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ACTS

OF THE

LEGISLATIVE COUNCIL

OF THE

562
612

TERRITORY OF FLORIDA,

PASSED AT THE ELEVENTH SESSION, COMMENCING JANUARY THE SEVENTH
AND ENDING FEBRUARY THE SEVENTEENTH

1833.

PUBLISHED BY AUTHORITY.

TALLAHASSEE.

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1833.

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TITLES OF ACTS.

- Chap 658 [No. 1.] An act, in addition to an act entitled an act concerning divorces and alimony approved October 31st 1828
(February 4th 1833.)
- Chap 659 [No. 2.] An act amendatory and in addition to an act relating to roads, highways and bridges passed 1st February 1832.
(February 6th 1833.)
- Chap 660 [No. 3.] An act more effectually to secure the solvency of all the banks in this territory, and to subject them to the payment of damages, if they fail, or refuse to pay specie for their notes when demanded.
(February 6th 1833.)
- Chap 661 [No. 4.] An act, regulating the rate of interest.
(February 12th 1833.)
- Chap 662 [No. 5.] An act to authorize the county courts in this Territory to appoint inspectors of beef in their respective counties
(February 12th 1833.)
- Chap 663 [No. 6.] An act concerning estrays (February 12th 1833.)
- Chap 664 [No. 7.] An act, regulating the mode of proceeding on attachments.
(February 17th 1833.)
- Chap 665 [No. 8.] An act regulating appeals in certain cases, not heretofore provided for by law
(February 17th 1833.)
- Chap 666 [No. 9.] An act to provide for appeals, and writs of error in criminal cases.
(February 17th 1833.)
- Chap 667 [No. 10.] An act regulating damages on bills of exchange.
(February 17th 1833.)
- Chap 668 [No. 11.] An act in addition to an act entitled "an act concerning wills, letters testamentary, and letters of administration and the duties of administrators and guardians, approved November 20th 1828.
(February 17th 1833.)
- Chap 669 [No. 12.] An act, to repeal parts of acts in said act specified.
(February 17th 1833.)
- Chap 670 [No. 13.] An act, to repeal an act to provide for the speedy settlement of all the arrears due the Territory of Florida, approved February 12th 1832, and for other purposes.
(February 17th 1833.)
- Chap 671 [No. 14.] An act concerning patrollers.
(February 17th 1833.)
- Chap 672 [No. 15.] An act concerning executions.
(February 17th 1833.)
- Chap 673 [No. 16.] An act amendatory of the several statutes of this territory concerning attachments and executions.
(February 17th 1833.)
- Chap 674 [No. 17.] An act supplemental to an act concerning limitations of actions passed November 4th 1828
(February 17th 1833.)
- Chap 675 [No. 18.] An act to provide for holding an election for delegate to Congress, from this Territory, members of the Legislative Council and certain other officers.
(February 17th 1833.)

ACTS
OF THE
GOVERNOR AND LEGISLATIVE COUNCIL
OF THE
TERRITORY OF FLORIDA.

Passed at the Eleventh Session begun and held at the City of
Tallahassee, on Monday January the seventh 1833, and
ended Sunday February the seventeenth 1833.

WILLIAM P. DUVAL Governor.
JAMES D. WESTCOTT JR Secretary of the Territory.
JOHN P. BOOTE President of the Council.
JOSEPH B. LANCASTER, Chief Clerk.



CHAP. 658 [No 1] AN ACT in addition to the the act entitled, an act
concerning divorces and alimony, approved October 31, 1828.

Sec. 1. Be it enacted by the Governor and Legislative
[See Chap. 24, Council of the Territory of Florida, That in all cases of di-
166, 185, 344, vorce, if the party against whom the complaint is made shall
348, 423.] reside out of this Territory, or have removed, or shall after the
cause of complaint have arisen, remove out of this Territory,
so that ordinary process cannot be served, or if served the party
cannot be compelled to appear and answer or plead, it shall
and may be lawful for the superior court on bill filed, and due
proof that the defendant resides out of the Territory, or hath
removed as aforesaid to order a hearing on the facts charged in
said bill and thereupon to pass a decree in the same manner as
if the defendant had appeared and were present in court: Pro-

Absent defend-
ent.

[see chap. 641
etc]

CHAP. 670 (No. 13.) AN ACT To repeal an act to provide for the speedy settlement of all arrears due the Territory of Florida, approved February-12th 1832, and for other purposes.

act repealed.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the act entitled an act to provide for the speedy settlement of all arrears due the Territory of Florida, be and the same is hereby repealed.

duty of auditor
and treasurer.

SEC. 2. Be it further enacted, That it shall be the duty of the auditor and treasurer, to preserve the records and proceedings of the board of commissioners appointed under the act recited in the foregoing section, and to transfer into the books of the treasury all the accounts against individuals, as stated by the commissioners.

Quarterly re-
ports to be m-
to the gov.

SEC. 3. Be it further enacted, That it shall be the duty of the auditor and treasurer, within sixty days after passage thereof to make out and transmit to the district attorneys, of the several districts, copies of the accounts, and balances due by individuals, with instructions to demand the same, and commence suits therefor, or on bonds securing the same, where such exist in all cases, where the demand of the Territory can be recovered, and collected, and that the said auditor and said attorneys, make quarterly reports to the Governor, of the demands put in suit, and the progress of said suits.

D attorney to
make reports.

SEC. 4. Be it further enacted, That it shall be the duty of the district attorney, in each district, either in person, or by his authorised and sworn deputy, to examine the records and files of the several superior and county courts, in their respective districts, and ascertain, whether any, and what amounts are due from any marshal, clerk, sheriff or other officers, to the territory, and make detailed reports thereof to the auditor. The said examination and report to be made within three months from the passage of this act, and that for each examination and report, the person making the same shall receive the sum of five dollars, from each county.

Passed Feb. 16th 1833.

Approved Feb. 17th 1833.

[see chap. 510
588 etc]

Chap. 571. [No. 14.] AN ACT concerning Patrols.

Patrol districts
to be made by
the several J.
P.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the several justices of the peace within this Territory to cause their respective districts to be divided into convenient patrol districts which division shall not be altered unless by the justices or a majority of them in said district and in case the said

ces of the peace of any district, within this Territory, shall neglect to perform the duty herein before required by him or them, he or they, shall forfeit and pay the sum of fifty dollars to be recovered before any justice of the peace in said district.

SEC. 2. Be it further enacted, That it shall be the duty of the several justices of the peace in each county in this Territory to cause to be made out a roll for each patrol district, which shall include the names of all free white male inhabitants, above the age of eighteen years, residing within the patrol district; Provided, that nothing herein contained, shall be construed to compel any male inhabitant of any district to perform patrol duty, either in person or by substitute who may have attained the age of forty five-years.

a roll to be made out; persons of the age 45 exempt.

SEC. 3. Be it further enacted, That it shall be the duty of the justices of the peace of each and every district to prick off from the roll of each patrol district at his or their discretion any number of persons who shall perform the duty hereinafter prescribed for the term of three months, and to every such patrol, the justice or justices shall appoint some prudent and discreet person as commander, and in case the justice or justices of each district in their respective counties shall fail to prick off such patrol, he, or they, shall forfeit and pay the sum of twenty dollars for every such neglect to be recovered before any other justice of the peace.

penalty where J. P. neglect their duty.

SEC. 4. Be it further enacted, That it shall be the duty of every commander of every patrol as often as he may deem it expedient to call out the patrol under his command and to take up all slaves who may be found without the limits of their owners plantation under suspicious circumstances, or at a suspicious distance therefrom, and to correct all such slaves by a moderate whipping, with a switch or cowskin commonly called a cowhide, not exceeding thirty nine lashes unless the said slave shall have a ticket or pass from the owner of said slave, or his agent, or overseer or shall have some white person in company authorized to give an account of the business of such slave or slaves, or if any white man shall beat or abuse any slave quietly and peaceably being on his or her masters plantation or found anywhere without the same, with a lawful ticket or pass, he shall forfeit the sum of twenty dollars, to be recovered by the owner, and to his use by action of debt, besides being liable to the owner in an action of trespass for damages.

commanders of patrol required to call out their patrol for apprehending

SEC. 5. Be it further enacted, That the said patrols in their respective districts are hereby authorized to enter into any disorderly houses, vessels or boats suspected of harbouring, trafficking or dealing with slaves, whether the same be occupied by white persons, free negroes, mulattoes, mustizoes or slaves, and to apprehend and to correct all slaves found there by whipping as herein before directed, and the said patrol are moreover authorized and it is hereby made their duty to give informa-

Patrols authorized to enter certain places.

tion to the next justice of the peace within their district, of all such white persons, free negroes, mulattoes or mustizees, so found trafficking or dealing with slaves; and the said justice shall upon such information issue his warrant for the apprehension of said offender or offenders to be dealt with according to law, and the said patrols are moreover authorized to detain such produce or other so found: Provided, such detention be authorized by any three persons composing said patrol, by any two householders of the vicinage or by any justice of the peace, until upon enquiry, before a justice of the district it shall be proved to whom the said property belongs, when it shall be given up to the owner or owners by order of the said justice

commanders of
patrol required
to keep their
patrol in order
& penalties for
disobedience

* [SEC. 6.] *Be it further enacted, That the commander of every patrol, shall have the power to keep the men under his command in good order and demeanor, during their term of service and in case any patrol man shall misbehave himself, or neglect, or disobey the orders of his commander, he shall be subject to a fine of not more than five dollars, to be imposed by any justice of the peace in said district, and to be paid to the county treasurer for county purposes.*

Penalties im-
posed for im-
proper conduct
in commanders.

SEC. 7. Be it further enacted, That if any commander of a patrol detachment, shall act disorderly while on duty, so as to defeat the orderly performance, or execution of the patrol laws, agreeable to the true intent and meaning thereof, he shall be returned by any of the members of his patrol, or other persons competent to give evidence to any justice of the peace in the district, who shall order the said commander, to be brought before him at a time, and placed therein to be stated for trial, and upon sufficient evidence being given, of the charge, such captain or commander of the patrol, shall be fined in the sum of ten dollars, to be recovered and applied as aforesaid, to the use of the county.

all persons be-
tween the age
of 18 and 45
required to per-
form duty when
called or em-
ploy substitute
penalties for re-
fusing to obey.

SEC. 8. Be it further enacted, That it shall be lawful for any person, or persons, hereby declared liable to perform patrol duty, to send any able bodied whiteman, between the age of eighteen and forty five years, to perform patrol duty for him or them, and if any patrol man shall neglect or refuse to perform the duty required of him, by this act, or procure a substitute to perform the same, without a legal excuse, he shall forfeit and pay a fine of twenty dollars for each and every default, to be recovered as aforesaid, before any justice of the peace of said district, to the use of the county, for county purposes: and in all cases where a substitute is provided, the person employing him, shall be liable for his default.

SEC. 9. Be it further enacted, That each captain or commander of the patrol shall make a return upon oath of the pei-

* The words in *italics* are omitted by mistake of the Enrolling Clerks of the Council, in the original law, and are supplied by reference to the original engrossed bill, as ordered to be enrolled.

formance of the duties of his office, as commander of such patrol to a justice of the peace of his respective district, under the penalty of a fine of five dollars to be recovered as aforesaid, for the use of the county

commanders of patrol required to make return to J P under a penalty \$5

Sec. 10. Be it further enacted, That it shall be lawful for any person or persons, who may be lawfully engaged in dispersing any unlawful assembly of slaves, free negroes, mulattoes, or mustizos, to enter into all such places, as the said persons may be assembled at, and if resisted they may break open doors, gates or windows.

Patrol authorized to enter forcibly into disorderly places under certain circumstances.

Sec. 11. Be it further enacted, That nothing herein contained, shall be so construed, as to deprive the corporate authorities of any incorporated town or village, of any power heretofore vested in them, to regulate and order out patrols, within the limits of such corporation.

Sec. 12. Be it further enacted, That if any person or persons, shall commence any action against any patrol, or other persons for any trespass by him or them committed, in carrying the provisions of this act into effect, and at the trial thereof, shall fail to recover any damages, he or she or they shall be liable, and adjudged to pay to the party so sued treble costs.

Sec. 13. Be it further enacted, That in counties where the justices districts have not been laid out and defined according to law, it shall be the duty of the justices of the peace or any two or more of them to lay out and divide said county into convenient patrol districts, and proceed to organize the same, in the same manner as heretofore prescribed, and in all such justices districts, wherein but one justice of the peace resides, he shall perform the same duties, as are required by this act.

J P authorized to lay out patrol districts

Sec. 14. Be it further enacted, That if there be no justice of the peace in any district, then and in that case, the justice or justices of the peace of the next adjoining districts in said county, shall perform the duties herein required of justices of the peace.

where there is no J. P.

Sec. 15. Be it further enacted, That it shall be lawful for any patrol of this territory, to take from any slave or slaves any fire arms, or other dangerous weapons, to be delivered by said patrol to the justice of said district.

Patrol authorized to take fire arms.

Sec. 16. Be it further enacted, That any fire arms, or other articles so taken by the patrol, shall be delivered over to the nearest justice of the peace; and unless the same be called for within thirty days by the owner thereof or his agent they may be sold at auction on some public day, and at some public place, and the proceeds shall by said justice of the peace be paid into the county treasury for county purposes; Provided, Ten days notice of such sale be given by one or more advertisements stuck up in some public place in the district.

Disposition to be made of weapons.

Sec. 17. Be it further enacted, That it shall not be lawful for any slave, free negro, or mulatto, to keep or retain in his or

slaves, free negroes and mulattoes forbidden to keep fire arms in their houses etc

their house or houses, any fire arms whatsoever, and it is hereby made the duty of the patrol to search negro houses or other suspected places, for fire arms, and if any they find, contrary to the true intent and meaning of this act, may take the same to the nearest justice of the peace, who may proceed therewith as directed in a preceding section of this act, ; and the negro, or negroes, in whose possession the same may be found, on failing to give a plain and satisfactory account of the manner he or they came possessed of the same may be severally punished, by moderate whipping on the bare back, not exceeding thirty-nine lashes.

all other laws repealed.

SEC. 18. Be it further enacted, That all laws now in force in this Territory, on the subject of patrols, be and the same are hereby repealed. and this act shall be in force from and after the first day of March next.

Passed Jan. 24. 1833.

Approved Feb. 17. 1833.

[Free chap 457
644, etc]

CHAP. 672 (No. 15) AN ACT concerning executions.

writs of fi fa, issuable within ten days after judgment.

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That it shall be the duty of the clerks of courts in this territory, to issue writs of *fiери facias* upon all judgments rendered by the courts of which they are clerks, respectively at any time ten days after the adjournment of said court, and not before, unless the plaintiff, his agent or attorney, shall make affidavit that there is good reason to believe that the defendant will remove his property from this territory, before the same can be levied upon in the usual manner, in which case, it shall be lawful for the court, to order the issuing of the said writ of *fiери facias* immediately after judgment rendered ; and all writs of execution shall bear date as of the day on which they shall be issued ; and shall be made returnable one hundred and twenty days after the date thereof, or at the next succeeding term of the court whence the execution issued, if that be within a shorter time, than one hundred and twenty days, and shall be directed to all and every the marshals, or sheriffs, as the case may be, of the territory of Florida, and shall be of full force throughout the territory.

other property may be surren

SEC. 2. Be it further enacted, That the defendant in execution, his agent or attorney, shall at all times have it in his power to release any property which may have been levied on, by surrendering other property, of a value sufficient to satisfy the execution.

SEC. 3. Be it further enacted, That no sale under execution, shall take place unless the same shall have been previously ad-