

No. 23-4354

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MARCO ANTONIO CARRALERO, ET AL.,
Plaintiffs-Appellees,

V.

ROB BONTA, IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL OF CALIFORNIA,
Defendant-Appellant.

**On Appeal from the United States District Court
for the Central District of California**
No. 8:23-cv-01798-CJC-ADSx
The Honorable Cormac J. Carney, Judge

**CIRCUIT RULE 28-2.7 STATUTORY
ADDENDUM TO APPELLEES'
RESPONSE BRIEF**

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EXHIBIT 1



ATTENTION GUN OWNERS & FUTURE GUN
OWNERS: GET CONCEALED CARRY CERTIFIED
BEFORE IT'S TOO LATE

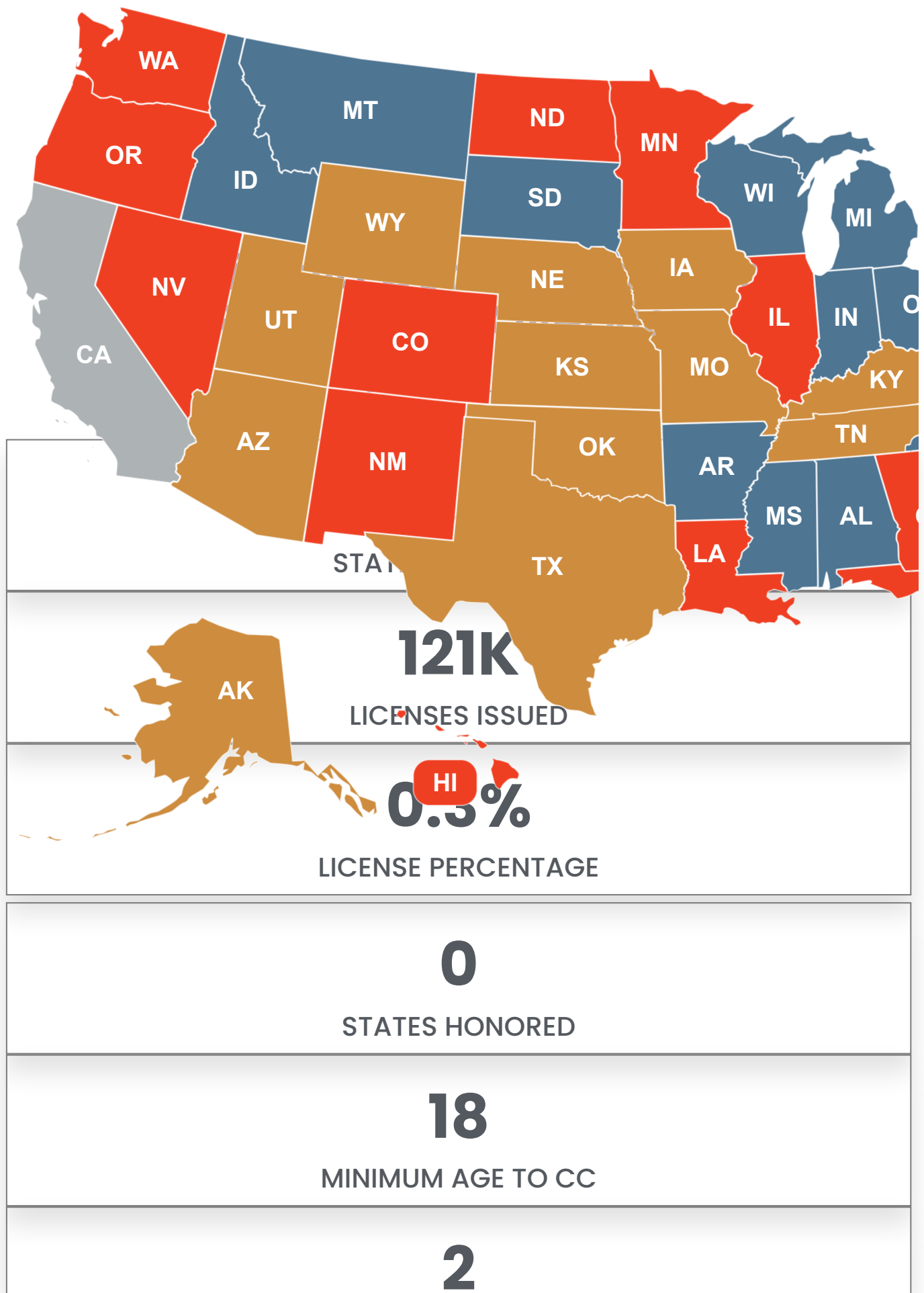
California Reciprocity Map

Last Updated: 2021

☒ yes

☐ yes, with restrictions

☐ no



YEARS LICENSE VALID**27****RECIPROCATING STATES****NO****CONSTITUTIONAL CARRY****15****CC CERTIFIED INSTRUCTORS**

Responsible gun ownership and good citizenship go hand in hand. Achieving both requires understanding the gun rights and laws in your home state and beyond. California is home to 39.6 million people and has granted around 121,000 concealed carry (CC) licenses as of August 2021, meaning only 0.31% of the population are allowed to CC.

Understanding reciprocity – how your gun rights translate across state lines – is essential to California concealed carry. A concealed weapons license from California is honored in 27 states, but California doesn't recognize permits or licenses from anywhere else. The minimum age to CC is 21 and the license is valid for two years.

You need an education partner you can trust if you're interested in obtaining your California concealed carry license. Concealed Coalition has trained over a million U.S. citizens to carry their weapons safely and effectively. Contact us to find [online or local training](#) to get your CCW permit certification.

Need Answers Now?



Summary of California Gun Laws

Your California Gun Rights

Gun rights can differ depending on where you are, even within the same state. Californians should always contact their applicable local police station or [county sheriff's office](#) for the latest CC information.

California is a "may issue" state, meaning an applicant successfully meeting the state's requirements for ownership is not guaranteed a license. Law enforcement officers decide who will be granted a concealed carry weapon license (CCWL).

Any firearm sale must be conducted through a licensed dealer, and firearms may not be passed to a minor under any circumstances. Buying a handgun requires a background check, a purchase permit, and a Department of Justice (DOJ) report.

Anyone bringing firearms into California is considered a personal firearms importer under state law (see [FAQ 25](#)). This requires reporting the weapons to the DOJ and comes with restrictions.

Open Carry in California

This varies between localities due to the powers of area law enforcement. It's not generally permitted in counties with a population below 200,000. This makes it even more important for Californians to consult with these agencies when seeking to carry in their own city and county or between cities and counties.

Concealed Carry in California

A California CCWL is subject to restrictions imposed at the discretion of the issuer, which may include location and purpose. The state requires training in gun safety and state firearms laws for a CCWL, with courses not to exceed 16 hours, or a community college course not to exceed 24 hours certified by the state.

Self Defense Laws in California

California law regarding the use of force is based on the [Castle Doctrine](#), meaning Californians have no duty to retreat from an aggressor under certain circumstances.

Use of Force

Use of force up to serious bodily harm is permitted to defend

Use of force up to serious bodily harm is permitted to defend self, family, or household members when under the reasonable belief that a forced entry has occurred.

Use of Deadly Force

It's permitted under [California Penal Code 198.5](#), which states that anyone using such force within their residence will be presumed to have justifiably defended themselves, a family member, or a member of the household, provided they believed an unlawful entry occurred with intent to cause great physical harm or death.

Protecting Yourself After Use of Force

It's vital to be aware of the legal definitions of acceptable use of force before acting against an aggressor. Force to these levels is not permitted in California against a member of the family or household. Force may be used only under circumstances sufficient to excite the fears of a reasonable person.

Firearms training is a reliable way to gain situational and legal awareness in applying force. Concealed Coalition has trained people nationwide to become responsible, certified gun owners. Classes are available [locally and online](#).

California Gun Laws by Statute

Concealed Coalition is dedicated to dispelling the myths surrounding gun ownership and promoting a culture of understanding, responsibility, and confidence. Our certified instructors are qualified across multiple states, and our online or local training classes provide convenient learning environments run by instructors who care.

Contact us today at [\(916\) 229-9649](tel:(916)229-9649) or [email](#) to discuss your concealed carry permit educational needs..

Quick Links

- [Carry Basics in California](#)
- [Carry Locations in California](#)
- [Key State Laws in California](#)
- [Handgun Purchase & Possession in California](#)





CONCEALED CARRY BASICS IN CALIFORNIA

Does California recognize constitutional carry?

No.

Is open carry permitted in California?

Partial, with a California Concealed Weapons License (CCWL) and valid only in a county with a population of less than 200,000 persons. Otherwise California law prohibits any person from carrying an exposed and loaded or unloaded handgun upon his or her person outside of a vehicle in a public place.

What is the minimum age in California to get a concealed carry license?

18 years of age.

Is it legal to own a taser or stun gun in California?

Yes, if 19 or older with no felony record. Restrictions apply on [carry locations](#).

Is it legal to buy or use chemical spray/pepper spray in California?

Yes, with volume, weight, and labeling [requirements](#).

Does California have magazine capacity restrictions for

handguns?

It's generally illegal to buy, manufacture, import, keep for sale, expose for sale, give, or lend any large-capacity magazine able to accept more than 10 rounds in California.

Does California have ammunition restrictions?

Nobody under 21 or a nonresident of the state can legally buy ammo. Armor-piercing ammo is prohibited, as is buying fixed ammo of calibers above 0.60 or .50 Browning Machine Gun rounds. Nonresidents are not permitted to bring ammo into California. Incendiary and explosive ammo are prohibited, and anyone buying ammo must pay \$1 for a background check from a licensed vendor.

CONCEALED CARRY LOCATIONS IN CALIFORNIA

Where can't I carry a concealed firearm in California?

The law prohibits CC in:

- Any location prohibited by federal law
- Private property or private businesses
- Any areas prohibited on your CCWL by your local law enforcement agency
- Courtrooms if you're involved in a case
- School grounds for grades K through 12 and colleges or universities (without permission)
- Childcare facilities
- Political residences
- Events or showcases centered on guns while in possession of ammo that may fit such weapons
- Polling stations
- The state Capitol

- The state Capitol

- Premises reserved for hearings, legislation, or belonging to governors or correctional officers
San Francisco county property
- In any public space while masked
- Wildlife refuges and management areas
- Sacramento Cal Expo Center
- Any location primarily existing for on-site service and consumption of alcoholic beverages
- During any employment strike action

Never consider any list of restricted locations exhaustive. Call ahead to ask about an intended location's firearms policy.

Where can I carry a concealed firearm in California?

CC licensees may carry in places of worship if permitted by the owners. Other accepted locations are covered later in this FAQ.

Can you carry a concealed handgun in a vehicle in California?

Only with a CCWL.

Can you carry a concealed firearm at roadside rest areas in California?

Only with a CCWL.

Can you carry a concealed firearm in state/national parks, state/national forest and Wildlife Management Areas in California?

Yes with a CCWL. Contact the location for any restrictions.

Yes, with a CCWL. Contact the location for any restrictions.

Can you carry a concealed firearm in bars and restaurants that serve alcohol in California?

Yes, provided it's not their primary purpose, and with the owner's permission.

Can you carry or possess a firearm on hotel property in California?

Hotels are private businesses and can set their own rules. Check to clarify their position in advance.

Does California have laws relating to storing firearms in private vehicles in an employee parking lot?

This isn't addressed by law, making it essential to comply with your employer's stance.

IMPORTANT GUNS LAWS IN CALIFORNIA

Do you have a duty to notify a police officer that you're carrying a concealed firearm in California?

There's no legal requirement to do so at the state level, but volunteering this information to law officers demonstrates cooperation and positive transparency.

Are "No Weapons Allowed?" signs enforced in California? If, yes, violating the sign would be considered to be a crime. If, no, violating the sign would not be considered a criminal offense.

No, but people must respect the wishes of property owners and businesses on whether firearms are welcome. Remaining after a request to leave could lead to charges of trespass.

Does California have preemption laws related to concealed carry (i.e., Does state law supersede local laws regarding the possession of handguns)?

Yes. Local authorities do have some power to regulate certain aspects of firearms possession, so contact your local law enforcement for complete details.

Does California have a red flag law?

Yes.

Does California state law define brandishing?

Not explicitly, but it's [an offense](#) to display or draw a loaded or unloaded firearm in a hostile manner.

Does California have laws regarding carrying a concealed firearm while using alcohol or chemical substances?

Not while consuming any alcoholic beverage or under the influence of any form of drug, even if it has been prescribed.

Does California issue concealed carry licenses to non-residents?

Yes, provided they're active military stationed there or are employed in the state.

Does California allow the public to access concealed carry registry information through public records law?

Yes.

HANDGUN PURCHASE & POSSESSION IN CALIFORNIA

Is a permit required to purchase a handgun in California?

Yes.

Are background checks required for private gun sales in California?

Federal law requires federally licensed firearms dealers (but not private sellers) to initiate a background check on the purchaser prior to sale of a firearm.

Does my current California concealed carry license exempt me from needing a background check when I purchase firearm?

Yes, for Entertainment Firearms Licenses only.

Is there a waiting period after purchasing a handgun in California?

Yes, 10 days.

Do handguns need to be registered in California?

Yes.

What is the minimum age to possess and transport a handgun in California?

The minimum age is 18.

Can I possess/carry a handgun in my home in California without a license?

Yes, if not otherwise prohibited.



Acquiring a Concealed Carry License in California

Quick Links

- [California Concealed Carry License Information](#)
- [California Concealed Carry License Application Process](#)
- [California Concealed Carry License Renewal Process](#)

[Get Certified Today](#)



CALIFORNIA CONCEALED CARRY LICENSE INFORMATION

Concealed Carry Requirements to Register for a License in California

An applicant must:

- Be of good moral character
- Have good cause for the license
- Be a resident of the county or work in the county
- Have completed an approved firearms training class (minimum of 8 hours) or provide [proof of exemption](#) pursuant to California Penal Code section 31700
- Not have been convicted of a felony or certain types of misdemeanors, including a lifetime prohibition if convicted of domestic violence

- Not be subject to a temporary restraining order or have been the subject of a protective order
- Not be addicted to drugs
- Not have been diagnosed as mentally ill
- Not have been hospitalized more than once in a year for a mental health diagnosis (lifetime prohibition)

Fees:

Contact your issuing authority as fees are variable (typically at least \$70).

Valid For:

2 years.

Processing Time:

Within 90 days of completion of your background check. Please note that the timing of the background check approval varies greatly.

Applications:

Download and complete the DOJ Statewide Standard CCWL [application](#).

Non-Resident Concealed Carry License:

Contact your issuing authority for their consideration. CCWLs may be issued to individuals who work in the state and/or active duty military members permanently stationed in California

members permanently stationed in California.

Name & Address Changes:

CCWL licenses may be amended:

- To add or delete a particular firearm (some counties limit how many firearms can be listed per CCWL);
- For a change to any restrictions or conditions on the license, including restrictions as to the time, place, manner and circumstances under which the person may carry a firearm capable of being concealed upon the person;
- For a change of address. License holders must notify the Sheriff's CCWL Unit in writing within 10 days of any change in the license holder's place of residence.

License holders must notify the Sheriff's CCWL Unit in writing within 10 days of any change in the license holder's place of residence. A license will expire 90 days after the license holder moves from the county where the license was originally issued if the license holder's place of residence was the basis for issuance of the license.

Contact the Sheriff's CCWL Unit to arrange an appointment. You must bring a completed [DOJ Carry Concealed Weapon License Amendment form](#).

Lost or Stolen Licenses:

Contact your local county sheriff's office or police station.

Residency Changes:

Moving to California and interested in applying for a resident license? How soon can you apply?

California issues carry licenses to residents, individuals who work in the state and active duty military members permanently stationed in

California. You can apply for your license with your county sheriff or local police chief once you have established your residence, business or principal place of employment in that county or city.

Moving from California and have a California resident license? Does that license transfer to your new state? Is there a grace period during which your California license remains valid?

If a person with a California concealed carry weapon license establishes residency in another state, the license expires upon the establishment of the residence in the other state.

Moving from one county in California to another county?

Per Pen. Code 26210, you must notify the licensing authority in writing within 10 days of any change in your place of residence. Your CCWL may not be revoked solely because your place of residence has changed to another county provided you haven't breached any of the conditions or restrictions set forth in the license and you haven't become prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

- If your place of residence was the basis for issuance of a license, any license issued pursuant to Section 26150 or 26155 expires 90 days after you moves from the county of issuance.
- If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately upon a change of the licensee's place of residence to another county.

CALIFORNIA CONCEALED CARRY LICENSE APPLICATION PROCESS

OVERVIEW

Unlike most states that have a uniform statewide application process, the process in California is determined by each county and/or city issuing

authority. So you will need to contact your County Sheriff or Chief of Police to verify their application process.

The process may require completion of a portion of the application so that a background check is completed and an approval is received before you attend a training course. Your Sheriff or Police Department will also provide information on approved training courses/providers. In addition, some issuing authorities have an online portal while others may not.

IN-PERSON

Step One:

Complete an approved training course. Depending on the issuing agency this step may be done at time of submitting the application or after step 6.

Step Two:

Some jurisdictions may require psychological testing.

Step Three:

Use the online licensing portal to submit your application or download the application and follow the instructions of your licensing authority regarding which sections to complete.

Step Four:

Either upload the required documentation in the online portal or provide it along with your application to your Sheriff or Police Department. You may also need some or all of the following:

- Your training certificate
- Proof of residency in your county or city

- Original birth certificate, naturalization certificate, or valid US Passport
- California driver's license or California Identification card
- Detailed good cause statement and supporting documentation.

You may be interviewed.

All listed firearms may be inspected to ensure they are in a safe, legal, and operable condition. Follow the procedure of your issuing authority. Do not bring any firearms to their office unless they instruct you to do so.

License fees vary.

You will be required to provide Livescan/fingerprints at your issuing authorities office or be approved to conduct Livescan/Fingerprints at a DOJ authorized location.

Step Five:

Upon completion of your background check, you will be notified within 90 days whether your application has been approved or denied. Please note that the timing of the background check approval varies greatly.

Fast & Easy CC Certification



CALIFORNIA CONCEALED CARRY LICENSE RENEWAL PROCESS**Step One:**

The renewal form is [online](#). Certain sections must be completed in the presence of a member of the licensing agency. Renewal applicants may also be subject to a psychological test if the issuer deems it necessary.

Step Two:

Complete your 4-Hour CCWL Renewal Class.

Step Three:

Use the online licensing portal to submit your application or download the [application](#) and follow the renewal process according to your issuing authority.

Step Four:

You will be notified if your application has been approved or declined.

Concealed Carry for Law Enforcement Officers and Retired LEOs

The federal Law Enforcement Officers Safety Act ([LEOSA](#)) allows active and retired law enforcement officers (LEOs and RLEOs) to CC anywhere in the U.S. with restrictions such as not superseding state laws. Active LEOs and

RLEOs are generally exempt from carry laws when possessing proper ID and when meeting [LEOSA requirements](#).

Active and honorably retired LEOs are exempt from firearm carry laws under [California Penal Code 25450](#). Penal Code 26300 [clarifies these conditions](#), stating that any RLEO who retired after January 1, 1981, should have an endorsement on the ID certificate stating that the issuing agency approves them for loaded CC. Penal Code 25900 states that [any full-time paid peace officer](#) from out of state or the federal government may carry a loaded firearm when performing official duties in California.

Due to the powers of local police and sheriffs, it's advisable for LEOs and RLEOs to contact the relevant law enforcement office for further clarification on how LEOSA affects them.

Firearms Training & Competency

Firearms training is required for California concealed carry. There are many ways to achieve valid qualifications in the state, including classes on California gun laws, firearm safety, and live range training. The more training you have, the more confident and skilled you'll be.

The certified instructors at Concealed Coalition will teach you the applicable laws for your state and how to carry and fire a firearm safely. Training is available across the U.S. and online, so [contact us](#) to sign up or ask any questions.

NRA Training

The NRA offers training at numerous locations. Use the [local training locator](#) to find specific lessons, including firearms safety and live range shooting (two requirements for a CCWL).

Hunter Safety Courses

The California Department of Fish and Wildlife offers [hunter education classes](#) teaching firearm safety. Successful certification consists of either 10 hours of in-classroom work or an online portion combined with four hours of classroom attendance.

Firearms Safety Courses From Other Providers

Public and private institutions, individuals, colleges, or law enforcement agencies often provide firearms training. Consult with local law enforcement if in doubt about an instructor's qualifications.

A Firearms Training Course With a State-Certified Instructor

Concealed Coalition offers firearm training to help you gain a CCW license. Our [highly trained instructors](#) provide actionable lessons based on their extensive practical experience to ensure you gain tested and reliable skills.

DD Form 214 or Military Orders for Active or Former Military Members

The military issues document [DD 214](#) when a service member performs active duty or has completed at least 90 consecutive days of active-duty training. Your DD 214 may be a required submission document or proof of firearms competency, depending on your county of residence.



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Did we miss something?

If you have any questions that you don't see answered here — let us know! Just

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EXHIBIT 2

THE
PUBLIC LAWS
OF THE STATE OF
RHODE-ISLAND
AND

PROVIDENCE PLANTATIONS,

As revised by a Committee, and finally enacted by
the Honourable GENERAL ASSEMBLY, at their
Session in *January*, 1798.

TO WHICH ARE PREFIXED,

The CHARTER, DECLARATION OF INDEPENDENCE, ARTICLES
OF CONFEDERATION, CONSTITUTION OF THE UNITED
STATES, and PRESIDENT WASHINGTON'S ADDRESS of Sep-
tember, 1796.

41259

Published by Authority.

IGNORANTIA LEGIS NEMINEM EXCUSAT.

IGNORANCE OF THE LAW IS NO EXCUSE FOR ITS VIOLATION.

Printed at PROVIDENCE, by CARTER and WILKINSON,
and sold at their Book-Store. 1798.

<i>The public Notaries shall be allowed,</i>	
For drawing a protest, and registering the same,	1 50
For swearing witnesses relative to a protest, for each witness,	0 5
For recording all instruments, for every lawful page,	0 10
For taking the acknowledgment of a letter of attorney, or other instrument, and affixing the notarial seal thereto,	0 25
<i>The Sheriffs shall be allowed,</i>	
For serving a writ, if not more than a mile from the court-house, or place of appearance,	0 12
For every mile's travel out beyond a mile, and the same back, the travel to be computed from the place to which the writ is returnable, to the place where it is served,	0 2
For attending a prisoner before commitment, if actually committed,	0 16
For the copy of a writ or warrant, not to be taxed, unless actually given,	0 10
For attending the General Assembly, the Supreme Judicial Court, and Courts of Common Pleas, by the day,	1 0
For a bail bond in civil actions,	0 6
And where bail is taken by indorsement on the writ, the same fee.	
For serving all executions where a party is committed to gaol,	0 70
For serving all executions where the money due thereon is collected, not exceeding four dollars,	0 30
If above four dollars, and not exceeding seven dollars,	0 40
If above seven dollars, and not exceeding twenty dollars,	0 60
	If

ing writs, unless the Court to which such warrant or process shall be returnable, shall deem it reasonable to make a further allowance for extra services.

<i>The Coroners shall be allowed,</i>	
For taking every inquisition,	1 0
Besides the above fee, for every day employed therein,	1 0
Each Juror shall be allowed by the day,	0 50
<i>Town Sergeants and Constables shall be allowed,</i>	
For serving a writ, if not more than a mile from the place of appearance,	0 12
If more than a mile,	0 8
For every mile's travel out beyond a mile, and the same back,	0 2
For a bail bond in civil actions,	0 6
And where bail is taken by indorsement on the writ, the same fee.	
For a copy of a writ or warrant,	0 10
For serving a summons and travel, the same as the Sheriff.	
For attendance upon the General Assembly, the Supreme Judicial Court, and the Courts of Common Pleas, by the day,	0 75
For serving a warrant or other criminal process, the same as for serving a writ, unless the Court to which the same shall be returnable, shall deem it reasonable to make a further allowance for extra service.	
<i>Other Fees allowed in Court.</i>	
For the writ and declaration,	1 0
Attorney's and counsel's fee in the Courts of Common Pleas,	1 0
In the Supreme Judicial Court,	2 0
	One

EXHIBIT 3

L A W S
O F T H E
S T A T E
O F
DELAWARE,

FROM THE FOURTEENTH DAY OF OCTOBER, ONE THOUSAND SEVEN
HUNDRED, TO THE EIGHTEENTH DAY OF AUGUST, ONE
THOUSAND SEVEN HUNDRED AND NINETY-SEVEN,

IN TWO VOLUMES.

VOLUME II.

Published by Authority.

STANFORD LIBRARY

N E W - C A S T L E :

PRINTED BY SAMUEL AND JOHN ADAMS.

M,DCC,XCVII.

C H A P.
CCXIII.

1790.

them from and after the time for collection of the said tax, shall have expired.

Passed October 26, 1790.

C H A P. CCXIV. b.

1790.

An ACT directing the election of a Representative for this state in the Congress of the United States. (a).

Time and places
of holding the
election.

SECTION I. **B**E it enacted by the General Assembly of Delaware, That an election of a Representative for this state, to serve in the Congress of the United States, for two years from the fourth day of March next, shall be held by the citizens of this state, qualified to vote for Members of the House of Assembly, on the second Monday of November next, at the following places, *to wit*; For the county of New-Castle at the Court House in the town of New-Castle; For the county of Kent at the Court House in the town of Dover; For the county of Sussex at the Court House in the town of Lewes; (b) in like manner as by the election laws of this state is directed for the election of Members of the General Assembly of this state; of which election due and public notice shall be given by the Sheriffs of the respective counties, agreeably to the said election laws: And the present Sheriffs, together with every other officer and person whose duty it was to attend, conduct, and regulate the General Election held on the first day of this present month of October, are hereby authorised and required to attend, conduct, and regulate the election herein directed to be held for the purpose aforesaid, in like manner as in and by the said election laws is directed; and the several powers and authorities to the several officers given by the laws of this state, relating to the election of Members of the

Public notice
thereof to be
given.

Powers of the
officers for con-
ducting the elec-
tion.

General

(a) See chap. 158. b. Ante.

(b) Place of election for Sussex county since established at George Town, see chap. 237. b.

1088

LAWS OF THE STATE

C H A P.
XVIII.
1793.

of the act for raising county rates and levies, (a) as by this act is altered, is hereby repealed and made void.

Passed June 14, 1793.

C H A P. XIX. c.

1793.

An ACT to regulate the courts in this state.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the first Tuesday of October next, the Court of Chancery, Supreme Court, Court of Common Pleas, and Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be held in each county twice in every year; (b) and that the terms of the said several courts shall commence and be held as follows, *That is to say*, The Supreme Court in New-Castle county on the second Tuesday of April and October, in Kent county on the fourth Tuesday of April and October, and in Suffex county on the second Tuesday after the terms shall commence in Kent county; and the Court of Common Pleas shall commence and be held in Suffex county on the second Tuesday after the terms of the Supreme Court shall commence in Suffex county, in Kent county on the second Tuesday after the terms of the Court of Common Pleas shall commence in Suffex county, and in New-Castle county on the second Tuesday after the terms of that court shall commence in Kent county. (c)

Terms,

of the Supreme
Court.

Of the Court of
Common Pleas.

• Of the Court of
Chancery.

SECT. 2. *And be it enacted*, That the Court of Chancery shall be commenced, and held in each county, on the first Tuesdays next immediately succeeding the

(a) Chap. 102. a. 16 Geo. II.

(b) See art. 6, of the constitution of this state adopted in 1793—and the schedule,

(c) Times of holding those two courts altered in chap. 61. c. after.

O F D E L A W A R E.

1091

ments, as though no such writ or writs were sued forth or delivered to them or any of them.

CHAP.

XIX.

1793.

SECT. 9. *And be it enacted*, That it shall and may be lawful for any party or parties, to any suit or suits depending in the Court of Common Pleas, which may have originated previous to the first Tuesday of October next, after that day to remove all and every such suit or suits, before issue joined, by *habeas corpus* or *certiorari*, at any time previous to the first Tuesday of October, One Thousand Seven Hundred and Ninety-four, in like manner as they now can be moved in such causes; (g) any law to the contrary notwithstanding.

What suits may
be removed,
and when.

SECT. 10. *And be it enacted*, That the High Court of Errors and Appeals (b) shall be held and kept, once in every year, at the town of Dover, in Kent county, on the first Tuesday in August, to receive, hear and judge of appeals in all matters of law and equity, that may come before the said court from the Court of Chancery, the Supreme Court, and the Court of Common Pleas, in every county in this state.

High Court of
Errors and Appa
peals when held.

SECT. 11. *And be it enacted*, That the Sheriff of Kent county, for the time being, shall be attendant on the said High Court of Errors and Appeals during the sitting thereof, and be the officer for the purpose of executing the orders and process of the said court; and in case of neglect or refusal so to do, shall be liable to the like pain, penalty, or forfeiture, as he is in the Court of Chancery, Supreme Court, or Court of Common Pleas.

Sheriff of Kent
to be attendant
thereon.

Penalty for ne-
glect.

SECT. 12. *And be it enacted*, That the act, intituled, *An act to establish a Court of Appeals in this state*, shall be, and is hereby repealed from and after the first Tuesday of October next.

Chap. 169. b.

Former act re-
pealed.

Passed June 14, 1793.

VOL. II.

3 Q

CHAP.

(g) For which see chap. 227. b.

(b) For the establishment of this court, see art. 7, of the constitution of June

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C H A P.

XXVI.

1793.

To be furnished
with transcripts
relative to the
finances.

SECT. 5. *And be it enacted*, That immediately after the passing of any act of the General Assembly having regard to, or concerning the Auditor's Office, or the finances of the state, the Secretary of State shall furnish the Auditor with an authenticated copy thereof; and the Clerks of the Senate and of the House of Representatives shall also furnish the Auditor with authenticated copies of all resolves, minutes, or orders, which may be entered into, made, or ordered by their respective Houses, relating in any manner to the business of the Auditor, or the finances of the state.

Salary.

SECT. 6. *And be it enacted*, That the Auditor of Accounts shall, for his services, receive the annual sum of Three Hundred Dollars, to be paid quarterly at the treasury of the state, out of any monies therein, not otherwise appropriated, and no more. (c)

Passed June 15, 1793.

C H A P. XXVII. c.

An ACT for regulating and establishing fees.

Prean ble.

FOR preventing extortion, undue exaction of fees by the several officers within this state; and that all fees may be reduced to a certainty, and be established;

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That the fees to be paid within this state shall be as herein after are ascertained, limited, and appointed, *That is to say*:

The Rate.

To the use of the state---

FOR a licence to keep a public house of entertainment, and to sell all liquors, signed and sealed, Twelve Dollars.

A licence for the same, and to sell all liquors, except wine, Eight Dollars. (d) A li-

(c) See after in chaps. 65. c.—81. c. increased to Five Hundred Dollars, to commence from the time of his appointment, and to continue till first of Jan. 1796.

(d) For the original act for regulating innholders, &c. see chap. 75. a. 13 Geo. II.—See also chap. a. b. Anno, 1777, sects. 4, 5—chap. 5. c. sect. 5—chap. 20. c.

C H A P.

XXV.

1793.

Sergeant at
Arms.

Every day's attendance as Clerk, transcribing, &c.
Two Dollars, *per* day, and no more.

SECT. 21. And the fees belonging to the Sergeant
at Arms shall be as follow, *viz.*

For serving every order, One Dollar.

Taking any person into custody, Thirty-three Cents.
Travelling charges *per* mile, Two Cents going, and
the same returning.

Every day's attendance on any person, where commit-
ted, Twenty-six Cents.

Door-keeper.

SECT. 22. Fees to the Door-keepers of the respective
Houses—

For every day's attendance, One Dollar.

Bell-ringer.

SECT. 23. To the Bell-ringer of the General Assem-
bly, each day, Thirty-three Cents.

Coroner.

SECT. 24. Fees to the Coroner of each county—

For viewing the body of any person slain or murder-
ed, to be paid out of the goods and chattels, lands
and tenements, of the murderer or slayer, if he hath
any; but if he hath not, by the county, besides
mileage, from the Court House to where the bo-
dy is found, One Dollar.

Summoning and qualifying the inquest, drawing and
returning the inquisition, including mileage, Two
Dollars.

Summoning and qualifying each witness, and mile-
age from the place where the body is found, Thir-
ty-three Cents.

Taking examinations, or depositions of witnesses,
in writing, for each, Twenty Cents.

Taking every recognizance, Ten Cents.

In sect. 9, Ante.

Summoning or arresting the Sheriff, or any other per-
son where he is party, executing a writ of *hæri fa-*
ciās, or other execution, the same fees as are al-
lowed the Sheriff in like cases.

Travelling charges, Two Cents *per* mile.

The Cryer.

SECT. 25. To the Cryer—

For every action entered in the Supreme Court, and
in the Court of Common Pleas, Thirteen Cents.

Every suit in the Court of Appeals, Sixty-seven Cents.

Calling each witness on a trial, Two Cents.

Calling a jury sworn at the bar, Seven Cents.

Every indictment, Thirteen Cents.

Calling a non suit, Seven Cents.

Calling

EXHIBIT 4

THE

Sept 12

Statutes at Large

OF

PENNSYLVANIA

FROM

1682 to 1801

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19 1887 BY

JAMES T. MITCHELL AND HENRY FLANDERS

COMMISSIONERS

VOLUME X

1779 to 1781

WM. STANLEY RAY
STATE PRINTER OF PENNSYLVANIA

1904

6271
12
107

persons between whom such party walls are to be made, and the first builder shall be reimbursed one moiety of the charge of such party wall, or for much thereof as the next builder shall have occasion to make use of, before such next builder shall use or break into said wall, the charge or value whereof to be fixed by the said regulators, or by arbitrators mutually chosen.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That all appeals hereafter made from the order, direction and award of the said regulators, shall be taken and made, and shall lie to the next court of common pleas to be holden for the county of Philadelphia, within one calendar month from the time of making the order, direction or award, appealed from, but not afterwards, nor otherwise; whereupon the said court, upon security being entered by the party appealing for the payment of all costs, in case he or she should not prevail in his or her appeal, shall direct a venire to the sheriff of the county, commanding him to summon a jury to try the matter in dispute, and shall proceed therein according to the course of common law.

[Section XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That if any person shall lay the foundation, or begin to lay the foundation, of any party wall, or any wall adjoining, or upon the line of any public street, lane or alley, within the said district, before the line and boundaries of the lot, or piece of land, whereon the said foundation shall be so laid, or began to be laid, shall be adjusted and marked out by the said regulators, or two of them, every such person, as well employer as master builder, shall forfeit the sum of thirty pounds, one half part thereof to the said commissioners, to be laid out in making or amending the public streets in the said district, and the other half to the use of the informer, together with costs, provided the prosecution be commenced within twelve calendar months from the time the offense shall be committed.

[Section XXI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the regulators, so to be appointed, shall enter in a book all directions, orders and awards, by them made in pursuance of this act, and every such order and award, if made with reasonable notice to the parties

The other members of the house of assembly, for every day's attendance, each the sum of fifteen shillings.

The clerks of the house of assembly, for every day's attendance, the sum of one pound.

The sergeant-at-arms, for every day's attendance, the sum of ten shillings.

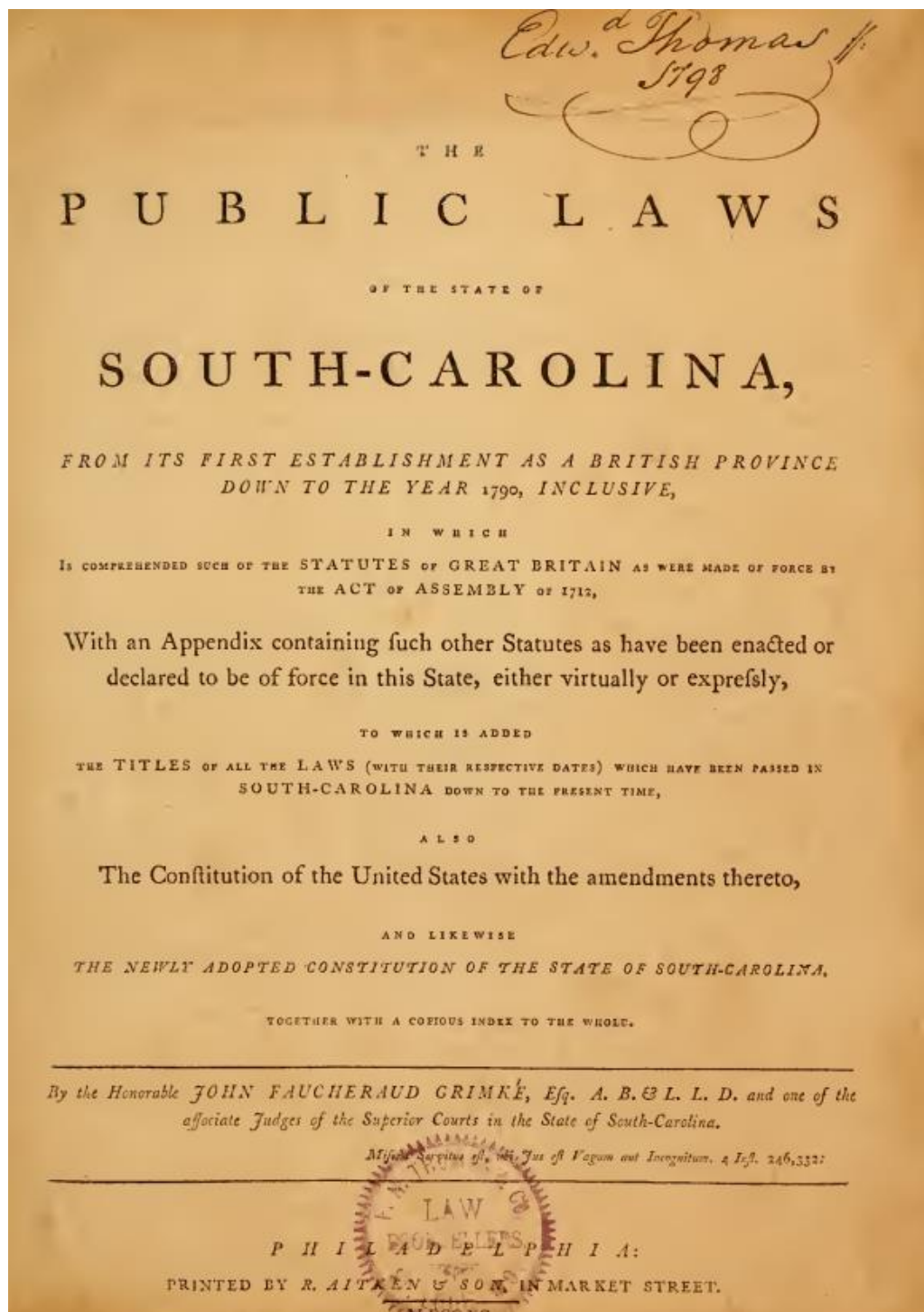
The door-keeper of the council and the door-keeper of the house of assembly, each the sum of ten shillings for every day's attendance.

[Section III.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That every delegate in Congress and member of council shall be further allowed, towards his traveling charges, after the rate of six pence per mile, once in every three months, in coming in and going from the places where the Congress and council shall respectively sit, provided he shall so often actually visit his family; and that every member of assembly shall be further allowed, towards his traveling charges, after the same rate, once in each sitting of the house; which said wages and traveling expenses shall be paid by the treasurer of this state to the delegates representing this state in Congress, and to the members of the council and their door-keeper, on the drafts of the president or vice-president in council; and to the speaker and other members of assembly, to the clerk of the assembly, sergeant-at-arms and door-keeper, on the drafts of the speaker of the house, signed in assembly.

[Section IV.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That so much of any act of assembly heretofore made as declares what salaries shall be paid to the several officers of government and what wages shall be allowed to the speaker and other members of assembly, to the delegates representing this state in Congress, to the members of council and others herein specially mentioned shall be and is hereby repealed.

Passed December 27, 1781. Recorded L. B. No. 1, p. 264. See the Acts of Assembly passed February 25, 1783, Chapter 1005. The Act in the text was repealed by Acts of Assembly passed March 25, 1785, Chapter 1142; September 17, 1785, Chapter 1185.

EXHIBIT 5



of South-Carolina.

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the sum of £2000 proclamation money, to the public-treasurer, in behalf of the public of this Province, for the due and faithful discharge and execution of their said offices: And the said bonds shall remain in his office, and may be sued for, by order of the said court, for satisfaction of the public, and all private persons aggrieved by the misconduct of the said sheriffs. And, in case of the death, removal from this Province, or refusal to act, of any persons so appointed sheriffs, &c.†

IX. The said sheriffs shall by themselves, or their lawful deputies respectively, attend all the courts hereby appointed, or directed to be held, within their respective districts. ¶ And that the said sheriffs, shall have the like powers and authorities; and they, and their under sheriff, or gaoler, be subject and liable to all actions, suits, fines, forfeitures, penalties, and disabilities whatsoever, which any sheriff, under-sheriff, or gaoler, is liable or subject to, or may incur by the laws and statutes of Great-Britain, for and in respect of the escapes of prisoners, or for, or in respect of any other matter or thing whatsoever, relating to, or concerning their several and respective offices.

X. *The first part of this clause is obsolete.* No sheriff, under sheriff, sheriff's clerk, or other sheriff's officer, shall be an attorney, or act as such, in his own name, or in the name of any other person, or be allowed to plead or practice in any of the King's courts in this Province, during the time that he is in any such office.‡

XI. ¶ And, for the ease of sheriffs, with regard to the return of process: *Be it enacted by the authority aforesaid,* That the sheriffs of each district or precinct, shall, at the expiration of his office, turn over, to the succeeding sheriff, by indenture and schedule, all such writs and process, as shall remain in his hands unexecuted, who shall duly execute and return the same. And in case any such sheriff, shall refuse or neglect to turn over such process, in manner aforesaid, every such sheriff, so neglecting or refusing, shall be liable to make such satisfaction, by damages and costs, to the party aggrieved, as he, she, or they shall sustain by such neglect or refusal: And the said sheriff shall also deliver up to his successor, the custody of the gaol, and the bodies of such persons who shall be confined therein, and the cause of their detention.

XII. The fees to the judges, and several officers of the said courts, for business done by them respectively, shall be the same as those of the same officers in the courts now holden in Charlestown for the like business, except where the proceedings shall be summary as above-mentioned; and the sheriffs shall have the same fees, for business done therein by them, as the provost-marshal is now entitled to, except in the cases of summary jurisdiction; and also except, that all mileage shall be computed from the court-houses in the several districts.

XIII. *Obsolete.*

XIV. This act shall not extend to any action, which shall be commenced before notice by proclamation, of the Governor or Commander in Chief, that the said court-houses and prisons are built and completed; but all such actions and suits, shall and may be proceeded in, and determined in the same manner, as if this act had never been made. And no person shall be obliged to serve as a juror, out of the district or precinct wherein he shall by this act be liable to serve, after courts have been therein respectively holden.

XV. *No clerk of any of the courts aforesaid, shall act as an attorney or solicitor therein, or in any other court: And no person shall practise in, or solicit in the cause of any other in the said courts, unless he has been or shall be admitted a barrister at law, or an attorney thereof, by the court of common pleas in Charlestown, or an attorney of that court, and an inhabitant of this province.

XVI. The said courts shall be courts of record, and all persons necessarily going to, attending, or returning from the same, shall be free from arrests in any civil action.

XVII. *And be it further enacted by the authority aforesaid,* That as soon as may be, after the ratification of this act, and after the court-houses and goals herein mentioned are built, the judges of the said court of common pleas in Charlestown, shall cause lists of jurors in civil causes, grand and petit juries, to be made for Charlestown, and also for each of the country districts and precincts, from the next antecedent tax list of persons within such respective districts and precincts aforesaid, whose names shall be written on separate pieces of paper: And the said judges, shall cause jury-boxes to be made for the said courts, and for the courts of ge-

A. D. 1769.

No. 1095.

In case of death, &c. how others shall be appointed.

The sheriffs, by themselves, or lawful deputies, shall attend all the courts in their respective districts. And shall have the same powers, and be subject to the like penalties as the sheriffs in Great Britain.

Nor shall any sheriff, or officer under him, be allowed to plead or practise in said courts.

How a sheriff shall deliver up his office to his successor.

Except on summary proceedings, the fees of the judges and other officers, shall be the same as they now are.

All actions commenced before this act shall operate, to be proceeded on and determined, as if it had never been passed.

No clerks of said courts allowed to act as attorneys or solicitors; nor other persons but such as are herein specified. Said courts declared of record, and parties necessarily attending the same, freed from arrests.

Jurors how to be drawn, &c. after the court houses & goals are built.

† See 31 §. of do. All the rest of this clause is altered or obsolete.

‡ See A. A. 29th February, 1758.

§ See A. A. 1789. This clause is copied nearly from 1 H. 3. c. 4.

¶ Copied nearly from 20 G. 2 c. 37.

* See A. A. 1789.

The Public Laws

A. D. 1785. declared incapable of serving in the same or any other office in this State. And the clerk of the County Court shall be allowed for recording every instrument of writing 3d. per copy sheet, which copy sheet shall not contain less than 90 words, and for every copy of such instrument of writing 2d. per copy sheet, containing not less than 90 words.

TABLES OF FEES.

County Court Clerk's Fees.

	£.	s.	d.
County court clerk.			
* For the whole fee of a tavern licence and bond	-	-	0 9 4
For every search for any thing above a year's standing	-	-	0 1 0
For searching and reading, or shewing to be read, any paper or record filed within the office, whereof a copy is not desired	-	-	0 1 0
<i>In Actions and other Suits.</i>			
For every writ other than such as are herein after particularly mentioned	-	-	0 2 6
For every copy of each writ	-	-	0 1 6
For every writ of <i>hæc facias</i> , <i>capias ad satisfaciendum</i> , or <i>fiere facias</i>	-	-	0 2 6
For a copy thereof	-	-	0 1 6
For a writ of attachment in any action	-	-	0 2 6
For recording the return thereof 3d. per copy sheet.	-	-	
For an attachment granted by the Justice of Peace returnable to the court, and putting the same upon the docket	-	-	0 2 6
For every summons to summon any person on such attachment	-	-	0 1 6
Filing every bail bond or entering the bail returned	-	-	0 1 6
For docketing every cause except by summons or petition, to be charged but once	-	-	0 1 0
For a copy of the return of any writ	-	-	0 0 6
For entering any special bail	-	-	0 2 0
For entering security for costs for persons out of the county	-	-	0 2 0
For entering the appearance of the defendant or defendants, where there is no attorney, in any suit except by summons and petition	-	-	0 0 6
For entering one or more attorneys for each party	-	-	0 1 0
For every petition, declaration, plea, demurrer, or joinder, &c. except in petitions for debt, detinue, assumpsit, or trover	-	-	0 2 0
For a copy of any declaration, special pleading, or demurrer	-	-	0 2 0
For every trial, swearing the jury and witnesses, filing all papers, and receiving and recording general verdict	-	-	0 4 8
For every trial where there is a special verdict, or case agreed, and recording the same	-	-	0 6 0
For swearing the witnesses in every other cause where there is no jury, or case agreed	-	-	0 1 0
For filing the papers of each party in every cause and where there is a jury or case agreed	-	-	0 2 0
For a copy of a special verdict or case agreed, and every thing therein set forth, or for making up a full and complete record of any cause, for every ninety words	-	-	0 0 2
For entering every judgment or for a copy thereof	-	-	0 1 0
For every deposition taken in court or a copy thereof	-	-	0 1 0
For administering an oath in court not relating to the trial of any cause there	-	-	0 1 0
For every recognizance in court	-	-	0 2 0
For entering the order or orders in any cause in one court	-	-	0 2 6
For every order for a witness or other person's attendance	-	-	0 2 0
For a copy of any order 2d. per copy sheet	-	-	
For recording the report of a jury in the county before a surveyor, auditor, or viewer	-	-	0 3 6
For a copy thereof	-	-	0 1 6

For

* See A. A. 1788.

of South-Carolina.

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For taxing costs to any judgment, or decree where costs are recovered, or for a copy of a bill of costs if required	£. s. d.	A. D. 1785.
For a copy of an account	0 2 0	N ^o . 1395.
For entering an appeal and taking bond to prosecute it	0 2 0	
For a copy of the bond	0 4 0	
For returning appeal and security to the office of clerk of the Supreme Court	0 1 0	
For returning writ of <i>superfedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i>	0 4 8	
For a copy of the proceedings of the cause wherein the appeal is granted, for every 90 words	0 4 6	
For recording the acknowledgment of the satisfaction of a judgment	0 0 3	
For entering each order for a witness's attendance, to be charged to the party in whole behalf the witness is summoned, and taxed in the bill of costs if such party recover	0 2 0	
For a copy thereof to be taxed and charged in like manner	0 1 6	
For an attachment thereon to be charged to the party against whom such attachment shall be issued	0 1 0	
For the whole fee chargeable for every summons and petition for debt, detinue, assumpsit or trover, and all the proceedings therein, including a copy of the judgment and taxing costs if required, except the respective fees for summoning witnesses, entering attorneys, for every order for continuance, and for issuing execution where such matters happen	0 1 6	
For a summons for several witnesses living in a county if summonses for all be taken out at a time	0 10 0	
For recording any writings not herein particularly mentioned, or for a copy thereof, for every 90 words	0 2 6	
For all public services of the clerk, viz. entering and issuing copies of orders, for appointing overseers of high-ways, appointing constables, grand-juries, drawing juries, issuing venires, taking list of taxables, entering guardians accounts and all matters relating thereto, binding out poor orphans and appointing guardians, entering county assessment and copies thereof, entering and issuing orders for recommending Sheriffs and Justices of Peace, and all other public services, for which no particular fee is allowed (to be assessed and levied annually by the Justices of the county)*	0 0 3	
	15 0 0	

And where more attorneys than 1 shall be employed in any cause on 1 side, if such attorneys take out more than 1 copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerks tax any fee in the bill of costs, for entering any more than 1 attorney, although costs, shall be adjudged against the adverse party; and where any suitor shall retain all the attorneys practising at the court wherein such suit is brought, on the petition of the defendant, the court shall assign 1 of the said attorneys to appear and defend such defendant for the legal and accustomed fees, and such attorney shall be compellable by the court to undertake such defence, under the pain of being silenced and disfranchised in such court.

To the S H E R I F F.

For an arrest, bail bond and return	£. s. d.	To the Sheriff.
For returning any process <i>non est inventus</i>	0 4 8	
For serving a writ of <i>seire facias</i>	0 2 0	
For serving any person with an order of court and making return thereof, to be paid by such persons	0 2 6	
For putting any person in the pillory	0 3 6	
For putting into the stocks	0 4 8	
For putting in prison, and releasement	0 2 6	
For serving a subpoena in chancery	0 4 8	
For serving a summons or petition for debt, detinue, assumpsit or trover	0 3 6	
For serving a subpoena for a witness in any cause in court, except summoned in court	0 3 6	
For summoning an appraiser, viewor or witness to any deed, will or writing, if required to be summoned and not else	0 2 6	
	For	

* Altered by A. A. 1786, to £5.

The Public Laws

		<i>£.</i>	<i>s.</i>	<i>d.</i>
A. D. 1785.	For summoning and impannelling a jury in every case where a jury shall be sworn	0	2	0
N ^o . 1395.	For removing every criminal from the County gaol to the District gaol, for every mile in going and returning, to be paid by the public	0	0	3
	For removing any person by <i>habeas corpus</i> from the County gaol or other confinement to the public gaol, or before any Judge of the Circuit Court, to be paid by the person applying for the same, unless removed by public order, in which case to be paid by the public for every mile going and returning	0	0	3
	For executing any condemned person and all fees incident	1	0	0
	For summoning a jury upon any inquisition, survey, writ of dower or partition, if the jury appear	1	10	0
	For the same if the jury do not appear	0	15	0
	For making return of any writ of dower or partition	0	7	6
	For every days attendance upon a jury in the County after they are sworn, or attendance on a survey or when ordered by the Court	0	7	6
	For serving a writ of <i>habere facias seisinam</i> , or <i>habere facias possessionem</i>	0	7	6
	For serving an attachment upon the body	0	5	0
	For serving declaration in ejectment if against any one tenant	0	4	8
	And if against more tenants than one, for serving the same on every such tenant	0	3	6
	For whipping a slave by order of Court, to be paid by the County	0	5	0
	For serving any execution of a judgment 5 per cent. commission on the first £100, and 2 per cent. for all above			
	For serving an attachment on goods exceeding £5 if sold, the same fee as for serving execution where the goods do not exceed that value or are not sold	0	5	0
	For every person on attachment summoned	0	2	6
	For serving and returning a writ, summons or order from the Circuit Court, where the same is not comprehended in any of the foregoing articles	0	5	0
	For keeping and providing a debtor in gaol each day	0	1	0
	For keeping and providing for a runaway slave or criminal in gaol, the former to be paid by the owner, the latter by the public	0	1	0
	For serving a warrant of a Justice of peace	0	2	6
	For summoning witnesses before a Justice	0	1	0
	For all public services of the Sheriff, to wit, attending Courts of claims, summoning and empannelling grand juries, publishing writs for electing members to the General Assembly, taking the ballots and returning the writ, serving all public orders of Court, and all other public and county service, for which there is no specified fee, to be annually assessed and levied by the County Courts.*	0	15	0

To the C O R O N E R.

To a coroner.	For taking an Inquisition on a dead body, to be paid out of the deceased's estate if sufficient, if not by the county	1	0	0
	For all other business done by him, the same fees as are allowed the sheriff for the same services.			

To the C O N S T A B L E.

To a constable.	For serving a warrant	0	2	6
	For summoning a witness	0	1	6
	For summoning a Coroner, jury, and witnesses	0	10	0
	For putting a person in the stocks	0	2	6
	For serving an execution or attachment returnable to the County Court against the estate of a debtor removing his effects out of the county	0	7	6
	For whipping a slave by lawful authority, to be paid by the overseer, if no overseer, by the owner	0	2	6

See not payable till an account of them be produced to the party chargeable.

LIX. None of the fees herein-before mentioned shall be payable by any person whatsoever, until there shall be produced or ready to be produced unto the person owing or chargeable with the same an account in writing, containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable respectively, in which said bill or account is and shall be expressed in words at length, and in the same manner as the fees aforesaid are allowed by this act, every fee for which any money is or shall be demanded.

* Altered to £7 10s. by A. A. 1; 16.

The Public Laws

A. D. 1787.

N^o. 1175.Persons sued
may plead the
general issue,
&c.

VIII. If any person or persons, whatsoever shall be sued, prosecuted or molested for any matter or thing done by virtue of this ordinance, such person or persons may plead the general issue, and give this ordinance and the special matter in evidence; and in case the plaintiff or plaintiffs shall suffer a discontinuance, or verdict or judgment shall pass against him or them, the defendant or defendants shall be allowed his and their double costs of suit.

27th March, 1787.

JOHN LLOYD,

President of the Senate.

JOHN JULIUS PRINGLE,

Speaker of the House of Representatives.

No. 1478.

An Ordinance for repealing Part of an Ordinance, Passed the 26th Day of March, 1784, relative to Port- Royal Causeway.

WHEREAS by an ordinance of the General Assembly passed the 26th day of March, 1784, all the male inhabitants from 16 to 60 years of age, between Pokotaligo bridge and Combahee ferry on the fourth east side of the road leading to Saltcatcher ferry, were made liable to work on the causeway leading to Port-Royal ferry on the main side: And whereas sundry inhabitants have by their petition to the Legislature represented that the said clause is to them grievous and oppressive;

Be it therefore ordained, That the said clause shall be and is hereby repealed: *Provided,* That the said inhabitants shall be still liable as formerly to open and keep in repair the public road leading to the said ferry.

27th March, 1787.

JOHN LLOYD,

President of the Senate.

JOHN JULIUS PRINGLE,

*Speaker of the House of Representatives.*N^o. 1482.

An Act for regulating and fixing the Salaries of se- veral Officers, and for other Purposes therein mentioned.

Preamble.

WHEREAS by reason of the large debt incurred by the Revolution, and the consequent great distress of the State, it behoves every good citizen to step forward in the duty required of him by his country on terms less burthen some to the public than hertofore:

Officers salary.

Be it therefore enacted, That every officer herein-after recited, elected, or to be elected, shall for the performance of the duties of his office, receive a certain salary, that is to say,

The Governor of the State, £900 per annum.

Associate Judges £500 per annum each.

Attorney-General £200 per annum.

Delegates to Congress £600 each, to be paid at the seat of Congress.

Private Secretary to his Excellency the Governor, who shall also be Clerk of the Privy Council, £150.

Auditor of public accounts £373. 6s. 8d. for 1 year, provided that the said auditor shall bring up his books, and have them ready for the inspection of the legislature at their next meeting.

Commissioners of the treasury £571. 8s. 6d.

Clerk of the Senate £287 per annum.

Clerk of the House of Representatives £287 per annum.

Two messengers, 1 for the Senate, and the other for the House of Representatives £70 each per annum.

of South-Carolina.

427

A. D. 1787.

No. 148.

Two Door-keepers £50 each per annum.

Powder-Inspector and Arsenal-keeper £100 per annum.

Collector of the Customs for the port of Charleston £500 per annum.

Collector of the Customs for the port of Georgetown £100 per annum.

Collector of the Customs for the port of Beaufort £100 per annum.

Two Waiters of the Customs for the port of Charleston £100 each per annum.

Waiter of the Customs for the port of Georgetown £30 per annum.

Waiter of the Customs for the port of Beaufort £20 per annum.

Searcher to the Customs for the port of Charleston £150 per annum.

Which said salaries the commissioners of the treasury are hereby authorized and required to pay to each officer so recited in quarterly payments, any law, usage or custom to the contrary notwithstanding.

II. No officer of the Senate and the House of Representatives shall hereafter take or receive directly or indirectly any fee or perquisite whatsoever, except by order of the House to which he respectively belongs, any usage or custom to the contrary notwithstanding.

III. No officer heretofore elected or hereafter to be elected to any pecuniary office in this State above £150, shall hold any other office of emolument under this or the United States.

IV. All acts, or clause or clauses of acts, where the salaries of any of the aforesaid officers are fixed, so much of the said act, clause or clauses of acts, as relates thereto, is hereby repealed.

To be paid by commissioners of treasury quarterly.

No officer of Senate or House of Representatives to receive any fee, &c.

Officers not to hold any other office of emolument.

Acts and clauses of acts repealed.

March 27th, 1787.

JOHN LLOYD,

President of the Senate.

JOHN JULIUS PRINGLE,

Speaker of the House of Representatives.

An Act to restrain particular Persons therein described from obtaining Grants of Land; to make null and void certain Grants of surplus Lands, to prevent located Lands from being passed into Grants until the Purchase Money shall be paid; to compel Persons who have obtained Grants to pay for the same within 6 Months, and for other Purposes therein mentioned.

No. 148.

WHEREAS the surveyor general and his deputies, the commissioners of locations, and the secretary of the State and his deputy, have great advantages over their fellow citizens, from having it in their power to take up elapsed grants and such other lands as may be vacant within this State, and such advantages being injurious to the repose and well being of the republic:

Preamble.

It is therefore enacted, That from and immediately after the passing of this act, it shall not be lawful for the surveyor general, secretary of the State, commissioners of locations, the clerk in the surveyor general and secretary's offices, to take up any elapsed grant, or run out either directly or indirectly in his or their own name or names, or in the name or names of any other person or persons, for his or their use or uses, any lands now vacant within this State, without being subject and liable to the penalty of £2000, to be recovered in any court of record in this State, the one half to the use of this State, and the other half to the use of the informer or person living for the same, and he or they shall also be discharged from his or their respective offices, and for ever rendered incapable of holding any office of trust or emolument in this State.

Not lawful for surveyor-general, &c. to take up any elapsed grant, or run out vacant lands.

Penalty.

And

EXHIBIT 6

Am. W. Van Wageningen
L A W S

OF THE

State of New-York.

PUBLISHED BY AUTHORITY.



*Banks
10/15/04*

20048 IN TWO VOLUMES.

VOL. I.

A L B A N Y:
PRINTED BY CHARLES R. AND GEORGE WEBSTER,
1802.

their being above the age of eighteen and under the age of forty-five years.

- 4 III. *And be it further enacted*, That within one year after the passing of this act, the militia of the respective states shall be arranged into divisions, brigades, regiments, battalions and companies as the legislature of each state shall direct; and each division, brigade and regiment shall be numbered at the formation thereof, and a record made of such numbers in the adjutant-generals office in the state; and when in the field or in service in the state, each division, brigade and regiment shall respectively take rank according to their numbers, reckoning the first or lowest number highest in rank; that if the same be convenient each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies,
- 5 each company of sixty-four privates; that the said militia shall be officered by the respective states, as follows: To each division one major-general and two aids-de-camp, with the rank of a major; to each brigade one brigadier-general, with one brigade-inspector to serve also as a brigade-major, with the rank of major; to each regiment one lieutenant-colonel commandant, and to each battalion one major; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler; that there shall be a regimental staff to consist of one adjutant and one quarter-master to rank as lieutenants, one pay-master, one surgeon and one surgeon's mate, one sergeant-major, one drum-major and one fife-major.

- 6 IV. *And be it further enacted*, That out of the militia enrolled as is herein directed, there shall be formed for each battalion at least
- 7 one company of grenadiers, light infantry or riflemen, and that to each division there shall be at least one company of artillery and one
- 8 troop of horse; there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer; the officers to be armed with a sword or hanger, a fusée, bayonet and belt, with a cartridge box to contain twelve cartridges, and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided; there shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one sadler, one farrier and one trumpeter; the commissioned officers to furnish themselves with good horses of at least fourteen hands and half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bear-skin caps; each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mail-pillion and valise, holsters, and a breast-plate and crooper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartouch box to contain twelve cartridges for pistols; that each company of artillery and
- 9 troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the state, not exceeding one company of each to a regiment, nor more in number than one ele-
- 10 venth part of the infantry, and shall be uniformly clothed in regimentals to be furnished at their own expense, the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

EXHIBIT 7

E. MERTON COULTER

A

COMPILATION

OF THE

LAWS

OF THE

STATE OF GEORGIA,

PASSED BY THE LEGISLATURE SINCE THE POLITICAL

YEAR 1800, TO THE YEAR 1810, INCLUSIVE.

.....CONTAINING.....

All the LAWS, whether in force or not, passed within those periods, arranged in a chronological order, with comprehensive references to those laws or parts of laws, that are amended, suspended or repealed.

.....TOGETHER.....

With an APPENDIX, comprising such concurred and approved RESOLUTIONS, as are of a general operative nature, and as relate to the duty of officers, the relief of individuals, and the settlement of boundary between counties, and this State with North Carolina.

Concluding with a copious Index to the whole.



BY AUGUSTIN SMITH CLAYTON, ESQ'R.

Augusta :

PRINTED BY ADAMS & DUYCKINCK.

....1812....

E. MERTON COULTER

(No. 279.)

Indictment
to be preferred
against fraud-
ulent drawers
and their pun-
ishment upon
conviction.

Provide.

SEC. 3. *And be it further enacted*, That it shall be the duty of the attorney or solicitor-general, in all such cases to prefer indictments against such offenders in the county where such offence was committed, and on conviction thereof, the person so offending, shall be deemed and held incapable of holding any office of honor or profit in the State, for the term of ten years. And in cases where such offenders have made such fraudulent return on oath, they shall suffer all the pains, penalties and disabilities which are consequent upon the crime of perjury, *Provided always*, That in all trials under this act, the burthen of the proof shall rest upon the grantee, his, her or their heirs or assigns.*

BENJAMIN WHITAKER, *Speaker of the House of Representatives.*

DAVID BATES, *President of the Senate, pro. tem.*

Assented to, December 10, 1807.

JARED IRWIN, GOVERNOR.

(No. 280.)

AN ACT

To appropriate monies for the political year eighteen hundred and eight.

15,000 dol-
lars as a con-
tingent fund

SEC. 1. **B**E it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and by the authority of the same, it is hereby enacted, That the sum of fifteen thousand dollars be, and the same is hereby appropriated as a contingent fund, subject to the orders of the governor.

Compensati-
on to the mem-
bers of the
Legislature,
and their offi-
cers.

SEC. 2. *And be it further enacted*, That for the compensation of the members of the House of Representatives and Senate, the sum of three dollars per day, during their attendance; and the sum of three dollars for every twenty miles in coming to, and returning from the seat of government; and the sum of four dollars each per day, to the President of the Senate, and the Speaker of the House of Representatives, during their attendance; and the sum of three dollars each for every twenty miles in coming to and returning from the seat of government; to the clerk of the House of Representatives and secretary of the Senate, during the sitting of the legislature, four dollars each per day; and also the sum of sixty dollars each, for contingent expenses; to two engrossing clerks of the Senate, and two of the House of Representatives, four dollars each per day during their attendance; to the messenger and door-keeper of the Senate, and messenger

* See act of 1808, No. 337, section 6th, repealing this act.

PASSED IN THE YEAR 1807.

373

and door-keeper of the House of Representatives, three dollars each per day; to Edmund Booker Jenkins, clerk of the committee on finance, forty dollars; to Thomas H. Kenan, clerk of the committee on the state of the republic, forty dollars; to the clerk of the House of Representatives, secretary of the Senate, and the messenger and door-keeper of each house, three dollars each for every twenty miles in coming to and returning from the seat of government; to the adjutant-general, four dollars per day while in actual service; to the commissioners for selling the fractional parts of surveys of land, in the counties of Wilkinson and Baldwin, three dollars per day each, while in actual service; to Zachariah Reed, the sum of fifty dollars agreeable to a concurred resolution; to the commissioners of the late land lottery, three dollars per day each while engaged in the duties of their said appointment, exclusive of what they have already received, to Jemsey Righly and Nathaniel Clarke, boys who attended the wheels, two dollars per day each; to Peter Fair, door-keeper, three dollars per day; which said sums shall be in full for their several services; for defraying the expenses of the funerals of the honorable Ezra Jones and Walter Drane, the sum of one hundred and fifty dollars; to James Luke, tax collector of Columbia county, twenty-seven dollars eighty seven and an half cents; to James Foard, jailor of Wilkes county, seventy-eight dollars, sixty-two and a half cents; John Derrecot, forty-nine dollars ninety-seven cents; to James O. Cosby, thirty-four dollars; to Zebediah Payne, twelve dollars forty-eight and three quarter cents; to John Lamkin, eighteen dollars twelve and an half cents; to Dennis L. Ryan for printing, fifty-four dollars eighty-seven and a half cents; to Sarah Hillhouse, four dollars seventy-five cents; Ambrose Day, six dollars and fifty cents; Everitt and McLean, six dollars and fifty cents; Dennis Driscoll, six dollars and fifty cents; Alexander McMillan, four dollars ninety-three and three quarter cents; to Jacob Buekhalter, in behalf of himself and the heirs of Ann Wilson, for a negro girl named Jenny, five hundred dollars; to William Barnett, commissioner to ascertain the thirty fifth degree of north latitude between this State and North-Carolina, fifty nine dollars; to Thomas P. Carnes, commissioner as aforesaid, thirteen dollars, seventy-five cents; to John Herbert, commissioner of Milledgeville, three hundred and twenty-four dollars; to A. M. Devereaux, ditto, three hundred and nine dollars; to Howell Cobb, two hundred and fifty-two dollars; to Henry Carleton, thirty-six dollars; to Davis Gresham, fifty-one dollars; to Smart and Lane, fifty dollars; to Benjamin Easley, one hundred and fifty-three dollars; to Alexander McMillan, for printing grants for fractional surveys, twenty dollars; to Jett Thomas, towards completing the State-House, to be expended under the direction of the commissioners, twenty-five thousand dollars; which said several sums are hereby appropriated out of any monies which now are, or may hereafter come into the treasury of this State; to Alexander McMillan, for printing two hundred copies of the bank bill, fifteen dollars; to Benjamin Wall, Captain

(No. 280.)

Adjutant-general.

Fraction selling commissioners and to sundry other persons.

For the State-House, \$ 25,000--

LAWS OF GEORGIA,

(No. 230.) of the Chatham Artillery company, two hundred dollars; to provide a fund for the said company to repair their carriage, and furnish the said company with laboratory apparatus.

BENJAMIN WHITAKER, *Speaker of the House of Representatives.*

JOHN FOSTER, *President of the Senate, pro. tem.*

Assented to, December 10, 1807.

JARED IRWIN, GOVERNOR.

(No. 281.)

AN ACT*

To incorporate the Planter's Bank of the State of Georgia.

A bank to be established in Savannah, the capital one million of dollars.

Subscriptions to be opened at Savannah and sundry other places.

SEC. 1. **B**E it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same, That a bank shall be established at Savannah, the capital stock whereof shall be one million of dollars, divided into ten thousand shares, of one hundred dollars each, but the directors or a majority of them, may at any time after the establishment of the said bank, increase the said stock to any amount, not exceeding three million of dollars: and that subscriptions towards constituting the said bank shall, on the first day of February next, be opened at the city of Savannah, under the superintendence of Charles Harris, William B. Bulloch and George Scott, commissioners, for two thousand four hundred shares; at the city of Augusta, under the superintendence of Thomas Cumming, John Catlett and Freeman Walker, for eleven hundred shares; at Columbia court-house, under the superintendence of Gary Davis, William Low and Thadeus Bell, for two hundred and fifty shares; at the town of Washington, in Wilkes county, under the superintendence of Felix H. Gilbert, James Corbet and Doctor Gilbert Hay, for one thousand shares; at Athens, under the superintendence of William Malone, Hope Hull and Stephen Thomas, for five hundred shares; at Darien, under the superintendence of James Nephew, Norman McDonald and William Dunham, commissioners, for eight hundred shares; at Lexington, under the superintendence of Solomon A. Hopkins, Thomas W. Cobb and Robert Freeman, for four hundred shares; at Petersburg, under the superintendence of Leroy Pope, Thomas Bibb and John Watkins, for six hundred shares; at Greensborough, under the superintendence of George Clingham, Thomas W. Grimes and James Cun-

* This act repealed and another passed for the same purpose, in 1810, No. 560, which see.

EXHIBIT 8

77C

EXTRACTS

FROM THE

JOURNAL OF PROCEEDINGS

OF THE

PROVINCIAL CONGRESS

OF

NEW JERSEY.

HELD AT TRENTON IN THE MONTHS OF MAY, JUNE AND AUGUST, 1775.

PUBLISHED BY ORDER.

BURLINGTON:

PRINTED AND SOLD BY ISAAC COLLINS,

M.DCC.LXXV.

46340

WOODBURY, N.J.

REPRINTED BY ORDER.

JOSEPH SAILER, PRINTER.

1835.

UNIVERSITY OF MICHIGAN LIBRARY

surers of this colony, or either of them, are hereby required to pay, upon certificates duly attested, and agreed to as aforesaid, under the hand and seal of the chairman of the committee of the county where such salt shall be made, certifying, that it hath been proved by the oaths of credible witnesses, that such salt hath actually been made in some county of this colony, at some time before the said first day of November, 1776; and that the claimant hath not before received any bounty for the same, and the receipt of the chairman endorsed thereon, shall be sufficient vouchers to the said treasurers, or either of them, for the payment of the said bounty.

AN ORDINANCE

To provide for the payment of incidental charges.

Whereas it is necessary to provide for the payment of such incidental charges as have accrued during the sittings of this Congress.

It is therefore resolved and directed, That there be paid to Samuel Tacker and John Dennis, Esquires, the treasurers appointed by this Congress, over and above the money allowed by this ordinance for signing the bills of credit, the sum of thirty pounds proclamation money each, for their services one year, to commence the first day of March instant.

To each of the signers of said bills of credit, the sum of ten shillings per thousand, for so many thousand pounds, as they shall respectively sign.

To the president, and each of the members of this Congress, and committee of safety, the sum of six shillings per diem, for every day they have, or shall attend, during the continuance of this Congress, to be certified by Mr. Fisher, Mr. Hart, Mr. Wetherill, Mr. Clark, and Mr. Elmer, or any two of them.

To the secretary of this Congress, fourteen shillings per diem, for each day that he hath or shall attend this Congress, to be certified as aforesaid.

To each of the muster masters of this colony, the sum of twenty-five shillings for every company he has reviewed, or shall review by order of this Congress.

To the door keeper, the sum of five shillings per diem, for each day that he hath or shall attend this Congress.

To Myndert Voorhees, the sum of fifteen pounds for fire wood and candles, and for the use of his large room, during the present sitting of this Congress.

And it is further resolved and directed, That there be paid to the commissioners appointed to purchase arms and ammunition, tents and other military stores, such sum or sums of money, as the said commissioners, or any three of them shall agree upon, as necessary to be expended; whose receipts shall be sufficient vouchers for the payment of the same.

To John Carey, Esq. as a recompence for his services as secretary, during the last sitting of this Congress at Trenton, and for revising and copying the minutes for the press, the sum of eleven pounds four shillings, proclamation money.

To Doctor Moses Scott, the sum of one pound sixteen shillings and three pence, in full of his account, for attending certain sick soldiers in New Brunswick.

To Robert Drummond, Esquire, the sum of nine pounds, three shillings and four pence, in full of his account for removing the treasury, and records in the secretary's office at Perth Amboy, to New Brunswick.

To John Dennis, Esq. the sum of seven pounds, eight shillings and three pence, for sundry expenditures, as per account.

To John Pope, Esq. the sum of three pounds, three shillings, for sundry expenditures, as per account.

To Ellis Cook, Esq. the sum of one pound, six shillings and eight pence, in full of his account, for removing the records in the Surveror General's office at Perth Amboy, to New Brunswick.

To Azariah Dunham, Esquire, the sum of two pounds, for his expences, in going to, and returning from Philadelphia, on a message to the Hon. Continental Congress.

To Abraham Clark, Esquire, for copying and correcting the minutes and ordinances of this session for the press, such

EXHIBIT 9

JOURNAL 2819-121
2

OF THE

HOUSE OF DELEGATES

OF THE

COMMONWEALTH OF VIRGINIA;

BEGUN AND HELD IN THE TOWN OF RICHMOND.

In the County of Henrico,

***ON MONDAY, THE SEVENTH DAY OF MAY, IN THE YEAR OF OUR LORD
ONE THOUSAND SEVEN HUNDRED AND EIGHTY-ONE.***

RICHMOND:

PRINTED BY THOMAS W. WHITE, OPPOSITE THE BELL-TAVERN.

.....
1828.

Ordered, That Mr. Charles Carter do acquaint the Senate therewith.

An engrossed bill, "concerning the legion under the command of Colonel Dabney;" was read the third time.

Resolved, That the bill do pass; and that the title be, "an act, concerning the legion under the command of Colonel Dabney."

Ordered, That Mr. Robert Wormeley Carter do carry the bill to the Senate, and desire their concurrence.

A motion was made, that the House do come to the following resolution:

Whereas, much inconvenience doth arise from the mode heretofore adopted by the committee appointed to burn and destroy the paper money, emitted by this State;

Resolved, therefore, That the committee appointed to burn the paper money, be directed and empowered to burn the same as it may be paid into the treasury, without any discrimination of the different emissions; and that for their services, each member of the committee attending on this business, shall receive and be paid the sum of ten shillings per day.

And the said resolution being read a second time was, on the question put thereupon, agreed to by the House.

Ordered, That Mr. Prentiss do carry the resolution to the Senate, and desire their concurrence.

The Speaker laid before the House a letter from the Governor, respecting the accounts of Oliver Pollock, which was read, and ordered to be referred to a committee of the whole House on the state of the Commonwealth.

The Speaker laid before the House a letter from Oliver Pollock, respecting his claim against this State; which was read and ordered to be referred to a committee of the whole House on the state of the Commonwealth.

The Speaker laid before the House a letter from the Solicitor, enclosing a state of the public taxes; which was read and ordered to lie on the table.

A message from the Senate by Mr. Elzey:

MR. SPEAKER,—The Senate have agreed to the bill "concerning the appointment of sheriffs," with an amendment, to which they desire the concurrence of this House. And then he withdrew.

The House proceeded to consider the said amendment; and the same being read, was agreed to.

Ordered, That Mr. Mercer do acquaint the Senate therewith.

Mr. Talbot reported, from the committee appointed to examine the treasurer's accounts, that the committee had, according to order, examined and compared the same, and had agreed upon a report thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same was again twice read, and agreed to by the House, as followeth:

The committee appointed to examine the accounts of the treasury have, according to order, carefully examined and compared the same with their proper vouchers, from the 13th April, 1782, to the 30th November following, inclusive; by which it appears that Jacqueslin Ambler, Esq. treasurer, has received within those periods in specie, specie warrants and certificates and commutable articles, to the amount of 99,048*l.* 5*s.* 6 3-4*d.*, on various accounts; it appears also, that he has disbursed to the amount of 61,583*l.* 8*s.* 5 3-4*d.*, which leaves a balance of 37,464*l.* 17*s.* 1*d.* now resting in the treasury, chiefly in commutable articles, to be carried to the credit of the State in the next account. It also appears, that very considerable sums of paper money have been received and disbursed within the aforesaid periods, and that very large quantities now remain in the treasury; but your committee not having sufficient time for examining the paper money account fully, and ascertaining what still remains in the treasury, have referred the same to a future settlement. The accounts appear to have been fairly and properly stated, and accurately kept; your committee having discovered two inconsiderable errors only, one of four pence against, and one of two pence in favor of the State, which are duly rectified; but for a more clear explanation, your committee beg leave to refer to the general account annexed.



DR. The Public Treasury, from the 13th of April, 1782, to the 30th of November, 1782, both inclusive.

To Land Office, per account,	-	-	Folio	2,	£	314	0	0
Officers of the customs, 422 <i>l.</i> 13 <i>s.</i> 3 1-4 <i>d.</i>	-	-	-	6,	1,838	9	4	1-4
Do. by virtue of revenue act, 1,415 <i>l.</i> 16 <i>s.</i> 1 <i>d.</i>	-	-	-	13,		4	9	
Clerks of counties,	-	-	-	17,	6,400	8	2	1-2
Escheators,	-	-	-	27,	89,210	12	8	3-4
Sheriffs,	-	-	-	31,	720	4	9	1-4
Inspectors of tobacco, (rents,) 254 <i>l.</i> 3 <i>s.</i> 7 1-2 <i>d.</i>	-	-	-	35,	290	11	6	
Ditto tax on tobacco exported, 466 <i>l.</i> 1 <i>s.</i> 1 3-4 <i>d.</i>	-	-	-	37,	273	13	11	
Agent for sale of commutables,	-	-	-					
Sundries,	-	-	-					
Error in extending folio 26,	-	-	-					
					£	99,048	5	6 3-4

EXHIBIT 10

THE
L A W S
OF
THE STATE
OF
V E R M O N T,
DIGESTED AND COMPILED :
INCLUDING THE
DECLARATION OF INDEPENDENCE,
THE
CONSTITUTION OF THE UNITED STATES,
AND OF THIS STATE.

*VOLUMES FIRST AND SECOND, COMING DOWN TO, AND INCLUDING THE YEAR
MDCCCXII ; WITH AN APPENDIX, CONTAINING TITLES OF LOCAL
ACTS ; AND AN INDEX OF THE LAWS IN FORCE.*


PUBLISHED BY ORDER OF THE LEGISLATURE.


VOL. II.

RANDOLPH :
PRINTED BY SERENO WRIGHT,
PRINTER TO THE STATE.

1808.

CHAPTER CVII.

OF FEES.

N^o 1.

An Act, regulating fees.

SECT. 1. **I**T is hereby enacted by the General Assembly of the State of Vermont, That the fees for the several officers, and other persons herein after mentioned, shall be as follow, namely :

GOVERNOR'S FEES.

	Dollrs.	Cts.
For signing a charter, of land, - - - - -	8	0
For every other charter or grant, by him signed,	3	0

LIEUTENANT GOVERNOR'S FEES.

For attendance on council, per day, - - - - -	4	0
Travel per mile, each way, - - - - -	0	6

COUNCILLORS' FEES.

For attendance, per day, - - - - -	1	50
Travel per mile, each way, - - - - -	0	6

REPRESENTATIVES' FEES.

For attendance, per day, - - - - -	1	50
Travel per mile, each way, - - - - -	0	6
Speaker of the general assembly's fees, per day, - - - - -	2	50
Travel per mile, each way, - - - - -	0	6
Clerk of the general assembly's fees, per day, - - - - -	2	50
Travel per mile, each way, - - - - -	0	6
Engrossing clerk's fees, per day, - - - - -	2	50
Travel per mile, each way, - - - - -	0	6

SECRETARY OF STATE'S FEES.

Recording laws, for every hundred words, - - - - -	0	7
Recording and filing each petition, of a private nature, - - - - -	0	11

SHERIFFS', CONSTABLES' AND COLLECTORS' FEES.

	Dolls.	Cts.
Serving every process on each defendant by reading,	0	6
If by a copy, - - - - -	0	17
For taking bail, - - - - -	0	17
For each mile's travel, for the service of all writs and other processes, to be computed from the place of service, to the place of return, - - - - -	0	6
For levying each execution, amounting to three dollars or under, - - - - -	0	15
And for each three dollars over, - - - - -	0	4
For each day's attendance on appraisement, or sale of estate taken in execution, - - - - -	0	34
For attending before a justice's court when required,	0	34
For attending freeholders' courts, per day, - - - - -	1	0
Copy of an execution extended on lands, and the return thereof to the office, for record, - - - - -	0	50
For attendance on the general assembly, or supreme or county court, per day, - - - - -	1	0
Constables for the like service, - - - - -	1	0
Collectors of taxes, to be allowed the like fees as sheriffs in cases of execution, when they levy on persons or estate, and <i>one dollar</i> out of each fifty dollars collected and paid into the state or county treasury.		

Provided, That no sheriff, constable or other officer shall be entitled to any fees for a return of *non est inventus*, on any civil writ or process.

For sheriff's, &c. assistants, per day, - - - - -	0	67
For half a day, - - - - -	0	34
For appraisers of real estate on execution, - - - - -	0	67
For half a day, - - - - -	0	34

PARTIES' AND WITNESSES' FEES, IN THE SUPREME AND COUNTY COURTS.

Term fee on abatement, nonsuit or default, in the first term, - - - - -	1	0
Term fee in all other cases, - - - - -	1	0
And the party recovering shall be allowed for his attorney, on nonsuit or default, - - - - -	1	50
For trial of issue of law or fact, - - - - -	3	0
Travel for plaintiff or defendant within this state, per mile, - - - - -	0	5
Witnesses' travel per mile, - - - - -	0	5

EXHIBIT 11

A

COLLECTION

Edm? OF *Taylor*

ALL SUCH

ACTS

OF THE

GENERAL ASSEMBLY

OF

VIRGINIA,

OF A PUBLIC AND PERMANENT NATURE, AS
ARE NOW IN FORCE;

WITH A

NEW AND COMPLETE INDEX.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS,
AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY,
PASSED ON THE TWENTY-SIXTH DAY OF JANUARY, ONE
THOUSAND EIGHT HUNDRED AND TWO.

RICHMOND,

PRINTED BY SAMUEL PLEASANTS, JUN. AND HENRY PACE.

M,DCCC,III.

such case, the Judge of the said High Court of Chancery, either in Term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said Court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made, or until the further order of the said Judge; or the said Judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, That the said Judge of the High Court of Chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

LXI. ALL Acts and parts of Acts, within the purview of this Act, shall be, *Former Acts repealed*, and are hereby repealed.

LXII. THIS Act shall commence and be in force, from and after the *Commencement of this Act*, passing thereof.

CHAP. LXV.

An Act reducing into one, the several Acts and Parts of Acts concerning the General Court, and prescribing the Manner of proceeding therein in certain cases.

[Passed the 13th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the General Court of this Commonwealth shall consist of ten Judges, to be chosen and commissioned in the manner directed by the Constitution of the Commonwealth. Any three of the said Judges shall constitute a Court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said Court shall be holden at the Capitol in the City of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the ninth day of *June* and the ninth day of *November*, or if either of those days shall be *Sunday*, then on the succeeding day, and shall continue their Session for sixteen juridical days at each Term, unless the business before them be sooner dispatched. If a sufficient number of Judges should not attend on the first day of any Term, or on any other day during the Term, any one of the said Judges may adjourn the Court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such Court, shall stand continued over to the next succeeding Term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the Commonwealth, and take the following oath of office, to wit:

YOU shall swear that well and truly you will serve this Commonwealth in the office of a Judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to Law, without respect of persons. You shall not take by yourself, or by any other, privately or openly, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself, or other, privately or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not deny or delay any person of common right, for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial Justice, without fraud, favor, affection or partiality. So help you GOD.

Which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable such Judge to do all the duties of his office, and such certificate shall be recorded in the General Court, or District Court where such Judge shall first sit. If any person shall presume to sit in Court or execute the said office, without having

General Court to consist of ten Judges: how chosen & commissioned.

Where to be held.
Terms.
Regulations respecting adjournment.

Oaths to be taken by the judges.

By whom to be administered.

Penalty for sitting without taking the oaths.

1792.

70 IN THE SEVENTEENTH YEAR OF THE COMMONWEALTH.

taken the said oaths, he shall for such offence forfeit the sum of fifteen hundred dollars. *a*

Officers to be appointed by the court.
Sheriff of the county in which the court sits to attend.

II. THE said Court shall appoint a Clerk, one or more assistant Clerks, if necessary, a Cryer and Tipstaff, the first removable for misbehaviour in the manner directed by the Constitution, the others at pleasure; who shall be entitled to such fees or salaries as shall be established by Law. And the Sheriff, or so many of the Under-Sheriffs as shall be thought necessary, of the County where such Court may be held, shall attend the said Court during their Sessions. *b*

Jurisdiction of the court

III. THE jurisdiction of the said Court shall be general over all causes, matters and things at common Law, as well criminal as civil, except in such cases, as by the Constitution of the United States of America, or of this Commonwealth, or any Statute made by the Congress of the said United States, or the General Assembly of this Commonwealth, are or shall be vested in any other tribunal; in any of which cases the jurisdiction of the General Court shall cease, unless concurrent jurisdiction be thereto expressly given by this Act, or some other Statute. The said Court shall have jurisdiction in all causes, matters and things therein depending at the commencement of this Act; and no discontinuance shall take place in any case whatsoever, by reason of the passing of this Act. The said Court shall continue to have jurisdiction, in all cases, suits and motions against public debtors and public defaulters of every denomination, for and in behalf of the Commonwealth. If the Judge of the High Court of Chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such Court, it shall be lawful to institute such suit in the General Court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the General Court shall direct; and thereafter an appeal may be had to the Court of Appeals. Writs of *certiorari* may be issued from, and be tried in the General Court, upon all judgments which have been or shall be obtained therein; the said Court may fine Sheriffs, Deputy-Sheriffs, or Coroners, for not returning executions issued, or to be issued from the said Court, and enter up judgments against the said officers, for all money or tobacco, for which they have made or shall make themselves respectively liable by Law upon such executions; may award executions upon replevy bonds, or bonds to have goods forth-coming at the day of sale; may quash executions illegally or improvidently issued or executed, and award new ones; and finally, may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the said Court; any Law to the contrary, or seeming to the contrary, notwithstanding. The said Court shall have power to hear and determine upon all errors and matters of fact, that shall or may have happened in the proceedings depending in the said Court. *c*

May award writs of Mandamus to the district courts.
Further description of jurisdiction.

IV. THE said Court shall have power to issue writs of *mandamus* to the District Courts. *c*

V. THE said Court shall likewise have jurisdiction to hear and determine motions against the delinquent subscribers of the Potomac and James River Companies, and for securities against their principals; and for Sheriffs against their deputies and securities, or either of them. *d*

May for good cause direct any suit in a district court to be tried at their own bar or in another district.

VI. FOR good cause shewn, the General Court may direct the trial of any cause depending before a District Court, to be had by a jury at their own bar, for which purpose the Sheriff, or any other officer attending them, shall summon a jury qualified as the Law now directs in cases of juries in the General Court; or may cause a suit depending in one District to be tried in another. *e*

Suits in which judges are parties, to be removed to the General Court.

VII. UNLESS good cause be shewn to the contrary, the General Court shall direct a suit depending before a District Court, in which a Judge of the General Court is a party, to be removed to be tried at the bar of the General Court. *f*

Jurisdiction relative to wills, administrations, &c.

VIII. THE General Court shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons

(a) Oct. 1777, sec. 2, 5. 1788, ch. 67, sec. 113; 116. *ibid.* ch. 73, sec. 7.

(b) Oct. 1777, ch. 17, sec. 6. (c) *ibid.* sec. 2. 1788, ch. 67, sec. 117; *ibid.* ch. 69, sec. 7. (d) 1789, ch. 13, sec. 2. (e) 1788, ch. 67, sec. 119 and 120. (f) 1789, ch. 13, sec. 29.

dying-intestate, and to do all other things concerning wills and administrations, according to Law. *a*

IX. THE said Court shall have power and authority to receive *probats* of all deeds whatsoever, concerning lands in any part of this Commonwealth, to issue commissions for the privy examination of any *feoffment*, and to admit the same to Record, as also to receive proof of any other deed or instrument of writing whatsoever, and to admit the same to Record therein, if they shall be of opinion that the same is proper to be done. A deed for lands now or at any time hereafter partly proved in the General Court, may either be fully proved there, or shall be delivered by the Clerk thereof to any person authorized to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in the Court of the District or County in which the lands lie. *a*

Deeds partly proved, may be either fully proved therein, or delivered to the parties to be fully proved in the district or county courts.

X. IF a question of Law in any criminal case be adjourned to the General Court by any District Court, the same may be therein argued and determined, although such criminal be not present. *a*

Rules respecting adjourned cases.

XI. ON the adjournment of any question of Law in any civil suit, the said Court shall hear, determine, and certify such their determination on the same, to the Court from whence the question was adjourned; but no costs shall be incurred on any adjourned question. *b*

XII. ALL original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said Court, and all subsequent process thereon, all attachments or other writs of what nature soever awarded by the said Court, shall be issued and signed by the Clerk of the said Court in the name of the Commonwealth, shall bear teste by the Clerk, and be returnable on the first day of the next succeeding Court, except *subpoenas* for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by Law. *c*

Rules respecting process

XIII. THE appearance day to all writs and process awarded by the said Court, shall be according to the direction thereof. *d*

The court to direct the appearance day.

XIV. THE Sheriff for the time being of the County in which the General Court shall be held, shall before every meeting of the General Court, summon twenty-four Freeholders of this Commonwealth, qualified as the Law directs for Grand Jurors, to appear at the succeeding General Court on the first day thereof, which the Sheriff is hereby empowered to do, as well without his County as within the same, and the said twenty-four men, or any sixteen of them shall be a Grand Jury, who shall be sworn to enquire of and present all offences against the Commonwealth; which are cognizable in the said Court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the Court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

Grand jury to be summoned. Proceedings on indictments, presentments, &c.

XV. THE rules and proceedings in the General Court, in all cases, not otherwise specially directed, shall be the same as in the District Courts in similar cases, and the said Court shall have the same power of awarding and refusing costs, as the District Courts have in like cases.

XVI. THE keeper of the public jail, shall constantly attend the General Court, and execute the commands of the Court. *e*

Keeper of the public jail to attend the court.

XVII. THE Clerk of the General Court shall annually before the last day of January, transmit to the Sheriff of each County within this Commonwealth, a list of all fines imposed by the said Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five per centum commissions; and the said Clerk shall transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account. *f*

The clerk to transmit lists of fines imposed by the court to the sheriffs.

XVIII. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Former acts repealed.

XIX. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

[a] 1789, ch. 15, sec. 4 8 9 27. [b] 1788, ch. 67, sec. 17. [c] Oct. 1777, ch. 17, sec. 7. 1788, ch. 67, sec. 23 118. [d] 1789, ch. 15, sec. 31. [e] Oct. 1777, ch. 17, sec. 72. [f] Oct. 1777, ch. 17, sec. 75. 1788, ch. 67, sec. 152.

EXHIBIT 12

LAWS

OF THE

STATE OF NEW-JERSEY.—

COMPILED AND PUBLISHED,

UNDER THE AUTHORITY OF THE

LEGISLATURE.

—•—
BY JOSEPH BLOOMFIELD.

—•—

—•••••
TRENTON :
PRINTED BY JAMES J. WILSON.

.....
1811.

Proviso.

And provided also, The legislature may give its consent to the establishment of one or more governments westward thereof; but monopolies of land by individuals, being contrary to the spirit of our free government, no sale of territory of this State, or any part thereof, shall take place to individuals or private companies, unless a county or counties shall have been first laid off, including such territory, and the Indian rights shall have been extinguished thereto.

Certain contemplated purchases stated to have become constitutionally void by the foregoing section.

The contract having failed, the legislature to make provision for returning the consideration money

The money paid for such purchases never to be deemed a part of the funds of the State.

Money in what manner to be drawn from the treasury.

Donations or gratuities how to be granted.

The census in what manner to be taken.

SECT. 24. The foregoing section of this article having declared the common rights of the free citizens of this State, in and to all the territory without the present temporary boundary line, and within the limits of this State, thereby defined, by which the contemplated purchases of certain companies of a considerable portion thereof, are become constitutionally void; and justice and good faith require, that the State should not detain a consideration for a contract which has failed, the legislature, at their next session, shall make provision by law, for returning to any person or persons, who has or have *bona fide* deposited monies for such purchases in the treasury of this State: *Provided,* That the same shall not have been drawn therefrom in terms of the act passed the thirteenth day of February, one thousand seven hundred and ninety-six, commonly called the rescinding act, or the appropriation laws of the years one thousand seven hundred and ninety-six and one thousand seven hundred and ninety-seven: Nor shall the monies, paid for such purchases, ever be deemed a part of the funds of this State, or be liable to appropriation as such; but until such monies be drawn from the treasury, they shall be considered altogether at the risque of the persons who have deposited the same. No money shall be drawn out of the treasury, or from the public funds of this State, except by appropriation made by law; and a regular statement and account of the receipts and expenditures of all public monies, shall be published from time to time. No vote, resolution, law, or order, shall pass the general assembly, granting a donation or gratuity in favour of any person whatever, but by the concurrence of two-thirds of the general assembly.

SECT. 25. It shall be the duty of the justices of the inferior court, or any three of them, in each county respectively, within sixty days after the adjournment of this convention, to appoint one or more fit persons in each county, not exceeding one for each battalion district, whose duty it shall be to take a full and accurate census or enumeration of all free white persons, and people of colour, residing therein, distinguishing, in separate columns, the free white persons from persons of colour, and return the same to the clerks of the superior courts of the several counties, certified under their hands, on or before the first day of December next; the persons so appointed, being first severally sworn before the said justices, or either of them, duly and faithfully to perform the trust reposed in them; and it shall be the duty of the said clerks, to transmit all such returns, under seal, directed to the speaker of the house of representatives, at the first session of the legislature thereafter: And it shall be the duty of the general assembly, at their said first session, to apportion the members of the house of representatives among the several counties, agreeably to the plan prescribed by this constitution, and to provide an adequate compensation

ditaments shall be previously lodged with the said clerk, or recorded as aforesaid.

A supplement to the act entitled "An act respecting conveyances," passed June seventh, one thousand seven hundred and ninety-nine.

Passed February 8, 1811.

Sec. 1. BE IT ENACTED *by the council and general assembly of this state, and it is hereby enacted by the authority of the same,* That if the party who shall execute or may have executed, any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, or the witnesses thereto, reside not in this state, but in one of the territories of the United States, or in one of the cities of Philadelphia or New-York, then the acknowledgment or proof which may have been, or shall be made before, and certified by one of the judges of the supreme court of such territory, or the mayor of such city, shall be as good and effectual as if the same had been made before, and certified by one of the judges of the supreme court of this state.

AN ACT constituting courts for the trial of small [Rev.313]
causes.

Passed March 15, 1798.

Sec. 1. BE IT ENACTED *by the council and general assembly of this state, and it is hereby enacted by the authority of the same,* That every suit of a civil nature at law, where

What causes shall be cognizable before justices of the peace. the debt, balance, or other matter in dispute, does not exceed, exclusive of costs, the sum or value of sixty* dollars, shall be, and hereby is made cognizable before any justice of the peace of any county in this state, who is hereby authorized to hold a court within such county to hear, try, and determine the same according to law, although the cause of action did not arise in the said county; and further, that the said court shall be a court of record, and vested, for the purposes aforesaid, with all such power as is usual in courts of record of this state. *Provided always*, That this act shall not extend to any action of replevin, slander, trespass for assault, battery, or imprisonment, or to any action, wherein the title of any lands, tenements, hereditaments, or other real estate, shall or may in any wise come in question.

[Rev. 313]

2. *And be it enacted*, That the territorial jurisdiction of every justice of the peace, under this act, shall be coextensive with the limits of the county, for which he is appointed and commissioned; that his writs, precepts and process shall run in and through such county, and that he may, in causes pending before him, award writs of subpoena ad testificandum into other counties of this state.

Territorial jurisdiction of justices to be coextensive with their counties.

3. *And be it enacted*, That the constables of the several townships in such county shall be the ministerial officers of the said court, and that it shall be the duty of the said constables to execute and return all precepts, summons, warrants, writs and other process, issuing out of the said court, and to them or any of them

Constables to be their ministerial officers.

* Extended to 100 dollars by act of 29th Nov. 1801.

Juror's
oath.

22. *And be it enacted*, That to the jurors, and each of them, who shall be returned to try any cause as aforesaid, the said justice shall administer the following oath or affirmation :

You do swear, in the presence of Almighty God, (or do affirm, as the case may require) that you will well and truly try the matter in difference between plaintiff, and defendant, and a true verdict give according to evidence.

That to every witness produced at the said trial, the said justice shall administer the following oath or affirmation :

Oath of
witness.

You do swear, in the presence of Almighty God, (or do affirm, as the case may require) that the evidence you shall give to the court and jury in this matter in difference between plaintiff, and defendant, shall be the truth, the whole truth, and nothing but the truth.

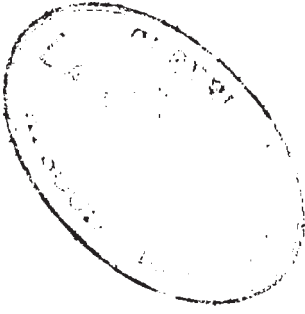
And that to the constable, who shall be appointed to attend the jury, the said justice shall administer the following oath or affirmation :

Consta-
ble's oath.

You do swear, in the presence of Almighty God, (or do affirm, as the case may require) that you will, to the utmost of your ability, keep every person sworn (or affirmed) on this jury together in some private and convenient place, without meat or drink, water excepted ; that you will not suffer any person to speak to them, nor speak to them yourself, except by order of the court, unless it be to ask them, whether they have agreed on their verdict, until they have agreed on their verdict.

23. *And be it enacted*, That every person summoned as a juror, or subpoenaed as a witness, who shall not appear, or appearing, shall

EXHIBIT 13



REVISED AND SESSION

L A W S

OF THE

STATE OF NEW-YORK.

4711-2

L A W S

OF THE

State of New-York.

PUBLISHED BY AUTHORITY.



SECOND EDITION,

[PRINTED PAGE FOR PAGE WITH THE FIRST EDITION.]

VOL. I.

ALBANY:
PRINTED BY WEBSTERS AND SKINNER.
1807.

TWENTY-FOURTH SESSION.

175

same person, and that such clerk shall be appointed by the person administering the government of this state, by and with the advice and consent of the council of appointment.

X. *And be it further enacted*, That the justices of the supreme court, or either of them, together with the mayor, recorder and aldermen of the city of New-York, or any three or more of them, of whom either of the justices of the supreme court shall always be one, in and for the city and county of New-York, and together with the mayor, recorder and aldermen of the city of Albany, and the judges and assistant justices of the court of common pleas for the county of Albany, or any three or more of them, of whom either of the justices of the supreme court shall always be one, in and for the city and county of Albany; and together with the judges and assistant justices of the respective courts of common pleas of each of the other counties of this state, or any three or more of them, of whom either of the justices of the supreme court, shall always be one, in and for each of the same counties respectively, shall be, and hereby are authorized, and empowered, by virtue of their respective offices, and this act, without any other commission, at such times and places, in each of the said cities and counties respectively, as the said justices of the supreme court, or either of them, shall hold the circuit court therein, and at such other times and places, in each of the said cities and counties, as any three of the justices of the supreme court, or any one of them, with any two of the said persons within their respective cities and counties, shall for that purpose appoint; to inquire by the oath of good and lawful men, of the same cities and counties respectively, and by other ways and means, by whom and by which, the truth of the matter may be the better known, of whatsoever treasons, felonies, and other crimes and misdemeanors, and of the accessories to them, in the same cities and counties respectively, by whom and in what manner soever done or committed, and of every circumstance concerning the same; and the said treasons, felonies and other crimes and misdemeanors, to hear and determine; and also to deliver the gaols in the same cities and counties respectively, of the prisoners therein according to law. *And further*, That the said courts shall be held and continue, with or without such circuit court, in each of the said cities and counties, for so long time, as may be necessary to dispatch the business in the same.

Courts of oyer and terminer and gaol delivery, when, and by whom, to be held.

Powers of those courts.

How long to continue.

XI. *And be it further enacted*, That the sheriff of the city and county of New-York, and the sheriffs of each of the other counties in this state, shall cause to come before the said courts of oyer and terminer and gaol delivery, to be held therein, twenty-four good and lawful men of the same city and counties respectively, to inquire for the

Sheriffs to return at such courts

Grand jurors.

people of the state of New-York, and the bodies of the same cities and county respectively, and to do and receive all those things, which on the behalf of the people of the state of New-York shall be then and there enjoined them ; and also all the prisoners then being in the gaols thereof, together with their attachments, indictments and all other minuments, any ways concerning those prisoners ; and likewise so many good and lawful men of the same city and counties respectively, duly qualified to serve as jurors therein, as the said courts of oyer and terminer and gaol delivery, or any justice thereof, shall from time to time direct, by whom the truth of the matter may be the better known, and inquired into, and who have no affinity to those prisoners. And the said respective sheriffs shall cause to be publicly proclaimed throughout their respective counties, that all those who will prosecute against those prisoners, be then and there to prosecute against them as shall be just ; and shall also give notice to all justices of the peace, coroners, bailiffs, and constables within their respective counties, that they be then and there in their own persons, with their rolls, records, indictments, and other remembrances, to do those things, which to their offices in that behalf shall appertain to be done. And the said respective sheriffs and their officers shall then and there attend in their own proper persons, to do those things which to their offices shall appertain. *And further,* That the district attornies shall from time to time as soon as conveniently may be, after every circuit court shall be appointed to be held, in the cities and counties of this state within their respective districts, and at least fifteen days before the time of holding the same, issue precepts under the seal of the supreme court, directed to the respective sheriffs of the same cities and counties, for the purposes aforesaid, mentioning the day and place, when and where the said courts are to be held, and commanding the said sheriffs respectively, to do what is hereby required of them, and that the said precepts shall always be in the name of the people of the state of New-York, and be tested in the name of the chief justice of the said supreme court. *Provided,* That in case the office of chief justice shall be vacant, the precepts shall be tested in the name of the next senior justice of the said supreme court, and the said precepts may be tested on any day of the term preceding the vacation in which the court is to be held.

And petit jurors, &c.

And to proclaim the court, and notify prosecutors, and officers to attend.

Sheriffs and their officers to attend.

District attornies to issue precepts.

Teste of such precept.

Special commissions of oyer and terminer and gaol delivery may be issued.

XII. *And be it further enacted,* That it shall be lawful for the person administering the government of this state, by and with the advice and consent of the council of appointment, to grant and issue commissions of oyer and terminer and gaol delivery, or either of them, in the manner and form heretofore used, at any time hereafter, when and as often as occasions require : But the justices

EXHIBIT 14

ACTS
AND
LAWS
OF THE
STATE
OF
CONNECTICUT,
IN
AMERICA.



NEW-LONDON:

Printed by TIMOTHY GREEN,

Printer to the GOVERNOR and STATE of CONNECTICUT;

M,DCC,LXXXIV.

An Act for regulating Fees.

BE it enacted by the Governor, Council, and Representatives, in General Court assembled, and by the Authority of the same, That the Establishment of the Fees of the several Officers of this State, shall be as follows, to wit, Fees of the several officers in this State.

Assistants Fees.		£.	s.	d.	
For attending the General Assembly, per Day, <i>Nine Shillings,</i>		0	9	0	Assistants.
Travel per Mile out, <i>Six-pence,</i>		0	0	6	
Representatives Fees.					
For attending the General Assembly, per Day, <i>Six Shillings,</i>		0	6	0	Representatives.
Travel per Mile out, <i>Six-pence,</i>		0	0	6	
Superior Court's Fees.					
Chief Judge, per Day, <i>Eighteen Shillings,</i>		0	18	0	Sup. court.
Assistant Judges, per Day, <i>Seventeen Shillings,</i>		0	17	0	
For trying each Action, <i>Twenty-four Shillings,</i>		1	4	0	
Each Default or Confession, <i>Twelve Shillings,</i>		0	12	0	
Clerk of the Superior Court's Fees.					
For entering each Action and Judgment, <i>Three Shillings,</i>		0	3	0	Clerk of sup. court.
Filing each Deposition, <i>Three-pence,</i>		0	0	3	
Entering each Judgment acknowledged, <i>One Shilling,</i>		0	1	0	
Each Execution, <i>One Shilling and Six-pence,</i>		0	1	6	
For Copies, each Page of twenty-eight Lines, ten Words } in a Line, <i>One Shilling and Six-pence,</i>		0	1	6	
County Court's Fees.					
Chief Judge per Day, <i>Twelve Shillings,</i>		0	12	0	County court
Each Justice of the Quorum, per Day, <i>Nine Shillings,</i>		0	9	0	
Trying each Action, <i>Twelve Shillings,</i>		0	12	0	
Each Judgment, Default, or Confession, <i>Three Shillings and Six-pence,</i>		0	3	6	
Licence to each Tavern-keeper, <i>Six Shillings,</i>		0	6	0	
(Whereof to the Clerk, <i>One Shilling.</i>)					
Licence to each Tanner, <i>Six Shillings,</i>		0	6	0	
Jury's Fees at the Superior or County Court.					
For trying each Action, <i>Thirty-six Shillings,</i>		1	16	0	Jury.
Travel out per Mile, <i>Three-pence,</i>		0	0	3	
Clerk of the County Court's Fees.					
For entering each Action, <i>Three-pence,</i>		0	0	3	Clerk county court.
Entering each Judgment or Continuance, <i>One Shilling,</i>		0	1	0	
For granting Writs, taking Bond, &c. the same as }					
Justices Fees for like Services.					
For Copies of every Kind, each Page of twenty-eight } Lines, ten Words in a Line, <i>One Shilling & Six-pence,</i>		0	1	6	
Court of Probate's Fees.					
Granting Administration, to the Judge, <i>One Shilling and Six-pence,</i>		0	1	6	Court of probates.
Receiving and Probate of every Will, and Inventory of } <i>Fifty Pounds or under, Two Shillings,</i>		0	2	0	
(Whereof to the Clerk, <i>Nine-pence.</i>)					
Receiving and Probate of every Will, and Inventory, of more } than <i>Fifty Pounds, Three Shillings,</i>		0	3	0	
(Whereof to the Clerk, <i>One Shilling.</i>)					
Each Quitus, <i>One Shilling,</i>		0	1	0	
(Whereof to the Clerk, <i>Six-pence.</i>)					
Recording every Will, and each Inventory of <i>Fifty Pounds,</i> } or under, <i>Two Shillings and Six-pence,</i>		0	2	6	
For recording every Will, and each Inventory of more than } <i>Fifty Pounds, and not exceeding One Hundred Pounds,</i>		0	3	0	
<i>Three Shillings,</i>					

And

A C T S A N D L A W S.

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Fees.

	And for every hundred Pound, after the first Hundred, <i>Three-pence</i> , 0 0 3	
	And for a Copy, the same.	
	Each Bond for Administrator, and each Letter of } Administration, <i>One Shilling</i> , 0 1 0	
	For making out and registering a Commission for receiving } and examining the Claims of Creditors of an Insolvent } Estate, <i>One Shilling</i> , 0 1 0	
	Registering the Report of Commissions, per Page of twenty- } eight Lines, ten Words in a Line, <i>One Shilling and Six-pence</i> , } 0 1 6	
	Making and entering an Order on the Administrator to pay out } the Estate to the Creditors in due Proportion, <i>Four Shillings</i> , } 0 4 0	
	Recording a Distribution, the same as for registering the } Report of Commissioners. }	
	Allowing Accounts for settling and dividing Intestate } Estates, <i>One Shilling and Six-pence</i> , } 0 1 6	
	Appointing Guardian and taking Bond, <i>Two Shillings</i> , 0 2 0	
	(Whereof to the Clerk, <i>One Shilling</i> .)	
	Order to sell Land, <i>Three Shillings</i> , 0 3 0	
	Assistants and Justices Fees.	
	Signing an Attachment or Summons for Action, <i>Six-pence</i> , 0 0 6	
	Taking every Bond of Recognizance, <i>Six-pence</i> , 0 0 6	
	Summons for Witnesses, <i>Six-pence</i> , 0 0 6	
Justices.	Entering and Trial of an Action, <i>Three Shillings</i> , 0 3 0	
	Execution, <i>One Shilling</i> , 0 1 0	
	Judgment on Confession or Default, <i>One Shilling and Six-pence</i> , 0 1 6	
	Warrant in a Criminal Case, <i>One Shilling</i> , 0 1 0	
	Bond for Appeal, <i>Six-pence</i> , 0 0 6	
	Copies the same Fees as Clerks of Courts.	
	Affidavit taken out of Court, <i>Six-pence</i> , 0 0 6	
	Entering a Plea of Title, and taking Bond, <i>Three Shillings</i> , 0 3 0	
	Taking Acknowledgment of a Deed, &c. <i>Six-pence</i> , 0 0 6	
	Secretary's Fees.	
Secretary.	Recording Laws and Orders of the General Assembly, of } public Concernment, each, <i>One Shilling</i> , } 0 1 0	
	Affixing the State Seal, each Time, <i>One Shilling</i> , 0 1 0	
	Each Military Commission, <i>One Shilling</i> , 0 1 0	
	Each Commission for Justices in a County, <i>Five Shillings</i> , 0 5 0	
	Commission for Judges of the Superior Court, <i>Three Shillings</i> , 0 3 0	
	Each Commission for a Judge of the County Court, or } Court of Probates, <i>One Shilling and Six-pence</i> , } 0 1 6	
	Each Petition or Memorial to the General Assembly, } <i>One Shilling and Six-pence</i> , } 0 1 6	
	For the Use of the State, on each Petition, <i>Twenty Shillings</i> , 1 0 0	
	For Copy of each Order of the General Assembly, on a } Petition or Memorial, not exceeding one Folio Page, } 0 1 0	
	For Copies of greater Length, and all other Copies, } the same as the Clerk of the Superior Court. }	
	Sheriffs and Constables Fees.	
	Serving every Summons, <i>Four-pence</i> , 0 0 4	
	If by Copy, <i>Six-pence</i> , 0 0 6	
Sheriffs and Constables.	Serving every Attachment, <i>Six-pence</i> , 0 0 6	
	Bail Bond, <i>One Shilling</i> , 0 1 0	
	Levying every Execution not exceeding one Pound, <i>One } Shilling lawful Money</i> , and <i>Three-pence</i> per Pound for } every Pound above that Sum, in the same Currency of } the Execution, or equivalent in lawful Money. }	

Attending

A C T S A N D L A W S.

Fees.

65

Attending a Justice's Court, on Trial of each Action	0	1	6	
when obliged to attend, <i>One Shilling and Six-pence,</i>				
Each Mile Travel out, <i>Three-pence,</i>	0	0	3	
Sheriff attending the General Court or Superior or County	0	6	0	
Court per Day, <i>Six Shillings,</i>				
Constable for like Service, <i>Four Shillings,</i>	0	4	0	Constable.
Fees for Plaintiff or Defendant attending Court per Day,	0	1	6	Plaintiff and defendant
<i>One Shilling and Six-pence,</i>				
Witnesses attending any Court per Day, each <i>Two Shillings,</i>	0	2	0	Witness.
Travel for Witnesses per Mile, <i>Three-pence,</i>	0	0	3	Travel.
To the Party per Mile, <i>Two-pence,</i>	0	0	2	
Each Jury-man for viewing Highways per Day, <i>Four Shillings,</i>	0	4	0	Jury-men viewing highway.
Officers attending such Jury per Day, <i>Five Shillings,</i>	0	5	0	
Town Clerk's Fees.				
For recording a Deed, <i>One Shilling,</i>	0	1	0	
For Copy of a Deed, <i>One Shilling,</i>	0	1	0	
For other Copies, and recording survey Bill, the same				Town-clerk.
Fees as the Clerk of the County Court for Copies.				
For recording of Marriage, Birth or Death, <i>Three-pence,</i>	0	0	3	
Attorney's Fees to be taxed in Bills of Cost.				
At the Superior Court, <i>Eight Shillings,</i>	0	8	0	Attorney.
At the County Court, <i>Four Shillings,</i>	0	4	0	
Each Grand Jury-man for attending the Superior or County	0	4	0	
Court, per Day, <i>Four Shillings,</i>				
Travel per Mile out, <i>Four-pence,</i>	0	0	4	
Each Witness in Criminal Cases, at the Suit of the State, for				
Attendance at the Superior or County Courts, and Expences,	0	4	0	
per Day, <i>Four Shillings,</i>				
If before an Assistant or Justice, per Day, <i>Two Shillings,</i>	0	2	0	
State Attorneys Fees,				
Not exceeding the following Allowances.				
For conducting and pleading each Criminal Case, not Capital,				
before the Superior Court, on Bill found by the Grand-Jury,	2	10	0	
<i>Two Pounds Ten Shillings,</i>				
Drawing an Indictment or Information, <i>Six Shillings,</i>	0	6	0	State attorney.
For a Trial before the Superior Court, in a Criminal Case, on				
Information, or for conducting and pleading a Civil Cause,	2	0	0	
on Behalf of the State, <i>Two Pounds,</i>				
For prosecuting a Civil Cause, when Judgment is given on	1	0	0	
Confession or Default, in the Superior Court, <i>One Pound,</i>				
For a Capital Trial, <i>Four Pounds,</i>	4	0	0	
In a Criminal Case, on Confession, before the Superior Court,	1	10	0	
<i>One Pound Ten Shillings,</i>				
In a Case of <i>nolle Prosequi</i> entered, or a return of a Grand-Jury,	1	0	0	
not a true Bill, <i>One Pound,</i>				
If an Assistant Attorney is allowed in any Trial, not Capital,	1	0	0	Assisting-attorney.
before the Superior Court, in Behalf of the State, his Fee				
shall be <i>One Pound,</i>				
Or if Capital, <i>Two Pounds,</i>	2	0	0	
In a Prosecution on Behalf of the State, before the County Court,				
the Attorney shall be allowed, not exceeding two Thirds of				
the Fees allowed for the like Services in the Superior Court,				
or less, at the Discretion of the Court.				
County Surveyor's Fees.				
For himself and Horse, besides Expences, per Day, <i>Six Shillings</i>	0	6	0	County surveyor.
				Post

EXHIBIT 15

Augustine L. Clayton
 A
 DIGEST
 OF THE
 LAWS
 OF THE
 State of Georgia.

Printed March 1 1800
 FROM ITS FIRST ESTABLISHMENT AS A BRITISH PROVINCE DOWN
 TO THE YEAR 1798, INCLUSIVE
 AND THE

PRINCIPAL ACTS OF 1799:

IN WHICH
 is comprehended the declaration of independence, the State Constitutions of 1777 and 1789, with the
 alterations and amendments in 1794.

ALSO THE
 Constitution of 1798.

IT CONTAINS
 As well all the Laws in force, as those which are deemed useful and necessary, or which are explanatory
 of existing Laws, together, with the

TITLES OF ALL THE OBSOLETE AND OTHER ACTS.

AND CONCLUDES

WITH AN APPENDIX containing the original Charters and other Documents, explaining and defining the
 Limits and Boundary of the State; all the Treaties with the Southern Indians; the Articles of
 Confederation and perpetual union; the Constitution of the United States, and a few Acts of Congress.

Together with a copious Index to the whole.

BY
 ROBERT & GEORGE WATKINS.

Philadelphia:
 PRINTED BY R. AITKEN, No. 22, MARKET STREET.

1800.



LAWS OF GEORGIA.

471

III. *And be it further enacted*, That nothing herein contained shall affect the right or title of any person or persons claiming or holding a lot or lots within the said towns, as laid down in any former legal plan thereof.

IV. *And be it further enacted*, That all and every act or parts of acts which respects the surveying or laying out the town of Frederica, and also the act, entitled "An act to appoint commissioners for the town of Brunswick in the county of Glynn," passed at Augusta, the first day of February, one thousand seven hundred and eighty-eight, be and the same is hereby repealed.

WILLIAM GIBBONS, *Speaker of the House of Representatives.*

BENJAMIN TALIAFERRO, *President of the Senate.*

EDWARD TELFAIR, GOVERNOR.

December 17, 1792.

An Act for vesting certain powers in the commissioners of the court house and gaol in the county of Chatham, and for other purposes therein mentioned.

No. 473.

I. **B**E it enacted by the senate and house of representatives, in general assembly met, That it shall and may be lawful to and for the commissioners of the court house and gaol of the said county, or a majority of them, together with the justices of the inferior court of the said county, or a majority of them, to issue bills of credit to be redeemed by fines and forfeitures of recognizances, ordered and taken to the superior and inferior courts of the said county, and the tax to be levied on the inhabitants and property in the county as aforesaid.

Commissioners of the court house and gaol of Chatham empowered to issue bills of credit.

How to be redeemed.

II. *And be it further enacted*, That the commissioners of the court house and gaol of the said county, or a majority of them, together with the justices of the inferior court of the said county, or a majority of them, shall be, and they are hereby authorized to levy a tax* on all persons and property within the said county liable to pay tax, not exceeding the one eighth part of their general tax for each year, while and until they shall be enabled fully to repair the said court house, build a new gaol, poor house and hospital as aforesaid.

Authorized to levy a county tax and to build a poor house.

WILLIAM GIBBONS, *Speaker of the House of Representatives.*

BENJAMIN TALIAFERRO, *President of the Senate.*

EDWARD TELFAIR, GOVERNOR.

December 18, 1792.

* So much as relates to county tax repealed by act of 1796, No. 555. *See* *q. c.*

An Act to revise and amend an act for ascertaining the fees of public officers of this State.

No. 474.

I. **B**E it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same, That the fees of the different

Fees of the public officers.

A. D. 1792. different public officers herein after mentioned, may be by them respectively received,
No. 474. as follows :

GOVERNOR'S FEES.

Governor's fees. For signing a grant for five hundred acres or under, four shillings and eight pence.
For signing a grant above five hundred acres, and not exceeding a thousand acres, nine shillings and four pence.
On all grants above one thousand acres, at and after the rate of nine shillings and four pence for every thousand acres therein contained.
Ordering the great seal of the State to any paper of a private nature, four shillings and eight pence.
Which sums shall be paid into the treasury for public use, before any such grant or other paper is signed by the governor.

SECRETARY OF STATE'S FEES.

Secretary of State. For a grant of land and preparing and affixing the seal thereto, if five hundred acres or under, four shillings and eight pence; if above five hundred acres, nine shillings and four pence.
For registering a grant, two shillings and four pence.
For a bond, two shillings and four pence.
For a testimonial with the great seal, seven shillings.
For every search, seven pence.
For every militia commission, to be paid for by the public, two shillings and four pence.
Preparing and countersigning a *desimus potestatem*, two shillings and four pence.
Entering satisfaction on every mortgage, one shilling and two pence.
Drawing and engrossing a proclamation, four shillings and eight pence.
Fixing the great seal of the State to any other paper, four shillings and eight pence.
For a certified copy of a grant or other paper, *per copy sheet*, three pence half-penny.

SURVEYOR GENERAL'S FEES.

Surveyor general. For examining a plat, two shillings and four pence.
For recording a plat, not exceeding five hundred acres, three shillings and six pence; if exceeding five hundred acres, seven shillings; if exceeding a thousand acres, fourteen shillings.
Recording a plan of a town, township or village, forty-six shillings and eight pence.
Transmitting a caveat to the governor, and attending thereon, four shillings and eight pence.
A certified copy of an original record, three shillings and six pence.
A certified copy of an original warrant, two shillings and four pence.
A search, seven pence.
Recording and issuing a certificate of a town lot, two shillings and four pence.

COUNTY SURVEYOR'S FEES.

County surveyor. Surveying a town lot and returning a certificate thereof to the surveyor general's office, four shillings and eight pence.

Surveying

22 6
22 6
22 6
22 6

50 270/4
224
46

48
48
94
24
118

LAWS OF GEORGIA.

473

Surveying a tract of land of or under one hundred acres, twelve shillings and six pence. A. D. 1794.
No. 474.

Each hundred acres after the first, two shillings and six pence.

Making a plat, recording, advertising and transmitting the same to the surveyor-general's office, four shillings and eight pence.

Entering a caveat, advertising and giving a certified copy thereof, seven shillings; attending trial of the same, three shillings and six pence; each postponement, two shillings and four pence, to be paid by the person postponing the same.

Recording judgment, and giving a certified copy thereof, two shillings and four pence.

Entering an appeal, and giving a certified copy thereof, four shillings and eight pence.

For a re-survey of land by order of court, of or under one hundred acres, twelve shillings and six pence, for the first one hundred acres; for every hundred acres after the first, two shillings and six pence.

For making and certifying a plat thereof, and transmitting the same, four shillings and eight pence.

And for any other re-survey, the same as aforesaid.

SHERIFF'S FEES, in civil cases.

For serving a copy of a process, and returning the original, seven shillings; if more than one defendant for each additional copy served, two shillings and four pence. Sheriff—in civil cases.

Levying execution on the body or property, seven shillings.

Summoning each witness, two shillings and four pence.

On all sums where the execution does not exceed fifteen pounds, five per centum, on the amount of property sold; on all sums above fifteen pounds, and where the execution does not exceed one hundred pounds, two and a half per centum; on all sums where the execution exceeds one hundred pounds, one per centum; and that no commission shall be demanded, where property is not actually sold.

Making out and signing a bill of sale of other property, four shillings and eight pence: *Provided*, That fees shall be allowed only for one bill of sale, where the same will be sufficient to convey the property sold to one person or joint purchasers; unless the purchaser or purchasers, shall choose more than one.

Conducting a debtor under confinement before a judge or court, four shillings and eight pence.

Summoning a jury to try a caveat, and attendance, four shillings and eight pence.

Summoning a special jury, and all other services, attending trial of an appeal, four shillings and eight pence.

For a bail bond, four shillings and eight pence.

Making out, and executing titles to land, fourteen shillings, (if wrote by the purchaser, four shillings and eight pence.)

SHERIFF'S FEES, in criminal cases.

For re-committing of any person, when a *habere corpus* is brought to his relief, four shillings and eight pence. Sheriff—in criminal cases.

O o o

Summoning

- A. D. 1792. Summoning a jury, four shillings and eight pence.
 No. 476. On every copy of a *mittimus*, one shilling and two pence.
 For every mile a prisoner shall be removed on a *habeas corpus*, one shilling and two pence.
 For removing a prisoner by *habeas corpus*, when no mileage is paid, per day, four shillings and eight pence.
 Executing a criminal, thirty-seven shillings and four pence.
 Attending a person, taken by a warrant, to the judges' chambers, three shillings and six pence.
 Conducting a prisoner before a judge or court to and from gaol, four shillings and eight pence.
 Executing a warrant of escape, three shillings and six pence.
 Each mile to serve the same, two pence.
 Executing and returning a bench warrant, four shillings and eight pence.
 Each mile to serve the same, two pence.
 Putting a person in the stocks, two shillings and four pence.
 For whipping, cropping or branding a criminal, four shillings and eight pence.
 Apprehending a person suspected, if committed or held to bail, four shillings and eight pence.
 For each person, not exceeding two, who may be employed to guard a prisoner to gaol, per day, four shillings and eight pence.

GAOLER'S FEES.

- Gaoler. Receiving a prisoner or debtor, two shillings and four pence.
 Turning the key or discharging a prisoner in virtue of a *habeas corpus*, or by order of the court, judge or justice, two shillings and four pence.
 Dieting a prisoner per day, allowing two pounds of bread, one and a half pound of beef, or one pound of pork, with a sufficiency of water, all wholesome provisions, one shilling and nine pence.
 Turning the key on commitment of any person, two shillings and four pence.
 Dieting negroes, allowing one quart of rice or corn meal per day, seven pence.

NOTARY PUBLIC'S FEES.

- Notary public. For every protest and oath included, not exceeding sixteen copy sheets of ninety words, nine shillings and four pence.
 Administering an oath in any other case, one shilling and two pence.
 For each attendance on any person, to prove any matter or thing as notary public and certifying the same, two shillings and four pence.
 Every other certificate, one shilling and two pence.
 Noting a protest, four shillings and eight pence.
 Registering a protest, per copy sheet, one sixteenth of a dollar.
 Copy of a protest, per copy sheet, one sixteenth of a dollar.

CORONER'S FEES.

- Coroner. For summoning an inquest on a dead body, and returning the inquisition, forty-six shillings and eight pence.
 For

A. D. 1792. For subpoena tickets, commissions and letters of guardianship and enquiries respecting property claimed, non-suits and any other service performed, the same fees as allowed to the clerk of the superior court.

No. 476

Each appeal prosecuted to judgment from a justices' court, four shillings and eight pence, if sought by the parties, two shillings and four pence, including every service to entering satisfaction.

FEES TO THE CLERK OF THE HOUSE OF REPRESENTATIVES, AND SECRETARY OF THE SENATE.

Clerk of the house of representatives, and secretary of the senate.

For every extract of a private nature, three pence half-penny per copy sheet.

For certifying an extract of a private nature, one shilling and two pence.

For an act, passed for the benefit of an individual, or to incorporate a private society, nine shillings and four pence.

FEES OF A CONSTABLE.

Constable.

Serving a warrant, summons or attachment in civil cases, one shilling and two pence.

Returning the same, and attending the justices' court, one shilling and two pence.

Summoning every witness, one shilling and two pence.

Levering an execution and advertising the sale, one shilling and two pence.

For selling, to satisfy an execution from a justice, five per centum on the amount of the debt.

For attending grand jury, for each bill found, to be paid by the delinquent, one shilling and two pence.

Serving a warrant in criminal cases, four shillings and eight pence.

For carrying a prisoner to gaol, two pence per mile.

For keeping and maintaining a prisoner, before examination, not exceeding twenty-four hours, one shilling and nine pence.

FEES OF THE POWDER RECEIVER.

Powder receiver's fees.

Every barrel of powder of one hundred pounds weight, lodged in the public magazine, and delivered out, to be paid by the owner, one shilling and nine pence, and in proportion for any other quantity.

The public not accountable for fees in cases of inability, except in certain cases of gaolers, coroners, & sheriffs.

II. *And be it further enacted*, That none of the fees herein before set down or expressed, shall in any case (gaoler's fees for dieting prisoners, and coroner's fees for summoning an inquest, and returning an inquisition, and providing a coffin and burial expences of a person found dead, and the sheriff's fees for executing a criminal, excepted) be charged to the public, for or on account of any inability in the person who ought to have paid the same.

Public officers bound to give statements of their fees.

III. *And be it further enacted*, That every public officer and person herein mentioned, or their deputy or agent, and every person acting as such, shall, if thereunto required, be obliged to give a statement of the fees demanded, and a receipt for the same to any person paying any lawful or pretended fee or fees of office, claimed by and paid to any such public officer, or person herein before mentioned, his deputy or agent, or person acting as such, under pain that every public officer, or person herein

LAWS OF GEORGIA.

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herein before mentioned, his deputy or agent, or person acting as such, shall for every neglect or refusal, forfeit the sum of twenty-five shillings, with costs of suit, to be sued for, recovered and applied in manner herein after directed. *Provided always nevertheless*, That all suits and actions which shall be brought or commenced by virtue of this act, shall be instituted before the end of twelve months; and not otherwise.

A. D. 1792.

No. 474.

Passed by the Legislature

February 1792.

And it is hereby

enacted, that

IV. *And be it further enacted*, That if at any time after the passing of this act, any public officer or person herein mentioned, or his deputy or agent, or any person acting as such, shall under pretence of any matter or thing done, transacted or performed by any such public officer or person, or his deputy or agent, or any person acting as such, demand any other or greater fee than is set down in the table hereunto annexed, every such person so offending shall, for every such offence, forfeit and pay four fold to the party aggrieved, for the sum so unjustly demanded or taken, to be recovered with costs of suit, before any justice of the peace. *Provided*, the sum does not exceed his jurisdiction, or in any court of record within this State.

To forfeit four

fold for over

charges.

V. *And be it further enacted*, That every public officer or person herein named, and every deputy, agent or person acting as such, shall within ninety days after the passing of this act, cause a true and exact copy of the table or docket of his fees, as the same is established by this act, such table or docket to be in fair words and figures, without any abbreviations, except sums, to be placed up, and to be constantly kept in a conspicuous part of the room or place where he shall usually execute the business of his office or employment, under pain of forfeiting two shillings and four pence for each day's neglect of fixing up the same.

Tables of fees

to be set up in

public offices.

VI. *And be it further enacted*, That in case any public officer, or any person herein before mentioned, shall be sued or prosecuted for, or by reason of any fee of office whatever, and verdict shall be given for such public officer or other person; or if the plaintiff or prosecutor shall discontinue such suit or prosecution, or shall be nonsuited, then such public officer or other person shall recover double costs.

Penalty for neg-

lect.

Officers sued

may recover

double costs.

VII. *And be it further enacted*, That all fines, penalties and forfeitures, incurred under and by virtue of this act, shall be recovered, by action, in the superior or inferior courts, without any delay; and shall be applied, one moiety to the use of the State, and the other to the person or persons carrying on the prosecution to the conviction of the offender; except such as come within the jurisdiction of a justice of the peace, and except also those forfeitures, which are declared payable to the party aggrieved.

Fines & forfeitures

how to be

recovered and

applied.

VIII. *And be it further enacted*, That any public officer, who shall charge or take fees not allowed by this act, shall on conviction thereof, be dismissed from office.

Persons over charg-

ing may be dismissed

from office.

IX. *And be it further enacted*, That the State fees in the executive department may be paid in the paper medium of this State.

State fees in the ex-

ecutive may be

paid in paper me-

dia.

X. *And be it further enacted*, That the clerks of the courts respectively shall make a return on oath, of the fees collected on behalf the State, designating the paper medium from the specie, received by them previous to the passing of this act, and shall settle with the treasurer agreeably thereto.

Clerks how to

settle fee State

tax hereafter

collected.

DIGEST OF THE

A. D. 1792.

No. 474.

Public officers
charging for ser-
vices not done
to be liable therefor
and be dismissed.No costs allowed
to witnesses before
judges of the
inferior courts.

XL. *And be it further enacted*, That any public officer, who shall presume on any pretence whatever, to charge, demand or receive fees for services not done or performed, every such person so offending shall forfeit and pay to the party aggrieved four fold the sum so illegally charged, demanded or received, and shall be immediately dismissed from office.

XII. *And be it further enacted*, That no justice or justices of the peace shall tax any costs for the attendance of witnesses in any case tried before him or them.

WILLIAM GIBBONS, *Speaker of the House of Representatives.*BENJAMIN TALIAFERRO, *President of the Senate.*EDWARD TELFAIR, *Governor.*

December 18, 1792.

No. 475.

*An Act to revise, amend and consolidate the several judiciary acts of this State.**

Two judges of
the superior
court to be elec-
ted.

Their oath.

I. *BE it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and by the authority of the same*, That from and immediately after the passing of this act, two fit and proper persons duly qualified shall be elected judges of the superior courts, the following judges shall, before they enter on the duties of their respective offices, take the following oath or affirmation, to wit,

"I do solemnly swear or affirm, that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge and perform all the duties incumbent on me as a judge of the superior courts of this State, according to the best of my abilities and understanding, and agreeable to the laws and constitution of this State and the constitution of the United States. *So help me God.*"

To hold court
twice a year in
each county.
The times for
holding the
same in the re-
spective coun-
ties.

II. *And be it further enacted*, That the judges of the superior court, or one of them, shall hold the said courts in each county twice in every year, at the respective times and in the manner following, to wit, on the first Tuesday in January, in Camden; the Tuesday after in Glynn; the Tuesday after in Liberty; the Tuesday two weeks after in Chatham; the Tuesday two weeks after in Effingham; and the Tuesday after in Burke; the aforesaid counties shall be the Eastern district. And the said courts shall be held on the first Tuesday in January in Washington; the Tuesday after in Greene; the Tuesday two weeks after in Franklin; the Tuesday after in Elbert; the Tuesday after in Wilkes; the Tuesday two weeks after in Columbia; and the Tuesday after in Richmond; the aforesaid last counties shall be the Western district. And when from indisposition of either of the judges of the superior courts the same cannot be held in manner as aforesaid, it shall and may be lawful for the governor for the time being, to issue a commission to some fit and proper person, being a barrister of the said court, authorizing and requiring such person to hold the same during the indisposition

In case of indis-
position of ei-
ther judges the
governor may
appoint a per-
son to hold the
courts.

* Revised and amended by act of 1793, No. 500; and both repealed by act of 1796, No. 374.

LAWS OF GEORGIA.

6517

Thompson and Thomas M'Call, the sole and exclusive right of running a line of stage carriages between the city of Savannah and town of Augusta, not being carried into effect on the part of the said William Thompson and Thomas M'Call, the same shall be and is hereby repealed.

At D: 1796.
No. 372.

THOMAS STEVENS, *Speaker of the House of Representatives.*
BENJAMIN TALIAFERRO, *President of the Senate.*

Concurred, February 22, 1796.

JARED IRWIN, GOVERNOR.

An Act for the better regulating and conducting elections in the several counties of this State. No. 372.

WHEREAS, the several acts heretofore passed for the ordering and conducting elections, have by experience been found defective and incomplete, and the good citizens of this State will probably sustain injuries and impositions by a continuance of them; to prevent which as much as possible,

1. *Be it enacted by the senate and house of representatives of the State of Georgia in general assembly met, and it is hereby enacted under and by virtue of the authority thereof,* That all elections for members to represent this State in the general assembly thereof, and for representatives in congress, sheriffs, clerks of the superior and inferior courts, registers of probates, county surveyors and coroners, shall be held at the court house or place appointed for holding the superior courts in the respective counties.

Elections to be held at the court house.

It shall be the duty of any three or more of the magistrates for each county, not being candidates, to preside at and make returns of all elections for senators and representatives in the general assembly, representatives in congress, and county officers; and the sheriff of each county or his deputy, is required to attend at such elections, for the purpose of enforcing the orders of the presiding magistrates in preserving good order.

Three or more magistrates to preside—the sheriff to preserve order.

That at the general election which shall be held on the first Monday in November, one thousand seven hundred and ninety-seven, in the several counties of this State for members of the general assembly, the electors in each county shall elect a sheriff, clerk of the superior and inferior courts, register of probates, county surveyor and coroner, who shall hold their offices for the term of two years if they shall so long well behave themselves; and at the expiration of the said term of two years, the said electors shall again elect the county officers aforesaid, and in like manner at every second general election. *Provided,* That no person shall be twice elected sheriff of any county in any term of four years; in which provision those now in office are comprehended.

County officers, when & in what manner to be elected—to hold their offices for two years.

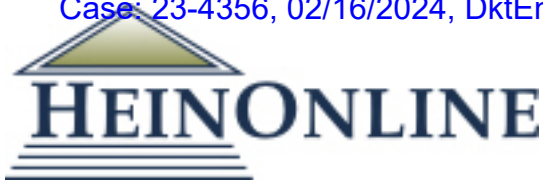
Provide.

That the general election shall be annually on the first Monday in November; and the time for taking in the votes shall be from nine o'clock in the morning till six o'clock in the afternoon.

The general election to be annual. The time for taking votes.

When.

EXHIBIT 16



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BENJAMIN OGLE, Esquire, GOVERNOR. NOVEMBER. 1799.

C H A P. XXIII.

An ACT for the adjournment of Prince-George's county court. Passed 3d of Jan. 1800.
Lib. JG. No. 3. fol. 266.

WHEREAS Prince-George's September county court stands adjourned till the second Monday in December, Preamble.

II. BE IT ENACTED, *by the General Assembly of Maryland*, That all causes, pleas, processs and proceedings, now depending and returnable to the said September court, shall be, and by virtue of this act are, adjourned and continued to the first Monday in April next, and that all the said causes, pleas, processs and proceedings, in the said court, now depending and returnable to the said September court, shall be in the same state and condition as they would be in on the said second Monday in December, any thing to the contrary notwithstanding. Causes, &c. adjourned, &c.

C H A P. XXIV.

An ACT to empower the justices of the levy court of Anne-Arundel county to assess and levy a sum of money for the purpose therein mentioned. Lib. JG. No. 3. fol. 266.

WHEREAS Elizabeth Purdy, of Anne-Arundel county, by her petition to this general assembly hath set forth, that she, from age and indigence, is unable to support herself and four small children, (one of which, a girl, is entirely blind, and unable by any means to procure the necessaries of life,) and prays that a law may pass for the support of her said daughter out of the poor-house; and the prayer of the petitioner appearing reasonable, Preamble.

II. BE IT ENACTED, *by the General Assembly of Maryland*, That the justices of Anne-Arundel county shall be and they are hereby directed and empowered, at their levy courts annually, so long as they may see cause, to assess and levy on said county a sum of money, not exceeding forty dollars, for the support and maintenance of the said Elizabeth Purdy's daughter, and that the same be collected and paid annually to the aforesaid Elizabeth Purdy by the collector or collectors of Anne-Arundel county, agreeable to the order of the levy court aforesaid. Money to be levied, &c.

C H A P. XXV.

An ACT respecting the sheriff of Talbot county. Lib. JG. No. 3. fol. 267.

WHEREAS it has been represented to the general assembly, that John Thomas, the sheriff of Talbot county, did not, during the period between the eighth day of October, in the year seventeen hundred and ninety-eight, and the first day of January following, give bond with security for the faithful performance of his office for the year then next ensuing, as required by the constitution and the laws of this state, whereby the validity of his proceedings, and his responsibility to those who may have been affected by acts done by him under colour of his office, may be questioned; and the general assembly being satisfied that this omission did not proceed from design, and that neither the said John Thomas, nor any person affected by his acts, ought to suffer by reason thereof; therefore, Preamble.

II. BE IT ENACTED, *by the General Assembly of Maryland*, That all lawful acts and proceedings done, performed or executed, and all powers, emoluments and rights, exercised or acquired, by the said John Thomas, by virtue of his office of sheriff of Talbot county during the year ensuing the period herein before mentioned, be and the same are hereby ratified, allowed and confirmed, to all intents and purposes, and in like manner and effect, as if the said John Thomas had given bond with approved security during the said period for the performance of his office, as required by the constitution and laws of this state. Acts ratified, &c.

III. AND BE IT ENACTED, That the associate justices of Talbot county court shall, on or before the first Tuesday of January next, meet at the court-house in the said county, and require the said John Thomas to attend them on the day which they shall appoint; and thereupon the said John Thomas shall, in their presence, enter into bond, with two sufficient securities, to be approved by the said justices, to the state of Maryland, in the penalty of five thousand pounds current money, in the usual form, with condition, "that if the said John Thomas shall render to the several officers within this

Associate justices to meet, &c.

this

1799. NOVEMBER.

L A W S O F M A R Y L A N D.

C H A P.
XXV.

this state a just and true account of all fees placed in his hands for collection, and shall also well and truly pay all sums of money received by him, and also pay and satisfy all public dues, fines and forfeitures, which are due or belonging to this state, and shall also pay and deliver to the person or persons entitled to receive the same, all sum or sums of money, tobacco, goods, chattels or property, by him levied, seized or taken, agreeably to the directions of the writ, process or warrant, under which the same shall have been levied, seized or taken, and shall also pay and satisfy all judgments which may have been rendered against him as sheriff of the said county, and shall and will in all things satisfy, save harmless and indemnify, all and all manner of person or persons who shall have been, or may be, aggrieved, affected or damaged, by any act, omission, misfeasance or neglect, done, suffered or committed, by him the said John Thomas, in virtue or under colour of his said office during the preceding year of his shrievalty, then the said bond to be void and of no effect, otherwise to be and remain in full force and virtue;” and the said justices shall attest and certify the execution of the said bond, and deposit the same in the office of the clerk of the said county, to be filed and recorded among the records thereof; and any person or persons aggrieved by any act, omission, misfeasance or neglect, of the said John Thomas, done, suffered or committed, by him, under colour of his said office during the year ensuing the period herein before mentioned, shall have remedy by suit prosecuted on the said bond, in like manner, and to the like effect, as such person or persons should, could, or might have had, upon his shrievalty bond, if the same had been executed by the said John Thomas, as required by the constitution and laws of this state; and an official copy of the said bond, under the hand of the clerk and the seal of his office, shall be received in evidence in any court of this state, in like manner, and to the like effect, as if the original were produced and proved according to law.

To receive no
benefit, &c.

IV. AND BE IT ENACTED, That the said John Thomas shall receive no benefit or advantage of any part of this act, until he shall have entered into bond, with approved securities, before the said justices, as required by the provisions thereof.

C H A P. XXVI.

Passed 3d of
Jan. 1820.

An ACT for the relief of Tristram Dalton, of the city of Washington. Lib. JG. No. 3. fol. 268.

Preamble.

WHEREAS it is represented to this general assembly, by the petition of Tristram Dalton, of the city of Washington, that by a variety of losses and misfortunes in trade, as a co-partner of the firm of Lear and company, he is rendered unable wholly to satisfy the debts for which the said co-partnership are answerable, and that the most of their creditors live in Great-Britain, and that it will be impracticable for him to obtain the assent to his discharge of two thirds in amount of all the creditors of the said Lear and company: And whereas the said Tristram Dalton has prayed a special act may pass in his favour; therefore,

On application,
notice to be
given, &c.

II. BE IT ENACTED, *by the General Assembly of Maryland*, That upon the application of the said Tristram Dalton to the chancellor, by petition in writing, offering to deliver up all his estate in possession, reversion or remainder, for the benefit of his creditors, and the creditors of the said Lear and company, and annexing to the said petition a schedule of his property and debts, the said schedule comprehending distinct and separate lists of the property and debts belonging to him in his own right, and also in right of his being a partner in the said firm of Lear and company, and a list of his creditors, as well as the creditors of the said Lear and company, so far as he can ascertain the same, on oath, the chancellor shall direct notice of such application to be given and published in such manner as he shall think expedient, and appoint a certain day for the creditors of the said Tristram Dalton to appear in chancery, and to recommend a trustee or trustees on their behalf; and on the appearance of the said creditors, or on their neglect to appear on notice as aforesaid, the chancellor shall administer to the said Tristram Dalton the following oath, to wit: “I, Tristram Dalton, do swear, that I will deliver up, convey and transfer, to my creditors, in such manner as the chancellor shall direct, all my property, that I have or claim any title to, or interest in, at this time, and all debts, rights, claims and credits, which I have or am in any way entitled to, in possession, reversion or remainder, as well severally as jointly with any other person or persons, and that I have not, directly or indirectly, at any time, sold, conveyed, lessened or disposed of, for the use or benefit of any person or persons, or intrusted, any part of my money or other property aforesaid, debts, rights or claims, thereby to defraud my creditors, or any of them, or to secure the same to receive or expect any profit, benefit or advantage thereby;” and in case of the neglect of the said creditors to appear and recommend a trustee or trustees, the chancellor shall appoint such person or persons to be trustee or trustees as he shall think proper.

III. AND

EXHIBIT 17

ACTS
AND
LAWS
OF THE
COMMONWEALTH
OF
MASSACHUSETTS.

BOSTON:

Printed by ADAMS & NOURSE,
Printers to the HONORABLE GENERAL COURT.
M,DCC,LXXXVI.

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1893.

ACTS AND RESOLVES
OF
MASSACHUSETTS.

1786-87.

[PUBLISHED BY THE SECRETARY OF THE COMMONWEALTH, UNDER
AUTHORITY OF CHAPTER 104, RESOLVES OF 1880.]

shillings and six pence. To the Officer attending the Jury for trial, *one shilling*, for every cause, to be paid with the Jury's fees.

For dispersing *Venires* for Jurymen, from the Clerk of the Supreme Judicial Court, Treasurer's Warrants, and Proclamations of all kinds, *three pence* each.

To each appraiser of real estates, for extending Executions, or assigning dower, *four shillings* a day, and so for a longer or shorter time.

Every Constable who shall attend the Supreme Judicial Court, or Court of General Sessions of the Peace, or Common Pleas, by their order, *three shillings* a day, to be paid out of the County Treasury; and for encouragement unto the Sheriff to take and use all possible care and diligence, for the safe keeping of the Prisoners, that shall be committed to his custody, he shall have such salary allowed him for the same, as the Justices of the Court of General Sessions of the Peace, within the same County, shall think fit to order, not exceeding *ten pounds* a year for the County of *Suffolk*; and not exceeding *five pounds* each, for the other Counties within the Government, at the discretion of the Court of Sessions, to be paid out of the Treasury of such County.

And be it enacted by the authority aforesaid, that any Constable in any Town in this Commonwealth, be, and he is hereby fully authorized and empowered, to serve upon any person or persons in the Town to which he belongs, any original Writ, Summons or Writ of Execution, in any personal action, where the damage sued for or recovered, does not exceed *twenty pounds*, and return thereof to make to any Court proper to try the same.

Criers Fees:

Calling a Jury, *four pence*, to be paid with the Jury *Criers fees*. fees.

A default or non suit, a judgment assigned or complaint, a verdict or demurrer, *eight pence* each.

Discharging a recognizance by Proclamation, *four pence*. Said fees to be paid to the Clerks of the respective Courts for the use of the Crier.

Goalers Fees.

For turning the Key on each Prisoner committed, *two Goalers fees*. *shillings, viz. one shilling* in, and *one shilling* out.

EXHIBIT 18

THE

1785-1786
1787
4719
L A W . S

OF THE

STATE OF NEW-HAMPSHIRE,

THE

CONSTITUTION

OF THE

STATE OF NEW-HAMPSHIRE,

AND THE

CONSTITUTION OF THE UNITED STATES,

WITH ITS PROPOSED AMENDMENTS.

PRINTED BY ORDER OF THE HONORABLE THE GENERAL-COURT.

STATE OF NEW-HAMPSHIRE:
PORTSMOUTH:—Printed by JOHN MELCHER,
PRINTER TO THE STATE.

1797.

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Passed Feb.

9, 1791.

AN ACT regulating fees.

BE, it enacted by the Senate and House of Representatives in General Court convened, That the fees of the several officers and other persons herein after mentioned shall be as follows, viz.

Fees of the justices of the peace in civil causes.

For every writ of summons or writ of attachment with summons, one shilling.

For every writ of subpoena, six pence.

For the entry of every action or complaint, including filing the papers, entering judgment, and appearance and recording, three shillings and four pence.

For every execution, one shilling.

For granting an appeal, one shilling.

For entering satisfaction of a judgment on record, six pence.

For taking affidavits out of court, two shillings for swearing each witness and making the caption; and one shilling for writing each page of the deposition; and for the justice's travel to swear witnesses, at the rate of two shillings for every ten miles, actual travel. The justice's fees for travel and taking affidavits, and the witnesses travel and attendance shall be certified by the justice in the affidavit, otherwise the justice shall not be allowed any thing for his fees.

For taking affidavits in perpetuum, the same fees to each justice as for the taking of other depositions.

For taking and certifying the acknowledgment of any deed or other instrument, one shilling, but if there be more than one person who shall acknowledge the same instrument, and the acknowledgment be made at different times, then one shilling for each time of taking and certifying.

For granting warrant of appraisement and swearing the appraisers, one shilling and six pence.

For every actual trial upon issue joined either upon matter of law or of fact, two shillings.

For administering oaths in all other cases and certifying the same (except the oaths of office administered to town officers, and oaths administered to witnesses in the trial of causes before the justice) one shilling.

Fees of justices of the peace in criminal cases.

For every warrant founded on a complaint for any offence, one shilling.

For drawing a complaint, two shillings.

For granting an appeal, one shilling.

For every recognizance, one shilling.

For taking bail of persons committed in criminal causes, two shillings for each offender.

For every examination, two shillings.

For every entry of a complaint and judgment thereon, two shillings and nine pence.

For warrant of commitment and every other warrant, except those above mentioned, three shillings, and for every adjournment, one shilling.

In cases of forcible entry and detainer.

The justices for every day's attendance, six shillings each.

To the witnesses and parties the same as in other cases.

To the jurors, two shillings per day for their attendance, and the same travel as jurors at the superior court.

To the sheriff, six shillings per day.

Justices fees at the court of general sessions of the peace.

To each justice for each day's attendance, to be paid out of the county treasury, three shillings and two pence per mile for travel, to and from court.

There shall be paid to the clerk of the court of general sessions of the peace for the entry of every complaint, action or petition, nine shillings, of which he shall pay to the county treasurer seven shillings and eight pence.

For every recognizance in criminal cases, one shilling, two thirds of which he shall pay to the county treasurer.

For discharging every recognizance six pence.

For every warrant for criminals, one shilling.

For examining the grand jurors accounts, yearly, and order thereon to the county treasurer, one shilling and six pence.

For entering satisfaction of judgment on record, one shilling.

For a writ of protection, one shilling.

Fees

Fees of the justices of the court of common pleas.

For every action, petition or complaint, entered in the court of common pleas, the justices thereof shall be paid five shillings and four pence.

For every appeal, one shilling.

For receiving the proof of a deed in court, one shilling.

For granting a writ of protection, one shilling.

Fees of the clerk of the court of common pleas.

For every action, petition or complaint, entered in the court of common pleas the clerk thereof shall receive three shillings and eight pence, in full for entry, verdict, non-suit or default, judgment, recording and every other service relative to such action, petition or complaint, for which no fees are otherwise particularly prescribed by this act; the said clerk paying thereout the crier's and sheriff's fees, for default or non-suit, said sum, together with five shillings and four pence for the justices, to be paid at the time of entry.

For a blank writ and summons, six pence.

For a writ of protection, nine pence.

For each execution, one shilling.

For entering satisfaction of a judgment, four pence.

For entering a continuance, eight pence.

For each venire, to be paid out of the county treasury, three pence.

For every writ of possession, one shilling and six pence.

For each writ of subpœna, six pence.

Fees of the justices of the superior court.

For the entry of every action, petition or complaint at the superior court, the justices thereof shall be paid twelve shillings.

For taking special bail, two shillings.

For a writ of habeas corpus, one shilling and four pence.

For allowing a bill of cost, eight pence.

For granting a writ of protection, one shilling.

For every deed proved in court, one shilling.

For allowing a writ of error, one shilling.

For every acknowledgment of satisfaction of a judgment on record, one shilling.

Fees of the clerk of the superior court.

For the entry of every action or petition, four shillings.

For entry of a complaint for not prosecuting an appeal, two shillings.

For entering a judgment, and recording it at large, two shillings.

For a writ of review, three shillings.

For a writ of scire facias, three shillings.

For writ of execution, one shilling and six pence.

For a writ of possession, three shillings and six pence.

For a writ of habeas corpus, two shillings.

For entering an appearance at the request of any party, six pence.

For entering a satisfaction of a judgment on record, eight pence.

For entering a continuance, one shilling.

For filing papers, one penny half penny each.

For certifying the proof of a deed in court, one shilling.

For each venire, on certificate of the justices of the superior court, three pence, to be paid out of the county treasury.

For a subpoena, one shilling.

For every recognizance, one shilling.

For every writ of protection, one shilling.

For discharging a recognizance, one shilling.

Sheriff's fees.

For the service of a writ of summons or scire facias, either by reading it to the defendant or leaving a copy, one shilling and four pence for each defendant.

For the service of a writ of attachment with or without a summons, one shilling and four pence, for each defendant.

For a bail bond, to be paid by the person bailed, one shilling.

For the service of a writ of possession, the same as for the service of the original writ on which it was obtained, with poundage for the costs as in personal actions.

For levying executions in personal actions and extents, six pence on the pound for the first twenty pounds; three pence on the pound for the second twenty pounds; two pence on the pound for all sums

fums between forty and an hundred pounds, and one penny on the pound for all fums above one hundred pounds ; the poundage on extents to be taken in the same paper bills, notes, orders or certificates, as the same extent issued for.

For travel for the service of each writ, execution or extent, two pence per mile ; the travel to be computed from the place of service to the office, place or court to which the writ is returnable, by the way most commonly used : And where there are several persons in the same writ, execution or extent, upon whom it is served, the travel shall be computed from the remotest of them, and no more to be allowed for travel than if it was served only on the remotest person as afore said ; provided that no more than fifty miles travel shall be allowed the sheriff or other officer serving any writ, execution or extent, in any case : The travelling fees, and fees of service to be endorsed on the writ in mesne process, and no more shall be allowed in any case than is so endorsed ; and also the fees for service, poundage and travel, on executions and extents, shall be particularly set down and expressed thereon.

For summoning witnesses, one shilling each.

For serving a writ of execution for partition of real estate, on a judgment of court, five shillings per day, and for travel and expenses, three pence per mile.

For every trial, eight pence, to be paid with jurors fees.

For every default, four pence.

For attending the grand jury, two shillings per day.

For attending the petit jury, nine pence each case, to be paid with the jury fees.

For dispersing venires, three pence each, to be paid out of the county treasury.

For dispersing proclamations, to be paid out of the county treasury, three pence each.

Coroner's Fees.

For serving writs, the same fee for travel and service as to the sheriff.

For every trial where the sheriff is concerned, eight pence to be paid with the jury's fees.

For taking an inquisition, nine shillings.

To the foreman of the jury, three shillings, and other

EXHIBIT 19

A MANUAL

OF

THE LAWS OF NORTH-CAROLINA,

ARRANGED UNDER DISTINCT HEADS,

IN ALPHABETICAL ORDER.

WITH REFERENCES FROM ONE HEAD TO ANOTHER,
WHEN A SUBJECT IS MENTIONED IN ANY OTHER PART OF THE BOOK
THAN UNDER THE DISTINCT HEAD TO WHICH IT BELONGS.

BY JOHN HAYWOOD, ESQ.

LATE ONE OF THE JUDGES OF THE SUPREME COURTS OF LAW AND
EQUITY.

THIRD EDITION, CORRECTED TO THE PRESENT TIME.

RALEIGH:

PRINTED & SOLD BY J. GALES, AND MAY BE HAD OF THE PRINTERS
AND BOOKSELLERS IN ALL THE TOWNS IN THE STATE.

.....
1814.

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FEES.

FEES.

1779. C. 4.

Execution may issue for fees. 1. § 4. The clerks of the superior and county courts, on the fees not being paid by the party from whom they are due, may make out execution, directed to the sheriff of the county where the party resides, and the said sheriff shall levy the same by virtue of the said execution as in other cases; and to the said execution shall be annexed a copy of the bill of costs of the fees on which such execution shall issue, wrote in words at length without any abbreviation whatsoever, and all executions issuing without the copy of such bill of costs annexed, shall be deemed illegal, and no sheriff shall serve or execute the same.

Courts to settle dis. putes about fees. II. § 7. If any clerk, during the sitting of the court whereof he is clerk, demand other or greater fees than by this act allowed, the court shall immediately, on complaint being made thereof, determine what fee or fees shall be paid to the said clerk by the party complaining.

1784. C. 7. Sess. 2.

IV. § 1. The officers herein mentioned shall take and receive the following and no other or greater fees whatever.

Copy of fees to be put up by clerk. § 2. The clerks of the several superior and county courts in this state, shall put up, in some public place in their office, an exact copy of the fees by this act allowed, and also in the court-house during the sitting of each court, and for every such failure or neglect they shall forfeit and pay the sum of five pounds, to be recovered by warrant, to the use of any person who will sue for the same.

Execution for not ob. serving the act. V. § 8. The clerks of the superior and county courts where suits are determined, and the fees not paid by the party from whom they are due, may make out executions directed to the sheriff of any county of this state, and the said sheriff shall levy the same as in other cases; and to the said execution shall be annexed a copy of the bill of costs of the fees on which such execution shall issue, written in words at length without any abbreviation whatsoever, and all executions issuing without the copy of such bill of costs annexed, shall be deemed illegal, and no sheriff shall serve or execute the same.

Penalty for not ob. serving the act. VI. § 9. If the clerk of any court, sheriff, register or coroner of any county, shall hereafter be guilty of any breach of the duties enjoined him by this act, either by his own confession or verdict of a jury, it shall, on a second conviction, be adjudged and deemed a misbehavior in office, for which such clerk or other officer herein mentioned shall be removed from office: Provided nevertheless, that in cas

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such clerk or other officer shall be disqualified with the determination of the county court, he may appeal to the superior court of the district in which he resides, in which case there shall be a trial by jury, where, if the suspension of the county court shall be confirmed, the said clerk or other officer as aforesaid, shall ever after be rendered incapable of acting in the said office in any county in this state.

Sheriff's Fees.

1762. C. 5. § 10. For selling an orphan's estate, to be allowed by the county court, not exceeding 2 1-2 per cent.

For serving copy of a declaration, 1s.

For pilloring a person, 5s.

For an attachment, the same as for an arrest, and if further trouble by moving of goods, to be taxed by the court.

For executing a warrant of distress, or an execution against the body or goods, 2 1-2 per cent.

For summoning, impaunelling and attending on every jury in every cause in court, 1s.

When a special venire shall issue by order of court for summoning each juror, and attending the same, 2s.

For serving and attending on any person on a habeas corpus, per day, 15s.

1798. C. 18. § 1. For selling the estate of an intestate, to be allowed by the court, not exceeding 2 1-2 per cent.

1777. C. 7. § 1. For summoning every warden of the poor, to be paid by the county, 2s. 8d.---6d. 1-4 scaled.

1782. C. 11. § 5. For services of equity process and incidental thereto, the same fees as for the like services at law.

1797. C. 18. § 3 For apprehending any criminal, 10s.

For conveying any person in his custody for a criminal offence to the gaol where such person ought to be conveyed at the rate of 6d. per mile; for each person composing the sheriff's guard 3d. per mile, and 4s. for each day such sheriff shall maintain said prisoner.

For carrying any sentence or order on the part of the state into execution, where the convict is to be corporally punished, except that of death, 10s.

For the execution and decent burial of any felon, 5l.

1802. C. 16. § 1.

The sheriffs of the different counties within this state, shall be entitled, for the following services, to the fees respectively annexed thereto: For every arrest, 7s. 6d. for every bail bond, 2s. 6d. For every subpoena he shall serve, 3s. and every attachment levied, 7s. 6d. for taking replevy bond upon such attachment, 2s. 6d. for putting in stocks, 6s. For every commitment, 3s. For every release, 3s. For eve-

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ry writ of possession, 10s. For calling every suit in court, 6d.

Ringier's Fees.

VIII. 1777. C. 9. § 10. For every search, 1s. (Quære by reason of 1794. c. 7, § 1.)

1784. C. 7. § 6. For each and every horse, mare or gelding, including the certificate entered in his office, 5s.

For each head of neat cattle, 2s. 6d.

For each head of hogs and sheep, 1s.

1799. For every bond, 2s

Secretary of State.

For copying and certifying a will, 4s.

For correcting an error in a patent by order of court, where an error was not committed by himself, 4s.

For copying and certifying the record of a grant or patent 4s. For every commission for a place of profit, 8s.

IX. 1799. C. 25. § 1. For receiving the surveyor's return, filing the plan, making out and recording the grant, with the endorsement thereof and the certificate thereon, to be paid by the grantee at or before the delivery of said grant, out of the office, shall be entitled to receive 5s. For docketing a caveat, filing order of suspension to the court, and entering and filing the judgment of the court thereon, 5s. For every search, 1s. For registering every deed for lands purchased for the use of the state, under an act of the General Assembly passed in the year 1798, entitled "An act to amend the revenue laws as respects the land tax," he shall receive the same fees that the Registers of the different counties would be entitled to receive for registering similar deeds, to be paid him by the Treasurer.

X. §2. The secretary shall keep a receipt book in which he shall take from each and every person to whom a grant shall be delivered, a receipt.

Private Secretary.

XI. 1799. C. 25. § 3. For the certificate of suspension of a grant, shall be entitled to receive 2s. 6d. For sealing each grant for land, including wafers or wax, paper and tape used in making the same, to be paid by the grantee on or before the delivery of the grant out of secretary's office, 2s. 6d.

1806. C X. § 1.

From and after the passing of this act, the private secretary of the governor shall be allowed the sum of 150l. and the following fees, and no others whatever, viz. For a judge's commission, 40s. for an attorney-general's ditto, 20s. a solicitor's ditto 20s. senators to congress ditto 20s. representatives ditto 20s. notary-public's ditto 20s. for any commission

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current, exhibited by any administrator, executor or guardian, or for search, copy and certificate of the same, if the estate be under one hundred pounds, 2s. if above, 4s. For every marriage licence and bond, 8s. For searching a record out of court, 1s. For proving or entering acknowledgment of a conveyance of lands, or other estate, and certifying the same, with order of registration and examination of a feme covert, without commission, 2s. For a commission to take the examination of a feme covert or witnesses in a case depending in court, entering the return thereon, and other necessary services, 2s. 4d. For guardian or other bond taken in court, including all services, 6s. For indentures for binding out apprentices, including all fees for every service necessary thereon, 6s. For a special verdict, or demurrer, or motion in arrest of judgment, 3s. For a writ of error or appeal, with a transcript of the record, and all services thereon, 8s. For making out certificates of witnesses' attendance, 8d. For recording a mark or brand, and granting a certificate thereof if required, 1s. And all other services done by the clerks of the county courts are hereby deemed *ex officio*, amongst which all notices or writs of *scire facias* against jurors shall be considered, and the respective courts may allow reasonable satisfaction for the same annually, out of the county tax, not exceeding 20l.

1787. C. 19. § 4. For every security by him taken for the plaintiff's prosecuting his suit or to pay costs, 2s. For entering the same, with the names of the security, in a book to be by him kept for that purpose, 2s.

1790. C. 15. § 4. For each petition for correcting error in a grant or mesne conveyance, 5s.

1792. *Resolution*. For affixing the seal to every instrument of writing that may require the same, 2s. 6d.

1792. C. 9. § 8. For every processioner's certificate recorded, to be paid by the proprietor of the land, 2s.

1796. C. 7. § 13. For every search of the entry-taker's book in his possession, 1s. For the copy of every location, 1s.

1797. C. 16. § 4. For issuing warrant, granting a certificate, and affixing the seal of the county thereto, as directed by 1796, c. 7, § 4, *Entries* 40, the sum of 4s. and no more.

1798. C. 18. For tavern licence and bond, and furnishing a copy of the tavern rates, 8s.

Register.

XV. 1784. C. 7. § 4. For every search, 8d. For registering every other instrument of writing than a deed on grant, 4s.

FEES.

1797. C. 15. § 1. For registering each deed or grant, where the conveyance is only for one tract of land, including the certificate thereof, 4s. If the deed be for the conveyance of two or more tracts, the sum of 4s. for the first tract, and 1s. for every other tract mentioned and described in said instrument, and in like manner for all copies executed by him.

Attorney General.

XVI. 1748. C. 2. § 1. For every indictment found or presentment made, 26s. 8d. If the bill be found ignoramus, then the prosecutor shall pay 13s. 4d.

County Solicitor.

XVII. 1784. C. 31. § 2. For prosecuting for the state, in any of the county courts in any matter civil or criminal, the same fees which are by law allowed to the attorney-general for the like services.

Solicitor-General.

XVIII. 1790. C. 3. § 7. The same allowances and fees as the Attorney-General.

Constable.

XIX. 1784. C. 7. § 5. For attendance of a constable every court when summoned by the sheriff, 8s. per day. For whipping a negro by order of court or any justice, 2s. 8d.

1794. C. 13. § 22. For serving every warrant to the constable or or other officer, for each person named therein, 4s. For summoning every witness 2s. For every execution, 4s. For every attachment levied, 5s. For every bail bond, 1s. Constable for serving any person who fails to give in his list of taxables in due time, 2s.

Coroner.

XX. 1784. C. 7. § 7. For attending on every inquest, 24s. and the same fees for discharging the duties of a sheriff as such sheriff would be entitled to by this act for performing the same service.

1803. C. 22. § 1. Whenever an inquest shall be held, that the treasurer of the county wherein the same may happen, shall pay off the cost and charges of the same out of the county monies.

Commissioner of Affidavits..

XXI. 1784. C. 13. § 3. For every affidavit taken and certified, 4s.

Attornies.

XXII. 1786. C. 14. § 4. For every suit in equity, 10l. For every suit in the superior courts, where the title of lands shall come in question, 5l. For all other suits originally

commenced in any of the said courts on the law side, 5l. In all appeals from any other court to the said superior courts, 5l. In all suits in the county courts where the title of lands come in question, 5l. In all other suits originally commenced in the said county courts, 2l. In every appeal from the judgment of a justice of the peace to the said county court, 20s.

Inspectors and Turners up of Tobacco.

XXIV. 1803. C. 22. § 1. For inspecting, turning up, coopering, finding nails, hoops, and issuing a note, for every waggon hogshead, 7s. and for each and every rolling hogshead, 8s. and no more.

Tobacco Pickers.

XXV. For every hundred weight picked and prized one fifteenth part.

Clerk and Master in Equity.

XXVI. 1787. C. 22. § 3. For a report on an answer, 3s. on a plea and answer, 4s. on a demurrer and answer, 4s. For an affidavit to an answer, 1s 6d ; For an affidavit to a bill, 1s 6d ; For a separate affidavit, 2s ; For a copy report by the office copy sheet, *containing ninety words*, 2s ; For copies of proceedings and exemplifications, copy sheet, 2s ; For taking a bond, 1s 6d ; For every rule given for service 2s 6d ; For every rule not for service, 1s 3d ; For every subpoena, writ or other process, 10s ; For every dedimus or commission, 5s 4d ; For every injunction, 10s ; For drawing decrees, 4s by the copy sheet ; For enrolling a bill or answer, 2s by the copy sheet ; For entering a plea or demurrer, 2s ; For recording depositions to perpetuate testimony by the copy sheet, 2s. For search, 1s. For every dismission, 2s.

1793. C. 16. § 9. For a report stating an account as much as the court may in discretion think adequate to the actual labor and trouble bestowed, not exceeding 25l. and the master shall in all cases give notice to the party liable to pay costs of the time that he will move the court to tax such costs as may arise on the reference of accounts.

Inspectors of other articles than Tobacco.

XXVII. 1791. C. 14. § 3. For each barrel of flour, 6d. 1791. C. 14. § 7. For every barrel of pork or beef, 1s. of rice or butter, 8d. of fish, 4d. of pitch or turpentine, 3d. each hundred of staves or heading, 3d. every thousand shingles, 3d. each thousand feet of boards, plank or scantling, 1s. each barrel of tar, 2d. And the fees of inspection shall in all instances be paid by the purchaser or exporter of the

EXHIBIT 20

ABRIDGMENT

now

OF THE

PUBLIC PERMANENT LAWS

OF

VIRGINIA.

THE REPEALING CLAUSES IN THE SEVERAL LAWS WHICH HAVE THEM, ARE REDUCIBLE TO A FEW FORMS, AND ARE ALIKE IN GENERAL. TO PREVENT THE SWELLING OF THE BOOK UNNECESSARILY, AND YET TO GIVE AT THE SAME TIME THE OPERATIVE WORDS OF EVERY LAW, REFERENCE IS MADE AT THE CLOSE OF EVERY LAW TO THE FORM OF REPEAL AS IT IS SET FORTH VERBATIM IN THE APPENDIX.

31729
EVERY ACT PASSED ON OR AFTER OCTOBER 19, 1792, IS TO BE UNDERSTOOD TO CONTAIN THE FOLLOWING CLAUSE OF COMMENCEMENT: "THIS ACT SHALL COMMENCE
"IN FORCE FROM AND AFTER THE PASSING
"THEREOF;" UNLESS ITS COMMENCEMENT SHALL BE PARTICULARLY EXPRESSED TO BE ON A DIFFERENT DAY, OR IN A DIFFERENT FORM. THOSE ACTS WHICH PASSED BEFORE THE 19th OF OCTOBER, 1792, AND COMMENCE THEIR OPERATION ON A DIFFERENT DAY FROM THE DAY OF THEIR PASSING, WILL BE SPECIFIED.

THE DATE PREFIXED TO EACH LAW IS THE DAY ON WHICH IT PASSED.

R I C H M O N D:

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1796

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X. The said court shall have power to appoint a clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the legislature may appoint, as also a serjeant at arms: And in case of a vacancy, in the recess of the said court, the said judge may make the like appointments under his hand and seal, during a vacation; and such succeeding clerk or serjeant, having, in any court of record, taken the oaths required by law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in term time. (a)

XI. It shall be lawful for the high court of chancery to send any matter of law to the general court, for their opinion to be certified thereupon. (b)

XII. Although any of the defendants, whether debtors or others, in any suit instituted in the said court, shall be absent from the commonwealth, the court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the commonwealth. (c)

XIII. The said court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that court, or in any other court whatsoever, as justice or convenience to the parties may require, and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the courts of chancery in Virginia. (d)

XIV. If a majority of the judges of the general court be interested in any suit, which in the case of any other person would have been proper for the jurisdiction of such court, it may be lawful to institute such suit in the high court of chancery, where proceedings shall be had conformably to the rules of the general court, and process shall be returnable as the high court of chancery shall direct; and thereafter an appeal may be entered to the court of appeals. (e)

XV. It shall be lawful for the said court to arrange the business thereof, in the most convenient and equitable manner. (f)

XVI. Any party thinking himself aggrieved by a decree of the court of a county, city, or borough, in chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the clerk of the high court of chancery, a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some counsel attending the high court of chancery, and also lodging with the petition a bond executed by the appellant or his agent, and a surety or sureties with the like condition as is annexed to other appeal bonds, and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a superedeas, if necessary, to enjoin from proceeding in execution of the decree; and the court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced. (g)

XVII. *Provided always*, That whenever an appeal is prayed for from any inferior court to the said high court of chancery, or bond is given for the removal of any suit in chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds. (h)

XVIII. The said court, or the judge thereof in vacation, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a superedeas to stop the execution of any decree pronounced by an inferior court, at any time within three years after pronouncing the same; the party praying such appeal and superedeas, complying with the terms which the said court or judge shall annex to such order. (i)

XIX. All original process to bring any person to answer any bill, petition or information in the said court, and all subsequent process thereupon, shall be issued and signed by

(a) O.S. 1777, c. 15, § 1. (b) 1788, c. 69. (c) 1787, c. 9. (d) O.S. 1783, c. 13, § 1. (e) 1788, c. 67, § 121. (f) 1788, c. 69. (g) May 1788, c. 7, § 1. (h) 1787, c. 9.

Tobacco—Towns, Corporations, and Cities.

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oters, to examine and ascertain the most eligible ground on the lands of the said John Lynch, whereon to erect an additional warehouse, and make report thereof to the county court of Amherst, who shall thereupon order and direct the dimensions of the house to be built by the said Lynch, at such place accordingly; and moreover are hereby authorized to take such measures therein for the purpose of effecting the said building as are prescribed by the fifth section of the act, intituled, "An act for reducing into one the several acts of Assembly, for the inspection of tobacco:" So soon as the said building shall be completed and received by the court of the said county, the same shall be held, deemed and taken, to all intents and purposes whatsoever, as united with and under the same inspection of Amherst warehouse.

December the 4th 1795—but commenced Jan. 1, 1796.

§ I. **W**HEREAS it hath been represented that the warehouses for the reception and inspection of tobacco, in the town of Alexandria, are no longer necessary, for that purpose:

II. The inspection of tobacco at the said place, shall be, and the same is hereby discontinued, and the lot and houses shall be re-vested in William Hepburn, and John Dundas, their heirs and assigns, in like manner as if the same had not been appropriated to public use: *Provided nevertheless*, That all the tobacco now remaining in the said warehouses, shall be from thence discharged according to law. Nothing in this act contained shall be construed or taken to affect or impair the legal right or title of any person or persons whatsoever to the said lot of ground or warehouses.

III. All and every act and acts, coming within the meaning of this act, is hereby repealed.

—♦♦♦♦—
TOWNS, CORPORATIONS, AND CITIES.

December the 11th, 1778.

§ I. **U**PON the death, removal out of the country, or other legal disability of any one or more of the trustees and directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following, that is to say: The surviving trustees and directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who within twenty days thereafter shall notify the same to the freeholders of the said town, in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a trustee in the room of the one so dying, removing, or disabled. The sheriff shall attend and take the poll at such election, entering the names of the persons voted for in a distinct column, and the name of every freeholder giving his vote under the name of the person he votes for; and when no freeholders appear to vote, the sheriff shall close the poll, and return the same to the next court to be held for his county, upon oath, certifying the name of the person elected, to be by the clerk recorded.

II. Every person elected in manner directed by this act, shall to all intents and purposes, be a trustee of the town for which he was chosen.

III. So much of all acts of assembly as are contrary to the purview and meaning of this act, are hereby repealed.

December the 10th, 1793—but commenced Jan. 1, 1794.

§ I. **W**HEREAS great inconveniences have arisen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to freedom, but are in fact slaves: For remedy whereof,

EXHIBIT 21

The CONSTITUTION and FORM of GOVERNMENT agreed to by the Delegates of Maryland in free and full Convention assembled.

1. **T**HAT the legislature consist of two distinct branches, a senate, and a house of delegates, which shall be styled the General Assembly of Maryland.
2. That the house of delegates shall be chosen in the following manner: All freemen above twenty-one years of age, having a freehold of fifty acres of land in the county in which they offer to vote, and residing therein, and all freemen having property in this state above the value of thirty pounds current money, and having resided in the county in which they offer to vote one whole year next preceding the election, shall have a right of suffrage in the election of delegates for such county; and all freemen so qualified shall, on the first Monday of October seventeen hundred and seventy-seven, and on the same day in every year thereafter, assemble in the counties in which they are respectively qualified to vote, at the court-house in the said counties, or at such other place as the legislature shall direct, and when assembled they shall proceed to elect, *viva voce*, four delegates for their respective counties, of the most wise, sensible, and discreet of the people, residents in the county where they are to be chosen one whole year next preceding the election, above twenty-one years of age, and having in the state real or personal property above the value of five hundred pounds current money, and upon the final casting of the polls the four persons who shall appear to have the greatest number of legal votes, shall be declared and returned duly elected for their respective county.
3. That the sheriff of each county, or in case of sickness, his deputy, (summoning two justices of the county, who are required to attend for the preservation of the peace) shall be judge of the election, and may adjourn from day to day, if necessary, till the same be finished, so that the whole election shall be concluded in four days; and shall make his return thereof, under his hand, to the chancellor of this state for the time being.

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threats to, or abuse of their members, or by any obstruction to their proceedings; they may also punish, by imprisonment, any person who shall be guilty of a breach of privilege, by arresting on civil process, or by assaulting, any of their members, during their sitting, or on their way to or return from the house of delegates, or by any assault of, or obstruction to their officers, in the execution of any order or process, or by assaulting or obstructing any witness, or any other person, attending on, or on their way to or from, the house, or by rescuing any person committed by the house; and the senate may exercise the same power, in similar cases.

13. That the treasurers (one for the western and another for the eastern shore) and the commissioners of the loan office may be appointed by the house of delegates during their pleasure, and in case of refusal, death, resignations, disqualification, or removal out of the state of any of the said commissioners or treasurers, in the recess of the general assembly, the governor, with the advice of the council, may appoint and commission a fit and proper person to such vacant office, to hold the same until the meeting of the next general assembly.

14. That the senate be chosen in the following manner: All persons, qualified as aforesaid to vote for county delegates, shall on the first Monday of September 1781, and on the same day in every fifth year for ever thereafter, elect *viva voce*, by a majority of votes, two persons for their respective counties, qualified as aforesaid to be elected county delegates, to be electors of the senate; and the sheriff of each county, or in case of sickness his deputy (summoning two justices of the county who are required to attend for the preservation of the peace) shall hold and be judge of the said election, and make return thereof as aforesaid. And all persons qualified as aforesaid to vote for delegates for the city of Annapolis and Baltimore town, shall on the same first Monday of September 1781, and on the same day in every fifth year forever thereafter, elect *viva voce*, by a majority of votes, one person for the said city and town respectively, qualified as aforesaid to be elected a delegate for the said city and town respectively; the said election to be held in the same manner as the election of delegates for the said city and town, the right to elect the said elector with respect to Baltimore town to continue as long as the right to elect delegates for the said town.

15. That the said electors of the senate meet at the city of Annapolis, or such other place as shall be appointed for convening

EXHIBIT 22

Founders Online

ADAMS' ARGUMENT FOR THE DEFENSE: 3–4 DECEMBER 1770

Adams' Argument for the Defense¹

3–4 December 1770

May it please your Honours and you Gentlemen of the Jury,

I am for the prisoners at the bar, and shall apologize for it only in the words of the Marquis *Beccaria*: “If I can but be the instrument of preserving one life, his blessing and tears of transport, shall be a sufficient consolation to me, for the contempt of all mankind.”² As the prisoners stand before you for their lives, it may be proper, to recollect with what temper the law requires we should proceed to this trial. The form of proceeding at their arraignment, has discovered that the spirit of the law upon such occasions, is conformable to humanity, to commonsense and feeling; that it is all benignity and candor. And the trial commences with the prayer of the Court, expressed by the Clerk, to the Supream JUDGE of Judges, empires and worlds: “God send you a good deliverance.”

We find, in the rules laid down by the greatest English Judges, who have been the brightest of mankind; We are to look upon it as more beneficial, that many guilty persons should escape unpunished, than one innocent person should suffer. The reason is, because it's of more importance to community, that innocence should be protected, than it is, that guilt should be punished; for guilt and crimes are so frequent in the world, that all of them cannot be punished; and many times they happen in such a manner, that it is not of much consequence to the public, whether they are punished or not. But when innocence itself, is brought to the bar and condemned, especially to die, the subject will exclaim, it is immaterial to me, whether I behave well or ill; for virtue itself, is no security. And if such a sentiment as this, should take place in the mind of the subject, there would be an end to all security what so ever. I will read the words of the law itself.

The rules I shall produce to you³ from Lord Chief Justice *Hale*, whose character as a lawyer, a man of learning and philosophy, and as a Christian, will be disputed by nobody living; one of the greatest and best characters, the English nation ever produced: his words are these. 2. H.H.P.C. *Tutius semper est errare, in acquietando, quam in puniendo, ex-parte misericordiae, quam ex parte justitiae*, it is always safer to err in acquitting, than punishing, on the part of mercy, than the part of justice. The next is from the same authority, 305 *Tutius erratur ex parte mitiori*, it is always safer to err on the milder side, the side of mercy, H.H.P.C. 509, the best rule in doubtful cases, is, rather to incline to acquittal than conviction: and in page 300 *Quod dubitas ne feceris*, Where you are doubtful never act; that is, if you doubt of the prisoners guilt, never declare him guilty; this is always the rule, especially in cases of life. Another rule from the same Author, 289, where he says, In some cases, presumptive evidence go far to prove a person guilty, though there is no express proof of the fact, to be committed by him; but then it must be very warily pressed, for it is better, five guilty persons should escape unpunished, than one innocent person should die.

The next authority shall be from another Judge, of equal character, considering the age wherein he lived; that is Chancellor *Fortescue*, in praise of the laws of England, page 59, this is a very ancient writer on the English law: his words are, “Indeed one would rather, much rather, that twenty guilty persons escape the punishment of death, than one innocent person be condemned, and suffer capitally.” Lord Chief Justice *Hale*, says, It is better five guilty persons escape, than one innocent person suffer. Lord Chancellor Fortescue, you see, carries the matter farther, and says, Indeed one had rather, much rather, that twenty guilty persons should escape, than one innocent person suffer capitally. Indeed this rule is not peculiar to the English law, there never was a system of laws in the world, in which this rule did not prevail; it prevailed in the ancient Roman law, and which is more remarkable, it prevails in the modern Roman law, even the judges in the Courts of Inquisition, who with racks, burnings and scourges, examine criminals, even there, they preserve it as a maxim, that it is better the guilty should escape punishment, than the innocent suffer. *Satius esse nocentem absolvi quam insentem damnari*,⁴ this is the

temper we ought to set out with; and these the rules we are to be governed by. And I shall take it for granted, as a first principle, that the eight prisoners at the bar, had better be all acquitted, though we should admit them all to be guilty, than, that any one of them should by your verdict be found guilty, being innocent.

I shall now consider the several divisions of law, under which the evidence will arrange it self.

The action now before you, is homicide; that is the killing of one man by another, the law calls it homicide, but it is not criminal in all cases, for one man to slay another. Had the prisoners been on the *Plains of Abraham*, and slain an hundred *Frenchmen* apiece, the *English* law would have considered it, as a commendable action, virtuous and prais[e]worthy: so that every instance of killing a man, is not a crime in the eye of the law; there are many other instances which I can not enumerate, an officer that executes a person under sentence of death, &c. So that Gentlemen, every instance of one man's killing another, is not a crime, much less a crime to be punished with death. But to descend to some more particulars.

The law divides homicide into three branches; the first, is justifiable, the second excusable, and the third felonious; felonious homicide, is subdivided into two branches; the first is murder, which is killing with malice aforethought, the second is manslaughter, which is killing a man on a sudden provocation: here Gentlemen, are four sorts of homicide, and you are to consider, whether all the evidence amounts to the first, second, third, or fourth of these heads. The fact, was the slaying five unhappy persons that night; you are to consider, whether it was justifiable, excusable, or felonious; and if felonious, whether it was murder or manslaughter. One of these four it must be, you need not divide your attention to any more particulars. I shall however, before I come to the evidence, show you several authorities, which will assist you and me in contemplating the evidence before us.

I shall begin with justifiable homicide; if an officer a sheriff execute a man on the gallows, draws and quarters him, as in case of high treason, and cuts off his head, this is justifiable homicide, it is his duty. So also, Gentlemen, the law has planted fences and barriers around every individual; it is a castle round every man's person, as well as his house. As the love of God and our neighbour, comprehends the whole duty of man, so self-love and social, comprehend all the duties we owe to mankind, and the first branch is self-love, which is not only our indisputable right, but our clearest duty, by the laws of nature, this is interwoven in the heart of every individual; God almighty, whose laws we cannot alter, has implanted it there, and we can annihilate ourselves, as easily as root out this affection for ourselves. It is the first, and strongest principle in our nature, Justice *Blackstone* calls it, "The primary cannon in the law of nature."⁵ That precept of our holy religion which commands us to love our neighbour as ourselves doth not command us to love our neighbour better than ourselves, or so well, no Christian Divine hath given this interpretation. The precept enjoins, that our benevolence to our fellow men, should be as real and sincere, as our affections to ourselves, not that it should be as great in degree. A man is authorised therefore by common sense, and the laws of England, as well as those of nature, to love himself better than his fellow subject: If two persons are cast away at sea, and get on a plank, (a case put by Sir Francis *Bacon*,) and the plank is insufficient to hold them both, the one hath a right to push the other off to save himself.⁶ The rules of the common law therefore, which authorize a man to preserve his own life at the expence of another's, are not contradicted by any divine or moral law. We talk of liberty and property, but, if we cut up the law of self-defence, we cut up the foundation of both, and if we give up this, the rest is of very little value, and therefore, this principle must be strictly attended to, for whatsoever the law pronounces in the case of these eight soldiers will be the law, to other persons and after ages, all the persons that have slain mankind in this country, from the beginning to this day, had better have been acquitted, than that a wrong rule and precedent should be established.

I shall now, read to you a few authorities on this subject of self-defence. Foster 273 in the case of justifiable self-defence, "The injured party may repell force with force in defence of his person, habitation, or property, against one who manifestly intendeth and endeavoureth with violence, or surprize, to commit a known felony upon either." In these cases he is not obliged to retreat, but may pursue his adversary, till he findeth himself out of danger, and if in a conflict between them he happeneth to kill, such killing is justifiable. Keiling, 128, 129.⁷ I must in treat you, to consider the words of this authority, the injured person may repell force by force against any who endeavours to commit any kind of felony on him or his, here the rule is, I have a right to stand on my own defence, if you intend to commit felony; if any of the persons made an attack on these soldiers, with an intention to rob them, if it was but to take their hats feloniously, they had a right to kill them on the spot, and had no business to retreat; if a robber meets me in the street, and commands me to surrender my purse, I have a right to kill him without asking questions; if a person⁸ commits a bare assault on me, this will not justify killing, but if he assaults me in such a manner, as to discover an intention, to kill me, I have a right to destroy him, that I may put it out of his power to kill

me. In the case you will have to consider, I do not know there was any attempt to steal from these persons; however, there were some persons concerned, who would probably enough have stolen, if there had been any thing to steal; and many were there who had no such disposition, but this is not the point we aim at, the question is, are you satisfied, the people made the attack in order to kill the soldiers? If you are satisfied that the people, who ever they were, made that assault, with a design to kill or maim the soldiers, this was such an assault, as will justify the soldiers killing in their own defence. Further it seems to me, we may make another question, whether you are satisfied that their real intention was to kill or maim or not? if any reasonable man, in the situation of one of these soldiers, would have had reason to believe in the time of it, that the people came with an intention to kill him, whether you have this satisfaction now, or not in your own minds, they were justifiable, at least excusable in firing; you and I, may be suspicious that the people who made this assault on the soldiers, did it to put them to the flight, or purpose that they might go exulting about the town afterwards in triumph; but this will not do, you must place yourselves in the situation of *Wemms* or *Killroy*— consider yourselves, as knowing that the prejudices of the world about you, were against you; that the people about you, thought you came to dragoon them into obedience to statutes, instructions, mandates and edicts, which they thoroughly detested; that many of these people were thoughtless and inconsiderate, old and young, sailors and land men, negroes and molattos; that they, the soldiers had no friends about them, the rest were in opposition to them; with all the bells ringing, to call the town together to assist the people in *King-street*; for they knew by that time, that there was no fire; the people shouting, huzzaing, and making the mob whistle as they call it, which when a boy makes it in the street, is no formidable thing, but when made by a multitude, is a most hideous shriek, almost as terrible as an Indian yell; the people crying Kill them! Kill them! Knock them over! heaving snow-balls, oyster shells, clubs, white birch sticks three inches and an half diameter, consider yourselves, in this situation, and then judge, whether a reasonable man in the soldiers situation, would not have concluded they were going to kill him. I believe, if I was to reverse the scene, I should bring it home to our own bosoms; suppose Colonel *Marshall*, when he came out of his own door, and saw these grenadiers coming down with swords, &c. had thought it proper to have appointed a military watch; suppose he had assembled *Gray* and *Attucks* that were killed, or any other persons in town, and had planted them in that station as a military watch, and there had come from *Murray's* barracks, thirty or forty soldiers, with no other arms than snow-balls, cakes of ice, oyster-shells, cinders and clubs, and attacked this military watch in this manner, what do you suppose would have been the feelings and reasonings of any of our householders; I confess I believe they would not have borne the one half of what the witnesses have sworn the soldiers bore, till they had shot down as many as were necessary to intimidate and disperse the rest; because, the law does not oblige us to bear insults to the danger of our lives, to stand still with such a number of people round us, throwing such things at us, and threatening our lives, until we are disabled to defend ourselves.

“Where a known felony, is attempted upon the person, be it to rob, or murder, here the party assaulted may repel force with force, and even his own servant then attendant on him, *or any other person present*, may interpose for preventing mischief, and if death ensues, the party so interposing will be justified. In this case nature and social duty co-operate.” Foster 274.⁹

Hawkins P.C. Chap. 28, §25. towards the end, “Yet it seems that a private person, *a fortiori*, an officer of justice, who happens unavoidably to kill another in endeavouring to defend himself from, or suppress dangerous rioters, may justify the fact, in as much as he only does his duty in aid of the public justice.”¹⁰ Section 24. “And I can see no reason why a person, who without provocation is assaulted by another in any place whatsoever, in such a manner as plainly shews an intent to murder him, as by discharging a pistol, or pushing at him with a drawn sword, &c. may not justify killing such an assailant, as much as if he had attempted to rob him: For is not he who attempts to murder me, more injurious than he who barely attempts to rob me? And can it be more justifiable to fight for my goods than for my life; and it is not only highly agreeable to reason that a man in such circumstances, may lawfully kill another, but it seems also to be confirmed by the general tenor of our law books, which speaking of homicide *se defendendo*, suppose it done in some quarrel or affray.”¹¹

“And so perhaps the killing of dangerous rioters, may be justified by any private persons, who cannot otherwise suppress them, or defend themselves from them; in as much as every private person seems to be authorized by the law, to arm himself for the purposes aforesaid.” Hawkins p. 71. §14¹²—Here every private person is authorized to arm himself, and on the strength of this authority, I do not deny the inhabitants had a right to arm themselves at that time, for their defence, not for offence, that distinction is material and must be attended to.

Hawkins, page 75. §14. “And not only he who on an assault retreats to the wall or some such streight, beyond which he can go no further, before he kills the other, is judged by the law to act upon unavoidable necessity; but also he who being assaulted in such a manner, and in such a place, that he cannot go back without manifestly endangering his life, kills the other without retreating at all.”¹³—§16. “And an officer who kills one that insults him in the execution of his office, and where a private person, that kills one who feloniously assaults him in the high way, may justify the fact without ever giving back at all.”¹⁴

There is no occasion for the Magistrate to read the Riot act. In the case before you, I suppose you will be satisfied when you come to examine the witnesses, and compare it with the rules of the common law, abstracted from all mutiny acts and articles of war, that these soldiers were in such a situation, that they could not help themselves; people were coming from *Royal-exchange-lane*, and other parts of the town, with clubs, and cord wood sticks; the soldiers were planted by the wall of the *Custom House*; they could not retreat, they were surrounded on all sides, for there were people behind them, as well as before them; there were a number of people in *Royal-exchange-lane*; the soldiers were so near to the *Custom house*, that they could not retreat, unless they had gone into the brick wall of it. I shall shew you presently, that all the party concerned in this unlawful design, were guilty of what any one of them did; if any body threw a snow-ball, it was the act of the whole party; if any struck with a club, or threw a club, and the club had killed any body, the whole party would have been guilty of murder in law.

Ld. C.J. HOLT, in *Mawgridge’s Case*, Keyling 128, says, “Now it hath been held, that if A of his malice premeditated assaults B, to kill him, and B draws his sword and attacks A and pursues him, then A for his safety gives back, and retreats to a wall, and B still pursuing him with his drawn sword, A in his defence kills B. This is murder in A. For A having malice against B, and in pursuance thereof endeavouring to kill him, is answerable for all the consequences, of which he was the original cause. It is not reasonable for any man that is dangerously assaulted, and when he perceives his life in danger from his adversary, but to have liberty for the security of his own life, to pursue him that maliciously assaulted him; for he that hath manifested that he hath malice against another, is not fit to be trusted with a dangerous weapon in his hand. And sore solved by all the Judges when they met at Seargeant’s inn, in preparation for my *Lord Morley’s* trial.”¹⁵

In the case here, we will take *Montgomery*, if you please, when he was attacked by the stout man with the stick, who aimed it at his head, with a number of people round him, crying out, Kill them! Kill them! had he not a right to kill the man. If all the party were guilty of the assault made by the stout man, and all of them had discovered malice in their hearts, had not *Montgomery* a right, according to Lord Chief Justice *Holt*, to put it out of their power to wreak their malice upon him. I will not at present, look for any more authorities in the point of self-defence; you will be able to judge from these, how far the law goes, in justifying or excusing any person in defence of himself, or taking away the life of another who threatens him, in life or limb; the next point is this, That in case of an unlawful assembly, all and every one of the assembly is guilty of all and every unlawful act, committed by any one of that assembly, in prosecution of the unlawful design they set out upon.

Rules of law should be universally known, what ever effect they may have on politics; they are rules of common law, the law of the land, and it is certainly true, that where ever there is an unlawful assembly, let it consist of many persons or a few, everyman in it is guilty of every unlawful act committed by any one of the whole party, be they more or be they less, in pursuance of their unlawful design. This is the policy of the law: to discourage and prevent riots, insurrections, turbulence and tumults.

In the continual vicissitudes of human things, amidst the shocks of fortune and the whirls of passion, that take place at certain critical seasons, even in the mildest government, the people are liable to run into riots and tumults. There are Church-quakes and state-quakes, in the moral and political world, as well as earthquakes, storms and tempests in the physical. Thus much however must be said in favour of the people and of human nature, that it is a general, if not universal truth, that the aptitude of the people to mutinies, seditions, tumults and insurrections, is in direct proportion to the despotism of the government. In governments completely despotic, *i.e.* where the will of one man, is the only law, this disposition is most prevalent.—In Aristocracies, next—in mixed Monarchies, less than either of the former—in compleat Republick’s the least of all—and under the same form of government as in a limited monarchy, for example, the virtue and wisdom of the administration, may generally be measured by the peace and order, that are seen among the people. However this may be, such is the imperfection of all things in this world, that no form of government, and perhaps no wisdom or virtue in the administration, can at all times avoid riots and disorders among the people.

Now it is from this difficulty, that the policy of the law hath framed such strong discouragements, to secure the people against tumults; because when they once begin, there is danger of their running to such excesses, as will overturn the whole system of government. There is the rule from the reverend sage of the law, so often quoted before.

I. H.H.P.C. 437. “All present, aiding and assisting, are equally principal with him that gave the stroke, whereof the party died. For tho’ one gave the stroke, yet in interpretation of law, it is the stroke of every person, that was present aiding and assisting.”¹⁶

I. H.H.P.C. 440. “If divers come with one assent to do mischief, as to kill, rob, or beat, and one doth it, they are all principals in the felony. If many be present, and one only gives the stroke whereof the party dies, they are all principal, if they came for that purpose.”¹⁷

Now if the party at *Dock-square*, came with an intention only to beat the soldiers, and began the affray with them, and any of them had been accidentally killed, it would have been murder, because it was an unlawful design they came upon; if but one does it, they are all considered in the eye of the law to be guilty, if any one gives the mortal stroke, they are all principal here, therefore there is a reversal of the scene; if you are satisfied, that these soldiers were there on a lawful design and it should be proved any of them shot without provocation and killed any body, he only is answerable for it. First Hale’s pleas of the crown.

1. H.H.P.C. 444. “Although if many come upon an unlawful design, and one of the company kill one of the adverse party, in pursuance of that design, all are principals; yet if many be together upon a lawful account, and one of the company, kill another of an adverse party, without any particular abetment of the rest to this fact of homicide they are not all guilty that are of the company, but only those that gave the stroke or actually abetted him to do it.”¹⁸

1. H.H.P.C. 445. “In the case of a riotous assembly to rob or steal deer, or do any unlawful act of violence, there the offence of one, is the offence of all the company.”¹⁹

In another place, 1. H.H.P.C. 439. “The *Lord Dacre* and divers others went to steal deer in the park of one Pelham—Raydon one of the company, killed the keeper in the park; the *Lord Dacre* and the rest of the company being in the other part of the park. Yet it was adjudged murder in them all, and they died for it.”²⁰ And he quotes Crompton, 25. Dalton 93 p. 241.²¹ So that in so strong a case as this, where this nobleman set out to hunt deer in the ground of another, he was in one part of the park, his company in another part, yet they were all guilty of murder.

The next is *Hale’s Pleas of the Crown*, 1. H.H.P.C. 440, “The case of *Drayton Bassit*, diverse persons doing an unlawful act, all are guilty of what is done by one.”²²

Foster, 353, 354. “A general resolution against all opposers, whether such resolution appears upon evidence to have been actually and implicitly entered into by the confederates, or may reasonably be collected from their number, arms or behaviour, at, or before the scene of action, such resolutions, so proved, have always been considered as strong ingredients in cases of this kind. And in cases of homicide, committed in consequence of them, every person present; in the sense of the law, when the homicide hath been committed, hath been involved in the guilt of him that gave the mortal blow.”²³

Foster. “The cases of *Lord Dacre* mentioned by *Hale*, and of *Pudsey*, reported by *Crompton*, and cited by *Hale*, turned upon this point. The offences they respectively stood charged with as principals, were committed far out of their sight and hearing; and yet both were held to be present. It was sufficient, that at the instant the facts were committed, they were of the same party and upon the same pursuit, and under the same engagements and expectations of mutual defence and support, with those that did the facts.”²⁴

Thus far I have proceeded, and I believe it will not be hereafter disputed by any body, that this law ought to be known to every one who has any disposition to be concerned in an unlawful assembly, whatever mischief happens in the prosecution of the design they set out upon, all are answerable for it. It is necessary we should consider the definitions of some other crimes, as well as murder; sometimes one crime gives occasion to another, an assault is sometimes the occasion of man-slaughter, sometimes of excusable homicide. It is necessary to consider what is a riot. 1. *Hawk*. c. 65. §2. I shall give you the definition of it. “Where so ever more than three persons use force or violence, for the accomplishment of any design whatever, all concerned are rioters.”²⁵

Were there not more than three persons in *Dock-square*? Did they not agree to go to *King-street*, and attack the *Main guard*? Where then, is the reason for hesitation, at calling it a riot? If we cannot speak the law as it is, where is our liberty? And this is law, that wherever more than three persons, are gathered together, to accomplish any thing with force, it is a riot. 1. *Hawk*. c. 65, §2. "Wherever more than three, use force and violence, all who are concerned therein are rioters: But in some cases wherein the law authorizes force, it is lawful and commendable to use it. As for a sheriff, 2. *And*. 67. *Poph*. 121. or constable, 3 *H*. 7. 10. 6. or perhaps even for a private person, *Poph*. 121. *Moore*, 656. to assemble a competent number of people, in order with force, to oppose rebels, or enemies, or rioters, and afterwards with such force, actually to suppress them." ²⁶

I do not mean to apply the word rebel on this occasion: I have no reason to suppose that ever there was one in *Boston*, at least among the natives of the country; but rioters are in the same situation, as far as my argument is concerned, and proper officers may suppress rioters, and so may even private persons.

If we strip ourselves free from all military laws, mutiny acts, articles of war and soldiers oaths, and consider these prisoners as neighbours, if any of their neighbours were attacked in *King-street*, they had a right to collect together to suppress this riot and combination. If any number of persons meet together at a fair, or market, and happen to fall together by the ears, they are not guilty of a riot, but of a sudden affray: here is another paragraph which I must read to you, 1. *Hawkins*, c. 65, §3, "If a number of persons, being met together at a fair or market, or on any other *lawful* and *innocent* occasion, happen on a sudden quarrel, to fall together by the ears, they are not guilty of a riot, but of a sudden affray only, of which none are guilty, but those who actually engage in it," &c. ²⁷ End of the §. It would be endless, as well as superfluous, to examine, whether every particular person engaged in a riot, were in truth one of the first assembly, or actually had a previous knowledge of the design thereof. ²⁸

I have endeavoured to produce the best authorities, and to give you the rules of law in their words, for I desire not to advance any thing of my own. I chuse to lay down the rules of law, from authorities which cannot be disputed. Another point is this, whether, and how far, a private person may aid another in distress? Suppose a press gang should come on shore in this town, and assault any sailor, or householder in *King street*, in order to carry them on board one of his Majesty's ships and impress him without any warrant, as a seaman in his Majesty's service, how far do you suppose the inhabitants would think themselves warranted by law, to interpose against that lawless press gang? I agree that such a press gang would be as unlawful an assembly, as that was in *King street*. If they were to press an inhabitant, and carry him off for a sailor, would not the inhabitants think them-selves warranted by law to interpose in behalf of their fellow citizens? Now Gentlemen, if the soldiers had no right to interpose in the relief of the Sentry, the inhabitants would have no right to interpose with regard to the citizen, for whatever is law for a soldier, is law for a sailor, and for a citizen, they all stand upon an equal footing, in this respect. I believe we shall not have it disputed, that it would be lawful to go into *King-street*, and help an honest man there, against the press master. We have many instances in the books which authorize it, which I shall produce to you presently.

Now suppose you should have a jealousy in your minds, that the people who made this attack on the Sentry, had nothing in their intention more than to take him off his post, and that was threatened by some; suppose they intended to go a little farther, and tar and feather him, or to ride him, (as the phrase is in *Hudibras*) ²⁹ he would have a good right to have stood upon his defence, the defence of his liberty, and if he could not preserve that without hazard to his own life, he would be warranted, in depriving those of life, who were endeavouring to deprive him of his; that is a point I would not give up for my right hand, nay, for my life.

Well, I say, if the people did this, or if this was only their intention, surely the officer and soldiers had a right to go to his relief, and therefore they set out upon a lawful errand, they were therefore a lawful assembly, if we only consider them as private subjects and fellow citizens, without regard to Mutiny Acts, Articles of War, or Soldiers Oaths; a private person, or any number of private persons, have a right to go to the assistance of their fellow subject in distress and danger of his life, when assaulted and in danger from a few or a multitude. *Keyl*. 136. "If a man perceives another by force to be injuriously treated, pressed and restrained of his liberty, tho' the person abused doth not complain, or call for aid or assistance; and others out of compassion shall come to his rescue, and kill any of those that shall so restrain him, that is manslaughter. *Keyl*. A and others without any warrant, impress B to serve the King at sea, B quietly submitted and went off with the press master; *Hugett* and the others pursued them, and required a sight of their warrant; but they shewing a piece of paper that was not a sufficient warrant, thereupon *Hugett* with the others drew their swords, and the press masters theirs, and so there was a combat, and

those who endeavoured to rescue the pressed man killed one of the pretended press masters. This was but manslaughter, for when the liberty of one subject is invaded, it affects all the rest: it is a provocation to all people, as being of ill example and pernicious consequences.”³⁰

2. Lord *Raymond*, 1301. The Queen *versus* Tooley *et alios*, Lord Chief Justice *Holt* says, 3d. “The prisoner (*i.e.* Tooley) in this case had sufficient provocation; for if one be imprisoned upon an unlawful authority, it is a sufficient provocation to all people out of compassion;—and where the liberty of the subject is invaded, it is a provocation to all the subjects of England, &c. and sure a man ought to be concerned for magna charta and the laws; and if any one against the law imprisons a man, he is an offender against magna charta.”³¹

I am not insensible of Sir *Michael Foster’s* observations on these cases,³² but apprehend they do not invalidate the authority of them as far as I now apply them to the purpose of my argument. If a stranger, a mere fellow subject may interpose to defend the liberty, he may to defend the life of another individual. But according to the evidence, some imprudent people before the Sentry, proposed to take him off his post, others threatened his life, and intelligence of this was carried to the *Main-guard*, before any of the prisoners turned out: They were then ordered out to relieve the Sentry, and any of our fellow citizens might lawfully have gone upon the same errand; they were therefore a lawful assembly.

I have but one point more of law to consider, and that is this: In the case before you, I do not pretend to prove that every one of the unhappy persons slain, were concerned in the riot; the authorities read to you just now, say, it would be endless to prove, whether every person that was present and in a riot, was concerned in planning the first enterprise or not: nay, I believe it but justice, to say, some were perfectly innocent of the occasion, I have reason to suppose, that one of them was, Mr. *Maverick*; he was a very worthy young man, as he has been represented to me, and had no concern in the riotous proceedings of that night; and I believe the same may be said, in favour of one more, at least, Mr. *Caldwell* who was slain; and therefore many people may think, that as he, and perhaps another was innocent, therefore innocent blood having been shed, that must be expiated by the death of somebody or other. I take notice of this, because one gentleman nominated by the sheriff, for a Juryman upon this trial, because he said, he believed Capt. *Preston* was innocent, but innocent blood had been shed, and therefore somebody ought to be hanged for it, which he thought was indirectly giving his opinion in this cause.³³ I am afraid many other persons have formed such an opinion; I do not take it to be a rule, that where innocent blood is shed, the person must die. In the instance of the *Frenchmen* on the *Plains of Abraham*, they were innocent, fighting for their King and country, their blood is as innocent as any, there may be multitudes killed, when innocent blood is shed on all sides, so that it is not an invariable rule. I will put a case, in which, I dare say, all will agree with me: Here are two persons, the father and the son, go out a hunting, they take different roads, the father hears a rushing among the bushes, takes it to be game, fires and kills his son through a mistake; here is innocent blood shed, but yet nobody will say the father ought to die for it. So that the general rule of law, is, that whenever one person hath a right to do an act, and that act by any accident, takes away the life of another, it is excusable, it bears the same regard to the innocent as to the guilty. If two men are together, and attack me, and I have a right to kill them, I strike at them, and by mistake, strike a third and kill him, as I had a right to kill the first, my killing the other, will be excusable, as it happened by accident. If I in the heat of passion, aim a blow at the person who has assaulted me, aiming at him, I kill another person, it is but manslaughter. *Foster*, 261. §3. “If an action unlawful in itself be done deliberately and with intention of mischief or great bodily harm to particulars, or of mischief indiscriminately, fall it where it may, and death ensues against or beside the original intention of the party, it will be murder. But if such mischievous intention doth not appear, which is matter of fact and to be collected from circumstances, and the act was done heedlessly and inconsiderately, it will be manslaughter: not accidental death, because the act upon which death ensued, was unlawful.”³⁴

“Under this head, &c. [*See the remainder inserted in pages*] 145, 146³⁵

Supposing in this case, the Molatto man was the person made the assault, suppose he was concerned in the unlawful assembly, and this party of soldiers endeavouring to defend themselves against him, happened to kill another person who was innocent, though the soldiers had no reason that we know of, to think any person there, at least of that number who were crouding about them innocent, they might naturally enough presume all to be guilty of the riot and assault, and to come with the same design; I say, if on firing on these who were guilty, they accidentally killed an innocent person, it was not their faults, they were obliged to defend themselves against those who were pressing upon them, they are not answerable for it with their lives, for upon supposition it was justifiable or excusable to kill *Attucks* or any other person, it will be equally justifiable

or excusable if in firing at him, they killed another who was innocent, or if the provocation was such as to mitigate the guilt to manslaughter, it will equally mitigate the guilt, if they killed an innocent man un-designedly, in aiming at him who gave the provocation, according to Judge *Foster*,³⁶ and as this point is of such consequence, I must produce some more authorities for it. 1. *Hawkins*, 84. “Also, if a third person accidentally happen to be killed, by one engaged in a combat with another upon a sudden quarrel, it seems that he who kills him is guilty of manslaughter only.”³⁷ H.H.P.C. 442.³⁸ To the same point, and 1. H.H.P.C. 484³⁹ and 4 *Black*. 27.⁴⁰

I shall now consider one question more, and that is concerning provocation.*⁴¹ We have hitherto been considering self-defence, and how far persons may go in defending themselves against aggressors, even by taking away their lives, and now proceed to consider, such provocations as the law allows to mitigate or extenuate the guilt of killing, where it is not justifiable or excusable.

An assault and battery, committed upon a man, in such a manner as not to endanger his life, is such a provocation as the law allows to reduce killing, down to the crime of manslaughter. Now the law has been made on more consideration than we are capable of making at present; the law considers a man as capable of bearing any thing, and every thing, but blows. I may reproach a man as much as I please, I may call him a thief, robber, traitor, scoundrel, coward, lobster, bloody back, &c. and if he kills me it will be murder, if nothing else but words preceed; but if from giving him such kind of language, I proceed to take him by the nose, or fillip him on the forehead, that is an assault! that is a blow; the law will not oblige a man to stand still and bear it; there is the distinction; hands off, touch me not, as soon as you touch me, if I run you thro’ the heart it is but Manslaughter; the utility of this distinction, the more you think of it, the more you will be satisfied with it; it is an assault when ever a blow is struck, let it be ever so slight, and sometimes even without a blow. The law considers man as frail and passionate, when his passions are touched, he will be thrown off his guard, and therefore the law makes allowances for this frailty, considers him as in a fit of passion, not having the possession of his intellectual faculties, and therefore does not oblige him to measure out his blows with a yard stick, or weigh them in a scale; let him kill with a sword, gun or hedge stake, it is not murder, but only manslaughter. Keyling’s Reports 135. *Regina versus Mawgri[d]ge*. “Rules supported by authority and general consent, shewing what are always allowed to be sufficient provocations. First, if one man, *upon any words shall make an assault* upon another, either by *pulling him by the nose, or filliping upon the forehead*, and he that is so assaulted, shall draw his sword, and immediately run the other through, that is but manslaughter; for the peace is broken by the person killed, and with an indignity to him that received the assault. Besides, he that was so affronted might reasonably apprehend, that he that treated him in that manner, might have some further design upon him.”⁴² So that here is the boundary, when a man is assaulted, and kills in consequence of that assault, it is but manslaughter; I will just read as I go along the definition of an assault, 1. *Hawkins* Chap. 62, §1. “An assault is an attempt or offer, with force or violence, to do a co[r]poral hurt to another; as by striking at him, with or without a weapon, or presenting a gun at him, at such a distance to which the gun will carry, or pointing a pitchfork at him, or by any other such like act done in an angry, threatening manner, &c. But no words can amount to an assault.”⁴³ Here is the definition of an assault, which is a sufficient provocation to soften killing down to manslaughter, 1. *Hawkins*, Chap. 31, §36. “Neither can he be thought guilty of a greater crime (than manslaughter) who finding a man in bed with his wife, or being actually *struck by him, or pulled by the nose, or filliped upon the forehead*, immediately kills him, or in the defence of his person from an unlawful arrest; or in the defence of his house, from those who claiming a title to it, attempt forcibly to enter it, and to that purpose shoot at it, &c.”⁴⁴ Every snow-ball, oyster shell, cake of ice, or bit of cinder that was thrown that night, at the Sentinel, was an assault upon him; every one that was thrown at the party of soldiers, was an assault upon them, whether it hit any of them or not. I am guilty of an assault, if I present a gun at any person, whether I shoot at him or not, it is an assault, and if I insult him in that manner, and he shoots me, it is but manslaughter. *Foster*, 295, 6. “To what I have offered with regard to sudden rencounters, let me add, that the blood, already too much heated, kindleth afresh at every pass or blow. And in the tumult of the passions, in which mere instinct self preservation, hath no inconsiderable share, the voice of reason is not heard. And therefore, the law in condensation to the infirmities of flesh and blood doth extenuate the offence.”⁴⁵ Insolent, scurrilous, or slanderous language, when it preceeds an assault, aggravates it. *Foster* 316. “We all knew [*know*] that words of reproach, how grating and offensive soever, are in the eye of the law, no provocation, in the case of voluntary homicide, and yet every man who hath considered the human frame, or but attended to the workings of his own heart, knoweth, that affronts of that kind, pierce deeper, and stimulate in the veins more effectually, than a slight injury done to a third person, tho’ under colour of justice, possibly can.”⁴⁶ I produce this to

show the assault, in this case, was aggravated by the scurrilous language which preceeded it. Such words of reproach, stimulate in the veins, and exasperate the mind, and no doubt if an assault and battery succeeds them, killing under such a provocation, is softened to manslaughter, but, killing without such provocation, makes it murder.

FIVE o'Clock, P.M. the Court adjourned till *Tuesday* morning [4 December], nine o'Clock.

Tuesday, NINE o'Clock, the Court met according to adjournment, and Mr. ADAMS proceeded.

May it please your Honours, and you Gentlemen of the Jury,

I yesterday afternoon produced from the best authorities, those rules of law which must govern all cases of homicide, particularly that which is now before you; it now remains to consider the evidence, and see whether any thing has occurred, that may be compared to the rules read to you; and I will not trouble myself nor you with laboured endeavours to be methodical, I shall endeavour to make some few observations, on the testimonies of the witnesses, such as will place the facts in a true point of light, with as much brevity as possible; but I suppose it would take me four hours to read to you, (if I did nothing else but read) the minutes of evidence that I have taken in this trial. In the first place the Gentleman who opened this cause, has stated to you, with candour and precision, the evidence of the identity of the persons.

The witnesses are confident that they know the prisoners at the barr, and that they were present that night, and of the party; however, it is apparent, that witnesses are liable to make mistakes, by a single example before you. Mr. *Bass*, who is a very honest man, and of good character, swears positively that the tall man, *Warren*, stood on the right that night, and was the first that fired; and I am sure you are satisfied by this time, by many circumstances, that he is totally mistaken in this matter; this you will consider at your leisure. The witnesses in general did not know the faces of these persons before; very few of them knew the names of them before, they only took notice of their faces that night. How much certainty there is in this evidence, I leave you to determine.

There does not seem to me to be any thing very material in the testimony of Mr. *Aston*,⁴⁷ except to the identity of *McCauley*, and he is the only witness to that. If you can be satisfied in your own minds, without a doubt, that he knew *McCauley* so well as to be sure, you will believe he was there.

The next witness is *Bridgham*, he says he saw the tall man *Warren*, but saw another man belonging to the same regiment soon after, so like him, as to make him doubt whether it was *Warren* or not; he thinks he saw the *Corporal*, but is not certain, he says he was at the corner of the *Custom house*, this you will take notice of, other witnesses swear, he was the remotest man of all from him who fired first, and there are other evidences who swear the left man did not fire at all; if *Wemms* did not discharge his gun at all, he could not kill any of the persons, therefore he must be acquitted on the fact of killing; for an intention to kill, is not murder nor manslaughter, if not carried into execution: The witness saw numbers of things thrown, and he saw plainly sticks strike the guns, about a dozen persons with sticks, gave three cheers, and surrounded the party, and struck the guns with their sticks several blows: This is a witness for the crown, and his testimony is of great weight for the prisoners; he gives his testimony very sensibly and impartially. He swears positively, that he not only saw ice or snow thrown, but saw the guns struck several times; if you believe this witness, of whose credibility you are wholly the judges, as you are of every other; if you do not believe him, there are many others who swear to circumstances in favour of the prisoners; it should seem impossible you should disbelieve so great a number, and of crown witnesses too, who swear to such variety of circumstances that fall in with one another so naturally to form our defence; this witness swears positively, there were a dozen of persons with clubs, surrounded the party; twelve sailors with clubs, were by much an overmatch to eight soldiers, chained there by the order and command of their officer, to stand in defence of the Sentry, not only so, but under an oath to stand there, *i.e.* to obey the lawful command of their officer, as much, Gentlemen of the Jury, as you are under oath to determine this cause by law and evidence; clubs they had not, and they could not defend themselves with their bayonets against so many people; it was in the power of the sailors to kill one half or the whole of the party, if they had been so disposed; what had the soldiers to expect, when twelve persons armed with clubs, (sailors too, between whom and soldiers, there is such an antipathy, that they fight as naturally when they meet, as the elephant and Rhinoceros) were daring enough, even at the time when they were loading their guns, to come up with their clubs, and smite on their guns; what had eight soldiers to expect from such a set of people? Would it have been a prudent resolution in them, or in any body in their situation, to have stood still, to see if the sailors would knock their brains out, or not? Had they not all the reason in the world to think, that as they had done so much, they would proceed farther? Their clubs were as capable of killing as a ball, an hedge stake is known in the law books as a weapon of death, as much as a sword, bayonet, or musket. He says, the soldiers were

loading their guns, when the twelve surrounded them, the people went up to them within the length of their guns, and before the firing; besides all this he swears, they were called cowardly rascals, and dared to fire; he says these people were all dressed like sailors; and I believe, that by and bye you will find evidence enough to satisfy you, these were some of the persons that came out of *Dock-square*, after making the attack on *Murray's barracks*, and who had been arming themselves with sticks from the butchers stalls and cord wood piles, and marched up round *Corn-hill* under the command of *Attucks*. All the bells in town were ringing, the ratling of the blows upon the guns he heard, and swears it was violent; this corroborates the testimony of *James Bailey*, which will be considered presently. Some witnesses swear a club struck a soldier's gun, *Bailey* swears a man struck a soldier and knocked him down, before he fired, "the last man that fired, levelled at a lad, and moved his gun as the lad ran." You will consider, that an intention to kill is not murder; if a man lays poison in the way of another, and with an express intention that he should take it up and die of it, it is not murder: Suppose that soldier had malice in his heart, and was determined to murder that boy if he could, yet the evidence clears him of killing the boy, I say admit he had malice in his heart, yet it is plain he did not kill him or any body else, and if you believe one part of the evidence, you must believe the other, and if he had malice, that malice was ineffectual; I do not recollect any evidence that ascertains who it was that stood the last man but one upon the left, admitting he discovered a temper ever so wicked, cruel and malicious, you are to consider his ill temper is not imputable to another, no other had any intention of this deliberate kind, the whole transaction was sudden, there was but a very short space of time between the first gun and the last, when the first gun was fired the people fell in upon the soldiers and laid on with their weapons with more violence, and this served to encrease the provocation, and raised such a violent spirit of revenge in the soldiers, as the law takes notice of, and makes some allowance for, and in that fit of fury and madness, I suppose he aimed at the boy.

The next witness is *Dodge*, he says, there were fifty people near the soldiers pushing at them; now the witness before says, there were twelve sailors with clubs, but now here are fifty more aiding and abetting of them, ready to relieve them in case of need; now what could the people expect? It was their business to have taken themselves out of the way; some prudent people by the *Town-house*, told them not to meddle with the guard, but you hear nothing of this from these fifty people; no, instead of that, they were huzzaing and whistling, crying damn you, fire! why don't you fire? So that they were actually assisting these twelve sailors that made the attack; he says the soldiers were pushing at the people to keep them off, ice and snow-balls were thrown, and I heard ice rattle on their guns, there were some clubs thrown from a considerable distance across the street. This witness swears he saw snow-balls thrown close before the party, and he took them to be thrown on purpose, he saw oyster-shells likewise thrown.—Mr. *Langford* the watchman, is more particular in his testimony, and deserves a very particular consideration, because it is intended by the council for the crown, that his testimony shall distinguish *Killroy* from the rest of the prisoners, and exempt him from those pleas of justification, excuse or extenuation, which we rely upon for the whole party, because he had previous malice, and they would from hence conclude, he aimed at a particular person; you will consider all the evidence with regard to that, by itself.

Hemmingway, the sheriff's coachman, swears he knew *Killroy*, and that he heard him say, he would never miss an opportunity of firing upon the inhabitants: this is to prove that *Killroy* had preconceived malice in his heart, not indeed against the unhappy persons who were killed, but against the inhabitants in general, that he had the spirit not only of a *Turk* or an *Arab*, but of the devil; but admitting that this testimony is literally true, and that he had all the malice they would wish to prove, yet, if he was assaulted that night, and his life in danger, he had a right to defend himself as well as another man; if he had malice before, it does not take away from him the right of defending himself against any unjust aggressor. But it is not at all improbable, that there was some misunderstanding about these loose expressions; perhaps the man had no thoughts of what his words might import; many a man in his cups, or in anger, which is a short fit of madness, hath uttered the rashest expressions, who had no such savage disposition in general: so that there is but little weight in expressions uttered at a kitching fire, before a maid and a coachman, where he might think himself at liberty to talk as much like a bully, a fool, and a madman as he pleased, and that no evil would come of it. Strictly speaking, he might mean no more than this, that he would not miss an opportunity of firing on the inhabitants, if he was attacked by them in such a manner as to justify it: soldiers have sometimes avoided opportunities of firing, when they would have been justified, if they had fired. I would recommend to them, to be tender by all means, nay, let them be cautious at their peril; but still what he said, amounts in strictness, to no more than this, "If the inhabitants make an attack on me, I will not bear from them what I have done already;" or I will bear no more, than what I am obliged by law to bear. No doubt it was under the fret of his spirits, the indignation, mortification,

grief and shame, that he had suffered a defeat at the Rope-walks; it was just after an account of an affray was published here, betwixt the soldiers and inhabitants at *New York*.⁴⁸ There was a little before the 5th of *March*, much noise in this town, and a pompous account in the news-papers, of a victory obtained by the inhabitants there over the soldiers; which doubtless excited the resentment of the soldiers here, as well as exultations among some sorts of the inhabitants: and the ringing of the bells here, was probably copied from *New York*, a wretched example in this, and in two other instances at least: the defeat of the soldiers at the Rope-walks, was about that time too, and if he did, after that, use such expressions, it ought not to weigh too much in this case. It can scarcely amount to proof that he harboured any settled malice against the people in general. Other witnesses are introduced to show that *Killroy* had besides his general ill will against every body, particular malice against Mr. *Gray*, whom he killed, as *Langford* swears.

Some of the witnesses, have sworn that *Gray* was active in the battle at the Rope walks, and that *Killroy* was once there, from whence the Council for the Crown would infer, that *Killroy*, in *King-street*, on the 5th of *March* in the night, knew *Gray* whom he had seen at the Rope-walks before, and took that opportunity to gratify his preconceived malice; but if this is all true, it will not take away from him his justification, excuse, or extenuation, if he had any. The rule of the law is, if there has been malice between two, and at a distant time afterwards they met, and one of them assaults the other's life, or only assaults him, and he kills in consequence of it, the law presumes the killing was in self defence, or upon the provocation, not on account of the antecedent malice. If therefore the assault upon *Killroy* was so violent as to endanger his life, he had as good a right to defend himself, as much as if he never had before conceived any malice against the people in general, or Mr. *Gray* in particular. If the assault upon him, was such as to amount only to a provocation, not to a justification, his crime will be manslaughter only. However, it does not appear, that he knew Mr. *Gray*; none of the witnesses pretend to say he knew him, or that he ever saw him. It is true they were both in the Rope-walks at one time, but there were so many combatants on each side, that it is not even probable that *Killroy* should know them all, and no witnesses says there was any rencounter there between them two. Indeed, to return to Mr. *Langford's* testimony, he says, he did not perceive *Killroy* to aim at *Gray*, more than at him, but he says expressly, he did not aim at *Gray*. *Langford* says, "*Gray* had no stick, was standing with his arms folded up." This witness, is however most probably mistaken in this matter, and confounds one time with another, a mistake which has been made by many witnesses, in this case, and considering the confusion and terror of the scene, is not to be wondered at.

Witnesses have sworn to the condition of *Killroy's* bayonet, that it was bloody the morning after the 5th of *March*. The blood they saw, if any, might be occasioned by a wound given by some of the bayonets in the affray, possibly in Mr. *Fosdick's* arm, or it might happen, in the manner mentioned by my brother before. One bayonet at least was struck off and it might fall, where the blood of some person slain afterwards flowed. It would be doing violence to every rule of law and evidence, as well as to common sense and the feelings of humanity, to infer from the blood on the bayonet, that it had been stabbed into the brains of Mr. *Gray* after he was dead, and that by *Killroy* himself who had killed him.

Young Mr. *Davis* swears, that he saw *Gray* that evening, a little before the firing, that he had a stick under his arm, and said he would go to the riot, "I am glad of it, (that is that there was a rumpus) I will go and have a slap at them, if I lose my life." And when he was upon the spot, some witnesses swear, he did not act that peaceable in-offensive part, which *Langford* thinks he did. They swear, they thought him in liquor—that he run about clapping several people on the shoulders saying, "Dont run away"—"they dare not fire." *Langford* goes on "I saw twenty or five and twenty boys about the Sentinal—and I spoke to him, and bid him not be afraid."—How came the Watchman *Langford* to tell him not to be afraid. Does not this circumstance prove, that he thought there was danger, or at least that the Sentinel in fact, was terrified and did think himself in danger. *Langford* goes on "I saw about twenty or five and twenty boys that is young shavers."—We have been entertained with a great variety of phrases, to avoid calling this sort of people a mob.—Some call them shavers, some call them genius's.—The plain English is gentlemen, most probably a motley rabble of saucy boys, negroes and molattoes, Irish teagues⁴⁹ and out landish jack tarrs.—And why we should scruple to call such a set of people a mob, I can't conceive, unless the name is too respectable for them: —The sun is not about to stand still or go out, nor the rivers to dry up because there was a mob in *Boston* on the 5th of *March* that attacked a party of soldiers.—Such things are not new in the world, nor in the British dominions, though they are comparatively, rareties and novelties in this town. *Carr* a native of *Ireland* had often been concerned in such attacks, and indeed, from the nature of things, soldiers quartered in a populous town, will always occasion two mobs, where they prevent one.—They are wretched conservators of the peace!

Langford “heard the rattling against the guns, but saw nothing thrown.”—This rattling must have been very remarkable, as so many witnesses heard it, who were not in a situation to see what caused it. These things which hit the guns made a noise, those which hit the soldiers persons, did not—But when so many things were thrown and so many hit their guns, to suppose that none struck their persons is incredible. *Langford* goes on “*Gray* struck me on the shoulder and asked me what is to pay? I answered, I don’t know but I believe something will come of it, by and bye.”—Whence could this apprehension of mischief arise, if *Langford* did not think the assault, the squabble, the affray was such as would provoke the soldiers to fire? —“a bayonet went through my great coat and jacket,” yet the soldier did not step out of his place. This looks as if *Langford* was nearer to the party than became a watchman. Forty or fifty people round the soldiers, and more coming from *Quaker-lane*, as well as the other lanes. The soldiers heard all the bells ringing and saw people coming from every point of the compass to the assistance of those who were insulting, assaulting, beating and abusing of them—what had they to expect but destruction, if they had not thus early taken measures to defend themselves?

Brewer saw *Killroy*, &c. saw *Dr. Young*, &c. “he said the people had better go home.” It was an excellent advice, happy for some of them had they followed it, but it seems all advice was lost on these persons, they would harken to none that was given them in *Dock-square*, *Royal exchange-lane* or *King-street*, they were bent on making this assault, and on their own destruction.

The next witness that knows any thing, was, *James Bailey*, he saw *Carrol*, *Montgomery* and *White*, he saw some round the Sentry, heaving pieces of ice, large and hard enough to hurt any man, as big as your fist: one question is whether the Sentinel was attacked or not.—If you want evidence of an attack upon him there is enough of it, here is a witness an inhabitant of the town, surely no friend to the soldiers, for he was engaged against them at the Rope-walks; he says he saw twenty or thirty round the Sentry, pelting with cakes of ice, as big as one’s fist; certainly cakes of ice of this size may kill a man, if they happen to hit some part of the head. So that, here was an attack on the Sentinel, the consequence of which he had reason to dread, and it was prudent in him to call for the *Main-Guard*: he retreated as far as he could, he attempted to get into the *Custom-house*, but could not; then he called to the *Guard*, and he had a good right to call for their assistance; “he did not know, he told the witness, what was the matter,” “but he was afraid there would be mischief by and bye;” and well he might, with so many shavers and genius’s round him—capable of throwing such dangerous things. *Bailey* swears, *Montgomery* fired the first gun, and that he stood at the right, “the next man to me, I stood behind him, &c.” This witness certainly is not prejudiced in favour of the soldiers, he swears, he saw a man come up to *Montgomery* with a club, and knock him down before he fired, and that he not only fell himself, but his gun flew out of his hand, and as soon as he rose he took it up and fired. If he was knocked down on his station, had he not reason to think his life in danger, or did it not raise his passions and put him off his guard; so that it cannot be more than manslaughter.

When the multitude was shouting and huzzaing, and threatening life, the bells all ringing, the mob whistle screaming and rending like an Indian yell, the people from all quarters throwing every species of rubbish they could pick up in the street, and some who were quite on the other side of the street throwing clubs at the whole party, *Montgomery* in particular, smote with a club and knocked down, and as soon as he could rise and take up his firelock, another club from a far struck his breast or shoulder, what could he do? Do you expect he should behave like a Stoick Philosopher lost in Apathy? Patient as *Epictatus* while his master was breaking his legs with a cudgel? ⁵⁰ It is impossible you should find him guilty of murder. You must suppose him divested of all human passions, if you don’t think him at the least provoked, thrown off his guard, and into the *furor brevis*, by such treatment as this.

Bailey “Saw the Molatto seven or eight minutes before the firing, at the head of twenty or thirty sailors in *Corn-hill*, and he had a large cordwood stick.” So that this *Attucks*, by this testimony of *Bailey* compared with that of *Andrew*, and some others, appears to have undertaken to be the hero of the night; and to lead this army with banners, to form them in the first place in *Dock square*, and march them up to *King-street*, with their clubs; they passed through the main-street up to the *Main-guard*, in order to make the attack. If this was not an unlawful assembly, there never was one in the world. *Attucks* with his myrmidons comes round *Jockson’s* [*Jackson’s*] corner, and down to the party by the Sentry-box; when the soldiers pushed the people off, this man with his party cried, do not be afraid of them, they dare not fire, kill them! kill them! knock them over! And he tried to knock their brains out. It is plain the soldiers did not leave their station, but cried to the people, stand off: now to have this reinforcement coming down under the command of a stout Molatto fellow, whose very looks, was enough to terrify any person, what had not the soldiers then to fear? He had hardiness enough to fall in upon them, and with

one hand took hold of a bayonet, and with the other knocked the man down: This was the behaviour of *Attucks*;— to whose mad behaviour, in all probability, the dreadful carnage of that night, is chiefly to be ascribed. And it is in this manner, this town has been often treated; a *Carr* from *Ireland*, and an *Attucks* from *Framingham*, happening to be here, shall sally out upon their thoughtless enterprizes, at the head of such a rabble of Negroes, &c. as they can collect together, and then there are not wanting, persons to ascribe all their doings to the good people of the town.

Mr. *Adams* proceeded to a minute consideration of every witness produced on the crown side; and endeavoured to shew, from the evidence on that side, which could not be contested by the council for the crown, that the assault upon the party, was sufficiently dangerous to justify the prisoners; at least, that it was sufficiently provoking, to reduce to manslaughter the crime, even of the two who were supposed to be proved to have killed. But it would swell this publication too much, to insert his observations at large, and there is the less necessity for it, as they will probably occur to every man who reads the evidence with attention. He then proceeded to consider the testimonies of the witnesses for the prisoners, which must also be omitted: And concluded,

I will enlarge no more on the evidence, but submit it to you.—Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence: nor is the law less stable than the fact; if an assault was made to endanger their lives, the law is clear, they had a right to kill in their own defence; if it was not so severe as to endanger their lives, yet if they were assaulted at all, struck and abused by blows of any sort, by snow-balls, oyster-shells, cinders, clubs, or sticks of any kind; this was a provocation, for which the law reduces the offence of killing, down to manslaughter, in consideration of those passions in our nature, which cannot be eradicated. To your candour and justice I submit the prisoners and their cause.

The law, in all vicissitudes of government, fluctuations of the passions, or flights of enthusiasm, will preserve a steady undeviating course; it will not bend to the uncertain wishes, imaginations, and wanton tempers of men. To use the words of a great and worthy man, a patriot, and an hero, and enlightned friend of mankind, and a martyr to liberty; I mean ALGERNON SIDNEY, who from his earliest infancy sought a tranquil retirement under the shadow of the tree of liberty, with his tongue, his pen, and his sword, “The law, (says he,) no passion can disturb. Tis void of desire and fear, lust and anger. Tis *menc sine affectu*; written reason; retaining some measure of the divine perfection. It does not enjoin that which pleases a weak, frail man, but without any regard to persons, commands that which is good, and punishes evil in all, whether rich, or poor, high or low,—Tis deaf, inexorable, inflexible.”⁵¹ On the one hand it is inexorable to the cries and lamentations of the prisoners; on the other it is deaf, deaf as an adder to the clamours of the populace.

1. Wemms Trial 148–178.

2. “[I]f, by supporting the rights of mankind and of invincible truth, I shall contribute to save from the agonies of death one unfortunate victim of tyranny, or of ignorance, equally fatal; his blessing and tears of transport, will be a sufficient consolation to me for the contempt of all mankind.” Beccaria, An Essay on Crimes and Punishments 42–43. See note 11 above; 1 JA, Diary and Autobiography 352–353

3. All the following authorities had been cited in Preston’s trial.

4. Roughly, “It is preferable that the guilty be acquitted than that the innocent be condemned.”

5. The exact citation has not been established. 3 Blackstone, Commentaries * 4, refers to “self-defence . . . the primary law of nature.” See *Rex v. Preston*, note 24.

6. 4 Blackstone, Commentaries *186, discusses this example, attributing it to Bacon (Francis Bacon, *Elements of The Common Laws of England*, c. 5) and referring to 1 Hawkins, Pleas of the Crown 73, which also discusses the example and attributes it to “Dal. Cap 98,” which may be Michael Dalton, The Country Justice. In the edition JA used (London 1746) the point appears in chapter 150, at p. 339.

7. See notes 30 and 31 above.

8. Wemms Trial erroneously reads “persons.”

9. See note 30 above.

10. 1 Hawkins, Pleas of the Crown 72. (The section reference should be 23.)

11. 1 Hawkins, Pleas of the Crown 72.

12. 1 Hawkins, Pleas of the Crown 71, with immaterial grammatical shifts.

13. 1 Hawkins, Pleas of the Crown 75.

14. 1 Hawkins, Pleas of the Crown 75.

15. See note 31 above.

16. 1 Hale, Pleas of the Crown 437.

17. 1 Hale, Pleas of the Crown 440.

18. 1 Hale, Pleas of the Crown 444.

19. 1 Hale, Pleas of the Crown 445.

20. 1 Hale, Pleas of the Crown 439.

21. The references are presumably to Crompton, *L'Authoritie et Jurisdiction des Court de la Maieste de la Royaume* 25a (1594), and to Dalton, *The Country Justice*. See note 6 above. In the edition of Dalton which JA used (London, 1746), the point appears in chapter 145, at p. 331.

22. 1 Hale, Pleas of the Crown 440. Despite the quotation marks, JA is here only summarizing.

23. Foster, Crown Cases 353–354. Foster says “explicitly entered.”

24. Foster, Crown Cases 354.

25. 1 Hawkins, Pleas of the Crown 156: “[W]here-ever more than three Persons use Force and Violence, in the Execution of any Design whatever wherein the Law does not allow the Use of such Force, all who are concerned therein are Rioters.”

26. 1 Hawkins, Pleas of the Crown 156.

27. 1 Hawkins, Pleas of the Crown 156. The passage continues:

“because the Design of their Meeting was innocent and lawful, and the subsequent Breach of the Peace, happened unexpectedly without any previous Intention concerning it; yet it is said, That if Persons, innocently assembled together, do afterwards upon a Dispute happening to arise among them, form themselves into Parties, with Promises of mutual Assistance, and then make an Affray, They are guilty of a Riot, because upon their confederating together with an Intention to break the Peace, they may as properly be said to be assembled together for that Purpose from the Time of such Confederacy, as if their first coming together had been on such a Design.”

28. 1 Hawkins, Pleas of the Crown 157.

29. The reference is apparently to Samuel Butler’s *Hudibras*, Part II, Canto II, lines 605–658. The editors have used the London edition of 1739.

30. Reg. v. Mawgridge, Kelyng 119, 136, 137, 84 Eng. Rep. 1107, 1114, 1115 (Q.B. 1707).

31. Reg. v. Tooley et al., 2 Ld. Raym. 1296, 1301, 1302, 92 Eng. Rep. 349, 352, 353 (Q.B. 1709).

32. Foster, Crown Cases 312:

“The Doctrine advanced in the Case of The Queen against *Tooly* and Others hath, I conceive, carried the Law in favour of Private Persons *Officiously* interposing farther than sound Reason founded in the Principles of true Policy will warrant. I say *Officiously* Interposing, because the Interposition of Private Persons in the Cases I have mentioned, for preserving the Peace and preventing Bloodshed, standeth upon quite a different Foot.”

Foster continues the discussion at p. 313–316.

33. The individual has not been identified.

34. *Foster, Crown Cases* 261.

35. The reference is to Josiah Quincy’s argument, text following note 53 above, *Wemms Trial* 145–146. Quotation marks, brackets, punctuation, and italics follow the original; see *Wemms Trial* 163.

36. *Foster, Crown Cases* 261–262.

37. 1 *Hawkins, Pleas of the Crown* 84.

38. 1 *Hale, Pleas of the Crown* 442.

39. 1 *Hale, Pleas of the Crown* 484.

40. See note 47 above. “Killing the Woman who was hired to wash. This was innocent Blood.” Paine Massacre Notes. No such instance appears at the cited page.

41. The paragraphs printed following the asterisk below appear as a footnote in the *Wemms Trial* 164–165. They were clearly based on JA’s research in *Rex v. Corbet*, No. 56; citations for all the authorities may be found in the documentary text of that case.

* The distinction between Murder and Manslaughter, is more easily confounded than many other distinctions of Law relative to Homicide. And many persons among us seem to think that the punishment of Death ought to be inflicted upon all voluntary killing one private man by another, whether done suddenly or deliberately, coolly or in anger. These received notions may have originated partly from a false construction of the general precept to *Noah*, whoso sheddeth man’s blood, by man shall his blood be shed. But may not some of these mistaken notions have been derived from law books. We find the distinction between Murder and Manslaughter, sometimes attributed to the peculiar benignity of the English law, and it is sometimes represented that the particular fact which the law of England calls Manslaughter, and indulges with Clergy, is punished with death in all other laws.

Vide Observations on the Statutes page 54. By the law of Scotland, there is no such thing as Manslaughter, nor by the civil law; and therefore a criminal indicted for Murder under the Statute of Henry the Eighth, where the Judges proceed by the rules of the civil law, must either be found guilty of the Murder or acquitted—and in another place, *Observations on the Statutes* 422. Note (z.) I have before observed that by the civil law, as well as the law of Scotland, there is no such offence, as what is, with us termed Manslaughter: Sir *Michael Foster* 288. If taking general verdicts of acquittal, in plain cases of death, *Per Infortunium*, &c. deserveth the name of a deviation, it is far short of what is constantly practiced at an Admiralty sessions, under 28. H. 8. with regard to offences not ousted of Clergy by particular statutes, which had they been committed at land would have been intitled to Clergy. In these cases the Jury is constantly directed to acquit the prisoner; because the marine law doth not allow of Clergy in any case, and therefore in an indictment for murder on the high seas, if the fact cometh out upon evidence to be no more than Manslaughter, supposing it to have been committed at land, the prisoner is constantly acquitted.

II. Lord Raymond 1496. His Lordship says, “From these cases it appears, that though the law of England, is so far peculiarly favourable (I use the word peculiarly because I know of no other law, that makes such a distinction between Murder and Manslaughter) as to permit the excess of anger and passion (which a man ought to keep under and govern) in some instances to extenuate the greatest of private injuries, as the taking away a man’s life is; yet in these cases, it must be such a passion, as for the time deprives him of his reasoning faculties.[”]

I shall not enter into any enquiry, how far the Admiralty sessions in England, or a Special Court of Admiralty in America ought to proceed by the rules of civil law, though it is a question of immense importance to Americans. But must beg leave to observe that though the distinction between Murder and Manslaughter is not found in words in the civil law, yet the distinction between homicide, with deliberation and without deliberation, and on a sudden provocation is well known in that law, and the former is punished with death, the latter, with some inferior corporal punishment at the discretion of the Judges.

Indeed the civil law is more favourable, and indulgent to sudden anger and resentment than the common law, and allows many things to be a provocation sufficient to exempt the person killing from the *Poena ordinaria*, which is death, which the common law considers as a slight provocation or none at all.

Cod. Lib. 9. Tit. 16, Note 46. Gail, page 503. Maranta, page 49. Par. 4. Dist. 1. 77.

It should seem from these authorities, that the lenity and indulgence of the laws of England, is not unnatural, extraordinary, or peculiar, and instead of being unknown in the civil law, that it is carried much further in many respects than in the common law. And indeed it seems that the like indulgence, was permitted in the Jewish law—though it has been so often represented as peculiar to the English law, that many persons seem to think it unwarrantable, and tending to leave the guilt of blood upon the land.

42. See note 45 above.

43. 1 Hawkins, *Pleas of the Crown* 133–134.

44. 1 Hawkins, *Pleas of the Crown* 82–83.

45. Foster, *Crown Cases* 296.

46. Foster, *Crown Cases* 316.

47. The reporter's mistake for Austin. A similar error (Bass for Bliss) appears in the preceding paragraph; see p. 219 above.

48. The *Boston Gazette*, 19 Feb. 1770, Suppl., had contained a full account of the Liberty Pole riots in New York during Jan. 1770.

49. "Anglicized spelling of the Irish name Tadhg. . . . A nickname for an Irishman." OED.

50. "Epaphroditus, it is said, once gratified his cruelty by twisting his slave's Epictetus' leg in some instrument of torture. 'If you go on, you will break it,' said Epictetus. The wretch did go on, and did break it. 'I told you that you would break it,' said Epictetus quietly, not giving vent to his anguish by a single word or a single groan." F. W. Farrar, *Seekers After God* 192 (London, 1891).

51. See *Rex v. Preston*, text at note 6.

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SOURCE PROJECT	Adams Papers
TITLE	Adams' Argument for the Defense: 3–4 December 1770
AUTHOR	Adams, John
DATE	3–4 December 1770
R. Criminal Law, continued: The Boston Massacre Trials	Rex v. Wemms: Suffolk Superior Court, Boston
CITE AS	<p>"Adams' Argument for the Defense: 3–4 December 1770,"</p> <p><i>Founders Online</i>, National Archives,</p> <p>https://founders.archives.gov/documents/Adams/05-03-02-0001-0004-0016. [Original source: <i>The Adams Papers</i>, Legal Papers of John Adams, vol. 3, <i>Cases 63 and 64: The Boston Massacre Trials</i>, ed. L. Kinvin Wroth and Hillier B. Zobel. Cambridge, MA: Harvard University Press, 1965, pp. 242–270.]</p>

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EXHIBIT 23

ARCHIVES OF MARYLAND

PROCEEDINGS

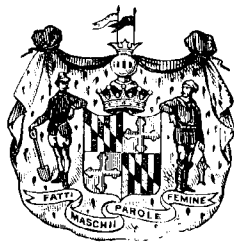
OF THE

COUNCIL OF MARYLAND

1636-1667

PUBLISHED BY AUTHORITY OF THE STATE, UNDER THE DIRECTION
OF THE MARYLAND HISTORICAL SOCIETY

WILLIAM HAND BROWNE
Editor



BALTIMORE
MARYLAND HISTORICAL SOCIETY

1885

Proceedings of the Council of Maryland, 1636-1647. 103

in executing the charge and Command aforesaid upon pain of Contempt as may be Justly Inflicted by the Law Martiall, Given under our Great Seal at S^t Maries this 23th June 1642 Liber F.

This our Comission to endure untill further Order to the Contrary. Given 23 June 1642.

Cecilius &c To our Trusty Councillor William Blount Esq p. 154
Greeting Whereas the Military band of our County of S^t Maries is at this time destitute of a Captain to take care & Charge of the Safety and defence thereof Especially in this present danger and fear of the Incursions of Some Indians our enemies, We relyeing much upon the Skill and Courage Doe hereby constitute and authorise you to be the Captain of the Souldiery our Said County of S^t Maries to leavie Muster and train all or any English able to bear arms within O^r S^d County according to your disretion and to punish all Contemnners and other offenders against the Law of discipline of war, according to the Said Law and discipline as near as you may, and to use all force and means you may for the resistance of the Enemy and Safety and defence of the Colony, and to doe all and every other thing which unto the Charge and Office of a Captain of an Army belongeth or have accustomed to belong, And We doe hereby require all the Inhabitants of the Said County and all other persons within the Same for the time being to be obedient unto you in all things that Shall concern the Execution of the power & Command hereby Comitted unto you upon Such pain of Contempt as may be Justly Inflicted by the Law Martiall, This our Comission to endure untill the return of our Dear brother Leonard Calvert into this Province, or untill furth^r Order to the Contrary Given 23 June 1642.

Orders proclaimed 23 June 1642 upon pain of death or other penalties, as by Severity of Martiall Law may be inflicted:

That noe Inhabitant or housekeeper entertain any Indian upon any colour of Licence, nor doe permitt to any Indian any Gunn powder and Shott.

That all housekeepers provide fixed gunn and Sufficent powder and Shott for each person able to bear arms.

Noe man to discharge 3 Gunns within the Space of $\frac{1}{4}$ hour p. 155
nor concurr to the dischargeing Soe many, except to give or Answer alarm.

Upon the hearing of an Alarum every housekeeper to answer and continue it Soe far as he may.

Noe man able to bear arms to goe to church or Chappell or any considerable distance from home without fixed gunn and 1 Charge at least of powder and Shott.

EXHIBIT 24

THE
Statutes at Large;
BEING
A COLLECTION
OF ALL THE
LAWS OF VIRGINIA,
FROM THE
FIRST SESSION OF THE LEGISLATURE,
IN THE YEAR 1619.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY OF
VIRGINIA, PASSED ON THE FIFTH DAY OF FEBRUARY,
ONE THOUSAND EIGHT HUNDRED AND EIGHT.

VOLUME I.

By WILLIAM WALLER HENING.

"The *Laws* of a country are necessarily connected with every thing be-
longing to the people of it ; so that a thorough knowledge of *them*, and
of their progress would inform us of every thing that was most use-
ful to be known about them ; and one of the greatest imperfections
of historians in general, is owing to their ignorance of law."

PRIESTLEY'S LECT. ON HIST. pa. 149.

RICHMOND :
PRINTED BY AND FOR SAMUEL PLEASANTS, JUNIOR, PRIN-
TO THE COMMONWEALTH.
1809.

LAWS OF VIRGINIA,

ACT LI.

To go armed
to church.

ALL men that are fittinge to beare armes, shall bringe their peices to the church uppon payne of every effeace, yf the mayster allow not thereof to pay 2 lb. of tobacco, to be disposed by the church-wardens, who shall levy it by distresse, and the servants to be punished.

ACT LII.

Obedience
to superiors.

NOE person within this colony uppon rumour of supposed change and alteration shall presume to be disobedient to the present government, nor servants to their private officers, maysters and overseers, at their uttermost perills.

ACT LIII.*

Adjoining
plantations
to assist, up-
on alarms.

THE ioyninge plantations, to assisst the fronteires, or their neighbours, uppon alarmns, the default to be severelie censured, and false alarmns punished.

ACT LIV.

No hides to
be exported.

IT is ordered, That no cowe hides, oxe hides, bull hides, goate skynes, deer skynes, or other hides, or skynes whatsoever, be sent or carryed out of this colony uppon forfeiture of thrice the value, whereof the one halfe to the informer, and the other halfe to publique uses.

ACT LV.

Terms of the
quarterly
courts at
James City.

IT is established and appoynted, That the fowre quarter corts shall be held at James-Citty yearlie, as followeth, vizt. uppon the first day of September, the first day of December, the first of March, and the first day of June.

ACT LVI.

Comman-
ders to exer-
cise their
men at stated

IT is ordered and appoynted, That the comandrs of all the severall plantations, doe upon holy days exercise the men under his comand, and that the coman-

* There is no act numbered LIII in the manuscript.

MARCH, 1642-3—18th CHARLES 1st.

263

ed as authentick, And that no person or persons whatsoever who hath layd out or surveyed his or their land or lands shall be hereafter compelled to resurvey his or their land or lands by any surveyor or surveyors whatsoever.

ACT XXXIX.

FOR the dispatch and reputation of publique businesses, Be it enacted and confirmed that none of the Burgesses of this nor any following Assembly shall be arrested from the time of his election vntil ten days after dissolution of the Assembly wherein he serves as a Burgesse.

Burgesses
privileged
from arrests.

ACT XL.

BE it enacted and confirmed by the authoritie of this Grand Assembly that the 22d day of March be yearly kept holy in commemoration of our deliverance from the Indians at the bloody massacre the 22d March 1621, And that the ministers of every parish give notice thereof to his parishoners the Sabbath day next before.

The 22d of
Marc' to be
kept as a ho-
ly day.

ACT XLI.

IT is enacted and confirmed that masters of every family shall bring with them to church on Sondays one fixed and serviceable gun with sufficient powder and shott vpon penalty of ten pound of tobacco for every master of a family so offending to be disposed of by the churchwardens who shall leavy it by distresse, and servants being commanded and yet omitting shall receive twenty lashes on his or their bare shoulders, by order from the county courts where he or they shall live.

Guns to be
carried to
church.

Penalty.

ACT XLII.

IT is enacted and confirmed by the authoritie aforesaid that all such persons as were here or came in att the last comeing of Sr. Tho. Gates should be exempted from their personall service to the wars and all

Old settlers
exempted
from public
charges.

LAWS OF VIRGINIA,

Penalty for
refusing pay-
ment -

Penalty for
refusing pay-
ment -

the same, and for whatsoever he the said sherriff shall soe receive to become responsible to the next Assembly, And if any such master shali refuse vpon demand of the sherriffe to make payment thereof accordingly, Then the said sherriffe to make his complaint to the next comissioner of the quorum in that coui ty, Who by vertue of this act is, without further process- empowered to graunt execution against the person of istate of the said master refusing to pay his dutits as aforesaid, And if anie sherriffe shall neglect his ptrform- neglect of, hanc of his duty in demanding and recovering port-charges and castle-duties. Then the estate of the sherriffe to be liable to make satisfaction for his neglect to the next Assembly.

ACT VIII.

An Act where the Port-Charges and Castle-Duties are to be paid.

Preamble

Collectors of
port charges
and castle
duties to be
appointed by
the gov'r.

Penalty on
master of
vessel for
concealing
the burthen
of his ship.

WHEREAS the charge in hyreing hoates and hands to collect the port charges and castle-duties, and the vnconsiderableness of the value of the comodities they are paid in, being commonly the refuse of their whole cargo, hath added little to the supply of the Governour to which by severall Assemblies they have been appropriated, Be it therefore enacted and confirmed That there be in every river certaine places and persons appointed and authorized by the Governour to receive the same, within whose respective limmits and precincts what master or commander of shipp or vessel soever shall intend to lade, he the said master or commander shall before he begins repaire to the said place and person so appointed and authorized, And there shall enter his shipp. And either in kind or in other good valuable comodities att the rate he sells shall make just payment of the said port-charges and castle-duties, And vpon payment thereof shall take from the said officer a discharge and license to load. And if the said master shall fraudulently conceale the burthen of the shipp. And thereby defraud the Governour of his due, Then to forfeit his recognizance.

EXHIBIT 25

THE

PUBLIC RECORDS

OF THE

COLONY OF CONNECTICUT,

PRIOR TO THE UNION WITH NEW HAVEN COLONY,

MAY, 1665;

TRANSCRIBED AND PUBLISHED, (IN ACCORDANCE WITH A RESOLUTION
OF THE GENERAL ASSEMBLY,) UNDER THE SUPERVISION
OF THE SECRETARY OF STATE,

WITH OCCASIONAL NOTES, AND AN APPENDIX;



By J. HAMMOND TRUMBULL,

COR. SEC. CONN. HIST. SOCIETY; COR. MEMB. N. YORK HIST. SOCIETY, ETC.

HARTFORD:
BROWN & PARSONS.
1850.

DOES NOT CIRCULATE

It is Ordered that there shall be a rate of forty pownd leuied, to be paid to Mr. Fenwicke, to be laid out for the repaireing the Fort.

For the avoyding of many differences and quarrells that may arise by takeing vppe debts of Indeans, It is Ordered, that who-soeuer, after the publisheing this Order, shall sell for day, or trust any Indean or Indeans wth goods or coñodityes, shall forfeit to the Country the double soñe or value of what they do betruest them wthall; and that no man shall trade wth them at or about their wygwams, but in their vessells or Pynnaces or att their owne howses, vnder the penalty of 20s. ech tyme.

To pruent or wthstand such sudden assaults as may be made by Indeans vppon the Sabboth or lecture dayes, It is Ordered, that one prson in euery seuerall howse wherein is any souldear or souldears, shall bring a muskett, pystoll or some peece, wth powder and shott to ech meeting, excepte some on Magistrate dispense wth any on, and appoynt some other to supply his roome.

Jacob Waterhowse doth acknowledge himselfe bownd in a recognizance of Fifty pownd, to attend the next Court to answer for his mysdemeanor towards the Indeans.

The Court is adioyrned vntill Thursday next.

[113] A P^RTICULER COURT, HELD THE IXth OF No: 1643.

John Heynes Esq^r, Gou^r.

Ed: Hopkins Esq^r, Dep.

Roger Ludlowe Esq^r, George Willis, Mr. Webster, Mr. Welles, Mr. Whiteing, Capten Mason, Mr. Woolcott, Mr. Swayne.

The Jury. Mr. Tailcott, Tho: Osmore, Ed: Stebbing, John Barnard, Arther Williams, Mathewe Sension, Tho: Dewey, Tho: Orton, Tho: Vffoote, Samuel Hales, Richard Parke, John Demon.

In the action of Nathaniell Dickinson pl^t, ag^t John Robins defent, the Jury find for the def^t. Costs of Court vijs,

In the ac. of Nathaniell Eldredge pl^t, ag^t Tho: Marshfield, the Jury find for the pl^t, the debt and costs of Court, xl.

EXHIBIT 26

Rhode Island (Colony)

RECORDS

OF THE

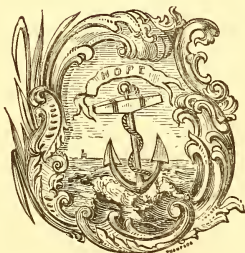
COLONY OF RHODE ISLAND

AND

PROVIDENCE PLANTATIONS,

IN

NEW ENGLAND.



PRINTED BY ORDER OF THE LEGISLATURE.

TRANSCRIBED AND EDITED BY

JOHN RUSSELL BARTLETT,

SECRETARY OF STATE.


VOL. I.

1636 TO 1663.

PROVIDENCE, R. I.

A. CRAWFORD GREENE AND BROTHER, STATE PRINTERS.

1856.

1639. It is ordered, that Mr. Robert Jefferies shall traine the
 Band for the present.

It is ordered, that noe man shall go two miles from the Towne unarmed, eyther with Gunn or Sword ; and that none shall come to any public Meeting without his weapon. Upon the default of eyther he shall forfeitt five shillings.

It is further ordered, that those Commissioners formerly appointed to negotiate the Business with our Brethren of Pocassett, shall give them our propositions under their hands, and shall require their propositions under their hands, with their answers, and shall give reply unto it ; and so shall returne to the Body a Brieve of what they therein have done.

By order, Mr. Easson and Mr. John Clarke are desired to informe Mr. Vane by writing, of the state of things here, and desire him to treat about the obtaining a Patent of the Island from his Majestie ; and likewise to write to Mr. Thomas Burrwood, Brother to Mr. Easson, concerning the same thing.

The Court is adjourned to this day three weeks.

At the particular Courte holden the 3d of y^e 10th,
 1639.

John Bartlett and John Hadson, being convicted and as well by witnesses as their own confession, found guiltie of the Breach of the Peace, by their excess in drinking, are adjudged to pay five shillings a piece unto the hands of the Constable according to the Law in that case provided..

EXHIBIT 27

Princeton University Press

Chapter Title: [Entries 800-899]

Book Title: Jefferson's Legal Commonplace Book

Book Author(s): Thomas Jefferson

Book Editor(s): DAVID THOMAS KONIG, MICHAEL P. ZUCKERT, LES HARRIS, W. BLAND WHITLEY

Published by: Princeton University Press. (2019)

Stable URL: <https://www.jstor.org/stable/j.ctvc77mr8.18>

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Princeton University Press is collaborating with JSTOR to digitize, preserve and extend access to *Jefferson's Legal Commonplace Book*

BECCARIA ON CRIMES AND PUNISHMENTS

come rispetteranno le minori, e la puramente arbitrarie?¹ queste peggiorano la condizione degli assaliti, migliorando quella degli assalitori, non iscemano gli omicidi, ma gli accrescano, perchè è maggiore la confidenza nell'assalire i disarmati, che gli armati. queste si chiaman leggi, non prevenitrici, ma paurose dei delitti, che nascono dalla tumultuosa impressione di alcuni fatti particolari, non dalla ragionata meditazione degl'inconvenienti, ed vantaggi di un decreto universale.² *ib.* §.40.

EDITORS' TRANSLATION

It is a false notion of expedience that causes one to renounce a thousand real advantages in view of an inconvenience that is either imaginary or of small consequence. It is the kind that would take fire away from men because it is used for arsons, and water because we drown in it. It does not amend evils but by way of destruction. The laws that forbid carrying arms are laws of this kind. They disarm only those who are not inclined or determined to commit a crime. On the contrary, those who have the courage of breaking the most sacred laws of humanity and the most important ones in the Code, how would they respect the lesser and purely arbitrary ones? These laws worsen the condition of the assailed, bettering that of the assailants. They do not diminish the number of homicides, but they increase it, because greater is the confidence in assailing unarmed people than those who bear arms. These laws are not preventative, but fearful of the crimes. They are born from the turbulent impression of some particular fact, not from the reasoned reflection on the disadvantages and advantages of a universal decree. *ib.* §.40

829. e meglio prevenire i delitti, che punirli. questo è il fine principale d'ogni buona legislazione, che è l'arte di condurre gli uomini al massimo di felicità, o al minimo d'infelicità possibile.³ il proibire una moltitudine di azioni indifferenti non è prevenire i delitti, che non possono nascere, ma egli è un crearne dei nuovi, Prevenire i delitti.

¹A brief paean to personal freedom ("so dear to mankind and to the wise legislator") omitted here.

²From Beccaria, chap. 40, "False Ideas of Utility." The remaining few sentences, which discuss the state of nature and the futility of the use of fear as a political instrument, omitted.

³A passage here omitted, on the limits of the law in eradicating social disorder.

EXHIBIT 28

1375/51

COMMENTARIES

ON THE

LAWS OF ENGLAND;

IN FOUR BOOKS.

By SIR WILLIAM BLACKSTONE, KNIGHT,

ONE OF THE JUSTICES OF HIS MAJESTY'S COURT OF COMMON PLEAS

TOGETHER WITH

A COPIOUS ANALYSIS OF THE CONTENTS.

And Notes with References to English and American Decisions and Statutes to date,
which illustrate or change the Law of the Text; also, a
Full Table of Abbreviations, and

SOME CONSIDERATIONS REGARDING THE STUDY OF THE LAW.

By THOMAS M. COOLEY,

PROFESSOR OF LAW AND POLITICAL SCIENCE IN THE UNIVERSITY OF MICHIGAN, AND
AUTHOR OF "CONSTITUTIONAL LIMITATIONS," &c.

VOL. 1. INCLUDING BOOKS I & II.

THIRD EDITION—REVISED.



CHICAGO,
CALLAGHAN AND COMPANY.
1884.

with the subject, or that expressly relate to the same point.(17) Thus, when the law of England declares murder to be felony without benefit of clergy, we must resort to the same law of England to learn what the benefit of clergy is; and, when the common law censures simoniacal contracts, it affords great light to the subject to consider what the canon law has adjudged to be simony.(18)

3. As to the *subject matter*, words are always to be understood as having a regard thereto, for that is always supposed to be in the eye of the legislator, and all his expressions directed to that end. Thus when a law of our Edward III. forbids all ecclesiastical persons to purchase *provisions at Rome*, it might seem to prohibit the buying of grain and other victuals; but, when we consider that the statute was made to repress the usurpations of the papal see, and that the nominations to benefices by the pope were called *provisions*, we shall see that the restraint is intended to be laid upon such provisions only.

4. As to the *effects and consequence*, the rule is, that where words bear either none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them. Therefore the Bolognian law, mentioned by Puffendorf, (*p*) which enacted "that whoever drew blood in the streets should be punished with the utmost severity," was held after long debate not to extend to the surgeon, who opened the vein of a person that fell down in the street with a fit. (19)

*5. But, lastly, the most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the *reason and spirit* of it; or the cause which moved the legislator to enact it. (20) For when this reason ceases, the law itself ought likewise to cease with it. An instance of this is given in a case put by Cicero, or whoever was the author of the treatise inscribed to Herennius. (*q*) There was a law, that those who in a storm forsook the ship should forfeit all property therein; and that the ship and lading should belong entirely to those who staid in it.

(*p*) l. 5 c. 12, § 8.

(*q*) l. 1. c., 11.

(17) Where two or more statutes are *in pari materia*, or relate to the same subject, they are to be examined and construed together, not only because what is clear in one may aid what is doubtful or obscure in another, but also because those later in time may have the effect to modify and change those which preceded, and will do so, to the extent that they are found to be inconsistent. For illustrations of the rule stated in the text, see *Church v. Crocker*, 3 Mass., 17; *Mendon v. Worcester Co.*, 10 Pick., 235; *Green v. Commonwealth*, 12 Allen, 155; *Frink v. King*, 4 Ill., 144; *Rogers v. Bradshaw*, 20 Johns., 735; *McCartee v. Orphan Society*, 9 Cow., 507; *Isham v. Bennington Iron Co.*, 19 Vt., 230; *Billingslea v. Baldwin*, 23 Md., 85; *Robbins v. Railroad Co.*, 32 Cal., 472; *Hayes v. Hanson*, 12 N. H., 284; *Manuel v. Manuel*, 13 Ohio St., 458; *McLaughlin v. Hoover*, 1 Ore., 31; *The Abbotsford*, 98 U. S., 440.

(18) See *United States v. Palmer*, 3 Wheat., 610.

(19) The principle is, that we are not to suppose the legislature intended absurd consequences, and must therefore seek in their language for an intent which is reasonable: *Langdon v. Potter*, 3 Mass., 220; *Ayres v. Knox*, 7 Mass., 310; *Putnam v. Longley*, 11 Pick., 487; *Henry v. Tilson*, 17 Vt., 479; *Perry Co. v. Jefferson Co.*, 94 Ill., 214; *Bailey v. Commonwealth*, 11 Bush, 688; *United States v. Kirby*, 7 Wall., 486; *Oates v. National Bank*, 100 U. S., 239.

The argument *ad inconvienti* is sometimes very strong when a statute has received a practical construction which has been followed for a considerable time; and courts in cases of doubt will sometimes allow long continued usage under a particular construction to have controlling force: *Union Ins. Co. v. Hoge*, 21 How., 35; *Minor v. Happersett*, 21 Wall., 162; *Rogers v. Goodwin*, 2 Mass., 476; *Essex Co. v. Pacific Mills*, 14 Allen, 389; *State v. Mayhew*, 2 Gill, 487; *Edwards v. Pope*, 3 Scam., 465; *Chestnut v. Shane's Lessee*, 16 Ohio, 509; *Britton v. Ferry*, 14 Mich., 66; *Cameron v. Merchants' Bank*, 37 Mich., 240; *Plummer v. Plummer*, 37 Miss., 185; *Norris v. Clymer*, 2 Penn. St., 277; *Hedgecock v. Davis*, 64 N. C., 652; *Scanlan v. Childs*, 33 Wis., 603; *Loeb v. Mathis*, 37 Ind., 306; *Collins v. Henderson*, 11 Bush, 74; *Railroad Co. v. Geiger*, 34 Ind., 203.

(20) For illustrations of the application of this principle, see *People v. Insurance Co.*, 15 Johns., 381; *Tonnele v. Hall*, 4 N. Y., 140; *Miller v. Dobson*, 6 Ill., 572; *Castner v. Walrod*, 83 Ill., 171; *Perry Co. v. Jefferson Co.*, 94 Ill., 214; *Bailey v. Commonwealth*, 11 Bush., 688; *Durousseau v. United States*, 6 Cranch, 307.

In a dangerous tempest all the mariners forsook the ship, except only one sick passenger, who, by reason of his disease, was unable to get out and escape. By chance the ship came safe to port. The sick man kept possession, and claimed the benefit of the law. Now here all the learned agree, that the sick man is not within the reason of the law; for the reason of making it was, to give encouragement to such as should venture their lives to save the vessel; but this is a merit which he could never pretend to, who neither staid in the ship upon that account, nor contributed anything to its preservation. (21)

From this method of interpreting laws, by the reason of them, arises what we call *equity*, which is thus defined by Grotius: (r) "the correction of that wherein the law, (by reason of its universality,) is deficient." For, since in laws all cases cannot be foreseen or expressed, it is necessary that, when the general decrees of the law come to be applied to particular cases, there should be somewhere a power vested of defining those circumstances, which (had they been foreseen) the legislator himself would have expressed. And these are the cases which according to Grotius, "*lex non exacte definit, sed arbitrio boni viri permittit.*" (22)

Equity thus depending, essentially, upon the particular circumstances of [62] each individual case, there can be no established *rules and fixed precepts of equity laid down, without destroying its very essence, and reducing it to a positive law. And, on the other hand, the liberty of considering all cases in an equitable light must not be indulged too far, lest thereby we destroy all law, and leave the decision of every question entirely in the breast of the judge. And law, without equity, though hard and disagreeable, is much more desirable for the public good than equity without law; which would make every judge a legislator, and introduce most infinite confusion; as there would then be almost as many different rules of action laid down in our courts, as there are differences of capacity and sentiment in the human mind.

(r) *De Equitate*, § 3.

(21) It is always to be assumed that the legislature intended its enactment to be effectual, not invalid; and therefore construction should aim to support, not to defeat it: *Shrewsbury v. Boylston*, 1 Pick., 105; *Turnpike Co. v. McKean*, 6 Hill, 616; *Newland v. Marsh*, 19 Ill., 384; *Attorney-General v. Eau Claire*, 37 Wis., 400; *Marshall v. Grimes*, 41 Miss., 27; *Dubuque v. Railroad Co.*, 39 Iowa, 56. And it should seek to give effect to all its provisions if practicable: *People v. Purdy*, 2 Hill, 36; *Parkinson v. State*, 14 Md., 184; *Ryegate v. Wardsboro*, 30 Vt., 746; *Brooks v. School Commissioners*, 31 Ala., 237; *Green v. Weller*, 33 Miss., 650; *Wolcott v. Wigton*, 7 Ind., 44; *People v. Burns*, 5 Mich., 114. If a statute is susceptible of two constructions, one of which would render it constitutional and the other not, it is to receive the former construction as presumptively expressing the legislative intent: *Dow v. Norris*, 4 N. H. 17; *People v. Supervisors*, 17 N. Y., 241.

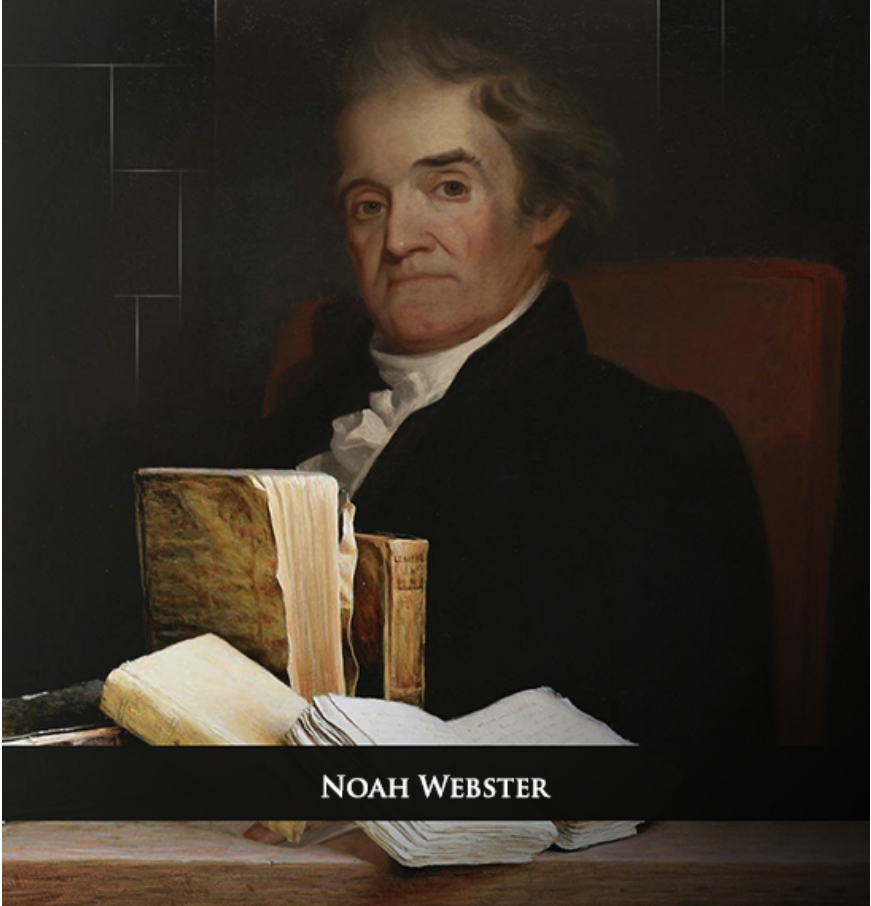
On interpretation generally, see Rutherford, *Institutes of Natural Law*; Dwarries on Statutes, and especially Lieber's *Hermeneutics*.

(22) The remark in the text may possibly lead some persons to suppose that there resides in the courts the authority to give to statutes such a construction as shall prevent inequitable results, and to bring cases within their provisions and exempt other cases from them according as equity may seem to require. But this would be in effect for the courts to take upon themselves the power of legislation, and by construction to mould the statutes to suit their own views of what is just and right. Such a power would be wholly inconsistent with legislative independence, and it would also be inconsistent with certainty and stability in the law. When in a particular case a criminal statute is found to work unjust consequences, the executive may interfere with the prerogative of pardon; but an equitable judicial construction regards severe consequences only as they may tend to show that the legislature did not probably contemplate that such a construction would be put upon their acts as would bring about such consequences, and could not reasonably have intended it.

EXHIBIT 29

ELLEN G. WHITE ESTATE

NOAH WEBSTER'S 1828 DICTIONARY



NOAH WEBSTER

GUMMINESS, n. The state or quality of being gummy; viscousness.	6216
GUMMOSITY, n. The nature of gum; gumminess; a viscous or adhesive quality.	6216
GUMMOUS, a. Of the nature or quality of gum; viscous; adhesive.	6216
GUMMY, a. Consisting of gum; of the nature of gum; viscous; adhesive.	6216
GUMP, n. A foolish person; a dolt. [Vulgar.]	6216
GUMPTION, n. Care; skill; understanding. [Vulgar.]	6216
GUN, n. An instrument consisting of a barrel or tube of iron or other metal fixed in a stock, from which balls, shot or other deadly weapons are discharged by the explosion of gunpowder. The larger species of guns are called cannon; and the smaller species are called muskets, carbines, fowling pieces, etc. But one species of fire-arms, the pistol, is never called a gun.	6216
GUN, v.i. To shoot.	6217
GUN-BARREL, n. The barrel or tube of a gun.	6217
GUNBOAT, n. A boat or small vessel fitted to carry a gun or two at the bow.	6217
GUN-CARRIAGE, n. A wheel carriage for bearing and moving cannon.	6217
GUNNEL. [See Gunwale.]	6217
GUNNER, n. One skilled in the use of guns; a cannoneer; an officer appointed to manage artillery. The gunner of a ship of war has the charge of the ammunition and artillery, and his duty is to keep the latter in good order, and to teach the men the exercise of the guns.	6217
GUNNERY, n. The act of charging, directing and firing guns, as cannon, mortars and the like. Gunnery is founded on the science of projectiles.	6217
GUNNING, n. The act of hunting or shooting game with a gun.	6217
GUNPOWDER, n. A composition of saltpeter, sulphur and charcoal, mixed and reduced to a fine powder, then granulated and dried. It is used in artillery, in shooting game, in blasting rocks, etc.	6217
GUNROOM, n. In ships, an apartment on the after end of the lower gun-deck, occupied by the gunner, or by the lieutenants as a mess-room.	6217
GUNSHOT, n. The distance of the point blank range of a cannon-shot.	6217
GUNSHOT, a. Made by the shot of a gun; as a gunshot wound.	6218
GUNSMITH, n. A maker of small arms; one whose occupation is to make or repair small fire-arms.	6218
GUNSMITHERY, n. The business of a gunsmith; the art of making small firearms.	6218
GUNSTICK — GYVE	6219
GUNSTICK, n. A rammer, or ramrod; a stick or rod to ram down the charge of a musket, etc.	6219
GUNSTOCK, n. The stock or wood in which the barrel of a gun is fixed.	6219
GUNSTONE, n. A stone used for the shot of cannon. Before the invention of iron balls, stones were used for shot.	6219
GUNTACKLE, n. The tackle used on board of ships to run the guns out of the ports, and to secure them at sea. The tackles are pulleys affixed to the sides of a gun-carriage.	6219
GUNWALE, GUNNEL, n. The upper edge of a ship's side; the uppermost wale of a ship, or that piece of timber which reaches on either side from the quarter-deck to the fore-castle, being the uppermost bend which finishes the upper works of the hull.	6219
GURGE, n. [L. gurgēs.] A whirlpool. [Little used.]	6219
GURGE, v.t. To swallow. [Not in use.]	6219
GURGION, n. The coarser part of meal separated from the bran. [Not used.]	6219
GURGLE, v.i. [L. gurgēs. See Gargle, which seems to be of the same family, or the same word differently applied.]	6219
GURGLING, ppr. Running or flowing with a purling sound.	6219
GURHOFITE, n. A subvariety of magnesian carbonate of lime, found near Gurhof, in Lower Austria. It is snow white, and has a dull, slightly conchoidal, or even fracture.	6220
GURNARD, n. A fish of several species of the genus Trigla. The head is loricated with rough lines, or bony plates, and there are seven rays in the membranes of the gills.	6220
GURRAH, n. A kind of plain, coarse India muslin.	6220

EXHIBIT 30

THE

ACTS AND RESOLVES,

PUBLIC AND PRIVATE,

OF THE

PROVINCE OF THE MASSACHUSETTS BAY: .

PRESENTED BY

The Commonwealth of Massachusetts
TO *Uriel H. Crocker.*

HENRY B. PEIRCE,

Secretary of the Commonwealth.

ELLIS AMES,

A. C. GOODELL,

Commissioners.

(UNDER RESOLVE 1870, CHAP. 20.)

BOSTON:
VOLUME III.

BOSTON:

PRINTED FOR THE COMMONWEALTH, BY ALBERT J. WRIGHT,
CORNER OF MILK AND FEDERAL STREETS.

1878.

THE
ACTS AND RESOLVES,
PUBLIC AND PRIVATE,
OF THE
PROVINCE OF THE MASSACHUSETTS BAY:
TO WHICH ARE PREFIXED
THE CHARTERS OF THE PROVINCE.
WITH
HISTORICAL AND EXPLANATORY NOTES, AND AN APPENDIX.

PUBLISHED UNDER CHAPTER 87 OF THE RESOLVES OF THE GENERAL COURT
OF THE COMMONWEALTH FOR THE YEAR 1837.

MASSACHUSETTS
VOLUME III.

BOSTON:
PRINTED FOR THE COMMONWEALTH, BY ALBERT J. WRIGHT,
CORNER OF MILK AND FEDERAL STREETS.
1878.

ACTS,
PASSED 1746-47.

Penalty for firing off loaded cannon.

Be it enacted by the Governour, Council and House of Representatives,
[SECT. 1.] That no person or persons, from and after the publication of this act, shall presume to discharge or fire off any cannon laden with shot[t], from any wharf[f]e or vessel in that part of the harbour of said town which is above the castle, on pain of forfeiting the sum of fifteen pounds for each gun so fired or discharged; one moiety of said penalty to be to and for the use of the poor of said town of Boston, and the other moiety to him or them who shall inform, complain and sue for the same, to be recovered by action, bill, plaint or information, before any of his majesty's courts of record within the county of Suffolk; and upon refusal thereof, such person shall suffer three months' imprisonment[en]t without bail or mainprize.

And be it further enacted,

Penalty for discharging guns or pistols loaded with shot or ball.

[SECT. 2.] That no person shall, from and after the publication of this act, discharge any gun or pistol, charged with shot[t] or ball, in the town of Boston (the islands thereto belonging excepted), or in any part of the harbour between the castle and said town, on pain of forfeiting forty shillings [for] each gun or pistol so fired or discharged, to be recovered before one or more of his majesty's justices of the peace for the county of Suffolk, and disposed of in manner as aforesaid; or shall suffer ten days' imprisonment. And for the more effectual conviction of any person or persons so offending, it shall be lawful for any person to seize and take into custody any gun so fired off, and deliver the same to one of the next justices of the peace in said town of Boston, in order to its being produced at time of trial.

Provided, nevertheless,—

Proviso.

[SECT. 3.] That this law shall not be so construed or understood as to prevent soldiers, in their common-training days, with the leave and by order of the commission officers of the company to which they belong, or other persons, at other times, with the leave of one or more of the field-officers of the regiment in Boston, from firing at a mark or target[t], for the exercise of their skill and judgment, provided it be done at the lower end of the common; nor from firing at a mark, from the several batteries in the town of Boston, with the leave of the captain-general, and nowhere else.

Limitation.

[SECT. 4.] This law to continue and be in force for the space of three years, and no longer. [*Passed and published September 13.*]

CHAPTER 12.

AN ACT IN ADDITION TO THE SEVERAL ACTS FOR THE BETTER REGULATING THE INDIANS.

Preamble.

WHEREAS the several laws already in force are insufficient for the well regulating of the Indian natives of this province in their several plantations,—

Be it enacted by the Governour, Council, and House of Representatives,

Three proper persons to be appointed as guardians to the Indians in their respective plantations.

[SECT. 1.] That there be three proper persons appointed, for the future, by this court, near to every Indian plantation in this province, guardians to the said Indians in their respective plantations, who are hereby empowered to take into their hands the said Indians' lands, and allot to the several Indians of the several plantations such parts of the said lands and meadows as shall be sufficient for their particular improvement, from time to time, during the continuance of this act; and the remainder, if any there be, shall be let out by the guardians of the

EXHIBIT 31



What's in a name? The Evolution of the Term “Gun”

DATE: JULY 24TH, 2019

CATEGORIES: HISTORY SECOND AMENDMENT

BY: CATIE CARBERRY

The 1828 edition of the American Dictionary of the English Language (which Justice Scalia cited in **District of Columbia v. Heller** when he defined “arms,” “keep,” “carry,” and “militia”) defined “**gun**” as “[a]n instrument consisting of a barrel or tube of iron or other metal fixed in a stock, from which balls, shot, or other deadly weapons are discharged by the explosion of gunpowder. The larger species of guns are called cannon; and the small species are called muskets, carbines, fowling pieces, &c. *But one species of fire-arms, the pistol, is never called a gun.*”

The **Repository of Historical Gun Laws** suggests that the italicized portion of this definition was widely accepted throughout the 19th century and into the early 20th century – laws from **Connecticut** (1835), **San Francisco** (1849), **Chicago** (1873), **New Haven** (CT) (1881), **Massachusetts** (1882), **Rhode Island** (1883), **Michigan** (1883), **New Jersey** (1885), **St. Louis** (1887), **Utah** (1905), **North Carolina** (1913), and **South Carolina** (1923) all differentiate between guns and pistols.

Why does this matter? Statutes that only prohibited guns during this time period may have implicitly included an exception for pistols. Several such laws appear on the Repository, and while they may merely be examples of oversight or poor draftsmanship, there are signs that the omission was intentional. For

instance, there is consistency in the use of “gun” in isolation: nearly all of the laws that mention guns but not pistols address hunting. Perhaps in such cases though it was unlawful to carry *guns*, it was lawful to carry pistols as they were not hunting weapons. Furthermore, several states that enacted laws only addressing guns enacted laws addressing both guns and pistols in the same year. In 1863, **Delaware** enacted a hunting law stating that “any gun . . . used with the consent or knowledge of the owner thereof, shall be forfeited and may be seized, condemned and sold as hereinafter provided.” That same year, Delaware enacted **another law** prohibiting specified persons from possessing “a gun, *pistol*, sword or any other warlike instrument.” Similarly, in 1880, **Georgia** enacted a hunting law stating that it was “unlawful for any person or persons to hunt with a gun by fire-light.” Also that same year, Georgia enacted **another law** that addressed “any person who shall intentionally point or aim a gun *or pistol*.” Similarly, **New Jersey** enacted a statute in 1901 that used the terms *firearms* and *guns* in separate clauses of the same sentence. Perhaps this is an example of colloquialism slipping through; however, this statute, like the others, also used the term “gun” in relation to hunting.

The New Jersey statute brings up another question. Where does the term “firearm” fit into all of this? The Repository suggests that at the very least, a pistol, though not always considered a gun, was regarded as a firearm. A statute from 1885 out of **New York**, for example, addressed the carrying of “any pistol *or other firearms of any kind*.” But was a gun a type of firearm? The answer to that question is less clear.

The syntax of several laws indicates that a gun was regarded as a type of firearm. When pistols, guns, and firearms are listed together on the Repository, the most common phrasing is “gun, pistol or other firearm.” You can see this with minimal variation in **New Jersey** (1885), **Fresno** (CA) (1896), **Utah** (1905), **North Carolina** (1913), and **South Carolina** (1923). Now, admittedly, that construction is ambiguous. It could be that the term “firearm” applies only to the term “pistol.” If that is true, then the term “gun” presumably refers to a separate category of weaponry. However, another interpretation is that “other firearms” applies to both “gun” and “pistol.” Laws out of **Georgia** (1847) and **Arizona** (1907) support this theory, as both read “gun or other firearm” (with slight grammatical differences).

The same dictionary that launched this discussion, however, supports the argument that the terms gun and firearm referred to distinct, though overlapping, types of weapons. The American Dictionary of the English Language from 1828 defines “**firearm**” as “[a]rms or weapons which expel their charge by the combustion of powder, as pistols, muskets, &c.” Though it expressly includes pistols, the definition also

does not describe the same range of weaponry as the definition of “**gun**.” While the term gun encompasses canons as well as smaller species of guns such as muskets, the definition of “firearm” only includes examples weapons that could be carried. The definition of “firearm” does not say that the examples are comprehensive, however the examples do indicate a difference between the terms. As does the fact that neither entry refers to the other.

Regardless of whether guns were once considered firearms, at least one thing is clear: the definition of “gun” has evolved. Present-day dictionaries, such as the Oxford Dictionary, no longer exclude pistols from the definition of “**gun**.” Some do, however, limit the definition of “**firearm**” largely to weapons that are “small and portable, [such] as a pistol, rifle, shotgun, or musket.” Such definitions are consistent with the analysis of the 1828 definition of “firearm” above. Furthermore, if guns once were considered a subgroup within the category of firearms, then at some point it seems the roles reversed: The Oxford American Dictionary and Thesaurus (Second Edition, 2003), for instance, defines a firearm as “a gun, especially a pistol or rifle.”

While present-day dictionaries may offer some clarity, many questions remain. Why did the definition of “gun” initially exclude pistols? Why did it change, and when did it change? If this analysis is correct, how might it impact the way we analyze laws from the 18th and early 19th century?

[Ed. Note: This post about gun laws in the Center’s Repository of Historical Gun Laws is written by Center research assistant Catie Carberry. This post, like the Repository, is exemplary and not exhaustive.]

EXHIBIT 32

This image shows a blank, aged, cream-colored page, likely an endpaper or flyleaf of a book. The paper has a slightly textured appearance with some minor creases and discoloration, characteristic of old paper. The left edge of the page is bound into the book's spine, showing the inner structure and the binding material. The overall tone is a warm, off-white or light beige.

EXHIBIT 33

DAILY EUGENE GUARD.
L. L. CAMPBELL, Publisher.
Published every evening of the week, except on Sundays and public holidays. Address at the office, 100 North Commercial street, Eugene, Oregon.
Subscription rates:
In advance, per week, 10 cents; per month, 30 cents; per quarter, 90 cents; per year, \$2.50. Single copies, 5 cents.
Will be sent by mail to any address, free of charge, if the name and address are given.
One year in advance, \$2.50.
Advertisements made known on application.
Entered as second-class matter at the Eugene, Oregon, postoffice.
MONDAY, MAY - 15, 1893.

DR. POWELL REEVES & CO.
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KIDNEY AND URINARY CATARRH.
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Now located at 218 Commercial street, Eugene, Or.

FAIRMOUNT
THE FREE-
Oregon State University.
GEO. M. MILLER & CO., OWNERS.
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The fruit growers of Lane county have organized. In union there is strength. A market for their products will be more readily found.
Mr. H. B. Lane, the state food commissioner, has caused the arrest of a number of grocers in Portland, on a charge of selling adulterated milk.
In the United States there are over fifty million people and publishers association. Nearly all of these are united in the National Editorial Association, which will hold its ninth annual session in Chicago next week.

Dean White, having dropped all the chips he had gathered on the New York board, can now go back to Chicago and relieve. Then he can square up with his New York creditors, and write them, as he wrote his Chicago creditors when he paid them up, that "God has been good to me."
Spending of an income tax on large properties the St. Louis Republic says: It is plainly evident that Secretary Cullis can count on the newly added support of his party in congress in favor of a measure the gold that any financier or capitalist can desire to see there. An income tax of 10 per cent, or even 5 per cent, on all abnormal income, payable in gold, would render it certain not only that the prodigal expenditures for pensions will be met, but there will be at all times in the treasury plenty of gold to pay the face value of silver certificates issued on silver bullion lying idle in the treasury.
The pretense that an income tax cannot be collected is idle. It is collected without difficulty in Great Britain, and was collected with no great difficulty in this country at the time it was on the federal statute books. It will be no more easily evaded than any other tax, and will probably be more closely collected than there are on personal property now.

The country is scarcely yet aware of the stupendousness of the undertaking which culminated in the opening of the fair. The great fair has already cost about \$2,000,000. For twenty-one months its creation has employed a whole army of laborers, masons, glaziers, carpenters, blacksmiths, builders, engineers, architects, artists, decorators—enough to build a city and to people it. There are nearly seven hundred acres in the grounds and there are nearly four hundred buildings there, some of them vast palaces such as no emperor ever dreamed of building, and one which covers more than thirty acres of land. More than sixty thousand exhibitors have taken space, and every section under the sun which has aught of interest in human progress is shown is represented there. The citizens and corporation of Chicago have contributed \$1,000,000 outright and last five millions more to make the enterprise a success worthy of the greatness and glory of our time and country. It is estimated that the total outlay, including that of the exhibitors, will exceed one hundred million dollars.

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Every Sack of Flour Guaranteed.
Ask your grocer for Eugene flour. If not what is represented the money will be refunded.
The Eugene Mills have the latest improvements, and have no superior in the manufacture of first-class flour.
All kinds of mill feed to order.
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Bois Bros., Proprietors.
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EXHIBIT 34

THE HISTORY OF THE THAMES WATERMEN

IN the statute of King Henry VIII for regulating watermen and their fares, passed in 1514, it is recorded, "that it had been a laudable custome and usage tyme out of mind to use the river in barge or wherry bote"; it would, therefore, be impossible to trace the first employment of bargemen, wherry-men or watermen upon the River Thames.

The Thames barges and boats, until the introduction of the coach, were almost the only means of conveyance of Royalty, and indeed the public, between the palaces of the Tower, Windsor, Westminster, Greenwich, Whitehall, Sheen, Hampton, Bridewell, etc., as well as the main means of access to the mansions of the nobility which then graced the shores of the Thames. Almost all these had watergates and stairs (or bridges as they were then called) leading to the River and a body of Watermen in livery and Badge which were kept by all noblemen and well-to-do families.

In those early days a body of bargemen and watermen formed part of the Royal Household and, of course, even to-day 25 freemen of the Watermen's Company have the honour of holding the appointment of Waterman to Her Majesty.

These Royal waterman and those of the peers and Members of Parliament, the watermen of the Corporation of London and those employed by the various Livery Companies, were allowed by the Lords of the Admiralty protection from impressment to serve in the Navy. In this connection it must be remembered that from the reign of King Edward III, when in 1355, on the invasion of France, the system of impressing watermen and others to man the King's ships commenced, the main source of manpower for the fighting ships in any war was the Thames waterman until the year 1814: indeed the lot of a waterman in times of war was often unenviable, the impressment being at times severe, as witness a report in the London Magazine in 1738 stating "that the press on the river was so hot to man the several ships, that between Wednesday and the following day, 1,500 men were impressed." The same magazine again reported in 1741 the hottest press below bridge since the commencement of the war with Spain in which 2,370 men were taken and enrolled—the majority watermen.

May it here be said that Admirals and other naval commanders through the years, culminating in Lord Nelson himself, have praised the courage and seamanship of sailors who have learned their craft on the River Thames.

To return, however, to the beginning; first mention of an existing traffic between London and Gravesend in boats employed in the water passage or long ferry is recorded in the year 1279, and in

1293 comes the first record of overcharging. "The Jury presented unto the Justices of Assize that the boatmen of Gravesend and London did take from passengers unjust fares, against their will." In fact they had charged one penny for a passage from London instead of the usual halfpenny.

These fares increased more slowly than we experience to-day for the next rise in the fare to Gravesend came in 1370 when it was raised to twopence. This same order ordained that no waterman should leave his boat at the opposite side of the River after sunset, but to have it moored on the city side in order to prevent it being used by thieves and malefactors for entry into the city, for, of course, London Bridge was the only means of access from the South Shore, and this was gated. In 1385 King Richard II granted to one of his barge-men, Walter Fesacock, the office of Gatekeeper of London Bridge.

In 1379 it appears that the King re-granted and confirmed to the boatmen of Gravesend and Milton the exclusive privilege of conveying passengers from thence to London on the condition that they should provide boats for the purpose and carry all persons either at the increased rate of 2d. per head, with his bundle, or the whole boat's fare should be 4s. This charter was subsequently confirmed by succeeding Monarchs, and the boats continued to depart for London at every flood tide and return from Billingsgate at every ebb tide.

The earliest Act of Parliament for regulating watermen, wherry-men and bargemen appears to have been passed in 1514 in the reign of Henry VIII when the fare to Gravesend was still maintained at 2d. per head so long as the whole boat's fare was 4s. Fares were also laid down for Erith, Greenhithe, Purfleet, Woolwich, various London Piers and others up to Mortlake. The Act laid down that the hire of a waterman was 6d. per day without meat or drink except up to Mortlake or down as far as Greenwich when it was to be 8d. per day. If a waterman demanded more he could be fined treble fare—half the proceeds to go to the King and half to the Plaintiff; the bailiffs and constables being ordered to take the offender before the Lord Mayor or Sheriffs, or the Justices of the Shire nearest the ferry point, to adjudicate.

During the reign of King Henry VIII the number of barges kept by nobility increased, and with the presentation of Hampton Court to the Crown the River between there and London was greatly used. The practice was at that time for travellers coming down river to disembark at Three Cranes stairs and re-embark at Billingsgate—the barge being navigated through London Bridge by men known as "bridge-shooters". There were 20 arches to London Bridge of those days and at times there could be a difference of 5 ft. in the level of the water from one side of the bridge to the other, so great was the obstruction and so great the race of water between the starlings.

Although the River was in greater use now it had seen great pomp and splendour since an earlier year, for in 1454 Sir John Norman, citizen and draper, on his journey for presentation to the Judges broke the ancient custom of the Mayor of London to ride to

Westminster and provided, at his own expense, it is said, a noble barge decorated with flags and streamers and rowed by watermen with silver oars and attended by such city companies that possessed barges in a splendid manner.

This is described in the Harleian Manuscripts rather quaintly: "And this yere the riding to Westminster was fordone, and goyng thider by barge bigonne."

As the number and splendour of the Companies' barges increased, the Mayor's show came to be the most attractive of the city pageants, often with amazing ingenuity, floating islands being erected with palm trees, whole orchestras playing afloat and much colour and splendour; all of which brought advantage to the trade of the Watermen as literally thousands were afloat at such times. These Mayoral water processions were continued, with slight breaks, until 1856.

Until the middle of the 16th century the regulating of the traffic upon the river had been, of course, at the discretion of the Monarch and, for certain issues, the Mayor and Court of Aldermen.

However, for reasons which are explained, an Act was passed in the reign of Philip and Mary in 1555 entitled "An Act touching Watermen and Bargemen upon the River Thames".

"Whereas, heretofore, for lack of good government and due order amongst wherry-men and watermen, exercising, using and occupying rowing upon the river of Thames, there have divers and many misfortunes and mischances happened, and chanced of late years past, to a great number of the King and Queen's subjects, as well to the nobility as to the common people, that have passed and repassed, and been carried by water, by reason of rude, ignorant and unskilful number of watermen . . . and, many boys, being of small age, and of little skill, and being persons out of the rule and obedience of any honest master or governor . . ."

The Act goes on to say that many of these "evil and ignorant persons" in time of pressing for naval service leave the River and go into hiding in the country, only returning when the press is over and, then as is stated, they "repair again to their former trade of rowing, and being very ignorant for lack of convenient time of learning and exercise in the which they might obtain sufficient knowledge of their occupation . . . and do carry and convey their said subjects from place to place by water upon the said river of Thames, whereby divers persons have been robbed and spoiled of their goods, and also drowned . . . There shall, therefore, be yearly appointed, chosen and elected by the Mayor, and the Court of Aldermen of the City of London, for the time being, the number of eight persons of the most wise, discreet and best sort of watermen . . . to be named and called "the overseers and rulers of all the wherry-men and waterman that from and after the said first day of March, shall use, occupy or exercise any rowing upon the said River of Thames, betwixt Gravesend and Windsor aforesaid."

This Act further specified the type and dimensions of boats to be used by watermen, in the interests of safety; also in consequence

of the Act a new Table of Fares and Passages was made by the Mayor and Court of Aldermen which was completed in 1559.

Thus was born what was to become, as it is to-day, "The Company of Watermen and Lightermen of the River Thames."

A very brief but encompassing description of the first three hundred years of the Company could be that the Rulers, in addition to their task of controlling the watermen and regulating and examining the proficiency of apprentices, were engaged mainly with three things. Providing the men for naval impressment and, in difficult times, endeavouring to keep such impressment within reasonable bounds in order that the regular traffic on the river may flow. Secondly, they had to keep a watchful eye on the proceedings of Parliament in order that they would be ready to lodge objection against the various Bills submitted from time to time, which seemed to them to threaten the livelihood of the Watermen and, thirdly, by not infrequent appearances before the Court of Aldermen to argue as to whose was the power to make or amend the bye-laws of the Company, which culminated in the Lord Mayor's Court introducing a Bill in Parliament in 1794 to empower such Court to make bye-laws, as well as approve them; a Bill which became an Act in spite of the opposition of the Rulers.

No attempt could be made, however, in such a paper to cover the history and growth of the Watermen's Company, except to mention that the Company carries out to this day the duties originally assigned to it, and all apprentices are examined, at the end of their first two years apprenticeship, by the Court as to their knowledge and fitness to navigate. All licences, whether to watermen or lightermen, are, furthermore, issued at the discretion of the Court after examination.

What were the boats that were employed by these watermen in the carriage of passengers up and down the miles of river from Gravesend to Windsor?

Some idea can be gained from joint regulations laid down by the Court of Aldermen of London and by the Corporation of Gravesend in 1595. Keen competition with the acknowledged ferry had grown up which had led to bad design and build of craft and undermanning which, in turn, had been the cause of many accidents involving serious loss of life.

We find then that the boat employed by the regular Gravesend to London ferry was the common barge carrying 24 passengers and it was laid down that "such barge shall be rowed by four men in fair tides, and five in foul weather, and a steersman at the least: and shall be furnished with sufficient masts, sails and sailyards and shall carry a good and sufficient hawser and anchor to serve in time of distress."

Then there were the tiltboats, so called for the extra protection afforded by a tilt or canopy over the passenger who sat on straw. These tiltboats were varied in size but it was decreed that on no account could more than thirty passengers be carried and the manning scale was five rowers and a steersman. The fare on the

Gravesend run was 6d. per head in the tiltboat, as against 2d. in the common barge, being originally for persons desiring slightly more comfort.

Next there were the lighthorsemen, these could carry up to seventeen passengers and were served with four rowers and a steersman. These were often used on a family occasion and private parties.

And, of course, most common on the ferry and waterage work in the Pool and in and around London, were the wherries manned by one waterman and carrying a maximum of five passengers. It was then further laid down that no-one could row as a waterman until he had served at least one year as a rower.

These then were the boats that plied for hire at the many stairs in the city and beyond, but until the year 1700 regulations only covered fares for weekdays. In that year, however, in a further Act, it was laid down that the Rulers should elect a number not exceeding 40 watermen to ply at the stairs on Sundays between Vauxhall and Limehouse to ferry passengers across the river at 1d. per head, this money being paid in the following morning to the Company and the Watermen being paid a wage by the Company. Such proceeds as there were were used for the benefit of poor, sick and aged watermen. This job carried with it exemption from impressment and was generally reserved for a married waterman with at least two children.

As to the number of boats employed on the river no accurate figure is obtainable as it was not until 1697 that the Court of Aldermen laid down that, for the better prevention of the rudeness of the watermen and easier discovery of the offenders, all craft should be marked and numbered and a register should be kept by the Watermen's Company. One reads, however, in Maitland's History of London that in 1734, according to a return made on September 28th, there were 5,972 boats working and 767 barges for cargo. In addition, there were approximately 1,000 extra boats kept for letting out and also about 1,000 barges. To-day, by contrast, there are between 6,000 and 7,000 barges working in the Port, but very few boats in such work.

It is not, perhaps, difficult to appreciate the causes of such a reversal of figures and such a decline in the number of watermen to be found employed on the river. It is sufficient to say that the constant growth of London's Port into the premier Port of the World was the obvious cause of such a reversal and the ever increasing tonnage of cargo handled necessitated more and more lightermen and barges. Evolution or the normal march of progress of the City was the cause of the dwindling number of watermen.

At the beginning I mentioned the introduction of the coach, and undoubtedly the presentation in 1565 of the first coach, as against the wagon type of vehicle used theretofore, to Queen Elizabeth I by a Dutchman, one Gylliam Boonen, who introduced the coach from Holland, was the first letter of the writing on the wall as far as the main business of waterage was concerned.

Since the Queen now owned one it was not long before coaches became fashionable and by 1588 the watermen were becoming worried concerning their livelihood. Taylor, the water poet, said of them in a small volume on the subject—"Whence comes leather so dear? By reason or against it of the multitude of coaches which consume all the best hides in the Kingdom; when many honest shoemakers are undone, and many poor Christians go barefoot at Christmas. Yet a coach or carouch is a mere engine of pride, which no one can deny to be one of the seven deadly sins."

Bills were presented in 1601 and 1614 against 'superfluous coaches' or 'outrageous coaches' and were turned down either by the Commons or Lords, but the final blow from this quarter came to the watermen in the first year of Charles I's reign when, in 1625, there was introduced a system of letting coaches out on hire and finally their plying in the streets, albeit in limited numbers; at last the coach was here to stay and play its part in the history of transport.

The second threat to watermen came in 1722 with the introduction of a Bill into Parliament for the building of a bridge across the river at Westminster, from a place called "Prince's waste" to the opposite shore near Peterboro House. This really caused alarm and protests, not only from watermen however, but also from the Court of Aldermen and many petitions were presented against such a Bill, which was apparently dropped.

Although a proposal to build a bridge at Putney had been mooted and rejected in 1671, an Act was passed in 1726 for the building of such a bridge which, on completion, caused much interference with navigation in the vicinity, the arches being often referred to as the Scylla and Charybdis of amateur boatmen as, like the arches of Old London Bridge, they were frequently the cause of loss of life to the careless and the inexperienced. The bridge was not built, however, without adequate compensation being settled by a jury to be paid to the injured parties such as local watermen and ferry owners.

And so in 1736 when the Act was finally passed to build Westminster Bridge, completed in 1749, not only were the poor watermen of Westminster compensated for the loss of the Sunday Ferry but even the Archbishop of Canterbury for the loss of his ferry between Westminster and Lambeth.

The Rulers of the Watermen's Company had for some years been making representations to the City Corporation concerning the danger occasioned not only to navigation but to life by Old London Bridge with its twenty arches and extensive starlings, it being estimated that at least fifty lives were lost each year in the navigation of the narrow arches; but it was not until Westminster Bridge was opened that the citizens of London came to realize the inconvenience of the structure of London Bridge with its houses restricting the bridgeway itself.

The whole question was discussed by the Corporation in 1754 when a compromise was reached, it being decided to remove the buildings from the bridge structure and alter the starlings in order

to widen the space for navigation and, at least, reduce the drop in water level from some 5 feet to approximately 15 inches. The Act for this was finally passed in 1756 but did not greatly relieve the difficulties of navigation which continued until the complete rebuilding of the bridge in 1831. The era of bridge building had arrived with the second half of the 18th century, which together with wheeled transport and the third stage of development, namely the steam engine, contributed to the decline of the oarsman waterman.

The first experiment in the use of the steam engine to propel a barge took place on the Thames in 1801 and in January, 1815, the following advertisement startled both the London pleasure seekers and the watermen of the river. "The public are respectfully informed that the new London steam engine packet "MARGERY", Captain Cortis, will start precisely at 10 o'clock on Monday morning, the 23rd instant, from Wapping Old Stairs near the London Docks, to Milton, below Gravesend, and will return from thence, at the same hour on the succeeding morning to the same stairs, the said packet having superb accommodation. Passengers and their luggage will be conveyed to and fro with more certain speed and safety than by any other conveyance by land or water, and on reasonable fares. Passengers are requested to be punctual to the time specified. Fares 4s. in the chief cabin and 2s. in the fore cabin."

No reference to Watermen and Lightermen would be complete without mention of what is probably the oldest sculling race in the world. Doggett's Coat and Badge has been rowed annually, it is believed without a break, since 1715.

Thomas Doggett, a famous comedian of the time, endowed the contest both as a mark of appreciation to young watermen and to commemorate the accession to the throne of George I, of the House of Hanover, on August 1st, 1714. The race is from London Bridge to Albert Bridge, Chelsea—a distance of almost five miles and was originally rowed when the tide was strongest against the rowers.

The Thames watermen were always keen to contest their skill and in the 18th century particularly many contests were held for coats and badges. One example well illustrating their endurance was a wager organised in January, 1804, involving two six-oared boats, one manned by a Gravesend crew and the other by a London crew.

The race started at Gravesend, continued round the Nore light and back to a boat moored at Rotherhithe—an unusual race and a task which it was supposed the men could hardly perform without rest. Suffice to say that the winning crew from Gravesend covered the course of 67 miles in eight hours seventeen minutes—a remarkable feat.

What is the scene to-day on the River Thames and where are the Watermen? They are still there. One has only to look at the river from any bridge or pier to see that there are still plenty of people, many of them visitors to London, who wish to avail themselves of the chance of travelling by water, either as a ferry service to go about

their business or, in most cases, to see this great city from the river. Every vessel, large or small, is navigated by a waterman, licensed by the Waterman's Company and holding a licence only after being able to prove his ability and knowledge of every part of the river and its peculiarities, every one of its two dozen or more bridges and its effect upon navigation—all men who have proved their ability to safeguard the lives of their passengers, and maintaining the highest traditions of their forebears.

EXHIBIT 35

Carriages & Coaches

OMNIBUSES AND CABS

THEIR ORIGIN AND HISTORY

BY
HENRY CHARLES MOORE



WITH THIRTY-ONE ILLUSTRATIONS

LONDON: CHAPMAN & HALL, LD.

1902

Hackney-coaches were established in London early in the seventeenth century, and soon became so well patronised that, in 1623, the Thames watermen, who had long enjoyed the monopoly of carrying the public, became alarmed and complained loudly that they were being ruined. Apparently they wished the hackney-coaches to be suppressed, but the new vehicles were far too popular to be treated in that fashion.

John Taylor, the waterman-poet, bewailed their introduction in a pamphlet entitled, "The world run on wheels." He did not denounce private coaches, his anger being aroused "only against the caterpillar swarm of hirelings. They have undone my poor trade whereof I am a member: and though I look for no reformation yet I expect the benefit of an old proverb, 'Give the losers leave to speak.' . . . This infernal swarm of tradespellers have so overrun the land that we can get no living upon the water; for I dare truly affirm that in every day in any term, especially if the Court be at Whitehall, they do rob us of our livings and carry 500 fares daily from us."

"I have heard," he continued, "of a gentleman who sent her man to Smithfield from

EXHIBIT 36

Stage Waggon and Coaches

Stage Waggon and Coachees

Ron Vineyard

August 2000

Colonial Williamsburg Foundation Library Research Report Series - RR0380

Colonial Williamsburg Foundation Library

Williamsburg, Virginia

August, 2002

*STAGE WAGGONS
AND
COACHEES*

Ron Vineyard

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Williamsburg, Virginia

August 2000

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INTRODUCTION

This report traces development of stage travel from the early road wagon in England to the American Stage Coach of the nineteenth century. The Stage Wagon of the late eighteenth and early nineteenth centuries was very similar, if not identical, to the Coachee of the same period. Both of these two styles, therefore, are included in this report. Additionally, these two styles, the Stage Waggon and Coachee are considered by most to be among the first American carriage styles developed by American artisans. Later styles such as the Stage Coach and Buggy, better known by most today, appear to have been derived from these early vehicles. Improvements in the Stage Wagon led to development of the American Stage Coach, and refinement of the Coachee style led to development of various styles including the American Buggy.

Included in this document are descriptions of the Stage Wagon and Coachee, observations by travelers concerning both vehicle and drivers and details of operating a stage line in the late eighteenth century. This information has been drawn from a variety of sources, including the works of Paul Downing contained in articles for *The Carriage Journal*, Don Berkebile in his *Dictionary of Carriage Terminology*, and Laszlo Tarr in his *History of the Carriage*. An additional source, which proved invaluable, was *Stagecoach East* written by Oliver W. Holmes and Peter Rohrbach. Also, various eighteenth and nineteenth century county records, account books, and the Woolfolk Family Papers in the collections of the Swem Library at The College of William of Mary provided interesting and valuable data.

The purpose of this document is to collect and present relevant information on these two important vehicle styles, the Stage Wagon and the Coachee, in order to better understand their development and importance to our country in its formative years. It is hoped the information contained in this report will aid in providing accurate, in-depth interpretation of these vehicles at Colonial Williamsburg.

STAGE WAGGONS

General

The term, Stage, as associated with Stagecoaches and Stage Waggon is believed derived from the fact that vehicles used for public transportation accomplished their journeys in stages, after each of which the horses, and perhaps the vehicle itself, were changed. During the early eighteenth century, the terms, Stagecoach and Stage Waggon, were commonly used in an indiscriminate and synonymous manner. The term, Stage Waggon appears to have been the preferred usage during the later decades of the eighteenth

century; with the term, Stagecoach, returning to common with development of the Concord and Troy style coaches of the nineteenth century.

In the American colonies, stagecoach service started in the early eighteenth century with limited routes between several major population centers. There was only a modest amount of staging in the East during the fifty years before the Revolution War, but after that conflict, stage travel experienced rapid growth. The stagecoach network, with its special culture of stagecoach taverns and stagecoach customs, continued to develop through the early nineteenth century, reaching its golden years in the East during the two decades from 1820 to 1840. ⁽¹⁾

In 1785 Congress passed legislation allowing stagecoaches to carry the mail on established stage routes, thereby giving them quasi-public status as an arm of the General Post Office. For the next sixty years the stagecoach was the main carrier of the mail in the United States, and until railroads and the telegraph became common in the 1840s it was the nation's

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principal communications mode. Contributions by stage lines to the fledging Republic, in its often uncertain early days, were therefore enormous.

Stage lines in the East had a generous policy toward publishers of newspapers, allowing them low rates and free printers' exchanges. This encouraged a healthy and expanding newspaper industry, and thanks in large part to the stages, the American people of the nineteenth century became the largest newspaper-reading population in history up to that point. Again, that contribution to molding the thinking of the Republic's citizens is almost incalculable. ⁽²⁾

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Early Travel

Travel in colonial days in North America, when not by water or on foot, was chiefly on horseback. Even after carriages of various sorts were introduced, many people continued to prefer horse and saddle for their traveling. In many areas outside the towns, the roads were practically impassable for carriages during much of the year. Horse and rider, encountering unexpected obstructions, could act with more freedom and therefore move with greater speed and certainly than a vehicle. Also, horseback travel was less expensive—a weighty consideration for ordinary people of limited means. ⁽³⁾

In Virginia during the eighteenth century, four-wheeled carriages such as the coach and chariot became the fashionable vehicle of the gentry, and two-wheeled carriages such as riding chairs and chaises were commonly owned by gentry and working people alike. However, most people, of the common sort, had no access to traveling vehicles whatsoever. ⁽⁴⁾

Carriage ownership for the State of Virginia, as reflected in the Personal Property Tax Records of 1790, was only 3.3 carriages per 1000 population. This figure varied significantly depending upon the many factors associated with the particular area being examined. In the Tidewater area the average was 6.1

carriages per 1000 population. In the Shenandoah Valley and the areas beyond the Allegheny Crest the averages were 0.6 and 0.04 per 1000 population respectively. The counties of Accomack and Northampton on the Eastern Shore of Virginia present an interesting example that is considered an anomaly. In these two counties carriage ownership (primarily two-wheeled carriages) was 13 per 1000 population, more than double the

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next highest area, the Tidewater area. In general, these figures suggest private carriage ownership in Virginia was quite low during the late eighteenth century. ⁽⁵⁾

Stage service began in several areas of the colonies in the early eighteenth century. Hugh Huddy was awarded a patent by the State of New Jersey in 1706 allowing him to establish a stage line between Burlington and Perth Amboy. In the Boston area, stage service was established in 1716 with "*once a fortnight service between the Orange-Tree in Boston to Newport in Rhode-Island*". ⁽⁶⁾

By mid-eighteenth century, stage lines were established connecting New York and Philadelphia with "stage-boats" providing service over the rivers and other bodies of water. Stage lines from Philadelphia, augmented with "stage-boats", offered somewhat limited service as far south as Wilmington, North Carolina in 1761. ⁽⁷⁾

On November 3, 1737, the *Pennsylvania Gazette* contained the following advertisement:

"Notice is hereby given that the Post Office in Philadelphia is now kept at B. Franklin's in Market Street, and that Henry Pratt is appointed riding Post Master for all the stages between Philadelphia and Newpost in Virginia, who sets out about the beginning of each month and returns in 24 days, by whom Gentlemen, Merchants and others, may have their letters, etc., carefully conveyed and business faithfully transacted, he having given good security for the same to the Hon. Col. Spotswood, Post Master General of all his Majesty's Dominions in "America."

On April 28, 1738, the *Virginia Gazette* supplemented this notice with a more expanded announcement:

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"Alexander Spotswood, Esq., Sole Deputy Post-Master-General of America, having formed a new regulation for carrying on the several Post Stages with greater expedition and certainty than hitherto, this is to advertise the Publik thereof; and that by this regulation the several Stages will be performed as follows, viz: The Post is to set off from the General Post Office at New Post on Wednesdays, the 26th . Inst. To cross over Potowmack that night, and arrive at Annapolis on the Friday: there he is to make some stop and then proceed to Susquehanna, where he is to arrive on Saturday night; and exchange Mails with the Philadelphia Rider, who is there to meet him; The Monday following he is to return to Annapolis, and arrive at Patowmack on Tuesday night, from whence the Mail is to be brought to New Post on the Wednesday, and the next morning to set out for Williamsburg where he is to arrive on Saturday.

...And in order to extend the Post Office Still further to the Southward, Col. Spotswood has been pleased to grant a commission to William Parks, the Printer of this paper to carry on a Stage from Williamsburg to Edenton, in North Carolina, which is to be performed once a month, Summer and Winter. The Stage is already begun, and the Post is to set out again from Williamsburg on Monday the 8th of May, to go over Hog Island Ferry: from thence to Nansemond court House; thence to Norfolk Town; and from thence to Edenton... "

On June 22, 1739 an advertisement announced continuation of the southern stage routes from Edenton to Charles-Town in South Carolina by way of Cape Fear. With this extension, there was:

"Now a communication..., by post, all the way from Piscataway and Boston in New England, through the principal towns and places in New York, Pennsylvania, Maryland, Virginia and North Carolina to Charles-Town in South Carolina, and from thence there are frequent opportunities to Georgia. " ⁽⁸⁾

However, a letter from George Washington to Sir Edward Newenham, dated March 20, 1785 stated:

"From the Southern parts of this State (Virginia), say from Norfolk, thro' Hampton, Richmond, Fredericksburg, and Alexandria which is within a few miles of this place (Mount Vernon), there is a regular Stage which passes thrice every week, it is neither of the best or worst kind. From Alexandria thro' the Metropolis of every State, Annapolis in Maryland

excepted, which is a little to the right of the Post Road which goes thro' Baltimore. There is also a regular Stage to Portsmouth in New Hampshire, they are of a similar kind, and pass as often as those first mentioned; so that not more than three intervening days can happen between one Stage day and another. A person may therefore, at any time between the first of April and first of December, travel from Richmond (the metropolis of this State) to Boston, in ten or twelve days; and return in the same time. Between this State and Charleston, South Carolina no Stages are as yet established, and the country for the most part being poor and thinly inhabited, accommodations of every kind, I an told are bad. So much for public convenience; and I do not think I should deceive you much, was I to add that Sir Edwd. Newenham would find no difficulty to be accommodated, in this and some other States, with horses and carriages of private gentlemen, from place to place where inclination or business might induce him to go."

In 1784 the General Assembly of Virginia granted Nathaniel Twining the exclusive privilege of operating a stage line between Alexandria and Richmond. The act also allowed Twining to charge passengers *"five pence per mile, and five pence per mile for every one hundred and fifty pounds weight of baggage"*. Later that year the General Assembly granted John Hoomes the exclusive privilege of operating a stage line between Richmond, Petersburg, Hampton, Norfolk, and Portsmouth. Again the fares were set the same as for Nathaniel Twining. ⁽⁹⁾

John Hoomes was granted exclusive rights to the Alexandria to Fredericksburg and the Fredericksburg, Richmond and Hampton routes by the General Assembly in 1787. The set fares for these routes were "three pence, three farthings per mile for both passengers and 150 pounds of baggage". Also that year, Richard Towns and John Woolfolk were awarded exclusive rights to the Richmond and Petersburg, and the Petersburg and Portsmouth routes. Rates were the

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same as specified for John Hoomes for his routes from Alexandria, Fredericksburg, Richmond and Hampton. ⁽¹⁰⁾

The Richmond to Petersburg route, formerly granted to Richard Towns and John Woolfolk, was awarded to William Pennock in 1789. The fare was established as three pence per mile. That same year Joseph Wilsey of North Carolina, James Rosekrans of New York, and Robert Twiford of Accomack were granted exclusive privilege of running a stage waggon from Northampton court House to the line of Maryland. These same men were awarded the right to establish one or more "packet boats" for the purpose of conveying their stage passengers across the Chesapeake Bay from the Eastern Shore to the towns of Norfolk and Portsmouth. Rates for the packet boat trips were established at fifteen shillings per passenger and fifteen shillings for each horse. ⁽¹¹⁾

Early stage travel in New England is described by Allan Forbes and Ralph M. Eastman in their *Taverns and Stagecoaches of New England* written in 1954. They wrote that in the Boston area:

"...the first stagecoach line, operating on a regular schedule, seems to have been the one established by Bartholomew Stayers, with headquarters at the Sign of the Lighthouse in the North End of Boston, not far from Old North Church. The rout was between Boston and Portsmouth, New Hampshire and the year was 1761. The reason given was 'for the encouragement of trade between the two places.' The first vehicle used was what Stayers described as 'a large stage chair' drawn by two horses and guaranteed to seat four passengers. In less than six weeks, such was the success of the venture, conveyances to accommodate five people were put into use. In May of 1763 the 'Portsmouth flying Stagecoach' was launched, carrying six passengers inside...

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The great increase in travel and business following the peace of 1763 which abolished our French frontier and threw the 'Eastward' open to American settlers, encouraged Stayers to employ a coach-and-four which he boasted was always on time and never lost a passenger or package. When needs demanded, he put six horses to his coach, and so regular was his service that it attracted what the law required should be sent by mail.

The Stayers coaches appear to have been built by Adino Paddock of Boston. He and Stayers were loyalists and when the Revolution came both went to England to live."

Adino Paddock was one of the premier coach makers in Boston. A native of Boston, he began his business as a "Chaisemaker" in a shop near the Common in 1758. Paddock's business was extensive. He made carriages and sleighs of all kinds, he performed work for other Boston chaisemakers whose establishments were not large enough to undertake all operations, and he kept his sizable force of tradesmen busy building vehicles for a variety of customers up and down the New England coast.

Born into a solid yeoman family from Harwich, he came to Boston with his widowed mother about 1736 and was bound out as an apprentice to learn the trade of chaisemaking. He became senior warden of St. John's Masonic Grand lodge in 1759, and rose to the same position in the Master's Lodge in 1761. Entering the militia, he soon displayed those talents of leadership and good fellowship so necessary for advancement in rank. Profiting by instruction from the British officers at Castle William, he developed the skills necessary for promotion. He held the rank of major in 1771, and by 1775 he had been promoted to Colonel and placed in charge of the colony's artillery.

Always a tireless and willing worker for the community, Adino Paddock was chosen fire-warden annually for ten years. In 1769 he was placed with such local worthies as John Scollay, John Rowe, John Hancock, Samuel Adams, Thomas Dawes, and William Cooper on the important Boston Committee on the State of Public Affairs. By 1772 he is referred to as "Esquire" in city and county records. However, stigmatized as a Tory, he departed Boston with General Howe for Halifax and his property, valued at £3,151, was confiscated. ⁽¹²⁾

Early Stage Waggons

Early Stage Waggons were a very primitive type of public traveling carriage used in England and America during the eighteenth and early nineteenth centuries. The earliest form of the Stage Waggon in the Colonies was nothing more than an ordinary covered road waggon with several transverse benches inside. The benches had no backs or padding and the bodies were set directly on the running gear without benefit of springs or thoroughbraces, so that riding was most uncomfortable. Likewise, in England the Stage Waggon presented a rather depressing picture at the beginning of the eighteenth century. It was generally a clumsy, quadrangular structure, carrying a number of passengers huddled together on its wooden benches. These older vehicles used as stages in England were little different from the ordinary carriers' or road waggons. ⁽¹³⁾

Others described the early Stage Waggon as a "*lumbering passenger and freight waggon, its bow-like canvas cover supported on hoops or tilts*". Although mainly for boxes, barrels and packages, a number of passengers crouched between items of merchandise. There were neither springs nor brakes and many found it more comfortable to walk part of the journey on foot. On

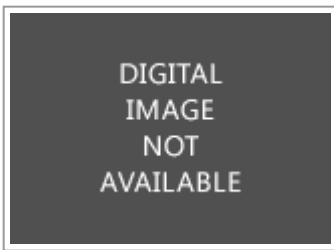


Illustration 1. English road wagon by Thomas Rowlandson, ca. 1795

English Stage Waggon wheels were well-dished with broad treads, helping to level out the ruts for other traffic. A team of eight or more heavy horses was controlled by a waggoner who walked or rode on a separate horse beside the waggon. ⁽¹⁴⁾

An advertisement from *The Boston Newsletter*, September 4, 1721. Carried the following:

"This to give notice, that Peter Belton at the sign of the Rhode Island and Bristol Carrier in Newbury Street at the South end of Boston has a Road Waggon for carrying goods, men, women and children between Boston, Bristol and Rhode Island once every week; sets out on Thursday next, and so every Tuesday, to return on Saturday; where all persons may be accommodated on reasonable terms; as also with goods, lodging and entertainment for men and horses."

A Road Waggon of the eighteenth century was just that — an ordinary waggon of the period with some fitted out for road travel; these, with the exception of the techniques of manufacture, were structurally little different from the farm waggons. The bodies or beds were unsuspended — that is, they were set directly on the transom or bolsters, as they came later to be called, of their carriages without benefit of springs or even thoroughbraces. Thus, there was little riding comfort on the un-backed wooden benches placed crosswise of the body. These benches were probably removable, should the demand for space for carrying "goods" exceed that for carrying persons. An ad for the northerly route between Trenton and New Brunswick in 1734 stated the Stage Waggon *"will be fitted up with benches, and covered over, so that passengers may sit easy and dry."* ⁽¹⁵⁾

As previously stated, these early Stage Waggons were typically drawn by four or six horses. Sometimes a single leader was used, making a five or seven horse team. These horses were the large, sturdy draft animals, selected for their strength and durability rather than speed and elegance. The pair of horses nearest the front of the wagon was called the "Wheel Horses" or "Wheel Team." The left wheel horse was often called the "near wheel horse" and the right member of that team was called the "off wheel horse". The second pair of horses in a six-horse team was called the "Swing Team", with the left horse called the "near swing horse" and the right horse called the "off swing horse." The lead pair was referred to as the "Lead Horses" or the "Lead Team." Likewise, the left and right horses in this pair were called "near" and "off" respectively. In the case of a single leader, that horse was simply called the "leader." With four-horse teams the pairs were called the wheel horses and the lead horses.

Wheel horses were usually the largest and most dependable since they had the responsibility of not only drawing the wagon, but also turning the wagon by moving the pole from side to side, pivoting the front axle assembly. In addition, the wheel horses provided the power for backing the wagon and the only braking action was supplied by these horses as well. Thus, strong animals with well-developed hindquarters were selected for these positions. The lead horse or horses were generally the lightest of the team, the most intelligent, and most highly trained. In England, the wheel horses drew from two pairs of shafts, while in America the wheel horses drew from either side of a central draft pole. In many cases, the driver rode the near wheel horse in the same manner as wagons hauling freight.

Harness for horses used to draw these early Stage Waggon is believed to be much the same style as that used on freight waggons. In October 1808, John Woolfolk purchased three sets of harness for his Petersburg to Portsmouth Stage from James Shiphard at a cost of £10 per set. Three years later in 1811, he bought two additional sets of Stage Wagon harness at a cost of \$50 per set.

Later Stage Waggon

The importance of lightening vehicles and therefore decreasing draft had long been the goal of vehicle makers. American Coachmakers led the way in this effort, and in the later decade of the eighteenth century developed vehicles which were the lightest known in

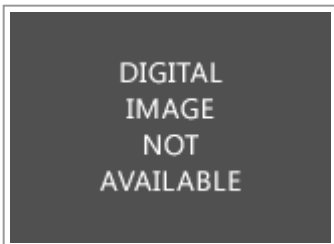


Illustration 2. Early American Stage Waggon from a plate by Isaac Weld, ca. 1796

proportion to their load carrying capacity. This lightening of construction was logical and greatly encouraged by increased travel and demand for greater speed over improving roads.

Stages being produced were specifically designed for passengers, with the older, heavier waggons relegated to transportation of merchandise and other products. In 1800 the two types were separately listed for toll charges on the Lamberton, New Jersey Ferry, as indicated by the *New Jersey Gazette* for March 18, 1800. Stage Waggons (the newer style) with four horses were charged 2 Shillings, 10 Pence. The old type, referred to as "Common Travelling Waggons", with four horses were charged 2 Shillings, 9 Pence. ⁽¹⁶⁾

Using this new and developing technology, a gradual improvement took place in the construction of the Stage Waggon during the last third of the eighteenth century. The seats were sometimes placed on

springs, and eventually, the bodies were suspended on thoroughbraces. Bow-supported cloth tops gave way to permanent standing tops supported by eight slender pillars, leaving the sides open, with rolled curtains that could be let down in inclement weather. Only a few of these Stage Waggon had doors, therefore, passengers had to crawl in, with difficulty, through the open front of the vehicle, over the driver's seat, the latter being under the same roof and on the same level as the passenger seats. The driver often shared his seat with one or two passengers.

Late in the century the body profile began to depart slightly from the straight lines of the wagon body, and became somewhat curved, so as to resemble a Coach body. With the installation of side doors for entry, some Stage Waggon had the foremost passenger seat facing the rear. This style remained the preferred vehicle for public transportation until development of the oval-body stage coaches, known as Concord and Troy stagecoaches, about 1820. ⁽¹⁷⁾

Several descriptions of this late eighteenth century style called the Stage Waggon are remarkably similar. The following description is from the Diary of Charles W. Janson, who traveled in America during the period, 1793 to 1806:

"I now mounted for the first time, an American Stage, literally a kind of Light Waggon. While I attempt to describe this clumsy and uncomfortable machine, I cannot suppress the wish to being possessed of one of them, with horses, harness, and driver, just as we set off in order to convert them into an exhibition in London.

This vehicle which is on the same construction throughout the country is calculated to hold twelve persons, who all sit on benches placed across, with their faces toward the horses. The front seat holds three, one of whom is the driver, and as there are no doors at the sides, the passengers get in over the front wheels, and take their seats as they enter; the first, of course, gets seats behind the rest. This is the most esteemed seat because you can rest your shaken frame against the back part of the waggon. Women are therefore generally indulged with it, and it is often laughable to see them crawling to their seats; and if they happen to be late, they have to straddle over the men who are seated farther in front. It is covered with leather, and instead of windows there are flaps of that article, which in bad weather are let down, and secured by buckles and straps. In summer these flaps are folded up, and this is some alleviation from the repeated shocks you receive in going over the roads, many of which are never repaired."

Francis Bailey wrote in his *Journal of a Tour in Unsettled Parts of North America*, in 1796-1797:

"From Baltimore to Philadelphia are ninety-eight miles; between which places there is no want of conveyance, as there are three or four stages run daily. In one of these I place myself on the morning of March 3, 1796. A description of them perhaps would be amusing. The body of the carriage is closed in, about breast high; from the sides of which are raised six or eight small perpendicular posts, which support the covering — so that it is in fact a kind of open coach. Form the top are suspended leather curtains, which may be either drawn up in fine weather, or let down

in rainy or cold weather; and which button at the bottom. The inside is fitted up with four seats, placed one before the other; so that the whole of the passengers face the horses; each seat will contain three passengers; and the driver sits on the foremost, under the same cover with the rest of the company. The whole is suspended on springs; and the way to get into it is

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in front, as if you were getting into a covered cart. This mode of traveling, and which is the only one used in America, is very pleasant, as you enjoy the country much more agreeably than when imprisoned in a close coach, inhaling and exhaling the same air a thousand time over, like a cow chewing the cud; but then it is not quite so desirable in disagreeable weather.

In his 1807 *Notes & Reminiscences*, Thomas Twining described the Stage Waggon in the following manner:

"The vehicle was a long car with four benches. Three of these in the interior held nine passengers, and a tenth passenger was seated by the side of the driver in the front bench. A light roof was supported by eight slender pillars, four on each side. Three large leather curtains suspended on the roof one at each side and the third behind, were rolled up or lowered at the pleasure of the passengers. There was no place nor space for luggage, each person being expected to stow his things as best he could under his seat or legs. The entrance was in front, over the driver's bench. Of course the three passengers in the back seat were obliged to crawl across the other benches to get to their places. There were no backs to the benches to support & relieve us during the rough and fatiguing journey over a newly and ill made road. It would be unreasonable to expect perfection in the arrangements of a new country; but though this rude conveyance was not without its advantages, and was really more suitable to the existing state of American roads than an English stagecoach would have been, it might have been rendered more convenient in some respects without much additional expense. Thus a mere strap behind the seats would have been a great comfort, and the ponderous leather curtains, which extended the whole length of the waggon, would have been much more convenient divided into two or three parts, and with a glass, however small, in each division to give light to the passengers in bad weather, and enable them to have a glimpse of the country. The disposal of the luggage also was extremely incommodious, not only to the owner, but to his neighbors."

Although most Stage Waggons of the period held twelve passengers on four bench seats, other vehicles used for staging were smaller. The diary of Robert Hunter, Jr., *Quebec to Carolina in 1785-1786*, contains the following description of these smaller Stage Waggons.

"June 8, 1786 — We set off again from Smithfield (Virginia) with a fresh set of horses a quarter after four and drove to Sleepy Hole. The road is so

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swampy and muddy in many places that I have very near fallen asleep in getting to it. Here we crossed the Nansemond River, which empties itself into the James River. We waited some time at Kammel 's for the Edenton (North Carolina) stage. Here Mr. Story and Mr. Cuthbert got into the Portsmouth stage, and we in one of (Nathaniel) Twining 's new ones, for Suffolk. They are upon a different construction from the northward stages, being much lighter, smaller and upon excellent springs, which renders the traveling infinitely more agreeable. There are only three seats, which holds six people with the driver, two in each."

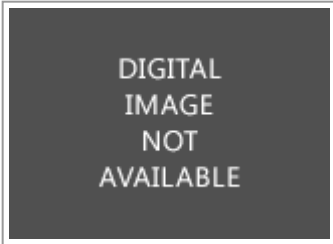


Illustration 3. Sketch of Stage Waggon near Trenton, New Jersey by Pavel Svinin, ca. 1810.

Some have taken Hunter's description of Twining's Stage Waggon as justification to conclude that Southern Stage Waggon were generally smaller than those used in the more northern areas. In general that conclusion may be correct; however, smaller Stage Waggon

were used in Massachusetts as evidenced by the following quote from Brissot de Warville's *New Travels in the United States of America*, of his travels through Spencer, Massachusetts in 1788.

"At this place a new proprietor, and a new carriage. A small light carriage, well suspended and drawn by two horses took (the) place of our heavy wagon. We could not conceive how five of us could fit in this little Parisian chariot, and demanded another. The conductor said he had no other; that there were so few travellers in this part of the road, that he could not afford to run with more than two hoarse; that most of the travellers from New York stopped in Connecticut, and most of those from Boston at Worcester. We were obliged to submit. We started like lightning; and arrived in an hour and a quarter, at Springfield, ten miles."



Illustration 4. Original sketch by Paul Downing of Stage Waggon for Colonial Williamsburg.

From the previous statement, it appears smaller Stage Waggon were used in those areas where there were fewer passengers, and larger vehicles used where there were more passengers.

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In many less-populated areas of the South, the smaller Stage Waggon may have been more economical in transporting fewer passengers, while in the more populated North the larger vehicles proved to be more profitable.



Illustration 5. Reproduction Stage Waggon at Colonial Williamsburg.

Many writers of the period commented on the lack of doors in these eighteenth century Stage Waggon. However, an advertisement by Coachmaker, Conrad Scider of Philadelphia in *The Pennsylvania Gazette* for February 23, 1764 shows this feature was available at an early date. He offered for sale:

"A compleat, neat new Waggon, ornamented with Brass Nails, finished after the fashion of a coach, with the Door in the side thereof and leather curtains all round, except in the front, also a neat Coach Harness for a Pair of Horses. "

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This new, light Stage Waggon designed for transporting passengers required horses capable of greater speeds. The large draft horses used with the lumbering road wagons were replaced with smaller, swifter horses. Brissot de Warville wrote in 1788, "The horses used in these carriages (Stage Waggon) are neither handsome nor strong; but they travel very well." Although these animals were sometimes referred to as "small" and "spirited", few specifics of their character are known. Certainly they were agile and swift but they were not the quality and breeding of fine coach horses. The lighter, improved Stage Waggon of the late eighteenth century was typically drawn by two or four horse teams with the larger vehicles using four horses and the smaller ones using two horses. Harness for these small, spirited horses is believed to be lighter than that used on earlier, heavier wagons, but not as fine and highly decorated as that seen on the better carriages of the period. For both horse and harness, the emphasis was on function and economy rather than style and elegance.

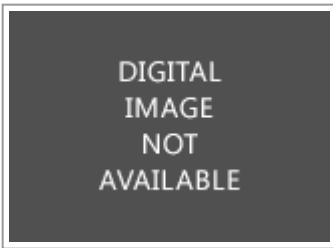


Illustration 6. Stage Waggon, ca. 1810.

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As mentioned previously, John Woolfolk and Richard Towns operated the Petersburg & Portsmouth Stage as early as 1787. A ledger for this line, contained in the Woolfolk Papers held by the Swem Library at the College of William and Mary, lists purchase of a new stage wagon. On December 24, 1788, payment of £30 for "a new stage wagon from Philadelphia" is recorded. John Hoomes, a partner in the Petersburg and Portsmouth Stage who later purchased this route for £369, also bought two stage wagons in March 1791. The ledger entry shows £60 paid for the two stage wagons.

The Day Book of Amos Stiles, Carriage Maker of Morrestown, New Jersey, is in the collections of the Pennsylvania Historical Society, Philadelphia, Pennsylvania. This account book contains the following estimate, dated July 1817, provided to Paul Lanning for building a Stage Waggon.

"Paul Lanning

To a Stage Waggon except ironwork to run on wooden springs in the common way, would cost \$80.00

Extras:	
Spring inside	3.00
Ruff back	5.00
Three cushions	11.00
Back to Seat	3.75
Baggage behind	4.50
Putting on inside curtains	3.00
Two Braces	2.50
Swelled sides to Body	1.50
Total	\$114.25"

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Any journey of significant length involved long hours of travel over inferior roads interrupted only by short stops for food and rest. John Quincy Adams wrote the following of his trip from Boston to New York in 1770.

"We generally reached our resting place for the night if no accidents intervened at ten o'clock and after a frugal supper, went to bed with a notice that we should be called at three in the morning which generally proved to be half past two, and then whether it snowed or rained the traveler must rise and make ready, by the help of a horned lantern and a farthing candle and proceed on his way over bad road sometime getting out to help the coachman out of a quagmire or rut. Finally arriving at New York after a hard weeks' travel wondering at the ease and the expedition with which our journey was affected." ⁽¹⁹⁾

The New York Coachmaker's Magazine of August, 1869 included the reprint of an unidentified writer's comments on early stage travel:

"The term, stages, is associated with a long catalogue of calamities, inconveniences and horrors, almost insupportable. A stage is a heavy, unwieldy vehicle, generally drawn by four jaded horses, urged along by a vulgar, insolent driver. There are some exceptions, some drivers being respectable, and some stages are mere lumber wagons.

In stage-riding it is peculiarly true that it is the first night that costs. It is more intolerable than the succeeding half-dozen, were the journey prolonged for a week; the breaking-in is fearful, the prolongation is bearable. The air gets cold; the road grows dusty and chokes, or rough and alarms you; the legs gets stiff and numb; the temper edges; everybody is overcome with sleep, but can stay asleep — the struggle of contending nature racks every nerve, fires every feeling; everybody flounders and knocks about against everybody else in helpless despair; perhaps the biggest man in the stage will really get asleep, which doing, he involuntarily and with irresistible momentum spreads himself legs, boots, arms and head, over the whole inside of the coach; the girls screech; the profane swear, some lady wants a smelling-bottle out of her bag, and her bag is somewhere on the floor — nobody knows where — but found it must be; everybody's back hair comes down, and what is nature and what is art in costume and character revealed — and then, hardest trial of all,

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morning breaks upon the scene and the feelings — everybody dirty, grim, faint, 'all to pieces ', cross — such a disenchanting exhibition!" ⁽²⁰⁾

Passengers of all positions in life were found on Stage Waggon, as Brissot de Warville wrote of his travels in 1788:

"You find in these stages men of all positions. They succeed each other with rapidity. One who goes but twenty miles, yields his place to one who goes farther. The mother and daughter mount the stage to go ten miles to dine; another stage brings them back. At every instance, then, you

are making many new acquaintances. The frequency of these carriages, the facility of finding places in them and the low and fixed price, invite the Americans to travel. These carriages have another advantage, they keep up the idea of equality. The member of Congress is placed by the side of the shoemaker who elected him; they fraternize together and converse with familiarity. You see no person here taking upon himself those important airs, which you often meet with in France. In that country, a man of condition would blush to travel in a diligence, it is an ignoble carriage; one knows not with whom he may find himself. Besides, it is in style to 'run post'; this style serves to humiliate those who are condemned to a sad mediocrity." (21)

Charles William Janson wrote of the poor roads he encountered during his travels in New Jersey in 1793.

"Several miles before you enter Trenton, the road is so very bad in some places that the driver, with whom I chose to sit, the better to view the country, told me that the last time he passed, his horses stalled, that is, they were for some time unable to drag the waggon through the worst places. He also said, that the road there had not been repaired in his memory, and he did not cease cursing and swearing till we entered the city of Trenton, which was late in the evening, a distance of sixty-six miles. This day's journey was rendered more disagreeable by a heavy rain falling in the very worst part of the road, and being myself as I have already observed, in front, I was wet to the skin, which threw me into a fever on my arrival in Philadelphia. Those seated farther back were in a situation not much better; the leather sides being an indifferent shelter." (22)

Crossing rivers and streams could be a hazardous adventure, especially when the water was high due to recent heavy rains. Stage Waggoners were often upset while attempting to ford a swollen stream, and where bridges were available, crossing them was also quite risky. The earliest bridges were generally constructed by laying loose poles across two or three logs that had been thrown across the stream. They were usually intended to serve only in cases of high water. Consequently, they were often neglected and therefore out of repair when high water came. A stage driver would often have to halt to rearrange or replace the poles before he could take his team and wagon across. Passengers usually preferred to get out and walk while the driver cautiously led his team across, fearful that one of the sixteen hooves might get caught between the treacherous poles. Even when planks came to be used as bridge floors, they were often left un-nailed and floated away with the first flood unless they had been previously removed. James Silk Buckingham mentioned, in his *America*, that as late as 1838 in traveling through Vermont, his coach came to many bridges from which the loose planks had been removed, "but the driver, with great humour and alacrity, set to work himself to place the planks across again in their proper places." (23)

Another form of bridge was the floating bridge. Thomas Twining describes this type of bridge in the following manner.

"We soon reached the Schuylkill (River), a small river which descends from the Kittatany mountains, in the back part of Pennsylvania, and enters the Delaware river miles below Philadelphia, after a course of about 120 miles. We crossed it upon a floating bridge, constructed of logs of wood placed by the side of each other upon the surface of the water, and the planks

nailed across them. Although this bridge floated when not charged, or charged lightly, the weight of our wagon depressed it several inches below the surface, the horses splashing through the water, so that a

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foot passenger passing at the same time would have been exposed to serious inconvenience."

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Illustration 7. "The Floating Bridge Across the Schuylkill" by Edward L. Henry from the cover of *The Carriage Journal*, Volume 15, Number 3.

The above illustration depicts such a floating bridge over the Schuylkill River. The Stage Wagon in this illustration was taken from a drawing in "Mellish's Travels in North America", an illustrated early nineteenth century work. This bridge over the Skuylkill River near Philadelphia was made of logs floating on the river, covered with wooden planks, being anchored to prevent it moving with the current. Generally it sank somewhat when a heavy weight, such as a Stage

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Wagon, passed over it, causing the water to run over the bridge and the rims of the wheels. When vessels wished to pass up or down the river, the bridge was unfastened at one end and allowed to drift downstream with the current, afterwards it was hauled back into position and secured. (25)

Traveling during this period was difficult at best. Long hours were spent on roads which were not well maintained, in stage wagons providing little comfort. There was limited time for passengers to rest and stretch their limbs during stops. Stages on the well-established routes were usually between ten and fourteen miles, but farther apart in the less populated areas. Food at taverns was often poor and expensive, and the rooms dirty and crowded. It was a welcome relief to finally reach one's destination.

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Stage Drivers

Drivers of Stage Waggon were true American originals -- colorful characters of the road who exuded an air of daring, bravery, and authority. English travelers soon discovered the American Stage Waggon driver was quite different than the "coachman" of England, who tended to be viewed as a lackey or servant. Here, the driver ruled -- it was his vehicle, his route, and his passengers. Many Englishmen, accustomed

to the servility of their coachmen, considered these American drivers to be astonishingly independent and sometimes even surly. One factor that contributed to the independent attitude of the American driver was the common practice of not accepting tips or gratuities from passengers.

An English traveler, Richard Parkinson, in his book entitled *A Tour of America in 1798, 1799 and 1800* made certain remarks concerning stage drivers. He wrote:

"The drivers of coaches (Stage Waggon) are in general sober men, and it is not usual for the passengers to give the coachman money at the end of the stage, as in England. Indeed he considers himself equal to any one, and seemingly, it would be an offense to offer him money. He will drink a glass with you as a companion, but in no other way. The coachman drive but one stage, from fourteen to twenty miles, and take care of their own horses, which is one cause of their good appearance."

Though he may have been sometimes careless in his dress and inattentive to his passengers, the American driver won nothing but praise for his driving skills. Bad roads only served to highlight this skill. Writing of the road from Saratoga to Lake George, J. R. Godley wrote:

"the road is execrable, nothing but the most wonderful dexterity on the part of the driver, and the strength and steadiness of a team, that would

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have done no dishonor to the Tantivy in the days when England was a coach country, could have brought us through."

An Englishman's view of the American Stage Waggon driver was contained in the popular, *Retrospections of America*, written by John Bernard who traveled here from 1797 to 1811. After describing the stout, well-bundled and muffled, reticent driver of his native England, he went on to say:

"The very opposite of all this was the New England 'driver'. He was usually a thin, wiry, long-backed, leather-skinned fellow, sharing the front seat with the company, and flying in and out of the vehicle. No one more abhorred a superfluity of clothes...Placed upon their level, he sympathized with all his company, yet not intrusively. He was a general book of reference, almanac, market list, and farmer 's journal; a daily paper published every morning, a focus; which by some peculiar centralpetality, (attraction) drew all things toward it." (26)

Many foreign travelers commented on the hair-raising custom of the American driver in giving rein to his horses going down hill. G. Combe wrote, *"The youth who drove us ascended the numerous hills which we traversed very leisurely, but dashed down the other side with extraordinary rapidity."* Thomas Twining wrote, after mentioning that the stage was not provided with a drag, that:

"at first our rapidity on these occasions, with a steep declivity, without rail or fence of any sort on one side, seemed to be attended with no trifling degree of danger; but I soon found that the driver

managed his four active little horses with all the skill of an English coachman, although he had little appearance of one."

Mechanical brakes were not yet in existence. A driver using a drag was required to get down from the vehicle to lock his rear wheels with a chain or place a drag under them, but it was

tedious in hilly country and the act of descending from the box to do so was not in itself unaccompanied by danger, especially if the team was a spirited one. Such driving was surprisingly common on the long descents of the Allegheny ridges in Maryland and Pennsylvania. One passenger wrote of driving in this area:

"The practice is for the team to be put on a run the moment they gain the summit of a hill, and if all things hold out, this is kept up until the bottom is reached: the horses are excellent, and rarely fail. On my asking the coachman, -- by whom I rode as much as possible, -- what he did in the event the wheel-horse coming down in a steep pass, he replied 'Why, I keep driving ahead, and drag him along,' — an accident which he assured me had occurred more than once to himself when the roads were encrusted with ice and snow."

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The Stage Driver is further described by James O. Lyford in his History of Concord, New Hampshire. He wrote:

"Along the countryside the 'stageman' was regarded as holding a good place among worthies of the time. He could tell to loitering villagers news and gossip from taverns firesides in the larger lower towns. Perhaps Daniel Webster, Jeremiah Mason, Ichabod Bartlett or George Sullivan had sometime been passengers in his coach, and he had spoken with familiarity with those great men, or he had exchanged polite salutations with Dudley Leavitt, Professor Edwin D. Sanborn or the governor of the state. Judges going up to hold court sat beside him and held the reins while baggage was landed at wayside inns. Perchance he had clinked the social glass with Philip Carigain, Esquire, and wished him success in his errand at Hanover. On the slightly highest seat of his yellow coach rustic beauties, going home from service or from school, with handsomer faces than those depicted by the skillful hand of the Concord painter on the panels of the coach, perched where the long whiplash made its surprising whirl past their sun bonnets before it shot forward to make its still more surprising crack behind the ears of the leaders on the six-horse team. School-boys by the roadside swung their caps to the driver, and echoed his cheery whistle to the horses. The village blacksmith and saddler came to the fore wheel to take his orders when he drew rein. All the countrymen deemed it worth while to be on good terms with him, because he knew about their horses, and from his opinion as to what a likely animal would bring at Concord

or Portsmouth there was no appeal.

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Tact, patience and endurance were necessary (for the stage driver). So was punctuality. Sandeman Marden went over his route to Portsmouth so regularly that people set their clocks when he drove past. Exposure to rude winters on bleak roads was a condition not to be lightly regarded. The mid-winter defenses of the driver were a long, buffalo-skin coat with a girdle at the waist, deep boots, a thick, knit woolen hood drawn closely over his ears and neck, and 'leggings' of the same material and make. What kept his gloved hands from freezing is one of the mysteries of history."

Although there were several variations, drivers usually worked in one of two different ways. Those drivers who worked for the larger companies, drove for several stages with the horses changed at most stops. By 1800, some companies set limits for the distances and number of stages a driver could drive. One of the lines between Boston and New York limited the mileage a driver could drive in a given day to forty miles in the winter and sixty in the summer. With the drivers usually driving three or four stages a day, each stage might cover from 10 to 20 miles. Drivers for these larger lines drove teams provided to them at each "relay station." In this mode of operation, a driver would drive a number of teams in a given day. Also, because these drivers incurred lodging costs, they were usually paid the highest wages.

Some drivers preferred to drive only one stage of 10 to 20 miles, rest their horses, and drive back to their home station with passengers from a stage wagon coming from the opposite direction, thus driving 20 to 40 miles each day. In this case, drivers did not have to spend the night away from home and pay lodging expense. Another advantage of this method of operation was that each driver was made wholly responsible for the care of his team and his vehicle. However in this situation, passengers had to change vehicles after each stage. .

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Travel Perils

During the period of rapid development in American staging, there were serious hazards involved with travel. Principally, these perils consisted of breakdowns, accidents, robberies and the weather.

The breakdown most frequently faced by stage travelers was the breaking of one of the thoroughbraces. The thoroughbrace was one of the heavy, layered, leather straps that passed under the bottom of the Stage Waggon body, supporting it and providing some degree of springing. An English traveler wrote that the experience of riding on these thoroughbraces made the carriage "dance in the air like a balloon," swinging forward or backward or sideways as the wheels passed over obstructions or dropped in ruts. The thoroughbraces permitted the body of the carriage to swing to counteract the jolting of the undercarriage, but in performing this function on the notoriously rough American roads, they were subjected to continuous stresses, which varied according to the weight of the driver, passengers, and baggage. Even though the

thoroughbraces were made of many layers of heavy leather, they eventually wore, and on occasion they broke from a sudden or unusual stress. ⁽²⁸⁾

There was a remedy that seemed common to drivers when a thoroughbrace gave way. John Melish, an English traveler writing in 1812, wrote that:

"The defect was supplied by breaking down an honest man's fence, and thrusting a rail under the body of the carriage, while the passengers stood almost up to the ankles in the mud, holding it up."

Another English traveler in 1819, John Duncan, described this remedy as follows:

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"The road through which we drove (it was literally through) had shaken our wagon, that after nine hours of jolting one of the straps gave way, and we were brought to a stand by the carriage sinking down upon the pole. Americans are not easily disconcerted. There was a rail fence by the road side, from which the driver selected a stout rafter long enough to reach from the footboard in front to the after axle, the body of the wagon was hove up by our united efforts, and the wooden substitute was thrust under it. We then resumed our seats and jolted on, quite unconscious of any additional inconvenience from riding on a rail."

When such a problem occurred in a remote area where no suitable rails were available, a variation to the remedy was often used. This method was described by Tyrone Power in 1836.

"We broke (a thoroughbrace) by a sudden plump, into a hole, that would have shaken a broad-wheeled wagon into shavings. Our driver did not approve of any of the fence-rails in the vicinity, so plunged into the wood, accompanied by one of my western companions; and in ten minutes they returned, bearing a young hickory pole, that the driver assured us was 'as tough as Andrew Jackson himself and as hard to break, though it might give a little under a heavy load.' This was shoved under the body of the carriage, and rested on the fore and hind axles; it was lashed fast, and the spare part of the spar was left sticking out behind, like the end of the main boom of a smack. The coach body when rested upon this, was found to have a considerable list to port... [but] the driver was enabled by this ingenious substitute for a carriage spring to 'go ahead' . "

Fence-rails and the muscles of passengers were also called into service when the "king bolt" in the front axle-tree broke, provided the driver was fortunate enough to have a substitute. The rails were thrust under the body, which was then raised off its bolster so that the spare bolt could be inserted.

Next to the thoroughbraces, the wheels were subjected to the greatest stress. The constant jolting sometimes loosened the iron tyres until the entire woodwork collapsed, often

causing extremely dangerous accidents. Charles J. Latrobe related an instance in 1835 where at the top of a hill:

"a fore-wheel broke, and an instant overturn followed, at the head of a fearful chasm... [passengers) had toes, ribs, and noses damaged, and one poor fellow a fearful wound in the forehead."

Captain Frederick Marryat wrote that the Americans possessed great resourcefulness in making temporary repairs to wheels:

"...the Americans are never at a loss when they are in a 'The fix'. The passengers borrowed an axe; and in a short time wedges were cut from one of the trees at the road-side, and the wheel was so well repaired that it lasted us the remainder of the journey'."

Despite such ingenuity, stage drivers were not always able to repair all types of breakdowns, and on occasion the passengers had to walk to the next town.

Apparently few persons who traveled to any extent went through life without meeting with one or more stage overturnings, and few also went on any long journey without some such experience. In 1828, Bernhard, Duke of Saxe-Weimar-Eisenach, recorded being overturned eight times in two years of travel in this country, though his stage journeys did not exceed four thousand miles. Another traveler in that same year protested publicly in a New York newspaper against the nine upsets he had received in a journey from New York to Cincinnati and back to Philadelphia. Six of these were on the way to Cincinnati, a trip of scarcely a thousand miles. A fellow passenger in Ohio informed the geologist Sir Charles Lyell during the 1840s that "in the course of the last three years he had been overturned thirteen times between Cincinnati and Cleveland."

Perhaps the primary reason for these accidents was the extremely poor condition of all but the best roads over which the stages traveled. Captain Marryat, quoted earlier, wrote that:

"The drivers are very skillful... and if you are upset, it is generally more the fault of the road than the driver. No one thinks anything of an upset in America...these mischances must be expected in a new country."

The roadways of the day were narrow and hilly with many sharp curves, soft-bottomed and without proper drainage, and with dangerous stream crossings. Stages were frequently overturned after dark by striking stumps and ends of fallen logs either on or close to the edge of the road. Even skillful drivers could hardly expect to take a heavy stage with four horses, day in and day out, in all seasons, over such roads without occasional accidents.

Another cause of accidents was racing between stages of opposition lines. Drivers usually shared their employers' bitter antagonisms, especially when a route was not likely to support two competing lines and one was doomed to fail. Drivers' jobs depended on victory for their line. If one believed the rival

advertisements in the newspapers, the stages of each line arrived at their destination before those of the other. To fit into the elaborate connection arrangements for cross lines and continuing lines, starting times for rival stages had to be at about the same hour, thus bringing them into competition along the wage. One stage was not likely to be permitted to pass another without a dangerous race on the narrow roads. Occasionally, locked wheels resulted, and instances occurred where wheels were knocked off one of the fast-traveling stages. Sometimes the driver of the winning stage, as it drew ahead,

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swung too rapidly into the single-tracked road, whether deliberately or in his eagerness to gain safer ground, thus forced the losing stage to the side of the road and into a ditch. ⁽²⁹⁾
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Races between rival stages sometimes took place on city streets, to the great danger of other persons as well as to the passengers on the vehicles. Frequently, public indignation was aired in the newspapers, while some states found it necessary to enact laws against such racing. Eventually, proprietors found it necessary to reassure the public in their advertisements. An advertisement in 1825 by the Exchange Line operating between New York and Philadelphia read:

"On account of the contention between the Union and Exchange Lines, the proprietors are induced to change the hour of leaving the city to 5:30, in order to avoid that opposition, so disagreeable to passengers."

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Robberies of stages were more rare than accidents, but posed a more serious threat. One of the lesser types of robberies of the day was the petty theft of baggage from the rear of the stage. There was comparatively little danger of detection if a robber crept up behind a coach as it was proceeding slowly through sand or climbing a hill and quickly cut the straps that held a trunk or two on the small rear platform. The ordinary rumble of a vehicle moving over the road usually covered any small noise the robber made, and the discovery that the baggage was missing often did not occur until the stage halted at the next station. Very rarely were the perpetrators of this crime caught. Since the mail was seldom involved, the power of the federal government was not thrown into the chase. Only if there were repeated robberies along some stretch of road would efforts be made to discover the thieves. ⁽³¹⁾
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Since large sums of money regularly passed over the road in unprotected stages, it is surprising that there were relatively few holdups. The "great Mail" pouches often contained between \$50,000 and \$100,000 in bank notes and other transferable paper, particularly on roads that led into important commercial and financial centers. In addition, the passengers usually carried substantial sums. There were no modern facilities where passengers could renew their supplies of cash or credit at intervals along the way. The amount of money necessary for the entire trip had to be carried from the beginning. Most passengers, too, were businessmen — merchants, attorneys, land buyers, speculators -- who had with them funds needed

for their activities. A Cincinnati businessman, Gorham Worth, wrote about setting off in a stage for Pittsburgh in 1817:

"I had with me a large sum of money, too large indeed to be mentioned with prudence even now, and which in those days, when human habitations and mile stones were wide apart, it was desirable to keep as much in the shade and as far from the eye of suspicion as possible."

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The harsh Post Office law was possibly a deterrent to stage holdups. The Act of 1792 made robbery of the mail punishable by death. The Act of 1799 modified the sentence to forty lashes plus imprisonment not exceeding ten years for the first offense but retained the death penalty either for a second offense or for cases where, in effecting the robbery, the life of the driver was jeopardized by the use of dangerous weapons. Actually, only few highway robberies could be committed without the display of weapons since such threats were necessary to bring the stage to a stop. (33)

One or two spectacular robberies each year along the lines in the East continued to furnish excitement until the railroads replaced the stages as carriers of mail. The full course of a

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cycle had been run in the fifty years since it had been argued that a stage and passengers would provide greater security for carrying the mail than would the long post-rider on his horse. Nevertheless, the Post Office Department established an excellent record in capturing highwaymen who robbed the stages. The Postmaster General from 1814 to 1823, a gentleman with the unusual name of Return J. Meigs, Jr., was able to boast in 1818 that:

"Since I have been at the head of this Department not one instance of a violent robbery of the mail has occurred, where the perpetrators have escaped apprehension, conviction, and punishment." (34)

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Stagecoaches

As previously stated, vehicles used for public transportation began to change dramatically about 1820. The Stage Waggon of the late eighteenth century and early nineteenth century evolved into an oval-bodied, rounded top Stagecoach with at least one door on the side. This body was suspended by thoroughbraces on a three-perch running gear. The driver sat on a seat outside the body. This initial oval-body Stagecoach further evolved into the American

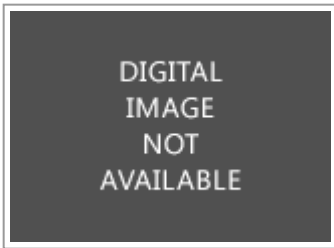


Illustration 8. Oval-bodied Stagecoach, ca. 1820.

Mail Coach known as the Concord, Albany or Troy Coach. This general style known as the Stagecoach was described in the *Boston American Traveller* in 1825 as follows:

"The finest vehicles in the world without any dispute, are stage-coaches. Your sulkys were made for physicians or single gentlemen; your carriage for old maids (or, to be fashionable, 'for single ladies advanced',) and old women; your carioles for young children and their nurses; and your gigs, your landaus, and your curricles for fops, dandies and exquisites of both sexes; but your stage-coaches — your downright, modern, well-built stagecoaches — were made for no particular class in society, but for the young, old, the rich and the poor, the great and the small, male and female, of all ranks, and conditions; and whether we ride for health, for pleasure, or for business, we almost invariably prefer one of these carry-alls to any other travelling machine now in vogue."

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(The corrected reference to "old maids" shows "political correctness" was alive and well in 1825.)

Concord Coaches were built by the Abbot, Downing Company of Concord, New Hampshire, who referred to them as Mail Coaches. The first of this type was built by J. Stephens Abbot — then an employee of Lewis Downing, but later he became a partner. Production of this style continued until early in the twentieth century. Abbot has been credited with design of this style vehicle, yet there is evidence the style actually developed somewhat earlier in both Albany and Troy, New York and known as the Albany or Troy Coach. Although made famous by Abbot, Downing, this style was copied by several other carriage makers. (36)
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The Concord Coach was built in six, nine, and twelve passenger sizes, though company records reveal that a few four passenger and sixteen passengers sizes were built between 1858 and 1864. Passengers were seated on two transverse, facing seats, in the usual coach fashion, and on one or two additional benches between the fixed seats. Suspended on the three-perch, thoroughbrace running gear, the body could accommodate a large amount of baggage, for there was a rack on top, another at the rear, and space in the front boot for that purpose. These Stagecoaches were painted in bright colors, and then highly decorated with painted scrollwork, oil paintings, ornate lettering, and gold leaf. The most common color was a red body on a pale yellow running gear, but varied combinations of green, red, orange, white, blue, yellow, olive, black maroon, etc., were also used. The last named colors were more commonly used on Hotel Coaches, while the red-yellow combination was fairly standard for Stagecoaches made for the

road. Concord Coaches were widely used, not only in most parts of the United States, but in South America, South Africa, and Australia. ⁽³⁷⁾

Less expensive types of passenger carrying vehicles were made by the firm of Abbot, Dowling, but these should not properly be called Concord stagecoaches. The bodies of these lesser vehicles were most often square-box in shape, many having no doors, but open sides, with curtains to roll down in bad weather. Nearly all had luggage racks on the rear, but only the heavier ones had racks on top. Such terms as Passenger Wagon, Overland Wagon, Mud Wagon and Mountain Wagon were generally applied to these cheaper vehicles. ⁽³⁸⁾

The Albany coach, manufactured by James Goold and Company of Albany, New York was introduced in the 1820s, and soon became widely known. Goold, a native of Connecticut, established his factory in 1813 and later took Walter R. Bush and J.N. Cutler as partners. He specialized in heavy work, and Stagecoaches became a featured product of his factory. By 1830 Albany coaches were found as far south as Baltimore and Washington where they were known as the "*Splendid Red Coaches*" of the Union line. Albany coaches were soon eclipsed in fame by those made in the neighboring city of Troy, where manufacturers adopted whatever improvements the Albany coaches offered and added others of their own. In pattern, the two coaches were basically the same, so that in distant parts of the country no distinction between them was made. In 1827, the *Troy Sentinel* contrasted "*our light, elegant and convenient stagecoaches, with spring seats and easy motion*" with "*the lumbering vehicle which were in use for the purpose some twelve or fifteen years ago.*" ⁽³⁹⁾

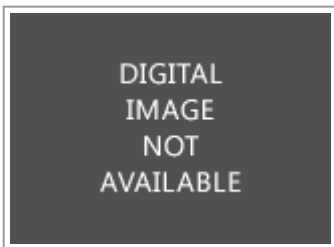


Illustration 9. American Stagecoach, ca. 1830.

The Troy Coach was a popular style of Stagecoach built by several different firms in Troy, New York. This type Stagecoach was apparently nearly identical to the Concord Coach, and seems to predate the Concord. The Troy Coach is known to have been built as early as May 1827, while the earliest Concord is documented later that year. Two Troy companies, operated by Charles Veazie and Orsamus Eaton competed in manufacturing Troy Stagecoaches. It appears Veazie of Troy made the first improvements to the style by including a roof railing for luggage, while Eaton later added a roof seat. In 1830 these two Troy factories together employed about sixty men and turned out about fifty Stagecoaches. ⁽⁴⁰⁾

An item in the *United States Gazette* in 1831 described a "splendid" coach owned by Mr. Reeside, made in Troy, New York by Messrs. Eaton and Gilbert, & Charles Veasie. It read:

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The coach was painted red, and beautifully lined with red morocco. The whole appliances of the carriage were suited to the elegance of the body, and bespoke the liberality of the enterprising owner. Mr. Reeside ordered a number of these carriages to be built for the new line that is to commence running between Baltimore and Pittsburgh, by the way of Chambersburg, on the 1st of October.

Troy Stagecoaches were soon used throughout the South. In 1825, the line from Wythe Court House, Virginia to Greensboro, North Carolina boasted, "*The coaches are made at Troy, N. Y, good and comfortable.*" The line between Georgetown and Charleston, South Carolina gave notice in 1837 that they "*have placed upon their route an entire new set of Troy built coaches,*" and the following year the routes from Augusta, Georgia, via Macon and Columbus to Montgomery and Mobile, Alabama were "*furnished with the best Troy built coaches.*" In 1838, the line from Nashville to the Mississippi River advertised they had "*selected superior Troy coaches,*" and the lines between Vicksburg and Jackson and between Jackson and Grand Gulf were stocked with coaches "*of the best Troy manufacture.*" (42)
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Available information suggests the firm of Eaton & Gilbert built more of these Stagecoaches than Abbot, Downing & Company, but the former gave up their construction much earlier, in order to concentrate on manufacture of railway cars. (43)
.....

Operating Costs

The Woolfolk Family Papers held by the Swem Library at the College of William and Mary in Williamsburg, Virginia offer limited but valuable information concerning costs of operating a stage line during the late eighteenth century. An account book, covering the period June 1794 to August 1796, lists general expenses for the operation at Cross Roads, which was located near Bowling Green, Caroline County, Virginia. Pages for March and April 1796 are missing, and only wage costs are found for August 1794. This particular line operated between Cross Roads and Portsmouth, Virginia, by way of Richmond, Petersburg and Suffolk.

Feed constituted the major portion of expenditures. Specifically, items of feed for horses included corn, oats, bran, fodder and hay. Monthly expenses for feed vary significantly, which may suggest items of feed were purchased in quantity, perhaps when prices were lower. Also, payment of a specific account for feed was often made in part over several months. This practice contributed to the variation in monthly expensed recorded in the ledgers.

Wages seem to be primarily for drivers, but some wages appear to be for those who manned the various stations along the route.

Repair costs include expenses incurred for the stage wagon and harness for the horses. During 1795 and 1796 the coachmaking firm of Badger and Atkins in Petersburg performed significant repair service for the Cross Roads stage operation. Specific repair items listed in the account book include axle and wheel work, curtains for the body, and harness repair.

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Driver's expenses include food and board for drivers at the various stops.

Miscellaneous items include grease for axles, oil for harness, rope, and clothing, to include shoes, for what appears to be slave stage drivers.

During the time frame covered by the account books, at least 12 horses were purchased at costs which varied from £6 to £26. As with feed, horse expenses were not always paid in full at the time of purchase, therefore smaller sums are listed for various months.

Significant amounts of money were listed as paid during certain months but the reasons for these payments are not explained. Following are examples of these payments:

July 1794	Willis Everett	£40.19.00
May 1795	Jamison Johnson	£68.02.08
May 1795	Willis Everett	£91.07.09
May 1795	Levis Caffery	£81.12.00
May 1795	Richard Taylor	£30.00.00
November 1795	Peter Innis	£50.08.11
December 1795	Everett Wilkinson	£46.11.10
December 1795	Jeremiah Stokes	£23.04.00
December 1795	Alexander McRae	£24.00.00

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Cross Roads Stage

Expenses

1794	June	July	August	September
Feed	£10.13.00	£23.26.07	--	£39.02.00
Wages	3.00.00	3.03.10	0.12.0	--
Repairs	1.05.00	1.04.00	--	1.03.09
Driver's Expense	0.08.06	0.09.06	--	0.10.09

Misc.	1.04.00	0.01.06	--	0.10.09
-------	---------	---------	----	---------

Horses	--	--	--	--
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1794	October	November	December
-------------	----------------	-----------------	-----------------

Feed	£29.05.00	£41.04.00	£10.01.00
------	-----------	-----------	-----------

Wages	9.17.00	13.09.00	13.00.00
-------	---------	----------	----------

Repairs	0.08.00	0.03.00	0.12.00
---------	---------	---------	---------

Driver's Expense	1.15.09	0.13.00	1.00.00
------------------	---------	---------	---------

Misc.	1.15.09	0.13.00	0.08.06
-------	---------	---------	---------

Horses	9.01.09	6.00.00	21.00.04
--------	---------	---------	----------

1795	January	February	March	April
-------------	----------------	-----------------	--------------	--------------

Feed	£29.08.02	£37.05.00	£36.08.00	£45.00.00
------	-----------	-----------	-----------	-----------

Wages	12.05.00	10.10.00	7.16.00	4.16.00
-------	----------	----------	---------	---------

Repairs	2.14.00	1.07.00	0.12.00	0.12.00
---------	---------	---------	---------	---------

Driver's Expense	1.07.00	1.02.00	0.15.00	8.14.06
------------------	---------	---------	---------	---------

Misc.	1.01.00	6.16.00	--	0.12.00
-------	---------	---------	----	---------

Horses			25.00.00	7.00.00
--------	--	--	----------	---------

1795	May	June	July	August
-------------	------------	-------------	-------------	---------------

Feed	£25.12.06	£47.08.00	£29.10.06	£ 16.15.00
------	-----------	-----------	-----------	------------

Wages	18.01.04	3.03.00	10.00.02	1.04.00
-------	----------	---------	----------	---------

Repairs	0.07.06	0.10.00	1.10.00	1.16.00
---------	---------	---------	---------	---------

Driver's Expense	0.08.00	37.09.07	9.08.00	0.17.00
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Misc.	0.18.00	0.12.05	0.16.06	0.02.00
-------	---------	---------	---------	---------

Horses	38.07.06	76.10.00		26.00.00
--------	----------	----------	--	----------

1795	September	October	November	December
-------------	------------------	----------------	-----------------	-----------------

Feed	£57.04.02	£53.11.07	£63.11.06	£77.08.04
------	-----------	-----------	-----------	-----------

Wages	0.12.00	13.10.03	6.14.08	48.10.00
-------	---------	----------	---------	----------

Repairs	1.16.00	1.07.00	1.12.06	1.10.09
---------	---------	---------	---------	---------

Driver's Expense	0.17.00	1.08.02	0.12.06	1.04.02
------------------	---------	---------	---------	---------

Misc.	0.17.00	3.02.07	1.00.03	--
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Horses			6.05.11	36.11.08
--------	--	--	---------	----------

1796	January	February	March	April
Feed	£43.18.08	£23.10.01	--	--
Wages	6.13.05	1.16.09	--	--
Repairs	1.11.02	1.07.09	--	--
Driver's Expense	1.04.00	1.16.09	--	--
Misc.	3.13.01	25.02.05	--	--
Horses	--	6.12.00	--	--

1796	May	June	July	August
Feed	£ 19.09.08	£37.08.09	£28.06.04	£81.14.02
Wages	--	--	2.09.00	--
Repairs	2.15.06	4.04.00	5.05.02	3.00.00
Driver's Expense	0.05.00	3.07.00	0.10.06	2.04.06
Misc.	7.18.04	13.07.07	0.14.06	7.08.00
Horses	--	--	--	3.18.09

COACHEE

General

By mid-eighteenth century, the goal of lightening draft had long been a goal of vehicle makers. Reducing the effort of draft animals provided improved efficiency in that heavier loads could be moved faster or greater distances. The *Boston News-Letter* of January 25, 1753 contained the following quotation from *The Pennsylvania Gazette*.

"For the Encouragement of Industry in the counties of Newcastle, Kent, and Sussex in the Territories of Pennsylvania; the following Premiums will be given by the Subscriber, viz...to the Person that makes the neatest and lightest wagon in Draught, Six Pounds...The Persons entitled to any of the above Premiums, will receive them the first Tuesday in November 1754, that being the time appointed to decide who deserves them and a Free Entertainment given by the Subscribers and the Premiums will be increased in the future years, according to the Improvements made in the different things proposed. (43)

Light Waggon, which were commonly used as Stage Waggon, also were used as Family Waggon. They were comparatively light, plain, low in cost, and could be used as a light carrier of merchandise. Unlike more elaborate carriages such as Coaches and Chariots, they required no servants as coachman or attendants. The term, waggon, originally implied only a work vehicle, but, by this time in America, came to

denote a combination vehicle that carried both goods and passengers. This terminology is significant, in that a most important family of American pleasure carriages were called waggons. It is this association of the Light Waggon with carrying passengers that resulted in this incongruous but popular misuse of the generic English term. An interesting fact is that all of these vehicles had bodies much like earlier wagons, even those made by our most fashionable coach makers. ⁽⁴⁴⁾

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Popularity of the Light Waggon is clearly indicated by the number of advertisements in which they were mentioned. William Cooper, Coach Maker of Elizabethtown, New Jersey, advertised on April 21, 1763 that he make "*new fashioned light Waggons*." Another advertisement illustrating improvements in the design is from *The Pennsylvania Gazette*, dated February 23, 1764, by Conrad Snider, Coach Maker of Philadelphia. He offered:

"A compleat, neat new Waggon, ornamented with Brass Nails, finished after the fashion of a coach, with the door in the side thereof the Leather Curtains all round, except in the Front.

⁽⁴⁵⁾ On November 1, 1764 the following advertisement appeared in *The Pennsylvania Gazette*.

"To be SOLD, A light covered Waggon, that will carry twelve People, and should answer for a Stage or private Family...For Terms apply to John Buckingham, at the Sign of the Coach and Horse, in Race Street, the corner of Third Street, Philadelphia."

⁽⁴⁶⁾

These new, light wagons were referred to by a variety of terms. A "*New Model...Light Travelling Waggon*" was advertised in New Jersey in 1767. The *South Carolina Gazette* carried an advertisement in 1773 for "*a Caravan or Family Waggon, very light and runs easy*." A "*Genteel Waggon*" was offered for sale in New Jersey in 1779. George Bringham, coach maker from Philadelphia advertised he had "*two Family Waggons entirely new, and of the newest fashion*" for sale. Robert Sutcliff wrote of "*open carriages... called wagons... the best of then Jersey wagons*." The term, "*coachee*" is seen in Maryland by 1789. ⁽⁴⁷⁾

The Light Wagon and Coachee are described by Isaac Weld, an Englishman who traveled in this country and Canada during 1795-1797. He wrote:

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"The coachee is a carriage peculiar, I believe, to America: The body of it is rather longer than that of a coach, but of the same shape. In the front it is left quite open down to the bottom, and the driver sits on a bench under the roof of the carriage. There are two seats in it for the passengers, who sit with their faces towards the horses. The roof is supported by small props, which are placed at the corners. On each side of the doors, above the pannels, it is quite open, and to guard against bad weather there are curtains, which are made to let down from the roof and fasten to

buttons placed for the purpose on the outside. There is also a leathern curtain to hang occasionally between the driver and passengers.

The light waggons are on the same construction, and are calculated to accommodate from four to twelve people. The only difference between the small (light) waggon and a coachee is that the latter is better finished, has varnished pannels, and doors at the side. The former has no doors, but the passengers scramble in the best way they can, over the seat of the driver. These waggons are use universally as stage Carriers.⁽⁴⁸⁾

Another writer, John Harriott, described the coachee in the following manner.

"Some of these coachees are tolerably convenient for warm climates but there is a material difference in them. The best are like covered wagons, shaped a little, and painted to look like a coach, having double curtains of leather & woolen to furl or let down at pleasure. Some are hung on springs & travel easily, others quite the reverse. They have more, or fewer benches, according to the number of passengers they engage to carry."⁽⁴⁹⁾

Paul Downing wrote of this new, light, dual-purpose vehicle:

"Toward the end of the (eighteenth) century these public carriers appear to have gradually divided into three types — the main group continuing to become more coach-like, emerged as the efficient Stage of the 19 century. The smaller form which assumed springs, and which had come to be used as family carriages, developed into the Coachee. The third group, shed their tops and became the one and two-seated Pleasure Wagon or the Dearborn Wagon."⁽⁵⁰⁾

Definitions

The following descriptions and definitions of the various forms of light waggons may be helpful in distinguishing the most important characteristics of each.

The *Boulster Wagon* is an unidentified type of wagon built by Amos Stiles, a carriage builder from Morristown, New Jersey from 1812 to 1821. There is no reason, however, to believe he was the only builder. The Boulster wagon was evidently a specialty of Stiles, for his daybooks mentions 140 of them during these years. It appears to have been a light passenger wagon, with as many as three seats, and equipped with shafts or pole. It had a standing top, and was frequently "paneled up behind," sometimes with glass in the rear, either sliding or fixed. A few had a rear door, but most appear to have had none. Generally the inside was trimmed to some extent, and some were almost entirely trimmed. Seats were made both with and without cushions, and frequently, though not always, with backs. Bodies were sometimes made with swelled sides, and moldings, and in some instances varnished. Most often the vehicles were plainly and simply trimmed and finished. They were equipped with curtains, and often an apron was provided. In no case do the entries in Stiles' daybook indicate the vehicle was mounted on

springs or braces, and the name seems to indicate the body sat on bolsters. Otherwise, the vehicle appears to have been very much like the Coachee or Jersey Wagon.

Another style of wagon built by Stiles was the Jack Wagon. The main distinguishing feature between the Boulster and Jack Waggon is that the latter was mounted on braces suspended from upright jacks. Otherwise, it was quite similar to the Boulster Wagon. ⁽⁵¹⁾

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After study of the Amos Stiles Accounts in 1991, Richard E. Powell, Jr. offered the following comments on the Boulster Wagons made by Stiles.

"The most conspicuous vehicles in the Stiles account are "boulster wagons," a name apparently unique to this carriage maker. Between 1812 and 1821, one hundred twenty-eight boulster wagon entries occur, including at least eighty-eight citations for vehicles sold new and complete. The cheapest of this kind sold for \$90.67 in July of 1812, and the most expensive were two sold for \$155 each in October of 1817: the average price for the eighty-eight wagons was \$116.50. In most cases the more expensive examples are described in greater detail, suggesting added costs for optional features. Review of all entries indicates that the wagons were light, as three were built for a single horse and six were supplied with shafts and a tongue, while only ten specify pair equipment only: Nothing suggests a larger equipage. Boulster wagons were at least partially enclosed with tops, curtains or glass, and in one case with a rear door. Eight wagons are listed with one seat 'only' and seem to be the exception in that regard. Twenty-one have double springs inside, however external suspensions or sprung bodies are not implied. About twenty percent of the entries mention painting and striping. The axles noted are about equally divided between those of iron and those of wood or wood with sheathings of skeins or clouts.

The boulster wagon is clearly a light passenger vehicle finished with relatively modest features that include some decoration and provisions for passenger comfort. Ironically, the cost of this four-wheeled style is less than that of most two-wheeled vehicles in the account. Boulster wagons do not seem to be in a class of the coachee at \$495 (p. 227), the C-spring carriage at \$339 (p. 244), or the Chariotee at \$285 (p. 156); as to stage wagons, one cost a comparable \$114.25 (p. 194), the other \$250 (p. 156). It is probable that the term, "boulster wagon ", was Stiles's name for a vehicle we call differently, perhaps the carryall, which was typically a one-horse carriage; a pleasure wagon, which would agree with the swelled sides and painting but not the enclosure; or Jersey Wagons, which were a lighter two-horse version of the coachee. ⁽⁵²⁾

⁽⁵²⁾

The *Caravan* is a type of family wagon used in the American colonies late in the eighteenth century. It was drawn by either two or four horses. There is the possibility this little-known carriage may have been similar, if not identical, to the Coachee, and the name is nothing more than a regional term used to denote the same vehicle. ⁽⁵³⁾

The Coachee is an American vehicle, generally used as a family carriage that appears to have developed late in the eighteenth century. Several surviving Coachees of the early nineteenth century correspond with Isaac Weld's description, and some of these differ by having a single door in the rear. Suspension is on thoroughbraces secured to jacks in several instances, while the example at the Smithsonian Institution employs thoroughbraces and wooden C-shaped springs. Other references have been found which seem to indicate a rather broad usage of the term Coachee. Several early nineteenth documents in the Smithsonian reference collection indicate such features as a hammercloth and a front boot, neither of which apply to the type of vehicle Weld described, but seem to suggest a vehicle that was more nearly line the coach, but probably lighter in weight.

There is evidence indicating a number of terms were used rather synonymously to describe the same type of vehicle. The descriptions of Amos Stile's Boulster Wagons in New Jersey seem to agree, somewhat, with that of the Coachee. Robert Sutcliff describes and illustrates vehicles that must be nearly identical to the Coachee, yet he refers to them as Jersey Wagons. A Dictionary of American English quotes early references which indicate the terms Jersey, Dearborn and Carryall were used synonymously, assigning the various words to different sections of the country, yet no descriptions have been found to justify that synonymous usage of the last two terms with Coachee. Thus, while similarity undoubtedly existed between the Coachee and Jersey Wagon, and also between the latter and the Dearborn and Carryall, it seems likely that the Coachee differed too greatly from the Dearborn and Carryall to warrant use of theses terms synonymously.

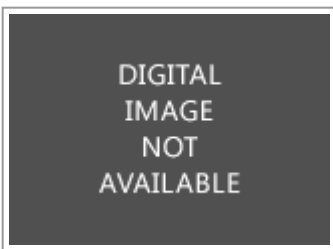


Illustration 10. Coachee at the Smithsonian Institution, ca. 1810.

By mid-nineteenth century the term was being applied to a vehicle that might be compared to a light-weight, curtain-quarter coach. Some of these had a detached driver's seat while others had a seat framed to the body. The upper quarters were closed by leather or fabric curtains. Suspension was variously on c-springs and braces, or on elliptic springs. These carriages were used throughout the East, but were especially popular in the Southern states until about 1860, when their use began to decline. (See *The World on Wheels*, by Ezra Stratton, pages 434 and 441.)

Due to the fact that the driver and passengers were under the same roof, many consider the Coachee the ancestor of the Rockaway. ⁽⁵⁴⁾

The *Dearborn Wagon* is a light square-box wagon with two seats and a standing top. It was often drawn by a single horse. This carriage was developed early in the nineteenth century, and is said to have acquired its name because General Henry Dearborn used one in the field. During the 1820s a number of Dearborns were used to carry freight over the Santa Fe Trail. Their adaptability to this use seems questionable due to their small size. No accurate description of the early Dearborns has been found, but it is believed they were heavier than the later types.

Later Dearborns had a body about six feet in length, suspended on two elliptic springs. The standing top was supported by eight slender pillars, except for one variety in which the two front pillars were omitted to give the vehicle a lighter appearance. Each side was closed by three curtains, while a single curtain closed the rear. The rear end-gate was sometimes hinged, and the seats were often made to slide in either direction, making the Dearborn useful for carrying both passengers and baggage.

In the nineteenth century the terms, Dearborn Wagon, Jersey Wagon and Carryall were often used somewhat synonymously. ⁽⁵⁵⁾

The Germantown, or Germantown Rockaway, is a style carriage believed to have been first built in 1816 by C.J. Junkurth, of Germantown (now a part of Philadelphia). A very marked influence of the Coachee, also a product of the Philadelphia area, can be seen in the

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Germantown. This vehicle appears to be the successor to the Coachee. The body displays nearly identical lines, having side doors, and pillars supporting the roof that provides protection to passengers and driver alike. Seating for six passengers differs slightly from the Coachee, the seats arranged with the center seat facing toward the rear. The Germantown frequently had a storm hood attached to the front of the roof to assist in protecting those passengers on the front seat. ⁽⁵⁶⁾

The *Jersey Wagon* is a type of traveling wagon used in America during the late eighteenth and early nineteenth centuries, the term apparently being almost synonymous with the earlier form of Coachee. Most common in the New Jersey-Philadelphia area, though it later migrated to more distant parts. They are made very light, hung on springs with leather braces, and travel very pleasantly. They are covered at the top with painted canvas. On the sides, there are three rows of curtains and those in the outer rows are likewise of painted canvas. Those in the middle row are of linen, and the inside curtains are generally green baize. Numerous references indicate this was a very popular type of carriage. ⁽⁵⁷⁾

The *Pleasure Wagon* is a light carriage common to New England, developed during the early nineteenth century from the light work-wagon. It had a modified square-box body with raved-side construction, and a slightly curved bottom line. In some instances the body was mounted directly on the running gear, but in other cases was suspended on either thoroughbraces or springs. The seat, usually untrimmed, was mounted on wooden cantilevered supports which provided most of the riding comfort. The entire seat-unit could be readily lifted out, so that the

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wagon could be used to transport light items. These carriages were generally painted bright colors, and panels were frequently decorated with floral designs. ⁽⁵⁸⁾

The *Rockaway* is a four-wheeled, covered carriage with either paneled or curtained sides, having a driver's seat that is included in the body proper (and on a level with the other seats), and a common roof that projects over the driver's seat. The carriage was drawn by either one or two horses, depending on its size and weight.

The Rockaway is a distinctive American style of carriage which is believed descended from the late eighteenth-century Coachee, through the Germantown. Gradual improvements, such as the addition of curtains, panels, doors, windows, and better suspension resulted by mid-century in the fully developed Rockaway, though continued styling changes frequently altered its appearance. They were built in a profusion of styles, and a variety of names was applied to them. ⁽⁵⁹⁾

Although efforts to lighten draft and construction were made in England and Europe, the greatest advances in this area were found in the work of American coach makers. Continuing the pursuit of lightness in construction and resulting lower cost, the Rockaway, and to a lesser extent the Pleasure Wagon, gave way to the wide array of light, owner-driven vehicles of the mid to late-nineteenth century called Buggies. Thus, the American development of light-waggon, led to further development of a wide assortment of vehicle styles including the improved Stage Waggon, Stage Coach, Family Waggon, Coachee, Dearborn, Germantown, Jersey Wagon, Pleasure Wagon, Rockaway, and finally the American Buggy.

The Wilkinson Coachee

The Wilkinson Coachee was owned by Jemima Wilkinson (1707-1818), who founded the Universal Friend religious society in Western New York. The carriage is owned by the Ontario County Historical Society and on loan to The Granger Homestead Carriage Museum in Canandaigua, New York where it is on exhibition. This coachee was built for Jemima Wilkinson by a coach maker in Canandaigua about 1810.

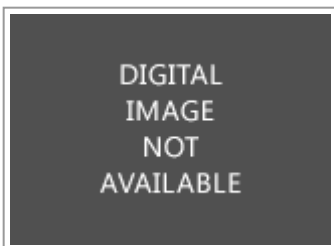


Illustration 11. Wilkinson Coachee Showing Door on Left Side. Date Unknown.

Carriage authorities who have examined this carriage include Don Berkebile, Merri Ferrell, Tom Ryder and George Isles. These authorities have not challenged the date of ca. 1810

for the vehicle, but some have suggested the undercarriage might be older than the body. A brake assembly was added to the undercarriage at some later date.

The coachee has two passenger seats lined with tan fabric in addition to the wooden driver's seat. The coach-shaped body has a fixed top is supported with eight pillars and a door on the left side. The interior of the top is covered with light-weight blue floral fabric, and the interior of the sides are lined with blue velvet, which may not be original. The body appears to be painted blue, with a six-pointed star and cross painted on the side and end panels.

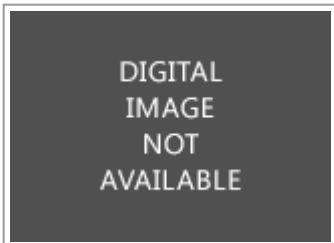


Illustration 12. Wilkinson Coachee, ca. 1985.

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Illustration 13. Right Side of Body Showing Star.

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Extras

If glasses in the doors	£ 7.10.0
If blinds & glasses	10.10.0
Of a boot on the fore part of the carriage	3.0.0
If paneled up behind with a glass	5.0.0

A step for the footman & holders	1.17.6
Ornaments on the doors	1.10.0
The body close before & a coachman seat & hammercloth with fringes, etc.	15.0.0
If a circular seat	1.10.0
Pannel & glasses in the fore part	12.0.0
Open quarters & blinds	27.0.0
If the mouldings are gilded	4.10.0

On May 16, 1803, George Lewis, Esq. ordered a coachee from John Feneyhough, Coachmaker of Fredericksburg, Virginia described as follows:

To a new coachee with one door	£75.0.0
Additional expense of one door and step	5.0.0
To a sett of steel springs instead of jacks	6.0.0
To a new boot to forepart of carriage covered with neats leather	4.10.0
Total	£90.10.0

Judge St. George Tucker of Williamsburg ordered a Coachee from N. & J. Tichenor, Coach Makers of Richmond, and delivered on May 27, 1818. The Tichenor Shop was located on "the south side of H Street, near the theatre," where they not only manufactured Coachees, but offered for sale those made by Thomas Ogle of Philadelphia. Judge Tucker's carriage is described as follows:

"Estimate of a Coachee for Judge Tucker

The Body Upper back pannel with Glass

Glass in the Doors partition front with Glasses

Venetian blinds in the Quarters With upper curtains for

Winter, the linings best Blue Morrocco, Lace Trimmings &c. best Quality

Coachees in Virginia

Personal Property Tax Records for Virginia indicate Coachees became very popular after the early 1790s. The earliest found to date is 1791, owned by Beverly Randolph in Henrico County. By 1810, a total of 60 coachees were taxed in Henrico County.

Makers of the extremely popular coachee and related styles were numerous in Virginia. Alexander Quarrier, Coachmaker of Richmond, Virginia offered "Light Waggons for families" in his advertisement in the January 23, 1788 issue of The Virginia Independent Chronicle. On June 5, 1794, Flemming Russell, Coachmaker of Richmond, offered "A nice Family Carriage" for sale, and on May 30, 1797, he offered Coachees for sale. An inventory, dated December 11, 1794, of the estate of Francis Brown, Coachmaker

of Petersburg, Virginia listed an unfinished Coachee undercarriage valued at 90 shillings and an unfinished Coachee body valued at 60 shillings. Also, Joshua West , Coachmaker of Richmond offered Coachees for sale in December 1808.

Alexander Penman, Coachmaker of Philadelphia, sent an estimate of costs for a Coachee to Samuel Love, Esq. of Newgate, Virginia. The copy in the Smithsonian Institution is undated; however, Penman built the Chew Coach in 1788 and is listed in the Philadelphia city Directory as late as 1793. This Coachee is described as follows:

A neat light Coachee hung on warranted steel springs, lined with cloth at 22/6 per yard, and suitable laces, painted any color and clear varnished, the mouldings picked out fashionably with harness, bridles and reins complete for a pair of horses £100.0.0

The Carriage part, Boot & Arms (?), the perch plated on the Sides with Iron, hung on Slings (thoroughbraces) Woodwork of the body	\$100.00
Carriage and Wheels	50.00
Iron Work, Perch plated on the Sides	130.00
Boot	10.00
Painting	50.00
Body Locks (loops?)	12.00
Slings, pole pieces, Whippetree Straps & Steady Do	20.00
Stuffing pole	3.00
4 Quarter Venitian blinds	40.00
1 pair of 3 fold steps	20.00
Leather for Do	6.00
Leather for covering rackes (?)	2.00
Leather for roof	12.00
Leather for trimming front of body 6.00	
Carpet	2.50
11½ yds Bombazette	5.75
20 "Fringe	4.00
60 " Narrow Lace	12.00
25 "Broad "	25.00
11 Tassels	5.50
18 Skins of Morrocco	75.00

Curled hair and Moss	12.00
Inside lining, Tacks, tread & c	8.00
5 Glasses (of the very first Quality)	12.00
2 ½yds Ca _____ (?) for covering glass frames	7.50
Labour lining the body	35.00
Plated Door and Commode (?) Handles	13.00
18 feet of be(a)ding round roof	5.00
18 " round Waist	4.00
3 Doz. Knobs	2.00
1 pair plated footman's staples	0.50
2 pair Glass string rollers	2.00
1 Sett plated bands	8.00
2 pair of check Turrets	4.00
Cover	20.00
Harness	170.00
Total	\$938.75"

(60)
.....

In Philadelphia, the Account Book of William Hunter contains an order, dated June 16, 1790, for a Coachee to be built for Major William Ward Burrows. The order reads:

"Major Wm. Ward Burrows

To a new Coachee hung on Steel springs, screwed axles, double folding steps, glasses in door & front, with spring Curtain.

A coachman's seat & harness for a pair of horses	£120.00.0
To a new cover for Coachee	1.10.0
	£ 121.10.0

(61)
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