 1811.

13. An act to carry into effect an act of the legislature of the State of Maryland, approved May 6, 1812.

14. An act authorizing the remission of forfeited recognizances within the District of Columbia, approved June 17, 1812.

15. An act to amend the laws within the District of Columbia, approved June 24, 1812.

16. An act supplementary to an act entitled "An act more effectually to provide for the organization of the militia of the District of Columbia," approved July 1, 1812.

17. An act conferring certain powers on the levy court for the county of Washington, in the District of Columbia, approved July 1, 1812.

18. An act to limit the right of appeal from the circuit court of the United States for the District of Columbia, approved April 2, 1816.

19. An act to regulate the fees of public notaries in the county of Washington, in the District of Columbia, approved April 4, 1818.

20. An act to increase the salaries of the judges of the circuit court for the District of Columbia, approved April 20, 1818.

21. An act to increase the allowance of the judges of the orphans' court, in the counties of Washington and Alexandria, approved May 1, 1820.

22. An act to alter the times of the session of the circuit and district courts in the District of Columbia, approved May 11, 1820.

23. An act to amend the act entitled "An act to alter the times of the session of the circuit and district courts in the District of Columbia," approved December 29, 1820.

24. An act for the relief of certain insolvent debtors, approved May 6, 1822.

25. An act to extend the jurisdiction of justices of the peace in the recovery of debts in the District of Columbia, approved March 1, 1823.

26. An act altering the times of holding the courts in the District of Columbia, approved May 13, 1824.

27. An act to regulate the fees of the register of wills in the several counties within the District of Columbia, approved May 26, 1824.

28. An act altering the times of holding the courts in the District of Columbia, approved May 20, 1826.

29. An act to authorize the corporation of the city of Washington to introduce into the lotteries they are authorized to establish, certain land prizes herein mentioned, approved February 22, 1827.

30. An act concerning the orphans' court of Alexandria county, in the District of Columbia, approved May 19, 1828.

31. An act concerning the government and discipline of the penitentiary in the District of Columbia, approved March 3, 1829.

32. An act relating to the orphans' courts in the District of Columbia, approved May 29, 1830.

33. The third, fourth, and fifth sections of an act making appropriations for the completion and support of the penitentiary in the District of Columbia, and for other purposes, approved February 25, 1831.

34. An act for the punishment of crimes in the District of Columbia, approved March 2, 1831.

35. An act for quieting possessions, enrolling conveyances, and securing the estates of purchasers within the District of Columbia, approved May 31, 1832.

36. An act changing the times of holding the courts in the District of Columbia, approved May 31, 1832.

37. An act to secure to mechanics and others, payment for labor done, and materials furnished in the erection of buildings in the District of Columbia, approved March 2, 1833.

38. An act to amend the act for quieting possessions, enrolling conveyances, and securing the estates of purchasers within the District of Columbia, passed the thirty-first day of May, eighteen hundred and thirty-two, approved April 20, 1838.

39. An act supplementary to the act, entitled "An act concerning the District of Columbia, approved May 25, 1838."

40. An act relating to the orphans' court of Alexandria county, in the District of Columbia, approved June 28, 1838.

41. An act to establish a criminal court in the District of Columbia, approved July 7, 1838.

42. An act to restrain the circulation of small notes as a currency, in the District of Columbia, and for other purposes, approved July 7, 1838.

43. An act to prohibit the giving or accepting, within the District of Columbia, of a challenge to fight a duel, and for the punishment thereof, approved February 20, 1839.

44. An act to amend an act entitled "An act to establish a criminal court in the District of Columbia, approved February 20, 1839."

45. An act to organize the several fire companies in the District of Columbia, approved March 2, 1837.
46. A resolution directing the manner in which certain laws of the District of Columbia shall be executed, approved February 16, 1839.
47. An act making further provision for the maintenance of pauper lunatics in the District of Columbia, approved August 3, 1841.
48. An act to authorize the recovery of fines and forfeitures incurred under the charter, laws, and ordinances of Georgetown, before justices of the peace, approved August 19, 1841.
49. An act in relation to marriages within the District of Columbia, approved July 27, 1842.
50. An act to regulate arrests on mesne process in the District of Columbia, approved August 1, 1842.
51. An act to provide in certain cases for the sale of the real estate of infants within the District of Columbia, approved March 3, 1843.
52. An act to amend the laws regulating imprisonment for debt within the District of Columbia, approved March 3, 1843.
53. The first section of an act making appropriation for the support of insane persons in the District of Columbia, and for other purposes, approved June 15, 1844.
54. An act supplementary to an act, entitled "An act to regulate arrests on mesne process in the District of Columbia," approved August first, eighteen hundred and forty-two, approved June 17, 1844.
55. An act concerning conveyances or devises of places of public worship in the District of Columbia, approved June 17, 1844.
56. An act to correct a clerical error in the act supplementary to an act to regulate arrests on mesne process in the District of Columbia, and to amend the title thereof, approved February 4, 1845.
57. An act to change the time for holding the circuit and criminal courts in the county of Washington, approved March 1, 1845.
58. An act to enlarge the powers of the several orphans' courts held in and for the District of Columbia, approved February 20, 1846.
59. The fifteenth and sixteenth sections of an act to continue, alter, and amend the charter of the city of Washington, approved May 17, 1848.
60. An act concerning the taking of official oaths in the District of Columbia, approved June 28, 1848.

61. An act to suppress the slave trade in the District of Columbia, approved September 20, 1850.

62. An act to provide for the holding of the district court of the District of Columbia, in cases of sickness or other disability of the district judge, approved May 27, 1852.

63. An act to amend an act entitled "An act for the punishment of crimes in the District of Columbia," approved July 3, 1852.

64. An act to prohibit public executions in the District of Columbia, approved January 25, 1853.

65. An act concerning bail in civil causes in the District of Columbia, approved February 3, 1853.

66. An act to make the salary of the judge of the criminal court of the District of Columbia equal to that of an assistant judge of the circuit court of said District, approved February 11, 1853.

67. An act to prevent in certain cases a failure or delay of justice in the courts of the District of Columbia, approved February 16, 1853.

68. An act to suppress the circulation of small notes, as a currency, in the District of Columbia, approved December 27, 1854.

69. An act to organize an institution for the insane of the army and navy, and of the District of Columbia, in said District, approved March 3, 1855.

70. An act amendatory of an act, entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved April 23, 1856.

71. The sixth and ninth sections of an act to amend the acts regulating fees, costs, and other judicial expenses of the government in the States, Territories, and District of Columbia, and for other purposes, approved August 16, 1856.

72. An act to authorize the circuit court of the District of Columbia to decree a sale of real estate in certain cases, approved August 18, 1856.

73. An act supplementary to an act to organize an institution for the insane of the army and navy, and of the District of Columbia, in the said District, approved March third, eighteen hundred and fifty-five, approved February 7, 1857.

74. An act for regulating the terms of the circuit court of the

District of Columbia, and for other purposes, approved February 7, 1857.

75. All other acts and parts of acts of the Congress of the United States, relating to this District, which are repugnant to the provisions of this Code.

SEC. 4. The repeal of the statutes and acts herein before mentioned shall be subject to such limitations and exceptions as are heretofore or hereafter in this Code expressed. Such repeal shall not affect any act done, or any right accruing or accrued or established, or any suit, action, or proceeding, had or commenced in any civil case, before the time when such repeal takes effect; but the proceedings in every such case shall be conformed, so far as practicable, to the provisions of this Code.

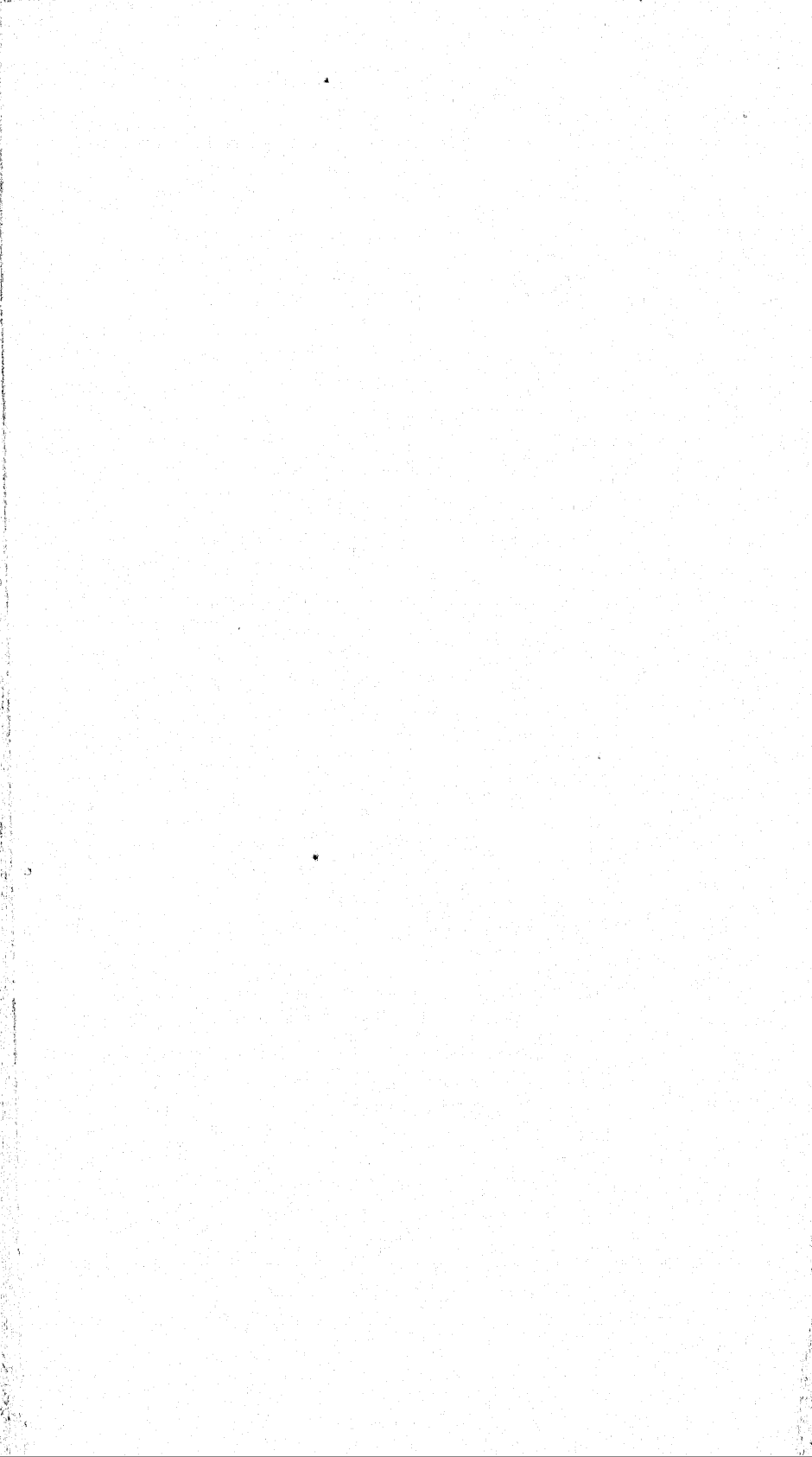
SEC. 5. No offence committed, and no penalty or forfeiture incurred, under any of the statutes or acts hereby repealed, and before the time when such repeal takes effect, shall be affected by such repeal, except that where any punishment, penalty, or forfeiture shall have been mitigated by the provisions of this Code, such provisions may, with the consent of the party affected, be applied to any judgment to be hereafter pronounced.

SEC. 6. No prosecution or action pending at the time this Code takes effect, for any offence committed, or for the recovery of any penalty or forfeiture incurred, under any of the statutes or acts hereby repealed, shall be affected by such repeal, except that the proceedings in such prosecution or action shall be conformed, so far as practicable, to the provisions of this Code.

SEC. 7. All persons who, at the time when this Code takes effect, shall hold any office under any of the statutes or acts hereby repealed, shall continue to hold the same, according to the tenure thereof, except those offices which may have been abolished, and those as to which a different provision shall have been made by this Code. Any person continuing to hold office according to the foregoing clause of this section, shall be allowed thirty days from and after the time of the adoption of this Code, within which to enter into and file the official bond required of such officer by this Code, and in the meantime may discharge the duties of his said office. If no such bond be entered into and filed within such time, the office shall be deemed

vacant. No new oath, however, shall be required of such person continuing in office as aforesaid.

SEC. 8. No statute or act which has been heretofore repealed, shall be revived by the repeal contained in this chapter of any of the statutes or acts hereinbefore mentioned.



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