AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

situated, but not burned. That the value of each building so condemned and burned shall be determined by the Secretary from the petitions and evidence filed before said commission by the owners or occupiers thereof, by order of said commission, and now on file in the Interior Department, or such other evidence as the claimants may file, and after such investigation as he may think proper.

—payment of values to claimants.

SEC. 5. That a sum of money sufficient to pay for such investigation and the claims so ascertained and fixed by the Secretary of the Interior be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated; and the Secretary of the Interior is hereby authorized and directed to pay to such person or persons, claimants, their executors, administrators, the sum or sums of money equal to the values so as aforesaid found by him.

—report.

SEC. 6. That the Secretary of the Interior is required to report to Congress the results of his action under the foregoing sections.

Approved, March 3, 1901.

CHAP. 854.—An Act To establish a code of law for the District of Columbia.

March 3, 1901.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following is hereby enacted and declared to be a code of law for the District of Columbia, to go into effect and operation from and after the first day of January, in the year of our Lord nineteen hundred and two.

District of Columbia. Code of law established.

2. *And be it further enacted*, That in the interpretation and construction of said code the following rules shall be observed, namely:

Rules of interpretation.

First. Words importing the singular number shall be held to include the plural, and vice versa, except where such construction would be unreasonable.

Second. Words importing the masculine gender shall be held to include all genders, except where such construction would be absurd or unreasonable.

Third. The word "person" shall be held to apply to partnerships and corporations, unless such construction would be unreasonable, and the reference to any officer shall include any person authorized by law to perform the duties of his office, unless the context shows that such words were intended to be used in a more limited sense.

Fourth. Wherever the word "executor" is used it shall include "administrator," and vice versa, unless such application of the term would be unreasonable.

Fifth. Wherever an oath is required an affirmation in judicial form, if made by a person conscientiously scrupulous about taking an oath, shall be deemed a sufficient compliance.

Sixth. The words "insane person" and "lunatic" shall include every idiot, non compos, lunatic, and insane person.

CHAPTER ONE.

LAWS REMAINING IN FORCE.

Laws remaining in force.

SECTION 1. The common law, all British statutes in force in Maryland on the twenty-seventh day of February, eighteen hundred and one, the principles of equity and admiralty, all general acts of Congress not locally inapplicable in the District of Columbia, and all acts of Congress by their terms applicable to the District of Columbia and to other places under the jurisdiction of the United States, in force at the date of the passage of this act shall remain in force except in so far as the same are inconsistent with, or are replaced by, some provision of this code.

THE JUDICIARY.

The judiciary.

SEC. 2. The judicial power in the District shall continue as at present to be vested in—

—inferior courts.

First. Inferior courts, namely, justices of the peace and the police court; and

—superior courts.

Second. Superior courts, namely, the supreme court of the District of Columbia, the court of appeals of the District of Columbia, and the Supreme Court of the United States.

SUBCHAPTER ONE.

Justices of the peace.

JUSTICES OF THE PEACE.

Appointment.

SEC. 3. APPOINTMENT AND QUALIFICATIONS.—There shall be ten justices of the peace in the District, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for a term of four years, unless sooner removed as provided by law: *Provided*, That no person shall be appointed to said office unless he shall have been a bona fide resident of said District for the continuous period of at least five years immediately preceding his appointment, and shall either have held the office of justice of the peace in said District for a period of at least two years or shall have been engaged in the actual practice of law before the supreme court of the District for a period of at least five years prior to his appointment. Each of said justices before entering upon the duties of his office shall take an oath for the faithful and impartial performance of the duties of his office, and shall give bond in such form, in such penalty, and with such surety or sureties as may be prescribed by the supreme court of the District. And said supreme court shall divide the said District into ten subdistricts and prescribe the place in each subdistrict where the justice thereof shall have his office for the transaction of business, and may change the boundaries of such subdistricts and the localities of the offices of the justices therein from time to time as the volume and convenience of the business may require.

Proviso. Qualifications.

Subdistricts, division of District into, etc.

Justice to sit only where office is located.

SEC. 4. SUBDISTRICTS.—No justice of the peace shall sit for the trial of causes in any subdistrict other than the one in which his office is situated: *Provided*, That in case the office of any justice of the peace shall become vacant by death or otherwise, the said supreme court, or any justice thereof, may designate one of the other justices to preside temporarily in that subdistrict until the vacancy shall be filled: *And provided further*, That if any justice of the peace shall be disqualified to act by reason of interest, illness, or other cause, any other justice of the peace of the District, on the written request of the justice so disqualified, may preside in his absence, or, if no such written request be made, such justice as may be designated by the said supreme court, or one of the justices thereof, shall preside.

Provisos. —certain temporary assignments excepted.

Suits to be brought in subdistrict of resident.

SEC. 5. No resident of the District shall be sued in any subdistrict other than the one in which he resides, and no nonresident of the District having a place of business therein shall be sued in any subdistrict other than the one in which such place of business is situated: *Provided*, That where two or more persons are sued together the suit may be brought in the subdistrict in which any one of the defendants resides. When a corporation is a defendant, its place of business shall be deemed its residence for the purpose of this section, and if it shall have in the District more than one place of business the suit may be brought in the subdistrict in which any one of its places of business is situated.

Proviso. —suits against two or more corporations.

Should a suit be brought against any party or corporation in any district in which he or it does not reside or hold business, and a plea

to the jurisdiction on this account be filed by said defendant, the party or corporation interposing such plea shall disclose under oath the district in which he or it should have been sued; and the justice, upon sustaining such plea, shall certify the cause for trial to the justice sitting in the district where suit should have been instituted; and should no such plea be filed before trial the justice shall be deemed to have had full jurisdiction. In any suit brought before a justice of the peace the defendant, his agent or attorney, may have the cause removed to the next nearest justice, upon filing an affidavit with the justice issuing the writ, on the return day or day of trial of the action, that he does not believe said justice will give him a fair and impartial trial.

Salary, etc.

SEC. 6. SALARY.—Each of said justices of the peace shall receive an annual salary of three thousand dollars, and the further sum of two hundred and fifty dollars annually for rent, stationery, and other expenses, to be paid monthly by the District of Columbia; and he shall render monthly accounts to the auditor of the District of Columbia of all moneys received by him for fees, and shall pay over such fees to the collector of said District and take his receipt in duplicate therefor, and file one of them with said auditor and retain the other in his office, and the money so collected shall be disposed of by said collector as other moneys belonging to the said District are.

Jury trials.

SEC. 7. JURY TRIALS.—Trial by jury before justices of the peace is hereby abolished.

Supreme court District of Columbia to make rules, etc.

Fees.

SEC. 8. RULES AND FEES.—The supreme court of the District of Columbia in general term shall make rules regulating the practice and pleading before justices of the peace, and in relation to appeals from their judgments, not inconsistent with law, and may alter and amend the same from time to time, and shall also fix the fees to be charged by said justices of the peace, and alter them from time to time as justice may require: *Provided*, That in all cases of concurrent jurisdiction the defendant may remove the case for trial into the supreme court of the District by a writ of certiorari (to be awarded by said court or one of the justices thereof upon a petition under oath, the form and substance whereof shall be prescribed by said court).

Proviso.

Removal to supreme court District of Columbia, where jurisdiction concurrent.

Jurisdiction.

SEC. 9. JURISDICTION.—The said justices of the place shall have jurisdiction in all civil cases in which the amount claimed to be due for debt or damages arising out of contracts, express or implied, or damages for wrongs or injuries to persons or property, does not exceed three hundred dollars, including all proceedings by attachment or in replevin where the amount claimed or the value of the property involved does not exceed said sum, except in cases involving the title to real estate, actions to recover damages for assault or assault and battery, or for malicious prosecution, or actions against justices of the peace or other officers for official misconduct, or actions for slander or libel, or actions on promises to marry; and said jurisdiction shall be exclusive when the amount claimed for debt or damages or the value of personal property claimed does not exceed fifty dollars, and concurrent with the said supreme court when it exceeds fifty dollars.

—exclusive.

—concurrent.

—to include trespass, etc.

Proviso.

—qualification.

SEC. 10. TRESPASS.—The said jurisdiction of justices of the peace shall extend to cases of trespass upon or injury to real estate: *Provided*, That if the defendant shall file with the justice an affidavit that he claims title or acts under a person claiming title to the real estate, setting forth the nature of his title, the justice shall take no further cognizance of the case.

Nonresidents to give security for costs.

SEC. 11. NONRESIDENTS.—Nonresidents shall not commence a suit before a justice of the peace without first giving security for costs.

Judgments.

SEC. 12. JUDGMENTS.—It shall be lawful for any justice of the peace, in all cases within his jurisdiction, to try, hear, and determine the matter in controversy between the parties upon their allegations and proofs, and to give judgment according to law; and all judgments for money

rendered by them shall bear interest from their date until paid or satisfied, unless by the terms of the judgment interest runs from an earlier date.

Replevin.

SEC. 13. REPLEVIN.—A justice of the peace shall have authority to issue a writ of replevin whenever a plaintiff shall file with him a declaration in replevin, in the following or an equivalent form, to wit:

—form.

"The plaintiff sues the defendant for wrongfully taking and detaining (or wrongfully detaining) his, said plaintiff's, goods and chattels, to wit (here describe them), of the value of ——— dollars. And the plaintiff claims that the same may be taken and delivered to him, or, if they are eloigned, that he may have judgment for their value and all mesne profits and damages, which he estimates at ——— dollars, besides costs." And at the same time said plaintiff, his agent, or attorney shall file an affidavit stating, first, that, according to affiant's information and belief, the plaintiff is entitled to recover possession of the chattels described in the declaration; secondly, that the defendant has seized and detains or detains the same; thirdly, that said chattels were not subject to such seizure or detention, and were not taken under any writ of replevin; fourthly, that said chattels are not of the value of more than three hundred dollars; and at the same time the plaintiff shall enter into an undertaking, with surety approved by said justice, submitting to the jurisdiction of the court, to abide by and perform the judgment of said justice's court or of the supreme court of the District of Columbia.

Officer's return.

SEC. 14. OFFICER'S RETURN.—If the officer's return of the writ of replevin be that he has served the defendant with copies of the declaration, affidavit, and summons, but that he could not get possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the goods and damages for the detention, not to exceed in all three hundred dollars, or he may renew the writ, in order to get possession of the goods and chattels themselves.

Publication.

SEC. 15. PUBLICATION.—If the officer's return be that he has taken possession of the goods and chattels sued for, but that the defendant is not to be found, the said justice may order that the defendant appear to the action by some fixed day, and cause notice of such order to be given by publication in some newspaper of said District at least three times, the first publication to be at least twenty days before the day fixed for the defendant's appearance; and if the defendant fails to appear, the court may proceed, as in case of default after personal service, to render judgment for the property in favor of the plaintiff.

Pleas.

SEC. 16. PLEAS.—If the defendant appears, he may plead not guilty, in which case all matters of defense may be given in evidence, or he may plead specially.

Marshal to retain property, etc.

SEC. 17. MARSHAL TO RETAIN PROPERTY.—Property taken by the marshal under a writ of replevin, issued by a justice of the peace, shall be retained by him for three days, exclusive of Sundays and legal holidays, before delivering the same to the plaintiff, in order that the defendant or other persons claiming an interest therein may present objections to the said justice to the sufficiency of the security on the undertaking or the jurisdiction of said justice, and if the said justice shall deem said undertaking insufficient, such property may be directed to be retained by the marshal for a further short time, to be designated by said justice, until an undertaking to be approved by him shall be filed, in default of which the marshal shall return the property to the person from whom it was taken; or if it shall be made to appear to the said justice that the property is of the value of over three hundred dollars he shall quash the writ of replevin and direct the property to be returned to the party out of whose possession it was taken.

Damages for plaintiff.

SEC. 18. DAMAGES FOR PLAINTIFF.—Whether the defendant plead and the issue joined be found against him, or his plea be held bad, or

he make default after personal service, the plaintiff's damages shall be the full value of the goods, not to exceed three hundred dollars, if eloigned by the defendant, and damages for the detention thereof, and judgment shall be given accordingly.

Judgment for defendant.

SEC. 19. JUDGMENT FOR DEFENDANT.—If the issue be found for the defendant, or the plaintiff shall dismiss or fail to prosecute his suit, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant, with damages for their detention, or, on failure, that the defendant recover from the plaintiff and his surety the damages sustained by him, to be assessed by the justice.

Forcible entry and detainer.

SEC. 20. FORCIBLE ENTRY AND DETAINER.—Whenever any person shall forcibly enter and detain any building or inclosed real property, or shall unlawfully, but without force, enter and unlawfully and forcibly detain the same, or whenever any tenant shall unlawfully detain possession of the property leased to him, after his tenancy therein has expired, or any mortgagor or grantor in a mortgage or deed of trust to secure a debt, shall unlawfully detain the possession of the real property conveyed, after a sale thereof under such deed of trust or a foreclosure of the mortgage, or any person claiming under such mortgagor or grantor, after the date of the mortgage or deed of trust, shall so detain the same, or a judgment debtor or any person claiming under him, since the date of the judgment, shall so detain possession of real property, after a sale thereof under an execution issued on such judgment, it shall be lawful for any justice of the peace, on complaint under oath by the person aggrieved by said unlawful detention, to issue a summons to the party complained of to appear and show cause why judgment should not be given against him for the restitution of the possession.

—issue of summons.

—service, etc.

SEC. 21. SUMMONS.—The summons shall be served seven days, exclusive of Sundays and legal holidays, before the day fixed for the trial of the action. If the defendant has left the District of Columbia, or can not be found, said summons may be served by delivering a copy thereof to the tenant, or by leaving the same with some person above the age of sixteen years residing on or in possession of the premises sought to be recovered, and if no one be in actual possession of said premises, or residing thereon, by posting a copy of said summons on the premises where it may be conveniently read.

Judgment.

SEC. 22. JUDGMENT.—If upon the trial it appears that the plaintiff is entitled to the possession of the premises, judgment and execution for the possession shall be awarded in his favor, with costs; if the plaintiff becomes nonsuit or fails to prove his right to the possession, the defendant shall have judgment and execution for his costs.

Plea of title.

SEC. 23. PLEA OF TITLE.—If upon the trial the defendant pleads title to the premises, in himself or in another under whom he claims, setting forth the nature of said title, under oath, and shall enter into an undertaking, with sufficient surety, to be approved by the justice, to pay all intervening damages and costs and reasonable intervening rent for the premises, the justice shall certify the proceedings to the supreme court of the District of Columbia, and the same shall be further continued in said court according to its rules.

Judgment not a bar.

SEC. 24. JUDGMENT NOT A BAR.—A judgment, either before the justice or in the supreme court, upon appeal in this proceeding, shall not be a bar to any after action brought by either party or conclude any question of title between them, where title is not pleaded by the defendant as aforesaid.

Witnesses.

SEC. 25. WITNESSES.—Justices of the peace shall have power to compel the attendance of witnesses from any part of the District of Columbia by attachment and to punish them for disobedience, as well as to punish anyone for disorder or contempt committed in their presence, by fine not exceeding ten dollars or imprisonment not exceeding ten days.

Nonresident witnesses.

SEC. 26. NONRESIDENT WITNESSES.—Where the testimony of nonresident witnesses is required by either party the justice may, upon motion designating the names of such witnesses, appoint an examiner to take such testimony, to whom he shall issue a commission; and said testimony shall be taken on written interrogatories and cross-interrogatories, which written interrogatories shall be filed with said justice at least three days before the issue of such commission: *Provided*, That such commission shall not issue unless the party applying therefor file his affidavit, setting forth that he believes that the testimony of said witnesses is material to the issue in said suit and that the motion is not made for the purpose of delay.

Commission to take testimony of.

Proviso. —when to issue.

Death of justice.

SEC. 27. DEATH OF JUSTICE.—In case of the death of any justice or the expiration of his commission after judgment rendered by him and before execution is issued thereon, any other justice, upon a copy of said judgment being filed with him, may issue execution thereon, which shall be returned to the justice issuing the same.

Satisfaction of judgment.

SEC. 28. SATISFACTION OF JUDGMENT.—No judgment or execution shall be recorded as satisfied without the receipt of the plaintiff or his attorney annexed thereto.

Docketing judgment in supreme court.

SEC. 29. DOCKETING JUDGMENT IN SUPREME COURT.—After recovering a judgment for twenty dollars or more, exclusive of costs, before a justice of the peace, the judgment creditor may, when execution is returned "No personal property found whereon to levy," file in the clerk's office of the supreme court of the District a certified copy of said judgment, which shall be docketed in the docket of law causes in said office in the same manner as appeals from justices are there docketed; and when it is docketed the force and effect of the judgment for all purposes shall be the same as to lien and execution as if it had been a judgment of the said supreme court.

Appeal.

SEC. 30. APPEAL.—Where the debt or demand or the value of personal property claimed exceeds five dollars, and in actions for the recovery of possession of real estate, as aforesaid, either party who may think himself aggrieved by the judgment or other final order of a justice of the peace may appeal to the supreme court of the District; such appeal to be prayed within six days after the entering of the judgment.

Undertaking.

SEC. 31. UNDERTAKING.—No appeal shall be allowed unless the appellant, with sufficient surety, approved by the justice, shall enter into an undertaking to satisfy and pay whatever final judgment may be recovered in the appellate court, and agree that such judgment may be entered against principal and sureties. Such undertaking must be given within six days, exclusive of Sundays and legal holidays, after the entry of judgment. And where said undertaking has been given the justice shall immediately file the original papers, and a copy of his docket entries, in the office of the clerk of the supreme court, and notify the appellant thereof.

Practice.

SEC. 32. PRACTICE.—The practice and forms of proceeding in trials before justices and in trials of appeals from justices, so far as not herein directed, shall be governed by the rules of said supreme court.

Claimant of property levied on.

SEC. 33. CLAIMANT OF PROPERTY LEVIED ON.—When personal property taken on execution issued by a justice of the peace is claimed by a person other than the defendant therein, or is claimed by the defendant to be property exempt from execution, and such claimant shall give notice, in writing, to the marshal of his claim, or the defendant shall give notice, in writing, that the property is exempt, the marshal shall notify the plaintiff of such claim and return said notice to the justice who issued the execution, and a trial of said right of property, or said question of exemption, shall be had before said justice.

—notice to marshal of claim.

—trials, etc.

SEC. 34. The case made by such claim shall be entered on the justice's docket as an action by the claimant or the defendant against the

plaintiff and tried in the same manner as other cases before justices of the peace.

—judgment for claimant.

SEC. 35. In case the property shall appear to belong to the claimant or to be exempt from execution, judgment shall be entered against the plaintiff in the execution for costs, and the property levied upon shall be released. If the property shall not appear to belong to the claimant or to be exempt, as aforesaid, judgment shall be entered against said claimant or the defendant, as the case may be, for costs, including additional costs occasioned by the delay in the execution of the writ. An appeal may be taken from the judgment, as in other cases, provided the same is prayed within four days after the entering of the judgment and an appeal bond is given within six days, exclusive of Sundays and legal holidays, thereafter.

—against.

—appeal.

—marshal to retain property, etc.

SEC. 36. In case of an appeal the marshal shall retain the property unless the claimant or the defendant in the execution or his agent shall enter into an undertaking, with sufficient surety, to be approved by the justice, for the delivery of such property to the marshal, if the judgment of the court shall be against the party entering into such undertaking; and said undertaking shall be returned to said supreme court, and it may give judgment thereon.

Replevin against officer levying, etc.

SEC. 37. Nothing herein contained shall prevent a claimant other than the defendant from bringing an action of replevin against the officer levying upon the property claimed as aforesaid.

Docket entries.

SEC. 38. DOCKET.—Each justice of the peace is required to keep a docket, in which he shall enter from day to day concurrently with the respective proceedings—

First. The title of each action.

Second. The date of the writ issued and the time of its return, the fact of affidavits being filed, with the name of any affiant.

Third. The appearance of the parties.

Fourth. The nature of the pleadings in brief.

Fifth. The names of witnesses sworn, and at whose request.

Sixth. The judgment of the justice and the items of cost.

Seventh. The appeal, if one is taken, by which party taken, the undertaking and the time of giving the same.

Eighth. The satisfaction of the judgment and the date thereof.

Copy of judgment to be furnished.

And it shall be his duty to furnish a copy of any judgment rendered by him when required by either party to the action.

Penalty for negligence, etc.

If he shall omit to keep such docket or be guilty of any other negligence or omission whereby the plaintiff, having obtained a judgment before him, shall lose his debt, the justice shall pay and satisfy to the plaintiff the debt, interest, and costs so lost, to be recovered in an action of debt against said justice and his surety or sureties, with any additional interest that may have accrued.

Death or resignation.

SEC. 39. DEATH OR RESIGNATION.—It is hereby made the duty of every justice of the peace, upon his resignation or removal from office or the expiration of his commission, and that of his executors or administrators in case of his death, to deliver to the clerk of the supreme court of the District all dockets and all original papers in cases not yet closed, which said justice may have had; and any person neglecting to comply with this requirement shall forfeit to the United States the sum of five hundred dollars, to be recovered as other penalties are recovered.

Removal from office.

SEC. 40. REMOVAL FROM OFFICE.—The supreme court of the District shall have power to remove justices of the peace from office, after due notice and an opportunity given them to be heard in their defense, for incompetency, habitual drunkenness, corruption, or other misconduct in office.

Process, service of.

SEC. 41. PROCESS, SERVICE OF.—The office of constable is hereby abolished, and all process issued by a justice of the peace shall be

served by the United States marshal for the District of Columbia, or, if he is disqualified, by the coroner, and the fees for such service shall be as prescribed by rule of the supreme court of the District of Columbia.

SUPERSEDEAS.

Supersedeas.

On all judgments rendered by a justice of the peace, except as hereinafter provided, stay of execution may be had upon good and sufficient security being entered by a person who may be at the time the owner of sufficient real property located in the District, above all liabilities and exemptions, to secure the debt, costs, and interest.

Stay of execution.

In such cases stay of execution shall be entered as follows:

For the sum of five dollars, and not exceeding twenty dollars, one month.

For all sums over twenty dollars, and not exceeding forty dollars, two months.

For all sums over forty dollars, and not exceeding seventy-five dollars, four months.

For all sums exceeding seventy-five dollars, six months.

There shall be no stay of execution on any judgment for the wages of a servant or common laborer, nor upon any judgment for a less sum than five dollars.

SUBCHAPTER TWO.

Police court.

THE POLICE COURT.

Constitution.

SEC. 42. CONSTITUTION.—There shall continue to be a police court in the District, as at present, consisting of two judges learned in the law, appointed by the President, by and with the advice and consent of the Senate, for the term of six years, who shall each receive a salary of three thousand dollars per annum. The said judges shall hold separate sessions and may carry on the business of said court separately and simultaneously, and are empowered to make rules for the apportionment of the business between them, and the acts of each of the said judges respecting the business of said court shall be deemed and taken to be the acts of the said court. Each judge, when appointed, shall take the oath prescribed for judges of the courts of the United States.

Powers of judges, oath, etc.

Jurisdiction.

SEC. 43. JURISDICTION.—The said court shall have original jurisdiction concurrently with the supreme court of the District, except where otherwise expressly herein provided, of all crimes and offenses committed in the said District not capital or otherwise infamous and not punishable by imprisonment in the penitentiary, except libel, conspiracy, and violation of the post-office and pension laws of the United States; and also of all offenses against municipal ordinances and regulations in force in the District of Columbia. The said court shall also have power to examine and commit or hold to bail, either for trial or further examination, in all cases, whether cognizable therein or in the supreme court of the District.

Informations.

Trial by jury.

SEC. 44. That prosecutions in the police court shall be on information by the proper prosecuting officer. In all prosecutions within the jurisdiction of said court in which, according to the Constitution of the United States, the accused would be entitled to a jury trial, the trial shall be by jury, unless the accused shall in open court expressly waive such trial by jury and request to be tried by the judge, in which case the trial shall be by such judge, and the judgment and sentence shall have the same force and effect in all respects as if the same had been entered and pronounced upon the verdict of a jury.

—by the court.

In all cases where the accused would not by force of the Constitu-

tion of the United States be entitled to a trial by jury, the trial shall be by the court without a jury, unless in such of said last-named cases wherein the fine or penalty may be fifty dollars or more, or imprisonment as punishment for the offense may be thirty days or more, the accused shall demand a trial by jury, in which case the trial shall be by jury. In all cases where the said court shall impose a fine it may, in default of the payment of the fine imposed, commit the defendant for such a term as the court thinks right and proper, not to exceed one year.

Jury.

SEC. 45. JURY.—The jury for service in said court shall consist of twelve men, who shall have the legal qualifications necessary for jurors in the supreme court of the District, and shall receive a like compensation for their services, and such jurors shall be drawn and selected under and in pursuance of the laws concerning the drawing and selection of jurors for service in said court. The term of service of jurors drawn for service in said police court shall be for three successive monthly terms of said court and, in any case on trial at the expiration of such time, until a verdict shall have been rendered or the jury shall be discharged. The said jury terms shall begin on the first Monday in January, the first Monday in April, the first Monday in July, and the first Monday in October of each year, and shall terminate, subject to the foregoing provisions, on the last Saturday of each of said jury terms. When at any term of said court it shall happen that in a pending trial no verdict shall be found, nor the jury otherwise discharged before the next succeeding term of the court, the court shall proceed with the trial by the same jury, as if said term had not commenced.

—qualifications, etc.

—term of service.

Drawing of names, etc.

SEC. 46. At least ten days before the term of service of said jurors shall begin, as herein provided for, such jurors shall be drawn as hereinbefore directed, and at least twenty-six names so drawn shall be certified by the clerk of the supreme court of said District to the said police court for service as jurors for the then ensuing term. Deficiencies in any panel of any such jury may be filled according to the law applicable to jurors in said supreme court, and for this purpose either judge of said police court shall possess all the powers of a judge of said supreme court and of said court sitting as a special term. No person shall be eligible for service on a jury in said police court for more that one jury term in any period of twelve consecutive months, but no verdict shall be set aside on such ground unless objection shall be made before the trial begins. Service on such jury shall not render any person exempt, ineligible, or disqualified for service as a juror in said supreme court, except during his term of actual service in said police court. The marshal of said District, by himself or deputy, shall have charge of said jury, and may appoint a deputy for that purpose, who shall be paid three dollars a day while so employed.

Eligibility.

Marshal to have charge of jury.

Judgment to be final.

SEC. 47. JUDGMENT TO BE FINAL.—In all cases tried before said court the judgment of the court shall be final, except as hereinafter provided.

Powers.

SEC. 48. POWERS.—The said court shall have power to issue process for the arrest of persons against whom information may be filed or complaint under oath made and to compel the attendance of witnesses; to punish contempts by fine not exceeding twenty dollars and imprisonment for not more than forty-eight hours, or either, and to enforce any of its judgments by fine or imprisonment, or both, and to make such rules and regulations as may be deemed necessary and proper for conducting business in said court. In all cases where the said court shall impose a fine it may, in default of the payment of the fine imposed, commit the defendant for such a term as the court thinks right and proper, not to exceed one year.

Security for appearance for trial.

That every person charged with an offense triable in the police court of the District of Columbia may give security for his appearance

—bond.
—money.

for trial or for further hearing, either by giving bond to the satisfaction of the court or by depositing money as collateral security with the appropriate officer at the said police court or the station keeper of the police precinct within which such person may be apprehended. And whenever any sum of money shall be deposited as collateral security as hereby provided it shall remain, in contemplation of law, the property

—property in when forfeited.

of the person depositing it until duly forfeited by the court; and when forfeited it shall be, in contemplation of law, the property of the United States of America or of the District of Columbia, according as the charge against the person depositing it is instituted on behalf of the said United States or of the said District; and every person receiving any sum of money deposited as hereby provided shall be deemed in law the agent of the person depositing the same or of the said United States or the said District, as the case may be, for all purposes of

—in fines.

properly preserving and accounting for such money. And all fines payable and paid under judgment of the said police court shall, upon their payment, immediately become, in contemplation of law, the property of the said United States or the said District, according to the charge upon which such fine may be adjudged; and the person receiving any such fine shall be deemed in law the agent of the said United States

—penalty for conversion.

or the said District as aforesaid, as the case may be; and any person, being an agent as hereinbefore contemplated and defined, who shall wrongfully convert to his own use any money received by him as hereinbefore provided shall be deemed guilty of embezzlement, and upon conviction thereof be punished by a fine not exceeding five thousand

Proviso.
Rights of Washington Humane Society et al. to fines unaffected.

dollars or by imprisonment not exceeding five years, or both: *Provided*, That nothing herein contained shall affect the ultimate rights under existing law of the Washington Humane Society, or the policemen's fund (by whatever name the same may be called or known), or the firemen's relief fund, of the District of Columbia, in or to any fines or forfeitures paid and collected in the said police court.

Seal.

SEC. 49. SEAL.—The said court shall have a seal, and each of the judges shall have power to take the acknowledgment of deeds and to administer oaths and affirmations to public officers.

Terms.

SEC. 50. TERMS.—The said court shall hold a term on the first Monday of every month, and continue the same from day to day as long as it may be necessary for the transaction of its business.

Disability of judge

SEC. 51. DISABILITY OF JUDGE.—In cases of sickness, absence, or disability of either of the judges of said court, any one of the justices of the supreme court aforesaid may designate one of the justices of the peace to discharge the duties of said police judge until such disability be removed. The justice so designated shall take the same oath prescribed for the judge of the police court, and shall receive the sum of ten dollars per day for the time that he shall serve, to be paid in the same manner as the salary of the judge of the police court.

Clerk.

SEC. 52. CLERK.—The court shall have power to appoint a clerk, at a salary of two thousand dollars per annum, who shall hold his office at the pleasure of the court, and he shall give bond with surety and take the oath of office prescribed by law for clerks of the district courts of the United States, and said clerk shall charge no fee for any service rendered by him.

Deputies.

SEC. 53. DEPUTIES.—The said clerk may appoint four deputies, with the approval of the court, if the business of the court requires it, to be paid, each, such compensation as may be allowed by the court, not exceeding one thousand five hundred dollars per annum as to two of such deputies and twelve hundred dollars as to the other two.

Clerk, etc., may administer oaths.

SEC. 54. The said clerk and deputy clerks shall have power to administer oaths and affirmations.

Bailiffs.

SEC. 55. BAILIFFS AND OTHER OFFICERS.—The said court may appoint not exceeding three bailiffs, who shall receive for their services nine

hundred and thirty-nine dollars each per annum, on the certificate of service by the court. Said bailiffs may act as deputies to the marshal for service of process issued by the court. The said court may also appoint a doorkeeper at a salary of five hundred and forty dollars per annum, an engineer at a salary of nine hundred dollars per annum, and a janitor at a salary of four hundred and fifty dollars per annum.

Salaries, how paid.

SEC. 56. SALARIES, HOW PAID.—The salaries of the judges, clerk, deputy clerks, bailiffs, deputy marshal, doorkeeper, engineer, and janitor of the said court shall be paid as other salaries of the District of Columbia, from appropriations made by Congress as provided in the Act of June eleventh, eighteen hundred and seventy-eight.

Executions and forfeited recognizances.

SEC. 57. EXECUTIONS AND FORFEITED RECOGNIZANCES.—The said court shall have power to issue execution on all forfeited recognizances, upon motion of the proper prosecuting officer, and all writs of fieri facias or other writs of execution on judgments issued by said court shall be directed to and executed by the marshal of the District.

Application of moneys collected.

SEC. 58. Fines to be paid to the clerk of the police court: All fines, penalties, costs and forfeitures imposed or taxed by the police court shall be paid to the clerk of said court, either with or without process or on process ordered by the court. The clerk of the police court shall, on the first secular day of each week, deposit with the collector of taxes the total amount of all fines, penalties, costs and forfeitures collected by him during the week next preceding the date of such deposit, to be covered into the Treasury to the credit of the District of Columbia, subject to the requirements of the provision of the Act of June eleventh, eighteen hundred and ninety-six, to meet any deficiency in the police fund or the firemen's relief fund. The said clerk shall render an itemized statement of each deposit aforesaid upon such forms and in such manner as shall be prescribed by the auditor of the District of Columbia.

Vol. 29, p. 404.

Accounts, how audited.

SEC. 59. ACCOUNTS, HOW AUDITED.—It shall be the duty of the auditor of the District of Columbia, and he is hereby required, to audit the accounts of the clerk of the police court at the end of every quarter and to make prompt report thereof in writing to the Commissioners of the District of Columbia. In order to enable the auditor of the District to perform the duty hereby imposed upon him, he shall have free access to all books, papers, and records of the said court.

SUBCHAPTER THREE.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Supreme court of the District of Columbia.

Constitution.

SEC. 60. CONSTITUTION.—The supreme court of the District shall continue as at present constituted, and consist of a chief justice and five associate justices, appointed by the President of the United States, by and with the advice and consent of the Senate, and holding their offices during good behavior. The chief justice and each associate justice shall receive a salary of five thousand dollars per annum, which amounts shall be paid in monthly installments, out of the Treasury of the United States, and one-half thereof shall be charged against the revenues of the District of Columbia.

Salaries.

Jurisdiction.

SEC. 61. JURISDICTION.—The said court shall possess the same powers and exercise the same jurisdiction as the circuit and district courts of the United States, and shall be deemed a court of the United States, and shall also have and exercise all the jurisdiction possessed and exercised by the supreme court of the District of Columbia at the date of the passage of this code.

Powers of justices.

SEC. 62. POWERS OF JUSTICES.—The justices of said court, in addition to the powers and jurisdiction possessed and exercised by them as such, shall severally possess the powers and exercise the jurisdiction pos-

sessed and exercised by the judges of the circuit and district courts of the United States.

Terms.

—general.

SEC. 63. TERMS.—The said court shall hold a general term and special terms. The general term shall be held by at least three justices and each special term by a single justice.

—special.

SEC. 64. The special terms of said court shall be known, respectively, as the circuit court, the equity court, the criminal court, the probate court, and the district court of the United States.

Powers of court in general term.

SEC. 65. The general term of said court shall be open at all times for the transaction of business; and said court, by orders passed in general term, may regulate the periods of holding the special terms, fix the number of said terms, and alter the same from time to time, as public convenience may require; may direct as many terms of any of the special terms to be held at the same time as the public business may make necessary; may assign the several justices, from time to time, to the respective special terms; may provide by rule of court for the transfer from time to time, as the occasion shall require, of a jury summoned to any one special term to any other special term having cognizance of jury trials, and for the filling of vacancies arising in such transferred jury; may establish rules of practice in said special terms not inconsistent with the laws of the United States; may appoint a clerk, an auditor, a crier, and a messenger for each court in special term, and all other officers of the court necessary for the due administration of justice, with the exception of all officers and employees in any manner connected with the probate term, and also United States commissioners; may hear charges of misconduct against any justice of the peace, and remove them from office for cause shown; may admit persons to the bar of said court and dismiss them from the same, and may pass all other orders not inconsistent with existing laws which may be necessary to the effective administration of justice in said court, but said court shall not hear any cause in general term.

Acts of special terms deemed acts of supreme court.

SEC. 66. All causes in said court shall be heard and determined in special term. And the several terms are declared to be terms of the supreme court, and the judgments, decrees, sentences, orders, proceedings, and acts of said several terms shall be deemed judgments, decrees, sentences, orders, proceedings, and acts of the supreme court.

Certification of cause from one justice to another for trial.

SEC. 67. By mutual consent and arrangement between justices, civil causes may be certified by any justice holding a circuit court to any justice holding a criminal court for trial in the latter; and, by similar arrangement, any cause may be certified by any justice to another justice, to be heard or tried by the latter, except that a criminal case can only be certified for trial from one criminal court to another criminal court. In the absence of any justice assigned to a special term, such special term may be presided over and its business conducted by any other justice.

Writs.

SEC. 68. WRITS.—The said supreme court may, in its appropriate special terms, issue writs of quo warranto, mandamus, prohibition, scire facias, certiorari, injunction, prohibitory and mandatory, ne exeat, and all other writs known in common law and equity practice that may be necessary to the effective exercise of its jurisdiction. Any justice of said court may issue writs of habeas corpus, to inquire into the cause of detention or to discharge on giving bail.

Circuit court.

SEC. 69. CIRCUIT COURT.—All common-law civil causes shall be tried and determined in the circuit court, except as herein provided.

Trial by court.

SEC. 70. TRIAL BY COURT.—Issues of fact in civil causes may be tried and determined by the court without the intervention of a jury whenever the parties or their attorneys of record file with the clerk a stipulation in writing waiving a jury. The finding of the court upon the facts, which may be either general or special, shall have the same effect as the verdict of a jury.

SEC. 71. In such case an exception may be taken to any ruling of the court during the hearing and to such finding on the ground that the evidence was insufficient in law to justify it, and may be stated in a bill of exceptions as in case of a jury trial. —exceptions.

SEC. 72. SPECIAL PANEL.—In all cases called for trial in said court in which either party shall desire a struck jury the clerk shall prepare a list of twenty jurors from the jurors in attendance and furnish the same to each of the parties, and it shall be lawful for each party or his counsel to strike off four persons from said list, and the remaining persons shall thereupon be impaneled and sworn as the petit jury in said cause; and if either party or his counsel shall neglect or refuse to strike off from said list the number of persons hereby directed, the clerk may strike off such names, and the remaining twelve jurors shall be sworn and impaneled as aforesaid. Or, instead of the proceeding aforesaid, if it shall not be insisted upon by either party, it shall be lawful for either party to furnish to the clerk a list of the jurors, not exceeding four in number, whom he wishes to be omitted from the panel sworn in the cause, and the clerk in making up said panel shall omit the jurors objected to as aforesaid: *Provided*, That nothing herein contained shall be construed to take away the right of any person to challenge the array or polls of any panel returned, according to existing law. Special panel. *Proviso.* —right to challenge array or polls unaffected.

SEC. 73. BILL OF EXCEPTIONS.—If, upon a trial of a cause before a jury, an exception be taken, it may be reduced to writing at the time, or it may be entered on the minutes of the justice and afterwards settled in such a manner as may be provided by the rules of the court and stated in a bill of exceptions, with so much of the substance of the evidence as may be material to the questions to be raised, and such bill of exceptions need not be sealed, and shall be considered a part of the record in case of an appeal from the final judgment rendered in the case. Bill of exceptions.

SEC. 74. APPEALS FROM JUSTICES OF THE PEACE.—All appeals from a justice of the peace shall be heard and determined in the circuit court. Appeals from justices of the peace. —where heard.

SEC. 75. In every case of an appeal from a justice of the peace, as soon as the appellant shall have made the deposit for costs required by law, or the rules of the supreme court, or obtained leave from one of the justices or from the court to prosecute his appeal without a deposit, the clerk shall docket the cause, according to its title, for trial before the justice in the said circuit court, and shall issue a summons for the appellee to appear in said court on or before the tenth day, exclusive of Sundays and legal holidays, after the service of said summons. Docketing cause by appellant.

SEC. 76. If the appellant shall fail to prosecute his appeal by making the deposit or obtaining the leave aforesaid within ten days after the approval of the appeal bond, the appellee may, upon making the deposit for costs, have the case docketed and move for affirmance of the judgment of the justice, or he may have a trial of the case upon its merits. —by appellee.

SEC. 77. If the first summons for the appellee be returned "not to be found," a second summons of the same kind and tenor shall be issued. Summons.

SEC. 78. If the appellee shall appear, in obedience to either summons, the case shall stand for trial in such order as the rules of said supreme court shall direct. Appearance of appellee.

SEC. 79. If the appellee shall fail to appear, although duly summoned, or two successive writs of summons shall be returned "not to be found," and the appellee shall not appear, the case may then be heard and determined as if he had regularly appeared. —failure to appear.

SEC. 80. On such appeal the circuit court shall, in a summary way, hear the case de novo upon the proofs and allegations of the parties, and determine the same according to law and the equity and right of the matter; but either party may demand a trial by jury. Hearing de novo on appeal.

Dismissal of appeal because not prayed to term next after judgment, etc.

SEC. 81. No appeal from the judgment of any justice of the peace to the supreme court shall be dismissed because the same had not been prayed to the term next after the rendition of such judgment, unless the court shall be satisfied that the defendant had notice of such judgment at least ten days before the sitting of court.

No further appeal, etc.

SEC. 82. In no case appealed from a justice of the peace shall there be any further appeal from the judgment of the circuit court.

Criminal court.

SEC. 83. THE CRIMINAL COURT.—The trial of crimes and misdemeanors committed in the District of Columbia shall be in the supreme court of the District of Columbia holding a special term as a criminal court, except such misdemeanors as are within the jurisdicton of the police court, as to which said court shall have concurrent jurisdiction with said police court. In all trials in said special term exceptions may be taken by the accused to the rulings of the presiding justice and presented in bills of exceptions in the same manner as in the trial of civil cases, subject to provisions herein elsewhere contained.

Exceptions.

District court.

SEC. 84. THE DISTRICT COURT.—The said district court shall have and exercise the same powers and jurisdiction as the other district courts of the United States, and such further special jurisdiction as may from time to time be conferred by Congress, and of all proceedings instituted in exercise of the right of eminent domain.

Equity court.

SEC. 85. EQUITY COURT.—The equity court shall have jurisdiction of all causes heretofore cognizable in equity and of all petitions for divorce, except where the relief sought is hereby authorized to be given by the probate court only, and shall have the special powers hereinafter provided. And the practice in said court shall be according to the established course of equity and procedure and the rules established by the said supreme court of the District not inconsistent with law.

Dower.

SEC. 86. DOWER.—Whenever any person or persons shall hold real estate, by descent or purchase, in the whole of which a widow is entitled to dower, either the widow or any person entitled to said property or an undivided share therein may apply to said court to have the widow's dower therein assigned; and thereupon the court shall appoint three commissioners to lay off and assign said dower, if practicable, the report of said commissioners to be subject to ratification by the court. In all cases of partition between two or more joint tenants or tenants in common of real estate, in the whole of which a widow is entitled to dower, the said dower shall be laid off and assigned, in like manner, before said partition shall be decreed. When an estate of which a woman is dowable is entire, and the dower can not be set off thereout by metes and bounds, it may be assigned by the court as of a third part of the net rents, issues, and profits thereof.

Widow of tenant in common, etc.

SEC. 87. Whenever the widow of any tenant in common of real estate shall be entitled to dower in his undivided share of said property, and a partition shall be decreed between his heirs or devisees and the other tenants in common, the said dower shall attach to and may, in like manner, be assigned and laid out in the shares assigned in severalty to the said heirs or devisees, and the shares of the other tenants in common shall be assigned to them, respectively, in severalty, free from such dower.

Right of wife to attach on partition, etc.

SEC. 88. Whenever an application is made to the court to decree a partition of real estate between tenants in common, it shall not be necessary to make the wife of any of such persons a party to the proceedings, but her right of dower shall attach to whatever part of such property may be assigned in severalty to her husband, and the other parts thereof shall be assigned free of said right of dower.

Assignment of dower on sale of land without widow's consent, etc.

SEC. 89. Whenever a decree is rendered for the sale of land, in the whole of which a widow is entitled to dower, if she will not consent to a sale of the same free of her dower, the court may, if it appears

advantageous to the parties, cause her dower to be laid off and assigned as aforesaid. If she will consent in writing to the sale of the property free from her dower, the court shall order the same to be sold free of her dower, and shall allow her, in commutation of her dower, such portion of the net proceeds of sale as may be just and equitable, not exceeding one-sixth nor less than one-twentieth, according to the age, health, and condition of the widow.

Division of proceeds of sale between tenants in common, etc.

SEC. 90. Whenever real property is decreed to be sold for the purpose of division of the proceeds between tenants in common because the said property is incapable of being divided between them in specie, the court may decree a sale of the property free and discharged from any right of dower by the wife of any of the parties in his undivided share.

Infants and persons non compos mentis.

SEC. 91. INFANTS AND PERSONS NON COMPOS MENTIS.—If any infant or person non compos mentis be entitled to any real or personal estate in the District which shall be liable to any mortgage, trust, or lien, or in any way charged with the payment of money, the court shall have the same power to decree in such case as if the infant were of full age or such person non compos mentis were of sound mind.

—power of court to decree.

SEC. 92. Where an infant or person non compos mentis is entitled to any real or personal estate in the District bound by any executory contract entered into by the person or persons from whom said infant or person non compos mentis has derived title, or where an infant or person non compos mentis claims any right or interest in such property under and in virtue of any such contract, the court in either case shall have the same power to decree the execution of such contract or to pass any just and proper decree that the court would have if the parties were of full age and sound mind.

Partition.

SEC. 93. PARTITION.—The court may decree a partition of any lands, tenements, or hereditaments on the bill or petition of any tenant in common, claiming by descent or purchase, or of any joint tenant or coparcener who was such at the date of this code; or if it appear that said lands, tenements, or hereditaments can not be divided without loss or injury to the parties interested, the court may decree a sale thereof and a division of the money arising from such sale among the parties, according to their respective rights; and this section shall apply to cases where all the parties are of full age, to cases where all the parties are infants, to cases where some of the parties are of full age and some infants, to cases where some or all of the parties are non compos mentis, and to cases where all or any of the parties are nonresidents; and any party, whether of full age, infant, or non compos mentis, may file a bill under this section, an infant by his guardian or prochein ami and a person non compos mentis by his committee; and if any contract has been made for the sale of the lands, tenements, or hereditaments by any person or persons interested therein jointly or in common with any infant, idiot, or person non compos mentis, for and in behalf of all the persons so interested, which the court, upon a hearing and examination of all the circumstances, shall consider to be for the interest and advantage both of such infant, idiot, or person non compos mentis and of the other person or persons interested therein to be confirmed, the court may confirm such contract and order a deed to be executed according to the same; and all sales and deeds made in pursuance of such order shall be sufficient in law to transfer the estate and interest of such infant, idiot, or person non compos mentis in such lands, tenements, or hereditaments: *Provided*, That if the parties entitled as heirs at law to the real estate of an intestate can not agree upon a partition thereof, or any of said parties be a minor, or the courts shall be of opinion that said estate can not be divided without loss or injury to the parties interested, before any sale shall be made thereof, the oldest son, child, or person entitled, if of age, shall have the election to take the whole estate and pay to the others their just proportions

—sale.

—scope of section.

Who may file bill.

Contracts for sale of property held jointly with infants, etc.

Proviso.
Heirs at law unable to agree on partition, etc.

of the value in money; and if the oldest child or person entitled refuses to take the estate and pay to the others money for their proportions, then the next oldest child or person entitled, being of age, shall have the same election, and so on to the youngest child or person entitled; and if all refuse, then the property shall be sold as aforesaid; and in every case of partition any tenant in common who may have received the rents and profits of the property to his own use or may have had the exclusive possession and enjoyment of the property may be required to account to his cotenants for their respective shares of said rents and profits, or, as the case may be, for the value of the use and occupation of their undivided shares of the property; and any amounts found due on said accounting may be charged against the share of the party owing the same in the property or its proceeds in case of sale.

Accountability for rents, etc., by tenant having possession of property.

Trustee to sell.

SEC. 94. TRUSTEE TO SELL.—If any person shall die having devised real estate to be sold for the payment of debts or other purposes without having appointed a trustee to sell or convey the property, or if the person so appointed shall neglect or refuse to execute the trust, or shall die before the execution of such trust, the said court shall have authority, on the application of any person interested, to appoint a trustee to sell and convey said property and apply the proceeds of sale to the purposes intended. And in all cases where a trustee shall be appointed by last will and testament to execute any trust, and any person interested in the execution of such trust shall make it appear that it is necessary for the safety of those interested therein that the trustee should give bond and security for the due execution of the trust, the said court may order and direct that such bond be given by the trustee by a day named, and on failure of the trustee to give such bond, with security to be approved by the court as directed, the court may displace such trustee and appoint another in his stead, who shall give such bond; and such bond shall be given to the United States and may be sued on for the use of any person interested.

Bond of trustee.

Mortgages. —court may decree sale and that proceeds be brought into court, etc.

SEC. 95. MORTGAGES.—In all cases of application to said court to foreclose any mortgage or deed of trust, the said court shall have authority, instead of decreeing that the mortgagor be foreclosed and barred from redeeming the mortgaged property, to order and decree that said property be sold and the proceeds be brought into court to be applied to the payment of the debt secured by said mortgage; and if, upon a sale of the whole mortgaged property, the net proceeds shall be insufficient to pay the mortgage debt, the court may enter a decree in personam against the mortgagor or other party to the suit who is liable for the payment of the mortgage debt for the residue of said debt remaining unsatisfied after applying to said debt the proceeds of such sale: *Provided*, That the complainant would be entitled to maintain an action at law or suit in equity for said residue; which decree shall have the same effect and be enforced by execution in the same manner as a judgment at law. And in suits to enforce a vendor's lien on real estate for unpaid purchase money similar relief may be given by a decree of sale and a decree in personam for the unsatisfied residue of the purchase money due.

—where proceeds insufficient decree in personam for residue of debt.

Proviso. —qualification.

—to apply also to enforce vendor's lien.

Debts of a decedent. —sale of real estate to pay, etc.

SEC. 96. DEBTS OF A DECEDENT.—When any person shall die leaving any real estate in possession, remainder, or reversion, and not leaving personal estate sufficient to pay his debts, the said court, on any suit instituted by any of his creditors, may decree that all the real estate left by such person, or so much thereof as may be necessary, shall be sold to pay his debts; and this section shall apply to cases where the heirs or devisees are residents or nonresidents, are of full age or infants, are of sound mind or non compos mentis, and also to cases where the deceased left no heirs or it is not known whether he left heirs or devisees or the heirs or devisees be unknown; and if

there be no known heirs the attorney of the United States for the District of Columbia shall be notified of said suit and appear thereto.

Sale of contingent interests.

SEC. 97. SALE OF CONTINGENT INTERESTS.—Where real estate is limited to one or more for life, with a contingent limitation over to such issue of one or more of the tenants for life as shall be living at the death of their parent or parents, and the deed or will does not prohibit a sale, said court may, on the application of the tenants for life, and if the court shall be of opinion that it is expedient to do so, order a sale of such estate and decree to the purchaser an absolute and complete title in fee simple.

—procedure.

SEC. 98. Any application for such sale shall be by bill, verified by the oath of the party or parties, in which all the facts shall be distinctly set forth upon the existence of which it is claimed that such sale should be decreed, which facts shall be proved by competent testimony. All of the issue embraced in the limitation who are in existence at the time of the application shall be made parties defendant, together with all who would take the estate in case the limitation over should never vest; and minors of the age of fourteen years or more shall answer in proper person under oath, as well as by guardian ad litem, and all evidence shall be taken upon notice to the parties and the guardian ad litem.

—disposition of proceeds.

SEC. 99. The proceeds of sale of said real estate shall be held under the control and subject to the order of the court, and shall be invested under its order and supervision upon real and personal security, and the same shall, to all intents and purposes, be deemed real estate and stand in the place of the real estate from the sale of which they are derived, and as such be subject to the limitations of the deed or will.

Decree of sale and investment of proceeds for benefit of all parties in limited, etc., estates.

SEC. 100. Wherever one or more persons shall be entitled to an estate for life or years, or a base or qualified fee simple, or any other limited or conditional estate in lands, and any other person or persons shall be entitled to a remainder or remainders, vested or contingent, or an interest by way of executory devise in the same lands, on application of any of the parties in interest the court may, if all the parties in being are made parties to the proceeding, decree a sale or lease of the property, if it shall appear to be to the interest of all concerned, and shall direct the investment of the proceeds so as to inure in like manner as provided by the original grant to the use of the same parties who would be entitled to the land sold or leased; and all such decrees, if all the persons are parties who would be entitled if the contingency had happened at the date of the decree, shall bind all persons, whether in being or not, who claim or may claim any interest in said land under any of the parties to said decree, or under any person from whom any of the parties to such decree claim, or from or under or by the original deed or will by which such particular, limited, or conditional estate, with remainders or executory devises, were created.

When decree shall have effect of conveyance.

SEC. 101. WHEN DECREE SHALL HAVE EFFECT OF CONVEYANCE.—In all cases where a decree shall be made for a conveyance, release, or acquittance, and the party against whom such decree shall pass shall neglect or refuse to comply therewith, such decree shall stand, be considered and taken, in all courts of law and equity, to have the same operation and effect as if the conveyance, release, or acquittance had been executed conformably to such decree.

Process against infants.

SEC. 102. PROCESS AGAINST INFANTS.—Whenever an infant is a party defendant in any equity suit, the subpœna issued in said suit shall be served upon him personally, if within the District, and said infant shall be produced in court unless, for cause shown, the court shall dispense with his appearance, and a guardian ad litem shall be appointed to answer the bill and defend the suit for him, the said infant having the right to select his guardian ad litem if of the age of fourteen years or older.

Secreting infant.

SEC. 103. If any person shall secrete an infant against whom process has issued, so as to prevent the service of such process, or shall prevent his appearance in court as aforesaid, such person shall be liable to attachment and punishment as for contempt; or if any infant shall secrete himself or evade the service of process, he may be proceeded against as if he were a nonresident.

Persons non compos mentis.

SEC. 104. PERSONS NON COMPOS MENTIS.—If a person non compos mentis be a party defendant in any equity suit, the subpœna shall be served upon him, if within the District, and upon his committee, if there be one within the District, and if there be no such committee and the court shall be satisfied as to the condition of said party, it may appoint a guardian ad litem to answer and defend for him.

Nonresidents. Substituting publication for personal service.

SEC. 105. NONRESIDENTS.—Publication may be substituted for personal service of process upon any defendant who can not be found and who is shown by affidavit to be a nonresident, or to have been absent from the District for at least six months, or against the unknown heirs or devisees of deceased persons, in suits for partition, divorce, by attachment, foreclosure of mortgages and deeds of trust, the establishment of title to real estate by possession, the enforcement of mechanics' liens, and all other liens against real or personal property within the District, and in all actions at law and in equity which have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

—when allowed.

SEC. 106. No order for the substitution of publication for personal service shall be made until a summons for the defendant shall have been issued and returned "Not to be found," and the nonresidence of the defendant or his absence for at least six months shall be proved by affidavit to the satisfaction of the court.

Order of publication.

SEC. 107. The order of publication shall be in the following or an equivalent form:

In the supreme court of the District of Columbia.

A B, complainant,
versus
C D, defendant. } In ..... No. ....

The object of this suit is to (state it briefly).

On motion of the complainant, it is this .... day of ...., A. D. ...., ordered that the defendant cause his appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in cause of default.

E F, Justice.

Publication.

—mailing copy to party.

SEC. 108. Every such order shall be published at least once a week for three successive weeks, or oftener, or for such further time as may be specially ordered; and no order or decree shall be passed against said absent or nonresident defendant upon proof of notice by such publication unless the complainant, plaintiff, his agent, or solicitor or attorney shall file in the cause an affidavit showing that at least twenty days before applying for such order or decree be mailed, postpaid, a copy of said advertisement, directed to the party therein ordered to appear, at his last known place of residence, or that he has been unable to ascertain the last place of residence of said party after diligent effort to ascertain the same. On failure of the defendant to appear in obedience to said notice within the time named therein, a decree or judgment by default may be entered at the next rule day thereafter: *Provided*, That if the said absent or nonresident defendant be an infant, the court shall appoint a guardian as litem to answer and defend for him.

Judgment by default.

Proviso.

Where defendant an infant.

—or non compos mentis.

SEC. 109. If the court shall be satisfied that said absent or nonresident defendant is non compos mentis, notice may be given to him by publication as aforesaid, and upon his failure to appear such decree or judgment may be passed as the circumstances of the case may require: *Provided*, That no decree or judgment shall be passed unless the case is fully proved; and the court shall assign a solicitor or attorney to represent such nonresident defendant, and such solicitor or attorney shall be paid by the complainant or out of the estate of the defendant, at the discretion of the court.

Proviso.
—case to be fully proved; attorney to represent, etc.

Unknown heirs.

SEC. 110. UNKNOWN HEIRS.—Upon allegation under oath, and proof satisfactory to the court, that it is unknown whether one who, if living, would be a proper party to any judicial proceeding is living or dead, such party may be proceeded against as if he were living, and with like effect, provided no representative of or claimant under such person shall intervene in the suit before final determination thereof, after notice by publication as in the case of nonresident parties. If such person be dead, and it is unknown whether he died testate or left heirs, or his heirs and devisees be unknown, such unknown persons may be described as the heirs or devisees of the person who, if living, would be the proper party, and notice shall be given by publication to such persons according to such description, and the same proceedings shall be had against them as are had against nonresident defendants, except that said notice shall be published at least twice a month for such period as the court may order, which period shall not be less than three months without good cause shown, and which notice shall require said parties to appear on or before the first rule day occurring after the expiration of such prescribed period, and no decree shall be passed against said parties unless the court shall be satisfied that due diligence has been used to ascertain such unknown heirs.

—where dead.

—proceedings, etc.

Adverse possession. Perfection of title.

SEC. 111. ADVERSE POSSESSION.—When title to any real estate in the District of Columbia shall have become vested in any person or persons by adverse possession, the holder thereof may file a bill in the supreme court of the District of Columbia to have such title perfected, in which bill it shall be sufficient to allege that the complainant holds the title to such real estate, and that the same has vested in him, or in himself and in those under whom he claims, by adverse possession; and in such action it shall not be necessary to make any person a party defendant except such persons as may appear to have a claim or title adverse to that of the plaintiff. Upon the trial of such cause, proof of the facts showing title in the plaintiff by adverse possession shall entitle him to a decree of the court declaring his title by adverse possession, and a copy of such decree may be entered of record in the office of the recorder of deeds for said District. In any such action if process shall be returned not to be found, notice by publication may be substituted as in case of nonresident defendants. If in any case it shall be unknown whether one who, if living, would be an adverse party is living or dead, or in the case of a decedent, whether he died testate or left heirs, or his heirs or devisees are unknown, the cause may be proceeded with under the provisions of section one hundred and nine: *Provided*, That the rights of infants or others under legal disability shall be saved for a period of two years after the removal of their disabilities: *Provided, however*, That the entire period during which such rights shall be preserved shall not exceed twenty-two years from the time such rights accrued, either in said claimant or in the person or persons under whom he claims.

Provisos.
—preservation of rights of infants.
—limit of time.

Corporations.

SEC. 112. CORPORATIONS.—In a suit against a corporation, whether foreign or domestic, if process can not be served, such corporation may be proceeded against as a nonresident defendant, by notice by publication.

Enforcement of decrees. —attachment.

SEC. 113. ENFORCEMENT OF DECREES.—The said court may, for the purpose of executing a decree, or to compel obedience to the same, issue an attachment against the person of the defendant, and may order an immediate sequestration of his real and personal estate, or such part thereof as may be necessary to satisfy the decree, or may issue a fieri facias and attachment by way of execution against his lands, tenements, chattels, and credits, or other incorporeal property, to satisfy the decree;

—injunction.

or the court may, by order and injunction, cause the possession of the estate and effects whereof the possession or a sale is decreed to be delivered to the complainant, or otherwise, according to the tenor and import of the decree and as the nature of the case may require; and in case of sequestration may order payment and satisfaction to be made out of the estate and effects so sequestrated, according to the true intent

—commitment.

and meaning of the decree; and in case any defendant shall be arrested and brought into court upon any process of contempt issued to compel the performance of any decree, the court may, upon motion, order such defendant to stand committed, or may order his estate and effects to be sequestrated and payment made, as above directed, or possession of his estate and effects to be delivered by order and injunction as above directed, until such decree or order shall be fully performed and executed, according to the tenor and true meaning thereof, and the contempt cleared; but where the decree only directs the payment of money no defendant shall be imprisoned except in those cases especially provided for.

Interlocutory orders.

SEC. 114. All interlocutory orders may be enforced by such process as might be had upon a final judgment or decree to the like effect, and the payment of costs adjudged to any party may be enforced in like manner.

Decree for delivery of chattels.

SEC. 115. An order or decree for the delivery of chattels may be enforced by the same writs as are used in the action of replevin at common law, as well as those heretofore used for its enforcement in equity practice.

Probate court.

SEC. 116. PROBATE COURT.—The special term of said supreme court, heretofore known as the orphans' court, shall be designated the probate court, and the justice holding said court shall have and exercise

—jurisdiction.

all the powers and jurisdiction by law held and exercised by the orphans' court of Washington County, District of Columbia, prior to the twenty-first day of June, anno Domini eighteen hundred and seventy.

—plenary as to wills, etc.

SEC. 117. That in addition to the jurisdiction conferred in the preceding section, plenary jurisdiction is hereby given to the said court holding the said special term to hear and determine all questions relating to the execution and to the validity of any and all wills devising any real estate within the District of Columbia, and of any and all wills and testaments properly presented for probate therein, and to admit the same to probate and record in said special term; and neither the execution nor the validity of any such will or testament so admitted to probate and record shall be impeached or examined collaterally, but the same shall be in all respects and as to all persons res judicata, subject, nevertheless, to the provisions hereinafter contained.

Sessions of court.

SEC. 118. The said court shall hold weekly sessions on such days as it may appoint and on as many days as may be necessary for the dispatch of its business.

Powers defined.

SEC. 119. POWERS.—It shall have full power and authority to take the proof of wills of either personal or real estate and admit the same to probate and record, and for cause to revoke the probate thereof; to grant and, for any of the causes hereinafter mentioned, to revoke letters testamentary, letters of administration, letters ad colligendum, and letters of guardianship, and to appoint a successor in the place of anyone whose letters have been revoked; to hear, examine, and decree

upon all accounts, claims, and demands existing between executors and administrators and legatees, or persons entitled to a distributive share of an intestate estate, or between wards and their guardians; to enforce the distribution of estates by executors and administrators, and the payment or delivery by guardians of money or property belonging to their wards, and, concurrently with the equity court, to direct the sale of real estate of decedents for the payment of their debts and the application of the proceeds thereof: *Provided*, That the jurisdiction of said probate court shall not be exclusive of the jurisdiction of the said equity court to entertain suits by legatees or next of kin against executors or administrators, or by wards against their guardians for an accounting; and, except in cases provided for in section numbered one hundred and forty-four, any settlement of accounts in said probate court shall only be prima facie evidence as to the correctness of said accounts in any such suits, or in suits by creditors against executors or administrators, or against heirs or devisees, to subject the real estate of decedents to the payments of their debts.

Proviso.
—qualification of jurisdiction, etc.

SEC. 120. CLERK.—The register of wills of the District of Columbia shall be, and hereby is, authorized, empowered, and directed to act as clerk of the said probate term, to keep and certify its records and generally, with respect to said term, to exercise all the powers and perform all the duties which might otherwise be properly exercised or performed by the clerk of the supreme court of the District of Columbia.

Clerk.
—register of wills to act.

SEC. 121. The said register of wills may receive inventories and accounts of sales, examine vouchers, and state accounts of executors, administrators, collectors, and guardians, subject to final passage or rejection of same by the court; may take probate of claims against the estates of deceased persons that are proper to be brought before him, and pass any claims not exceeding three hundred dollars; may take the probate of wills and accept the bonds of executors, administrators, collectors, and guardians, subject to approval by the court. It shall be his duty to make full and fair entries of the proceedings of said court, and also to make a fair record in a strong bound book or books of all wills proved before him or said court, and of all other matters by law directed to be recorded in said court, and to lodge every original paper filed with him in such place of safety as the court may appoint. He shall make out and issue every summons, process, and order of the court, and in every respect act under its control and direction in reference to matters coming within the jurisdiction of said court. He shall be, and hereby is, authorized to appoint a deputy, who may, in his absence, do and perform any and all the acts necessary in the administration of his office and the certification of the records of said court which he himself is authorized to do; also to appoint and fix the number and the compensation of the employees of said probate court and office of register of wills: *Provided*, That any expenditures incurred by him in so doing shall not be a charge upon the public treasury, but shall, together with his own compensation, be paid out of the revenues of the office of register of wills.

—powers, etc., of register of wills.

—deputy.

—employees.

—expenditures.

SEC. 122. CONCEALMENT OF ASSETS BY STRANGERS.—If an executor, administrator, or collector shall believe that any person conceals any part of his decedent's estate, he may file a petition in said court alleging such concealment, and the court may compel an answer thereto on oath; and if satisfied, upon an examination of the whole case, that the party charged has concealed any part of the estate of the deceased, the court may order the delivery thereof to the executor, administrator, or collector, and may enforce obedience to such order in the same manner in which orders of said court may be enforced, as hereinafter provided.

Concealment of assets by strangers.

SEC. 123. INVESTMENT OF FUNDS.—The said court may, in its discretion, order an executor, administrator, collector, or guardian, whom

Investment of funds.

it may have appointed, to bring into court or invest in securities, to be approved by the court, any money or funds received by such executor, administrator, collector, or guardian; and if said party shall not, within a reasonable time, to be fixed by the court, comply with the order, his letters may be revoked.

Concealment by executor or administrator.

SEC. 124. CONCEALMENT BY EXECUTOR OR ADMINISTRATOR.—If any person interested in any decedent's estate shall by petition allege that the executor, administrator, or collector has concealed or has in his hands and has omitted to return in the inventory or list of debts any part of his decedent's assets, and the court shall finally adjudge and decree in favor of the allegations of the petition, in whole or in part, it shall order an additional inventory or list of debts, as the case may be, to be returned by the executor, administrator, or collector, and appraisement to be made accordingly, to comprehend the assets omitted, and the court may compel obedience to said order, and, if the same is not complied with, revoke the letters testamentary or of administration or of collection and order the bond of the executor, administrator, or collector to be put in suit.

Joint executors. Complaint of negligence of coexecutor, etc.

SEC. 125. JOINT EXECUTORS.—If any joint executor, administrator, or collector shall apprehend that he is likely to suffer by the negligence or misconduct in the administration or the improper use or misapplication of the assets of the estate by any coexecutor, coadministrator, or cocollector, he may make complaint to said court; and if said complaint shall be adjudged well founded, the court shall have authority, in its discretion, to revoke the powers and authority of the executor, administrator, or collector so complained of and to compel the delivery and surrender to the remaining executor, administrator, or collector of the assets and all books, papers, and evidences of debt of the estate that may be in the possession or control of the person so dismissed from the administration; and the remaining executors, administrators, or collectors shall be entitled to recover, in an action on the case, for any loss or damage they may suffer through the executor, administrator, or collector whose powers shall have been revoked as aforesaid.

—revocation of authority to act, etc.

—enforcement of duty.

SEC. 126. ENFORCEMENT OF DUTY.—The court shall have power to order any executor, administrator, collector, or guardian who appears to be in default in respect to the rendering of any inventory or account or the fulfillment of any duty in said court to be summoned to appear therein and fulfill his duty in the premises, on pain of revocation of his letters testamentary or of administration or collection or of guardianship; and on his appearing the court may pass such order as may be just, and upon his failure to appear, after having been duly summoned, may revoke his letters and make such further order and other appointment as justice may require.

Revocation of letters. Accounting, etc.

SEC. 127. REVOCATION OF LETTERS.—Whenever said court shall revoke letters testamentary or of administration or of collection or of guardianship, it shall be the duty of the party whose letters may be revoked to render forthwith an account of his administration or guardianship up to the period of the rendition of said account and to deliver and turn over to the person appointed in his place all the estate, money and effects remaining in his hands that were received and held by him by virtue of his appointment so revoked; and all moneys in the hands of an executor, administrator, or collector realized by him by the sale of the specific property shall be considered unadministered assets and be turned over in like manner; and the court may compel the performance of said duty in the manner hereinafter mentioned, and may direct the bond of said executor, administrator, or collector whose letters may be revoked to be put in suit for the use of the new administrator or collector appointed in his place.

Counter security.

SEC. 128. COUNTER SECURITY.—If any surety of an executor or administrator shall apprehend himself to be in danger of suffering from the suretyship, he may apply to the probate court, and the said court may call upon the party to give counter security, to be approved by the court; and if the party so called on shall not, within a fixed reasonable time, give counter security, the court may order the property remaining in the hands of such executor or administrator to be delivered up to such surety, and the court may enforce the delivery by proper process; and an inventory of the property delivered to such surety shall be returned without delay, and the property contained in such inventory shall be by the said surety sold, distributed, and delivered up, as the case may require, under the immediate order of the court, as if such surety were executor or administrator; but inasmuch as it would be inconvenient to creditors and others interested in the estate, if there should be a double administration, the executor or administrator shall go on to discharge his trust, unless the court revoke his letters for some just cause, as hereinbefore directed, and he shall be answerable for the property in the same manner as if it were not on his default as aforesaid delivered to the surety; and he shall be entitled to sue the said surety and recover damages in case he shall suffer from the misconduct of such surety, in diminishing any part of the property, without obtaining an allowance for the same from the court; and the said surety shall bring into court, to be deposited with the register of wills, the money arising from the sale of any property as aforesaid, to be applied according to the meaning of this code.

—failure to give.

—inventory, etc.

Enforcement of judgments, etc.

SEC. 129. ENFORCEMENT OF JUDGMENTS, AND SO FORTH.—The said court, in addition to the powers hereinafter specially conferred, shall have power to enforce its judgments, orders, and decrees in like manner as orders and decrees may be enforced in the equity court.

Citation.

SEC. 130. CITATION.—Upon the filing of a petition for probate of a will a citation shall be issued to all persons who would be entitled to or interested in the estate of the testator in case such will had not been executed to appear in said court on a day named, not earlier than ten days, exclusive of Sundays, after the filing of said petition, and show cause why the prayer of the petition should not be granted. If said citation shall appear from the return thereof to have been served upon all said persons at least five days before the day named as aforesaid, the said court shall proceed, if no caveat be filed, to take the proofs of the execution of said will. But if any of the parties interested, as aforesaid, as heirs, next of kin, or otherwise, shall be returned "Not to be found," the said court shall cause not less than thirty days' notice of the application of such probate to be published once in each of three successive weeks in some newspaper of general circulation in said District, and may order such other publication as the case may require, and shall cause a copy of such publication to be mailed to the last known post-office address of each of the parties so returned not to be found. If the parties in interest, or any of them, be unknown, upon statement of that fact in the petition under oath, they may be described therein, and in the notice by publication, as the unknown heirs and next of kin of the decedent, with like effect as if known and specifically named in the petition, notice, and proceedings.

Publication.

Probate.

SEC. 131. PROBATE.—On the day appointed as aforesaid, or such subsequent day as the court may appoint, due proof of such publication and mailing being made, the court shall proceed to take proof of the will. All the witnesses to such will who are within the District and competent to testify must be produced and examined, or the absence of any of them satisfactorily accounted for.

Attesting witnesses.

SEC. 132. ATTESTING WITNESSES.—In case the will contains a devise of real estate, and any attesting witness thereto residing in the District

is unable, from sickness, age, or other cause, to attend court, the register of wills may, with such will, attend upon said witness and take his testimony. If the testimony of resident attesting witnesses or witness to such will shall have been taken, and any other such witness to said will shall reside out of the District or be temporarily absent therefrom, but within the United States, it shall be sufficient to prove the signature of such witness so out of the District.

Where proof of signature sufficient.

If the sole witnesses to such will shall be out of said District as aforesaid, or if one or more should be within the United States and one or more be in some foreign country, then it shall be sufficient to take the testimony of any one or all within the United States, as the court may determine, and to prove the signatures of those whose testimony is not required to be taken.

If all such witnesses shall be out of the United States, then it will be sufficient to take the testimony of such of them as the court may require, and to prove the signature or signatures of the others.

Commission to take testimony.

The testimony of such witnesses out of the District to be taken hereunder shall be under a commission issued by the court to one or more competent persons, and in such case the original will or codicil shall accompany the commission and be exhibited to the witnesses.

—notice.

No notice need be given of the time and place of taking such testimony, unless in a case in which probate is opposed.

Who may appear.

SEC. 133. WHO MAY APPEAR.—Any person, although not cited, who may be interested in sustaining or defeating the will may appear and support or oppose the application to admit the same to probate.

Admission to probate.

SEC. 134. ADMISSION TO PROBATE.—If, upon hearing the proofs submitted, the court shall be of opinion that the will was duly executed and the testator was competent to execute the same, and no caveat shall be filed against the admission of the same to probate, the court shall decree that the said will be admitted to probate and record.

Probate by consent.

SEC. 135. If all parties interested adversely to the will shall waive the notice aforesaid and consent that the will be admitted to probate and record, it may be so admitted to probate and record without the proceedings directed as aforesaid: *Provided*, That in no case shall any will or testament be admitted to probate and record save upon formal proof of its proper execution.

Provsio.
—proof of execution required.

Caveat.

SEC. 136. CAVEAT.—If, upon or prior to the hearing of the application to admit the will to probate, any party in interest shall file a caveat in opposition, duly verified, and setting forth facts inconsistent with the validity of the will, the said will shall not be admitted to probate until the issués raised by said caveat shall be determined, as hereinafter directed.

—time for filing.

SEC. 137. If, upon the hearing of the application to admit a will to probate, the court shall decree that the same be admitted to probate, any person in interest may file a caveat to said will and pray that the probate thereof may be revoked at any time within three months after such decree, if it be a will of personal property, and as far as it is a will of personal property; and if it be a will of real estate, and as far as it is such will of real estate, any person interested actually served with process or personally appearing in such proceedings may file such caveat within one year after such decree; any person interested who at said time was returned "Not to be found" and was proceeded against by publication may file such caveat within two years after such decree; and any person interested who at the time of said decree is within the age of twenty-one years may file such caveat within one year after he becomes of age.

Infants interested.

SEC. 138. INFANTS INTERESTED.—Whenever it shall appear that any party interested as aforesaid is under age, or non compos, the court shall appoint a guardian ad litem to represent said party at the hearing

of the application to admit the will to probate, and with authority to file a caveat, as he may be advised, in behalf of said party.

Plenary proceedings.

SEC. 139. PLENARY PROCEEDINGS.—The court may, in all cases of controversy therein, direct a plenary proceeding to be had, by bill or petition, to which there shall be answer under oath, which may be compelled by the usual process, and all the depositions shall be taken down in writing and filed; or, if either party shall require it, the court shall direct an issue to be made up to be tried by a jury.

Trial of issues as to wills.

SEC. 140. TRIAL OF ISSUES AS TO WILLS.—Whenever any caveat shall be filed issues shall be framed under the direction of the court for trial by jury: *Provided*, That in all cases in which all persons interested are sui juris and before the court the issues may be tried and determined by the court, without a jury, upon the written consent of all such parties. If they are to be tried by a jury they shall be triable in said probate court; and at least ten days prior to the time of trial all of the heirs at law or next of kin of the decedent, or both together, as the case may require, and all persons claiming under the will shall be each served with a copy of said issues and a notification of the time and place of the trial thereof. If any one of them be an infant or of unsound mind he shall have a guardian ad litem appointed for him by the court before such trial shall proceed. If, as to any party in interest, the notification shall be returned "Not to be found," the court shall assign a new day for such trial, and shall order publication, at least twice a week for a period of not less than four weeks, of a copy of the issues and notification of trial, in some newspaper of general circulation in the District, and may order such further publication as the case may require. And the supreme court of the District of Columbia may from time to time prescribe and revise rules and regulations for service personally upon such party outside of the District of Columbia of a copy of such issues and notification. Personal service on absent parties shall not be essential to the jurisdiction of the court. Before the time of trial the justice holding said court shall direct twenty-four jurors to be drawn for service in said court, having the qualifications prescribed by law, in the manner provided by law for the drawing of jurors to serve in the circuit court. The proceeding for impaneling a jury for the trial of said issues shall be the same as if they were being tried in the said circuit court. In all cases in which such issues shall be tried the verdict of the jury and the judgment of the court thereupon shall, subject to proceedings in error and to such revision as the common law provides, be res judicata as to all persons; nor shall the validity of such judgment be impeached or examined collaterally. When a jury is sworn for such trial the other jurors who have been summoned, but not sworn for such trial, shall be discharged and their names returned to the jury box. Any jury so sworn may also be employed in the trial of other issues pending in said court not relating to wills, and also, if the parties interested shall consent, in the trial of issues relating to wills other than those for the trial of which they were specifically summoned. Any jury summoned for service in any of the circuit or criminal courts of the District may, with the concurrence of the justice presiding in said court, be used for the trial of issues in the probate court.

Proviso.
—without a jury.

—by a jury.

Service.

Jurors, etc.

Sections not applicable to wills probated before June 8, 1898, etc.

SEC. 141. RE-PROBATE OF WILLS AFFECTING REAL ESTATE.—That the foregoing sections shall not apply to wills and testaments offered for probate prior to the eighth day of June, anno Domini eighteen hundred and ninety-eight, and in cases of intestacy shall apply only to the estates of such persons as shall have died after said date and shall hereafter die: *Provided*, That any person interested under any will filed in the office of the register of wills for the District of Columbia prior to said date may offer the same for probate as a will of real

Proviso.
Re-probate of wills affecting real estate.

estate, whereupon such proceedings shall be had as by this code are authorized in regard to wills offered for probate after said date.

Trial of other issues.

SEC. 142. TRIAL OF OTHER ISSUES.—The trial of other issues, pending in said court, than such as relate to the execution or validity of wills shall also be had in said court; and no person shall be required to serve as a juror more than twenty secular days in any one year, except in a trial pending and not determined when said term of twenty days expires; and such length of service shall exempt him from further service in the supreme court of the District for one year from the commencement of said service.

For the trial of issues not relating to wills the justice holding said court shall have authority to fix the time of trial and determine the notice thereof to be given.

Costs.

SEC. 143. COSTS.—The said court shall have authority to render judgment for costs against the unsuccessful party in any trial conducted in said court and to issue execution therefor.

Depositions, judgment, and appeal.

SEC. 144. DEPOSITIONS, JUDGMENT, AND APPEAL.—The said court shall have authority to issue commissions to take the testimony of nonresident witnesses, and such depositions, as well as depositions de bene esse, taken according to law, may be read at the trial of any issue in said court. On the trial of any such issue exceptions may be taken to the rulings of the court, and the said court may set aside the verdict and grant a new trial for the same causes and in the same manner as in case of a trial in the circuit court. Unless the same be reversed, any final order or decree admitting a will to probate shall be conclusive evidence of the validity of such will in any collateral proceeding in which such will may be brought into question, and a transcript of the record of such will, and of the decree admitting the same to probate, shall be sufficient proof thereof.

Arbitration.

SEC. 145. ARBITRATION.—The said court shall have power, with the consent in writing of both parties, to arbitrate between a complainant and an executor or administrator, or between an executor or administrator and a person against whom the estate represented by him has a claim, or, with like consent, may refer the matter in dispute to an arbitrator. If reserved by the parties in their submission, exception as to matters of law may be filed to the award of such arbitrator, and the court may confirm or overrule the award, and said award, when confirmed, shall be conclusive between the parties.

Sale of real estate to pay debts and legacies.

SEC. 146. SALE OF REAL ESTATE.—The said court shall have plenary authority to administer also the real estate situated in the District of Columbia of decedents so far as may be necessary for the payment of debts and legacies, and to distribute among those entitled thereto any surplus proceeds of any sale of real estate made in the course of such administration, and the bonds hereafter executed of all executors and administrators shall be responsible for the proceeds of sale of all real estate sold by them under the order of the said justice for such purposes of administration: *Provided, however*, That no such sale shall be made unless the same be required for the purposes of paying debts and such legacies as are chargeable upon the real estate, nor until the auditor of the court shall have ascertained and reported a deficiency of personal assets for such purposes; and such report shall be subject to exception.

Proviso. —qualifications.

No sale if bond given, etc.

SEC. 147. An order for the sale of the real estate shall not be granted if any of the persons interested in the estate shall give bond to the United States, with security to be approved by said court, conditioned to pay all the debts or legacies, or both, as the case may be, that shall eventually be found due, and the costs of administration.

Surplus after sale deemed real estate; distribution.

SEC. 148. If the said court shall be satisfied, upon a report of the auditor, that it is necessary to sell said real estate, or part thereof, it

shall authorize the same, or so much thereof as may be necessary for the payment of the debts or legacies, or both, to be sold by the executor or administrator, on such terms as the court may direct. Any surplus of the proceeds of such sale, after payment of debts and legacies and costs of administration, shall be deemed real estate, and shall be distributed among the heirs or devisees as the right may appear.

Widow's dower.

SEC. 149. WIDOW'S DOWER.—Where there shall be a widow entitled to dower in the real estate of the decedent, the court, before authorizing a sale of said real estate, shall issue a commission to one or more suitable persons to set off and assign her dower out of such estate, and her dower shall be assigned to her; or, if the court shall find the widow's dower can not be set off without injury to the property, if she shall consent thereto by her answer to the petition, the real estate may be sold free of her dower, and she shall receive out of the proceeds a commutation of her dower according to the practice in equity.

Guardians.

SEC. 150. GUARDIANS.—The said court shall have power to appoint a guardian or guardians to any infant orphan entitled to any property, real, personal, or mixed, within the District, or whose person and residence may be within the District, except where such orphan may have a testamentary guardian.

Bond of.

SEC. 151. BOND.—The court shall require of guardians so appointed, and of testamentary guardians, unless it be otherwise directed by the will appointing them, bond, with sufficient security, conditioned for the due discharge of their duties.

—of father or mother of infant.

SEC. 152. When any infant whose father or mother may be living shall, by gift or otherwise, be entitled to any property, the court may require the father or mother, as guardian, to give bond and security to account for the property, and on his or her failure or refusal so to do may appoint another person guardian, who shall give bond as in other cases.

Additional bond.

SEC. 153. The court may at any time require any guardian to give bond or additional bond, when the interests of the infant require it, and on his failure or refusal so to do may revoke his appointment and appoint another guardian in his place, and require the estate of the infant to be forthwith delivered to the newly appointed guardian, and may direct him to bring suit upon the bond of his predecessor.

Counter security.

SEC. 154. COUNTER SECURITY.—If any surety of a guardian shall by petition set forth that he apprehends himself to be in danger of loss in consequence of his suretyship, and shall pray the court that he may be relieved, the court, after summoning the guardian to answer said petition, may require him to give counter security to indemnify his original surety or to deliver his ward's estate into the hands of the surety or of some other person; in either of which cases the court shall require sufficient security to be given by the person into whose hands said estate shall be delivered, and make such other order as may seem just.

Election of guardian.

SEC. 155. ELECTION OF GUARDIAN.—Every orphan or other infant to whom said court is authorized to appoint a guardian shall be entitled, on arriving at the age of fourteen years, notwithstanding any appointment of guardian before made by the court, to elect a guardian for himself; but such guardian must be approved by the court and shall be required to give bond as in other cases, and be subject to the control of the court as other guardians are.

Sale or exchange of infant's real estate. —filing of bill.

SEC. 156. SALE OR EXCHANGE OF INFANT'S REAL ESTATE.—Whenever the guardian or, in case of his refusal to act, a next friend of any infant shall deem that the interests of the ward will be promoted by a sale of his freehold or leasehold estate in lands, for the purpose of reinvesting the proceeds in other property, or by an exchange of his said property for other property, he may file a bill in said court, verified

by his oath, setting forth all the estate of said infant, real and personal, and all the facts which, in his opinion, tend to show whether the infant's interest will be promoted by said sale or exchange or not.

—answer, etc.

SEC. 157. The infant, together with those who would succeed to the estate if he were dead, shall be made parties defendant; and it shall be the duty of the court to appoint some fit and disinterested person to be guardian ad litem for the infant, who shall answer the bill under oath. The infant also, if above the age of fourteen, shall answer the bill in proper person, under oath.

—proof, etc.

SEC. 158. Every fact material to determine the propriety of such sale or exchange shall be clearly proved by disinterested witnesses, whose testimony shall be taken in writing in the presence of the guardian ad litem or upon interrogatories agreed upon by him.

—decree of sale.

SEC. 159. If the court shall be satisfied from the evidence that the interests of the infant require a sale or exchange, as prayed, and the rights of others will not be violated thereby, such sale or exchange may be decreed, and the costs of the suit shall be paid out of the infant's estate; otherwise they shall be paid by the complainant.

—disposition of proceeds, etc.

SEC. 160. Any such sale may be made upon such terms as to cash and credit as the court may direct, and a lien shall be retained on the property sold for the purchase money; and the proceeds of such sale shall be invested for the infant's benefit in other real estate or in such other manner as the court may direct; and if the infant, after any such sale, shall die intestate or under twenty-one years of age, the proceeds of such sale, or so much thereof as may remain at his death, if not reinvested in other real estate, shall be considered as real estate, and shall pass accordingly to such persons as would have been entitled to the estate if it had not been sold.

Court not bound to require equality in quantity of estate, etc.

SEC. 161. In decreeing an exchange of the infant's estate for other property the court shall not be bound to require equality or sameness in the quantity or character of the estate or interest, and the court may appoint trustees to execute the deeds necessary to carry such exchange into effect.

Sale of particular estate or remainder.

SEC. 162. SALE OF PARTICULAR ESTATE OR REMAINDER.—Where an infant is entitled to a particular estate, as for life or years, and another person is entitled to an estate in remainder or reversion in the same property, or such other person is entitled to the particular estate and the infant is entitled in remainder or reversion or by way of executory devise, the court shall have the same power to decree a sale or exchange as aforesaid, having reference solely to the interests of the infant: *Provided*, The other person so interested will consent to such sale or exchange and execute the conveyances necessary to carry the same into effect. And the court shall direct the annual income from the fund or property acquired by such sale or exchange to be applied according to the interests of the respective parties. And in case of the death of said infant under twenty-one years of age the proceeds of any such sale not invested in real estate shall be deemed real estate and pass to those who would be entitled if the property had not been sold.

Proviso.
—consent to sale, etc.

Lease of infant's estate.

SEC. 163. LEASE OF INFANT'S ESTATE.—In cases where it shall appear to the court, by proof taken in a similar proceeding to that provided for in the foregoing sections, that it will be to the advantage of the infant that his real estate shall be demised, the said court shall have the power to decree that the same be so demised for a term of years not to exceed the minority of the infant, yielding such rents and on such terms and conditions as the court may direct: *Provided*, That where the infant is entitled only to a part of the estate, as tenant of the particular estate, or remainder-man, or otherwise, all the other owners of the other interests assent to the passing of such decree.

Proviso.
Consent to decree, etc.

Mortgage of infant's estate.

SEC. 164. MORTGAGE OF INFANT'S ESTATE.—In cases where it shall appear to the court by proof, as provided in the foregoing section, that it would be for the benefit and advantage of the infant to raise

money by mortgage to improve his real property or to pay off charges, liens, or incumbrances thereon, the court may, on the application of the guardian or of the infant by next friend, decree a conveyance of said property, by mortgage or deed of trust, to be executed by the guardian, on such terms as may seem to the court expedient; and this section shall apply to cases where the infant holds jointly or in common with other persons of full age or holds a portion of the estate, as a particular estate, for life or years or in remainder or reversion: *Provided*, That the other owners interested, all being of full age, will consent to such decree and unite in said mortgage or deed of trust.

Proviso. Consent to decree.

SEC. 165. SALE OF INFANT'S PRINCIPAL FOR MAINTENANCE, AND SO FORTH.—Wherever it shall appear, upon the petition of the infant by next friend or of the guardian of an infant, and the appearance and answer of such infant by guardian to be appointed by the court, and proof by depositions of one or more disinterested witnesses, that a sale of the principal of the infant's estate, or of some part thereof, whether real or personal, is necessary for his maintenance or education, regard being had to his condition and prospects in life, the said court may decree such sale on such terms as to it may seem proper.

Sale of infant's principal for maintenance, etc.

SEC. 166. INDIGENT BOYS.—The court shall have power to appoint guardians to indigent boys for the purpose of securing their enlistment in the naval or marine service of the United States, as provided by law, free of all costs on account of such proceeding.

Indigent boys.

SEC. 167. LUNACY PROCEEDINGS.—All writs de lunatico inquirendo shall issue from said probate court, and the justice holding said court shall preside at all inquisitions of lunacy, and, when necessary, may use a jury from either the circuit or criminal court, or may cause a special jury to be summoned for such inquisitions.

Lunacy proceedings.

SEC. 168. ESTATES OF LUNATICS.—The said court shall have full power and authority to superintend and direct the affairs of persons non compos mentis, and to appoint a committee or trustees for such persons, and to make such orders and decrees for the care of their persons and the management and preservation of their estates, including the collection, sale, exchange, and reinvestment of their personal estate, as to the court may seem proper. The court may, upon such terms as under the circumstances of the case it may deem proper, decree the conveyance and release of any right of dower of a person non compos mentis, whether the same be inchoate or otherwise.

Estate of lunatics.

Release of dower of.

SEC. 169. The court shall have the same power in respect of the freehold or leasehold estates of such persons as is provided for in relation to the estates of infants, to be exercised upon the application of the guardian, trustee, or committee of such person; and upon the death of any such person non compos mentis the proceeds of any sale of his estate which may have been invested otherwise than in real estate shall be deemed real estate, and shall descend as the property or estate would if it had not been sold.

Power of court the same as with infants, etc.

SEC. 170. The said court may order any part of the estate of a person non compos mentis, for whom a committee, guardian, or trustee has been appointed, to be sold, when necessary for his maintenance, upon application of said committee, guardian, or trustee, and full proof of the necessity of such sale. Upon the application of any judgment creditor of a person non compos mentis the court may decree a sale of the real or personal estate of such non compos mentis, or such part thereof as may be necessary to pay the claim of such creditor, upon being satisfied that such claim is just and there are no other means of paying the same.

Sale.

SEC. 171. No sales of the property of infants or persons non compos mentis made by authority of the aforegoing sections shall be valid and effectual to pass title to the property sold until they have been reported to and ratified by the court.

—ratification of sale necessary.

Drunkards.
—appointment of committee to manage estate of.

SEC. 172. DRUNKARDS.—Whenever any person residing in said District, and owning any estate, real or personal, situate therein, is unfit from the habitual use of intoxicating liquors to properly manage or control the same, the said court, on the petition of any creditor or relative of such person, or if there be no creditor or relative, upon the petition of any person living in said District, and upon summons being regularly served upon such person so alleged to be unfit to manage or control his property as aforesaid, commanding him to appear and answer such petition, may order a jury to be summoned to ascertain whether such person be an habitual drunkard and unfit from that cause to manage and control his property, and if the jury shall find that such person is an habitual drunkard and unfit to manage or control his property, such finding when confirmed by the court, shall be entered of record in said cause, and it shall be the duty of the court thereupon to appoint some fit person to be committee of the person so declared unfit to manage or control his property as aforesaid.

—bond of committee.

Such committee before entering upon the discharge of his duties shall execute a bond, with surety, to be approved by the said court or one of the justices thereof, to the United States in a penalty equal to the amount of the personal property and the yearly rents to be derived from the real estate of such person, conditioned for the faithful performance of his duties as such committee; and he shall have control of the said estate, real and personal, with power to collect all debts due said drunkard, and to adjust and settle all accounts owing by him, and to sue and be sued in his representative capacity. He shall apply the annual income of the estate of such habitual drunkard to the support of said person, and the maintenance of his family and education of his children; and shall in all other respects perform the same duties and have the same rights as pertain to committees of lunatics and idiots.

—powers, etc.

Restoration to drunkard of his estate, etc.

When any person for whom a committee has been appointed under the provisions of this section shall become competent to manage his property on account of reformation in his habits, he may apply to said court to have said committee discharged and the care and control of his property restored to him; and if it shall appear by the verdict of a jury summoned therefor, or by affidavits, or other evidence to the satisfaction of the court, that said applicant is a fit person to have the care or control of his property, an order shall be entered restoring such person to all the rights and privileges enjoyed before said committee was appointed.

Apprentices.

SEC. 173. APPRENTICES.—The said probate court shall also have authority to approve contracts of apprenticeship, to determine questions between masters and apprentices, and to protect the rights of apprentices, as herein elsewhere provided for.

Clerk of Supreme Court.
—oath, etc.
—powers.

SEC. 174. THE CLERK.—The clerk of said supreme court shall take the oath and give bond, with security, in the manner prescribed by law for the clerks of the district courts of the United States. The said clerk shall have power to appoint assistant clerks, at such compensation as may be authorized by the supreme court of the District of Columbia in general term, and may assign any of the assistant clerks in his office to duty in the said general or special terms of the court, except in the probate term. Any of the duties of the clerk may be performed in his name by any of the assistant clerks, and such assistants may sign the name of the clerk to any process, certificate, and other official act required by law or by the practice of the court to be performed by the clerk, and may authenticate said signature by affixing the seal of the court thereto when the seal is necessary to its authentication. In such cases the signature shall be—

Assistant clerk may act, etc.

——— ———, Clerk,
By ——— ———, Assistant Clerk.

Costs.

SEC. 175. COSTS.—At the commencement of every suit in said supreme court the plaintiff shall deposit at least ten dollars with the clerk, to be appropriated toward the costs of the suit; and the court is hereby authorized to prescribe rules as to any further costs to be paid by either the plaintiff or defendant during the progress of the case, and as to the collection thereof. Upon the termination of the case any surplus of costs shall be refunded by the clerk.

Defendant may require nonresident plaintiff to give security, etc.

The defendant in any suit instituted by a nonresident of the District of Columbia, or by one who becomes such after the suit is commenced, may, upon notice served on the plaintiff or his attorney, at any time after service of process on the defendant, require the plaintiff to give security for all costs and charges that may be adjudged against him on the final disposition of the cause. But such right of the defendant shall not entitle him to delay in pleading, and his pleading before the giving of such security shall not be deemed a waiver of his right to require such security for costs. In case of noncompliance with the foregoing requirements, within a time to be fixed by the court, judgment of nonsuit or dismissal shall be entered. The security required may be by an undertaking, with security, to be approved by the court, or by a deposit of money in amount to be fixed by the court.

—deposit by nonresident as security for costs.

A nonresident may, at the commencement of his suit, deposit with the clerk such sum in money as the court shall deem sufficient as security for all costs that may accrue in the cause, which deposit may afterwards be increased on application, in the discretion of the court:

—qualifications.

Provided, That this section shall not apply to proceedings in the probate term, in which all deposits and costs as now required by law, and the orders of said term, shall be paid to the register of wills as heretofore.

Poor suitors.

SEC. 176. POOR SUITORS.—Suits may be prosecuted by poor persons upon the order of the court, or of one of the justices, passed upon satisfactory evidence of inability to make such deposit, without making the deposit prescribed by the preceding section.

Costs payable immediately

SEC. 177. COSTS PAYABLE IMMEDIATELY.—All costs and fees for services rendered by the clerk and the register of wills and chargeable to others than the United States shall be payable immediately after the services are performed, and shall be collected by such rules and regulations, not incompatible with law, as may be prescribed by the court, but shall in no case be paid by the United States. The District of Columbia shall not be required to pay fees to the clerk of the court of appeals of the District, or to the marshal of the District, and shall be entitled to the services of said marshal in the service of all civil process.

The District exempt, etc.

Fees of clerk for acknowledging deeds, etc.

SEC. 178. The clerk shall have power to administer oaths in all cases and also to take the acknowledgment of deeds, and shall receive the same fees for the latter service as other officers authorized to take such acknowledgments.

—salary.

SEC. 179. SALARY.—The salary and compensation of the clerk shall not exceed the sum of five thousand dollars per annum, and the excess of fees received by him above said salary, after defraying thereout the necessary expenses of his office, shall be paid into the Treasury of the United States.

—returns to Treasury.

SEC. 180. RETURNS TO TREASURY.—The clerk shall make semiannual returns of the amount of fees received by him to the Secretary of the Treasury. His accounts of his earnings and expenses shall be adjusted by the regular auditor of the court, or by a special auditor to be appointed by the court for the purpose, within thirty days after the first day of January and July in each year; and the auditor shall immediately report his adjustment to the court, with such exceptions thereto as the clerk shall, within four days after such adjustment, take and file with the auditor. The court shall pronounce such decree upon the

report and exceptions as may seem to it equitable and just, and such decree shall be final and binding on the United States and the clerk.

Accounting.

SEC. 181. ACCOUNTING.—If upon such account a balance be found due from the clerk to the United States, the court shall order payment by the clerk into the Treasury, and enforce its order by execution, process of contempt, or otherwise; and if the clerk refuse to pay the money, shall remove him from office.

SEC. 182. If a balance be found due from the United States to the clerk, the same shall be paid upon presenting to the Treasurer a copy of the decree duly certified. The clerk shall, as in other cases to which the United States is a party, furnish the Solicitor of the Treasury a copy of the decree immediately after it is pronounced.

United States attorney for the District of Columbia.

SEC. 183. UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA.—There shall be an attorney for the United States for the District, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall take the oath and perform all the duties required of district attorneys of the United States.

—may administer oaths, etc.

SEC. 184. The district attorney and every assistant or deputy duly appointed by him is empowered to administer oaths or affirmations to witnesses in criminal cases and in all cases where a justice of the peace is authorized to do so; and if any person to whom such oath or affirmation shall be administered shall willfully and falsely swear or affirm touching any matter or thing material to the point in question whereto he shall be examined, he shall be deemed guilty of perjury, and upon conviction thereof shall be sentenced to suffer imprisonment at hard labor for the first offense for not less than two nor more than ten years, and for the second offense for not less than five nor more than fifteen years.

—penalty for false oath.

Clerks, etc., to attend criminal court.

SEC. 185. The clerk, marshal, and district attorney shall attend the criminal court and perform all the duties required of them by law in relation to the criminal business of the court. The clerk of the court in which any proceeding for divorce shall be instituted shall immediately notify the United States attorney of the institution of such proceeding, and it shall be the duty of said attorney to enter his appearance therein in order to prevent collusion and to protect public morals.

Marshal.

SEC. 186. THE MARSHAL.—There shall continue to be a marshal for the District, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for the same term, take the same oath, give bond with security in the same manner, and have generally, within the District, in addition to the powers and duties herein imposed upon him, the same powers and perform the same duties as provided for by the general statutes relating to marshals of the United States.

—fees.

SEC. 187. The fees and emoluments herein elsewhere authorized shall be charged for services rendered by the marshal of the District, and collected as far as possible, and covered into the Treasury of the United States; and the said marshal shall be paid in full compensation for all services rendered by him a salary of five thousand five hundred dollars per annum.

—salary.

—of bailiffs, etc.

SEC. 188. The marshal shall pay to each bailiff and crier, and to each deputy marshal performing the duties of a bailiff or crier, who shall be required to attend upon the several terms of said court, one hundred dollars per month, and to each messenger appointed for the several courts, sixty dollars per month, said payments to be allowed in said marshal's accounts.

Vacancies.

SEC. 189. VACANCIES.—In case of a vacancy in the office of United States attorney or marshal for the District of Columbia, the supreme court of the District of Columbia may appoint persons to exercise the duties of such officers until such vacancy shall be filled.

Coroner.

SEC. 190. THE CORONER.—There shall continue to be a coroner of said District, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall receive a salary of one thousand eight hundred dollars per annum.

—bond of.

SEC. 191. BOND.—The coroner before he acts as such shall, within thirty days after his appointment, give bond to the United States, with security to be approved by the said supreme court and deposited with the clerk thereof, in the penalty of three thousand dollars, with a condition that he will well and truly execute the duties of his office, and well and faithfully execute and return all writs or other process to him directed, and will also pay and deliver to the person or persons entitled to receive the same all sums of money and all goods and chattels by him levied upon, seized, or taken, agreeably to the directions of the writ or process under which the same shall have been levied upon, seized, or taken, and shall also satisfy and pay all judgments which may be rendered against him as coroner.

—duties.

SEC. 192. DUTIES.—It shall be the duty of the coroner to hold an inquest over any person found dead in the District when the manner and cause of death shall not already be known as accidental or in the course of nature. He shall make a monthly report to the Commissioners of the District of all inquests held by him during the month last past before said report, with a description as far as may be of the age, sex, color, and nationality of persons and the causes of their death, with such particulars as may be necessary to their identification; and as soon as possible after holding such inquest he shall deliver to the property clerk of the police department all moneys and other property and effects found upon the person of anyone on whom he shall hold an inquest.

Accidental deaths.

SEC. 193. He shall not summon any jury of inquest over the body of a deceased person where it is known that the deceased came to his death by accident, mischance, or natural causes.

Witnesses.

SEC. 194. WITNESSES.—Witnesses may be summoned and compelled by the coroner to attend before him and give evidence, and shall be liable in like manner as if the summons had been issued by a justice of the peace. And it shall be his duty, upon every inquisition taken before him, where any person is charged with having unlawfully caused the death of the person on whom the inquest is held, to reduce the testimony of the witnesses to writing, and if the jury find that murder or manslaughter has been committed on the deceased, he shall require such witnesses as he thinks proper to give a recognizance to appear and testify in said supreme court, and shall return to said court the said inquisition and testimony and recognizance by him taken.

Pay of jurors and witnesses.

SEC. 195. There shall be paid to the jurors and witnesses who may be lawfully summoned in any inquest the same fees and compensation as are allowed to the jurors and witnesses attending the supreme court. A coroner's jury shall consist of six persons.

Six persons to constitute jury.

Deputy coroner.

SEC. 196. DEPUTY CORONER.—The Commissioners of said District shall have authority to appoint a deputy coroner, who shall assist the coroner in the performance of his duties aforesaid, and shall perform the same duties in case of the absence or disability of the coroner. He shall, while acting, receive compensation at a rate not exceeding five dollars per day, to be paid as other expenses of said District, and he shall give bond in the penalty of two thousand five hundred dollars, with security to be approved by the said supreme court, conditioned for the due performance of his duties.

When coroner to execute process.

SEC. 197. WHEN TO EXECUTE PROCESS.—Whenever the marshal is a party to any cause or interested therein, or it is unfit on other grounds that he should serve and execute the process to be issued therein, such process shall be issued to the coroner, and he shall be paid the same fees and compensation for serving and executing the

same which would be payable to the marshal in similar cases, and shall account therefor to the Treasury of the United States. And if he shall fail in the proper performance of his duties in the premises, like redress may be had against him, his sureties, and his and their heirs, devisees, and personal representatives, as could have been had against the marshal, his sureties, and his and their heirs, devisees, and personal representatives, for a like failure on the part of said marshal.

Jurors. Commission to make list.

SEC. 198. JURORS.—The clerk of the supreme court of the District of Columbia, the United States marshal, and the collector of taxes for said District are hereby constituted a commission to from time to time make the list of jurors for service in said court and fix the number of jurors to be listed therefor.

From where selected.

SEC. 199. The said jurors shall be selected, as nearly as may be, from the citizens in the different parts of the District.

Jury box.

SEC. 200. JURY BOX.—The names shall be written on separate and similar pieces of paper, which shall be so folded or rolled up that the names can not be seen, and placed in a box to be provided for the purpose.

—sealing, etc.

SEC. 201. The box shall be sealed and, after being thoroughly shaken, shall be delivered to the clerk of the supreme court for safe-keeping.

Term of service.

SEC. 202. TERM OF SERVICE.—The respective terms of service of jurors drawn for service in the circuit court, or as petit jurors in the criminal court, shall begin on the first Tuesday of October, December, February, April, and June of each year, and shall terminate on the Monday preceding the first Tuesday of the second month thereafter, except when the jury shall be discharged by the court at an earlier day, or when a jury shall be impaneled and it shall happen that no verdict shall be found, nor the jury otherwise discharged before the day appointed by law for the commencement of the next succeeding term, in which case the court shall proceed with the trial by the same jury in every respect as if said term had not commenced; and all proceedings to final judgment, if such judgment shall be rendered, shall be entered and have legal effect and operation as of the term at which the jury shall have been impaneled.

—grand jury.

SEC. 203. The term of service of the grand jury in the criminal court shall begin with each term of that court, and shall end with such term unless the jury shall be sooner discharged by the court.

Drawing jurors.

SEC. 204. DRAWING JURORS.—At least ten days before the first Tuesday of each month specified in section two hundred and one when jury trials are to be had, the clerk shall publicly break the seal of the jury box and proceed to draw therefrom the names of twenty-six persons to serve as jurors in each of the circuit courts, and of twenty-six other persons to serve as petit jurors in each of the criminal courts; and at least ten days before the commencement of each term of the criminal courts, the names of twenty-three persons, required to serve as grand jurors in said criminal courts, shall be drawn in like manner.

—death, etc., of person drawn.

SEC. 205. If any person whose name is drawn from the box shall have died or removed from the District, the clerk shall destroy the slip containing the name of such person, and in such case, or if any person has become otherwise disabled or excused from serving as a juror, the clerk shall draw from the box the name of another person to serve in his stead.

Resealing box after drawing, etc.

SEC. 206. After the requisite number of jurors shall have been drawn the jury box shall be again sealed and remain in the custody of the clerk, and the names of the persons drawn shall not be placed again in the box for one year, unless said jurors shall be excused or for other reasons shall fail to serve.

Exemption from further service, etc.

SEC. 207. Any person who shall have been regularly drawn as a juror and shall thereupon have served as such for the period of twenty days or more shall be exempt from further service as a juror in said

court for the period of one year from the beginning of his said term of service; but nothing herein contained shall render said juror ineligible to serve during said year, except that no person shall serve as a juror for two consecutive terms.

Drawing to fill vacancies, etc.

SEC. 208. If any persons selected as jurors can not be found, or shall prove to be incompetent, or shall be excused from service by the court, the clerk, under the direction of the court, shall draw from the box the names of other persons to take their places. And if, after the organization of the jury, any vacancies occur therein, they shall be filled in like manner.

—to fill regular panel.

SEC. 209. If at any time during the impaneling of a jury, in any other than a capital case, the regular panel, by reason of challenge or otherwise, shall be exhausted before the jury is complete the court may, in its discretion, direct the clerk to draw from the box the names of other persons to serve as jurors and cause them to be summoned, or order the marshal to summon as many talesmen as may be necessary to complete the jury.

Notice of selection as juror.

SEC. 210. It shall be the duty of the marshal, at least five days before the meeting of the court for which a jury is required, to notify each person drawn by serving on him a notice in writing of his selection as a juror of the court he is to attend and of the day and hour when he is to appear. Such notice shall be given to each juror in person or be left at his usual place of residence.

—copy to be returned to the court.

SEC. 211. A copy of the notice, with his certificate stating when and in what manner the original was served, shall be returned by the marshal to the court before the commencement of the term for which the jurors were drawn.

Defaults.

SEC. 212. DEFAULTS.—If any person selected as a juror and duly notified to attend shall, without sufficient cause, neglect to attend agreeably to notice he shall be fined by the court in a sum not exceeding twenty dollars for every day that he shall be absent during the sitting of the court.

Frauds. —penalty to officers.

SEC. 213. FRAUDS—If any officer shall put on or leave off the list the name of any person at his own request or on the request of any other person, or shall be guilty of any fraud or collusion with respect to the drawing of jurors, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars or imprisonment in the District jail not less than sixty days, or both, for each offense.

—clerk of the court.

SEC. 214. If the clerk of the court shall willfully draw from the box a greater number of names than is required by the court, in accordance with the law, or shall put any name into the box after the same has been delivered to him, or shall be guilty of any fraud or collusion in regard to the drawing of jurors, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars or imprisonment in the District jail not less than sixty days, or both, for each offense.

Qualifications of jurors.

SEC. 215. QUALIFICATIONS.—No person shall be competent to act as a juror unless he be a citizen of the United States, a resident of the District of Columbia, over twenty-one and under sixty-five years of age, able to read and write and to understand the English language, and a good and lawful man, who has never been convicted of a felony or a misdemeanor involving moral turpitude.

Excuses.

SEC. 216. EXCUSES.—A person may be excused by the court from serving on a jury when for any reason his interests or those of the public may be materially injured by his attendance, or when he is a party in any action or proceeding to be tried or determined by the intervention of a jury at the term for which he may be summoned, or where his own health or the death or sickness of a member of his family requires his absence.

Exempt from duty.

SEC. 217. All executive and judicial officers, salaried officers of the Government of the United States and of the District of Columbia and those connected with the police or fire departments, counselors and attorneys at law in actual practice, ministers of the gospel and clergymen of every denomination, practicing physicians and surgeons, keepers of hospitals, asylums, almshouses, or other charitable institutions created by or under the laws relating to the District, captains and masters and other persons employed on vessels navigating the waters of the District shall be exempt from jury duty, and their names shall not be placed on the jury lists.

Attorneys.

—qualifications, etc.

SEC. 218. ATTORNEYS.—The said supreme court shall have full power and authority, from time to time, to make such rules as it may deem proper respecting the qualifications, examination, and admission of attorneys to practice in said court; and every person so admitted, before he shall be at liberty to practice therein, shall take the following oath:

—oath of.

"I, A B, do solemnly swear that I will honestly demean myself in the practice of an attorney uprightly and according to law, and that I will support the Constitution of the United States. So help me God."

—refusal to deliver money collected.

SEC. 219. Any attorney receiving or collecting the money of his client and refusing unlawfully to pay the same when demanded may be proceeded against in a summary way on notice by said court, which may suspend him from practice or dismiss him from its bar.

—suspension, etc., for moral turpitude.

SEC. 220. Each of the courts in said District may suspend or dismiss from its bar any attorney who shall be convicted of any offense involving moral turpitude.

SUBCHAPTER FOUR.

Court of Appeals.

THE COURT OF APPEALS.

Constitution.

SEC. 221. CONSTITUTION.—The court of appeals of said District shall continue as at present organized, and shall consist of one chief justice and two associate justices, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office during good behavior.

Salaries of justices.

SEC. 222. SALARY.—The said justices shall each receive an annual salary of six thousand dollars, payable quarterly at the Treasury of the United States, except the chief justice, who shall receive six thousand five hundred dollars.

Oath.

SEC. 223. OATH.—Each of said justices, before he enters upon the duties of his office, shall take the oath prescribed by law to be taken by the judges of the courts of the United States.

Clerk.

SEC. 224. CLERK.—There shall be a clerk of said court of appeals, to be appointed by the court, who shall receive as compensation for his services, in the discretion of the court, an annual salary not to exceed the sum of three thousand dollars, payable monthly at the Treasury of the United States, and who shall give bond, such as the court may determine to be satisfactory, for the faithful performance of his duties, and his duties shall be such as the court may from time to time prescribe.

Deputy.

The said clerk of the court of appeals shall, with the approval of the court, appoint one assistant or deputy clerk, who shall receive as compensation for his services, in the discretion of the court, an annual salary not to exceed the sum of two thousand dollars, payable monthly at the Treasury of the United States, and who may sign the name of the clerk to any official act required by law or by the practice of the court to be performed by the clerk, and may authenticate said signature by affixing the seal of the court thereto when the impress of the seal is necessary to its authentication. In such case the signature shall be—

—— ——, Clerk,
By —— ——, Assistant Clerk.

Fees, etc.

The court shall regulate from time to time the fees to be charged by the said clerk, which shall be accounted for at least once in each quarter and paid into the Treasury of the United States, and said clerk shall receive such allowance for necessary expenditures in the conduct of his office as the court may determine by special or general order in the premises, but not to exceed the sum of five hundred dollars in any one year, payable, as aforesaid, at the Treasury of the United States.

Terms.

SEC. 225. TERMS AND RULES.—The said court of appeals shall establish by rule of court such terms of the court in each year as to it may seem necessary: *Provided, however*, That there shall be at least three terms in each year; and it shall make such rules and regulations as may be necessary and proper for the transaction of its business and the taking of appeals to said court. And said court of appeals shall have the power to prescribe what part or parts of the proceedings in the court below shall constitute the record on appeal, except as herein otherwise provided, and the forms of bills of exceptions, and to require that the original papers be sent to it instead of copies thereof, and generally to regulate all matters relating to appeals, whether in the court below or in said court of appeals. If any member of the court shall be absent on account of illness or other cause during the session thereof, or shall be disqualified from hearing and determining any particular cause by having been of counsel therein, or by having as justice of the supreme court of the District of Columbia previously passed upon the merits thereof, or if for any reason whatever it shall be impracticable to obtain a full court of three justices, the member or members of the court who shall be present shall designate a justice or justices of the supreme court of the District of Columbia to temporarily fill the vacancy or vacancies so created, and the justice or justices so designated shall sit in said court of appeals and perform the duties of a member thereof while such vacancy or vacancies shall exist: *Provided*, That no justice of the supreme court of the District of Columbia shall, while on the bench of said court of appeals, sit in review of any judgment, decree, or order which he shall have himself entered or made: *Provided also*, That if the parties to any cause shall so stipulate in writing, by their attorneys and solicitors, such cause may be heard and determined by two justices of the court without calling in any of the justices of the supreme court of the District of Columbia: *And provided also*, That all motions to dismiss appeals and other motions may be heard by two justices in the event of the absence or disqualification of any one of the justices as aforesaid: *And provided further*, That if in any cause heard before two justices as aforesaid the court shall be divided in its opinion, then the judgment or decree of the lower court shall stand affirmed.

Provisos.
To be at least three a year.

Power of court to make regulations, etc.

When justice of supreme court may sit.

—may not hear decree, etc., made by himself.

Two justices may hear cause on stipulation of counsel.

—may hear motions, etc.

—division in opinion.

Jurisdiction.

SEC. 226. JURISDICTION.—Any party aggrieved by any final order, judgment, or decree of the supreme court of the District of Columbia, or of any justice thereof, "including any final order or judgment in any case heard on appeal from a justice of the peace," may appeal therefrom to the said court of appeals; and upon such appeal the court of appeals shall review such order, judgment, or decree, and affirm, reverse, or modify the same as shall be just, except as provided in the following sections. Appeals shall also be allowed to said court of appeals from all interlocutory orders of the supreme court of the District of Columbia, or by any justice thereof, whereby the possession of property is changed or affected, such as orders for the appointment of receivers, granting injunctions, dissolving writs of attachment, and the like; and also from any other interlocutory order, in the discretion of the said court of appeals, whenever it is made to appear to said court upon petition that it will be in the interest of justice to allow such appeal.

Appeals from police court.

SEC. 227. APPEALS FROM POLICE COURT.—If, upon the trial of any cause in the police court, an exception be taken by or on behalf of

Bill of exceptions.

the United States, the District of Columbia, or any defendant to any ruling or instruction of the court upon matter of law, the same shall be reduced to writing and stated in a bill of exceptions, with so much of the evidence as may be material to the question or questions raised, which said bill of exceptions shall be settled and signed by the judge within such time as may be prescribed by rules and regulations which shall be made by the court of appeals of the District of Columbia for the transaction of business to be brought before it under this section,

Writ of error, etc.

and for the time and method of the entry of appeals and for giving notice of writs of error thereto from the police court of the District of Columbia; and if, upon presentation to any justice of the court of appeals of the District of Columbia of a petition which, in the case of a defendant, shall be verified, setting forth the matter or matters so excepted to, such justice shall be of opinion that the same ought to be reviewed, he may allow a writ of error in the cause, which shall issue out of the said court of appeals, addressed to the judge of the police court, who shall forthwith send up the information filed in the cause and a transcript of the record therein, certified under the seal of said court, to said court of appeals for review and such action as the law may require, which record shall be filed in said court of appeals within such time as may be prescribed by the court of appeals, as hereinbefore provided. Any party desiring the benefit of the provisions of this section shall give notice in open court of his or its intention to apply for a writ of error upon such exceptions and thereupon proceedings therein shall be stayed for ten days: *Provided*, That the defendant seeking an appeal shall then and there enter into recognizance, with sufficient surety to be approved by the judge of the police court, conditioned that in the event of a denial of his application for a writ of error he will, within five days next after the expiration of said ten days appear in said police court and abide by and perform its judgment, and that in the event of the granting of such writ of error he will appear in said court of appeals of the District of Columbia and prosecute the writ of error and abide by and perform its judgment in the premises. Upon failure of any defendant to enter into the recognizance provided for in this section the sentence of the police court shall stand and be executed; otherwise execution shall be stayed pending proceedings upon his application for a writ of error and until final disposition thereof by the said court of appeals.

Proviso.
—bond.

Appeals from Commissioner of Patents.
Vol. 27, p. 436.

SEC. 228. APPEALS FROM COMMISSIONER OF PATENTS.—The determination of appeals from the decisions of the Commissioner of Patents shall remain vested in said court of appeals, as provided by the Act approved February ninth, eighteen hundred and ninety-three, chapter seventy-four, entitled "An Act to establish a court of appeals for the District of Columbia, and for other purposes," and any party aggrieved by a decision of the Commissioner of Patents in any interference case may appeal therefrom to said court of appeals.

Opinions.

SEC. 229. OPINIONS.—The opinion of the said court of appeals in every case shall be rendered in writing, and shall be filed in such case as a part of the record thereof, and the said court of appeals is authorized to appoint a reporter, who shall serve during the pleasure of the court and with a salary of one thousand dollars per annum, and whose duty shall be to report, edit, and publish, in form to be prescribed by the court, its opinions.

Reporter.

Reports to be furnished justices, etc.

And the said reporter shall furnish and deliver one copy of each volume of the reports of said opinions which shall have been published at the date of the passage of this code to each of the justices of the said court of appeals, the supreme court, and the judges of the police court of said District, immediately after the passage hereof, and shall thereafter furnish and deliver one copy of each volume of the reports of said opinions that shall thereafter be published immediately after the

issue thereof to each of said justices and judges, and the copies so received by each of them shall, in case of his death, resignation, or removal from office, be delivered to his successor. And there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to pay the said reporter therefor at the rate of not exceeding five dollars per volume; and such appropriations shall be deemed permanent and annual appropriations, and one-half thereof shall be paid out of the revenues of the District of Columbia. Appropriation.

SEC. 230. WRITS.—The said court of appeals shall have power to issue all necessary and proper remedial prerogative writs in aid of its appellate jurisdiction. Writs.

SEC. 231. MARSHAL TO EXECUTE ORDERS.—The marshal of the United States for the District of Columbia shall execute the orders and processes of the court of appeals in the same manner as he executes those of the supreme court of the District. Marshal to execute orders.

SEC. 232. HALF OF SALARIES PAID BY DISTRICT OF COLUMBIA.—One-half of the amounts paid on account of salaries of the justices of the court of appeals shall be paid from the revenues of the District of Columbia. Half of justices' salaries paid by District of Columbia.

SUBCHAPTER FIVE.

THE SUPREME COURT OF THE UNITED STATES.

The Supreme Court of the United States.

SEC. 233. Any final judgment or decree of the court of appeals may be reexamined and affirmed, reversed, or modified by the Supreme Court of the United States, upon writ of error or appeal, in all cases in which the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars, in the same manner and under the same regulations as existed in cases of writs of error on judgments or appeals from decrees rendered in the supreme court of the District of Columbia on February ninth, eighteen hundred and ninety-three, and also in cases, without regard to the sum or value of the matter in dispute, wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States. Appeal, etc., to from court of appeals.

SEC. 234. In any case heretofore made final in the court of appeals it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such case to be certified to said Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ of error to said Supreme Court. —certiorari

CHAPTER TWO.

ABATEMENT.

Abatement.

SEC. 235. RIGHT OF ACTION TO SURVIVE.—On the death of any person in whose favor or against whom a right of action may have accrued for any cause except an injury to the person or to the reputation, said right of action shall survive in favor of or against the legal representatives of the deceased; but no right of action for an injury to the person, except as provided in chapter forty-five of this code, or to the reputation, shall so survive. What rights of action survive.

SEC. 236. DEATH, EFFECT OF.—No action at common law shall abate by the death of either or any of the parties thereto if the right of action would survive as aforesaid; but upon the death of any defendant the action shall continue pending, and the heir, devisee, executor, administrator, or other person interested in the place of the deceased Death, effect of.

Summons to heirs, etc., of defendant to appear, etc.

defendant, as the case may require, may appear to such action. And in case the proper person to defend such action shall not appear to the same during the term of the court in which such death may be suggested, the plaintiff may cause a summons to be issued, directed to the proper person to defend such action, to be served on such person, if found in the District of Columbia and legally suable therein, requiring him to appear thereto on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after the service thereof, and show cause why such action should not be prosecuted to judgment; and if it shall appear to the court that such summons has been duly served, and the person so summoned shall not appear as thereby required, then the court may cause the appearance of such person to be entered, and there shall be the same proceedings in said action as if said person had voluntarily appeared; and all the proceedings had before the death of the defendant shall be considered as proceedings in the action, and such further proceedings shall be had to bring the cause fairly to trial as the court may deem proper. If the proper representative of a deceased defendant be not made a party to the action within one year from the death of said defendant, the action shall abate as to such defendant: *Provided, however*, That where the representative of the deceased is an executor or administrator the plaintiff shall have six months after the issuance of letters testamentary or of administration within which to make such representative a party: *And provided further*, That in case the summons above provided for shall be returned "Not to be found," publication may be substituted therefor in all cases in which proceeding by publication is authorized by this code.

New parties to be made within one year.

Provisos.
—where representative of deceased an executor.

Substitution of publication for summons.

Summons to executor, etc., of plaintiff.

SEC. 237. SUMMONS TO EXECUTOR, AND SO FORTH.—If the plaintiff in any such action shall die before judgment is given, the heir, devisee, executor, administrator, or other proper person to prosecute such action may appear and prosecute the same; and if such person does not appear to prosecute such action during the term of said court in which the death may be suggested, the defendant may cause a summons to be issued, directed to the proper person to prosecute such action, requiring him to appear and prosecute the same on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after service of the same; and if it shall appear to the court that such summons has been duly served, and the party summoned shall fail to appear in obedience thereto to prosecute the action, or if said party be not found in the District of Columbia and shall not appear to prosecute such action by the fourth day of the second term of the court after the term at which the death is suggested, the action shall abate; but if the proper person to prosecute such action shall appear therein, either voluntarily or after being summoned as aforesaid, before said suit shall so abate, all proceedings in the action had before the death of the plaintiff shall be considered as proceedings in the cause, and such other proceedings shall be had to bring the cause fairly to trial as the court may deem proper.

Abatement of action on nonappearance, etc.

Death of new party.

SEC. 238. DEATH OF NEW PARTY.—In all cases where a new party has been made to any action under the provisions aforesaid, and the new party so made shall die before judgment, or if an executor or administrator shall be removed from his office, the proper person to prosecute or defend such action in the place of the party so dying or removed may be made a party thereto by the same proceeding herein authorized on the death of the original plaintiff or defendant.

Pleadings.

SEC. 239. PLEADINGS.—Any new party to any action may use and rely upon any pleadings put in by his predecessor in such action, or shall have the same right to amend the pleadings or proceedings in such action as if he had been an original party thereto.

Costs before new party is made to be taxed, etc.

SEC. 240. COSTS.—In all cases where a new party is made to an action the costs which accrued before such new party was made shall be taxed as part of the costs in such action, and the judgment rendered shall be the same as if the action had been originally commenced between the persons who are parties to such action: *Provided*, That no defendant who is made a new party to such action shall be burdened with debts, damages, or costs beyond the amount of property or assets descended or come to his hands from the deceased.

Proviso.
—limit, defendant, etc.

Joint parties.

SEC. 241. JOINT PARTIES.—In case of the death of one of several joint defendants to an action, where the right of action will survive as aforesaid, the same proceedings shall be had to make the proper representative of the deceased a party to the action as in the case of a sole defendant.

Appeals from justices of the peace.

SEC. 242. APPEALS FROM JUSTICES OF THE PEACE.—An appeal from a judgment rendered by any justice of the peace shall be deemed an action within the meaning of the aforegoing provisions.

Equity suits.

SEC. 243. EQUITY SUITS.—No suit in equity shall abate by the death of any of the parties in cases where the rights involved in the suit survive.

Death of party to equity suit.

SEC. 244. DEATH OF PARTY TO EQUITY SUIT.—If any of the parties to a suit in equity, whether complainant or defendant, shall die after the filing of the bill or petition, it shall not be necessary to file a bill of revivor; but any of the surviving parties may file a suggestion of such death, setting forth when the death occurred, and who is the legal representative of such deceased party, and how he is the representative, whether by devise, descent, or otherwise.

Subpœna to representatives.

SEC. 245. SUBPŒNA TO REPRESENTATIVES.—Upon such a suggestion a subpœna shall issue for the legal representative of the deceased party, commanding him to appear and be made a party to such suit, if such representative reside within the District of Columbia; and if such representative is a nonresident, then such notice shall be given instead of the subpœna as is herein elsewhere provided for nonresident defendants.

Death after decree for account, etc.

SEC. 246. DEATH AFTER DECREE FOR ACCOUNT, AND SO FORTH.—If any defendant shall die after a decree for an account, sale, or partition, or after such other proceedings shall have been had after appearance as would have warranted the passing of such a decree, or if such deceased defendant shall have answered, confessing the facts stated in the bill, or shall have set up no defense to the relief therein prayed, the court may, in its discretion, order the cause to be proceeded in as if no death had occurred, or may order a bill of revivor or a supplemental bill to be filed, and the proper representative of such deceased defendant to be made a party, as may seem best calculated to advance the purposes of justice: *Provided*, That the heir or other proper representative of such deceased defendant, at any time before final decree, may appear and be made a party on such reasonable terms as the court may direct; and such new party may file an answer to the original bill, subject to such terms as the court may impose, in which he may insist on such defenses, and none other, as might have been made to a bill of revivor or supplemental bill in the nature of a bill of revivor filed against him.

Proviso.
Appearances before final decree, etc.

Marriage of party.

SEC. 247. MARRIAGE OF PARTY.—No suit at law or in equity shall abate by the marriage of any of the parties; but on application of any of the parties the court may, on such terms and notice as it shall deem proper, allow and order any amendment in the pleadings and the making of any new or additional parties that such marriage may render necessary or proper.

Death after final decree.

SEC. 248. DEATH AFTER FINAL DECREE.—If any of the parties to a suit die after final decree, the court may order execution of such decree as if no death had occurred, or the court may order a subpœna scire

facias to be issued, or a bill of revivor to be filed against the proper representatives of such deceased party, or pass such other order or direct such other proceedings as may seem best calculated to advance the purposes of justice: *Provided*, That the heir or other proper representative may appear at any time before execution of said decree and be admitted as a party to the suit, on such terms as the court may prescribe, and such further proceeding may be had as may be appropriate to the merits of the cause.

Proviso. Appearance before execution.

Failure to appear.

SEC. 249. FAILURE TO APPEAR.—If any representative of a deceased party shall fail to appear, after being summoned, within the time therein limited, or shall fail to appear after notice by publication, the court may order the appearance of such representative to be entered, to have the same effect as if such representative had appeared in person and been made a party.

Evasion of service of process.

SEC. 250. EVASION OF SERVICE OF PROCESS.—In all cases where any representative of a deceased party to a suit shall evade any process issued against him, or shall leave the District before any such process can be served on him, he may be proceeded against as a nonresident defendant.

Bill of revivor.

SEC. 251. BILL OF REVIVOR.—A bill of revivor or supplemental bill in the nature of a bill of revivor may be filed, instead of a suggestion of the death of a party, and notice thereof shall be given to the defendant by subpœna or the service of a copy of such bill, if he be found within the District, as the court may direct; or, if the party be a nonresident or secrete himself or evade the service of the summons, or if his residence be unknown, then notice by publication may be given as against nonresident defendants.

CHAPTER THREE.

ABSENCE FOR SEVEN YEARS.

Absence for seven years.

Presumption of death.

SEC. 252. PRESUMPTION OF DEATH.—If any person shall leave his domicile without any known intention of changing the same, and shall not return or be heard from for seven years from the time of his so leaving, he shall be presumed to be dead, in any case wherein his death shall come in question, unless proof be made that he was alive within that time.

Person found living.

SEC. 253. PERSON FOUND LIVING.—If the person so presumed to be dead be found to have been living, any person injured by such presumption shall be restored to the rights of which he shall have been deprived by reason of such presumption.

CHAPTER FOUR.

ACCOUNT.

Account.

Auditor's report.

SEC. 254. AUDITOR'S REPORT AND EXCEPTIONS.—In actions at common law grounded upon an account, or in which it may be necessary to examine and determine upon accounts between the parties, the court, in its discretion, at any stage of the cause, may order the accounts and dealings between the parties to be audited and stated by the auditor of the court or by a special auditor to be appointed by the court for the purpose; in which case, if a jury shall have been sworn, they shall be discharged. The course of proceedings before the auditor shall be the same as in cases in equity referred to him. When his audit is completed the auditor shall file his report and account in the clerk's office and give notice thereof to the parties or their attorneys, and at the expiration of thirty days after said notice judgment may be entered, on

motion of either party, in accordance with said report and account, unless exceptions are filed thereto for errors in law or fact therein. The party excepting thereto shall point out particularly the item or items in such report and account excepted to, and state the grounds of such exception, and annex to his exceptions a certificate of counsel that, in his opinion, the matters of law therein stated are well founded in law, and an affidavit of such party that the exceptions are not filed for delay, and that the allegations of fact in said exceptions are true, and a copy of said exceptions shall be served on the opposite party or his attorney.

—exceptions to.

SEC. 255. TRIAL OF EXCEPTIONS.—When such exceptions are filed, the court shall enter the cause on the trial calendar of the term in which they are filed in its proper place, and the issues made by said exceptions shall be tried and determined in the same manner as other issues of law or fact made by the pleadings in an action at common law, and any part of such report and account not so excepted to shall be adjudged to be conclusive between the parties on such trial.

—trial of exceptions.

SEC. 256. DIRECTIONS TO JURY.—If, in the opinion of the court, such issues are so numerous as to create confusion the court may, in its discretion, direct evidence to be received and considered by the jury as to a part of said issues, and direct the jury to retire and conclude as to the same before hearing the evidence as to the other issues, and this to repeat as often as may be necessary, the final conclusion of the jury as to all the issues to be announced as their verdict; or may submit the different issues to the same jury at different times for their separate verdicts thereon, or submit such issues to different juries; or may pursue such other course as the rules of the court may prescribe to facilitate the determination of such issues.

—directions to jury as to part of issues, etc.

SEC. 257. FRIVOLOUS EXCEPTIONS.—If only general, immaterial, or frivolous exceptions are made or they are filed without the certificate of counsel and affidavit of exceptant, required as aforesaid, they may be overruled by the court or a justice at chambers, on notice and motion, and judgment entered as if no exceptions had been filed.

Frivolous exceptions.

SEC. 258. JUDGMENT.—Upon the conclusion of such trial or trials the court shall enter judgment upon the auditor's report as affirmed or corrected by the findings of the jury.

Judgment.

CHAPTER FIVE.

ADMINISTRATION.

Administration.

SUBCHAPTER ONE.

EXECUTORS, ADMINISTRATORS, AND COLLECTORS.

Executors, administrators, and collectors.

SEC. 259. ESTATE TO BE ADMINISTERED.—On the death of any person domiciled in the District of Columbia leaving real or personal estate, or both, therein, all his personal estate and so much of his real estate as shall be necessary in addition thereto for the payment of his debts shall be the subject of administration under authority and direction of the probate court.

Estate to be administered.

SEC. 260. LIEN OF CREDITORS.—On the death of any person not domiciled in the District of Columbia at the time of his death so much of his real estate in the District of Columbia as may be necessary for the payment and discharge of just claims against him of creditors and persons domiciled in the District of Columbia shall also be the subject of administration under authority and direction of the probate court, irrespective of the personal estate of such decedent: *Provided*, The prosecution of such claims is begun in said court within one year after the death of such decedent.

Administration of real estate of nonresident to pay claims of resident creditors.

Proviso.
—time for prosecuting claims.

Competency of executors, etc.

SEC. 261. COMPETENCY OF EXECUTORS, AND SO FORTH.—No letters testamentary or of administration shall be granted to a person convicted of an infamous offense, or to an idiot or lunatic, or person non compos mentis, or one under eighteen years of age, or to an alien; and all questions as to the disqualification on any of said grounds of any person claiming to be entitled to letters testamentary or of administration shall be determined by the probate court, after such notice to the said persons as the court may direct.

Letters testamentary.

SEC. 262. LETTERS TESTAMENTARY.—When any will or codicil respecting either real or personal property shall have been authenticated and admitted to probate, letters testamentary thereon shall be issued to the executor named therein, if he is legally competent and will accept the trust: *Provided*, That he shall first execute a bond to the United States, with security to be approved by the court, in such penalty as the court may require, with a condition that he will administer according to law and to the will of the testator all his goods, chattels, rights, and credits, and the proceeds of all his real estate that may be sold for the payment of his debts or legacies which shall at any time come to the possession of the executor or to the possession of any other person for him, and in all other respects faithfully perform the trusts reposed in him: *And provided further*, That said executor shall take and subscribe and file an oath that he will well and truly administer the estate of the deceased according to law and will give a just account of his administration when thereto lawfully called: *Provided*, That the above conditions as to bond and oath shall not apply to corporations authorized to act as executors.

Provisos.
Bond of executor.

—oath.

—corporations not included.

Where testator requests that executor be relieved from giving bond.
—penalty of.

SEC. 263. BOND, WHEN NOT REQUIRED.—Whenever a testator shall, by last will and testament, request that his executor be not required to give bond for the performance of his duty, in such case the bond required of the executor shall be in such penalty as the court may consider sufficient to secure the payment of the debts due by the testator: *Provided*, *however*, That the penalty of such bond shall not exceed double the value of the personal estate; and when less than this sum it may be increased, or an additional bond may be required, whenever it shall be made to appear to the court that the bond as given is insufficient to secure the payment of the debts of the testator: *And provided further*, That whenever any creditor, distributee, or legatee entitled to take under the will shall make it appear to the court that any executor who has given such bond only as is herein provided for is wasting the assets of the estate, or that the assets are in danger of being lost, wasted, or misappropriated, then the said executor may be removed or required to give additional bond with security in a penalty sufficient to secure the interests of all the creditors, distributees, and legatees entitled to take said estate, and on his failure to give bond as required his letters may be revoked; and upon such revocation the same results shall ensue as hereinafter provided in section two hundred and ninety-six.

Provisos.
—limit of penalty.

—increase where assets in danger, etc.

Bond of executor who is residuary legatee, etc.

SEC. 264. EXECUTOR RESIDUARY LEGATEE.—If the executor is the residuary legatee of the personal estate of the testator, or provided the residuary legatee of full age shall notify his consent to the court, he may, instead of the bond prescribed as aforesaid, give bond with security approved by the court, and in a penalty prescribed by the court, conditioned to pay all the debts and just claims against the testator, and all damages which shall be recovered against him as executor, and all legacies bequeathed by the will, in which case he shall not be required to file any inventory or render any account. And if such bond be given by the executor, he shall be answerable for the full amount of all debts, claims, and damages that may be recovered against him as executor as if he were sued in his own right, and any legatee may recover the full amount of his legacy in a suit on the

executor's bond or in equity, and the giving of the bond shall be considered an assent to the legacy: *Provided*, That the surety or sureties in said bond shall not be liable for a greater amount than the penalty thereof.

Proviso.
—liability of sureties.

SEC. 265. JOINT EXECUTOR.—When two or more persons are appointed executors, the court may take a separate bond with security from each of them or a joint bond with security from all of them together.

Joint executor.

SEC. 266. LETTERS OF ADMINISTRATION CUM TESTAMENTO ANNEXO.—If there be only one executor named in the will, and he shall have been present at the probate of the will, and shall not within twenty days thereafter file a bond and qualify as executor by taking the oath aforesaid, letters of administration with the will annexed may be granted as if no executor had been named.

Letters of administration cum testamento annexo.

SEC. 267. ABSENT EXECUTOR.—If said executor shall not have been present at the probate of the will, but shall be within the District, a summons may be issued to him, either at the instance of any person interested or ex officio by the register of wills, requiring him to appear and file his bond as required by law within twenty days after service of said summons; and if he be not found in said District, notice shall be given to him by publication to appear within thirty days after the first publication of said notice, and on his failure to appear and give his bond and qualify by taking the prescribed oath, as aforesaid, administration may be granted as if no executor had been named in the will.

Absent executor.

SEC. 268. SUMMONS TO EACH OF SEVERAL EXECUTORS.—If there be more than one executor named in a will, there may be the same proceeding with respect to each of them as if he were the sole executor, and any circumstances under which letters of administration may be granted on failure of a sole-named executor shall authorize the granting of letters testamentary to one or more of the executors on failure of one or more of the others; and any circumstances under which letters of administration may be granted on failure of a sole-named executor shall authorize the granting of such letters of administration on failure of all the executors named to appear and qualify as aforesaid.

Summons to each of several executors.

SEC. 269. RENUNCIATION.—If any executor named in a will shall file or transmit to the probate court an attested renunciation of his executorship, there shall be the same proceeding with respect to granting letters testamentary or of administration as if the party so renouncing had not been named in the will.

Renunciation.

SEC. 270. EXECUTOR DISQUALIFIED.—If any person named as executor be disqualified from serving, letters testamentary or of administration may be granted as if he had not been named as executor.

Executor disqualified.

SEC. 271. NO POWER TO ACT WITHOUT LETTERS.—In case letters testamentary shall be granted to one or more of the executors named in a will on failure of the rest, no executor not named in said letters shall in any manner interfere with the administration; and if letters of administration with the will annexed shall be granted, no executor named in the will shall in any manner interfere with the administration; and no executor named in a will shall, before letters testamentary are granted to him, have any power to dispose of any part of the estate of the deceased or to interfere therewith, further than is necessary to collect and preserve the same.

No power to act without letters.

SEC. 272. FORM.—The following shall be the form of letters testamentary to be issued under the seal of the probate term of the supreme court of the District of Columbia:

Form of letters.

District of Columbia, to wit:

The United States of America.

To all persons to whom these presents shall come, greeting:

Know ye that the last will and testament of ....., of ....., deceased, hath, in due form of law, been exhibited, proved, and recorded in the office of the register of wills of the District of Colum-

bia, a copy of which is to these presents annexed, and administration of all the goods, chattels, and credits of the deceased is hereby granted and committed unto ....., the executor by said will appointed.

Witness (A B) the chief justice of the supreme court of the District of Columbia, this ..... day of .....

Test: C D, Register of Wills.

Letters of administration.

SEC. 273. LETTERS OF ADMINISTRATION.—On the death of any person leaving real or personal estate in the District, letters of administration on his estate may be granted, on the application of any person interested, on proof, satisfactory to the probate court, that the decedent died intestate.

Bond.

SEC. 274. BOND.—Every administrator, except corporations authorized to act as administrators, shall, before entering on his duties, file in the probate court his bond to the United States, with security approved by the court, in such penalty as the court shall direct, with condition to administer according to law all the money, goods, chattels, rights, and credits of the deceased; and when the court shall have ordered the sale of the decedent's real estate, he shall give a like bond conditioned to administer the proceeds of the real estate that may be sold for the payment of the decedent's debts which shall come into his possession, or to the possession of any other person for him, and in all other respects perform the trust reposed in him, and shall also take and subscribe an oath similar to that prescribed for executors.

—oath.

Special bond of administrator entitled to residue of estate.

SEC. 275. SPECIAL BOND.—If the person appointed as administrator shall be entitled to the residue of the estate after the payment of the debts, he may, instead of the bond herein provided for, execute a bond, with security approved by the court, in such penalty as the court may consider sufficient, conditioned for the payment of all the debts and claims against the deceased, and all damages which shall be recovered against him as administrator, in which case he shall not be required to return any inventory or account; and in such case the administrator shall be personally answerable for all debts, claims, and damages that may be recovered against him, in like manner as the executor who gives a similar bond: *Provided*, That the surety or sureties in said bond shall not be liable for a greater amount than the penalty thereof.

Proviso. —sureties' liability.

Persons entitled.

SEC. 276. PERSONS ENTITLED.—If the intestate leave a widow and a child or children, administration, subject to the discretion of the court, shall be granted either to the widow or child, or one or more of the children, qualified to act as administrator, and further subject to the discretion of the court as follows:

SEC. 277. If there be a widow and no child the widow shall be preferred, and next to the widow or children a grandchild shall be preferred.

SEC. 278. If there be neither widow, nor child, nor grandchild to act, the father shall be preferred; and if there be no father the mother shall be preferred.

SEC. 279. If there be neither widow, nor child, nor grandchild, nor father, nor mother to act, brothers and sisters shall be preferred.

SEC. 280. If there be neither widow, nor child, nor grandchild, nor father, nor mother, nor brother, nor sister, the next of kin shall be preferred.

SEC. 281. Males shall be preferred to females in equal degree.

SEC. 282. Relations of the whole blood shall be preferred to those of the half blood in equal degree, and relations of the half blood shall be preferred to relations of the whole blood in a remoter degree.

SEC. 283. Relations descending shall be preferred to relations ascending, in the collateral line; that is to say, for example, a nephew shall be preferred to an uncle.

SEC. 284. None shall be preferred in the ascending line beyond a father or mother, or in the descending line below a grandchild.

SEC. 285. A feme sole shall be preferred to a married woman in equal degree.

SEC. 286. Relations on the part of the father shall be preferred to those on the part of the mother, in equal degree.

—incompetence of above to serve.

SEC. 287. If any person described in the foregoing sections should be incompetent to serve, then administration shall be granted as if such person were not living.

Administration by creditor, etc.

SEC. 288. If there be no relations, or those entitled decline or refuse to appear and apply for administration, on proper summons or notice, administration may be granted to the largest creditor applying for the same; and if creditors neglect to apply, it may be granted at the discretion of the court.

Notice of application.

SEC. 289. NOTICE OF APPLICATION.—Upon any application for letters of administration, such notice thereof shall be given, by publication or otherwise, as the rules of the court may require; but it shall not be necessary to notify any collateral relatives more remote than brothers and sisters of the intestate.

Will proved after letters granted.

SEC. 290. WILL PROVED AFTER LETTERS GRANTED.—If administration be granted, and a will disposing of the estate of the deceased shall afterwards be proved, according to law, and letters testamentary shall have issued thereon, the same shall be considered a revocation of the letters of administration. But all acts done by the administrator according to law, before any actual or implied revocation of his letters, shall be valid and effectual, and the executor obtaining letters shall be authorized to prosecute any actions at law or in equity commenced by the administrator and obtain judgment in his own name, and likewise to defend any suit commenced against the administrator; and said executor shall have the benefit of all judgments obtained by the administrator and be bound by all judgments obtained against him to the extent of assets received by said executor, unless said judgments were obtained by fraud. And it shall be the duty of said administrator to account for and deliver to the executor without delay all goods, chattels, and personal estate and proceeds of any realty sold in his possession, belonging to the deceased, in default of which his bond may be put in suit by the executor or administrator cum testamento annexo.

Declining administration.

SEC. 291. DECLINING ADMINISTRATION.—If any person entitled to administration shall, in writing, decline the same, the court shall proceed as if such person were not entitled.

Resignation of executor, etc.

SEC. 292. RESIGNATION.—If any person, after having accepted the office of executor or administrator, shall desire to retire from and resign the same, he may file his petition to that effect, accompanied by a full and particular account, under oath, of his receipts and disbursements, if any, and the court shall thereupon direct such notice as it may think proper to be given of said application, and, if no cause be shown to the contrary, may release and discharge him from his office and pass such order as to costs and commissions and impose such terms in other respects as the nature of the case may require: *Provided*, That such executor or administrator shall not, by said discharge, be released from any liability for past acts, defaults, or omissions of duty.

Proviso.

—liability after release for past acts.

Form.

SEC. 293. FORM.—The form of letters of administration shall be as follows:

District of Columbia, to wit:

The United States of America.

To all persons to whom these present shall come, greeting:

Know ye that administration of the goods, chattels, and credits of ....., late of ....., deceased, is hereby granted and committed unto ....., of .....

Witness (A B) the chief justice of the supreme court of the District of Columbia.

Test: C D, Register of Wills.

Bond of persons over 18 years of age, etc., binding.

SEC. 294. PERSONS OVER EIGHTEEN YEARS OF AGE.—In case letters testamentary or of administration shall be granted to any person above eighteen but under twenty-one years of age, the bond executed by him for the faithful performance of his duties shall be as binding as if he were of full age.

Application for letters.

SEC. 295. APPLICATION FOR LETTERS.—Whenever any person shall apply to the probate court for letters testamentary or of administration, he shall set forth, under oath, as fully as possible, all the personal and real estate left by the decedent and the amount of his debts as far as can be ascertained; and the penalty of the bond required of him, except in the cases provided for in section two hundred and sixty-three, two hundred and sixty-four, and two hundred and seventy-five aforesaid, shall be sufficient to secure the proper application of all the personal estate of the testator or intestate; and when it shall become necessary to sell the real estate of the decedent, in part or in whole, the executor or administrator shall give such additional bond, with approved security, as shall be directed by the court, to secure the proper application of the proceeds arising from such sale or sales. And whenever an executor is empowered by the will to make sale of the real estate of the testator, for any purpose, he shall account for said proceeds in said court.

Additional bond.

SEC. 296. ADDITIONAL BOND.—Whenever the probate court shall be satisfied that the bond already given by an executor or administrator is insufficient, the said executor or administrator may be required to file an additional bond, and on his failure to do so his letters may be revoked. And upon the revocation of letters testamentary or of administration under this provision, the executor or administrator whose letters are so revoked shall forthwith deliver to any substituted executor or administrator all the assets of his testator or intestate in his possession or under his control.

Bonds to be recorded, etc.

—copy of, to be furnished.

—actions on.

SEC. 297. ACTIONS ON BONDS.—Every bond executed by an executor or administrator shall be recorded in the office of the register of wills; and any person conceiving himself to be interested in the administration of the estate shall be entitled to have or demand a copy of such bond, under the hand and seal of the register of wills, on which an action may be maintained, in the name of the United States, for the use of the party interested, and judgment may be recovered in such action for the damage actually sustained. And an administrator appointed in the place of an executor or administrator who has resigned, been removed, or whose letters have been revoked, may in like manner maintain an action against the executor or former administrator and his sureties, on his administration bond, for all loss and damage to the estate resulting from this breach of duty. No creditor shall be entitled to maintain an action on a testamentary or administration bond for any claim against a testator or intestate until an action has been commenced against the executor or administrator of the deceased and a summons issued therein has been returned "Not to be found," or a writ of fieri facias or of attachment, issued on a judgment against such executor or administrator, has been returned "nulla bona," or until such apparent insolvency of the executor or administrator or insufficiency of his effects as in the judgment of the court before which such action may be tried shall show the said creditor to be without remedy except by such action on the executor's or administrator's bond.

Death, etc., of executor named.

—to whom administration granted.

Proviso.

SEC. 298. DEATH, AND SO FORTH, OF EXECUTOR NAMED.—In case any will admitted to probate shall not appoint an executor, or the executor therein appointed shall have died or renounced the executorship, or shall be incompetent to serve, administration shall be granted with the will annexed to the person who would have been entitled to administration in case of the intestacy of the deceased testator: *Provided, how-*

ever, That if there be a residuary legatee named in such will, he shall be preferred to all, except a widow. And the condition of the bond of the administrator so appointed and the oath to be taken by him and his duties and liabilities shall be the same if he had been appointed executor in the will and had received letters testatmentary. —persons preferred. —bond and oath of appointee.

SEC. 299. LETTERS DE BONIS NON.—If an executor or administrator shall die before the administration of the estate is completed, letters of administration de bonis non or de bonis non cum testamento annexo, as the case may require, shall be granted, in the discretion of the court, giving preference, however, to the person who would be entitled in the order hereinbefore given, if he shall actually apply for the same; and the form of the letters shall be the same as in the case of an original administration, except that it shall be confined to the property of the deceased not already administered, and the authority shall be to administer all property herein described as assets and not distributed and delivered or retained by the executor or former administrators, under the court's direction. Letters de bonis non. —form.

SEC. 300. EXECUTOR OF EXECUTOR.—In no case shall the executor of an executor, as such, be entitled to administration de bonis non on the estate of the first deceased. Executor of executor.

SEC. 301. ORDERS AGAINST REPRESENTATIVE OF DECEASED.—On the application of an administrator de bonis non the court may order the executor or the administrator of a deceased executor or administrator to deliver over to him all the personal property that was in the hands of the said deceased executor or administrator, as such, and also all the money, bonds, notes, accounts, and evidences of debt which the said deceased executor or administrator may have taken, received, and had at the time of his death, including the proceeds of sale of either personal or real estate made by said deceased executor or administrator, which shall be deemed unadministered assets. Orders against representative of deceased.

SEC. 302. On the failure of said executor or administrator to comply with said order by a day named, the court may enforce its order by attachment against such executor or administrator, and may direct the bond of the deceased executor or administrator, or that of the executor or administrator so failing, or both, to be put in suit for the use of the administrator de bonis non. —failure of said executor or administrator to comply.

SEC. 303. The executor or administrator of the deceased executor or administrator shall return, on oath, to the court, on or before the day named as aforesaid, a list of the bonds, notes, accounts, and money aforesaid, and shall be entitled to retain out of the money such commission as the court shall allow, not exceeding ten per centum on the principal inventory, and the personal estate and money turned over by him shall be assets in the hands of the administrator de bonis non, to be accounted for by him as such. —return of list of bonds, etc.

SEC. 304. LETTERS AD COLLIGENDUM.—Letters ad colligendum may be granted to one or more persons in case of a contest in relation to a will, or the absence of the executor from the District, or his delay in qualifying, or for other sufficient cause, and the form of such letters shall be as follows: Letters ad colligendum.

To all persons to whom these presents shall come, greeting:

Know ye that, whereas ....., of ....., deceased, had, as is said, at his decease, personal property within the District of Columbia, administration whereof can not immediately be granted, but which, if speedy care be not taken, may be lost, destroyed, or diminished, to the end that the same may be preserved for those who may appear to have a legal right or interest therein, we do hereby request and authorize ....., of ....., to secure and collect said property, wheresoever the same may be, in said District, whether the same be goods, chattels, debts, or credits, and to make a true inventory —form.

thereof and exhibit the same with all convenient speed, with an account of his collections, into the office of the register of wills.

Witness (A B) the chief justice of the supreme court of the District of Columbia.

Test: C D, Register of Wills.

Bond of collector.

SEC. 305. Every collector, except corporations authorized to act as such, before letters shall be issued to him, shall execute a bond to the United States, in a penalty and with security to be approved by said court, with the following condition:

"The condition of the above obligation is such that if the above bounden ..... shall well and honestly discharge the office of collector of the goods, chattels, and personal estate of ....., deceased, in the District of Columbia, and shall make or cause to be made a true and perfect inventory or inventories of such of said goods, chattels, personal estate, and debts as shall come to his possession or knowledge and make return of the same to the probate court of the District, and shall also deliver to the person or persons who shall be authorized by the court to receive them such of said goods, chattels, personal estate, and debts as shall come to his possession, except such as shall be allowed for by said court, then the said obligation shall be void; it shall otherwise be in full force and virtue at law." And he shall also take and subscribe the following oath: "I, ..., do swear that I will well and truly discharge the office of collector of the goods, chattels, and personal estate of ....., deceased, according to the tenor of the letters granted me by the probate court of the District of Columbia and the directions of law, to the best of my knowledge, so help me God."

Duties of collector.

SEC. 306. DUTIES OF COLLECTOR.—The collector shall collect the goods, chattels, and personal estate of the deceased, including the debts due him, and cause the same to be appraised and return an inventory thereof, as an administrator is required to do, and may, under the authority of the court, sell perishable articles and bring suits for debts or other property, as an administrator may do, and shall account for the money recovered. Said collector may be allowed a commission on the property and debts actually collected, and afterwards delivered to the executor or administrator, not exceeding three per centum, and said collector may be authorized and directed by the court to discharge, pendente lite, all or any of the duties of an administrator, including the payment of debts.

When powers to cease.

SEC. 307. WHEN POWERS TO CEASE.—On the granting of letters testamentary or of administration the power of any such collector shall cease, and it shall be his duty to deliver, on demand, all the property and money of the decedent in his hands, except as before excepted, to the person obtaining such letters, and the executor or administrator may be permitted to prosecute any suit commenced by said collector as if the same had been begun by said executor or administrator.

Refusal to deliver property.

SEC. 308. If the said collector shall neglect or refuse to deliver over the property and estate to the executor or administrator, the court may, by citation and attachment, compel him to do so, and the executor or administrator may also proceed, by civil action, to recover the value of the assets from him and his sureties by action on his bond. Such collector shall not be liable to an action by any creditor of the deceased.

SUBCHAPTER TWO.

Inventory.

INVENTORY.

Inventory to be made.

SEC. 309. INVENTORY TO BE MADE.—Every executor, administrator, or collector shall, within three months after his appointment, or such longer time as the court may allow, make and return, upon oath, into court a true inventory of all the goods, chattels, moneys, and credits

of the deceased which are by law to be administered and which shall have come to his possession or knowledge; and if the court shall think fit it may also order him to include in the inventory all the real estate of the deceased: *Provided*, That this section shall not apply to the cases provided for in sections two hundred and sixty-four and two hundred and seventy-five of this code.

Proviso. Scope of section limited.

SEC. 310. APPRAISERS.—On the granting of letters testamentary or of administration, except in the aforesaid excepted cases, a warrant shall issue to two suitable persons not interested in the estate, to appraise the estate of the deceased, known to them or shown to them by the executor or administrator, and they shall severally take and subscribe an oath well and truly, without partiality or prejudice, to value the goods, chattels, and personal estate and real estate (if so directed) of the deceased, as far as the same shall come to their knowledge, to the best of their skill and judgment.

Appraisers.

—oath.

SEC. 311. On the death, refusal, or neglect of any appraiser to act another person may be appointed in his stead.

—refusal to act.

SEC. 312. NOTICE.—It shall be the duty of the executor, administrator, or collector and of the appraisers to give notice to the persons immediately interested in the administration, or at least two of them, if they are numerous, of the time and place of making said appraisement, and thereupon they shall proceed at said time and place to value said property and estate, setting down each article or item separately, with the value thereof, in dollars and cents, and when such appraisement shall have been completed they shall certify the same under their hands and seals, and the same shall be returned with the inventory.

Notice.

SEC. 313. CONTENTS OF INVENTORY.—The inventory shall contain a particular statement of all bonds, mortgages, notes, and other securities for the payment of moneys belonging to the deceased, and of all other debts and accounts due him, which are known to the executor, administrator, or collector, who shall designate those debts which he considers sperate and those which he considers desperate, and also an account of all moneys belonging to the deceased which shall come to his hands. And whenever, after an inventory has been returned, assets not therein included shall come to the knowledge of the executor, administrator, or collector an additional inventory and appraisement shall be promptly prepared and filed in the manner aforesaid.

Contents of inventory.

SEC. 314. EXCEPTIONS.—There shall be excepted from the inventory the wearing apparel of the deceased, family pictures, the family Bible, and schoolbooks used in the family, and provisions for the support of the family on hand at the time of decedent's death. But if said decedent shall have been the head of a family, or a householder, the property exempt under chapter twenty-seven, as therein stated, shall so continue exempt from all claims against said decedent, and shall be distributed by the court to such members of the family or household as in the judgment of the court the necessity and exigencies of the particular case may require.

Exceptions from inventory.

SEC. 315. COLLECTOR'S INVENTORY.—In case an inventory shall be returned by a collector, duly appointed, the executor or administrator thereafter administering shall, within three months after his appointment, either return a new inventory in place of the collector's inventory or an acknowledgment in writing that he has received from the collector the articles contained in the first inventory, and consents to be answerable for the same, as if said inventory had been made out by him as administrator, unless it shall appear that he has been prevented from making such return by the improper detention of the personal estate of the deceased by the collector.

Collector's inventory.

SEC. 316. EXECUTOR, AND SO FORTH, NEGLECTING.—If there be more than one executor or administrator, any one or more of them, on the neglect of the rest, may, if authorized by the court, return an inventory.

Executor, etc., neglecting.

SUBCHAPTER THREE.

Assets.

ASSETS.

What are assets.

SEC. 317. WHAT ARE ASSETS.—Leases for years, estates for the life of another person or other persons, and all goods, wares, merchandise, utensils, furniture, things annexed to the freehold which may be removed without prejudice thereto, the growing crop on the land of the deceased, and every other species of personal property, not including the clothing of the widow and minor children of the deceased and personal ornaments suitable to their station, shall be included in the inventory, and, together with the proceeds of any real estate sold for the payment of debts, shall be considered assets to be administered by an executor or administrator.

Debtor appointed executor. —discharge of debt in will, construction of, as against creditors.

SEC. 318. DEBTOR APPOINTED EXECUTOR.—The discharge or bequest, in a will, of any debt or demand of a testator against any executor named in a will, or against any other person, shall not be valid as against the creditors of the deceased, but shall be construed only as a specific bequest of such debt or demand, and the amount thereof shall be included in the inventory of the effects of the deceased and be assets for the payment of his debts, if necessary for that purpose, and, if not so necessary, shall be paid in the same manner and proportion as other specific legacies.

—naming of persons as executor not to discharge testator's claim, etc.

SEC. 319. The naming of any person as executor in a will shall not operate as a discharge or bequest of any just claim which the testator had against such executor; but such claim shall be included among the credits and effects of the deceased in the inventory, and the executor shall be liable for the same, as for so much money in his hands, at the time such debt or demand becomes due; and he shall apply and distribute the same, in the payment of debts and legacies and among the next of kin, as part of the personal estate of the deceased.

—executor's failure to give in such claim.

SEC. 320. On the failure of the executor to give in such claim in the list of debts due the deceased, any person interested in the administration may allege the same by petition to said probate court, and the said court, with consent of the parties, may decide on the same, or it may be referred by the parties, with the court's approval; or at the instance of either party the court may direct an issue to be tried by a jury; and if said claim shall in any of such proceedings be decided to be a just claim of the decedent against the executor, said executor shall be charged with the amount thereof as aforesaid.

Debt due by administrator.

SEC. 321. DEBT DUE BY ADMINISTRATOR.—In like manner it shall be the duty of every administrator to give in a claim against himself, and on his giving it, or failure so to do, there shall be the same proceeding as above described with regard to an executor.

SUBCHAPTER FOUR.

Sales.

SALES.

Sales of personal estate.

SEC. 322. SALES OF PERSONAL ESTATE.—In case any executor or administrator shall not have money sufficient to discharge the just debts of and claims against the decedent, the probate court shall, on his application, made after the return of an inventory, direct a sale of the personal property therein contained, or of such part as the court may think proper, and in such manner and on such terms as the court may direct. The court shall have power to direct a sale as aforesaid, if deemed by the court advantageous to the persons interested in the administration, on the application of any of the said persons.

Order for sale.

SEC. 323. ORDER FOR SALE.—No executor or administrator shall sell any property of his decedent without an order of the probate court

authorizing such sale; and any such sale made without a previous order authorizing it shall be void and pass no title to the purchaser. If any executor or administrator shall sell, pledge, or dispose of any property without such previous order, his letters may be revoked and an administrator appointed, whose duty it shall be immediately to recover possession of said property, and such removed executor or administrator may be proceeded against by attachment; but where there are two or more executors or administrators, and a sale, pledge, or disposition of property has been made without the consent of all, the revocation shall only extend to the person or persons so offending, and the remaining executors or administrators shall have power to discharge the duties of their office and institute proceedings for the recovery of the property and attachment as aforesaid.

—scope of section limited.

SEC. 324. The preceding section shall not be construed to apply to any case where an executor shall be authorized by will of his testator to make sale of any property.

Power of sale to executor.

SEC. 325. POWER OF SALE TO EXECUTOR.—In all cases in which a testator has directed his real estate to be sold for the payment of his debts or legacies, the executor may sell and convey the same, and shall account for the proceeds thereof to the probate court in the same manner that he is bound to account for the proceeds of personal estate; but such sale shall not be valid unless ratified by said court after notice given by publication according to the practice in equity. In case the executor shall refuse or decline to act, or shall die without executing the power vested in him, it shall be lawful for the court, on the application of any person interested, to appoint an administrator de bonis non with the will annexed to execute such power in the same manner in which the executor appointed by the will might have done.

—refusal to act.

Survivor of several trustees may act.

SEC. 326. SURVIVOR OF SEVERAL TRUSTEES.—In all cases where two or more trustees shall be appointed by last will to execute a trust, or shall be empowered to sell, dispose of, or convey lands or other property devised to them jointly, upon the death of any one or more of them the survivor or survivors shall be held authorized to execute such trust or power; and if any one of such trustees shall in writing, signed by him and attested by a witness, relinquish or disclaim said trust or refuse to act under said will, and shall deliver such writing to the probate court of the District for record, the right of such trustee to act shall cease, and the remaining trustee or trustees appointed by said will shall be authorized to execute the trusts of said will and make all sales and execute all conveyances and other acts necessary for that purpose.

SUBCHAPTER FIVE.

SUITS.

Suits.

Suits by and against executors, etc.

SEC. 327. SUITS BY AND AGAINST EXECUTORS, AND SO FORTH.—Executors and administrators shall have full power and authority to commence and prosecute any personal action at law or in equity which the testator or intestate might have commenced and prosecuted, except actions for slander and for injuries to the person; and they shall also be liable to be sued in the supreme court of said District in any action at law or in equity, except as aforesaid, which might have been maintained against the deceased; and they shall be entitled to or answerable for costs in the same manner as the deceased would have been, and shall be allowed for the same in their accounts, unless it shall appear that there were not probable grounds for instituting or defending the suits in which judgments or decrees shall have been given against them.

—costs.

Judgments against executors, etc.

SEC. 328. JUDGMENTS AGAINST EXECUTORS, AND SO FORTH.—If the verdict of the jury in any suit against an executor or administrator be against such executor or administrator, or if he shall be willing to confess judgment, and the debt or damages which the deceased (if he or she were alive) ought to pay be ascertained by verdict, or confession, or otherwise, the court shall thereupon assess the sum which the executor or administrator ought to pay, regard being had to the amount of assets in his hands and the debts due to other persons; and if it shall appear to the court that there are assets to discharge all just claims against the deceased, the judgment shall be for the whole debt or damages found by the jury, or confessed, or otherwise ascertained, and

—insufficient assets, etc.

costs; and if it shall appear to the court that there are not assets to discharge all such just claims, the judgment shall be for such sum only as bears a just proportion to the amount of the debt or damages and costs, regard being had to the amount of all the just claims and of the assets—that is to say, as the amount of all the said claims shall be to the assets, so shall the amount of the said debt or damages and costs be to the sum required, for which judgment is to be given.

Judgment not to be passed until time for filing account has expired.

And in no case shall the court proceed to assess as aforesaid and to pass such judgment against an executor or administrator until the time limited by law or by the court for the executor or administrator to pass his account shall have expired: *Provided*,

Proviso. Executor's oath of insufficient assets, etc.

That the said executor or administrator shall make oath (or affirmation, as the case may require) that he hath not assets to discharge all such just claims; and the account settled by the probate court, in which the debt or damages sued for ought to be stated, shall be evidence to show the amount of assets and claims; and the court shall have power, when the real debt or damages are ascertained, to refer the matter to an auditor to ascertain the sum for which judgment shall be given; and in case the judgment shall be for a sum inferior to the real debt or damage and costs, it shall go on and say "that the plaintiff be entitled to such further sum as the court shall hereafter assess on discovery of further assets in the hands of the defendant;" and the court, at any time afterwards, when applied to by the plaintiff, on three days' notice to the defendant or his attorney, may assess and give judgment for such further proportionable sum as the plaintiff shall appear entitled to, regard being had as aforesaid to the amount of the debt and other claims; and on any judgment passed as aforesaid a fieri facias may issue against the defendant, and either his own goods or the goods of the deceased may be thereupon taken and sold, and it shall be the duty of the executor or administrator to discharge said judgment or put it on a footing with other just claims, and on failure his administration bond may be put in suit by the plaintiff.

Foreign executors, etc., may act in the District.

SEC. 329. FOREIGN EXECUTORS AND ADMINISTRATORS.—It shall be lawful for any person or persons to whom letters testamentary or of administration have been granted by the proper authority in any of the United States or the Territories thereof to maintain any suit or action and to prosecute and recover any claim in the District in the same manner as if the letters testamentary or of administration had been granted to such person or persons by the proper authority in the said District; and the letters testamentary or of administration, or a copy thereof certified under the seal of the authority granting the same, shall be sufficient evidence to prove the granting thereof, and that the person or persons, as the case may be, hath or have administration: *Provided, nevertheless*,

Proviso. —bond of, etc.

That the probate court of the District shall have the power, upon the petition of anyone interested, to require from such person or persons the security required by law in like cases from a resident administrator or executor, or the said court may grant auxiliary or ancillary letters, as the case may require, to the same or other persons.

SUBCHAPTER SIX.

DEBTS.

Debts.

SEC. 330. DEBTS TO BE PROVED.—No executor or administrator shall discharge any claim against his decedent (otherwise than at his own risk) unless the same be first passed by the probate court, or unless the said claim shall be proved according to the following rules: Rules for proving.

SEC. 331. VOUCHERS.—The voucher or proof of a judgment or decree shall be a short copy thereof under seal, attested by the clerk of the court where it was obtained, who shall certify that the said judgment or decree hath not been satisfied. There shall likewise be a certificate of some person authorized to administer an oath, indorsed on or annexed to a statement of the debt due on such judgment or decree, that the creditor or his agent since the death of the deceased hath taken before him the following oath, to wit: "That the creditor hath not received any part of the sum for which the judgment or decree was passed except such part (if any) as is credited;" and if the creditor on the judgment or decree be an assignee of the person who obtained it, the oath shall go on and say further, "and that to the best of his knowledge or belief no other person hath received any parcel of the said sum except such part (if any) as is credited," and an assignee shall also produce the assignment under the hand of the assignor; and if there be more than one assignment, each assignment shall be produced under the hand of the party assigning. Voucher of judgment of decree.

SEC. 332. In case of a specialty, bond, note, check, or protested bill of exchange, the vouchers shall be the instrument of writing itself, or a proved copy in case it be lost, with a certificate of the oath made as aforesaid since the death and indorsed on or annexed to the instrument, or a statement of the claim "that no part of the money intended to be secured by such instrument hath been received or any security or satisfaction given for the same except what (if any) is credited." Voucher of bond, note, etc.

SEC. 333. If the creditor in such instrument be an assignee, there shall be the same oath of the creditor or agent, according to the best of his knowledge and belief, with respect to any payments prior to the time of the assignment. —where creditor an assignee.

SEC. 334. In case of a bill of exchange or other commercial paper, the protest or other things which would be required (if the deceased were alive) shall be necessary to justify an executor or administrator in making payment or distribution. Voucher of bill of exchange, etc.

SEC. 335. If the claim be for rent, there shall be produced the lease itself, or the deposition of some credible witness or witnesses, or an acknowledgment in writing of the deceased, establishing the contract and the time which hath elapsed during which rent was chargeable, and a statement of the sum due for such rent, with an oath of the creditor or agent indorsed thereon "that no part of the sum due for said rent or any security or satisfaction for the same hath been received except what (if any) is credited." —claim for rent.

The proof of a claim for rent in arrear, so as to render the same a preferred claim, shall be the proofs and vouchers for rent aforesaid, and proof that the claim is such that an attachment therefor might be levied on said deceased's goods and chattels in the hands of the administrator, but the preference given for rent is not to impair the landlord's right of attachment if he thinks proper to exercise it. —proof of.

SEC. 336. The vouchers or proofs of any claim on open account shall be a certificate of an oath taken by the creditor or agent since the death, indorsed on or annexed to the account, that the account as stated is just and true, and that he, the creditor, or any one for him, hath not received any part of the money stated to be due or any security or satisfaction for the same except what (if any) is credited. —vouchers or open account.

Deposition to prove claims taken out of the District.

SEC. 337. When an affidavit or deposition to prove claims shall have been taken out of the District, the same shall be good if taken and certified as aforesaid by a notary public, or by some person there authorized to administer an oath, and certified to be such under the seal of the clerk of any court of record, or by any officer having official cognizance of the fact, and the said oath shall be as available as if taken before an officer authorized to administer an oath within this District.

Where creditor an executor, etc.

SEC. 338. If the creditor be an executor or an administrator the claim shall not be received, although vouched and approved as aforesaid, unless he make oath, to be certified as aforesaid, "that it does not appear from any book or writing of his decedent that any part of the said claim hath been discharged except what (if any) is credited, and that to the best of the deponent's knowledge and belief no part of the said claim hath been discharged and no security or satisfaction given for the same except what (if any) is credited."

Claims of executors, etc.

SEC. 339. CLAIMS OF EXECUTORS, AND SO FORTH.—In no case shall an executor or administrator be allowed to retain for his own claim against the decedent, unless the same be passed by the probate court, and every such claim shall stand on an equal footing with other claims of the same nature.

—no allowance in accounts of, except on proof, etc.

SEC. 340. No executor or administrator shall be allowed in his account for any claim discharged by him, unless he produce the claim passed by the probate court, or proven as herein directed.

Plea of limitations.

SEC. 341. PLEA OF LIMITATIONS.—It shall not be considered as the duty of an executor or administrator to avail himself of the act of limitations to bar what he supposes to be a just claim, but the same shall be left to his honesty and discretion.

Claims may be disputed.

SEC. 342. CLAIMS MAY BE DISPUTED.—No executor or administrator shall be obliged to discharge any claim of which vouchers and proofs shall be exhibited as aforesaid, but may reject and at law dispute the same in case he shall have reason to believe that the deceased never owed the debt, or had discharged the same, or a part thereof, or had a claim in bar.

Passing of claims not conclusive.

SEC. 343. PASSING OF CLAIMS NOT CONCLUSIVE.—In no case shall the order made by the probate court that an account or claim will pass when paid be deemed of validity to establish such claim or account; but in case the executor or administrator thinks fit to contest the same such account or claim shall derive no validity from the order aforesaid, but shall be proved in the same manner as if no such order had been made.

Payment of claims.

SEC. 344. PAYMENT OF CLAIMS.—An executor or administrator shall, within thirteen months from the date of his letters, or within such further time, not exceeding four months longer, as shall be allowed by the probate court on his making oath that he has reason to apprehend that the personal estate and assets which are or shall be in his hands will be insufficient to discharge the just debts of and claims against the deceased, discharge all such claims known to him or pay each claimant his just proportion of the money then in his hands (retaining as herein directed); it shall likewise be his duty once in every term of six months after the first distribution to make a distribution of the money which hath since come to his hands until he shall have fully administered, and on failure his administration bond may be put in suit.

Notice of time and place of distribution.

SEC. 345. NOTICE OF DISTRIBUTION.—In all cases where an executor or administrator is to make payment or distribution among the creditors of his decedent, he may give notice three successive weeks previously in some convenient newspaper of the time and place for making it; and in case the creditor shall not attend in person or by agent or attorney to receive the amount or proportionable part of his claim, all

—failure of creditor to attend.

interest on such claim or proportionable part shall cease from that time: *Provided*, That the executor or administrator shall at any time thereafter on demand pay the said claims, or a proportionable part, to the party, his agent, or attorney duly authorized; and whenever the executor or administrator shall proceed to make an additional payment or dividend he may advertise as aforesaid, and interest shall stop as aforesaid; and if at the time for the making of any additional dividend a just claim, established as hereinbefore directed, shall be exhibited, the creditor shall be entitled to such sum as will place him on an equal footing with those who have already received a dividend.

Proviso. —subsequent payment to.

Additional dividends, etc.

SEC. 346. RETAINING FOR CLAIMS.—It shall be the duty of an executor or administrator to pay all just claims against his decedent exhibited to him, or a just proportionable part thereof, according to the assets; and if any claim be known to him (although the same be not exhibited) he shall retain the same, or a just proportionable part, for the benefit of the creditor: *Provided*, That if any executor or administrator shall have actual knowledge of a claim which has not been exhibited or passed he shall give notice in writing to the creditor, requiring the claim to be either exhibited or passed, as herein provided, within thirty days if such creditor be a resident and within ninety days if he be a nonresident of said District, and after the expiration of such period, and after the expiration of the period for distribution provided by section three hundred and forty-four hereof, the executor or administrator shall not be required to retain any part of the estate for the benefit of such creditor, unless in the meantime such claim shall have been so exhibited or passed.

Retaining for claim not exhibited.

Proviso. —notice to creditor.

SEC. 347. And if any action shall be commenced against an executor or administrator for the recovery of a larger debt or damages than he shall think due, so that the same can not be ascertained before verdict, the executor or administrator shall be allowed to retain such sum to meet the said debt or damages as the probate court shall allow, and if more than enough be allowed, the party shall afterwards account for it, but nothing shall be retained on account of such further debt or damages where the court shall be satisfied that there will be money sufficient coming in after such dividend to meet the said damages, or a just proportion thereof, regard being had to other claims.

Retaining for judgment larger than executor thinks due.

SEC. 348. If a claim be exhibited against an executor or administrator which he shall think it his duty to dispute or reject, he may retain in his hands assets proportioned to the amount of the claim, which assets shall be liable to other claims, or to be delivered up or distributed in case the claim be not established; and if on any claims exhibited and disputed as aforesaid the creditor or claimant shall not, within nine months after such dispute or rejection, commence a suit for recovery the creditor shall be forever barred; and the executor or administrator may plead this section in bar, together with the general issue or other plea proper to bring the merits of the cause to trial; and on any dividend to be made nine months after such dispute or rejection and failure to bring suit the executor or administrator may proceed to pay or distribute as if he had not knowledge or notice of such claim or as if it did not exist; but if the claim be put in suit within the nine months it may be ascertained by verdict or otherwise, and the court shall proceed as herein directed, regard being had to the rules herein laid down as to the notice to be given by the executor or administrator and distribution or payment be made after such notice.

—for claims which he thinks disputable, etc.

SEC. 349. CLAIMS MADE AFTER DISTRIBUTION.—In case all the assets have been paid away, delivered, or distributed as herein directed, and a claim shall afterwards be exhibited of which the executor or administrator hath not knowledge or notice by the exhibition of the claim legally authenticated, as herein required, he shall not be answerable for the same; and if he be sued for any claim and shall make it appear

Claims made after distribution.

Executor not answerable, etc.

to the court in which suit is brought that he hath so paid away, delivered, or distributed, and the plaintiff can not prove that the defendant had notice as aforesaid before such payment, delivery, or distribution, the court shall not proceed to give judgment (although the amount of the claim against the deceased may be ascertained) until the plaintiff shall be able to show further assets coming into the defendant's hands, but if the plaintiff shall prove notice, as aforesaid, of the said claim against the defendant, judgment may be immediately given for such sum as the plaintiff ought to have received at the dividend, and fieri facias may issue and have effect, and further judgment may be given on coming in of further assets.

Notice to creditors to file claims.

SEC. 350. NOTICE TO CREDITORS TO FILE CLAIMS.—No executor or administrator who shall, after the lapse of one year after the date of his letters, have paid away assets to the discharge of just claims shall be answerable for any claim of which he had no knowledge or notice by an exhibition of the claim legally authenticated: *Provided*, That at least six months before he shall make distribution he shall have caused to be inserted in so many newspapers as the probate court may direct an advertisement as follows, or fully to the following effect, namely: "This is to give notice that the subscriber, of ....., hath obtained from the probate court of the District of Columbia letters testamentary (or of administration) on the personal estate of ....., late of ..... deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the..... day of ..... next; they may otherwise by law be excluded from all benefit of said estate.

"Given under my hand this ..... day of ...."

—report and proof of notice.

SEC. 351. REPORT AND PROOF OF NOTICE.—The executor or administrator may report to the court, with an affidavit of the proof thereof annexed, the fact of having given such notice, and the court, on being satisfied that their order has been complied with and the said notice has been given, shall indorse on said report their certificate that it has been proven to their satisfaction that said notice hath been given as therein reported, and shall order said report and certificate to be recorded among the records of the court.

—weight of, as evidence.

SEC. 352. The said report and certificates shall be prima facie evidence, in all cases whatever, of the giving of such notice as therein stated.

—of copy.

SEC. 353. A copy of said report, certificate, and order, under the seal of the register of wills, shall be legal and competent evidence.

Docket of claims.

SEC. 354. DOCKET OF CLAIMS.—The register of wills shall enter in a suitable book, to be provided by him for that purpose, all claims against a decedent as they are regularly passed by the probate court, giving the date of the passage, the name of the creditor, the character of such claim, whether on note or open account, bond, bill, obligation, judgment, or other evidence of debt, and the amount thereof, and the entry of a claim upon such docket shall be taken as notice to the executor or administrator of its existence.

—entry to be notice to executor.

—not evidence of justice of debt, etc.

SEC. 355. The claim thus entered shall not afford any evidence as to the justice or correctness of any debt therein entered whenever the same shall be controverted by an executor or administrator in any suit instituted for the recovery of such debt; nor shall the same be construed to take any debt out of the operation of a plea of limitations.

Priorities.

SEC. 356. PRIORITIES.—In paying the debts of a decedent, after the payment of funeral expenses according to the condition and circumstances of the deceased, not exceeding six hundred dollars, an executor or administrator shall observe the following rules: Claims for rent in arrear against deceased persons, for which an attachment might be levied by law, shall have preference. Judgments and decrees of courts

in the District of Columbia shall next be wholly discharged. After such claims for rent, judgments, and decrees shall be satisfied, all other just claims shall be on an equal footing without priority or preference. If there be not sufficient to discharge all such judgments and decrees, a proportionate dividend shall be made between the judgment and decree creditors.

No claims to be noticed unless legally authenticated.

SEC. 357. NO CLAIMS TO BE NOTICED UNLESS LEGALLY AUTHENTICATED.—No executor or administrator shall be bound to discharge any claim against his decedent unless the same shall be exhibited to him, legally authenticated, or unless such claim shall have been passed by the probate court and entered by the register of wills upon his docket.

Meeting of creditors.

SEC. 358. MEETING OF CREDITORS.—Any executor or administrator shall be entitled to appoint a meeting of creditors on some day by the court approved, and passage of claims, payment, or distribution may be there made under the court's direction and control.

Distribution of residue.

SEC. 359. DISTRIBUTION OF RESIDUE.—Whenever it shall appear by the first or other account of an executor or administrator that all the claims against, or debts of, the decedent which have been known by or notified to him have been discharged or allowed for in his account, it shall be his duty to deliver up and distribute the surplus or residue of the personal estate not disposed of by any will, as hereinafter directed: *Provided*, That his power and duty with respect to future assets shall not cease; and after such delivery he shall not be liable for any debts afterwards notified to him, provided he shall have advertised as hereinbefore directed, unless assets shall afterwards come into his hands which shall be answerable for such debts.

Proviso.
Executor's powers as to future assets to continue, etc.

Suits on bonds against heirs.

SEC. 360. SUITS ON BONDS AGAINST HEIRS.—No creditor by a bond which purports to bind the heirs of the obligor shall be entitled to sue the heirs at common law in respect of assets descended to them, but debts by specialty and by simple contract, without distinction, shall be payable primarily out of the personal estate, and, if that be insufficient, shall be payable equally and without preference out of the proceeds of the real estate.

SUBCHAPTER SEVEN.

ACCOUNTS.

Accounts.

First account within twelve months.

SEC. 361. FIRST ACCOUNT WITHIN TWELVE MONTHS.—Every executor and administrator shall render to the probate court within the period of twelve months from the date of his letters the first account of his administration.

Subsequent accounts.

SEC. 362. SUBSEQUENT ACCOUNTS.—If the first account shall not show the estate which was on hand to be fully administered, another account shall be returned within six months thereafter, and within every term of six months thereafter an account shall be returned until the estate shall appear to be fully administered; and whenever a discovery or receipt of assets shall take place after rendering an account another account shall be rendered within six months thereafter; but an administrator shall not be obliged to render accounts when it appears to the court that the estate has been fully administered, except as to debts which the court shall deem desperate.

Failure to account.

SEC. 363. FAILURE TO ACCOUNT.—If an executor or administrator shall fail to return an account, as before directed, within the time limited by law, or within such further time as the probate court shall allow, not exceeding six months, his letters, on application of any person interested, may be revoked, and administration may be granted at the discretion of the court; and the administrator to whom letters may be granted shall be entitled to put the delinquent's bond in suit, and to recover such damages thereon as the jury may find; and in assessing

such damage the jury shall allow such sum as will be equal to six per centum per annum on the amount of the inventory or inventories from the time of the return or returns to the time of the verdict over and beyond the damages for such loss or injury as the estate may have sustained by the delinquent's conduct.

Assets to be charged.

SEC. 364. ASSETS TO BE CHARGED.—In such account shall be stated, on one side, the assets which have come to his hands, according to the inventory or inventories returned to the court or received and appraised as herein directed, after the inventory or inventories returned, and the sales made under the court's direction—that is to say, the inventory or inventories are to show the articles of the estate, and the sales the amount of their value, where they have been sold, and for articles so sold he shall be charged the price according to the return; and if any articles have been sold for credit and not yet paid for they shall be accounted for in a subsequent account, and all moneys received for debts due the decedent shall be included in said account.

Disbursements and allowances.

SEC. 365. DISBURSEMENTS AND ALLOWANCES.—On the other side shall be stated the disbursements by him made, namely: First. Funeral expenses, to be allowed at the discretion of the court, according to the condition and circumstances of the deceased, not exceeding six hundred dollars. Second. The debts of the deceased proved or passed as herein directed, and paid or retained. Third. The allowance for things lost, or which have perished without the party's fault, which allowance shall be according to the appraisement. Fourth. His commissions, which shall be at the discretion of the court, not under one per centum nor exceeding ten per centum on the amount of the inventory or inventories, excluding what is lost or perished. Fifth. His allowance for costs, attorneys' fees, and extraordinary expenses which the court may think proper to allow.

Bequests to executors.

SEC. 366. BEQUESTS TO EXECUTORS.—If anything be bequeathed to an executor by way of compensation, no allowance of commission shall be made unless the said compensation shall appear to the court to be insufficient; and if so, it shall be reckoned in the commission to be allowed by the court.

Return to court of list of debts.

SEC. 367. LIST OF DEBTS.—Every executor or administrator may within one year after the date of his letters, return to the probate court a list of the debts due from his decedent which may be made known to him, stating the principal and the time at which interest is to commence on each respective debt, to which list of debts shall be annexed the oath of the administrator that the same is a correct list of the debts due from his decedent so far as the said debts have come to his knowledge; and every six months thereafter until the estate may be finally settled a similar return may be made of such debts as shall come to the knowledge of the executor or administrator within that period, which list of debts shall be recorded by the register of wills, and a copy thereof, certified under the hand of the register of wills and the seal of his office, shall be prima facie evidence of the amount of debts due by the decedent in any court where the administrator alleges that he has not assets sufficient to discharge the claim in controversy or any part thereof.

—weight as evidence.

SEC. 368. Such lists shall not afford any evidence of the justice or correctness of any claim therein when controverted by the executor or administrator in any suit instituted for the recovery of such debt, nor shall the same be construed to take any debt out of the operation of any plea of limitation.

Court may decree investment of funds.

SEC. 369. INVESTMENT OF FUNDS—Whenever, under the provisions of a will, it shall be necessary for an executor or an administrator cum testamento annexo to retain in his hands the personal estate or any part thereof after all just claims are discharged, as where money or some other thing is directed to be paid at a distant period or upon a contin-

gency, the probate court shall have the power, on the application of such executor or administrator or of a party interested, to decree or give directions in relation thereto; and it shall be the duty of said executor or administrator to apply to the said probate court, and the said court shall have full power to decree or direct what part of the personal estate shall be retained or appropriated for the purpose and in what manner it shall be disposed of, and the legacy or benefit intended by the will shall be secured to the person to be entitled at a future period or contingency, and how the necessary part of the personal estate to be appropriated for the purpose shall be prevented from lying dead or being unproductive, and how it shall be applied, agreeably to the intent of the will or the construction of law, in case the contingency shall not take place.

Account of executor of deceased executor.

SEC. 370. EXECUTOR OF DECEASED EXECUTOR, AND SO FORTH.—The executor or administrator of a deceased executor or administrator who shall die before an account of his administration hath been rendered shall render an account showing the amount of the assets received and the payments made by his decedent, and the account shall, if found by the court to be correct, be admitted to record as other administration accounts.

—of deceased executrix, etc.

SEC. 371. ACCOUNTS OF DECEASED EXECUTRIX, AND SO FORTH.—The husband of an executrix or administratrix who shall die before a final account of her administration shall have been settled shall render such account, if required by the court, showing thereby the amount of money and property received and of payments and disbursements made by such executrix or administratrix, or that may have been received or paid by him, and not before accounted for with the court; and the account so rendered shall, if found by the court to be correct, be admitted to record as other administration accounts in cases where the executrix or administratrix rendered them in person; and in case of refusal of the husband to render such account, the court may proceed against him by attachment, and may commit him until he shall render such account.

Allowance to executor for lost property.

SEC. 372. LOST PROPERTY.—The probate court shall have power to make allowance to any executor, administrator, or collector for property of the decedent which hath perished or been lost without the fault of the party; and no profit shall be made and no loss sustained by an executor or administrator in the increase or decrease of the estate under his management; but he shall return an inventory and account for such increase, and may be allowed for such decrease on the settlement of the final or other account.

—decrease, etc., of estate.

SUBCHAPTER EIGHT.

DISTRIBUTION TO NEXT OF KIN AND LEGATEES.

Distribution of surplus to next of kin and legatees.

Parties entitled.

SEC. 373. PARTIES ENTITLED.—When the debts of an intestate, exhibited and proved or notified and not barred, shall have been discharged or settled, or allowed to be retained for as herein directed, the administrator shall proceed to make distribution of the surplus as follows:

—widow's share.

SEC. 374. If the intestate leave a widow and no child, parent, grandchild, brother, or sister, or the child of a brother or sister of the said intestate, the said widow shall be entitled to the whole.

SEC. 375. If there be a widow and a child or children, or a descendant or descendants from a child, the widow shall have one-third only.

SEC. 376. If there be a widow and no child or descendants of the intestate, but the said intestate shall leave a father or mother, or brother or sister, or child of a brother or sister, the widow shall have one-half.

—exclusive of widow's share.

SEC. 377. The surplus, exclusive of the widow's share, or the whole surplus (if there be no widow), shall go as follows:

SEC. 378. If there be children and no other descendants, the surplus shall be divided equally among them.

SEC. 379. If there be a child or children and a child or children of a deceased child, the child or children of such deceased child shall take such share as his, her, or their deceased parent would, if living, be entitled to, and every other descendant or descendants in existence at the death of the intestate shall stand in the place of his, her, or their deceased ancestor: *Provided*, That if any child or descendant shall have been advanced by the intestate, by settlement or portion, the same shall be reckoned in the surplus, and, if it be equal or superior to a share, such child or descendant shall be excluded, but the widow shall have no advantage by bringing such advancement into reckoning: *And provided further*, That, if any child or descendant shall have received from the intestate any real estate by way of advancement, which shall not be equalized under the provisions of section nine hundred and fifty-nine of this code, the value of any such advancement shall be treated as personality for the purposes of this section; but maintenance or education or money or realty, given without a view to a portion or settlement in life, shall not be deemed advancement; and in all cases those in equal degree claiming in the place of an ancestor shall take equal shares.

Provisos.
—advances to child, etc.

—maintenance not deemed advancement.

Order of distribution.

SEC. 380. If there be a father and no child or descendant, the father shall have the whole; and if there be a mother and no father, child, or descendant, the mother shall have the whole.

SEC. 381. If there be a brother or sister, or child or descendant of a brother or sister, and no child, descendant, or father or mother of the intestate, the said brother, sister, or child or descendant of a brother or sister shall have the whole.

SEC. 382. Every brother and sister of the intestate shall be entitled to an equal share, and the child or children, or descendants of a brother or sister of the intestate, shall stand in the place of their deceased parents, respectively.

SEC. 383. After children, descendants, father, mother, brothers, and sisters of the deceased and their descendants, all collateral relations in equal degree shall take, and no representation among such collaterals shall be allowed; and there shall be no distinction between the whole and half blood.

SEC. 384. If there be no collaterals, a grandfather may take, and if there be two grandfathers they shall take alike; and a grandmother, in case of the death of her husband, the grandfather, shall take as he might have done.

Death before distribution.

SEC. 385. If any person entitled to distribution shall die before the same shall be made, his or her share shall go to his or her representatives.

Posthumous children.

SEC. 386. Posthumous children of intestates shall take in the same manner as if they had been born before the decease of the intestate, but no other posthumous relation shall be considered as entitled to distribution in his or her own right.

Illegitimate children.

SEC. 387. The illegitimate child or children of any female and the issue of any such illegitimate child or children shall be capable to take from their mother, or from each other, or from the descendants of each other, in like manner as if born in lawful wedlock. When an illegitimate child or children shall die leaving no descendants, or brothers or sisters, or the descendants of such brothers or sisters, then and in that case the mother of such illegitimate child or children, if living, shall be entitled as next of kin, and if the mother be dead the next of kin of the mother shall take in like manner as if such illegitimate child or children had been born in lawful wedlock.

Escheat.

SEC. 388. If there be no widow or relations of the intestate within the fifth degree, which shall be reckoned by counting down from the common ancestor to the more remote, the whole surplus shall belong to the District of Columbia, to be disbursed by the Commissioners of the District for the benefit of the poor.

Distribution of specific property.

SEC. 389. DISTRIBUTION OF SPECIFIC PROPERTY.—In case the surplus remaining in the administrator's hands after payment of all just debts exhibited and proved or notified and not barred, or after retaining for the same, shall consist of specific property or articles mentioned in the inventory or inventories, the administrator, if he can not satisfy the parties, may apply to the court to make distribution, and the court may appoint a day for making distribution and by summons call on the said parties to appear; and the said court may, at the appointed time, proceed to distribute. But if a majority in point of value shall neglect to appear, or appearing shall object to the distribution of the articles, or if the court shall deem a sale of the said articles or any part of them more advantageous, a sale shall be directed accordingly, and the rules herein laid down relative to a sale by order of the said court shall be observed.

—by two disinterested persons.

SEC. 390. Whenever a distribution of specific articles is to be made the probate court may appoint two disinterested persons, not in any way related to the parties concerned, to make such distribution among the persons entitled as to them shall seem meet and proper; or if, in their opinion, upon a view of such articles, no distribution among the persons entitled could be by them made which would operate equally, but a sale thereof would be more advantageous to such persons, they shall return to the probate court their opinion in writing, and the court shall thereupon order a sale of such articles, upon reasonable notice, and cause the proceeds of such sale to be equally distributed among the parties entitled.

—sale.

Partial distribution.

SEC. 391. PARTIAL DISTRIBUTION.—When any person entitled, after payment of debts, shall be in want of subsistence or greatly straitened in his circumstances, and shall apply to the probate court by petition, and satisfy the court that he is in want of subsistence or greatly straitened in circumstances, and that it probably will not require more than one-half of the assets to discharge the debts, the court may direct the administrator to deliver to the petitioner any part of what the court shall suppose will be his distributive share, or any part of a legacy or bequest in money not exceeding one-third part, the said petitioner giving bond, with security approved by the court, to the administrator for returning the same or an equivalent, with interest, whenever so directed by the court; and the court shall have power to determine in a summary way on any such petition, after summons against such administrator duly returned "summoned" or "non est."

Specific bequests.

SEC. 392. SPECIFIC BEQUESTS.—And the court, in like manner, on any petition by a person in such circumstances to whom a specific legacy or bequest has been made, being satisfied that the assets, exclusive of all specific legacies, will not be nearly exhausted by debts, may direct the executor or administrator with the will annexed to deliver to the petitioner the said specific legacy or bequest on his giving bond as aforesaid.

Bequest to female.

SEC. 393. BEQUEST TO FEMALE.—Where a bequest of personal property or money is made to a female and directed by the will to be paid on her attaining to full, mature, or to a lawful age, such female shall be entitled to receive and demand such personal property or money on her arriving at the age of eighteen years or being married.

Meeting of legatees or next of kin.

SEC. 394. MEETING OF LEGATEES OR NEXT OF KIN.—Any administrator shall be entitled to appoint a meeting of persons entitled to distributive shares or legacies or a residue, on some day by the court approved, and payment or distribution may be there made under the court's direction and control.

CHAPTER SIX.

ADOPTION OF CHILDREN.

Adoption of children.

—petition.

SEC. 395. Jurisdiction is hereby conferred on any judge of the supreme court of the District of Columbia to hear and determine any petition that may be presented by a person or a husband and wife residing in the District of Columbia, praying the privilege of adopting any minor child as his or her or their own child, and making such minor child an heir at law. If the judge shall find, upon the hearing of such petition, that the petitioner is a proper person to have custody of such child, and that the parent or parents or guardian of such child have given their permission for such adoption, he shall enter an order upon the records of the court legalizing such adoption and making such child an heir at law of such petitioner, the same as if such child was born to such petitioner. If the child has no parent or guardian the judge shall appoint a guardian ad litem.

—order, etc.

CHAPTER SEVEN.

ALIENS.

Aliens.

Right to hold real estate.

SEC. 396. REAL ESTATE.—It shall be unlawful for any person not a citizen of the United States or who has not lawfully declared his intention to become such citizen, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire and own real estate, or any interest therein, in the District of Columbia, except such as may be acquired by inheritance: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold and dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they exist by force of any such treaties, shall continue to exist so long as such treaties are in force, and no longer, and shall not apply to the ownership of foreign legations or the ownership of residences by representatives of foreign governments or attaches thereof.

Proviso.
—where secured by treaty.

Corporations.

SEC. 397. CORPORATIONS.—No corporation or association of which more than twenty per centum of the stock is or may be owned by any person or persons, corporation or corporations, association or associations not citizens of the United States shall hereafter acquire or own any real estate hereafter acquired in the District of Columbia.

Forfeiture.

SEC. 398. FORFEITURE.—All property acquired or held or owned in violation of the provisions of this chapter shall be forfeited to the United States, and it shall be the duty of the United States attorney for the District to enforce every such forfeiture by bill in equity or other proper process. And in every such suit or proceeding that may be commenced to enforce the provisions of this chapter it shall be the duty of the court to determine the very right of the matter, without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the other parties concerned.

CHAPTER EIGHT.

AMENDMENTS.

Amendments.

Proceedings.

SEC. 399. PROCEEDINGS.—In all actions at law the court shall have power to order and allow amendments to be made in all proceedings whatsoever, so as to have the merits of the controversy fairly tried, before the jury retire to make up their verdict, in cases of jury trial,

and at any time before judgment is entered in cases of issues of law or fact tried by the court.

Continuance.

SEC. 400. CONTINUANCE.—No such amendment shall entitle either party, as of course, to a postponement of the trial or to a continuance of the case to the next term of the court; but the court shall allow a postponement or continuance in case the ends of justice require it, and upon such terms as the court shall deem proper. If such amendment is ordered and a postponement or continuance is allowed after the jury have been sworn the jury shall be discharged.

Costs.

SEC. 401. COSTS.—In all cases of amendment such costs shall be allowed the party against whom the amendment is made as the court may determine.

CHAPTER NINE.

APPRENTICES.

Apprentices.

By whom bound.

SEC. 402. BY WHOM BOUND.—A minor child may be bound as an apprentice by his guardian; or, if none, by his father; or, if neither father nor guardian, by his mother, with the consent, entered of record, of the probate court, or without such consent if the minor, being fourteen years of age, agree in writing to be so bound; or by the probate court as hereinafter provided.

Term.

SEC. 403. TERM.—The utmost term of any apprenticeship shall be until the apprentice attains the age of twenty-one if a boy, or eighteen years if a girl.

Contract.

SEC. 404. CONTRACT.—The writing by which such minor is bound as apprentice shall specify his age and what art, trade, or business he is to be taught. The master shall be bound to teach the same, and also to teach him reading, writing, and common arithmetic, and to supply him with suitable clothing and maintenance, and pay such amount, if any, as may be agreed upon for his services and expressed in the contract. The writing by which any minor is bound shall be filed in the office of the register of wills, and until it be so filed the master shall not be entitled to the services of said apprentice.

Complaints.

SEC. 405. COMPLAINTS.—The probate court, during the term of any apprenticeship, may hear complaint of the apprentice, indentured child, or anyone in his behalf, against the master or person to whom indentured, for undeserved or excessive correction, want of instruction, insufficient allowance of food, clothing, or lodging, or nonpayment of what was agreed to be paid; or the complaint of the master or person to whom indentured against the apprentice or indentured child for desertion or other misconduct; and, after reasonable notice of the complaint to the party against whom it is made, may determine the matter in a summary way and discharge either party from the contract of apprenticeship, or make such order as the case may require.

Removal of apprentice.

SEC. 406. REMOVAL OF APPRENTICE.—No master of an apprentice shall send or carry his apprentice out of the District, except in the case of mariners; and the said probate court, on being credibly informed that any master designs so to remove his apprentice, may require him to give bond conditioned against such removal, and on his refusal so to do may discharge the apprentice.

Assignments.

SEC. 407. ASSIGNMENTS.—The contract of apprenticeship, with the approbation of said court, may be assigned by the master, or, after his death, by his personal representatives, on such terms as the court may prescribe.

Concealment.

SEC. 408. CONCEALMENT.—If any person shall conceal, harbor, or facilitate the running away of an apprentice, he shall be liable to an action therefor by the master, either in the said supreme court or

before any justice of the peace, according to the amount of damages claimed.

Form of contract.

SEC. 409. FORM OF CONTRACT.—The form of the contract of apprenticeship shall be the following, or to the same effect:

This indenture witnesseth, that it is mutually agreed between ..... and ..... that ....., a minor, aged ..... years shall be taken and held as an apprentice for the term of ..... years, by the said .....; and the said ..... contracts and covenants with the said ..... to faithfully and carefully instruct the said ..... in all the handicraft of a ..... (And the said ..... further contracts and covenants that the said minor shall be allowed, as compensation for his services, at the rate of .....).

Witness our hands and seals this ..... day of .....

——— ———. [Seal.]

——— ———. [Seal.]

Acknowledged before me, a notary public (or justice of the peace), this ..... day of .....

A B, Notary Public.

To whom money to be paid.

SEC. 410. TO WHOM MONEY TO BE PAID.—The money which the master is to pay shall be paid to the father or other party contracting with the master, or to the minor, in whole or in part, as said probate court may direct.

Jurisdiction of probate court.

SEC. 411. JURISDICTION OF PROBATE COURT.—The probate court may bind out as an apprentice, or indenture to any proper person, any orphan child, any child abandoned by its parents or guardian, any child of habitually drunken, vicious, or unfit parents, when any such child as aforesaid shall not be in the care or custody of some person who is providing for its comfortable maintenance and education, and also any child habitually begging on the streets or from door to door, and any child kept in vicious or immoral associations. The terms of such apprenticeship or of such indenture shall be such in each case as the court may deem proper, having in view the future interests and welfare of the child.

CHAPTER TEN.

ARBITRATION AND AWARD.

Arbitration and award.

—in what cases.

SEC. 412. IN WHAT CASES.—By consent of the attorneys or solicitors on both sides, manifested by written stipulation, any common-law or admiralty or equity cause pending in the supreme court of the District of Columbia, except suits for divorce or nullity of marriage, or suits wherein the defendant to be affected by the result is an infant, idiot, or lunatic, may be referred for trial, upon the issues of law and fact therein involved, by an order of court, to some referee consented to by the parties or their counsel and named in the order.

Oath of referee.

SEC. 413. OATH OF REFEREE.—The referee, before proceeding to hear the cause, shall be sworn faithfully and fairly to try the issues and determine the questions referred to him, as the case may require, and to make a just and true award thereof.

—time for hearing.

He shall thereupon fix a time for the hearing of said cause and notify all parties thereof.

Powers of referee.

SEC. 414. POWERS.—He shall have power to administer oaths, to cause subpœnas and subpœnas duces tecum to be issued to witnesses and to compel their attendance by attachment, and to punish a witness by fine and imprisonment for contempt of court, for nonattendance, or refusal to be sworn, or to testify. He shall have the same power to adjourn from time to time, and to preserve order in the trial or hearing before him, and to punish any violation thereof, as a court in regular session.

Depositions.

SEC. 415. DEPOSITIONS.—In suits in equity the referee shall have power to take depositions in cases where they are now taken before an examiner in chancery, and in all suits shall receive and consider all depositions and other evidence in like manner as where the trial or hearing is by the court. He may allow amendments to process or pleadings, pass interlocutory orders, award costs, and hear and determine all questions arising in the cause, with like effect as if done by order of the court.

Award, when to be filed.

SEC. 416. AWARD, WHEN TO BE FILED.—Within sixty days after the reference is made, unless a longer time is agreed upon by both parties or allowed by the court, the referee shall file with the clerk a written award and give notice thereof to each party interested; otherwise either party may notify the adverse party, or his attorney or solicitor, that he elects to end the reference, and the cause shall proceed as if no reference had been made.

Form of award.

SEC. 417. FORM OF AWARD.—The final award of the referee shall state separately the facts found by him and his conclusions of law, and direct the judgment or decree to be entered thereupon, including a determination as to costs, and in common-law cases the finding as to the facts shall have the effect of a verdict of a jury.

Setting aside.

SEC. 418. SETTING ASIDE.—On motion filed within twenty days after notice of the filing of the award to the parties or their attorneys, the court may set aside his award because of corruption or misconduct of the referee, or because he exceeded his powers or so imperfectly executed them that a final award was not made, or may modify his award in case of an evident miscalculation of figures, or if it relates to matter not submitted, or is imperfect in form.

Judgment.

SEC. 419. JUDGMENT.—Judgment or decree, if no such motion is made, or it is overruled, or the award is only modified as aforesaid, shall thereupon be entered by the clerk as in the award directed, and shall stand as the judgment of the court.

Appeals in equity causes.

SEC. 420. APPEALS IN EQUITY CAUSES.—An appeal may be taken to the court of appeals from such final decree in equity causes in like manner as from decrees rendered by the court.

Exceptions.

SEC. 421. EXCEPTIONS.—Upon the trial of issues of fact in an action at law exceptions may be taken to the rulings of the referee upon the admissibility of evidence or upon questions of law arising during the hearing; and a refusal to make a finding upon a question of fact, upon sufficient evidence in law to sustain it, or making a finding of fact without sufficient evidence in law to sustain it, shall be deemed such a ruling upon a question of law.

—to be in writing, etc.

SEC. 422. Such exceptions must be taken at the time the rulings excepted to are made, and must be reduced to writing by the exceptant, or they may be noted on the minutes of the referee and afterwards stated in a bill of exceptions, which shall be settled in the same manner as where the trial is by a jury, as directed by the rules of court, the referee exercising the same power therein as the trial justice in case of a jury trial.

Appeals in common law cases.

SEC. 423. APPEALS IN COMMON-LAW CASES.—An appeal may be taken to the court of appeals from a final judgment in a common-law case, entered upon the award of the referee, in the same manner and with like effect as from a judgment rendered by the court on the verdict of a jury.

Record.

SEC. 424. RECORD.—The exceptions taken as aforesaid shall constitute a part of the record upon which an appeal from the judgment shall be heard. It shall not be necessary, however, to take exceptions to the conclusions of law appearing upon the face of the referee's award; but any error therein shall be considered on appeal as if presented in a formal bill of exceptions.

Failure of referee to act.

SEC. 425. FAILURE OF REFEREE TO ACT.—In case of the disability of the referee, or his failure or refusal to proceed with the reference,

or his misconduct, the court which passed the order of reference may rescind the same.

Fees.

SEC. 426. FEES.—The fees of the referee may be fixed by rule of court or agreement of the parties, and taxed as part of the costs of the cause.

Several referees.

SEC. 427. SEVERAL REFEREES.—The reference may be to more persons than one, provided they be an odd number of persons, in which case all must meet together and hear all the allegations and proofs of the parties; but a majority may determine all questions submitted to or arising before them.

Death of party.

SEC. 428. DEATH OF PARTY.—If the death of either party shall happen pending the trial or hearing of a cause before a referee, the reference shall be at an end. If such death shall occur after the cause is submitted to the referee for final judgment or decree, the referee shall return his award, and thereupon the representative of such decedent may appear, or be required by the adverse party to appear, as provided in chapter two, and the cause thereupon be proceeded with as if such death had not occurred.

Death of referee.

SEC. 429. DEATH OF REFEREE.—If any referee shall die before making his award, the court shall, upon the consent of the parties or their counsel, appoint a referee, who shall have the same power to act as if originally appointed by mutual consent of the parties.

Common-law references.

SEC. 430. COMMON-LAW REFERENCES.—Nothing herein contained shall prevent the court from referring a cause to an arbitrator, subject to the ratification of his award by the court, according to the course of the common law and the former practice of the court.

CHAPTER ELEVEN.

ASSIGNMENT OF CHOSES IN ACTION.

Assignment of choses in action.

Judgments.

SEC. 431. JUDGMENTS.—A judgment or money decree may be assigned in writing, and upon the assignment thereof being filed in the clerk's office the assignee may maintain an action or sue out a scire facias or execution on said judgment in his own name, as the original plaintiff might have done.

Bonds.

SEC. 432. BONDS.—Any bond or obligation under seal for the payment of money may be assigned under the name and seal of the obligee therein named, and the assignee may maintain an action thereon in his own name.

Nonnegotiable contracts.

SEC. 433. NONNEGOTIABLE CONTRACTS.—All nonnegotiable written agreements for the payment of money, including nonnegotiable bills of exchange and promissory notes, or for the delivery of personal property, all open accounts, debts, and demands of a liquidated character, except claims against the United States or the salaries of public officers, may be assigned in writing, so as to vest in the assignee a right to sue for the same in his own name.

General assignments.

SEC. 434. GENERAL ASSIGNMENTS.—In case of a general assignment which shall include choses in action, it shall not be necessary to execute a separate assignment of each chose in action, but the assignee shall be entitled, by virtue of the general assignment, to sue in his own name on the several choses in action included therein.

CHAPTER TWELVE.

ASSIGNMENT OF INSOLVENT DEBTORS.

Assignment of insolvent debtors.

Inventory.

SEC. 435. INVENTORY.—In all cases of voluntary assignments hereafter made in the District of Columbia for the benefit of creditors, the debtor shall annex to such assignment an inventory, under oath or affirmation, of his estate, real and personal, according to the best of

his knowledge, and also a list of his creditors, their respective residences and places of business, if known, and the amounts of their respective demands; but such inventory shall not be conclusive as to the amount of the debtor's estate, and such assignment shall vest in the assignee the title to any other property, except what is legally exempt, belonging to the debtor at the time of making the assignment and comprehended within the general terms of the same.

Assignee's residence, etc.; assignment to be acknowledged.

SEC. 436. The assignee in every such assignment shall be a resident of the District of Columbia, his assent shall appear in writing in, or at the end of, or indorsed on, the assignment, and the assignment shall be invalid unless duly acknowledged and recorded within five days after its execution in the land records of the said District. The trust created by such assignment shall be executed under the supervision and control of the supreme court of the District of Columbia.

Bond of assignee.

SEC. 437. BOND OF ASSIGNEE.—Immediately upon the filing of such assignment for record it shall be the duty of the assignee to execute and file in the clerk's office of the supreme court of the District his bond to the United States, in an amount and with security to be approved by the justice holding the equity court, conditioned for the faithful performance of his duties according to law, and said court may from time to time require said assignee, or any trustee appointed in his place, to give additional security whenever the interests of the creditors demand the same.

Removal, etc., of assignee and appointment of trustee by court.

SEC. 438. APPOINTMENT BY COURT.—If the assignee named in any such assignment shall fail or refuse to comply with any of the requirements aforesaid, the justice holding the equity court may, on the application of the assignor or any creditor interested in such assignment, remove said assignee and appoint a trustee in his place to execute the trusts created by said assignment, who shall give bond as the court may require. And said court shall have power to accept the resignation of any assignee or trustee, and in case of his resignation, death, or removal from the District to appoint a trustee in his place. The court shall also have power, for cause shown, on the application of any surety, creditor, or other person interested, to remove any assignee or trustee and appoint a trustee in his place, and to make and enforce all orders necessary to put the newly appointed trustee in possession of all property, moneys, books, papers, and other effects covered by the assignment. And in case of the death of any assignee or trustee the court may require his executor or administrator to settle the account of said assignee or trustee and to deliver over to his successor all property and other effects belonging to the trust, in default of which said successor may bring suit upon the bond of said deceased assignee or trustee.

Duties of assignee.

SEC. 439. DUTIES OF ASSIGNEE.—It shall be the duty of the assignee or trustee, after giving bond as aforesaid, to collect and take into his possession all the property and effects covered by the assignment, and to that end he may bring suit in his own name to recover debts due or property belonging to the assignor and embraced in the assignment. And the court may require the assignor to be examined under oath touching his said property, and may pass all orders necessary to prevent any fraudulent transfer of or change in the property of the assignor. The said assignee or trustee shall return inventories of the assets coming to his hands and, under the direction of the court, sell and dispose of the same, and his conveyance of any property of the assignor, real or personal, shall transfer the entire title of the assignor therein to any purchaser. When the assets have been converted into money the said assignee or trustee shall settle his accounts and make distribution among the creditors, under the direction of the court, according to the usual course of proceeding in equity in creditor's suits.

Preferences to be void.

SEC. 440. PREFERENCES TO BE VOID.—Every provision in any voluntary assignment hereafter made for the payment of one debt or liability in preference to another shall be void, and all debts and liabilities within the provisions of the assignment shall be paid pro rata from the assets: *Provided*, That nothing herein contained shall be held to affect the priority of liens and incumbrances created bona fide and existing before the execution of such assignment.

Proviso.
—liens, etc., existing before assignment unaffected.

Creditors to be equal.

SEC. 441. CREDITORS TO BE EQUAL.—Any proceeding instituted under this law by one or more creditors shall be deemed to be for the equal benefit of all creditors, but the court may make such allowance to the creditor or creditors instituting the same, out of the fund to be distributed, for expenses, including counsel fees, as may be just and equitable.

Fraudulent assignments.

SEC. 442. FRAUDULENT ASSIGNMENTS.—Nothing herein contained shall prevent any creditor otherwise entitled from attacking any assignment as made to hinder, delay, or defraud the creditors of the assignor, and whenever any such assignment shall appear to the court to have been made with such intent, the court may enjoin any proceeding thereunder, and upon finally decreeing the same to be void may appoint a trustee with power to take possession of all the effects of the debtor and may pass and enforce all orders necessary to put him in possession of the same, and said trustee shall qualify in the same manner and perform the same duties as the trustee provided for in the aforegoing sections.

Notices to creditors.

SEC. 443. NOTICES TO CREDITORS.—In all cases of assignment the court shall require the trustee or trustees, whether named in the assignment or appointed by the court, in pursuance of the sections aforesaid, to give notice as the court may think proper to all the creditors of the assignor to produce and prove their respective claims against the assignor before the auditor of the court, to the end that they may be fairly adjudicated and the said creditors may share equally the assets of the insolvent assignor, subject, however, to any legal priorities created by valid incumbrances antedating the assignment.

Exempt property not to be included.

SEC. 444. EXEMPT PROPERTY NOT TO BE INCLUDED.—No assignment for the benefit of creditors shall be construed to include or cover any property exempt from levy or sale on execution unless the exemption is expressly waived; and the court may direct the manner in which exempt property may be ascertained and set aside before any sale by the trustee or trustees.

CHAPTER THIRTEEN.

Attachments.

ATTACHMENTS.

Filing of affidavit in causes.

SEC. 445. CAUSES.—In any action at law in the supreme court of the District for the recovery of specific personal property, or a debt, or damages for the breach of a contract, expressed or implied, if the plaintiff, his agent or attorney, either at the commencement of the action or pending the same, shall file an affidavit, supported by the testimony of one or more witnesses, showing the grounds of his claim and setting forth that the plaintiff has a just right to recover what is claimed in his declaration, and where the action is to recover specific personal property stating the nature and, according to affiant's belief, the value of such property and the probable amount of damages to which the plaintiff is entitled for the detention thereof, and where the action is to recover a debt stating the amount thereof, and where the action is to recover damages for the breach of a contract setting out, specifically and in detail, the breach complained of and the actual damage resulting therefrom, and also stating either, first, that the defendant is a foreign corporation or is not a resident of the District, or has been absent therefrom for at least six months, and has estate or debts owing to said defendant in said District; or, second, that the defend-

—contents of.

ant evades the service of ordinary process by concealing himself or temporarily withdrawing himself from the District; or, third, that he has removed or is about to remove some or all of his property from the District, so as to defeat just demands against him; or, fourth, that he has assigned, conveyed, disposed of, or secreted, or is about to assign, convey, dispose of, or secrete his property with intent to hinder, delay, or defraud his creditors; or, fifth, that the defendant fraudulently contracted the debt or incurred the obligation respecting which the action is brought, the clerk shall issue a writ of attachment and garnishment, to be levied upon so much of the lands, tenements, goods, chattels, and credits of the defendant as may be necessary to satisfy the claim of the plaintiff: *Provided*, That the plaintiff shall first file in the clerk's office a bond, executed by himself or his agent, with security to be approved by the clerk, in twice the amount of his claim, conditioned to make good to the defendant all costs and damages which he may sustain by reason of the wrongful suing out of the attachment.

—issue of writ.

Proviso.
—plaintiff to file bond

SEC. 446. SERVICE.—Every such writ shall require the marshal to serve a notice on the defendant, if he be found in the District, and on any person in whose possession any property or credits of the defendant may be attached, to appear in said court on or before the twentieth day, exclusive of Sundays and legal holidays, after service of such notice, and show cause, if any there be, why the property so attached should not be condemned and execution thereof had; and the marshal's return shall show the fact of such service. If the defendant is returned "Not to be found," such notice shall be given by publication to the following effect, namely:

Service of notice.

Notice by publication.

In the supreme court of the District of Columbia.

A B, plaintiff,
versus
C D, defendant. } At law. Numbered —.

The object of this suit is to recover (here state it briefly) and to have judgment of condemnation of certain property of the defendant levied on under an attachment issued in this suit to satisfy the plaintiff's claim.

It is, therefore, this .... day of ....., ordered that the defendant appear in this court on or before the fortieth day, exclusive of Sundays and legal holidays, after the day of the first publication of this order, to defend this suit and show cause why said condemnation should not be had; otherwise the suit will be proceeded with as in case of default.

By the court:

——— ———, Justice.

And every such order shall be published at least once a week for three successive weeks or oftener, or for such further time and in such manner as may be ordered by the court.

SEC. 447. INTERROGATORIES.—In all cases of attachment the plaintiff may exhibit interrogatories in writing in such form as may be allowed by the rules or special order of the court, to be served on any garnishee, concerning any property of the defendant in his possession or charge, or any indebtedness of his to the defendant at the time of the service of the attachment, or between the time of such service and the filing of his answers to said interrogatories; and the garnishee shall file his answers under oath to such interrogatories within ten days after service of the same upon him. In addition to the answers to written interrogatories required of him, the garnishee may, on motion, be required to appear in court and be examined orally under oath touching any property or credits of the defendant in his hands.

Interrogatories.

SEC. 448. ADDITIONAL ATTACHMENTS.—Upon the application of the plaintiff, his agent, or attorney, other attachments founded on the original affidavits may be issued from time to time, to be directed, executed, and returned in the same manner as the original, and with-

Additional attachments.

out further publication, against a nonresident or absent defendant, and without additional bond, unless required by the court.

Sufficiency of bond.

SEC. 449. SUFFICIENCY OF BOND.—In case the defendant or any other person interested in the proceedings is not satisfied with the sufficiency of the surety or sureties or with the amount of the penalty named in the bond aforesaid, he may apply to the court for an order requiring the plaintiff to give an additional bond in such sum and with such security as may be approved by the court; and in case of the plaintiff's failure to comply with any such order the court may order the attachment to be quashed and any property attached or its proceeds to be returned to the defendant or otherwise disposed of, as to the court may seem proper.

Action for debts not due.

SEC. 450. DEBTS NOT DUE.—A creditor may maintain an action and have an attachment against his debtor's property and credits, as aforesaid, where his debt is not yet due and payable, provided the plaintiff, his agent, or attorney shall file in the clerk's office, at the commencement of the action, an affidavit, supported by the testimony of one or more witnesses, as to the amount and justice of the claim and the time when it will be payable, and also setting forth that the defendant has removed or is removing or intends to remove a material part of his property from the District with the intent or to the effect of defeating just claims against him should only the ordinary process of law be used to obtain judgment against him, and shall also comply with the condition as to filing a bond prescribed by section four hundred and forty-five aforesaid. The plaintiff in such case shall not have judgment before his claim becomes due; and in case the attachment is quashed the action shall be dismissed, but without prejudice to a future action.

—filing, etc., of affidavit.

Traversing affidavits.

SEC. 451. TRAVERSING AFFIDAVITS.—If the defendant in any case shall file affidavits traversing the affidavits filed by the plaintiff the court shall determine whether the facts set forth in the plaintiff's affidavits as ground for issuing the attachment are true, and whether there was just ground for issuing the attachment; and if, in the opinion of the court, the proofs do not sustain the affidavit of the plaintiff, his agent, or attorney the court shall quash the writ of attachment; and this issue may be tried by the court or a judge at chambers after three days notice. The said issue may be tried as well upon oral testimony as upon affidavits, and, if the the court shall deem it expedient, a jury may be impaneled to try the issue.

On what levied.

SEC. 452. ON WHAT LEVIED.—The attachment may be levied on the lands and tenements, whether leasehold or freehold, and personal chattels of the defendant not exempt by law, whether in the defendant's or a third person's possession, and whether said defendant's title to said property be legal or equitable, and upon his credits in the hands of a third person, whether due and payable or not, and upon his undivided interest in a partnership business. Every attachment shall be a lien on the property attached from the date of its delivery to the marshal, and if different persons obtain attachments against the same defendant the priorities of the liens of said attachments shall be according to the dates when they were so delivered to the marshal.

How levied on lands.

SEC. 453. HOW LEVIED.—The attachment shall be sufficiently levied on the lands and tenements of the defendant by said property being mentioned and described in an indorsement on said attachment, made by the officer to whom it is delivered for service, to the following effect, namely:

Levied on the following estate of the defendant, A B, to wit: (Here describe) this.....day of.....

C D, Marshal.

And by service of a copy of said attachment, with said indorsement, and the notice required by section four hundred and forty-six aforesaid on the person, if any, in possession of said property.

SEC. 454. The attachment shall be levied upon personal chattels by the officer taking the same into his possession and custody, unless the defendant shall give to the officer his undertaking, to be filed in the cause, with sufficient security, to the following effect, namely:

—on personal chattels.
—unless defendant shall give bond.
—form of.

A B, plaintiff,
versus
C D, defendant.
} At law. Numbered —.

The defendant and....., his surety, in consideration of the discharge from the custody of the marshal of the property seized by him, upon the attachment sued out against the defendant, on the....day of....., anno Domini nineteen hundred....., in the above entitled cause, appear, and submitting to the jurisdiction of the court, hereby undertake, for themselves and each of them, their and each of their heirs, executors, and administrators, to abide by and perform the judgment of the court in the premises in relation to said property, which judgment may be rendered against all the parties whose names are hereto signed.

(Signed) C D. [SEAL.]
E F. [SEAL.]

Or unless the person in whose possession the property is attached shall give to the officer, to be filed in the cause, an undertaking in the following form or to the same effect, namely:

—or person in whose possession the property is attached.
—form of.

A B, plaintiff,
versus
C D, defendant.
} At law. Numbered —.

Whereas by virtue of an attachment issued in the above-entitled suit, the United States marshal for the District of Columbia has attached certain property in the hands of the undersigned E F, as garnishee, namely, (here describe) of the value of .....dollars; and now, therefore, the said E F and G H, as surety, appearing in said suit, and submitting to the juridiction of the court, hereby undertake for themselves and each of them, their and each of their heirs, executors, and administrators to abide by the judgment of the court in relation to said property, and that if the same shall be condemned to satisfy the claim of the plaintiff, judgment may be rendered against all of the undersigned for the value of said property and costs, to be executed against them, and each of them, unless said property shall be forthcoming to satisfy the judgment of condemnation.

(Signed) E F. [SEAL]
G H. [SEAL.]

And in either of said cases the attachment shall be sufficiently levied by the taking of the undertaking, as above provided for; and in the latter case the recital of the undertaking shall contain a sufficient description of the property and its value, which value shall be ascertained by an appraisement to be made under direction of the officer and returned with the writ.

SEC. 455. RELEASES.—Either the defendant or the person in whose possession the property was may obtain a release of the same from the attachment, after it has been taken into the custody of the marshal and the writ has been returned, by giving the undertaking required of him as aforesaid, with security to be approved by the court.

Releases.
—bond required.

The plaintiff may except to the sufficiency of any undertaking accepted as aforesaid by the marshal and, if the exceptions be sustained, the court shall rule the marshal to file a new undertaking, with sufficient surety, by a day to be named, in default of which he shall be liable to the plaintiff, on his official bond, for any loss sustained by the plaintiff through such default.

—exception to sufficiency of, etc.

If the property attached be delivered to the defendant upon his executing an undertaking as aforesaid, and judgment in the action shall

be rendered in favor of the plaintiff, it shall be a joint judgment against both the defendant and his surety or sureties in said undertaking for the appraised value of the property.

Levy on credits in hands of garnishee, etc.

SEC. 456. The attachment shall be levied on credits of the defendant, in the hands of a garnishee, by serving the latter with a copy of the writ of attachment and of the interrogatories accompanying the same, and a notice that any property or credits of the defendant in his hands are seized by virtue of the attachment, besides the notice required by section four hundred and forty-six aforesaid; and the undivided interest of the defendant in a partnership business shall be levied on by a similar service on the defendant's partner or partners.

—on debts owing to defendant on judgment, etc.

SEC. 457. The attachment may be levied upon debts owing by any person to the defendant upon judgment or decree by a similar service upon such party as in the preceding section directed; but execution may issue for the enforcement of such judgment or decree, notwithstanding the attachment, provided that the money collected upon the same be required to be paid into court to abide the event of the proceedings in attachment and applied as the court may direct.

—on property in hands of marshal, etc.

It may also be levied upon money or property of the defendant in the hands of the marshal or coroner, and shall bind the same from the time of service, and shall be a legal excuse to the officer for not paying or delivering the same, as he would otherwise be bound to do.

SEC. 458. SALE OF PROPERTY.—The court may make all orders necessary for the preservation of the property attached during the pendency of the suit; and if the property be perishable, or for other reasons a sale of the same shall appear expedient, the court may order that the same be sold and its proceeds paid into court and held subject to its order on the final decision of the case.

Receiver.

And if it shall seem expedient, the court may appoint a receiver to take possession of the property, who shall give bond for the due performance of his duties, and, under the direction of the court, shall have the same powers and perform the same duties as a receiver appointed according to the practice in equity.

Pleas by garnishee.

SEC. 459. PLEAS BY GARNISHEE.—A garnishee in any attachment may plead any plea or pleas which the defendant might or could plead if he had appeared to the suit.

Who may defend.

SEC. 460. WHO MAY DEFEND.—Any defendant, any garnishee, any party to a forthcoming undertaking, or the officer who might be adjudged liable to the plaintiff by reason of such undertaking being adjudged insufficient, or any stranger to the suit who may make claim, as hereinafter provided, to the property attached, may plead to the attachment; and such pleas shall be considered as raising an issue without replication, and any issue of fact thereby made may be tried by the court or by a jury impaneled for the purpose, if either party desires it.

Traverse of answers of garnishee.

SEC. 461. TRAVERSE OF ANSWERS OF GARNISHEE.—If any garnishee shall answer to interrogatories that he has no property or credits of the defendant, or less than the amount of the plaintiff's claim, the plaintiff may traverse such answer as to the existence or amount of such property or credits, and the issue thereby made may be tried as provided in the preceding section; and in all such cases where judgment shall be entered for the garnishee the plaintiff shall be adjudged to pay to the garnishee, in addition to the taxed costs, a reasonable counsel fee. And if such issue be found for the plaintiff, judgment shall be rendered as if possession of the property or credits had been confessed by the garnishee.

Claimants.

SEC. 462. CLAIMANTS.—Any person may file his petition in the cause, under oath, at any time before the final disposition of the property attached or its proceeds, except where it is real estate, setting forth a claim thereto or an interest in or lien upon the same, acquired before

the levy of the attachment; and the court, without other pleading, shall inquire into the claim, and, if either party shall request it, impanel a jury for the purpose, who shall be sworn to try the question involved as an issue between the claimant as plaintiff, and the parties to the suit as defendants, and the court may make all such orders as may be necessary to protect any rights of the petitioner.

Judgments.

SEC. 463. JUDGMENTS.—If the defendant in the action has been served with process, final judgment shall not be rendered against the garnishee until the action against the defendant is determined. If in such action judgment is rendered for the defendant, the garnishee shall be discharged and shall recover his costs, and the property attached or its proceeds shall be restored to the garnishee or to the defendant, as the case may require.

Where plaintiff entitled to judgment of condemnation.

SEC. 464. If in such action judgment is rendered in favor of the plaintiff against the defendant, and it shall appear that the plaintiff is entitled to a judgment of condemnation of the property attached, the court shall proceed to enter such judgment in the attachment as in the following sections directed.

—action to replevy specific personal property, etc.

SEC. 465. If the action be to replevy specific personal property and the same has not been replevied, other property may be attached in said action to recover damages and costs, and if the same be adjudged, the proceedings shall be the same as herein provided in other cases of money claims.

—where specific property has been attached and remains under the control of court, etc.

SEC. 466. If, in any form of action, specific property has been attached and remains under the control of court, judgment of condemnation of the same shall be entered, and so much thereof as may be necessary to satisfy the demand of the plaintiff shall be sold under fieri facias; or if the said property shall have been sold under interlocutory order of the court, the proceeds, or so much thereof as may be necessary, shall be applied to the plaintiff's claim by order of the court.

—where property attached be an undivided interest in a partnership business.

If the property attached be an undivided interest in a partnership business, judgment of condemnation thereof shall be entered and the same shall be sold in the same manner as last aforesaid.

—admitted credits in hands of garnishee, etc.

SEC. 467. If a garnishee shall have admitted credits in his hands, in answer to interrogatories served upon him, or the same shall have been found upon an issue made as aforesaid, judgment shall be entered against him for the amount of credits admitted or found as aforesaid, not exceeding the plaintiff's claim, less a reasonable attorney's fee to be fixed by the court, and costs, and execution had thereon; but if said credits shall not be immediately due and payable, execution shall be stayed until the same shall become due; and if the garnishee shall have failed to answer the interrogatories served on him, or to appear and show cause why a judgment of condemnation should not be entered, judgment shall be entered against him for the whole amount of the plaintiff's claim, and costs, and execution had thereon.

Property retained, etc., by garnishee, judgment on executing bond, etc.

SEC. 468. If the property attached has been delivered to or retained by a garnishee, upon his executing an undertaking as provided in section four hundred and fifty-four, judgment of condemnation of said property shall be rendered, as provided in section four hundred and sixty-six, and judgment shall also be entered that the plaintiff recover from the garnishee and his surety or sureties the value of said property, not exceeding the plaintiff's claim, said judgment to be entered satisfied if said property be forthcoming and delivered to the marshal, undiminished in value, within ten days after said judgment; otherwise, execution thereof to be had against said garnishee and his surety or sureties; and if said property shall be so delivered to the marshal the same shall be sold by him under fieri facias to satisfy said judgment of condemnation.

Judgment to protect garnishee.

SEC. 469. JUDGMENT TO PROTECT GARNISHEE.—Any judgment of condemnation against a garnishee, and execution thereon, or payment

by such garnishee in obedience to the judgment or any order of the court, shall be a sufficient plea in bar in any action brought against him by the defendant in the suit in which the attachment is issued, for or concerning the property or credits so condemned.

Fraudulent assignments.

SEC. 470. FRAUDULENT ASSIGNMENTS.—If the ground upon which an attachment is applied for be that the defendant has assigned, conveyed, or disposed of his property with intent to hinder, delay, or defraud his creditors, the attachment may be levied upon the property alleged to be so assigned or conveyed in the hands of the alleged fraudulent assignee or transferee, as a garnishee.

—attachment of property assigned in hands of garnishee, etc.

—rights of said garnishee, etc.

SEC. 471. The said garnishee may have the same benefit of section four hundred and fifty-one aforesaid as the defendant in the action; and if the court shall be of opinion, upon the hearing of the affidavits filed, that the attachment ought not to have issued or to have been levied on the property claimed by said garnishee, the said attachment may be quashed as to the said garnishee and the said levy set aside.

—pleas of, etc.

SEC. 472. If the said levy shall not be so set aside, the said garnishee may plead that he was a bona fide purchaser from the defendant for value without notice of any fraud on the part of said defendant, and such plea shall be held to make an issue, without any further pleading in reply thereto; and said issue may be tried as directed in section four hundred and sixty aforesaid.

—judgment for.

SEC. 473. If said issue is found in favor of the said garnishee, judgment shall be rendered in his favor for his costs and a reasonable counsel fee. If said issue be found against such garnishee, but judgment in the action is rendered in favor of the defendant, the said attachment shall be dissolved, and said garnishee shall recover his costs.

—against.

SEC. 474. If the said issue is found against said garnishee and judgment in the action is rendered in favor of the plaintiff against the defendant, or the defendant, not being found, has failed to appear in obedience to the order of publication against him, if it shall appear upon the verdict of a jury that the claim of the plaintiff against said defendant is well founded, a judgment of condemnation of the property attached shall be rendered, as directed in section four hundred and sixty-four aforesaid.

Trial of issues.

SEC. 475. TRIAL OF ISSUES.—All issues raised by pleas to the attachment, in any case, may be tried at the same time as the issues raised by the pleadings in the action, or separately, as the convenience of the court may require.

Act not to prevent bill of equity.

SEC. 476. THIS ACT NOT TO PREVENT BILL IN EQUITY.—Nothing herein contained shall be construed as depriving a judgment creditor of the right to file a bill in equity to enforce his judgment against an equitable interest in real or personal estate of the judgment defendant, or to have a conveyance of the real or personal estate by said defendant, made with intent to hinder, delay, and defraud his creditors, set aside.

Attachment dockets.

SEC. 477. ATTACHMENT DOCKETS.—The clerk of said court shall keep an attachment docket, in which, as well as in the regular docket, shall be entered all attachments levied upon real estate, with a description, in brief, of the real estate so levied upon; and said attachments shall be indexed in the names of the defendant and of any person in whose possession said property may have been levied upon.

CHAPTER FOURTEEN.

BONDS AND UNDERTAKINGS.

Bonds.

SEC. 478. BONDS.—A bond, when required or referred to, in the provisions of this code, shall be understood to signify an obligation in a certain sum or penalty, subject to a condition, on breach of which it is to become absolute and to be enforceable by action.

Undertakings.

SEC. 479. UNDERTAKINGS.—An undertaking shall be understood to signify an agreement entered into by a party to a suit or proceeding, with or without sureties, upon which a judgment or decree may be rendered in the same suit or proceeding against said party and his sureties, if any, the said party and sureties submitting themselves to the jurisdiction of the court for that purpose.

Actions on bonds.

SEC. 480. ACTIONS ON BONDS.—A bond in a penal sum, containing a condition that it shall be void on the payment of a certain sum of money, or the performance of an act, or of certain duties, shall have the same effect for the purpose of maintaining an action upon it as if it contained a covenant to pay the money or perform the act or the duties specified in the condition. But the damages to be recovered for a breach, or successive breaches, of the condition, as against the sureties therein, shall not exceed the penalty of the bond.

Bond to United States by officers.

SEC. 481. BOND TO UNITED STATES BY OFFICERS.—Whenever a bond is executed to the United States by any fiduciary or public officer, conditioned for the performance of certain duties, in the performance of which private persons are interested, any such persons, aggrieved by a breach of such condition, shall be entitled to maintain an action thereon in his own name against the obligor and his sureties to recover damages for the injury suffered by him in consequence of such breach; and it shall be the duty of the custodian of such bond to furnish a certified copy thereof to said party for the purpose aforesaid on payment of the legal fees therefor.

Bonds of trustees.

SEC. 482. BONDS OF TRUSTEES.—If any person appointed by order or decree of the court to the office of trustee or to any other fiduciary office shall give bond, with surety or sureties, for the due performance of his duties, he shall not be allowed to discharge said bond by receipts, releases, or acquittances from himself, as attorney for parties interested, to himself as such trustee or other fiduciary; but the funds or estate for the due application whereof he is responsible shall be considered as remaining in his hands, and said bond shall continue in force as against both principal and sureties until said funds or estate shall be fully accounted for and paid over or delivered to the parties interested therein, or their attorney, other than said trustee or other fiduciary duly authorized to receive the same.

CHAPTER FIFTEEN.

CONDEMNATION OF LAND FOR PUBLIC USE.

Condemnation of land for public use.

Land for United States and District of Columbia.

SEC. 483. LAND FOR UNITED STATES AND DISTRICT OF COLUMBIA.—Whenever land in the District is needed for the use of the United States, or by the Commissioners of the District for sites of schoolhouses, fire or police stations, or for a right of way for sewers, or for any other municipal use authorized by Congress, and the same can not be acquired by purchase from the owners thereof at a price satisfactory to the officers of the Government authorized to negotiate for the same, application may be made to the supreme court of the District by petition in the name of the United States or of said Commissioners, as the case may be, for the condemnation of said land or said right of way and the ascertainment of its value.

Petition, what to show.

SEC. 484. PETITION, WHAT TO SHOW.—Such petition shall contain a particular description of the property selected, with the names of the owners thereof and their residences, so far as the same may be ascertained, together with a plan of the land to be taken.

Citation to owners.

SEC. 485. CITATION TO OWNERS.—The said court, holding a district court of the United States, shall thereupon cite all the owners and other persons interested to appear in said court, at a time to be fixed by the court, to answer said petition; and if it shall appear to the court that there are any owners or other persons interested who are

under disability, the court shall give public notice of the time at which it will proceed with the matter of condemnation; and at such time, if it shall appear that there are any persons under disability who have appeared or who have not appeared, the court shall appoint a guardian ad litem for each such person, and shall thereupon proceed to appoint three capable and disinterested commissioners to appraise the value of the respective interests of all persons concerned in such lands, under such regulations as to notice and hearing as shall seem meet.

Condemnation and payment.

SEC. 486. CONDEMNATION AND PAYMENT.—Such commissioners shall thereupon, after being duly sworn for the proper performance of their duties, examine the premises and hear the persons in interest, who may appear before them, and return their appraisement of the value of the interests of all persons, respectively, in such land; and when such report, or the verdict of the jury hereinafter provided for, shall be confirmed by the court, the President of the United States, in cases of condemnation for the use of the United States, shall, if he thinks the public interest requires it, cause payment to be made out of the money appropriated by Congress therefor to the respective persons entitled, according to the judgment of the court; and in case any of such persons are under disability or can not be found, or neglect to receive the payment, the money to be paid to any of them shall be deposited in the Treasury to their credit, unless there be some person lawfully authorized to receive the same under the direction of the court; and when such payments are so made, or the amounts belonging to persons to whom payment shall not be made are so deposited, the said lands shall be deemed to be condemned and taken by the United States for the public use.

Jury.

SEC. 487. JURY.—If any of the parties interested, or the guardian ad litem appointed for any such person who may be under a disability, shall be dissatisfied with the appraisement of the commissioners, the marshal shall be directed to summon a jury of seven disinterested men, not related to anyone interested, to meet and view the premises, giving the parties interested at least six days' notice of the time and place of meeting.

—oath of.

SEC. 488. BENEFITS.—The marshal shall summon the jury and administer an oath to them that they will, without favor or partiality to anyone, to the best of their judgment, decide what damage each owner will sustain by reason of the taking of his land for any of the objects aforesaid. In making their decision, the jury shall take into consideration, whenever a part only is taken, the benefit to the remainder of the tract, and shall give their verdict accordingly.

Benefits.

Verdict.

SEC. 489. The jury having been upon the premises and, after hearing the parties, having assessed the damages, shall make out a written verdict, to be signed by them, or a majority of them and attested by the marshal, who shall return the same to the court, where it shall be recorded. The verdict of the jury may be excepted to by any party interested, and may be set aside by the court for good reasons, and a new jury directed to be summoned.

Payment.

SEC. 490. If the finding of the commissioners to appraise should not be objected to by the parties interested, and, in cases of condemnation for the use of the District, the Commissioners of the District are satisfied therewith, or if the verdict of the jury is confirmed by the court and is satisfactory to the Commissioners of the District the said Commissioners shall pay the amount awarded by the jury out of the appropriation made therefor, or deposit the same in the same manner as directed in section four hundred and eighty-six, aforesaid, and thereupon the land condemned shall become and be the property of the District.

Optional with Commissioners to accept verdict, etc.

SEC. 491. It shall be optional with the Commissioners to abide by the verdict of the jury and occupy the land appraised by them, or abandon the same, without being liable to damage therefor.

CHAPTER SIXTEEN

CONVEYANCING.

Conveyancing.

SUBCHAPTER ONE.

ABSOLUTE DEEDS OF REAL PROPERTY.

Absolute deeds of real property.

Estates.

SEC. 492. ESTATES.—No estate of inheritance, or for life, or for a longer term than one year, in any real property, corporeal or incorporeal, in the District of Columbia, or any declaration or limitation of uses in the same, for any of the estates mentioned, shall be created or take effect, except by deed signed and sealed by the grantor, lessor, or declarant, and acknowledged in the manner herein provided.

Acknowledgment.

SEC. 493. ACKNOWLEDGMENT.—Such acknowledgment may be made in the District of Columbia before any judge of any of the courts of said District, the clerk of the supreme court of the District, or any justice of the peace or notary public, or the recorder of deeds of said District, and the certificate of the officer taking the acknowledgment shall be to the following effect:

I, A B, a justice of the peace (or other officer authorized) in and for the District of Columbia, do hereby certify that C D, party to a certain deed bearing date on the ____ day of _____, and hereto annexed, personally appeared before me in said District, the said C D being personally well known to me as (or proved by the oath of credible witnesses to be) the person who executed the said deed, and acknowledged the same to be his act and deed.

Given under my hand and seal this ____ day of _____

A B. [Seal.]

Release of dower.

SEC. 494. RELEASE OF DOWER.—If the wife of the party executing said deed, being not less than eighteen years of age, shall desire to release her right of dower in the property conveyed, she shall unite in the deed with her husband and sign, seal, and acknowledge the same in the same manner as her husband, and the officer taking her acknowledgment shall add to the above form of certificate a further certificate to the following effect, namely:

And at the same time personally appeared before me, in said District, E F, the wife of said C D, personally well known to me (or proved by the oath of credible witnesses) to be such, and acknowledged the same to be her act and deed.

Such wife, however, may release her right of dower by her separate deed, when the releasee claims or derives title from, by, through, or under her husband.

Acknowledgment out of District but within the United States.

SEC. 495. ACKNOWLEDGMENT OUT OF DISTRICT.—When any deed or contract under seal relating to land is to be acknowledged out of the District of Columbia, but within the United States, the acknowledgment may be made before any judge of a court of record and of law, or any chancellor of a State, any judge or justice of the Supreme, circuit, or Territorial courts of the United States, any justice of the peace or notary public: *Provided*, That the certificate of acknowledgment aforesaid, made by any officer of a State or Territory, shall be accompanied by a certificate of the register, clerk, or other public officer having official cognizance of the fact that the officer taking said acknowledgment was in fact the officer he professed to be: *Provided, further*, That a certificate by any such register, clerk, or other public officer, in the form prescribed by the laws of the State or Territory in which such certificate is made or customarily used therein, shall be a sufficient certificate for the purposes of this section.

Provisos.
Certificate of acknowledgment.

—what sufficient certificate.

Acknowledgment in a foreign country. R. S., sec. 1674, p. 293.

SEC. 496. Deeds made in a foreign country may be acknowledged before any judge or notary public, or before any secretary of legation or vice-consul-general of the United States, or consular officer of the United States as such consular officer is described in section sixteen hundred and seventy-four of the Revised Statutes of the United States; and when the acknowledgment is made before any other officer than a secretary of legation or consular officer of the United States the official character of the person taking the acknowledgment shall be certified in the manner prescribed in the last preceding section.

Deeds of corporations.

SEC. 497. DEEDS OF CORPORATIONS.—The deed of a corporation shall be executed by having the seal of the corporation attached and being signed with the name of the corporation, by its president or chief officer, and shall be acknowledged as the deed of the corporation by an attorney appointed for that purpose, by a power of attorney embodied in the deed or by one separate therefrom, under the corporate seal, to be annexed to and recorded with the deed.

Acknowledgment by attorney.

SEC. 498. ACKNOWLEDGMENT BY ATTORNEY.—No deeds of conveyance of either real or personal estate by individuals shall be executed or acknowledged by attorney.

When deeds to take effect.

SEC. 499. WHEN DEEDS TO TAKE EFFECT.—Any deed conveying real property in the District, or interest therein, or declaring or limiting any use or trust thereof, executed and acknowledged and certified as aforesaid and delivered to the person in whose favor the same is executed, shall be held to take effect and pass the title in the property conveyed to said person from the date of the acknowledgment, provided the same be recorded within three months from said date, except that as to creditors and subsequent bona fide purchasers and mortgagees without notice of said deed, and others interested in said property, it shall only take effect from the time of its delivery to the recorder of deeds to be recorded.

SEC. 500. When two or more deeds of the same property are made to bona fide purchasers for value without notice, the deed or deeds which are first recorded according to law shall be preferred.

Bonds and contracts.

SEC. 501. BONDS AND CONTRACTS.—Any title bond or other written contract in relation to land may be acknowledged, certified, and recorded in the same manner as deeds for the conveyance of land, and the record thereof shall be notice to all creditors and subsequent purchasers of the existence of such bond or contract.

Interpretation.

SEC. 502. INTERPRETATION.—No words of inheritance shall be necessary in a deed or will to create a fee simple estate; but every conveyance or devise of real estate shall be construed and held to pass a fee simple estate or other entire estate of the grantor or testator, unless a contrary intention shall appear by express terms or be necessarily implied therein.

Construction of words, phrases, etc.

SEC. 503. The word "grant," the phrase "bargain and sell," or any other words purporting to transfer the whole estate shall be construed to pass the whole estate and interest of the grantor in the property described, unless there be limitations or reservations showing a different intent.

SEC. 504. In any deed or will of real or personal estate in the District of Columbia, hereafter executed, the words "die without issue," or the words "die without leaving issue," or the words "have no issue," or other words which may import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear in the instrument.

SEC. 505. When, in a deed conveying real estate, the words "the said _____ covenants" are used, such words shall have the same effect as if the covenant was expressed to be by the covenantor, for

himself, his heirs, devisees, and personal representatives, and shall be deemed to be with the grantee or lessee, his heirs, devisees, personal representatives, and assigns. Construction of word, phrases, etc.—Continued.

SEC. 506. A covenant by the grantor, in a deed conveying real estate, "that he will warrant generally the property hereby conveyed," or a grant of real estate in which the granting words are followed by the words "with general warranty," shall have the same effect as if the grantor had covenanted that he, his heirs, devisees, and personal representatives will warrant and defend the said property unto the grantee, his heirs, devisees, personal representatives, and assigns against the claims and demands of all persons whomsoever. —covenants.

SEC. 507. A covenant by a grantor, in a deed conveying real estate, "that he will warrant specially the property hereby conveyed," or a grant of real estate in which the granting words are followed by the words "with special warranty," shall have the same effect as if the grantor had covenanted that he, his heirs, devisees, and personal representatives will forever warrant and defend the said property unto the grantee, his heirs, devisees, personal representatives, and assigns against the claims and demands of the grantor and all persons claiming or to claim by, through, or under him.

SEC. 508. A covenant by the grantor, in a deed of land, "that the said grantee shall quietly enjoy said land," shall have the same effect as if he had covenanted that the said grantee, his heirs and assigns, shall, at any and all times hereafter, peaceably and quietly enter upon, have, hold, and enjoy the land conveyed by the deed or intended to be so conveyed, with all the rights, privileges, and appurtenances thereunto belonging, and to receive the rents and profits thereof, to and for his and their use and benefit, without any eviction, interruption, suit, claim, or demand whatsoever by the said grantor, his heirs or assigns, or any other person or persons whatever.

SEC. 509. A covenant by a grantor, in a deed of land, "that he has done no act to incumber said land," shall be construed to have the same effect as if he had covenanted that he had not done or executed or knowingly suffered any act, deed, or thing whereby the land and premises conveyed, or intended so to be, or any part thereof, are or will be charged, affected, or incumbered in title, estate, or otherwise.

SEC. 510. A covenant by a grantor, in a deed of land, "that he will execute such further assurances of said land as may be requisite," shall have the same effect as if he had covenanted that he, his heirs or devisees, will, at any time, upon any reasonable request, at the charge of the grantee, his heirs or assigns, do, execute, or cause to be done and executed, all such further acts, deeds, and things, for the better, more perfectly and absolutely conveying and assuring the lands and premises conveyed unto the grantee, his heirs and assigns, as intended to be conveyed, as by the grantee, his heirs or assigns, or his or their counsel learned in the law, shall be reasonably devised, advised, or required.

SEC. 511. IMPLIED COVENANTS.—No covenant shall be implied in any conveyance of real estate, whether such conveyance contains special covenants or not. Implied covenants.

SEC. 512. WHAT ESTATES MAY BE CONVEYED BY DEED.—Any interest in or claim to real estate, whether entitling to present or future possession and enjoyment, and whether vested or contingent, may be disposed of by deed or will, and any estate which would be good at common law, as an executory devise, may be created by deed. What estates may be conveyed by deed.

SEC. 513. CONVEYANCE OF LAND HELD ADVERSELY.—Any person claiming title to land may convey his interest in the same, notwithstanding there may be an adverse possession thereof. Conveyance of land held adversely.

SEC. 514. ABSENCE OF ACKNOWLEDGMENT.—No deed or conveyance of squares or lots of public land in the city of Washington, made in pursuance of law prior to March third, eighteen hundred and sixty- Absence of acknowledgment.

three, by the commissioner of public buildings or any other authorized officer, shall be deemed invalid in law for the want of an acknowledgment by the commissioner or other authorized officer before such judicial officers, as deeds of real property made between individuals are required by law to be acknowledged.

Deeds recorded prior to code, defectively acknowledged, declared valid.

SEC. 515. DEFECTIVE ACKNOWLEDGMENTS.—All deeds and acknowledgments recorded in the land records of the District prior to the adoption of this code of any of the following designated classes shall, in favor of parties in actual possession, claiming under and through such deeds, be deemed and held and are declared to be of the same effect and validity to pass the fee simple or other estate intended to be conveyed, and bar dower in the real estate therein mentioned, as if such deeds had in all respects been executed, acknowledged, proved, certified, and recorded according to law, namely:

—classes designated.

First. All deeds which have been executed and acknowledged by married women, their husbands having signed and sealed the same, for conveying any real estate, or interest therein, situated in the District;

Second. All acknowledgments of deeds which have been made by married women, whether they have executed the deed or not, for the purpose of releasing their claims to dower in the lands described therein, situated in the District, in which acknowledgments the form prescribed by law has not been followed;

Third. All deeds which have been executed and acknowledged by an attorney in fact duly appointed for conveying real estate situated in the District;

Fourth. All deeds executed and acknowledged, or only acknowledged by such attorney in fact, for conveying real estate situated in the District, as to which the acknowledgment was made before officers different from those before whom proof of the power of attorney was made, and as to which the power of attorney was proved before only one justice of the peace;

Fifth. All deeds for the purpose of conveying land situated in the District, acknowledged out of the District, before a judge of a United States court, or before two aldermen of a city, or the chief magistrate of a city, or before a notary public;

Sixth. All deeds for the purpose of conveying land situated in the District, acknowledged by an attorney in fact, duly appointed, or by an officer of a corporation, duly authorized, who has acknowledged the same to be his act and deed, instead of the act and deed of the grantor or of the corporation; and

Seventh. All deeds for the purpose of conveying land situated in the District to which there is not annexed a legal certificate as to the official character of the officer or officers taking the acknowledgment.

Acknowledgments by married women.

SEC. 516. ACKNOWLEDGMENTS BY MARRIED WOMEN.—In all cases mentioned in the preceding section the certificate of acknowledgment by a married woman must show that the acknowledgment was made "apart" or "privily" from her husband, or use some other term importing that her acknowledgment was made out of his presence, and also that she acknowledged or declared that she willingly executed or that she willingly acknowledged the deed, or that the same was her voluntary act, or to that effect.

Dower.

SEC. 517. DOWER.—Any acknowledgment made by a married woman of any deed executed by her husband, and recorded as mentioned in section five hundred and fifteen, shall be good and effectual to bar all claim on her part to dower in the lands described therein, situated in the District, although she shall not have executed the same.

Power of attorney by married woman.

SEC. 518. POWER OF ATTORNEY BY MARRIED WOMAN.—When the power of attorney mentioned in section five hundred and fifteen is executed by a married woman, the same shall be effectual and sufficient if there is such an acknowledgment of the same as would be sufficient,

under the provisions of this chapter, to pass her estate and interest therein were she a party executing the deed of conveyance.

Record of deed as evidence.

SEC. 519. RECORD OF DEED AS EVIDENCE.—The record and copy thereof of any deed recorded, as mentioned in section five hundred and fifteen, shall be evidence thereof, in the same manner and shall have the same effect as if such deed had been originally executed, acknowledged, and recorded according to law.

Acknowledgments in compliance with Chap. CXII, vol. 4, p. 520, and Chap. LVII, vol. 5, p. 226, declared effectual.

SEC. 520. The acts of Congress approved May thirty-first, eighteen hundred and thirty-two, and April twentieth, eighteen hundred and thirty-eight, in reference to the acknowledgment and recording of deeds of lands situated in the District, shall be taken and construed as cumulative with the acts of Maryland on the same subject in force in the District at the passage thereof, and an acknowledgment made and certified in compliance with any one of said acts, and before any officer authorized by either of said acts to take an acknowledgment, whether in or out of the District, shall be good and effectual.

SUBCHAPTER TWO.

MORTGAGES AND DEEDS OF TRUST OF REAL PROPERTY.

Mortgages and deeds of trust of real property.

To be recorded.

SEC. 521. TO BE RECORDED.—Mortgages and deeds of trust to secure debts, conveying any estate in land, in order to be effectual, shall be executed and recorded in the same manner as absolute deeds; and they shall take effect and pass title to the property conveyed, both as between the parties thereto and as to others, bona fide purchasers and mortgagees and creditors, in the same manner and under the same conditions as absolute deeds.

Estate of trustee.

SEC. 522. ESTATE OF TRUSTEE.—The legal estate conveyed to a mortgagee, his heirs and assigns, or to a trustee to secure a debt, his heirs and assigns, shall be construed and held to be a qualified fee simple, determinable upon the release of the mortgage or deed of trust, as hereinafter provided, or the appointment of a new trustee by judicial decree for the causes hereinafter mentioned.

How to be recorded.

SEC. 523. HOW TO BE RECORDED.—It shall be the duty of the recorder of deeds to record all such mortgages and deeds of trust in the same manner as absolute deeds, and, after each mortgage, to leave a blank space wherein may be recorded any assignment or release of said mortgage.

Assignees.

SEC. 524. ASSIGNEES.—The assignee or indorsee of any note, bond, or other instrument binding to the payment of money, secured by any mortgage or deed of trust, shall have the same benefit of said mortgage or deed of trust, and shall be entitled to the same remedies for enforcing or foreclosing the same that the original creditor named therein would have in the absence of any indorsement or assignment of the instrument secured.

Assignment.

SEC. 525. ASSIGNMENT.—Whenever the note or notes, bond or bonds, or other instruments for the payment of money, secured by mortgage, shall be indorsed or assigned by the original creditor holding the same, the said mortgage may also be assigned by such creditor to any person holding the notes or other instruments secured thereby, and any such assignee of said mortgage may, in like manner, assign to others.

—form of.

SEC. 526. The said assignment may be written on the said mortgage in the following or equivalent form:

I hereby assign the within (or above) mortgage to ..... as security for the (here describe the instruments) therein mentioned, which is (or are) indorsed (or assigned) to him.

Witness my hand and seal this .... day of .....

Witness: ——— ———. [Seal.]

—record of.

SEC. 527. Every such assignment provided for in section five hundred and twenty-six aforesaid may be recorded at or near the foot of the said mortgage, in the blank space directed to be reserved therefor, as aforesaid, and such record shall have the same effect as notice to all persons dealing with the property embraced in said mortgage which is allowed by law to the record of the mortgage.

Release.

SEC. 528. RELEASE.—A release of a mortgage may be made by the original creditor who is the holder of the note or notes or other instruments secured thereby, or by any assignee of said notes or other instruments to whom said mortgage may also have been assigned, in the following or an equivalent form:

—form.

I hereby release the above (or within) mortgage.
Witness my hand and seal this .... day of .....
Witness: ——— ———. [Seal.]

—acknowledgment.

And said release may be acknowledged before any officer authorized to take the acknowledgment of deeds in the following or equivalent form namely:

Acknowledged before me this ..... day of .....
C D, Notary Public.

—recording, etc.

SEC. 529. Said release may be written on the orignal mortgage, and upon said mortgage, with the release thereon written, being filed in the office of the recorder of deeds, he shall record said release in the blank space to be reserved as aforesaid, or in the margin of said record, and index the same, and said mortgage shall be retained in his office and not be allowed to be again withdrawn therefrom.

Surrender of mortgage on payment of debt, etc.

SEC. 530. Every person whose property is subject to a mortgage given to secure a note or notes, bond or bonds, or other instruments binding to the payment of money, shall be entitled, on payment or tender of the full amount of the debt, at or after its maturity, to the creditor entitled to the same, if he is the original creditor, or is the assignee of said mortgage, to have said mortgage surrendered to him, unless the same shall have been lost or destroyed, and to have said mortgage released by the creditor holding the same, in the manner above mentioned.

—where debt assigned, etc.

SEC. 531. If the debt secured by mortgage shall be assigned, but the mortgage shall not be assigned to the holder of said debt, or if the original mortgage having been assigned shall be lost or destroyed, the owner of the incumbered property, on payment of the debt, shall be entitled to a deed of release from the mortgagee; and in no other case where the mortgage has been assigned by the original creditor secured thereby shall the original mortgagee be authorized to execute a deed of release.

—release effectual, etc.

SEC. 532. A release made as provided in the foregoing sections by the original creditor holding a mortgage for the security of a debt, or by any indorsee or assignee of said debt who shall also hold an assignment of said mortgage, shall be as effectual to extinguish said mortgage as if the mortgagee had executed a deed of release of the incumbered property; but if the original creditor secured by mortgage has not assigned either his debt or his mortgage, the owner of the incumbered property may, at his election, on payment of the debt, require a deed of release from the mortgagee.

Survival of title.

SEC. 533. SURVIVAL OF TITLE.—Whenever a mortgage or deed of trust to secure a debt is executed to two or more mortgagees or trustees in fee simple, upon the death of any one or more of them the legal title and the trust attached to it shall be held to survive to the survivor or survivors and the heirs of the last survivor, subject to the provisions aforesaid.

Death of mortgagee or trustee.
Proceeding for appointment of new trustee.

SEC. 534. DEATH OF MORTGAGEE OR TRUSTEE.—In case of the death of a sole mortgagee or trustee, or the last survivor of several, if the debt secured by the mortgage or deed of trust shall not have been paid,

the party entitled thereto may file a petition in the supreme court of said District, setting forth under oath the execution of the mortgage or deed of trust, the death of the mortgagee or trustee, and the fact that the debt secured by the said mortgage or deed of trust remains unpaid, and such other fact as may be necessary to entitle the petitioner to the relief prayed, and praying for the appointment of a trustee to execute the trusts of the said mortgage or deed of trust. It shall not be necessary to make the heirs at law of the deceased mortgagee or trustee parties to such proceeding. The court may thereupon lay a rule upon the debtor or parties whose property is bound by said mortgage or deed of trust, unless they shall voluntarily appear and admit the allegations of the petition, to show cause, under oath, on or before the tenth day, exclusive of Sundays and legal holidays, after the service of such rule, why the prayer of said petition should not be granted. If said party or parties can not be found in said District, service of said rule shall be by publication, according to the practice in equity in said court. If no cause be shown, notwithstanding the service of said rule, against the prayer of said petition, the court may determine in a summary way whether said debt remains unpaid, and if satisfied thereof the said court may, by decree, appoint a new trustee in the place of the deceased mortgagee or trustee, and vest in him all the title at law and in equity, and all the powers that had been conveyed to and vested in the deceased mortgagee or trustee.

Defenses against foreclosure.

SEC. 535. DEFENSES AGAINST FORECLOSURE.—If matter of defense against the foreclosure of said mortgage or the enforcement of said deed of trust be set up in answer to said rule, the further proceedings shall be according to the practice in equity after answer filed.

Death of trustee appointed as aforesaid.

SEC. 536. In case of the death of any trustee appointed as aforesaid without having executed the trusts of the mortgage or deed of trust, a like proceeding to the above may be had to appoint a successor to him in the said trusts.

Proceedings for appointment of trustee, etc., to execute release after death of mortgagee.

SEC. 537. RELEASE AFTER DEATH OF MORTGAGEE, AND SO FORTH.—In case of the death of a sole mortgagee or trustee or the last survivor of several, as aforesaid, if the debt secured by the mortgage or deed of trust shall have been paid, and it is desired by the party paying the same to obtain a deed of release, the said party may file a petition in said supreme court of the District, setting forth, under oath, the execution of said mortgage or deed of trust, the death of the mortgagee or trustee, the payment of the debt, and any other fact necessary to entitle the petitioner to the relief prayed, and praying for the appointment of a trustee in the place of the deceased mortgagee or trustee to execute a deed of release of said mortgage or deed of trust. It shall not be necessary to make the heirs of the deceased mortgagee or trustee a party to such proceeding. The court may thereupon lay a rule upon the creditor secured by said mortgage or deed of trust, unless he shall voluntarily appear and admit the allegations of the petition, to show cause, under oath, on or before the tenth day, exclusive of Sundays and legal holidays, after the service of said rule, why the prayer of the petition should not be granted. If said party can not be found in said District, service of said rule shall be by publication according to the practice in equity in said court. If no cause be shown, notwithstanding the service of said rule, against the prayer of the petition, the court may determine in a summary way whether said debt has been paid, and if satisfied thereof may, by decree, appoint a trustee in the place of the deceased mortgagee or trustee and invest in him the title, in law and in equity, that was in the deceased mortgagee or trustee, for the purpose of executing a deed of release as aforesaid. If matter of defense against the prayer for a release of said mortgage or deed of trust be set up in answer to said rule, the further proceedings shall be according to the practice in equity after answer filed.

Appointment of new trustee.

SEC. 538. APPOINTMENT OF NEW TRUSTEE.—In case of the refusal of any trustee named in a deed of trust to secure a debt to accept the trusts thereby created, or of his resignation of said trust after accepting the same, which is hereby allowed, or of his removal from the District of Columbia, or of his inability to act, or for any other good cause shown, said trust being executed, it shall be lawful for any party interested in the execution of such trusts to apply to said court by petition, setting forth the appropriate facts and asking for the appointment of a new trustee in his place, and a like proceeding shall be had for the appointment of such trustee as in the case of the death of a trustee, as directed in sections five hundred and thirty-four and five hundred and thirty-seven aforesaid: *Provided*, That any rule to show cause issued in such case shall be served upon the existing trustee, as well as upon the parties interested in the trust, if he and they can be found within the said District.

Proviso. —service on existing trustee.

Terms of sale.

SEC. 539. TERMS OF SALE.—If the length of notice and terms of sale are not prescribed by the mortgage or deed of trust, or be not left therein to the judgment or discretion of the mortgagee or trustee, any person interested in such sale may apply to the court, before such sale is advertised, to fix the terms of sale and determine what notice of sale shall be given, which terms shall be such as to secure to the creditor the payment of his debt in cash as nearly as may be consistent with justice; and the determination of the court in the premises shall be binding on all parties in interest.

Delay of party notified to apply for prevention of sale.

SEC. 540. INJUNCTION AGAINST SALE.—If any party interested and duly notified of an intended sale under any mortgage or deed of trust, as directed in section five hundred and thirty-nine aforesaid, shall fail to make application to the court to prevent such sale within the time covered by such notice, such party shall not be entitled afterwards to be relieved against such sale except upon the conditions that a satisfactory excuse be shown for the delay in making application therefor, and all expenses incurred in and about such sale or attempted sale be first paid by him and a valid defense against the foreclosure of said mortgage or deed of trust be shown.

Injunction against sale.

SEC. 541. No sale under a mortgage or deed of trust shall be enjoined on the ground that the amount claimed by the creditor secured thereby is in excess of the true amount due him, unless the party seeking such relief shall set forth and show what amount is justly due and shall offer to pay the amount so admitted to be due.

Debtor not to bid.

SEC. 542. DEBTOR NOT TO BID.—At any sale made under a mortgage or deed of trust the debtor or other person owning the property and for whose default the sale is made shall not be allowed to bid: *Provided*, That this shall not be construed to prohibit a part owner from bidding at such sale in order to acquire title to the entire property sold.

Proviso. —part owner.

Mortgagee buying.

SEC. 543. MORTGAGEE BUYING.—At any sale under a mortgage, fairly made by the mortgagee, at public auction, the mortgagee himself may buy in the property on account of the mortgage debt.

Creditor buying.

SEC. 544. CREDITOR BUYING.—If a creditor, for the payment of whose debt property shall be sold under a deed of trust, shall become the purchaser at such sale, he shall be entitled to credit the amount of the purchase money against the debt, and shall be only required to pay to the trustee the excess of the purchase money over his debt, together with such additional amount as may be necessary to defray the expenses of the sale.

Expenses and commissions.

SEC. 545. EXPENSES AND COMMISSIONS.—Among the lawful expenses of a sale under a mortgage or deed of trust is to be allowed a commission on the proceeds of sale to the mortgagee or trustee. Where the mortgage or deed of trust does not fix the rate of commission the mortgagee or trustee shall be allowed a commission of five per centum on the first five hundred dollars and three per centum on the balance

of the purchase money actually paid by the purchaser at any sale, and one and one-half per centum on the amount of the purchase money not paid into the hands of the mortgagee or trustee, but credited on the debt, when the creditor becomes a purchaser.

Commission where sale advertised is postponed.

When the property is lawfully advertised for sale under a mortgage or deed of trust, and the sale is prevented by payment of the debt or is suspended or postponed by arrangement between the parties interested, the trustee shall be entitled to a commission of one per centum on the amount of the debt secured in addition to the expenses incurred by him, and he shall be entitled to such allowance as often as such advertisement shall be made necessary by the default of the debtor: *Provided*, That if a sale shall actually take place under any such advertisement, he shall not be entitled to more than one such allowance in addition to his commission on the proceeds of an actual sale.

Proviso.
—limit.

SUBCHAPTER THREE.

DEEDS OF CHATTELS.

Deeds of chattels.

Recording.

SEC. 546. RECORDING.—No bill of sale or mortgage or deed of trust to secure a debt of any personal chattels whereof the vendor, mortgagor, or donor shall remain in possession, shall be valid and effectual to pass the title therein, except as between the parties to such instrument and as to other persons having actual notice of it, unless the same be executed, acknowledged, and within ten days from the date of such acknowledgment recorded in the same manner as deeds of real estate, as herein directed, and as to third persons not having notice of it, as aforesaid, such instrument shall be operative only from the time within said ten days when it is delivered to the recorder of deeds to be recorded.

Conditional sales.

SEC. 547. CONDITIONAL SALES.—No conditional sale of chattels in virtue of which the property is delivered to the purchaser, but by the terms of which the title is not to pass until the price of said chattels is fully paid, shall be valid as against third persons acquiring title to said property from said purchaser without notice of the terms of said sale, unless the terms of said sale are reduced to writing and signed by the parties thereto and acknowledged by the purchaser and recorded in the same manner as a chattel mortgage, as hereinabove provided; and said writing shall be indexed as if the purchaser were a mortgagor and the seller a mortgagee of such chattels, and shall be operative as to third persons without actual notice of it from the time of being so recorded.

SUBCHAPTER FOUR.

DEEDS, RECORDER OF.

Deeds, recorder of.

Appointment and duties.

SEC. 548. APPOINTMENT AND DUTIES.—There shall be a recorder of deeds of the District, appointed by the President, by and with the advice and consent of the Senate, who shall record all deeds, contracts, and other instruments in writing affecting the title or ownership of any real estate or personal property in the District which shall have been duly acknowledged and certified, and who shall perform all requisite services connected therewith, and shall have charge and custody of all the records, papers, and property appertaining to his office

Deputy recorder.

SEC. 549. DEPUTY RECORDER.—The recorder of deeds is authorized to appoint a deputy recorder, and all deeds of conveyance, leases, powers of attorney, and other written instruments required to be filed and recorded, and all copies of instruments and records and certificates authorized by law, filed, recorded, made, and certified by the deputy recorder shall have the same legality, force, and effect as if performed by the recorder.

Vacancy; deputy to act.

SEC. 550. VACANCY.—In case of a vacancy in the office of the recorder by death, resignation, or other cause the deputy recorder shall act until a recorder shall be duly appointed and qualified: *Provided*, That no additional expense shall be incurred by the District for said deputy and no other fees shall be allowed than are now provided by law.

Proviso. —no additional expense.

Typewritten records.

SEC. 551. TYPEWRITTEN RECORDS.—The recorder of deeds is authorized and empowered to purchase and use in his office, for the recording of deeds and other instruments of writing required by law to be recorded in said office, typewriting machines, to be paid for as appropriations may be made from time to time; and all deeds and other instruments of writing entitled by law to be recorded in said office which shall be recorded by typewriting machines are hereby declared to be legally recorded.

Fees.

SEC. 552. FEES.—The legal fees for the services of the recorder shall be as follows, namely:

For filing, recording, and indexing, or for making certified copy of any instrument containing two hundred words or less, fifty cents, and fifteen cents for each additional hundred words, to be collected at the time of filing and when the copy is made.

For each certificate and seal, twenty-five cents.

For searching records extending back two years or less next preceding current date, twenty-five cents, and five cents for each additional year, to be paid by the party for whom the search may be made.

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

For recording a plat or survey, five cents for each course such survey may contain.

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

For taking any acknowledgment, fifty cents.

Salary.

SEC. 553. SALARY; SURPLUS TO BE PAID INTO THE TREASURY.—The recorder of deeds of the District of Columbia shall not retain of the fees and emoluments of his office for his personal compensation over and above his necessary clerk hire and the incidental expenses of his office, certified to by the supreme court of the District of Columbia, or by one of its justices appointed by it for that purpose, and to be audited and allowed by the proper accounting officer of the Treasury, a sum exceeding four thousand dollars a year or exceeding that rate for any time less than a year; and the surplus of such fees and emoluments shall be paid into the Treasury to the credit of the District of Columbia: *Provided*, That the number of clerks and others employed in the office of the recorder of deeds shall not be increased, except that additional copyists may be employed for temporary service as the necessities of the office may require, nor shall the salary or compensation of clerks and others be increased beyond the salaries or compensation paid during the fiscal year eighteen hundred and ninety-one; and the salary of the deputy recorder of deeds shall be two thousand five hundred dollars per annum, to be paid out of the fees and emoluments of said office of recorder of deeds.

Surplus to be paid into the Treasury.

Proviso. Clerks.

Salary of deputy.

List of transfers to be furnished to collector of taxes.

SEC. 554. LIST OF TRANSFERS TO BE FURNISHED TO COLLECTOR OF TAXES.—The recorder of deeds shall furnish to the collector of taxes, on or about the first Monday in January and July of each year, correct lists of the transfers of real property in the District during the preceding half year, so far as can be ascertained by the records in his office, but shall not be entitled to any compensation for such service.

Instruments not executed or acknowledged according to law not to be recorded.

SEC. 555. INSTRUMENTS NOT EXECUTED OR ACKNOWLEDGED ACCORDING TO LAW NOT TO BE RECORDED.—The recorder shall not accept for record or record any instrument which shall not be executed and acknowledged agreeably to law by the person or party therein granting

or contracting with respect to his right, title, or interest in the land therein described; and the record of any such instrument, if the same should be recorded, and the knowledge by any person of the fact of such record shall not be either constructive or actual notice of the existence of such instrument.

Public records to be open for inspection.

SEC. 556. PUBLIC RECORDS TO BE OPEN FOR INSPECTION.—All public records which have reference to or in any way relate to real or personal property in the District of Columbia, whether the same be in the office of the recorder of deeds or in some other public office in the District of Columbia, shall be open to the public for inspection free of charge.

SUBCHAPTER FIVE.

FORMS OF CONVEYANCING.

Forms of conveyancing.

FEE SIMPLE DEED.

Fee simple deed.

This deed, made this ____ day of ____, in the year ____, by me, ____, of ____, witnesseth, that in consideration of (here insert consideration), I, the said ____, do grant unto (here insert grantee's name), of ____, all that (here describe the property).

Witness my hand and seal.

_____ _____. [Seal.]

DEED BY HUSBAND AND WIFE.

Deed by husband and wife.

This deed, made this ____ day of ____, in the year ____, by us, ____ and ____, his wife, of ____, witnesseth, that in consideration of ____, we, the said ____ and his wife, do grant unto ____, of ____, and so forth.

Witness our hands and seals.

_____ _____. [Seal.]
_____ _____. [Seal.]

DEED OF LIVE ESTATE.

Deed of life estate.

This deed, made this ____ day of ____, in the year ____, by me, ____, of ____, witnesseth, that in consideration of ____, I, the said ____, do grant unto ____, of ____, all that, and so forth, to hold during his life and no longer.

Witness my hand and seal.

_____ _____. [Seal.]

DEED OF TRUST TO SECURE DEBTS, SURETIES, OR FOR OTHER PURPOSES.

Deed of trust to secure debts, sureties, or for other purposes.

This deed, made this ____ day of ____, in the year ____, by me, ____, of ____, witnesseth, that whereas (here insert the consideration for the deed), I, the said ____, do grant unto ____, as trustee of ____, the following property (here describe it) in trust for the follwing purposes (here insert the trusts and any covenant that may be agreed upon).

Witness my hand and seal.

_____ _____. [Seal.]

FORM OF TRUSTEE'S DEED UNDER A DECREE.

Form of trustee's deed under a decree.

This deed, made this ____ day of ____, in the year ____, by me, ____, trustee, of ____, witnesseth: Whereas by a decree of

(here insert court) passed on the ..... day of ....., in the cause of ..... versus ....., I, the said ....., was appointed trustee to sell the land decreed to be sold, and have sold the same to .....; and said sale has been ratified by said court, and said ..... has fully paid the purchase money due on said sale; now, therefore, in consideration of the premises, I, the said ....., do grant unto ....., of ....., all the right and title of all the parties to the aforesaid cause, in and to all that (here describe property).

Witness my hand and seal.

——— ———. [Seal.]

Executor's deed.

EXECUTOR'S DEED.

This deed, made this ..... day of ....., in the year ....., witnesseth, that I, ..., of ....., executor of the last will of ....., late of ....., deceased, under a power in said will contained, in consideration of ....., have sold and do hereby grant to ....., of ....., all that, and so forth.

Witness my hand and seal.

——— ———. [Seal.]

Form of mortgage, with or without power of sale.

FORM OF MORTGAGE, WITH OR WITHOUT POWER OF SALE.

This mortgage, made this ..... day of ....., in the year ....., witnesseth that whereas I, ... of ....., am indebted unto ....., of ....., in the sum of ....., payable ....., for which I have given to said ..... my promissory notes or bonds, or other instruments (here describe). Now, in consideration thereof, I hereby grant unto the said ..... all that (here describe property), provided that if I shall punctually pay said (notes or other instruments) according to the tenor thereof then this mortgage shall be void. And if I shall make default in such payment the said ..... is hereby authorized and empowered to sell said property at public auction on the following terms (here insert them), and out of the proceeds of sale to retain whatever shall remain unpaid of my said indebtedness and the costs of such sale, and the surplus, if any, to pay to me.

Given under my hand and seal.

——— ———. [Seal.]

Form of lease.

FORM OF LEASE.

This lease, made this ..... of ....., in the year ....., between ..... of ..... and ....., of ....., witnesseth that the said ..... doth lease unto the said ....., his executor, administrator, and assigns, all that (here describe the property) for the term of ..... years, beginning on the ..... day of ....., in the year ....., and ending on the ..... day of ....., in the year ....., the said ..... paying therefor the sum of ..... on the ..... day of ..... in each and every year (or month, as the case may be).

Witness our hands and seals.

——— ———. [Seal.]
——— ———. [Seal.]

—legal additions, etc., to above allowed, etc.

The aforegoing forms or forms to the like effect shall be sufficient, and any covenant, limitation, restriction, or proviso allowed by law may be added, annexed to, or introduced in the above forms. Any other form conforming to the rules hereinbefore laid down shall be sufficient.

CHAPTER SEVENTEEN.

COMMISSIONERS OF DEEDS AND NOTARIES PUBLIC.

Commissioners of deeds.

SEC. 557. COMMISSIONERS OF DEEDS.—The President of the United States is authorized to appoint as many commissioners of deeds throughout the United States as he may deem necessary, with power to take the acknowledgment of deeds for the conveyance of property within the District, administer oaths, and take depositions in cases pending in the courts of said District in the manner prescribed by law; to whose acts, properly attested by their hands and seals of office, full faith and credit shall be given.

Notaries public.

SEC. 558. NOTARIES.—The President shall also have power to appoint such number of notaries public, residents of said District, as, in his discretion, the business of the District may require.

Tenure of office.

SEC. 559. TENURE OF OFFICE.—Said commissioners of deeds and notaries public shall hold their offices for the period of five years, removable at discretion.

Notaries in States.

SEC. 560. NOTARIES IN STATES.—Notaries public of the several States, Territories, and the District of Columbia are authorized to take depositions and do all other acts in relation to taking testimony to be used in the courts of the District of Columbia, take acknowledgments and affidavits in the same manner and with the same effect as United States commissioners may now lawfully take or do.

Oath and bond.

SEC. 561. OATH AND BOND.—Each notary public, before entering upon the duties of his office, shall take the oath prescribed for civil officers in the District of Columbia, and shall give bond to the United States in the sum of two thousand dollars, with security, to be approved by the supreme court or a justice thereof, for the faithful discharge of the duties of his office.

Seal.

SEC. 562. SEAL.—Each notary public shall provide a notarial seal, with which he shall authenticate all his official acts.

—filing, etc.

SEC. 563. He shall file his signature and deposit an impression of his official seal in the office of the clerk of the supreme court of the District.

Exemption.

SEC. 564. EXEMPTION.—A notary's official seal and his official documents shall be exempt from execution.

Foreign bills of exchange.

SEC. 565. FOREIGN BILLS OF EXCHANGE.—Notaries public shall have authority to demand acceptance and payment of foreign bills of exchange and to protest the same for nonacceptance and nonpayment, and to exercise such other powers and duties as by the law of nations and according to commercial usages notaries public may do.

Other acts.

SEC. 566. OTHER ACTS.—They may also perform such other acts, for use and effect beyond the jurisdiction of the District, as according to the law of any State or Territory of the United States or any foreign government in amity with the United States may be performed by notaries public.

Inland bills and notes.

SEC. 567. INLAND BILLS AND NOTES.—Notaries public may also demand acceptance of inland bills of exchange and payment thereof, and of promissory notes and checks, and may protest the same for nonacceptance or nonpayment, as the case may require. And on the original protest thereof he shall state the presentment by him of the same for acceptance or payment, as the case may be, and the nonacceptance or nonpayment thereof, and the service of notice thereof on any of the parties to the same, and the mode of giving such notice, and the reputed place of business or residence of the party to whom the same was given; and such protest shall be prima facie evidence of the facts therein stated. And any notary public failing to comply herewith shall pay a fine of ten dollars to the District of Columbia, to be collected in the police court as are other fines and penalties.

Acknowledgments, oaths, etc.

SEC. 568. ACKNOWLEDGMENTS, OATHS, AND SO FORTH.—Each notary public shall have power to take and to certify the acknowledgment or proof of powers of attorney, mortgages, deeds, and other instruments of writing, the acknowledgment of any conveyance or other instrument of writing executed by any married woman, to take depositions and to administer oaths and affirmations in all matters incident or belonging to the duties of his office, and to take affidavits to be used before any court, judge, or officer within the District.

Record.

SEC. 569. RECORD.—Each notary public shall keep a fair record of all his official acts, except such as are mentioned in the preceding section, and when required shall give a certified copy of any record in his office to any person upon payment of the fees therefor.

Copy of record as evidence.

SEC. 570. COPY OF RECORD AS EVIDENCE.—The certificate of a notary public, under his hand and seal of office, drawn from his record, stating the protest and the facts therein recorded, shall be evidence of the facts in like manner as the original protest.

Fees.

SEC. 571. FEES.—The fees of notaries public shall be—

For each certificate and seal, fifty cents.

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

Administering an oath, fifteen cents.

Take acknowledgment of a deed or power of attorney, with certificate thereof, fifty cents.

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

Each notice of protest, ten cents.

Each demand for acceptance or payment, if accepted or paid, one dollar, to be paid by the party accepting or paying the same.

Each noting of protest, one dollar.

Penalties for taking higher fees.

SEC. 572. PENALTIES FOR TAKING HIGHER FEES.—Any notary public who shall take a higher fee than is prescribed by the preceding section shall pay a fine of one hundred dollars and be removed from office by the supreme court of the District.

Death, etc.

SEC. 573. DEATH, AND SO FORTH.—Upon the death, resignation, or removal from office of any notary public, his records, together with all his official papers, shall be deposited in the office of the clerk of the supreme court of the District.

CHAPTER EIGHTEEN.

Corporations.

CORPORATIONS.

SUBCHAPTER ONE.

Institutions of learning.

INSTITUTIONS OF LEARNING.

Certificate of organization.

SEC. 574. CERTIFICATE OF ORGANIZATION.—Any five or more persons desirous of associating themselves for the purpose of establishing an institution of learning, may make, sign, and acknowledge, before any officer authorized to take acknowledgment of deeds in the District, and file in the office of the recorder of deeds, a certificate in writing, to be recorded in a book kept for that purpose and open to public inspection, in which shall be stated:

—contents of.

First. The name or title by which the institution shall be known in law;

Second. The number of trustees, directors, or managers, and their names;

Third. The particular branch of literature and science, or either of them, proposed to be taught; and,

Fourth. If the institution is to be of the rank of a college or university, the number and designation of the professorships to be established.

Signers incorporated.

SEC. 575. SIGNERS INCORPORATED.—Upon filing such certificate, the persons signing and acknowledging the same and their successors and associates shall be a body politic and corporate, by the name and style stated in the certificate, and by that name and style shall have perpetual succession, with power to sue and be sued, plead and be impleaded; to acquire, hold, and convey property in all lawful ways; to have and use a common seal, and to alter and change the same at pleasure; to make and alter, from time to time, such by-laws not inconsistent with the Constitution of the United States or the laws in force in the District as they may deem necessary for the government of the institution, and to confer upon such persons as may be considered worthy such academical or honorary degrees as are usually conferred by similar institutions.

Corporate powers.

SEC. 576. CORPORATE POWERS.—Such corporation shall be competent in law and equity to take to themselves, in their corporate name, real, personal, or mixed property by gift, grant, bargain and sale, conveyance, will, devise, or bequest of any person whomsoever, and to grant, bargain, sell, convey, demise, let, place out at interest, or otherwise dispose of the same for the use of the institution, in such manner as shall seem most beneficial thereto.

Property held, for what purposes.

SEC. 577. PROPERTY HELD, FOR WHAT PURPOSES.—Such corporation shall hold the property of the institution solely for the purposes of education, and not for the individual benefit of themselves or of any contributor to the endowment thereof.

Funds, how applied.

SEC. 578. FUNDS, HOW APPLIED.—The trustees, directors, or managers of any such corporation shall faithfully apply all the funds collected or the proceeds of the property belonging to the institution, according to their best judgment, in erecting or completing suitable buildings, supporting necessary officers, instructors, and servants, and procuring books, maps, charts, globes, and philosophical, chemical, and other apparatus necessary to the success of said institution.

Specific donations.

SEC. 579. In case any donation, devise, or bequest shall be made for particular purposes, in accordance with the designs of the institution, and the corporation shall accept the same, such donation, devise, or bequest shall be applied in conformity with the express condition of the donor or devisor.

Quantity of land which may be held.

SEC. 580. QUANTITY OF LAND.—No such corporation shall hold more land at any one time than necessary for the purposes of education, as set forth in its articles of association, unless it shall have received the same by gift, grant, or devise, and in such case the corporation shall be required to sell or dispose of the same within fifteen years from the time the title thereto is acquired.

Reversion of surplus.

SEC. 581. On failure to so dispose of the land, so much of the same over and above the amount necessary to be used as provided in the preceding section shall revert to the original donor, grantor, devisor, or their heirs.

Officers.

SEC. 582. OFFICERS.—Such corporation shall have the power to appoint a president or principal for the institution and such professors or servants as may be necessary, and to displace any of them, as the interests of the institution require; to fill vacancies which may happen by death, resignation, or otherwise among such officers or servants, and to prescribe and direct the course of studies to be pursued in the institution.

Treasurer.

SEC. 583. TREASURER.—Such corporation may require the treasurer of the institution and all other agents thereof, before entering upon the duties of their appointment, to give bond for the security of the

corporation in such sums and with such security as may be deemed sufficient by the corporation.

Annual statements.

SEC. 584. ANNUAL STATEMENTS.—It shall be the duty of the trustees of any institution, or a majority of them, to file, on or before the first Monday in January in each year, in the office of the recorder of deeds, who shall index the same, a statement of the trustees and officers of the institution, with an inventory of its property and liabilities and students, and such other information as will exhibit its condition or operation.

Suits.

SEC. 585. SUITS.—All process against any such corporation shall be by summons, and the service of the same shall be by leaving an attested copy thereof with the president, secretary, or treasurer, or at the office of the corporation at least sixty days before the return day thereof.

Quo warranto.

SEC. 586. QUO WARRANTO.—In case any such corporation shall at any time violate or fail to comply with any of the preceding provisions, upon complaint being made to the supreme court of the District, a writ of quo warranto shall issue, and the district attorney of the United States shall prosecute, in behalf of the people, for a forfeiture of all rights and privileges secured by this subchapter to such corporation.

SUBCHAPTER TWO.

Religious societies.

RELIGIOUS SOCIETIES.

Land to be acquired.

SEC. 587. LAND TO BE ACQUIRED.—It shall be lawful for the members of any society or congregation in the District, formed for the purpose of religious worship, to receive by gift, devise, or purchase a quantity of land not exceeding an acre, and to erect thereon such houses and buildings and to make such other use of the land and such other improvements thereon as may be deemed necessary for the purposes named, and for the comfort and convenience of the society or congregation.

Trustees.

SEC. 588. TRUSTEES.—Such society or congregation may assume a name, and any number of trustees, not exceeding ten, who shall be styled trustees of such society or congregation by the name so assumed, may be elected or appointed according to the rules or discipline governing the church or denomination to which said society or congregation may belong.

Certificate.

SEC. 589. CERTIFICATE.—The persons elected or appointed as trustees shall immediately thereafter make a certificate under their hands and seals, stating the date of their election or appointment, the name of the society or congregation, and length of time for which they were elected or appointed, which shall be verified by the affidavit of one of the persons making the same, and shall be filed and recorded in the office of the recorder of deeds of the District.

Tenure of office.

SEC. 590. TENURE OF OFFICE.—The trustees shall hold office during the period stated in their certificates, and vacancies in the office of trustee may be filled by election or appointment as above provided, and rules and regulations may be adopted in relation to the management of the estate and the duties of trustees, or for their removal from office, in accordance with the rules or discipline governing the church or denomination to which such society or congregation may belong, not inconsistent with the Constitution of the United States and the laws in force in the District.

Election of successors.

SEC. 591. At the expiration of the term of service of any of the trustees one or more successors may be elected or appointed, and a certificate of their appointment or election shall be made, verified, filed, and recorded as provided hereinbefore.

Failure to elect not to dissolve society.

SEC. 592. A failure to elect or appoint trustees at the proper time shall not work a dissolution of the society or congregation; but the

trustees last elected or appointed shall be considered as in office until another election or appointment shall take place.

Corporate powers.

SEC. 593. CORPORATE POWERS.—Such trustees and their successors shall have perpetual succession and existence, and shall be capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts of law or equity whatsoever, in and by the name and style assumed as hereinbefore provided.

Title vested in trustees.

SEC. 594. TITLE VESTED IN TRUSTEES.—The title to land authorized to be purchased and to buildings and improvements thereon shall be vested in the trustees by their assumed name and their successors forever, and the same shall be held for the uses and purposes named and no other.

Powers of trustees.

SEC. 595. POWERS OF TRUSTEES.—The trustees shall have power, under the direction of the society or congregation, or the authority by whom they were elected or appointed, to sell and execute deeds and conveyances of the property authorized to be held by the society or congregation; and such deeds or conveyances shall have the same effect as like deeds or conveyances made by natural persons; but no deed or conveyance shall be made so as to defeat or destroy the interest or effect of any grant, donation, or bequest, and all grants, donations, and bequests shall be appropriated and used as directed by the person making the same.

Mortgages.

SEC. 596. MORTGAGES.—The trustees shall have power, under the direction of the society or congregation, or the authority by whom they were elected or appointed, to execute mortgages, or deeds of trust in the nature of mortgages, upon the estate and property which any society or congregation are authorized to hold, or to lease the same for a term not exceeding ten years; and such mortgages, deeds, and conveyances shall have the same effect and be enforced by the same remedies and proceedings as like mortgages, deeds, leases, and conveyances made by natural persons.

Dissolution.

SEC. 597. DISSOLUTION.—Upon the dissolution of any society or congregation the estate and property of such society or congregation shall revert back to the persons, their heirs, and assigns who may have given or contributed to the purchase of or payment for the same, according to their respective rights.

Religious schools.

SEC. 598. RELIGIOUS SCHOOLS.—The provisions of the eleven preceding sections are intended to extend to members of societies formed to establish and maintain private schools for religious purposes, but shall not be construed as conferring privileges or any benefits to such societies under the school laws of the District.

SUBCHAPTER THREE.

SOCIETIES, BENEVOLENT, EDUCATIONAL, AND SO FORTH.

Societies, benevolent, educational, etc.

Certificate.

SEC. 599. CERTIFICATE.—Any three or more persons of full age, citizens of the United States, a majority of whom shall be citizens of the District, who desire to associate themselves for benevolent, charitable, educational, literary, musical, scientific, religious, or missionary purposes, including societies formed for mutual improvement or for the promotion of the arts, may make, sign, and acknowledge, before any officer authorized to take acknowledgment of deeds in the District, and file in the office of the recorder of deeds, to be recorded by him, a certificate in writing, in which shall be stated—

—contents.

First. The name or title by which such society shall be known in law.

Second. The term for which it is organized, which may be perpetual.

Third. The particular business and objects of the society.

Fourth. The number of its trustees, directors, or managers for the first year of its existence.

Signers incorporated.

SEC. 600. SIGNERS INCORPORATED.—Upon filing their certificates the persons who shall have signed and acknowledged the same and their associates and successors shall be a body politic and corporate, by the name stated in such certificate; and by that name they and their successors may have and use a common seal, and may alter and change the same at pleasure, and may make by-laws and elect officers and agents, and may take, receive, hold, and convey real and personal estate necessary for the purposes of the society as stated in their certificate, and other real and personal property the clear annual income from which shall not exceed in value twenty-five thousand dollars: *Provided, however*, That this section shall not be construed to exempt any property from taxation in addition to that now specifically exempted by law.

—powers.

Proviso.
Exemption from taxation.

Trustees.

SEC. 601. TRUSTEES.—Such incorporated society may elect its trustees, directors, or managers at such time and place and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of the society, and a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen in such board of trustees, directors, or managers the vacancies shall be filled in such manner as shall be provided by the by-laws of the society.

Reincorporation.

SEC. 602. REINCORPORATION.—The trustees, directors, or stockholders of any existing benevolent, charitable, educational, musical, literary, scientific, religious, or missionary corporation, including societies formed for mutual improvement, may, by conforming to the requirements herein, reincorporate themselves, or continue their existing corporate powers under this subchapter, or may change their name, stating in their certificate the original name of such corporation as well as their new name assumed; and all the property and effects of such existing corporation shall vest in and belong to the corporation so reincorporated or continued.

Property, how managed.

SEC. 603. PROPERTY, HOW MANAGED.—Any property of the corporation may be leased, encumbered by mortgage or deed of trust in the nature of a mortgage, or sold and conveyed absolutely, when authorized by a vote of the majority of the shares of stock, if the same be a stock corporation, or by a vote of the majority of the directors, managers, or trustees, if the same be not a stock corporation, at a meeting called for the purpose, the proceedings of which meeting shall be duly entered in the records of the corporation, and the proceeds arising therefrom shall be applied or invested for the use and benefit of such corporation.

Name of corporation.

SEC. 604. NAME OF CORPORATION.—The provisions of this subchapter shall not extend or apply to any association or individual who shall in the certificate filed with the recorder of deeds use or specify a name or style the same as that of any other incorporated body in the District.

SUBCHAPTER FOUR.

MANUFACTURING, AGRICULTURAL, MINING, MECHANICAL, INSURANCE, MERCANTILE, TRANSPORTATION, MARKET, AND SAVINGS BANK CORPORATIONS.

Manufacturing, agricultural, mining, mechanical, insurance, mercantile, transportation, market, and savings bank corporations.
Certificate.

SEC. 605. CERTIFICATE.—Any three or more persons who desire to form a company for the purpose of carrying on any enterprise or business which may be lawfully conducted by an individual, excepting banks of circulation or discount, corporations to buy, sell, or deal with real property, railroads, and such other enterprise or business as may be otherwise specially provided for in this code, may make, sign, and

acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the officer of the recorder of deeds, a certificate in writing.

SEC. 606. In such certificate shall be stated— —contents of.

First. The corporate name of the company and the object for which it is formed.

Second. The term of its existence, which may be perpetual.

Third. The amount of the capital stock of the company and the number of shares of which said stock shall consist.

Fourth. The number of trustees who shall manage the concerns of the company for the first year and their names.

Fifth. The name of the place in the District in which the operations of the company are to be carried on.

SEC. 607. SIGNERS INCORPORATED.—When the certificate shall have been filed, in accordance with the provisions of the preceding section, the persons who shall have signed and acknowledged the same and their successors shall be a body politic and corporate in fact and in name, by the name stated in such certificate, and by that name have succession and be capable of suing and being sued in any court of law or equity in the District; and they and their successors may have a common seal and make and alter the same at pleasure, and they shall by their corporate name be capable in law of purchasing, holding, and conveying any real or personal estate whatever which may be necessary to enable the company to carry on its operations named in such certificates, but shall not mortgage such estate or give any lien thereon, except in pursuance of a vote of the stockholders of the company. Signers incorporated.

SEC. 608. TRUSTEES.—The stock, property, and concerns of such company shall be managed by not less than three nor more than fifteen trustees, who shall, respectively, be stockholders, and a majority citizens of the District, and shall, except for the first year, be annually elected by the stockholders, at such time and place as shall be determined by the by-laws of the company. Trustees.

SEC. 609. ELECTIONS.—Public notice of the time and place of holding such election shall be published not less than thirty days previous thereto in some newspaper printed and published in the District, and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All the elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the company, and the persons receiving the greatest number of votes shall be trustees; and when any vacancy shall happen among the trustees it shall be filled for the remainder of the year in such manner as may be provided by the by-laws of the company. Elections.

SEC. 610. In case it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of said company when it ought to have been made, the company shall not for that reason be dissolved, but it shall be lawful on any other day to hold an election for trustees, in such manner as shall be provided by the by-laws, and all acts of trustees shall be valid and binding as against said company until their successors shall be elected. Failure to elect on day designated not to dissolve company.

SEC. 611. OFFICERS.—There shall be a president of the company, who shall be designated from the trustees; and also such subordinate officers as may be elected or appointed, and who may be required to give security for the faithful performance of the duties of their office, as the company by its by-laws may require. Officers.

SEC. 612. BY-LAWS.—The trustees shall have power to make such prudential by-laws as they deem proper for the management and disposal of the stock and business affairs of such company, not inconsistent with the laws of the District and the Constitution of the United States, and prescribing the duties of officers, artificers, and servants that may be employed, for the appointment of all officers, and for car- By-laws.

rying on all kinds of business within the objects and purposes of such company.

Calls.

SEC. 613. CALLS.—No company incorporated under this subchapter shall be authorized to transact any business until ten per centum of the capital stock shall have been actually paid in, either in money or in property at its actual value; and it shall be lawful for the trustees to call in and demand from the stockholders the residue of their subscriptions in money or property at such times and in such installments as the trustees shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the stockholder within sixty days after a personal demand or a notice requiring such payment shall have been published for six successive weeks in a newspaper in the District.

Stock.

SEC. 614. STOCK.—The stock of such company shall be deemed personal estate and shall be transferable in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in or the shares shall have been declared forfeited for nonpayment.

Liability of stockholders.

SEC. 615. LIABILITY OF STOCKHOLDERS.—All the stockholders of every company incorporated under this subchapter shall be severally individually liable to the creditors of the company in which they are stockholders for the unpaid amount due upon the shares of stock held by them, respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded, as prescribed in the following section.

Payments on capital stock.

SEC. 616. PAYMENTS ON CAPITAL STOCK.—The president and a majority of the trustees, within thirty days after the payment of the last installment of the capital stock so fixed and limited, shall make a certificate stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the trustees; and they shall within the said thirty days record the same in the office of the recorder of deeds of the District.

Annual reports.

SEC. 617. ANNUAL REPORTS.—Every such company shall annually, except insurance companies, within twenty days from the first of January, make a report, which shall be published in a newspaper in the District, which shall state the amount of capital and of the proportion actually paid and the amount of existing debts, which report shall be signed by the president and a majority of the trustees, and shall be verified by the oath of the president or secretary of the company, and filed in the office of the recorder of deeds of the District.

Penalty for failure.

SEC. 618. PENALTY FOR FAILURE.—If any company fails to comply with the provisions of the preceding section, all the trustees of such company shall be jointly and severally liable for the debts of the company then existing and for all that shall be contracted before such report shall be made.

False report.

SEC. 619. FALSE REPORT.—If any certificate or report made or public notice given by the officers of any company in pursuance of the provisions of this subchapter shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all debts of the company contracted while they are stockholders or officers thereof.

Stock of other companies not to be bought.

SEC. 620. STOCK OF OTHER COMPANIES NOT TO BE BOUGHT.—It shall not be lawful for any company to use any of their funds in the purchase of any stock in any other corporation.

Loans to stockholders.

SEC. 621. LOANS TO STOCKHOLDERS.—No loan of money shall be made by any company upon the security, in whole or in part, of its own stock; and if any such loan shall be made to a stockholder, the officers who shall make it or who shall assent thereto shall be jointly and severally liable, to the extent of such loan and interest, for all

debts of the company contracted while they are stockholders or officers thereof.

Dividends; trustees' liability.

SEC. 622. DIVIDENDS.—If the trustees of any company shall declare and pay any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the company then existing and for all that shall be thereafter contracted while they shall respectively remain in office.

—objections of, to declaring, etc.

SEC. 623. If any of the trustees shall object to declaring such dividend or the payment of the same, and shall, at any time before the time fixed for the payment thereof, file a certificate of their objection in writing with the secretary of the company and with the recorder of deeds of the District, they shall be exempt from the liability prescribed in the preceding section.

Executors, etc., not personally liable.

SEC. 624. EXECUTORS, AND SO FORTH, NOT PERSONALLY LIABLE.—No person holding stock in such company as executor, administrator, guardian, or trustee shall be personally subject to any liability as stockholder of such company, but the estate and funds in the hands of such executor, administrator, guardian, or trustee shall be liable in like manner and to the same extent as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act and hold the stock in his own name.

Executors, etc., may vote.

SEC. 625. EXECUTORS, AND SO FORTH, MAY VOTE.—Every such executor, administrator, guardian, or trustee shall represent the stock in his hands at all meetings of the company, and may vote accordingly as a stockholder.

Pledges of stock.

SEC. 626. PLEDGES OF STOCK.—No person holding stock in such company as collateral security shall be personally subject to any liability as stockholder of such company, but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and every person who shall pledge his stock as collateral security may, nevertheless, represent the same at all meetings and vote as a stockholder.

Stock book.

SEC. 627. STOCK BOOK.—It shall be the duty of the trustees of every corporation formed under this subchapter to cause a book to be kept by the treasurer or secretary thereof, containing the names of all persons alphabetically arranged, who are or shall within six years have been stockholders of such company, and showing their place of residence, the number of shares of stock held by them respectively, the time when they became owners of such shares, and the amount of stock actually paid in.

—open for inspection, etc.

SEC. 628. Such book shall, during the usual business hours of the day, on every business day, be open for inspection of stockholders and creditors of the company and their personal representatives, at the office or principal place of business of such company in the District where its business operations shall be located, and any stockholder, creditor, or representative shall have a right to make extracts from such books.

Transfers.

SEC. 629. TRANSFERS.—A person in whose name shares of stock stand on the books of a company shall be deemed the owner thereof as regards the company, but if any such person shall in good faith sell, pledge, or otherwise dispose of any of his shares of stock to another and deliver to him the certificate for such shares, with written authority for the transfer of the same on the books, the title of the former shall vest in the latter so far as may be necessary to effect the purpose of the sale, pledge, or other disposition, not only as between the parties themselves, but also as against the creditors of and subsequent purchasers from the former, subject to the provisions of section six hundred and fourteen.

Weight of book as evidence.

SEC. 630. Such book shall be presumptive evidence of the facts therein stated in favor of the plaintiff in any suit or proceeding against such company or against any one or more stockholders.

Inspection of books.

SEC. 631. INSPECTION OF BOOKS.—Every officer or agent of any company who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same, or allow the same to be inspected and extracts to be taken therefrom, as herein provided, shall be deemed guilty of a misdemeanor, and the company shall pay to the party injured a penalty of fifty dollars for any such neglect or refusal, and all damages resulting therefrom.

Penalty for failure to keep book open to inspection.

SEC. 632. Every company that shall neglect to keep such book open for inspection, as provided in section six hundred and twenty-eight, shall forfeit to the United States the sum of fifty dollars for every day it shall so neglect, to be sued for and recovered in the supreme court of the District.

Increase or diminution of stock.

SEC. 633. INCREASE OR DIMINUTION OF STOCK.—Any company which may be formed under this subchapter may increase or diminish its capital stock, by complying with the provisions of this subchapter, to any amount which may be deemed sufficient and proper for the purposes of the corporation, and may also extend its business to any other business authorized hereby, subject to the provisions and liabilities of this subchapter.

—condition of diminution.

SEC. 634. Before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital.

Meeting to increase, etc., stock, etc., notice of.

SEC. 635. Whenever any company shall desire to call a meeting of the stockholders for the purpose of increasing or diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the trustees or directors to publish a notice, signed by a majority of them, in a newspaper in the District, at least three successive weeks, and to deposit a notice thereof in the post-office addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting and the time and place when and where such meeting shall be held.

—two-thirds of shares to be represented

SEC. 636. If, at any time and place specified in the notice provided for in the preceding section, stockholders shall appear by proxy or in person representing not less than two-thirds of all the shares of stock of the corporation, they shall organize and proceed to a vote of those present or by proxy.

—certificate of proceedings.

SEC. 637. If, on canvassing the votes, it shall appear that a sufficient number of votes are in favor of increasing or diminishing the amount of capital, or extending or changing the business of the company, a certificate of the proceedings, showing a compliance with the provisions of this subchapter, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of debts and liabilities of the company, and the amount to which the capital shall be increased or diminished, shall be made out, signed, and verified by the affidavit of the chairman, and be countersigned by the secretary.

—acknowledgment, filing of, etc.

SEC. 638. Such certificate shall be acknowledged by the chairman, and filed as required by section six hundred and six, and when so filed the capital stock of such corporation shall be increased or diminished to the amount specified in the certificate, and the business extended or changed accordingly; and the company shall be entitled to the privileges and provisions and be subject to the liabilities of this subchapter.

Vote of two-thirds of shares necessary.

SEC. 639. A vote of at least two-thirds of all the shares of the stock of a company shall be necessary to an increase or diminution of the amount of its capital stock or the extension or change of its business.

Copy of certificate to be evidence.

SEC. 640. COPY OF CERTIFICATE TO BE EVIDENCE.—A copy of any certificate of incorporation filed in pursuance of this subchapter, certified by the recorder of deeds to be a true copy and the whole of such

certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

Title and fire insurance companies may become perpetual.

SEC. 641. TITLE AND FIRE INSURANCE COMPANIES MAY BECOME PERPETUAL.—Any company heretofore formed, agreeably to law, for the purpose of insuring titles to real estate, or for the purpose of carrying on fire insurance, may become perpetual by filing, in the office of the recorder of deeds, a certificate to that effect, in like manner as is provided by law for the filing of the original certificate of incorporation.

Sale of unclaimed freight, etc., by common carrier.

SEC. 642. SALE OF UNCLAIMED FREIGHT, AND SO FORTH.—Whenever any freight, baggage, or other property transported by a common carrier to, or deposited with a common carrier at, any point in the District of Columbia, shall remain unclaimed by the owner or consignee, or the charges thereon shall remain unpaid for the space of six months after arrival at the point to which the same shall have been directed or transported, or after deposit as aforesaid, and the owner or person to whom the same is consigned, or by whom the same shall have been deposited, shall, after notice of such arrival, or after notice to take away such property so deposited, neglect or refuse to receive the same and pay the charges thereon within such period of six months, then it shall be lawful for such carrier to sell such freight, baggage, or other property at public auction, after giving three weeks' notice of the time and place of sale, once a week for three successive weeks, in a newspaper published in the District of Columbia.

—notice to consignee.

—order of court where notice impracticable.

SEC. 643. Upon the application of such carrier, verified by affidavit, to the supreme court of the District of Columbia holding a special term, setting forth that the place of residence of the owner or consignee of any such freight, baggage, or other property is unknown, or that such freight, baggage, or other property is of such perishable nature, or so damaged, or showing any other cause that shall render it impracticable to give the notice or delay the sale for the period provided in the next preceding section, then it shall be lawful for such court to make an order authorizing the sale of such freight, baggage, or other property upon such terms as to notice as the nature of the case may admit of and to such court shall seem meet: *Provided*, That in case of perishable property the affidavit and proceedings required and authorized by this section may be had before a justice of the peace.

Proviso.
—proceedings where property perishable.

Disposition of residue of moneys from sale.

SEC. 644. The residue of moneys arising from any such sale, under either of the two next preceding sections, after deducting the amount of charges, including charges for transportation, the cost of handling and storage, demurrage, and the costs and expenses of proceedings to authorize the sale, and of advertising and sale, shall be paid to the owner of such freight, baggage, or other property on demand.

SUBCHAPTER FIVE.

INSURANCE COMPANIES.

Insurance companies,

Department of insurance.

SEC. 645. DEPARTMENT OF INSURANCE.—There shall be, and is hereby, established in the District a department of insurance, under the direction of the Commissioners of the District. The said Commissioners are authorized and directed to appoint a superintendent of insurance, at an annual salary of two thousand five hundred dollars, and one clerk, at an annual salary of one thousand dollars. The said superintendent and clerk shall devote their services exclusively to the business of said department. Said superintendent shall have supervision of all matters pertaining to insurance, insurance companies, and beneficial orders and associations, subject only to the general supervision of the Commissioners.

Superintendent, etc.

Duties of superintendent.

SEC. 646. DUTIES OF SUPERINTENDENT, AND SO FORTH.—It shall be the duty of said superintendent to see that all laws of the United States relating to insurance or insurance companies, benefit orders, and associations doing business in the District are faithfully executed; to keep on file in his office copies of the charters, declarations of organization, or articles of incorporation of every insurance company, benefit association or order, including life, fire, marine, accident, plate-glass, steam-boiler, burglary, cyclone, casualty, live-stock, credit, and maturity companies or associations doing business in the District; and before any such insurance company, association, or order shall be licensed to do business in the District it shall file with said superintendent a copy of its charter, declaration of organization, or articles of incorporation, duly certified in accordance with law by the insurance commissioners or other proper officer of the State, Territory, or nation where such company or association was organized; also a certificate setting forth that it is entitled to transact business and assume risks and issue policies of insurance therein; and if its principal office is located outside the District it shall appoint some suitable person, resident in said district, as its attorney, upon whom legal process may be served; and the fees for filing with the superintendent such papers as are required by this section shall be ten dollars, to be paid to the collector of taxes, and no other license fee shall be required of such insurance companies or associations except as provided in sections six hundred and fifty-four and six hundred and fifty-five of this subchapter. Said superintendent shall have power to make such rules and regulations, subject to the general supervision of the Commissioners, not inconsistent with law, as to make the conduct of each company in the same line of insurance conform in doing business in the District.

Papers to be filed with, before issue of license.

Outside companies to appoint Attorney.

Fees.

Regulations.

Annual statements of companies. —contents, etc.

SEC. 647. ANNUAL STATEMENTS.—The said superintendent shall furnish, in December of each year, to every company or association hereinbefore mentioned, or its agent or attorney in the District, the necessary blank forms for the annual statements for such company or association, which shall be returned to the superintendent on or before the first day of March in each year, signed and sworn to by the president and secretary, or if a foreign company by its manager or proper representative within the United States, showing its true financial condition as of the next preceding thirty-first day of December, which shall include a detailed statement of its assets and liabilities on that day, the amount and character of business transacted, losses sustained, and money received and expended during the year, and such other information as the said superintendent may deem necessary. Such annual statements shall be printed in at least one newspaper published in the District of Columbia, in the month of March in each year; and any such company or association failing to comply with the provisions aforesaid shall have its license to do business in the District revoked.

Paid-up capital required.

SEC. 648. PAID-UP CAPITAL REQUIRED, AND SO FORTH.—No fire insurance company, except mutual fire insurance companies organized in the District of Columbia under special act of Congress or the general laws of said District, or mutual companies of other States licensed to do business in the said District, which has a paid-up capital of less than one hundred thousand dollars, shall be permitted to do business therein, and all life and fire insurance companies or associations licensed to do business in said District shall be required to maintain a reinsurance reserve fund; and whenever any such company or association not excepted from the operations hereof shall become insolvent or impaired to the extent of twenty-five per centum of its capital stock it shall be the duty of the superintendent to suspend its license; and unless such impairment or insolvency shall be made good within sixty days thereafter, it shall be the duty of the superintendent of insurance to revoke its license to do busi-

Reinsurance reserve fund.

Suspension of license for insolvency.

ness in the District; and it shall be unlawful for any insurance company, association, or order to do business in the District without a license, or to continue business after the revocation of its license, and any such company or association violating this provision shall be liable to a penalty of twenty dollars for each day it transacts business without such license, to be recovered by the Commissioners of the District by an action of debt in any court of the District of competent jurisdiction. And any person who shall aid in carrying on the business of any such company, or shall act as agent or solicitor for any company not licensed to do business in said District, or whose license is revoked, shall be guilty of a misdemeanor, and on conviction thereof in the police court of said District shall be punished by a fine not exceeding one hundred dollars, or, in default of payment thereof, by imprisonment in the jail of the District for not less than ten nor more than sixty days. And the superintendent of insurance shall issue such license to any such insurance company or association whenever it shall have complied with the provisions of section six hundred and forty-six of this subchapter, subject, however, to the provisions of sections six hundred and fifty-four and six hundred and fifty-five thereof: *Provided*, That the superintendent of insurance shall have power to make an official examination into the affairs of any insurance company or association organized under the laws of the District of Columbia, or having its principal office therein, at his discretion, for the purpose of ascertaining whether such company is impaired or insolvent, as aforesaid.

Transacting business without license; penalty.

Proviso. Ascertaining insolvency.

SEC. 649. DEPOSIT REQUIRED OF FOREIGN COMPANIES.—No insurance company or association organized outside the territorial limits of the United States shall be licensed to do business in the District until it shall have complied with the laws of some one of said States requiring a deposit of not less than one hundred thousand dollars, or deposited in the registry of the supreme court of the District United States or municipal bonds, the market value of which shall be not less than one hundred thousand dollars, to be approved by the superintendent of insurance and the Commissioners of the District, to be held and maintained unimpaired in the registry of said court as a reserve fund for the liquidation of any judgment or judgments that may be obtained against such insurance company or association in said court or any inferior court of competent jurisdiction in said District; and the financial statements of insurance companies or associations, required hereby to be filed annually with the superintendent of insurance, shall set forth specifically the assets, liabilities, and conduct of the affairs of such companies or associations within the United States, and such statement shall be verified under oath by the manager and assistant manager or other proper officers of such companies or associations within the United States; and so much of this subchapter as requires the publication of annual statements shall only extend to the statements respecting the affairs of such foreign companies or associations within the United States.

Deposit required of foreign companies.

Financial statements to show assets, etc.

SEC. 650. STATEMENT OF BUSINESS IN DISTRICT OF COLUMBIA.—Every insurance company and association doing business in the District of Columbia shall, through its local agents or representatives, furnish to the superintendent, during the month of January of each year, a statement of its business in said District, setting forth specifically the net amount of its premium receipts, the amount of losses paid, the amount of expenses incurred, respecting the business done in the District during the calendar year next preceding, and said superintendent shall preserve a separate record of the same in his office for convenient reference, showing the ratio of such losses and expenses, respectively, to said premium receipts, "and all insurance companies of every description, except mutual fire insurance companies, shall pay to the

Statement of business in District of Columbia.

collector of taxes before March first of each year a sum equal to one and one-half per centum of said premium receipts of the last preceding calendar year, in lieu of all other taxes, except taxes upon real estate and any license fees provided for in sections six hundred and fifty-four and six hundred and fifty-five; and upon the failure of any company to pay said taxes before March first, as aforesaid, the license of said company shall be revoked and a penalty of eight per centum per month shall be charged against said company, which, together with said taxes, shall be collected before said company shall be allowed to resume business."

Superintendent to make annual report.

SEC. 651. SUPERINTENDENT TO MAKE ANNUAL REPORT.—The superintendent of insurance shall report annually to the Commissioners of the District, on or before the thirty-first day of March, the financial condition of each insurance company and association doing business in said District, as of the thirty-first day of December next preceding.

Inquiries as to District companies.

SEC. 652. INQUIRIES AS TO DISTRICT COMPANIES.—It shall be the duty of the said superintendent of insurance to ascertain whether the capital required by law or the charter of each insurance company or association organized under the laws of the District of Columbia has been actually paid up in cash and is held by its board of directors subject to their control, according to the provisions of their charter, or has been invested in property worth not less than the full amount of the capital stock required by its charter; or, if a mutual company, that it has received and is in actual possession of securities, as the case may be, to the full extent of the value required by its charter; and the president and secretary of such company or association shall make a declaration under oath to said superintendent, who is hereby empowered to administer oaths when hereby required, that the tangible assets exhibited to him represent bona fide the property of the company or association, which sworn declaration shall be filed and preserved in the office of said superintendent; and any such officer swearing falsely in regard to any of the provisions hereof shall be deemed guilty of perjury and shall be subject to all the penalties now prescribed by law in the District of Columbia for that crime.

Sworn statement of officers of company.

Assessment companies, exemption of.

SEC. 653. ASSESSMENT COMPANIES.—Insurance companies or associations transacting the business of life insurance on the assessment plan, organized under the laws of the District of Columbia or of any State of the United States, and doing business in said District, shall not be required to comply with the provisions of the next preceding section in regard to its assets; but such assessment companies or associations shall be required, as a condition of license to do business in said District, to file annually in the month of January with said superintendent a sworn statement setting forth that they are paying, and for the twelve months next preceding have paid, the maximum amount named in their policies or certificates of membership when and as the same become due and payable, and that one assessment upon their members is sufficient to pay the maximum amount for such certificate or policy issued, and such other information as he may require. Such assessment companies or associations shall also furnish said superintendent evidence that they hold an emergency or surplus fund as a guaranty for the payment of future death claims when the same is required by the charter or constitution of the company or association; and any such company or association licensed to do an insurance business refusing or neglecting to furnish such certificate shall have its license to do business in the District of Columbia revoked; but the provisions of this section shall apply only to associations transacting life insurance upon the assessment plan.

—sworn statement.

—certificate as to emergency fund.

Insurance agents' license.

SEC. 654. INSURANCE AGENTS.—No person, firm, or corporation shall act as agent for any insurance company or association, or act as insurance broker or agent for procuring or placing insurance for commis-

sions, compensation, gain, or profit, without first having obtained a license as an insurance agent or broker from the superintendent of insurance of the District. Every such license certificate shall have printed conspicuously upon its face the words "General insurance license," and for such license the sum of fifty dollars shall be paid annually in the month of March to the collector of taxes of said District. All licenses for insurance companies, their agents, or solicitors, who may apply for permission to do business in the District of Columbia shall date from the first of the month in which application is made and expire on the thirtieth day of April following, and payment shall be made in proportion. No person, firm, or corporation, or association shall allow or pay any commission, rebate, or compensation whatever, directly or indirectly, to, for, or in behalf of any person, firm, or corporation doing business in the District of Columbia not licensed as herein provided. Any violation of this section shall be a misdemeanor and, on conviction in the police court of said District, be subject to the penalties provided in section six hundred and forty-eight aforesaid for the misdemeanors therein described: *Provided*, That licenses to firms, corporations, or associations shall be held to extend only to the bona fide copartners, not exceeding two in one firm, and to the secretary and one assistant secretary of each corporation or association so licensed, any one of whom may be held and dealt with on behalf of such firm, corporation, or association for any violation of the provisions hereof: *And provided further*, That all moneys paid as fines under the provisions hereof shall be turned over to the proper custodian of the relief or pension fund of the fire department of the District, to be used and accounted for agreeably to the then existing rules for the use of such relief or pension fund.

—duration of.

Penalty.

Provisos.
Licenses to firms, etc., extent of.

Disposition of moneys paid as fines.

SEC. 655. FRATERNAL ASSOCIATIONS, AND SO FORTH. — Nothing herein contained shall be held to interfere with or abridge the rights of, or apply to, any fraternal beneficial societies, orders, or associations under the act of Congress entitled "An act regulating fraternal beneficial associations in the District of Columbia," approved March third, eighteen hundred and ninety-seven, the provisions of which are embodied in subchapter twelve of this chapter, except that the superintendent of insurance herein provided for shall be substituted for and perform all the duties in said act of Congress assigned to the assessor of the District of Columbia: *Provided*, That any insurance company or agent licensed to do business in the District of Columbia may employ solicitors, and the license fee to be paid for each solicitor so employed shall be five dollars per year, payable in the month of March, and such license shall have printed on its face the words "Insurance solicitor's license," and shall contain the name of the company for which such solicitor is employed, and no other: *Provided*, That nothing herein contained shall be held to prevent any life or fire insurance company from carrying on the business commonly known as industrial insurance, and the license fee to be paid for solicitors for such industrial insurance shall be two dollars for every such solicitor, to be paid in the month of March in each year. Such license certificate shall have conspicuously printed on its face "Industrial insurance license," and shall also express upon its face the name of the company for which such solicitor is employed; and any certificate of license granted under this section or the next preceding section may be assigned, upon application to the superintendent of insurance, by canceling the old certificate and issuing a new one of like tenor to the assignee for the unexpired term, for which assignment a fee of twenty-five cents shall be paid to the collector of taxes; and any person who shall act as solicitor for any such insurance company, without having first procured such license therefor, or shall solicit for any company other than the one named in such license, shall be guilty of a misdemeanor and, on conviction thereof in

Fraternal associations; rights of, unabridged.

Vol. 29, p. 630.

Provisos.
Insurance solicitors.

—license of.

Industrial insurance.

—solicitors' license.

Assignment of certificate of license.

Penalty.

the police court of said District, be punished by a fine of not less than ten dollars nor more than fifty dollars, and in default of payment of such fine by imprisonment in the jail of said District for a term of not less than ten days nor more than thirty days, at the discretion of the court: *Provided*, That nothing in this subchapter shall be held to prevent any life insurance company organized in the District of Columbia under special act of Congress, but which has discontinued writing new insurance, from collecting premiums or dues upon any undetermined policies under which such company has liabilities, provided such company has sufficient assets and reserves to safely meet such liabilities.

Proviso.
Collecting premiums on undetermined policies by discontinued companies.

Wagering policies.

SEC. 656. WAGERING POLICIES.—No insurance shall be made by any person or persons, bodies politic or corporate, on any ship or ships, or on any goods, merchandise, or effects laden or to be laden on board of any ship or ships, interest or no interest, or without further proof of interest than the policy, or by way of gaming or wagering, or without benefit of salvage to the insurer; and every such insurance shall be null and void to all intents and purposes.

Copy of application to be attached to policy.

SEC. 657. COPY OF APPLICATION TO BE ATTACHED TO POLICY.—Each life insurance company doing business in the District of Columbia shall attach to each policy issued by such company a copy of the application made by the insured, so that the whole contract may appear in said application and policy.

SUBCHAPTER SIX.

CEMETERY ASSOCIATIONS.

Cemetery associations.

How incorporated.

SEC. 658. HOW INCORPORATED.—When five or more persons shall associate themselves together for the purpose of forming a cemetery association in the District, such persons shall have the power to adopt a corporate name, and by that name shall be known as a body corporate, and by that name shall have perpetual succession and be invested with all powers, rights, privileges, liabilities, and immunities incident to corporations, and may have a common seal, and may alter or change the same at their pleasure.

Power to acquire land.

SEC. 659. POWERS.—Such persons so associated shall have power to acquire by gift, grant, or purchase any lot or lots of land not exceeding fifty acres, and lay out the same for a burial place for the dead, with convenient aisles, and to sell the same for such purpose and for no other purposes, reserving a sufficient portion thereof for the burial of the stranger and indigent.

—survey of.

SEC. 660. They shall cause the land designed as a burial ground to be surveyed and platted, and a plat of the ground so surveyed shall be recorded in the office of the surveyor of the District. Each lot shall be duly numbered by the surveyor and such number shall be marked on the plat and recorded.

—improvements.

SEC. 661. Such association shall have power to inclose and ornament their burial ground, to build and erect a hearse house, and keep the same in proper repair; to purchase a hearse or hearses, and to do all other necessary acts to the end that all the appliances, conveniences, and benefits of a public and private cemetery may be obtained.

Distribution of proceeds from sale of lots.

SEC. 662. The proceeds arising from the sale of lots, after deducting all expenses of purchasing and laying out the same, shall be applied, appropriated, and used in improving and ornamenting the burial ground, or for other purposes named in this subchapter.

Officers.

SEC. 663. OFFICERS.—The officers of any such corporation shall be a president, a treasurer (who shall act as a secretary), and not less than three directors, who shall be severally chosen annually by ballot, and shall hold office until their successors are chosen. Any neglect to choose officers on the day fixed upon for that purpose shall not operate

as a forfeiture of the act of incorporation, in accordance with the provisions of this subchapter.

—first election of.

SEC. 664. The first election of officers by the persons associating, according to and for the purpose specified in section six hundred and fifty-eight, shall be at the time and place designated and agreed upon by a majority of the persons so associating themselves together, and no other than such persons shall vote at such election.

Voters.

SEC. 665. VOTERS.—At each subsequent election of officers of any such corporation the owner of a lot in said burial ground shall be entitled to one vote in the election of officers of the corporation and no more, and shall, by virtue of such membership, be a member of the corporation.

By-laws.

SEC. 666. BY-LAWS.—Each corporation shall have power to establish and change by-laws and prescribe rules and regulations for its government and the duties of its officers and the management of its property.

Exemption from taxation.

SEC. 667. EXEMPTION FROM TAXATION.—The property of any such corporation, its grounds, lots, and appliances, shall be exempt from taxation and shall not be liable to sale on execution.

Dedication.

SEC. 668. DEDICATION.—Any person desiring to dedicate any lot of land, not exceeding five acres, as a burial place for the interment of the dead for the use of any society, association, or neighborhood may, by deed duly executed and recorded, convey such land to the District of Columbia, by the corporate name of said District of Columbia, specifying in such deed the society, association, or neighborhood for the use of which the dedication is desired to be made, and thereby (provided such conveyance shall be accepted by the Commissioners of the District of Columbia) vest the title to such land in perpetuity, for the uses stated in the deed, and such land shall be thereafter exempt from taxes for all purposes whatever.

Grants and bequests for care of lots.

SEC. 669. GRANTS AND BEQUESTS FOR CARE OF LOTS.—It shall be lawful for such association to take and hold any grant, donation, or bequest upon trust to apply the income thereof, under the direction of the board of managers, for the embellishment, preservation, renewal, or repair of any tomb, monument, gravestone, or other structure, fence, railing, or other inclosure in or around any cemetery lot, or for the planting and cultivation of any trees, shrubs, flowers, or plants in or around any cemetery lot, according to the terms of such grant, donation, or bequest; and the supreme court of the District of Columbia shall have full power and jurisdiction to compel the due performance of such trusts, or any of them, upon a bill filed by the proprietor of any lot in such cemetery for that purpose.

Distance from city and from dwellings.

SEC. 670. DISTANCE FROM CITY AND FROM DWELLINGS.—No person or persons or cemetery association shall lay out any new cemetery, or part of any cemetery, within the city of Washington, in the District of Columbia, nor in said District, within one mile and a half from the boundaries of said city; no person or cemetery association shall, in said District, lay out any cemetery, or part of any cemetery, within less than two hundred yards of any dwelling house, except with the written consent of the owner, lessee, and occupant of such house, nor without a permit to do so from the Commissioners of said District.

Inclosures.

SEC. 671. INCLOSURES.—It shall be the duty of the owner or owners of any cemetery or cemeteries in said District to inclose such cemetery or cemeteries with good and sufficient walls or fences to prevent entrance thereto or exit therefrom except by gates provided for that purpose. Such cemetery or cemeteries shall, if required by the Commissioners of said District, be underdrained to such a depth as will prevent water remaining in any grave or vault therein.

Lots and plats.

SEC. 672. LOTS AND PLATS.—It shall be the duty of the owner or owners of any cemetery or cemeteries in said District to divide the area to be used for graves into lots of reasonable size, to be perma-

Plat to be filed.

nently designated by conspicuous marks, so that the position of each may be readily determined, each lot to be duly numbered. A plat of such cemetery showing the area so divided, the division into lots, and the number of each such lot shall be filed in the office of the surveyor of said District; the grave spaces hereafter laid out for the burial of persons above ten years of age to be at least eight feet by three feet, and those for the burial of children under ten years of age at least six feet by two feet, or, if preferred by said owner or owners, one-half the measurement of the adult grave space, namely, four feet by three feet.

Size of grave spaces.

Register.

SEC. 673. REGISTER.—It shall be the duty of the owner or owners of any cemetery or cemeteries in said District to cause to be kept in the office of the superintendent or person in charge of such cemetery or cemeteries a register showing the number of each lot, the name, age, cause of death, and date of burial of each person or persons buried in any such lot or grave space, and the number of the burial permit authorizing such burial. In cases of disinterment said register shall show the date of such disinterment and the number of the official permit therefor opposite the name of the person whose remains are disinterred. Such register shall be at all times open to inspection by duly authorized representatives of the health department and of the police department of said District.

Superintendent to register at health department.

SEC. 674. SUPERINTENDENT TO REGISTER AT HEALTH DEPARTMENT.—It shall be the duty of the superintendent or person in charge of any cemetery or other place for the disposal of dead bodies of human beings in the District of Columbia to register his or her name at the office of the health department of said District, giving full name, residence, and place of business, and in case of removal from one place to another in said District to make change in such register accordingly.

Removal of dead bodies; permits.

SEC. 675. REMOVAL OF DEAD BODIES.—No dead body of any human being or any part of such body shall, in said District, be removed from place to place, interred, disinterred, or in any manner disposed of without a permit for such removal, interment, disinterment, or disposal granted by the health officer of said District, nor otherwise than in accordance with the terms of said permit; permits for the removal, interment, or disposal to be issued upon the presentation of a proper death certificate, signed by a physician registered at the health department of said District, who has attended the deceased during his or her last illness, or by the coroner of said District or his deputy, or by the proper municipal, county, or State authorities at the place where the death occurred; permits for disinterment (including permission to reinter or transport the body disinterred) to be issued upon the written application of the nearest relative or the legal representative of the deceased; and no superintendent or other person in charge of any cemetery in said District or other place for the disposal of dead bodies shall assist in or assent to or allow any such interment, disinterment, or disposition to be made in such cemetery or place until permit shall be given as aforesaid. It shall be the duty of every such superintendent or other person who shall receive any such permit aforesaid to indorse thereon the date of the interment, disinterment, or disposal, and to preserve, sign, and return the same to the health officer of said District before six o'clock postmeridian of the Saturday following the day of burial, disinterment, or disposal.

Conveyance through the District.
Permit of health officer.

SEC. 676. CONVEYANCE THROUGH THE DISTRICT.—No dead body or part of the dead body of any human being shall be in any manner carried or conveyed from, in, to, or through said District by any person, or by means of any boat, vessel, car, stage, or other vehicle, or by any public or private conveyance, without a permit therefor first granted by the health officer of said District: *Provided*, That bodies or parts of dead bodies aforesaid, except such as have died of Asiatic cholera,

Proviso.
—of authority at place of death.

yellow fever, typhus fever, smallpox (including varioloid), leprosy, the plague, diphtheria, or scarlet fever, may be brought into said District, or carried through the same in transit, upon a permit of the proper municipal, county, or State authorities of the place at which such person died; and whenever the remains of any deceased person have been conveyed, transferred, or removed beyond the limits of said District it shall be the duty of the person or agent or officer of the corporation having charge of such conveyance, transfer, or removal to detach, date, sign, and return to the health officer the permit authorizing such conveyance, transfer, or removal before six o'clock postmeridian of the Saturday following the day of such conveyance, transfer, or removal of said remains.

Return of permit.

SEC. 677. REPORTS OF DEATH.—It shall be the duty of any person or persons having custody or control of the dead body of any human being or any part of such body to report in writing or cause to be reported in writing, to the health officer of said District, within forty-eight hours after the death of the deceased, the name of said deceased and the location of the body or part thereof. No such body or part thereof shall be kept in said District in such manner as to give rise to any offensive odors to the annoyance of any person or persons in the neighborhood or to the public, nor so as to be exposed to the public view; nor shall any such body or part thereof be permitted by the person or persons having custody or control of it to remain unburied for a longer period than one week after death without permission of the health officer, unless it has been cremated or deposited in the vault of some cemetery; nor shall any person publicly exhibit in said District, for pay or otherwise, any dead body of any human being or any part of such body without a permit from the health officer of said District so to do, except such exhibition be in connection with some Government museum or with some institution of learning permanently located in said District.

Reports of death.

Exposure of bodies odors, etc.

SEC. 678. PLACE OF BURIAL—No person shall bury or cause to be buried within said District the body or part of the body of any deceased person, except in such grounds as are now known and used as public or private burial grounds, or such as shall hereafter be designated by the Commissioners of said District and authorized by them to be used as such.

Place of burial.

SEC. 679. MODE OF BURIAL.—No body shall be buried in said District in any vault unless the coffin be separately entombed in properly cemented stone or brick work, so as to render such vault air-tight; such vault, after having been sealed, shall not be opened within ten years; no body shall be temporarily deposited in any vault for a longer period than one month, unless such body is in an hermetically sealed metallic case, nor in any instance for a longer period than one year.

Mode of burial.

SEC. 680. REOPENING GRAVES.—No grave in said District shall be reopened, except for the purpose of disinterment, within ten years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless the grave has been, in the first instance, of sufficient depth to permit subsequent interments, in which case a layer of earth of not less than one foot thick shall be left undisturbed over the previously buried coffin, unless such coffin has been separately entombed in properly cemented stone or brick work; but if on reopening any grave the soil be found to be offensive, such soil shall not be disturbed. In no case shall a grave be opened in which has been buried the body of any person who has died of Asiatic cholera, yellow fever, typhus fever, smallpox (including varioloid), leprosy, the plague, tetanus, diphtheria, or scarlet fever.

Reopening graves.

SEC. 681. DEPTH OF GRAVES.—No coffin shall be buried in said District so that any part thereof is within less than four feet of the ordi-

Depth of graves.

nary level of the ground, unless it contains the body of a child under twelve years of age, when it shall not be less than three feet below that level.

Cremation; permit, etc.

SEC. 682. CREMATION.—No person shall, in the District of Columbia, build or maintain a crematory or other device for destroying human bodies, except within the limits of some duly established cemetery in said District, unless such person or persons has in writing the consent of the owners of more than one-half of the property within a radius of two hundred feet from the place where such crematory is to be erected and maintained and a permit from the Commissioners of said District for the erection and maintenance of such crematory or other device; such permit to be for a term of years, not exceeding five, to be specified therein: *Provided*, That this section shall not apply to such crematories or other devices for destroying human bodies as may have been erected and are in operation at the time of the passage of this law.

Proviso. Existing crematories unaffected.

Permit to cremate.

SEC. 683. PERMIT TO CREMATE; EMBALMING.—It shall be unlawful for any person or persons to cremate or otherwise to destroy the dead body, or part of the dead body, of any human being in said District before the issue of the burial permit by the health officer of said District, and then only when said permit is countersigned by the coroner of said District, authorizing such cremation or destruction. It shall be unlawful for any person or persons to embalm, inject, or by any similar method preserve the dead body, or part of the dead body, of any human being in said District within four hours after death or before the issue of the death certificate; and in case the death is believed to be due to other than natural causes, or the cause thereof is unknown, such embalming, injecting, or preserving shall at no time be done unless such death certificate has been signed or approved by the coroner of said District.

Embalming.

Penalty.

SEC. 684. PENALTY.—Any person who shall violate or aid and abet in violating any of the provisions of this subchapter shall, upon conviction thereof by competent judicial authority, be punished, for each offense, by a fine of not more than two hundred dollars, or by imprisonment for not more than ninety days, or both.

Prosecutions.

SEC. 685. PROSECUTIONS.—Prosecutions hereunder shall be in the police court of the District of Columbia, in the name of said District: *Provided*, That any person or persons so tried shall have the privilege, when demanded, of a trial by jury, as in other jury cases in said police court.

Proviso. —trial by jury.

Disinterment by order of court.

SEC. 686. DISINTERMENT BY ORDER OF COURT.—Nothing herein shall be construed to interfere with or prevent the disinterment of any body when such disinterment is ordered by one of the justices of the supreme court of the District of Columbia, or by the coroner of said District, for judicial purposes. The provisions hereof shall not be held to interfere with the disposal of the ashes of bodies which have been cremated.

SUBCHAPTER SEVEN.

BUILDING ASSOCIATIONS.

Building associations.

Certificate of organization.

SEC. 687. CERTIFICATE OF ORGANIZATION.—Any five or more persons who desire to form an incorporated building or homestead association, all being citizens of the United States, and a majority of them residents of the District of Columbia, may make, sign, seal, and acknowledge, before some officer authorized to take the acknowledgment of deeds, and file for record in the office of the recorder of deeds, a certificate, in writing, to the same effect as that required in subchapter four of this chapter, aforesaid, for the formation of the corporations therein mentioned.

Incorporation, powers, etc.

SEC. 688. When such certificate shall have been filed for record as aforesaid, the persons who have signed and acknowledged the same, and their successors, shall become and be a body politic and corporate, in fact and in law, by the name stated in the certificate, and by that name have succession and be capable of suing and being sued in the courts of the District, and of purchasing, holding, and conveying such real estate as may be necessary to the conduct of its business, and to make reasonable by-laws not inconsistent herewith.

Powers as to stock.

SEC. 689. POWERS AS TO STOCK.—Such corporation shall have power, in its certificate of incorporation or in its by-laws, to provide that its shares of stock may be issued in series; to limit the number of shares which each stockholder may be allowed to hold; to prescribe the entrance fee to be paid by each stockholder at the time of subscribing, and to regulate the installments to be paid on each share and the times at which they shall be payable. It shall also have power to enforce the payment of all installments and other dues by such fines and forfeitures as its by-laws may from time to time provide.

Assessments, etc., of applicants for stock after incorporation.

SEC. 690. Any person applying for membership or stock after a month from the time of the incorporation may be required to pay on subscribing such bonus or assessment as may be fixed by said by-laws in order to place said new members or stockholders on a footing with the original members and others holding stock at the time of such application.

Objects.

SEC. 691. OBJECTS.—The object of such corporation shall be the accumulation of a capital in money, to be derived from the savings and accumulation by the members thereof, to be paid into said corporation in periodical installments, in fixed and certain sums, and in such amount as shall be designated by the by-laws, until the value of all the shares of stock in said corporation, and every series thereof, shall be equal to the nominal or par value thereof or of some multiple thereof, at which time said corporation shall cease to exist, and in the meantime to enable the members thereof, by obtaining advances upon their shares of stock, to purchase or erect homes for themselves.

Advancements.

SEC. 692. ADVANCEMENTS.—The moneys accumulated from time to time shall be offered to such shareholder or shareholders as shall bid the highest premium for preference or priority of right to an advancement of the ultimate value of one or more of his or their respective shares. The said premium shall consist of a percentage on the amount of the advance and shall be deemed to be a consideration or bonus paid by the shareholder for the present and immediate use and possession of the future or ultimate value of the share so advanced, and shall not be deemed usurious. The said premium may either be deducted in advance from the amount to be advanced to the shareholder or be made payable in monthly installments, in addition to legal interest on the sum advanced, as the by-laws may provide.

Bond required on advancements.

SEC. 693. For every advance made as aforesaid a bond in a penalty equal to the ultimate value of the shares advanced may be required, secured by a first mortgage or deed of trust on real estate, and a pledge of the shares advanced upon, as additional or collateral security, which bond shall be conditioned for the payment at the stated meetings of the corporation of the monthly dues on the shares so advanced upon and the interest on the sum advanced, and the installments of premium, if made so payable, and all fines chargeable upon arrears of payments, until said shares shall reach their ultimate value aforesaid, or said advance be otherwise canceled or discharged.

Profits.

SEC. 694. PROFITS.—The shares advanced upon shall participate equally with the other shares in the profits and the amounts paid by the advanced shareholders, together with such proportion of the profits accrued or such rate of interest as said by-laws may determine, the

same as allowed on shares withdrawn not advanced upon, less all fines and a proportionate part of losses and other charges incurred.

Redemption of shares.

SEC. 695. REDEMPTION OF SHARES.—Where advances from the funds on hand can not be made on satisfactory terms, the shareholders failing to bid therefor, the by-laws may provide for the redemption of shares of stock, with the consent of the shareholders, and in case that can not be done, for the involuntary withdrawal and cancellation of shares, the said shares to be selected by lot, always from the oldest series, until exhausted, or the funds to be applied ratably among the owners of shares of the same series.

Withdrawal of shareholders.

SEC. 696. WITHDRAWAL.—A shareholder shall be entitled to withdraw at any time, by giving such notice as the by-laws may require, where no advance has been made on his shares, in which case he shall be entitled to receive the amount of dues paid in by him on each of his shares, together with such proportion of the profits accrued or such rate of interest as said by-laws may determine, less all fines due and a proportionate part of all losses and other charges incurred: *Provided*, That not more than one-half of the funds in the treasury at any time shall be applicable to the demands of the withdrawing shareholders without the consent of the board of trustees.

Proviso.
—limit of funds applicable.

Repayment of advances by shareholders.

SEC. 697. REPAYMENT OF ADVANCES.—A shareholder who has been advanced may at any time repay his advance upon application to the corporation, whereupon, on settlement of his account, he shall be charged with the full amount of the advance and of the accrued installments of the premium, if that has been added to the advancement and made payable in installments, together with all monthly dues, interest, and fines accrued and charged, and shall receive credit for all monthly dues paid on his shares and the profits thereon the same as are allowed under the by-laws on shares withdrawn not advanced upon, and, if the premium has been deducted in advance, with such proportion of the premium as the by-laws may direct, and the balance remaining due, over and above such credits, shall be received by said corporation in satisfaction and discharge of said advance: *Provided*, That in case of the insolvency of the association, he shall not be entitled to credit for the full amount of dues paid by him, but shall only be entitled to a dividend upon said amount, in common with the nonadvanced shareholders.

Proviso.
—credits where association insolvent.

Forfeiture.

SEC. 698. FORFEITURE.—Any nonadvanced shareholder failing to pay the installments due on his shares and the fines due from him for such time as the by-laws shall determine, shall forfeit his stock, but may, on application, receive a return of the amount paid in on account of his stock, less the accrued fines.

Foreclosure on advanced shareholder in arrears, etc.

SEC. 699. FORECLOSURE.—In case any advanced shareholder shall fail to pay all dues, interest, or premiums and shall be in arrears for any part of the same for the period of two months, the payment of the same and of the principal of the advance may be enforced by a foreclosure of the securities given for the same, and if upon a statement of account, as in case of a voluntary settlement of said advance, as hereinbefore authorized, there shall be any surplus of the proceeds of sale of the property given as security over the amount found due from such advanced shareholder, together with all costs incurred by the corporation, such surplus shall be paid to said defaulting shareholder, or his assigns, and his shares of stock so advanced upon shall be the property of the corporation.

Real estate; limit on acquisition of.

SEC. 700. REAL ESTATE.—Such corporation shall not invest its funds in any real estate except what is necessary for the conduct of its business, but may purchase such property at sales made upon foreclosure of mortgages or in satisfaction of judgments or other liens held by it: *Provided*, That such property so purchased be sold within a reasonable time thereafter.

Proviso.
—subsequent sale.

SUBCHAPTER EIGHT.

BOARD OF TRADE.

Board of trade.

How incorporated.

SEC. 701. HOW INCORPORATED.—Any number of persons, not less than twenty, residing in the District, may associate themselves together as a board of trade, and assemble at any time and place upon which a majority of the members so associating may agree, and elect a president and one or more vice-presidents, as they may see fit, and adopt a name, constitution, and by-laws, such as they may agree upon.

Powers, etc.

SEC. 702. Such persons shall thereupon become a body corporate and politic in fact and in name, by the name and style or title which they may have adopted, and by that name shall have succession, shall be capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all the courts of law and equity; and they and their successors shall have a common seal, and may alter and change the same at their discretion.

Limit on real estate holdings.

SEC. 703. Such corporation, by the name and style which shall be adopted, shall be capable in law of purchasing, holding, and conveying any estate, real or personal, for the use of the corporation, not exceeding in quantity one city lot and building in the District.

Officers.

SEC. 704. OFFICERS.—The president, vice-president, secretary, and treasurer shall be ex officio members of the board of directors, and, together with the directors elected, shall manage the business of the corporation.

Elections.

SEC. 705. ELECTIONS.—All officers shall be elected by a plurality of votes given at any election, and a general election of officers shall be held at least once in each year; but in case of any accidental failure or neglect to hold such general election the corporation shall not thereby lapse or terminate, but shall continue and exist, and the old officers shall hold over until the next general election of officers provided for in the constitution adopted.

Tenure of office.

SEC. 706. TENURE OF OFFICE.—The officers shall hold their offices for the time which shall be prescribed in the constitution adopted by the corporation and until others shall be elected and qualified as prescribed by such constitution.

By-laws.

SEC. 707. BY-LAWS.—Such corporation shall have the right to admit as members such persons as they may see fit, and expel any members as they may see fit; and in all cases a majority of the members present at any stated meetings shall have the right to pass, and also the right to repeal, any by-law of the corporation; and in all cases the constitution and by-laws adopted by the corporation shall be binding upon and control the same until altered, changed, or abrogated in the manner that may be prescribed in such constitution.

Fines.

SEC. 708. FINES.—Such corporation may inflict fines upon any of its members, and collect the same, for breach of the provisions of the constitution or by-laws; but no fine shall in any case exceed twenty-five dollars. Such fines may be collected by action of debt, brought in the name of the corporation, before a justice of the peace, against the person upon whom the fine shall have been imposed.

What business to be carried on.

SEC. 709. WHAT BUSINESS TO BE CARRIED ON.—Such corporation shall have no power or authority to do or carry on any business excepting such as is usual in the management and conduct of boards of trade or chambers of commerce and is provided for in the preceding sections of this subchapter.

SUBCHAPTER NINE.

Street railways.

STREET RAILWAYS.

Removal of disused tracks.

SEC. 710. REMOVAL OF DISUSED TRACKS.—Whenever the track or tracks, or any part thereof, of any street railway company in the District of Columbia shall not have been regularly operated for railway purposes upon a schedule approved by the Commissioners for a period of three months, the Commissioners of said District, in their discretion, may thereupon notify such company to remove said unused tracks and to place the street in good condition; and if such company shall neglect or refuse to remove said tracks and place the street in good condition within sixty days after such notice, the said company shall be deemed guilty of a misdemeanor and shall be liable to a fine of ten dollars for each and every day during which said tracks are permitted to remain upon the street or streets, or said roadway shall remain out of repair, which fine shall be recovered in the police court of said District, in the name of said District, as other fines and penalties are now recovered in said court.

Penalty.

Using other company's lines to have same motive power.

SEC. 711. USING OTHER COMPANY'S LINES.—It shall be unlawful for any street railway company operating its system or parts of its system over any portion of the underground electric lines owned and operated by another street railway company in the city of Washington to continue such operation, or to enter into reciprocal trackage relations with any other company, as provided for under existing law, unless its motive power for the propulsion of its cars shall be the same as that of the company whose tracks are used or to be used. For every violation of this subchapter the company violating it shall be subject to a fine of ten dollars for every car operated in violation of the provisions of this subchapter, said fine to be collected and applied in the same manner as is provided by the preceding section.

—penalty.

Free transfers.

SEC. 712. FREE TRANSFERS.—All street railway companies within the District of Columbia now operating their systems, or parts of their systems, in the city of Washington by use of the tracks of one or more of such companies, under a reciprocal trackage agreement, as provided for under existing law, which shall be compelled to discontinue the use of the tracks of another company, shall issue free transfers to their patrons from one system to the other at such junctions of their respective lines as may be provided for by the Commissioners of the District of Columbia.

SUBCHAPTER TEN.

Savings banks.

SAVINGS BANKS.

Report to be made to Comptroller.

SEC. 713. REPORT TO BE MADE TO COMPTROLLER, AND TO BE SUBJECT TO PROVISIONS OF LAW APPLICABLE TO NATIONAL BANKS.—All savings banks or savings companies or institutions organized under authority of any act of Congress to do business in the District of Columbia shall be, and are hereby, required to make to the Comptroller of the Currency, and publish, all the reports which national banking associations are required to make and publish under the provisions of sections fifty-two hundred and eleven, fifty-two hundred and twelve, and fifty-two hundred and thirteen of the Revised Statutes, and shall be subject to the same penalties for failure to make or publish such reports as are therein provided; which penalties may be collected by suit before the supreme court of the District of Columbia.

R. S., secs. 5211, 5212, 5213, pp. 1007, 1008.

Subject to provisions of law applicable to national banks.

And all savings or other banks now organized, or which shall hereafter be organized, in the District of Columbia, under any act of Congress, which shall have capital stock paid up in whole or in part,

shall be subject to all the provisions of the Revised Statutes and of all acts of Congress applicable to national banking associations, so far as the same may be applicable to such savings or other banks: *Provided*, That any savings banks established before eighteen hundred and seventy-four shall not be required to have a paid-up capital exceeding one hundred thousand dollars.

Proviso.
Capital if established before 1874.

SEC. 714. COMPTROLLER AUTHORIZED TO EXAMINE.—The Comptroller of the Currency, in addition to the powers now conferred upon him by law for the examination of national banks, is hereby further authorized, whenever he may deem it useful, to cause examination to be made into the condition of any bank in the District of Columbia organized under act of Congress. The Comptroller, at his discretion, may report to Congress the results of such examination. The expense necessarily incurred in the execution of this section shall be paid out of any appropriation made by Congress for special bank examinations.

Comptroller may examine.

SUBCHAPTER ELEVEN.

TRUST, LOAN, MORTGAGE, AND CERTAIN OTHER CORPORATIONS.

Trust, loan, mortgage, and certain other corporations.

SEC. 715. FOR WHAT PURPOSES TO BE FORMED.—Corporations may be formed within the District of Columbia for the purposes hereinafter mentioned in the following manner:

For what purposes to be formed.

At any time hereafter any number of natural persons, citizens of the United States, not less than twenty-five, may associate themselves together to form a company for the purpose of carrying on, in the District of Columbia, any one of the three classes of business herein specified, to wit:

First. A safe deposit, trust, loan, and mortgage business.

Second. A title insurance, loan, and mortgage business.

Third. A security, guarantee, indemnity, loan, and mortgage business: *Provided*, That the capital stock of any of said companies shall not be less than one million dollars, and that any of said companies may also do a storage business when their capital stock amounts to the sum of not less than one million two hundred thousand dollars.

Proviso.
Capital stock required.

SEC. 716. ORGANIZATION CERTIFICATE.—Such persons shall, under their hands and seals, execute before some officer in said District competent to take the acknowledgment of deeds, an organization certificate, which shall specifically state—

Organization certificate.

First. The name of the corporation.

Second. The purposes for which it is formed.

Third. The term for which it is to exist, which shall not exceed the term of fifty years, and be subject to alteration, amendment, or repeal by Congress at any time.

Fourth. The number of its directors and the names and residences of the officers who for the first year are to manage the affairs of the company.

Fifth. The amount of its capital stock and its subdivision into shares.

SEC. 717. POWER OF COMMISSIONERS OF THE DISTRICT.—This certificate shall be presented to the Commissioners of the District, who shall have power and discretion to grant or refuse to said persons a charter of incorporation upon the terms set forth in the said certificate and the provisions of this subchapter.

Power of Commissioners of the District of Columbia with reference to.

SEC. 718. NOTICE OF APPLICATION TO COMMISSIONERS.—Previous to the presentation of the said certificate to the said Commissioners, notice of the intention to apply for such charter shall be inserted in two newspapers of general circulation, printed in the District of Columbia, at least four times a week for three weeks, setting forth briefly the name of the proposed company, its character and object, the names of

Notice of application to Commissioners.

the proposed corporators, and the intention to make application for a charter on a specified day; and the proof of such publication shall be presented with said certificate when presentation thereof is made to said Commissioners.

Recording charter, etc.

SEC. 719. RECORDING CHARTER, AND SO FORTH.—If the charter be granted as aforesaid, it, together with the certificate of the Commissioners granting the same indorsed thereon, shall be filed for record in the office of the recorder of deeds for the District of Columbia, and shall be recorded by him. On the filing of the said certificate with the said recorder of deeds as herein provided, approved as aforesaid by the said Commissioners, the persons named therein and their successors shall thereupon and thereby be and become a body corporate and politic, and as such shall be vested with all the powers and charged with all the liabilities conferred upon and imposed by this subchapter upon companies organized under the provisions hereof: *Provided, however*, That no corporation created and organized under the provisions hereof, or availing itself of the provisions hereof as contained in section seven hundred and twenty-five, shall be authorized to transact the business of a trust company, or any business of a fiduciary character, until it shall have filed with the Comptroller of the Currency a copy of its certificate of organization and charter, and shall have obtained from him and filed the same for record with the said recorder of deeds, a certificate that the said capital stock of said company has been paid in and the deposit of securities made with said Comptroller in the manner and to the extent required by this subchapter.

Proviso.

Papers to be filed by trust companies.

Comptroller, reports to.

R. S., secs. 5211, 5212, and 5213, pp. 1007, 1008.

SEC. 720. REPORTS TO COMPTROLLER.—All companies organized hereunder, or which shall, under the provisions hereof, become entitled to transact the business of a trust company, shall report to the Comptroller of the Currency in the manner prescribed by sections fifty-two hundred and eleven, fifty-two hundred and twelve, and fifty-two hundred and thirteen of the Revised Statutes of the United States in the case of national banks, and all acts amendatory thereof or supplementary thereto, and with similar provisions for compensating examiners, and shall be subject to like penalties for failure to do so. The Comptroller shall have and exercise the same visitorial powers over the affairs of the said corporation as is conferred upon him by section fifty-two hundred and forty of the Revised Statutes of the United States in the case of national banks. He shall also have power, when in his opinion it is necessary, to take possession of any such company for the reasons and in the manner and to the same extent as are provided in the laws of the United States with respect to national banks.

—visitorial powers of.

R. S., sec. 5240, p. 1013.

Special powers of companies.

SEC. 721. SPECIAL POWERS.—All companies organized under this subchapter are hereby declared to be corporations possessed of the powers and functions of corporations generally, and shall have power—

—contracts.

First. To make contracts.

—sue and be sued.

Second. To sue and be sued, plead and be impleaded, in any court as fully as natural persons.

—seal.

Third. To make and use a common seal and alter the same at pleasure.

—loans.

Fourth. To loan money.

—safe deposit, trust, etc., companies; powers of, etc.

Fifth. When organized under subdivision one of section seven hundred and fifteen of this subchapter, to accept and execute trusts of any and every description which may be committed or transferred to them, and to accept the office and perform the duties of receiver, assignee, executor, administrator, collector of estate or property of any decedent, guardian of the estate of minors with the consent of the guardian of the person of such minor, and committee of the estates of lunatics and idiots whenever any trusteeship or any such office or appointment is committed or transferred to them, with their consent, by any person, body politic or corporate, or by any court in the District of Columbia; and all such companies organized under the first subdivision

of section seven hundred and fifteen of this subchapter are further authorized to accept deposits of money for the purposes designated herein, upon such terms as may be agreed upon from time to time with depositors, and to act as agent for the purpose of issuing or countersigning the bonds or obligations of any corporation, association, municipality, or State, or other public authority, and to receive and manage any sinking fund on any such terms as may be agreed upon, and shall have power to issue its debenture bonds upon deeds of trust or mortgages of real estate to a sum not exceeding the face value of said deeds of trust or mortgages, and which shall not exceed fifty per centum of the fair cash value of the real estate covered by said deeds or mortgages, to be ascertained by the Comptroller of the Currency; but no debenture bonds shall be issued until the securities on which the same are based have been placed in the actual possession of the trustee named in the debenture bonds, who shall hold said securities until all of said bonds are paid; and when organized under the second subdivision of section seven hundred and fifteen of this subchapter said company is authorized to insure titles to real estate and to transact generally the business mentioned in said subdivision; and when organized under the third subdivision of section seven hundred and fifteen of this subchapter said company is hereby authorized, in addition to the loan and mortgage business therein mentioned, to secure, guarantee, and insure individuals, bodies politic, associations, and corporations against loss by or through trustees, agents, servants, or employees, and to guarantee the faithful performance of contracts and obligations of whatever kind entered into by or on the part of any person or persons, association, corporation, or corporations, and against loss of every kind: *Provided*, That any corporations formed under the provisions of this subchapter when acting as trustee shall be liable to account for the amounts actually earned by the moneys held by it in trust in addition to the principal so held; but such corporation may be allowed a reasonable compensation for services performed in the care of the trust estate.

Title insurance, loan, etc., companies; powers of, etc.

Security, guarantee, etc., companies; powers of, etc.

Proviso.
Corporations acting as trustee accountable for amounts actually earned by trust funds, etc.

SEC. 722. MAY BE APPOINTED TRUSTEE, EXECUTOR, AND SO FORTH.—In all cases in which application shall be made to any court in the District of Columbia, or wherever it becomes necessary or proper for said court to appoint a trustee, receiver, administrator, collector, guardian of the estate of a minor, or committee of the estate of a lunatic, it shall and may be lawful for said court (but without prejudice to any preference in the order of any such appointments required by existing law) to appoint any such company organized under the first subdivision of section seven hundred and fifteen of this subchapter, with its assent, such trustee, receiver, administrator, collector, committee, or guardian, with the consent of the guardian of the person of such minor: *Provided, however*, That no court or judge who is an owner of or in any manner financially interested in the stock or business of such corporation shall commit by order or decree to any such corporation any trust or fiduciary duty.

Court may appoint company trustee, executor, etc.

Proviso.
—not if financially interested.

SEC. 723. OATH.—Whenever any corporation operating under this code shall be appointed such trustee, executor, administrator, collector, receiver, assignee, guardian, or committee, as aforesaid, the president, vice-president, secretary, or treasurer of said company shall take the oath or affirmation now required by law to be made by any trustee, executor, administrator, collector, receiver, assignee, guardian, or commit ee.

Oath.

SEC. 724. STOCK TO BE SECURITY.—When any court shall appoint the said company a trustee, receiver, administrator, collector, or such guardian or committee, or shall order the deposit of money or other valuable with said company, or where any individual or corporation shall appoint any of said companies a trustee, executor, assignee, or

Stock to be security.

such guardian, the capital stock of said company subscribed for or taken, and all property owned by said company, together with the liability of the stockholders and officers as herein provided, shall be taken and considered as the security required by law for the faithful performance of its duties, and shall be absolutely liable in case of any default whatever.

Existing companies may avail themselves of present provisions.

SEC. 725. EXISTING COMPANIES.—Any safe-deposit company, trust company, surety or guaranty company, or title insurance company now incorporated and operating under the laws of the United States in the District of Columbia or of any of the States, and now doing business in said District, may avail itself of the provisions of this subchapter on filing in the office of the recorder of deeds of the District of Columbia, or with the Comptroller of the Currency, a certificate of its intention to do so, which certificate shall specify which one of the three classes of business set out in section seven hundred and fifteen it will carry on, and shall be verified by the oath of its president to the effect that it has in every respect complied with the requirements of existing law, especially with the provisions of this subchapter, that its capital stock is paid in as provided in section seven hundred and thirty-five of this subchapter and is not impaired; and thereafter such company may exercise all powers and perform all duties authorized by any one of the subdivisions of section seven hundred and fifteen of this subchapter in addition to the powers now lawfully exercised by such company.

—certificate required.

Real estate.

SEC. 726. REAL ESTATE.—Any company operating under this subchapter may lease, purchase, hold, and convey real estate, not exceeding in value five hundred thousand dollars, and such in addition as it may acquire in satisfaction of debts due the corporation under sales, decrees, judgments, and mortgages. But no such association shall hold the possession of any real estate under foreclosure of mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

Duration of charter.

SEC. 727. DURATION OF CHARTER.—The charters for incorporations named in this subchapter may be made perpetual, or may be limited in time by their provisions, subject to the approval of Congress.

Capital stock.

SEC. 728. CAPITAL STOCK.—The capital stock of every such company shall be at least one million dollars, and at least fifty per centum thereof must have been paid in, in cash or by the transfer of assets as hereinafter provided in section seven hundred and thirty-five of this subchapter, before any such company shall be entitled to transact business as a corporation, except with its own members, and before any company organized hereunder shall be entitled to transact the business of a trust company, or to become and act as an administrator, executor, guardian of the estate of a minor, or undertake any other kindred fiduciary duty, it shall deposit, either in money or in bonds, mortgages, deeds of trust, or other securities equal in actual value to one-fourth of the capital stock paid in, with the Comptroller of the Currency, to be kept by him upon the trust and for the purposes hereinafter provided; and the said Comptroller may from time to time require an additional deposit from any such company, to be held upon and for the same trust and purposes, not exceeding, however, in value one-half the paid-in capital stock; and the said Comptroller shall not issue to any corporation the certificate heretofore provided for until said deposit with him of securities required by this section. Within one year after the organization of any corporation under the provisions of this subchapter, or after any corporation heretofore existing shall have availed itself of the powers and rights given by this subchapter in the manner herein provided for, its entire capital stock shall have been paid in.

—trust companies.

Shares.

SEC. 729. SHARES.—The capital stock of every such company shall be divided into shares of one hundred dollars each. It shall be lawful

for such company to call for and demand from the stockholders, respectively, all sums of money by them subscribed, at such time and in such proportions as its board of directors shall deem proper, within the time specified in section seven hundred and twenty-eight, and it may enforce payment by all remedies provided by law; and if any stockholder shall refuse or neglect to pay any installment, as required by a resolution of the board of directors, after thirty days' notice of the same, the said board of directors may sell at public auction to the highest bidder so many shares of said stock as shall pay said installment, under such general regulations as may be adopted in the by-laws of said company, and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due.

Annual reports to Comptroller.

SEC. 730. ANNUAL REPORTS TO COMPTROLLER.—Every such company shall annually, within twenty days after the first of January of each year, make a report to the Comptroller of the Currency, which shall be published in a newspaper in the District, which shall state the amount of capital and of the proportion actually paid, the amount of debts, and the gross earnings for the year ending December thirty-first then next previous, together with their expenses, which report shall be signed by the president and a majority of the directors or trustees, and shall be verified by the oath of the president, secretary, and at least three of the directors or trustees; and said company shall pay to the District of Columbia, in lieu of personal taxes for each next ensuing year, one and one-half per centum of its gross earnings for the preceding year, shown by said verified statement, which amount shall be payable to the collector of taxes at the times and in the manner that other taxes are payable.

Taxes.

Liability of trustees.

SEC. 731. LIABILITY OF TRUSTEES.—If any company fails to comply with the provisions of the preceding section, all the directors or trustees of such company shall be jointly and severally liable for the debts of the company then existing and for all that shall be contracted before such report shall be made: *Provided*, That in case of failure of the company in any year to comply with the provisions of section seven hundred and thirty of this subchapter, and any of the directors shall, on or before January fifteenth of such year, file his written request for such compliance with the secretary of the company, the Comptroller of the Currency, and the recorder of deeds of the District of Columbia, such director shall be exempt from the liability prescribed in this section.

Proviso. —exemption.

False swearing.

SEC. 732. FALSE SWEARING.—Any willful false swearing in regard to any certificate or report or public notice required by the provisions of this subchapter shall be perjury and shall be punished as such according to the laws of the District of Columbia. Any misappropriation of any of the money of any corporation or company formed under this Act, or of any money, funds, or property intrusted to it, shall be held to be larceny, and shall be punished as such under the laws of said District.

Stock personal estate.

SEC. 733. STOCK PERSONAL ESTATE.—The stock of such company shall be deemed personal estate, and shall be transferable only on the books of such company in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid, and the said stock shall not be taxable in the hands of individual owners, the tax on the gross earnings of the company hereinbefore provided being in lieu of other personal tax. All certificates of the stock of any company organized under this subchapter shall show upon their face the par value of each share and the amount paid thereon.

Liability of stockholders.

SEC. 734. LIABILITY OF STOCKHOLDERS.—All stockholders of every company incorporated under this subchapter, or availing itself of its

provisions under section seven hundred and twenty-five, shall be severally and individually liable to the creditors of such company to an amount equal to and in addition to the amount of stock held by them respectively for all debts and contracts made by such company.

Stock to be paid up in money only.

SEC. 735. STOCK TO BE PAID UP IN MONEY ONLY.—Nothing but money shall be considered as payment of any part of the capital stock, except that in the case of any company now doing business in the District of Columbia in any of the classes herein provided for, or under any act of Congress, or by virtue of the laws of any of the States, and which company has actually received full payment in money of at least fifty per centum of the capital stock required by this act, and which company desires to obtain a charter under this act, all the assets or property may be received and considered as money at a value to be appraised and fixed by the Comptroller of the Currency: *Provided*, That all such assets and property are also transferred to and are thereafter owned by the company organized under this act.

All assets of existing companies, etc., desiring new charter considered money.

Proviso. —transfer of assets required.

Number of trustees.

SEC. 736. NUMBER OF TRUSTEES.—The stock, property, and concerns of such company shall be managed by not less than nine nor more than thirty directors or trustees, who shall, respectively, be stockholders, and at least one-half residents and citizens of the District of Columbia, and shall, except the first year, be annually elected by the stockholders at such time and place and after such published notice as shall be determined by the by-laws of the company, and said directors or trustees shall hold until their successors are elected and qualified.

Officers.

SEC. 737. OFFICERS.—There shall be a president of the company, who shall be a director, also a secretary and a treasurer, all of whom shall be chosen by the directors or trustees: *Provided*, That only one of the above-named offices shall be held by the same person at the same time. Subordinate officers may be appointed by the directors or trustees, and all such officers may be required to give such security for the faithful performance of the duties of their offices as the directors or trustees may require.

Proviso. One office to be held at a time.

Subordinate officers.

By-laws.

SEC. 738. BY-LAWS.—The directors or trustees shall have power to make such by-laws as they deem proper for the management or disposal of the stock and business affairs of such company, not inconsistent with the provisions of this subchapter, and prescribing the duties of officers and servants that may be employed, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

Dividends.

SEC. 739. DIVIDENDS.—If the directors or trustees of any company shall declare or pay any dividend the payment of which would render it insolvent, or which would create a debt against such company, they shall be jointly and severally liable as guarantors for all the debts of the company then existing, and for all that shall be thereafter contracted while they shall, respectively, remain in office.

—liability of trustees, etc.

—exemption.

SEC. 740. If any of the directors or trustees shall object to declaring such dividends or the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection in writing with the secretary of the company and with the recorder of deeds of the District, they shall be exempt from the liability prescribed in the preceding section.

Liabilities exceeding assets.

SEC. 741. LIABILITIES EXCEEDING ASSETS.—If the liabilities of any company shall at any time exceed the amount of the fair cash value of the assets, the directors or trustees of such company assenting thereto shall be personally and individually liable for such excess to the creditors of the company, after the additional liability of the stockholders has been enforced.

Executors, etc., holding stock.

SEC. 742. EXECUTORS, AND SO FORTH, HOLDING STOCK.—No person holding stock in such company as executor, administrator, guardian, or trustee shall be personally subject to any liability as stockholder of such company, but the estate and funds in the hands of such executor,

administrator, guardian, or trustee shall be liable in like manner and to the same extent as the testator or intestate or the ward or the person interested in such trust fund would have been if he had been living and competent to act and hold the stock in his own name.

Increase of capital stock.

SEC. 743. INCREASE OF CAPITAL STOCK.—Any corporation which may be formed under this subchapter may increase its capital stock by complying with the provisions of this subchapter to any amount which may be deemed sufficient and proper for the purposes of the corporation.

Copy of certificate to be evidence.

SEC. 744. COPY OF CERTIFICATE TO BE EVIDENCE.—A copy of any certificate of incorporation filed in pursuance of this subchapter, certified by the recorder of deeds to be a true copy and the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

No bond to be required when company appointed executor.

SEC. 745. NO BOND TO BE REQUIRED WHEN COMPANY APPOINTED EXECUTOR, AND SO FORTH, EXCEPT, AND SO FORTH.—No bond or other collateral security, except as hereinafter stated, shall be required from any trust company incorporated under this subchapter for and in respect to any trust, nor when appointed trustee, guardian, receiver, executor, or administrator with or without the will annexed, collector, committee of the estate of a lunatic or idiot, or other fiduciary appointment; but the capital stock subscribed for or taken, and all property owned by said company and the amount for which said stockholders shall be liable in excess of their stock, shall be taken and considered as the security required by law for the faithful performance of its duties, and shall be absolutely liable in case of any default whatever; and in case of the insolvency or dissolution of said company, the debts due from the said company as trustee, guardian, receiver, executor, administrator, collector, or committee of the estate of lunatics, idiots, or any other fiduciary appointment shall have a preference.

Court may require bond, etc., in fiduciary estates, etc.

SEC. 746. BOND MAY BE REQUIRED.—The supreme court of the District of Columbia, or any justice thereof, shall have power to make orders respecting such company whenever it shall have been appointed trustee, guardian, receiver, executor, administrator with or without the will annexed, collector, committee of the estate of a lunatic, idiot, or any other fiduciary, and require the said company to render all accounts which might lawfully be made or required by any court or any justice thereof if such trustee, guardian, receiver, executor, administrator with or without the will annexed, collector, committee of the estate of a lunatic or idiot, or fiduciary were a natural person. And said court, or any justice thereof, at any time, on application of any person interested, may appoint some suitable person to examine into the affairs and standing of such companies, who shall make a full report thereof to the court, and said court, or any justice thereof, may at any time, in its discretion, require of said company a bond with sureties or other security for the faithful performance of its obligations, and such sureties or other security shall be liable to the same extent and in the same manner as if given or pledged by a natural person.

—cause examination of company's affairs, etc.

Corporations organized under State laws.

SEC. 747. CORPORATIONS ORGANIZED UNDER STATE LAWS.—No corporation or company organized by virtue of the laws of any of the States of this Union and having its principal place of business within the District of Columbia shall carry on in the District of Columbia any of the kinds of business named in this subchapter without strict compliance in all particulars with the provisions of this subchapter for the government of such corporations formed under it, and each one of the officers of the corporation or company so offending shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the court.

Right to amend or repeal reserved to Congress.

SEC. 748. RIGHT TO AMEND OR REPEAL RESERVED TO CONGRESS.—Congress may at any time alter, amend, or repeal this subchapter, but

any such amendment or repeal shall not, nor shall the dissolution of any company formed under this subchapter, take away or impair any remedy given against such corporation, its stockholders, or officers for any liability or penalty which shall have been previously incurred.

SUBCHAPTER TWELVE.

FRATERNAL BENEFICIAL ASSOCIATIONS.

Fraternal benefit associations.

—defined.

SEC. 749. DEFINED.—A fraternal beneficial association is hereby declared to be a corporation, society, order, or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit, having a lodge system with ritualistic form of work and representative form of government, making provision for the payment of benefits in case of death. Each such association may make provision for the payment of benefits in case of sickness, temporary or permanent physical disability, either as a result of disease, accident, or old age: *Provided*, That the period in life at which physical disability benefits on account of old age commences shall not be under seventy years, or the age of expectancy from the time of entering, subject to their compliance with its laws. Any such association may create and maintain a reserve, emergency or benefit fund in accordance with its laws. Any such association having a reserve, emergency or benefit fund may, in addition to the benefits hereinbefore named, pay withdrawal benefits, not exceeding the contributions of such member, to a member unable or unwilling to continue membership, provided such membership shall continue not less than three successive years. Such association may also, after ten years of membership, apply its funds and accumulations as its laws provide or the association and members agree. The fund from which the payment of such benefits shall be made and the fund from which the expenses of such association shall be defrayed shall be derived from assessments, dues, and other payments collected from its members or otherwise. Payment of death benefits shall be to the families, heirs, blood relatives, affianced husband or affianced wife of or to persons dependent upon the member. Such association shall be governed by this subchapter, and shall be exempt from the provisions of insurance laws of the United States relating to the District of Columbia, and no law hereafter passed shall apply to them unless they be expressly designated therein: *Provided*, *however*, That the fact that any such association has outstanding agreements with its members for the payment of benefits other than those hereinbefore specified, if it is making no new contracts of that character and is retiring those already existing, shall not exclude such association from the operation of this subchapter.

—may pay benefits for physical disability, etc.

Proviso.
—for old age not to be under 70 years.

Reserve emergency, etc., fund, etc.

To whom payments made.

Laws applicable to.

Outstanding agreements to pay unspecified benefits not to exclude company, etc.

Existing associations may continue.

SEC. 750. EXISTING ASSOCIATIONS.—All such associations coming within the description as set forth in section seven hundred and forty-nine of this subchapter, organized under the laws of the United States relating to said District, or of any State, country, province, or Territory, and now doing business in said District, may continue such business: *Provided*, That they hereafter comply with the provisions of this subchapter regulating annual reports and the designation of the superintendent of insurance of said District, provided for in subchapter five of this chapter, as the person upon whom process may be served as hereinafter provided.

Proviso.
—compliance with certain provisions.

Nonresident association; papers to be filed before doing business.

SEC. 751. NONRESIDENT ASSOCIATIONS.—Any such association coming within the description as set forth in section seven hundred and forty-nine of this subchapter, organized under the laws of any State, country, province, or Territory, and not now doing business in said District, shall be admitted to do business within said District when it shall have filed with the superintendent of insurance a duly certified

copy of its charter and articles of association and a copy of its by-laws, certified to by its secretary or corresponding officer, together with an appointment of the said superintendent as the person upon whom process may be served as hereinafter provided: *Provided*, That such association shall be shown to be authorized to do business in the State, country, province, or Territory in which it is incorporated or organized, in case the laws of such State, country, province, or Territory shall provide for such authorization; and in case the laws of such State, country, province, or Territory do not provide for any formal authorization to do business on the part of any such association, then such association shall be shown to be conducting its business in accordance with the provisions of this subchapter; for which purpose the said superintendent may personally, or by some person to be designated by him, examine into the condition, affairs, character, and business methods, accounts, books, and investments of such association at its home office, which examination shall be at the expense of such association and shall be made within thirty days after demand therefor, and the expense of such examination shall be limited to fifty dollars. Any association doing business under this subchapter shall be permitted to do business upon filing annually with the superintendent of insurance the certificate of authority of the insurance department of the State, Province, or Territory in which it is incorporated or organized: *Provided, however*, That in case of failure to file said certificate by any such association, or in case the superintendent of insurance shall deem it necessary, he shall have power, either personally or by some person designated by him, to examine into the condition, affairs, character, business methods, accounts, books, and investments of such association, at its home office, which examination shall be at the expense of the association. The amount of such expense shall not exceed one hundred dollars for associations which have no reserve or emergency fund and two hundred dollars for associations with a reserve or emergency fund.

Proviso.
—must show authority to act at place of incorporation.

Filing certificate of authority.

—examination at home office.

SEC. 752. ANNUAL REPORTS.—Every such association doing business in said District shall, on or before the first day of March of each year, make and file with the said superintendent a report of its affairs and operations during the year ending on the thirty-first day of December immediately preceding, which annual report shall be in lieu of all other reports required by any other law. Such report shall be upon blank forms to be provided by the said superintendent, or may be printed in pamphlet form, and shall be verified under oath by the duly authorized officers of such association, and shall be published, or the substance thereof, in the annual report of the said superintendent under a separate part entitled "Fraternal Beneficial Associations," and shall contain answers to the following questions:

Annual reports.

First. Number of certificates issued during the year or members admitted.

Questions required to be answered.

Second. Amount of indemnity effected thereby.

Third. Number of losses or benefit liabilities incurred.

Fourth. Number of losses or benefit liabilities paid.

Fifth. The amount received from each assessment for the year.

Sixth. Total amount paid members, beneficiaries, legal representatives, or heirs.

Seventh. Number and kind of claims for which assessments have been made.

Eighth. Number and kind of claims compromised or resisted, and brief statement of reasons.

Ninth. Does the association charge annual or other periodical dues or admission fees?

Tenth. If so, how much on each one thousand dollars, annually or per capita, as the case may be?

Eleventh. Total amount received, from what source, and the disposition thereof.

Twelfth. Total amount of salaries paid to officers.

Thirteenth. Does the association guarantee in its certificates fixed amounts to be paid regardless of amount realized from assessments, dues, admission fees, and donations?

Fourteenth. If so, state amount guaranteed and the security of such guaranty.

Fifteenth. Has the association a reserve or emergency fund?

Sixteenth. If so, how is it created, and for what purpose, the amount thereof, and how invested?

Seventeenth. Has the association more than one class?

Eighteenth. If so, how many; and the amount of indemnity in each case.

Nineteenth. Number of members in each class.

Twentieth. If voluntary, so state; and give date of organization.

Twenty-first. If organized under the laws of said District, under what law and at what time, giving chapter and year, and date of passage of the act.

Twenty-second. If organized under the laws of any State, country, province, or Territory, state such fact and the date of organization, giving chapter and year, and date of passage of the act.

Twenty-third. Number of certificates of beneficial membership lapsed during the year.

Twenty-fourth. Number in force at beginning and end of year; if more than one class, number in each class.

Twenty-fifth. Names and addresses of its president, secretary, and treasurer, or corresponding officers.

Nonresident associations to name an attorney in the District.

SEC. 753. NONRESIDENT ASSOCIATIONS TO NAME AN ATTORNEY IN THE DISTRICT.—Each such association now doing or hereafter admitted to do business within said District, and not having its principal office within said District, and not being organized under the laws of the United States relating to said District, shall appoint, in writing, the said superintendent and his successors in office to be its true and lawful attorney, upon whom all lawful process in any action or proceeding against it may be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in said District. Copies of said certificate certified by said superintendent shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against such association is served upon said superintendent he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer, and shall, within two days after such service, forward in the same manner a copy of the process served on him to such officer. The plaintiff in such process so served shall pay to the said superintendent at the time of such service a fee of three dollars, which shall be recovered by him as a part of the taxable costs if he prevails in his suit. The said superintendent shall keep a record of all processes served upon him, which record shall show the day and hour when such service was made.

—service on, etc.

Permit from superintendent of insurance.

SEC. 754. PERMIT FROM SUPERINTENDENT OF INSURANCE.—The said superintendent shall, upon the application of any association having the right to do business within said District, as provided by this subchapter, issue to such association a permit in writing authorizing such association to do business within said District, for which certificate and all proceedings in connection therewith such association shall pay the said superintendent the fee of five dollars.

SEC. 755. CERTIFICATE OF ORGANIZATION; TRUSTEES.—Any nine or more persons, at least one-third of whom shall be residents of the District of Columbia, being desirous of forming a fraternal beneficial association for the purposes set forth in section seven hundred and forty-nine of this subchapter, may associate themselves together and effect such organization as hereinafter prescribed, and not otherwise. Such persons shall make, sign, and acknowledge before any officer authorized to take the acknowledgment of deeds in this District and file in the office of the recorder of deeds of said District a certificate or declaration in writing, to be recorded in a book kept for that purpose and open to public inspection, in which shall be stated the name or title by which said association shall be known to law; the mode and manner in which the corporate powers granted by this subchapter are to be exercised; the name or official title of the officers, trustees, representatives, or other persons by whatever name or title designated, who are to have and exercise the general control and management of its affairs; the place of doing business defined; the limit as to age of applicants for beneficial membership, which shall not exceed fifty-five years, and that medical examinations are required of applicants for life benefits, together with the sworn statement by three of said corporators that at least one hundred persons eligible under the proposed laws of such association to membership therein have in good faith made application in writing for membership. The recorder of deeds, upon the filing of said declaration, shall deliver to such association a certified copy of the papers so filed and recorded in his office, together with a certificate to such association, stating that the provisions of this subchapter relative to incorporation have been complied with and that said association becomes thereby authorized to carry on the work of a fraternal beneficial association. Upon filing the certificate or declaration as aforesaid, the persons who shall have signed and acknowledged the same, and their successors and associates, shall, by the provisions of this subchapter, be a body politic and corporate by the name and style stated in the certificate, and by that name and style shall have perpetual succession, and by said name may sue and be sued, and may have and use a common seal, and the same may alter and change at pleasure, and may make and alter, at times or from time to time, such laws, not inconsistent with the Constitution of the United States or the laws in force in said District, as they may deem necessary for the government of said association. And they and their successors, by their corporate name, shall in law be capable of creating, maintaining, and disbursing a reserve or emergency fund in accordance with its laws and the provisions of this subchapter, and of taking, receiving, purchasing, and holding real and personal estate necessary for the purpose of such association, and may let, place out at interest, or sell and convey the same as may seem most beneficial for said association. The association shall elect from its members trustees, directors, or managers, by whatever title known in its laws, at such time and place and in such manner as may be specified in its laws, who shall have the control and management of the affairs and funds of said association, a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen among such trustees, directors, or managers, by death, resignation, or otherwise, such vacancy shall be filled in such manner as shall be provided by the laws of said association.

Certificate of organization.

—contents of, etc.

Powers of association.

Election of officers.

SEC. 756. REINCORPORATION.—The officers, trustees, directors, or governing body of any existing fraternal beneficial association may, by conforming to the requirements of the several provisions of this subchapter, reincorporate themselves or continue their existing corporate powers under this subchapter, or change their name, stating in their certificate the original name of such corporation as well as their

Reincorporation.

new name assumed, and all the property and effects of such existing corporation shall vest in and belong to the corporation so reincorporated or continued.

Subordinate bodies.

SEC. 757. SUBORDINATE BODIES.—Any subordinate body of any fraternal beneficial association incorporated under the provisions of this subchapter, or of such association now doing business or which may hereafter be admitted to do business in this District under this subchapter, where the laws of the governing body of said association do not prohibit the incorporation of their subordinate bodies, may become a body corporate in the manner following: At some regular meeting of such subordinate body a resolution expressing the desire of such subordinate body to be incorporated, and directing its officers to perfect such incorporation, shall be submitted to a vote of the members present, and if two-thirds of the members present vote therefor the president and secretary of such subordinate body, or the officers holding relative offices therein, shall prepare articles of association, under their hands and the seal of such subordinate body, setting forth, first, the number of members of such subordinate body then in good standing; second, the name by which said subordinate body is known; third, the date of its organization and the period for which it is to be incorporated, not exceeding thirty years. A copy of such articles of association shall be filed with the recorder of deeds, and shall by him be recorded, together with the affidavit hereafter named, in a book to be kept for that purpose. On the execution of said articles of association and before the filing thereof with the recorder the secretary of such subordinate body shall annex thereto his affidavit, stating that he is a member in good standing in such subordinate body and occupies the position of secretary, or the office corresponding therewith, and that the resolution, a copy of which shall be set forth at length, was regularly passed at a regular meeting of said subordinate body and received the vote of two-thirds of the members present and voting, and that, to the best of his knowledge and belief, the statements made in the articles of association are true, and that such subordinate body is organized and acting under the laws of its respective association, giving the name by which such association is known. When the foregoing requirements are complied with such subordinate body shall be a body corporate by the name expressed in such articles, and by that name shall be a person in law, capable of suing and being sued in the courts, and taking and holding property of every kind the same as natural persons, and a copy of said articles of association, duly certified to by the recorder of deeds, shall be prima facie evidence in all courts and places of the existence and the due incorporation of such subordinate body.

—incorporation of.

—powers, etc.

Contract invalid if beneficiary to pay assessments.

SEC. 758. CONTRACT INVALID IF BENEFICIARY TO PAY ASSESSMENTS.—No contract with any such association shall be valid when there is a contract, agreement, or understanding between the member and the beneficiary prior to or at the time of becoming a member of the association that the beneficiary, or any person for him, shall pay such member's assessments and dues, or either of them.

Benefits exempt from attachment.

SEC. 759. BENEFITS EXEMPT FROM ATTACHMENT.—The money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any association authorized to do business under this subchapter shall not be liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated, or applied by any legal or equitable process, or by operation of law to pay any debt or liability of a certificate holder or of any beneficiary named in a certificate, or any person who may have any right thereunder.

Meetings.

SEC. 760. MEETINGS.—Any such association organized under the laws of said District may provide for the meetings of its legislative or governing body in any State, country, province, or Territory wherein

such association shall have subordinate bodies, and all business transacted at such meetings shall be valid in all respects as if such meetings were held within said District; and where the laws of any such association provide for the election of its officers by votes to be cast in its subordinate bodies, the votes so cast in its subordinate bodies in any State, country, province or Territory shall be valid as if cast within said District.

Fraudulent representations.

SEC. 761. FRAUDULENT REPRESENTATIONS.—Any person, officer, member, or examining physician who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership or for the purpose of obtaining any money or benefit in any association transacting business under this subchapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the United States jail in said District for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall willfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall willfully make any false statement in any verified report or declaration under oath required or authorized by this subchapter, shall be guilty of perjury.

—penalty.

Neglect of association to report.

SEC. 762. NEGLECT TO REPORT.—Any such association refusing or neglecting to make the report as provided in this subchapter shall be excluded from doing business within said District. Said superintendent of insurance must, within sixty days after failure to make such report, or in case any such association shall exceed its powers, or shall conduct its business fraudulently, or shall fail to comply with any of the provisions of this subchapter, give notice in writing to the attorney for said District, who shall immediately commence an action against such association to enjoin the same from carrying on any business. An injunction against any such association may be granted on application by the Commissioners of said District at the request of the said superintendent. No association so enjoined shall have authority to continue business until such report shall be made, or overt act or violation complained of shall have been corrected, nor until the costs of such action be paid by it, (provided, the court shall find that such association was in default, as charged,) whereupon the superintendent of insurance shall reinstate such association, and not until then shall such association be allowed again to do business in said District. Any officer, agent, or person acting for any association or subordinate body thereof, within said District, while such association shall be so enjoined or prohibited from doing business pursuant to this subchapter, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in said jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court.

—injunction against continuance of business.

—penalty to officers.

Acting without authority.

SEC. 763. ACTING WITHOUT AUTHORITY.—Any person who shall act within said District as an officer, agent, or otherwise, for any association which shall have failed, neglected, or refused to comply with, or shall have violated any of the provisions of this subchapter, or shall have failed or neglected to procure from the said superintendent a proper certificate of authority to transact business as provided for in this subchapter, shall be subject to the penalty provided in the last preceding section for the misdemeanor therein specified. To "transact business" or "doing business" under this subchapter means the writing of applications and the soliciting of new members so far as the penalty

of this subchapter applies thereto. It shall not be unlawful for any organization under section seven hundred and forty-nine to continue the operation of its lodges or branches except in securing new members.

Law not to apply to associations for profit.

SEC. 764. THIS LAW NOT TO APPLY TO ASSOCIATIONS FOR PROFIT.—Nothing in this subchapter shall be construed to apply to any corporation, society, order, or association carrying on the business of life, health, casualty, or accident insurance for profit or gain, and it shall only apply to fraternal beneficial associations as defined by section seven hundred and forty-nine, and nothing in this subchapter contained shall be construed to affect any grand or subordinate lodge or branch of any such fraternal beneficial societies, orders, or associations which limits its certificate holders to a particular religious denomination or to the employees of a particular town or city, designated firm, business house, or corporation, or department or branch of the United States Government, nor the grand or subordinate lodges of the Independent Order of Odd Fellows, nor any grand or subordinate lodge, or other body of Free and Accepted Masons, nor the grand or any subordinate lodge of the Knights of Pythias, or similar orders, associations, or societies that do not have as their principal object the issuance of benefit certificates of membership in case of death or the payment of sick, funeral, or death benefits exceeding in amount one hundred dollars.

—nor to associations or individuals using name of previously existing corporation.

SEC. 765. NOR TO ASSOCIATIONS OR INDIVIDUALS USING NAME OF PREVIOUSLY EXISTING CORPORATION.—The provisions of this subchapter shall not extend to nor apply to any association or individual who shall, in the certificate filed with the recorder of deeds, use or specify a name or style the same as that of any previously existing incorporated fraternal beneficial association in the District of Columbia.

SUBCHAPTER THIRTEEN.

EXISTING CORPORATIONS.

Existing corporations.

Reorganization.

SEC. 766. REORGANIZATION.—Any corporation heretofore existing or doing business in the District of Columbia may come under and avail itself of the provisions of this chapter by giving to its stockholders, members, or associates notice as prescribed in section six hundred and thirty-five of subchapter four thereof and pursuing the same procedure and complying with the same requirements as are prescribed in said subchapter in respect to increase or diminution of capital stock; and upon filing its certificate of reorganization in such case, such company shall be entitled to the privileges and provisions and be subject to the liabilities of the class of corporations to which it belongs, as provided in and by this chapter.

Notice of application for charter, etc.

SEC. 767. NOTICE OF APPLICATION FOR CHARTER, AND SO FORTH.—Whoever, not being a Senator or Representative in Congress, intends to present to Congress a bill for an act of incorporation, or for an alteration or extension of the charter of a corporation in the District of Columbia, or of any special privileges in said District, shall give notice of such intention by publishing a copy of the bill at least once a week for four successive weeks, in a newspaper published in the District of Columbia, the last of said publications to be made at least fourteen days prior to the presentation of such bill. Such newspaper shall be designated by the person proposing the bill and approved by the Commissioners of the District of Columbia.

SUBCHAPTER FOURTEEN.

DISSOLUTION OF CORPORATIONS.

Dissolution of corporations.

Voluntary.

SEC. 768. VOLUNTARY, WHEN.—When a majority of the trustees, directors, or other officers having the management of the concerns of any corporation in the District, or stockholders representing not less

than one-third of the capital stock of any such corporation, discover that the property and effects of the corporation have been so far reduced, by losses or otherwise, that it will not be able to pay all just demands against it or offer a reasonable security to those who deal with it, or they shall deem it beneficial to the interests of the stockholders that the corporation be dissolved, or when such directors, trustees, or other officers are authorized by a majority of the stockholders to apply for a decree, as hereinafter provided, or when the objects of the corporation have wholly failed or are entirely abandoned or are impracticable, they may apply to the supreme court of the District by petition for the dissolution of said corporation.

Petition for dissolution.

SEC. 769. APPLICATION TO SUPREME COURT OF THE DISTRICT OF COLUMBIA.—Such application shall contain a statement of the reasons upon which it is founded, and there shall be annexed thereto—

—contents of, etc.

First. A full, just, and true inventory of all the estate, real and personal, of the corporation, and of all the books, vouchers, and securities relating thereto.

Second. A full, just, and true account of the capital stock of the corporation, specifying the names of the stockholders, their residences, when known, the number of shares belonging to each, the amounts paid in upon said shares, respectively, and the amounts still due thereon.

Third. A statement of all the incumbrances on the property of the corporation and of all the engagements entered into by it which have not been fully satisfied or canceled, specifying the place of residence of each creditor and of every person to whom such engagements were made, if known, the sum owing to each creditor and the nature and consideration of the indebtedness, and such application shall be verified by affidavit.

Publication of order to show cause.

SEC. 770. PUBLICATION.—On the filing of such application, accounts, inventories, and affidavit, an order shall be passed requiring all persons interested in said corporation to appear in said court and show cause by a day named, if any they have, why it should not be dissolved, and a notice of said order shall be published in some newspaper of general circulation weekly for three successive weeks, the first insertion to be not less than one month before the day fixed for showing cause as aforesaid.

Reference to take testimony.

SEC. 771. REFERENCE TO TAKE TESTIMONY.—Whether answer be made or not, the cause shall be referred to the auditor, who shall take testimony in relation to the allegations of the petition, and report to the court, with all convenient speed, with a statement of the property and effects, debts, credits, and engagements of the corporation and all other matters relative to the issues in said cause.

Decree of dissolution.

SEC. 772. DECREE OF DISSOLUTION.—If it appear to the court that the corporation is insolvent, or that a dissolution thereof will be beneficial to the stockholders and not injurious to the public interests, or that the objects of the corporation have wholly failed or been abandoned or are impracticable, a decree shall be entered dissolving the corporation and appointing one or more receivers of its estate and effects; and the corporation shall thereupon be dissolved and cease to exist.

Receiver.

SEC. 773. RECEIVER.—A director, trustee, or other officer of the corporation, or any of its stockholders, may be appointed a receiver, and any receiver so appointed shall give bond in such penalty, and with such surety or sureties, as may be approved by the court, conditioned for the due discharge of his duties as receiver.

—bond of.

SEC. 774. Upon his giving surety as aforesaid the receiver shall be vested with all the estate, real or personal, of the corporation, for the benefit of its creditors and stockholders.

—duties, etc.

SEC. 775. The said receiver shall proceed to collect and take into his possession all the assets and effects of the corporation, including any

sums due and unpaid upon the subscriptions to the capital stock of the corporation, and shall have authority to institute all needful actions for that object. He shall give public notice of his appointment and require all creditors of the corporation to present their claims to him.

Void assignments.

SEC. 776. VOID ASSIGNMENTS.—All sales, assignments, transfers, mortgages, and conveyances of any part of the estate, real or personal, of said corporation, including choses in action of every description, made after the filing of the petition for dissolution, in payment of or as security for any existing or prior debt, or for any other consideration, and all judgments confessed by said corporation after that time, shall be void as against the receiver appointed on said petition and as against the creditors of the corporation.

Controversies with debtors and creditors.

SEC. 777. CONTROVERSIES WITH DEBTORS AND CREDITORS.—The receiver may settle controversies that arise between him and the debtors or creditors of the corporation by arbitration. If there be any open and subsisting engagements or contracts of the corporation in the nature of insurance, or contingent engagements of any kind, the receiver may, with the consent of the party holding such engagements, cancel and discharge the same by refunding to such party the premium or consideration paid thereon to the corporation, or so much thereof as shall be in the same proportion to the time which remains of any risk assumed by such engagements as the whole premium bears to the whole term of such risk; and upon such amount being paid by the receiver to the person holding such engagement it shall be deemed canceled and discharged as against the receiver.

Distribution.

SEC. 778. DISTRIBUTION.—The receiver may retain out of the money in his hands the amounts necessary for the purpose of canceling and discharging any open and subsisting engagements and of satisfying any demands for which a suit may be pending against the corporation and the costs of the proceeding, and distribute the residue among the creditors of the corporation, giving preference to debts which are liens on the property of the corporation, and shall make dividends from time to time among the creditors until their debts are paid in full.

Dividends to stockholders.

SEC. 779. DIVIDENDS TO STOCKHOLDERS.—No dividends shall be paid to stockholders until after the final dividend to the creditors, and if, after such final dividend is made, there remain any surplus in the receiver's hands, he shall distribute the same among the stockholders in proportion to the respective amounts paid in by them severally on their shares of stock.

Receiver under court's direction.

SEC. 780. RECEIVER UNDER COURT'S DIRECTION.—The receiver shall be subject to the direction of the court as to making dividends and rendering his accounts and shall receive such commission as the court shall allow, not exceeding the rate allowed to executors and administrators, and reasonable counsel fees for services rendered to him.

Dissolution by stockholders.

SEC. 781. DISSOLUTION BY STOCKHOLDERS.—When a majority of the directors, trustees, or other officers of a corporation become satisfied that the objects of the corporation can not be accomplished, and no installment of the capital stock has been paid, and no investments have been made and no debts incurred which are unpaid, they may call a meeting of the stockholders, by a notice published in some newspaper of general circulation, and if a majority, in amount, of the stockholders present at such meeting, in person or by proxy, shall decide that the objects of the corporation can not be accomplished, the corporation shall thereupon be dissolved and cease.

Who to be trustees for creditors and stockholders.

SEC. 782. WHO TO BE TRUSTEES FOR CREDITORS AND STOCKHOLDERS.—Upon the dissolution of a corporation by the expiration of its charter, or otherwise, unless other persons be appointed by the stockholders, directors, or trustees of the corporation, or by a decree of the supreme court of the District, the directors or trustees acting last before the dissolution, and their survivors, shall be the trustees for

the creditors and stockholders of the dissolved corporation, and shall have full power to settle the affairs of the same, to collect its assets and pay its outstanding debts, and divide among its stockholders the money or other property remaining, in proportion to the stock of each stockholder paid up; and in case of the refusal of said trustees or directors, or a majority of them, to act, the said court may, upon the application of any person interested, appoint trustees in their place.

Action not to abate by dissolution of corporation.

SEC. 783. ACTIONS NOT TO ABATE.—No action pending in favor of or against any corporation shall be discontinued or abate by the dissolution of the corporation, whether such dissolution occur by the expiration of its charter or otherwise, but all such actions may be prosecuted to final judgment in its corporate name; and on all judgments so obtained, whether before or after its dissolution, execution may be had and satisfaction enforced in such corporate name.

—suits where proceeds of action would have accrued to corporation but for dissolution.

SEC. 784. A corporation may, after its dissolution, prosecute any action in and by its corporate name, for the use of the person or persons entitled to receive the proceeds of such action, upon any cause of action accrued, or which, but for such dissolution, would have accrued in favor of the corporation, in the same manner and with the like effect as if it had not been dissolved.

Suits after dissolution.

SEC. 785. SUITS AFTER DISSOLUTION.—Any such dissolved corporation may be sued by its corporate name for or upon any cause of action accrued or which, but for such dissolution, would have accrued against it in the same manner and with the like effect as if it were not dissolved; and process in such action may be served upon any one of the assignees, trustees, or receivers having the management of the assets of the corporation.

—process.

Involuntary dissolution at the suit of the United States.

SEC. 786. INVOLUNTARY DISSOLUTION AT THE SUIT OF THE UNITED STATES.—Whenever the district attorney of the United States for the District of Columbia shall become satisfied that any corporation organized under the laws of said District has been guilty of such misuse, abuse, or nonuser of its corporate powers and franchises, or such violation of law as would authorize and make proper the forfeiture of its charter, corporate powers, and franchises, the said district attorney shall file in the supreme court of the District a petition in the name of the United States, setting forth, fully and in detail, the alleged abuse, misuse, or nonuser by reason whereof such forfeiture is sought, which petition shall be supported by affidavits of credible persons; and upon the filing of such petition the said court shall lay a rule requiring such defendant corporation to show cause, within such time as the court may deem proper, why a decree should not issue as prayed in said petition, a copy of which rule and petition shall be served on said corporation by a day therein limited.

—answer of corporation.

SEC. 787. ANSWER OF CORPORATION.—The said corporation, by the day named in said order, unless further time be granted by the court, shall file an answer to said petition, fully setting forth all the defenses upon which it intends to rely in resisting the application, which shall be verified by affidavit of some officer of the corporation.

—pleading.

SEC. 788. PLEADING.—The petitioners may thereupon plead to or traverse all or any of the material averments set forth in the answer, and the defendant shall join issue with or demur to said plea or traverse within five days thereafter.

—trial.

SEC. 789. TRIAL.—If issue or issues be joined on such proceedings, the same shall stand for trial at such time as the court shall direct and shall be tried by a jury if either party desire it; otherwise, they shall be heard and determined by the court. If, from the findings of the jury or upon consideration and determination of the case by the court, the court shall be of opinion that legal cause of forfeiture has been shown and the public interests require that said forfeiture shall be declared, a decree of forfeiture shall be entered and the charter of

—decree of forfeiture.

—receiver.

said corporation shall thereby be annulled and vacated and its corporate franchises and powers shall cease and be void; and the court shall thereupon appoint a receiver or receivers of the assets and estate of said corporation, who shall proceed to wind up the affairs of said corporation, for the benefit of its creditors and stockholders, under the direction of the court.

Ex parte hearing.

SEC. 790. If any corporation upon which a petition and rule to show cause shall have been served as aforesaid, shall neglect to file an answer thereto at the time appointed by the court, the court shall proceed to hear the application ex parte within five days thereafter, and if it shall be of opinion that good cause of forfeiture is shown it shall proceed to decree as provided in the preceding section.

Judgment.

SEC. 791. JUDGMENT.—If the court, either upon a hearing ex parte or after answer, shall be of opinion that no cause of forfeiture is shown or that the public interests do not demand that such forfeiture be decreed, though legal cause therefor has been shown, it shall dismiss the petition. And if the court shall determine that legal cause of forfeiture has been shown, it may, in its discretion, before passing a final decree of forfeiture, pass orders requiring the said corporation, within a time to be therein fixed, to remedy the grievance complained of, and may suspend the passage of the final decree of forfeiture until the time so fixed, and may afterwards refuse to pass such decree if the grievance shall have been remedied by the time so fixed.

Appeal.

SEC. 792. APPEAL.—From any judgment or determination of the court on petitions filed for forfeiture, as aforesaid, either party may appeal to the court of appeals, subject to such regulations as may be prescribed by said court.

Injunction.

SEC. 793. INJUNCTION.—The district attorney may file a bill in the name of the United States in said supreme court for the purpose of restraining by injunction any corporation organized under the laws of the District from assuming or exercising any franchise, liberty, or privilege or transacting any business not allowed by its charter or certificate of incorporation or not by law allowed to be assumed or exercised by said corporation; and in the same manner may file a bill to restrain any individuals from exercising any corporate rights, privileges, or franchises not granted to them by law; and on the filing of any such bill the said supreme court shall have power to issue an injunction as prayed and to exercise all the powers of a court of equity over the subject-matter of such bill.

Involuntary dissolution at the suit of creditors.

SEC. 794. INVOLUNTARY DISSOLUTION AT THE SUIT OF CREDITORS.—When any corporation in the District has remained insolvent for a year, or has neglected or refused for that period to pay and discharge its notes or other evidences of debt, or has, for that period, suspended its ordinary and lawful business, a bill may be filed by the district attorney, as aforesaid, for the dissolution of said corporation, or, if he shall decline to do so, on the application of any judgment creditor of said corporation, the said judgment creditor, if an execution upon his judgment shall be returned unsatisfied, in whole or in part, may file such bill.

—injunction.

SEC. 795. Upon prima facie proof of the facts necessary to sustain such suit the court may issue an injunction restraining the corporation, its trustees, directors, and officers from collecting or receiving any debt or demand and from paying out or transferring or delivering to any person any of its property or effects and from exercising any of its corporate rights and franchises during the pendency of the suit,

—receiver.

unless by permission of the court. And at any stage of the proceeding the court may appoint a receiver to collect and preserve the property of the corporation and dispose of and manage the same, under the direction of the court, until final decree in the cause.

SEC. 796. PARTIES.—Where the action is brought by a creditor, the stockholders, directors, trustees, or other officers, or any of them who may be made liable by law for the payment of the complainant's debt, may be made parties defendant by the original or a supplemental bill, and their liability may be declared and enforced by the decree; but nothing herein shall prevent any creditor from enforcing such liability in a separate suit against such parties. —parties.

SEC. 797. ACCOUNT AND DISTRIBUTION.—In such suit, if the court shall be of opinion that the complainant is entitled to the relief prayed, and that such corporation ought to be dissolved, the court shall cause an account to be taken of the assets and debts of the corporation and shall decree an equal distribution of the assets among the creditors, subject to existing liens; but if said corporation has no property to satisfy its creditors, or to the extent to which its property is insufficient therefor, the court may require the stockholders, who are parties defendant to the suit, to pay into court the amounts due and unpaid on the shares of stock held by them, and shall ascertain the amounts properly chargeable, in favor of creditors, to said stockholders and the trustees, directors, or other officers who are parties to the suit, and in the final decree for the dissolution shall adjudge and decree that said amounts shall be paid into court by the parties respectively liable there for, to be applied to the payment of the debts of the corporation. —account and distribution.

CHAPTER NINETEEN.

CRIMES AND PUNISHMENTS.

Crimes and punishments.

SUBCHAPTER ONE.

OFFENSES AGAINST THE PERSON.

Offenses against the person.

SEC. 798. MURDER IN FIRST DEGREE.—Whoever, being of sound memory and discretion, purposely, and either of deliberate and premeditated malice or by means of poison, or in perpetrating or in attempting to perpetrate any offense punishable by imprisonment in the penitentiary, kills another, is guilty of murder in the first degree. Murder in first degree.

SEC. 799. Whoever maliciously places an obstruction upon a railroad or street railroad, or displaces or injures anything appertaining thereto, or does any other act with intent to endanger the passage of any locomotive or car, and thereby occasions the death of another, is guilty of murder in the first degree. —placing obstruction on a railroad.

SEC. 800. MURDER IN SECOND DEGREE.—Whoever with malice aforethought, except as provided in the last two sections, kills another is guilty of murder in the second degree. Murder in second degree.

SEC. 801. PUNISHMENT.—The punishment of murder in the first degree shall be death by hanging. The punishment of murder in the second degree shall be imprisonment for life, or for not less than twenty years. Punishment.

SEC. 802. MANSLAUGHTER.—Whoever commits manslaughter shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding fifteen years, or by both such fine and imprisonment. Manslaughter.

SEC. 803. ASSAULT WITH INTENT TO KILL, AND SO FORTH.—Every person convicted of any assault with intent to kill or to commit rape, or to commit robbery, or mingling poison with food, drink, or medicine with intent to kill, or willfully poisoning any well, spring, or cistern of water, shall be sentenced to imprisonment for not more than fifteen years. Assault with intent to kill, etc.

SEC. 804. MAYHEM.—Every person convicted of an assault with intent to commit mayhem, or of an assault with a dangerous weapon, shall be sentenced to imprisonment for not more than ten years. Mayhem.

Assault.

SEC. 805. ASSAULT.—Whoever assaults another with intent to commit any other offense which may be punished by imprisonment in the penitentiary shall be imprisoned not more than five years.

—penalty.

SEC. 806. Whoever unlawfully assaults, or threatens another in a menacing manner, shall be fined not more than five hundred dollars, or be imprisoned not more than twelve months, or both.

—mayhem.

SEC. 807. Every person convicted of mayhem or of maliciously disfiguring another shall be imprisoned for not more than ten years.

Rape; penalty.

SEC. 808. RAPE.—Whoever has carnal knowledge of a female forcibly and against her will, or carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for not less than five nor more than thirty years: *Provided*, That in any case of rape the jury may add to their verdict, if it be guilty, the words "with the death penalty," in which case the punishment shall be death by hanging: *Provided further*, That if the jury fail to agree as to the punishment, the verdict of guilty shall be received and the punishment shall be imprisonment as provided in this section.

Provisos.
—jury may add death.

—failure of to agree.

Procuring miscarriage.

SEC. 809. PROCURING MISCARRIAGE.—Whoever, with intent to procure the miscarriage of any woman, prescribes or administers to her any medicine, drug, or substance whatever, or with like intent uses any instrument or means, unless when necessary to preserve her life or health and under the direction of a competent licensed practitioner of medicine, shall be imprisoned for not more than five years; or if the woman or her child dies in consequence of such act, by imprisonment for not less than three nor more than twenty years.

Robbery.

SEC. 810. ROBBERY.—Whoever by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, shall take from the person or immediate actual possession of another anything of value, is guilty of robbery, and any person convicted thereof shall suffer imprisonment for not less than six months nor more than fifteen years.

—attempt.

SEC. 811. Whoever attempts to commit robbery, as defined in the preceding section, by an overt act, shall be imprisoned for not more than three years or be fined not more than five hundred dollars, or both.

Abduction.

SEC. 812. ABDUCTION.—Whoever unlawfully and forcibly or fraudulently carries off or decoys out of the District any person, or arrests or imprisons any person with the intention of having such person carried out of the District, shall be imprisoned for not less than one nor more than seven years, or fined not exceeding one thousand dollars, or both: *Provided*, That whoever leads, carries, or entices away a child under the age of sixteen years, with the intent unlawfully to detain or conceal such child so lead, taken, or enticed away, shall be imprisoned for not more than twenty years or fined not exceeding one thousand dollars, or both.

Proviso.
—of child under 16 years, etc.

—for purposes of prostitution.

SEC. 813. Any person who, for purposes of prostitution, persuades, entices, or forcibly abducts from her home or usual abode, or from the custody and control of her parents or guardian, any female under sixteen years of age shall be punished by imprisonment for not less than two nor more than twenty years; and whoever knowingly secretes or harbors any such female so persuaded, enticed, or abducted as aforesaid shall suffer imprisonment for not more than eight years.

Cruelty to children.

SEC. 814. CRUELTY TO CHILDREN.—Any person who shall torture, cruelly beat, abuse, or otherwise willfully maltreat any child under the age of eighteen years; or any person, having the custody and possession of a child under the age of fourteen years, who shall expose, or aid and abet in exposing, such child in any highway, street, field, house, outhouse, or other place, with intent to abandon it; or any person, having in his custody or control a child under the age of fourteen years, who shall in any way dispose of it with a view to its being

employed as an acrobat, or a gymnast, or a contortionist, or a circus rider, or a ropewalker, or in any exhibition of like dangerous character, or as a beggar, or mendicant, or pauper, or street singer, or street musician; or any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child of the age last named for any of the purposes last enumerated, shall be deemed guilty of a misdemeanor, and, when convicted thereof, shall be subject to punishment by a fine of not more than two hundred and fifty dollars, or by imprisonment for a term not exceeding two years, or both. —penalty.

SEC. 815. LIBEL.—Whoever publishes a libel shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding five years, or both. Libel.

SEC. 816. WHAT IS PUBLICATION.—To knowingly send or deliver any libelous communication to the party libeled is a sufficient publication to subject the person sending or delivering the same to punishment as aforesaid. What is publication.

SEC. 817. JUSTIFICATION.—Any publication of a libel shall be justified if it appear that the matter charged as libelous was true and was published with good motives and for justifiable ends. Justification.

SEC. 818. FALSE CHARGES OF UNCHASTITY.—Whoever wrongfully accuses any woman of unchastity shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both, and shall also be liable to a civil action for damages by the party injured. False charges of unchastity.

SEC. 819. BLACKMAIL.—Whoever verbally or in writing accuses or threatens to accuse any other person of a crime or of any conduct which, if true, would tend to disgrace such other person, or in any way subject him to the ridicule or contempt of society, or threatens to expose or publish any of his infirmities or failings, with intent to extort from such other person anything of value or any pecuniary advantage whatever, or to compel the person accused or threatened to do or to refrain from doing any act, and whoever with such intent publishes any such accusation against any other person shall be imprisoned for not more than five years or be fined not more than one thousand dollars, or both. Blackmail.

SUBCHAPTER TWO.

OFFENSES AGAINST PROPERTY.

Offenses against property.

SEC. 820. ARSON.—Whoever shall maliciously burn or attempt to burn any dwelling, or house, barn, or stable adjoining thereto, or any store, barn, or outhouse, or any shop, office, stable, store, warehouse, or any other building, or any steamboat, vessel, canal boat, or other water craft, or any railroad car, the property, in whole or in part, of another person, or any church, meetinghouse, schoolhouse, or any of the public buildings in the District, belonging to the United States or to the District of Columbia, shall suffer imprisonment for not less than one year nor more than ten years. Arson.

SEC. 821. Whoever maliciously burns or sets fire to any dwelling, shop, barn, stable, store, or warehouse or other building, or any steamboat, vessel, canal boat, or other water craft, or any goods, wares, or merchandise, the same being his own property, in whole or in part, with intent to defraud or injure any other person, shall be imprisoned for not more than fifteen years. —burning his own property.

SEC. 822. Whoever shall maliciously burn or set fire to any fences, woods, stacks of hay, grain, or straw, or growing crops, the property, in whole or in part, of another, shall be imprisoned for not more than thirty days or be fined not more than five hundred dollars, or both. —fences, stacks of hay, etc.

SEC. 823. HOUSEBREAKING.—Whoever shall, either in the night or in the daytime, break and enter, or enter without breaking, any Housebreaking.

dwelling, bank, store, warehouse, shop, stable, or other building, or any apartment or room, whether at the time occupied or not, or any steamboat, canal boat, vessel, or other water craft, or railroad car, or any yard where any lumber, coal, or other goods or chattels are deposited and kept for the purpose of trade, with intent to break and carry away any part thereof or any fixture or other thing attached to or connected with the same, or to commit any criminal offense, shall be imprisoned for not more than fifteen years.

Unlawful entry on private property.

SEC. 824. UNLAWFUL ENTRY ON PRIVATE PROPERTY.—Any person who, without lawful authority, shall enter, or attempt to enter, a private dwelling against the will of the lawful occupant thereof, or being therein without lawful authority to remain therein, shall refuse to quit the same on the demand of the lawful occupant thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding fifty dollars or imprisonment in the jail for not more than six months, or both, in the discretion of the court.

Depredation on fixtures in houses.

SEC. 825. DEPREDATION ON FIXTURES IN HOUSES.—Whoever shall willfully and without color of right enter into any occupied or unoccupied dwelling house or other building, property of another, and shall cut, break, or tear from its place any gas pipe, water pipe, door-bell, or other fixture therein; or whoever shall in such dwelling house or other building willfully and without color of right cut, break, or tear down any wall or part of a wall, or door, with intent to cut, break, or tear from its place any pipe or fixture therein, shall be fined not more than two hundred dollars, or be imprisoned not more than two years, or both.

Grand larceny.

SEC. 826. GRAND LARCENY.—Whoever shall feloniously take and carry away anything of value of the amount or value of thirty-five dollars or upward, including things savoring of the realty, shall suffer imprisonment for not less than one nor more than ten years.

Petit larceny.

SEC. 827. PETIT LARCENY.—Whoever shall feloniously take and carry away anything of value of the amount or value of less than thirty-five dollars, including things savoring of the realty, shall be fined not more than two hundred dollars, or be imprisoned for not more than one year, or both.

Destroying stolen property.

SEC. 828. DESTROYING STOLEN PROPERTY.—Whoever shall maliciously destroy anything of value of the amount or value of thirty-five dollars or upward which shall have been stolen, knowing the same to have been stolen, shall suffer imprisonment for not less than one year nor more than three years.

Receiving stolen goods.

SEC. 829. RECEIVING STOLEN GOODS.—Any person who shall receive or buy anything of value which shall have been stolen or obtained by robbery, knowing the same to be so stolen or so obtained by robbery, with intent to defraud the owner thereof, if the thing or things received or bought shall be of the value of thirty-five dollars or upward, shall suffer imprisonment for not less than one year nor more than ten years; or if the value of the thing or things so received or bought be less than thirty-five dollars, shall suffer imprisonment for not more than two years.

Stealing will.

SEC. 830. STEALING WILL.—Whoever, during the life of a testator or after his death, shall, for a fraudulent purpose, take and carry away a will, codicil, or other testamentary instrument, or destroy, mutilate, or secrete the same, whether it relates to personal or real property, shall suffer imprisonment for not more than five years.

Stealing property of District of Columbia.

SEC. 831. STEALING PROPERTY OF DISTRICT OF COLUMBIA.—Whoever shall embezzle, steal, or purloin any money, property, or writing, the property of the District of Columbia, shall suffer imprisonment for not exceeding five years, or be fined not more than five thousand dollars, or both.

Receiving property stolen from the District of Columbia.

SEC. 832. RECEIVING PROPERTY STOLEN FROM THE DISTRICT OF COLUMBIA.—Whoever shall receive, conceal, or aid in concealing, or have in possession, with intent to convert to his own use, any money, property, or writing, the property of the District of Columbia, knowing the same to have been embezzled, stolen, or purloined from the District of Columbia by any other person, shall be punished by a fine not exceeding five thousand dollars, or imprisonment not exceeding five years, or both.

Embezzlement defined.

SEC. 833. EMBEZZLEMENT.—Whoever, being charged with the collection, receipt, safe-keeping, transfer, or disbursement of public money or other property or effects belonging or payable to the District of Columbia or in the custody of the same, fraudulently converts to his own use, or to the use of any other person, body corporate, or association whatever, or uses, by way of investment, in any kind of security, stock, loan, property, or in any other manner or form loans, with or without interest, to any company, corporation, association or individual, excepting by depositing in bank to said party's own credit, in the usual course of business, any public money, funds, property, bonds, securities, assets, or effects received, controlled, or held by him for safe-keeping or for any other purpose, shall forfeit all right, by way of commissions or compensation, to any part of the said money or other property and shall be deemed guilty of embezzlement of the whole of the money or other property thus converted, used, invested, loaned, deposited, or paid out, and shall be imprisoned for not more than twenty years and fined in a sum not exceeding double the value of the money or property embezzled.

Embezzlement by agent, attorney, clerk, or servant

SEC. 834. EMBEZZLEMENT BY AGENT, ATTORNEY, CLERK, OR SERVANT.—If any agent, attorney, clerk, or servant of a private person or copartnership, or any officer, attorney, agent, clerk, or servant of any association or incorporated company, shall wrongfully convert to his own use, or fraudulently take, make way with, or secrete, with intent to convert to his own use, anything of value which shall come into his possession or under his care by virtue of his employment or office, whether the thing so converted be the property of his master or employer or that of any other person, copartnership, association, or corporation, he shall be deemed guilty of embezzlement, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than ten years, or both.

Embezzlement of note not delivered.

SEC. 835. EMBEZZLEMENT OF NOTE NOT DELIVERED.—Every embezzlement of any evidence of debt negotiable by delivery only, actually executed by the master or employer of any such clerk, attorney, agent, officer, or servant, but not delivered or issued as a valid instrument, shall be deemed an offense within the meaning of the last preceding section.

Receiving with knowledge.

SEC. 836. RECEIVING WITH KNOWLEDGE.—Every person who shall buy or in any way receive anything of value, knowing the same to have been embezzled, taken, or secreted contrary to the provisions of any of the three next preceding sections, shall be punished in the same manner and to the same extent as prescribed in said sections, respectively.

Embezzlement by carriers and innkeepers.

SEC. 837. CARRIERS AND INNKEEPERS.—Any person intrusted with anything of value, to be carried for hire, or being an innkeeper and intrusted by his guest with anything of value for safe-keeping, who fraudulently converts the same to his own use, shall be deemed guilty of embezzlement and punished as provided in section eight hundred and thirty-four.

By warehouseman, etc.

SEC. 838. WAREHOUSEMAN, AND SO FORTH.—Any warehouseman, factor, storage, forwarding, or commission merchant, or his clerk, agent, or employee, who, with intent to defraud the owner thereof,

sells, disposes of, or applies or converts to his own use any property intrusted or consigned to him, or the proceeds or profits of any sale of such property, shall be deemed guilty of embezzlement, and shall suffer imprisonment for not more than ten years.

By mortgagor in possession.

SEC. 839. MORTGAGOR IN POSSESSION.—Any mortgagor of personal property in possession of the same, who, with intent to defraud the owner of the claim secured by the mortgage, removes any of the mortgaged property out of the District, or secretes or sells the same, or converts the same to his own use, shall be deemed guilty of embezzlement, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than five years, or both.

Taking away or concealing writings.

SEC. 840. TAKING AWAY OR CONCEALING WRITINGS.—Whoever, with intent to defraud or injure another person, shall take away or conceal any writing whereby the estate or right of such other person shall or may be defeated, injured, or altered shall suffer imprisonment for not more than seven years.

Embezzlement by executors and other fiduciaries.

SEC. 841. EXECUTORS AND OTHER FIDUCIARIES.—Any executor, administrator, guardian, trustee, receiver, collector, or other officer into whose possession money, securities, or other property of the property or estate of any other person may come by virtue of his office or employment, who shall fraudulently convert or appropriate the same to his own use, shall forfeit all right or claim to any commissions, costs, and charges thereon, and shall be deemed guilty of embezzlement of the entire amount or value of the money or other property so coming into his possession and converted or appropriated to his own use, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding ten years, or both.

False pretenses.

SEC. 842. FALSE PRETENSES.—Whoever, by any false pretense, with intent to defraud, obtains from any person anything of value, or procures the execution and delivery of any instrument of writing or conveyance of real or personal property, or the signature of any person, as maker, indorser, or guarantor, to or upon any bond, bill, receipt, promissory note, draft, or check, or any other evidence of indebtedness, and whoever fraudulently sells, barters, or disposes of any bond, bill, receipt, promissory note, draft, or check, or other evidence of indebtedness, for value, knowing the same to be worthless, or knowing the signature of the maker, indorser, or guarantor thereof to have been obtained by any false pretenses, shall, if the value of the property or the sum or value of the money or property mentioned or described in the instrument so obtained, procured, sold, bartered, or disposed of is thirty-five dollars or upward, be imprisoned not less than one year nor more than three years; or, if less than that sum, shall be fined not more than two hundred dollars or imprisoned for not more than six months, or both. Any person who obtains any lodging, food, or accommodation at an inn, boarding house, or lodging house, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at such an inn, boarding house, or lodging house by the use of any false pretense, or who, after obtaining credit or accommodation at such an inn, boarding house, or lodging house, absconds or surreptitiously removes his baggage therefrom without paying for his food, accommodation, or lodging, shall be deemed guilty of a misdemeanor, and upon conviction thereof in the police court of the District of Columbia be fined not more than one hundred dollars or imprisoned not more than six months, or both, in the discretion of said court.

—penalty.

Forgery.

SEC. 843. FORGERY.—Whoever, with intent to defraud or injure another, falsely makes or alters any writing of a public or private nature, which might operate to the prejudice of another, or passes, utters, or publishes, or attempts to pass, utter, or publish as true and genuine, any paper so falsely made or altered, knowing the same to

be false or forged, with the intent to defraud or prejudice the right of another, shall be imprisoned for not less than one year nor more than ten years.

Destroying or defacing public records.

SEC. 844. DESTROYING OR DEFACING PUBLIC RECORDS.—Whoever maliciously or with intent to injure or defraud any other person defaces, mutilates, destroys, abstracts, or conceals the whole or any part of any record authorized by law to be made, or pertaining to any court or public office in the District, or any paper duly filed in such court or office, shall be fined not more than three hundred dollars or imprisoned not more than two years, or both.

False certificate of acknowledgment.

SEC. 845. FALSE CERTIFICATE OF ACKNOWLEDGMENT.—Any officer authorized to take the proof or acknowledgment of an instrument which, by law, may be recorded, who willfully certifies falsely that the instrument was acknowledged by any party thereto, or who willfully certifies falsely as to any other material matter in such acknowledgment, shall be imprisoned for not less than one year nor more than ten years.

Malicious injury.

—to steam or street railways.

SEC. 846. MALICIOUS INJURY.—Whoever maliciously places an obstruction on or near the track of any steam or street railway, or displaces or injures anything appertaining to such track, with intent to endanger the passage of any locomotive or car, shall be imprisoned for not more than ten years.

—to trees, etc.

SEC. 847. Whoever maliciously cuts down or destroys, by girdling or otherwise, any standing or growing vine, bush, shrub, sapling, or tree on the land of another, or severs from the land of another any product standing or growing thereon, or any other thing attached thereto, shall, if the value of the thing destroyed or the amount of damage done to any such thing or to the land is thirty-five dollars or more, be imprisoned for not less than one year nor more than three years, or, if such value or amount is less than that sum, shall be fined not less than five dollars nor more than one hundred dollars, or be imprisoned not more than one year, or both.

—to any movable property.

SEC. 848. Whoever maliciously injures or destroys, or attempts to injure or destroy, by fire or otherwise, any movable property not his own, of the value of thirty-five dollars or more, shall be punished by imprisonment for not less than one year and not more than ten years, and if the value of the property be less than thirty-five dollars, by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or both.

Stealing or injuring books, etc.

SEC. 849. STEALING OR INJURING BOOKS, AND SO FORTH.—Any person who shall steal, wrongfully deface, injure, mutilate, tear, or destroy any book, pamphlet, or manuscript, or any portion thereof belonging to the Library of Congress, or to any public library in the District of Columbia, whether the property of the United States or of any individual or corporation in said District, or who shall steal, wrongfully deface, injure, mutilate, tear, or destroy any book, pamphlet, document, manuscript, print, engraving, medal, newspaper, or work of art, the property of the United States, shall be held guilty of a misdemeanor, and, on conviction thereof, shall, when the offense is not otherwise punishable by some statute of the United States, be punished by a fine of not less than ten dollars nor more than one thousand dollars, and by imprisonment for not less than one month nor more than one year, or both, for every such offense.

Injuring tombs, cemeteries, etc.

SEC. 850. If any person shall maliciously cut down, demolish, or otherwise injure any railing, fence, or inclosure around or upon any cemetery, or shall injure or deface any tomb or inscription thereon, he shall be fined not more than one hundred dollars.

Forcible entry and detainer.

SEC. 851. FORCIBLE ENTRY AND DETAINER.—Whoever shall forcibly enter upon any premises, or, having entered without force, shall unlawfully detain the same by force against any person previously in the

peaceable possession of the same and claiming right thereto, shall be punished by imprisonment for not more than one year or a fine of not more than one hundred dollars, or both.

SUBCHAPTER THREE.

OFFENSES AGAINST THE PUBLIC PEACE.

Offenses against the public peace.

Challenging to fight a duel.

SEC. 852. CHALLENGING TO FIGHT A DUEL.—If any person shall in the District challenge another to fight a duel, or send or deliver any written or verbal message purporting or intended to be such challenge, or shall accept any such challenge or message, or shall knowingly carry or deliver an acceptance of such challenge or message to fight a duel in or out of the District, he shall be punished by imprisonment for a term not exceeding ten years.

Assaulting for refusal.

SEC. 853. ASSAULTING FOR REFUSAL.—If any person shall assault, beat, or wound, or cause to be assaulted, beaten, or wounded, any person in the District for refusing to accept such challenge, or cause him to be published or posted as a coward, or use other opprobrious language in such publication tending to degrade and disgrace him for so declining or refusing such challenge, he shall be punished by imprisonment for a term not exceeding three years.

Leaving the District to fight.

SEC. 854. LEAVING THE DISTRICT TO FIGHT.—If any person, for the purpose of evading the provisions aforesaid, shall leave the District, by previous arrangement or concert within the same, with intent to give or receive any such challenge without the District, and shall give or receive the same accordingly, the person or persons so offending shall be punished in the same manner as if said challenge had been given and received within the District.

Carrying weapons. —penalty.

SEC. 855. CARRYING WEAPONS.—Any person who shall within the District of Columbia have concealed about his person any deadly or dangerous weapon, or who shall carry openly any such weapon, with intent to unlawfully use the same, shall be fined not less than fifty dollars nor more than five hundred dollars, or be imprisoned not exceeding one year, or both: *Provided*, That the officers, noncommissioned officers, and privates of the United States Army, Navy, or Marine Corps, or of any regularly organized militia company, police officers, officers guarding prisoners, officials of the United States or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such persons are on duty, shall not be liable for carrying necessary arms for use in performance of their duty: *Provided further*, That nothing contained in this section shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling house, or premises any such dangerous or deadly weapon, or from carrying the same from place of purchase to his dwelling house or place of business, or from his dwelling house or place of business to any place where repairing is done to have the same repaired and back again: *Provided further*, That nothing contained in this section shall be so construed as to apply to any person who shall have been granted a written permit to carry such weapon or weapons by any judge of the police court of the District of Columbia; and authority is hereby given to any such judge to grant such permit for a period of not more than one month at any one time, upon satisfactory proof to him of the necessity for the granting thereof, and, further, upon the filing with such judge of a bond, with sureties to be approved by said judge, by the applicant for such permit, conditioned to the United States in such penal sum as said judge shall require for the keeping of the peace, save in the case of necessary self-defense by such applicant during the continuance of said

Provisos. —exceptions; police, etc.

—carrying in place of business, etc.

—permit to carry.

permit, which bond shall be put in suit by the United States for its benefit upon any breach of such condition.

Disposition of weapons taken.

SEC. 856. All such weapons, as hereinbefore described, which may be taken from any person offending against any of the provisions of the last preceding section shall, upon conviction of such person, be disposed of as may be ordered by the judge trying the case, and the record shall show any and all such orders relating thereto as a part of the judgment in the case.

Selling, etc., to minors.

SEC. 857. SELLING, AND SO FORTH, TO MINORS.—Any person or persons who shall, within the District of Columbia, sell, barter, hire, lend, or give to any minor under the age of twenty-one years any such weapon as hereinbefore described shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one hundred dollars or be imprisoned not more than three months, or both. No person shall engage in or conduct the business of selling, bartering, hiring, lending, or giving any weapon or weapons of the kind hereinbefore named without having previously obtained from the Commissioners of the District of Columbia a special license authorizing the conduct of such business by such person, and the said Commissioners are hereby authorized to grant such license, without fee therefor, upon the filing with them by the applicant therefor of a bond, with sureties to be by them approved, conditioned in such penal sum as they shall fix, to the United States, for the compliance by said applicant with all the provisions of this section, and upon any breach or breaches of said condition said bond shall be put in suit by said United States for its benefit, and said Commissioners may revoke said license. Any person engaging in said business without having previously obtained said special license shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, of which one-half shall be paid to the informer, if any, whose information shall lead to the conviction of the person paying said fine; and in default of payment of said fine shall be imprisoned for not more than six months. All persons whose business is to sell, barter, hire, lend, or give any such weapon or weapons shall be, and they hereby are, required to keep a written register of the name and residence of every purchaser, barterer, hirer, borrower, or donee of any such weapon or weapons, together with a full description of such weapon, which register shall be subject to the inspection of the major and superintendent of the Metropolitan police of the District of Columbia; and, further, to make a report, under oath, on or before the first Tuesday of each and every month, to said major and superintendent of all such sales, barterings, hirings, lendings, or gifts, together with the respective names and residences of the person buying or receiving such weapon. Any person failing to keep such register or to make such reports shall be fined not more than one hundred dollars and the Commissioners may revoke his license.

Special license to sell, etc., required.

—penalty.

Register of purchasers.

Report of sales, etc.

SUBCHAPTER FOUR.

OFFENSES AGAINST PUBLIC JUSTICE.

Offenses against public justice.

Perjury.

SEC. 858. PERJURY.—Every person who, having taken an oath or affirmation before a competent tribunal, officer, or person, in any case in which the law authorized such oath or affirmation to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath or affirmation states or subscribes any material matter which he does not believe to be true, shall be guilty of perjury; and any person convicted of perjury or

subornation of perjury shall be punished by imprisonment in the penitentiary for not less than two nor more than ten years. Any such false testimony, declaration, deposition, or certificate given in the District of Columbia, but intended to be used in a judicial proceeding elsewhere, shall also be perjury within the meaning of this section.

False personation before courts, etc.

SEC. 859. FALSE PERSONATION.—Whoever falsely personates another person before any court of record or judge thereof, or clerk of court, or justice of the peace, or any officer in the District authorized to administer oaths or take the acknowledgment of deeds or other instruments or to grant marriage licenses, with intent to defraud, shall be imprisoned for not less than one year nor more than five years.

—of public officer, minister, etc.

SEC. 860. Whoever falsely represents himself to be a justice of the peace, notary public, police officer, constable, or other public officer, or a minister qualified to celebrate marriage, and attempts to perform the duty or exercise the authority pertaining to any such office or character, or having been duly appointed to any of such offices shall knowingly attempt to act as any of such officers after his appointment or commission has expired or he has been dismissed from such office, shall suffer imprisonment in the penitentiary for not less than one year nor more than three years.

Bribery.

SEC. 861. BRIBERY.—Whoever promises, offers, or gives, or causes or procures to be promised, offered, or given, any money or other thing of value, or makes or tenders any contract, undertaking, obligation, credit, or security for the payment of money, or for the delivery or conveyance of anything of value, to any executive, judicial, or other officer, or to any person acting in any official function, or to any juror or witness, with intent to influence the decision, action, verdict, or evidence of any such person on any question, matter, cause, or proceeding or with intent to influence him to commit or aid in committing, or to collude in or allow any fraud, or make any opportunity for the commission of any fraud, shall be fined not more than five hundred dollars, or be imprisoned not more than three years, or both.

Threats.

SEC. 862. THREATS.—Whoever corruptly, by threats or force, endeavors to influence, intimidate, or impede any juror, witness, or officer in any court in the District in the discharge of his duties, or, by threats or force, in any other way obstructs or impedes or endeavors to obstruct or impede the due administration of justice therein, shall be fined not more than two hundred dollars or imprisoned not more than three years, or both.

SUBCHAPTER FIVE.

Offenses against public policy.

OFFENSES AGAINST PUBLIC POLICY.

Lotteries. —penalty.

SEC. 863. LOTTERIES.—If any person shall within the District keep, set up, or promote, or be concerned as owner, agent, or clerk, or in any other manner, in managing any policy lottery or policy shop, or shall sell or transfer any ticket, certificate, bill, token, or other device purporting or intended to guarantee or assure to any person or entitle him to a chance of drawing or obtaining a prize, to be drawn in any lottery, or in the game or device commonly known as policy lottery or policy, or shall, for himself or another person, sell or transfer, or have in his possession for the purpose of sale or transfer, or shall aid in selling, exchanging, negotiating, or transferring a chance or ticket in or share of a ticket in any policy lottery or any such bill, certificate, token, or other device, he shall be fined not more than five hundred dollars or be imprisoned not more than one year, or both.

—for permitting on premises.

SEC. 864. If any person shall knowingly permit, on any premises under his control in the District, the sale of any chance or ticket in or share of a ticket in any lottery or policy lottery, or shall knowingly

permit any lottery or policy lottery or policy shop on such premises, he shall be fined not less than fifty dollars nor more than five hundred dollars, or be imprisoned not more than one year, or both.

Gaming. —penalty.

SEC. 865. GAMING.—Whoever shall in the District set up or keep any gaming table, or any house, vessel, or place, on land or water, for the purpose of gaming, or gambling device commonly called A B C, faro bank, E O, roulette, equality, keno, thimbles, or little joker, or any kind of gaming table or gambling device adapted, devised, and designed for the purpose of playing any game of chance for money or property, or shall induce, entice, and permit any person to bet or play at or upon any such gaming table or gambling device, or on the side of or against the keeper thereof, shall be punished by imprisonment for a term of not more than five years.

—for permitting on premises.

SEC. 866. Whoever in the District knowingly permits any gaming table, bank, or device to be set up or used for the purpose of gaming in any house, building, vessel, shed, booth, shelter, lot, or other premises to him belonging or by him occupied, or of which at the time he has possession or control, shall be punished by imprisonment in the jail for not more than one year or by a fine not exceeding five hundred dollars, or both.

Three-card monte, etc.

SEC. 867. THREE-CARD MONTE, AND SO FORTH.—Whoever shall in the District deal, play, or practice, or be in any manner accessory to the dealing or practicing, of the confidence game or swindle known as three-card monte, or of any such game, play, or practice, or any other confidence game, play, or practice, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars and by imprisonment for not more than five years.

What is gaming table.

SEC. 868. WHAT IS GAMING TABLE.—All games, devices, or contrivances at which money or any other thing shall be bet or wagered shall be deemed a gaming table within the meaning of these sections; and the courts shall construe the preceding sections liberally, so as to prevent the mischief intended to be guarded against.

Pool selling, etc.

SEC. 869. POOL SELLING, AND SO FORTH.—It shall be unlawful for any person or association of persons in the cities of Washington and Georgetown, in the District of Columbia, or within said District within one mile of the boundaries of said cities, to bet, gamble, or make books or pools on the result of any trotting race or running race of horses, or boat race, or race of any kind, or on any election or any contest of any kind, or game of base ball. Any person or association of persons violating the provisions of this section shall be fined not exceeding five hundred dollars or be imprisoned not more than ninety days, or both.

SUBCHAPTER SIX.

OFFENSES AGAINST MORALITY.

Offenses against morality.

Bigamy.

SEC. 870. BIGAMY.—Whoever, having a husband or wife living, marries another shall be deemed guilty of bigamy, and on conviction thereof shall suffer imprisonment for not less than two nor more than seven years: *Provided*, That this section shall not apply to any person whose husband or wife has been continually absent for five successive years next before such marriage without being known to such person to be living within that time, or whose marriage to said living husband or wife shall have been dissolved by a valid decree of a competent court, or shall have been pronounced void by a valid decree of a competent court on the ground of the nullity of the marriage contract.

Proviso. —exceptions.

Seduction by teacher.

SEC. 871. SEDUCTION BY TEACHER.—Any male person, over twenty-one years of age, who is superintendent, tutor, or teacher in any public or private school, seminary, or other institution, or instructor of any female in any branch of instruction, who has sexual intercourse with

any female under twenty-one years of age, with her consent, while under his instruction during the term of his engagement as superintendent, tutor, or teacher, shall be imprisoned for not less than one year nor more than ten.

Indecent publications.

SEC. 872. INDECENT PUBLICATIONS.—Whoever sells, or offers to sell, or give away, in the District, or has in his possession with intent to sell or give away or to exhibit to another, any obscene, lewd, or indecent book, pamphlet, drawing, engraving, picture, photograph, instrument, or article of indecent or immoral use, or advertises the same for sale, or writes or prints any letter, circular, handbill, book, pamphlet, or notice of any kind stating by what means any of such articles may be obtained, or advertises any drug, nostrum, or instrument intended to produce abortion, or gives or participates in, or by bill, poster, or otherwise advertises, any public exhibition, show, performance, or play containing obscene, indecent, or lascivious language, postures, or suggestions, or otherwise offending public decency, shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned not more than one year, or both.

Seduction.

SEC. 873. SEDUCTION.—If any person shall seduce and carnally know any female of previous chaste character, between the ages of sixteen and twenty-one years, out of wedlock, such seduction and carnal knowledge shall be deemed a misdemeanor, and the offender, being convicted thereof, shall be punished by imprisonment for a term not exceeding three years, or fined not exceeding two hundred dollars, or may be punished by both such fine and imprisonment.

Adultery.

SEC. 874. ADULTERY.—Whoever commits adultery in the District shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both; and when the act is committed between a married woman and a man who is unmarried both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man only shall be deemed guilty of adultery.

Incest.

SEC. 875. INCEST.—If any person in the District related to another person within and not including the fourth degree of consanguinity, computed according to the rules of the Roman or civil law, shall marry or cohabit with or have sexual intercourse with such other so-related person, knowing him or her to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment for not more than twelve years.

SUBCHAPTER SEVEN.

MISCELLANEOUS.

Miscellaneous.

Prize fighting, etc.

SEC. 876. PRIZE FIGHTING, AND SO FORTH.—Any person who shall voluntarily engage in a pugilistic encounter between man and man or a fight between a man and a bull or any other animal, for money or for other thing of value, or for any championship, or upon the result of which any money or any thing of value is bet or wagered, or to see which any admission fee is charged, either directly or indirectly, shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment not less than one nor more than five years.

—"pugilistic encounter" defined.

By the term "pugilistic encounter," as used in this section, is meant any voluntary fight by blows by means of fists or otherwise, whether with or without gloves, between two or more men, for money or for a prize of any character, or for any other thing of value, or for any championship, or upon the result of which any money or thing of value is bet or wagered, or to see which any admission fee is charged, either directly or indirectly.

Mineral water bottles.

SEC. 877. USING BOTTLES OF DEALERS IN MINERAL WATERS.—All manufacturers and vendors of mineral waters and other beverages allowed by law to be sold in bottles, upon which their names or marks shall be respectively impressed, may file with the clerk of the supreme court of the District a description of such bottles and of the names or marks thereon, and shall cause the same to be published for not less than two weeks successively in a daily or weekly newspaper published in the District.

Filing description of, etc.

—sale, etc., of by others prohibited.

SEC. 878. It shall be unlawful for any person, without the permission of the owner thereof, to fill with mineral waters or other beverages any such bottles so marked, for sale, or to traffic in any such bottles so marked and not bought by him of such owner; and every person so offending shall be liable to a penalty of fifty cents for every bottle so filled, or sold, or used, or disposed of, or bought, or trafficked in, for the first offense, and of five dollars for every subsequent offense, to be recovered as other fines are recovered in the District.

Forging or imitating labels, etc.

SEC. 879. FORGING OR IMITATING LABELS, AND SO FORTH.—Whoever willfully forges or counterfeits or makes use of any imitation calculated to deceive the public, though with colorable difference or deviation therefrom, of the private brand, wrapper, label, trade-mark, bottle, or package usually affixed or used by any person to or with the goods, wares, merchandise, preparation, or mixture of such person, with the intent to pass off any work, goods, manufacture, compound, preparation, or mixture as the manufacture or production of such person which is not really such, shall be fined not more than five hundred dollars or imprisoned not more than one year, or both.

Destroying boundary trees.

SEC. 880. DESTROYING BOUNDARY TREES.—Whoever maliciously cuts down, destroys, or removes any boundary tree, stone, or other mark or monument, or maliciously effaces any inscription thereon, either of his own lands or of the lands of any other person whatsoever, even though such boundary or bounded trees should stand within the person's own land so cutting down and destroying the same, shall be fined not more than one thousand dollars and imprisoned not exceeding one year.

Capitol grounds. Public use restricted.

SEC. 881. TRESPASSING ON CAPITOL GROUNDS.—Public travel in and occupancy of the Capitol grounds shall be restricted to the roads, walks, and places prepared for the purpose by flagging, paving, or otherwise.

—of roads.

SEC. 882. It is forbidden to occupy the roads therein in such manner as to obstruct or hinder their proper use; to drive violently upon them or with animals not under perfect control, or to use them for the conveyance of goods or merchandise except to or from the Capitol on Government service.

Begging, etc., forbidden.

SEC. 883. It is forbidden to offer or expose any article for sale; to display any sign, placard, or other form of advertisement; to solicit fares, alms, subscriptions, or contributions therein.

Injuring statues, etc.

SEC. 884. It is forbidden to step or climb upon, remove, or in any way injure any statue, seat, wall, or other erection, or any tree, shrub, plant, or turf therein.

Discharging firearms, etc.

SEC. 885. It is forbidden to discharge any firearms, firework, or explosive, set fire to any combustible, make any harangue or oration, or utter loud, threatening, or abusive language therein.

Parading in processions, etc.

SEC. 886. It is forbidden to parade, stand, or move in processions or assemblages, or display any flag, banner, or device designed or adapted to bring into public notice any party or organization or movement therein.

Penalties.

SEC. 887. Offenses against the six preceding sections shall be punishable by fine or imprisonment, or both, the fine not to exceed one hundred dollars, the imprisonment not to exceed sixty days; but in the case of heinous offenses, by reason of which public property shall have suffered damage to an amount exceeding one hundred dollars in value,

the offense shall be punishable by imprisonment in the penitentiary for a period of not less than six months nor more than five years.

Arrests by District police.

SEC. 888. It shall be the duty of all policemen and watchmen having authority to make arrests in the District of Columbia to be watchful for offenses against these sections, and to arrest and bring before the proper tribunal those who shall offend against them under their observation or of whose offenses they shall be advised by witnesses.

—Capitol employees to aid, etc.

SEC. 889. It shall be the duty of all persons employed in the service of the Government in the Capitol or on its grounds to prevent, as far as may be in their power, offenses against these sections, and to aid the police, by information or otherwise, in securing the arrest and conviction of the offenders.

Who may suspend prohibition.

SEC. 890. WHO MAY SUSPEND PROHIBITION.—In order to admit of the due observance within the Capitol grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the House of Representatives, acting concurrently, are hereby authorized to suspend for such proper occasion so much of the above prohibitions as would prevent the use of the roads and walks of the said grounds by processions or assemblages and the use upon them of suitable decorations, music, addresses, and ceremonies: *Provided*, That responsible officers shall have been appointed and arrangements determined adequate in the judgment of the said President of the Senate and Speaker of the House of Representatives for the maintenance of suitable order and decorum in the proceedings and for guarding the Capitol and its grounds from injury. In the absence from Washington of either of the officers designated in this section the authority therein given to suspend certain prohibitions of this subchapter shall devolve upon the other, and in the absence from Washington of both it shall devolve upon the Capitol police commission.

Proviso. Maintenance of order.

When Capitol police commission may act.

Grave robbery.

SEC. 891. GRAVE ROBBERY.—Whoever, without legal authority or without the consent of the nearest surviving relative, shall disturb or remove any dead body from a grave for the purpose of dissecting, or of buying, selling, or in any way trafficking in the same, shall be imprisoned not less than one year nor more than three years.

Eight hours daily service for laborers on public works.

SEC. 892. LIMITATION OF HOURS OF DAILY SERVICE FOR LABORERS AND MECHANICS ON PUBLIC WORKS.—The service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day; and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor, whose duty it shall be to employ, direct, or control the service of such laborers or mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day except in case of extraordinary emergency.

Penalty to contractors, etc.

SEC. 893. Any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor, whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon any of the public works of the United States or of the District of Columbia who shall intentionally violate any provision of the last preceding section for each and every such offense shall be punished by a fine not to exceed one thousand dollars or by imprisonment for not more than six months, or both.

Not applicable to contracts prior to August 1, 1892.

SEC. 894. The provisions of the two next preceding sections shall not be so construed as to in any manner apply to or affect contractors or subcontractors or to limit the hours of daily service of laborers or

mechanics engaged upon the public works of the United States or of the District of Columbia for which contracts were entered into prior to August first, eighteen hundred and ninety-two.

Harbor regulations.

SEC. 895. HARBOR REGULATIONS.—Every vessel coming to anchor in the Potomac River between the junction of the Washington and Georgetown channels of said river and the extension of the south line of P street southwest, in the city of Washington, shall anchor as near the flats in said river as possible, so that the channel of said river will not be obstructed; and if such vessel is to remain over twelve hours it shall be moored with both anchors, so as to give room for passing vessels and so as not to swing and obstruct said channel. No vessel shall be permitted to anchor in the Washington channel of the Potomac River between the extended lines of P or K street south. Vessels coming to anchor above the line of K street south aforesaid shall come to anchor as near the flats as possible and so that the channel will not be obstructed; and all vessels coming to anchor shall be so moored by the use of both anchors as to prevent obstruction of the channel within four hundred feet of the nearest wharf, the said anchorage to continue only twenty-four hours unless otherwise ordered or directed by the harbor master. No vessel shall be permitted to lie in Seventeenth street canal, New Jersey avenue canal, James Creek canal, or at the entrance thereof, so as to obstruct the passage of any vessel going into or out of the same or moving from one place to another therein, unless such obstructing vessel is actually engaged in loading or unloading, and shall then, if deemed expedient by the harbor master, be removed to such place as shall be necessary to give room to passing vessels. Any captain or owner of or anyone in charge of any barge, sand scow, or any vessel that may sink in said canals shall raise and remove the same in five days. Any vessel at the end of wharves or in docks shall, when required by the harbor master, haul either way to accommodate vessels going in or coming out from such wharves or docks. They shall not occupy regular steamers or sailing packets' berths without permission from the recognized occupants of such wharves and dock, and they are required to rig in all fore-and-aft spars, have boats hoisted up under the bow, and davits turned up, as the harbor master may direct. Vessels when not engaged in loading or discharging cargo shall give place to such vessels as are ready to receive or deliver freights; and if the captain or person in charge of any vessel refuse to move said vessel when notified by the occupant of the wharf at which she is lying, the harbor master shall order him to haul to some other berth or into the stream. The powers and authority herein conferred upon the harbor master may, in his absence or temporary disability, be exercised by the pilot of the harbor police boat. Any person refusing to obey the instructions of the harbor master or, in case of his absence or temporary disability, the said pilot of the harbor police boat, or any person failing to comply with any of the provisions of this section, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months, or both.

—vessels anchoring.

—removing sunken vessels.

—giving place to other vessels, etc.

Penalty.

Net fishing in Potomac River, etc.

SEC. 896. NET FISHING IN POTOMAC RIVER, AND SO FORTH.—It shall not be lawful for any person to fish with fyke net, pound net, stake net, weir, float net, gill net, haul seine, dip net, or any other contrivance, stationary or floating, in the waters of the Potomac River and its tributaries within the District of Columbia: *Provided*, That this section shall not be construed to prevent the use of barrel nets or pots for the catching or killing of eels or prevent the United States Commissioner of Fish and Fisheries or his agents from taking from said waters, in any manner desired, fish of any kind for scientific purposes or for purposes of propagation, and that nothing herein contained shall apply to persons employed in catching young catfish, smelt, chub, bull minnows, and crayfish for use as bait in fishing with

Provisos.

—barrel nets or pots may be used for eels.

—fish for propagation, etc.

Permit required for taking bait.

hook and line: *Provided further*, That any person engaged in taking such catfish, smelt, chub, bull minnows, and crayfish shall first have procured a written permit from the said Commissioner of Fish and Fisheries to take such bait for hook and-line fishing.

Bass.

SEC. 897. BASS.—No person shall catch or kill in the waters of the Potomac River or its tributaries within the District of Columbia any black bass (otherwise known as green bass and chub) or crappie (otherwise known as calico bass and strawberry bass), between the first day of April and the first day of June of each year, nor have in possession nor expose for sale any of said species between the dates aforesaid, nor catch or kill any of said species of fish at any other time during the year except by angling, nor catch nor kill any of the aforesaid species by what are known as out lines or trot lines having a succession of hooks or devices.

Shad or herring.

SEC. 898. SHAD OR HERRING.—It shall be unlawful for any person to have in possession or expose for sale in the District of Columbia after the tenth day of June in any year any fresh fish of the shad or herring species.

Small fish.

SEC. 899. SMALL FISH.—It shall be unlawful for any person to expose for sale in the District of Columbia at any time during the year any striped bass or rockfish or black bass having a length of less than nine inches.

Use of explosives, etc.

SEC. 900. USE OF EXPLOSIVES, AND SO FORTH.—It shall be unlawful for any person to catch or kill in the waters of the Potomac River or its tributaries within the District of Columbia any fish by means of explosives, drugs, or poisons.

Deposits of deleterious matter.

SEC. 901. DEPOSITS OF DELETERIOUS MATTER.—No person shall allow any tar, oil, ammoniacal liquor, or other waste products of any gas works or works engaged in using such products, or any waste product whatever of any mechanical, chemical, manufacturing, or refining establishment to flow into or be deposited in Rock Creek or the Potomac River or any of its tributaries within the District of Columbia or into any pipe or conduit leading to the same.

Penalties.

SEC. 902. PENALTIES.—Any person who shall violate any of the provisions of the six next preceding sections shall be fined for each and every such offense not less than ten dollars nor more than one hundred dollars, and in default of payment of fine shall be imprisoned for a period not exceeding six months; and any officer or other person securing such conviction shall be entitled to and receive one-half of any fine or fines imposed upon and paid by the party or parties adjudged guilty.

One-half fine to informer, etc.

Disposition of nets, etc., taken.

SEC. 903. All nets, boats, or other contrivances the property of any person convicted under the provisions of the preceding sections shall be returned to the property clerk of the Metropolitan police department, to be delivered to the owner upon the order of the court, and if not called for within six months by the claimant the same shall be treated as other abandoned property coming into the hands of the police.

SUBCHAPTER EIGHT.

General provisions.

GENERAL PROVISIONS.

Definition of terms —"writing" and "paper."

SEC. 904. DEFINITION OF TERMS.—Except where such a construction would be unreasonable, the words "writing" and "paper," wherever mentioned in this chapter, are to be taken to include instruments wholly in writing or wholly printed, or partly printed and partly in writing.

—"anything of value."

SEC. 905. The words "anything of value," wherever they occur in this chapter, shall be held to include not only things possessing intrinsic value, but bank notes and other forms of paper money, and commercial paper and other writings which represent value.

Attempts to commit crime.

SEC. 906. ATTEMPTS TO COMMIT CRIME.—Whoever shall attempt to commit any crime, which attempt is not otherwise made punishable by this chapter, shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than one year, or both.

Second conviction.

SEC. 907. SECOND CONVICTION.—Every person upon his second conviction of any criminal offense punishable by fine or imprisonment or both may be sentenced to pay a fine not exceeding fifty per centum greater, and to suffer imprisonment for a period not more than one-half longer than the maximum fine and imprisonment for the first offense.

Persons advising, inciting, or conniving at criminal offense to be charged as principals.

SEC. 908. PERSONS ADVISING, INCITING, OR CONNIVING AT CRIMINAL OFFENSE TO BE CHARGED AS PRINCIPALS.—In prosecutions for any criminal offense all persons advising, inciting, or conniving at the offense, or aiding or abetting the principal offender, shall be charged as principals and not as accessories, the intent of this section being that as to all accessories before the fact the law heretofore applicable in cases of misdemeanor only shall apply to all crimes, whatever the punishment may be.

Accessories.

SEC. 909. ACCESSORIES.—Whoever shall be convicted of being an accessory after the fact to any crime punishable by death shall be punished by imprisonment for not more than twenty years. Whoever shall be convicted of being accessory after the fact to any crime punishable by imprisonment shall be punished by a fine or imprisonment, or both, as the case may be, not more than one-half the maximum fine or imprisonment, or both, to which the principal offender may be subjected.

Punishment for offenses not covered by provisions of code.

SEC. 910. PUNISHMENT FOR OFFENSES NOT COVERED BY PROVISIONS OF CODE.—Whoever shall be convicted of any criminal offense not covered by the provisions of any section of this code, or of any general law of the United States not locally inapplicable in the District of Columbia, shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than five years, or both.

CHAPTER TWENTY.

CRIMINAL PROCEDURE.

Criminal procedure.

Warrant to search suspected house, etc.

SEC. 911. SEARCHES.—Upon complaint, under oath, before the police court, or a justice of the peace, setting forth that the affiant believes, and has good cause to believe that there are concealed in any house or place articles stolen, taken by robbers, embezzled, or obtained by false pretenses, forged or counterfeited coin, stamps, labels, bank bills or other instruments, or dies, plates, stamps, or brands for making the same, books or printed papers, drawings, engravings, photographs, or pictures of an indecent or obscene character, or instruments for immoral use, or any gaming table, device, or apparatus kept for the purpose of unlawful gaming, or any lottery tickets or lottery policies, particularly describing the house or place to be searched, the things to be seized, substantially alleging the offense in relation thereto and describing the person to be seized, the said court or justice may issue a warrant to the marshal or any officer of the police commanding him to search such house or place for the property or other things, and, if found, to bring the same, together with the person to be seized, before the police court.

—form of, etc.

The said warrant shall have annexed to it or inserted therein a copy of the affidavit upon which it is issued, and may be substantially in the form following:

Whereas there has been filed before ..... an affidavit, of which the following is a copy (here insert): These are therefore to

command you to enter (here describe the place) and there diligently search for the said articles, goods or chattels in the said affidavit described, and that you bring the same, or any part thereof, found on said search and also the body of ....., before the police court, to be dealt with and disposed of according to law.

Custody of seized property.

SEC. 912. When the warrant is executed by the seizure of the property or things described therein, the said property or things shall be delivered to the marshal, and shall be safely kept to be used as evidence.

—to continue until trial, etc.

SEC. 913. If upon the examination the court is satisfied that the offense charged with reference to the things seized has been committed, the party accused shall be committed for trial or held to bail, and said things shall remain in the custody of the marshal until the accused is tried or the right of the claimant to said things is otherwise ascertained.

—final disposition.

SEC. 914. If the accused be discharged, the property or other things seized shall be returned to the person in whose possession they were found. If he be convicted, the property stolen, embezzled, or obtained by false pretenses shall be returned to its owner, and the other articles before described shall be destroyed, under direction of the court.

Offenses that may be joined.

SEC. 915. OFFENSES THAT MAY BE JOINED.—An indictment for larceny may contain a count for obtaining the same property by false pretenses, a count for embezzlement thereof, and a count for receiving or concealing the same property, knowing it to be stolen or embezzled, or any of such counts, and the jury may convict of any of such offenses, and may find any or all of the persons indicted guilty of any of said offenses.

Description of money.

SEC. 916. DESCRIPTION OF MONEY.—In every indictment, except for forgery, in which it is necessary to make an averment as to any money or bank bill or notes, United States Treasury notes, postal and fractional currency, or other bills, bonds, or notes, issued by lawful authority and intended to pass and circulate as money, it shall be sufficient to describe such money, bills, notes, currency, or bonds simply as money, without specifying any particular coin, note, bill, or bond; and such allegation shall be sustained by proof that the accused has stolen or embezzled any amount of coin, or any such note, bill, currency, or bond, although the particular amount or species of such coin, note, bill, currency, or bond be not proved.

Intent to defraud.

SEC. 917. INTENT TO DEFRAUD.—In an indictment in which it is necessary to allege an intent to defraud, it shall be sufficient to allege that the party accused did the act complained of with intent to defraud, without alleging an intent to defraud any particular person or body corporate; and on the trial of such an indictment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove a general intent to defraud.

Peremptory challenges.

SEC. 918. PEREMPTORY CHALLENGES.—In all trials for capital offenses the accused and the United States shall each be entitled to twenty peremptory challenges. In trials for offenses punishable by imprisonment in the penitentiary the accused and the United States shall each be entitled to ten peremptory challenges. In all other cases, civil as well as criminal, in which the plaintiff is the United States, each party shall be entitled to three peremptory challenges; and if there are several defendants, they shall be treated as one person in the allowance of such challenges.

Cause of challenge not available after verdict.

SEC. 919. CAUSE OF CHALLENGE NOT AVAILABLE AFTER VERDICT.—No verdict shall be set aside for any cause which might be alleged as ground for challenge of a juror before the jury are sworn, except when the objection to the juror is that he had a bias against the defendant such as would have disqualified him, and such disqualification was

not known to or suspected by the defendant or his counsel before the juror was sworn.

Witness for defendant.

SEC. 920. WITNESSES FOR DEFENSE.—In any criminal trial the justice trying the case may allow such number of witnesses on behalf of the defendant as may appear to be necessary, the fees of such witnesses to be paid in the same manner as the fees of the witnesses for the Government: *Provided*, That the defendant makes application under oath before the trial, or, in cases of manifest necessity, during the trial, setting forth that he is not possessed of sufficient means and is actually unable to pay the fees of such witnesses, and setting forth also the names of such witnesses and what he expects to prove by them, in order that the court may be advised whether or not the testimony be material to the issue.

Proviso.
—inability of, to pay fees, etc.

Discharging defendants during trial.

SEC. 921. DISCHARGING DEFENDANTS DURING TRIAL.—When two or more persons are jointly indicted the court may, before a defendant has gone into his defense, direct any such defendant to be discharged, that he may be a witness for the United States. An accused party may also, when there is not sufficient evidence to put him upon his defense, be discharged by the court, or, if not discharged by the court, shall be entitled to the immediate verdict of the jury for the purpose of giving evidence for the other parties accused with him; and such order of discharge, in either case, equally with the verdict of acquittal, shall be a bar to another prosecution for the same offense.

Depositions.

SEC. 922. DEPOSITIONS.—If a material witness for the defendant resides more than a hundred miles from the city of Washington, or is sick or infirm, or about to leave the District, the defendant may apply in writing to the court for a commission to examine such witness upon interrogatories thereto annexed when the deposition is to be taken beyond the District of Columbia, and orally in other cases, and the court may grant the same and pass an order stating for what length of time notice shall be given to the district attorney before said witness shall be examined. At or before the time fixed in said notice, when the examination is upon written interrogatories, the district attorney may file cross-interrogatories; but if he fail to do so the clerk shall file the following:

Cross-interrogatories.

First. Are all your statements in the foregoing answers made from your own personal knowledge? And if not, show what is stated upon information and give its source.

Second. State everything you know in addition to what is stated in your above answers concerning this case favorable to either the United States or the defendant.

Oral examination.

For good cause shown the court may order in any case that the examination be conducted orally.

Procedure the same as in civil cases, etc.

SEC. 923. The commission shall issue from the clerk's office, the examination of the witnesses shall be made and certified, and the return thereof made in the same manner as in civil cases, and unimportant irregularities or errors in the proceedings under said commission shall not cause the deposition to be excluded where no substantial prejudice can be wrought to the Government by such irregularities or errors.

Sentence.

SEC. 924. SENTENCE.—If a new trial be not granted nor the judgment arrested the court may pronounce sentence upon the party convicted; but the execution of such sentence shall be postponed for a sufficient time to enable the defendant to prosecute an appeal, on the application of the defendant, if he shall give notice of his intention to appeal from the judgment to the court of appeals.

Penitentiary; designation of.

SEC. 925. Whenever the punishment shall be imprisonment for more than one year, it shall be sufficient for the court to sentence the defendant to imprisonment in the penitentiary without specifying the

particular prison, and the imprisonment shall be in such penitentiary as the Attorney-General shall from time to time designate.

Time of execution.

SEC. 926. TIME OF EXECUTION.—In case of a sentence of death, the time fixed for the execution of the sentence shall not be considered an essential part of the sentence, and if it be not executed at the time therein appointed, by reason of the pendency of an appeal or for other cause, the court may appoint another day for carrying the same into execution.

Insanity of criminals.

—at the time offense committed.

—after indictment, etc.

—confinement of, etc.

—appeal.

SEC. 927. INSANE CRIMINALS.—When any person tried upon an indictment for an offense is acquitted on the sole ground that he was insane at the time of its commission, that fact shall be set forth by the jury in their verdict; and whenever a person is indicted for an offense and before trial or after a verdict of guilty prima facie evidence is submitted to the court that the accused is then insane, the court may cause a jury to be impaneled from the jurors then in attendance on the court or, if the regular jurors have been discharged, may cause a sufficient number of jurors to be drawn to inquire into the insanity of the accused, and said inquiry shall be conducted in the presence and under the direction of the court. If the jury shall find the accused to be then insane (or if an accused person shall be acquitted by the jury solely on the ground of insanity) the court may certify the fact to the Secretary of the Interior, who may order such person to be confined in the hospital for the insane, and said person and his estate shall be charged with the expenses of his support in the said hospital. The person whose sanity is in question shall be entitled to his bill of exceptions and an appeal, as in other cases.

Becoming insane while undergoing sentence.

SEC. 928. Any person becoming insane while undergoing a sentence of any court of the District of Columbia for crime may, in like manner, be committed to said hospital for the insane, by order of the Secretary of the Interior, to receive the same treatment as other patients during the continuance of his disorder.

Restoration to sanity.

SEC. 929. RESTORATION TO SANITY.—When any person confined in the hospital for the insane, charged with crime and subject to be tried therefor or undergoing sentence therefor, shall be restored to sanity the superintendent of the hospital shall give notice thereof to the justice holding the criminal court and deliver him to the court according to its proper precept.

Extradition.

SEC. 930. EXTRADITION.—In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief justice of the supreme court of the District of Columbia shall cause to be apprehended and delivered up such fugitive from justice who shall be found within the District, in the same manner and under the same regulations as the executive authorities of the several States are required to do by the provisions of sections fifty-two hundred and seventy-eight and fifty-two hundred and seventy-nine, title sixty-six, of the Revised Statutes of the United States, "Extradition," and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in such delivery.

R. S., secs. 5278, 5279 pp. 1022, 1023.

Associate justices may act, etc.

SEC. 931. Any associate justice of said court shall have like power, in case of the illness, absence, or other disability of the chief justice, or when any such application shall be certified to him by the chief justice.

Attorney for the District to be known as the city solicitor.

SEC. 932. CONDUCT OF PROSECUTIONS, AND SO FORTH.—The attorney for the District of Columbia shall hereafter be known as the city solicitor.

Prosecutions conducted by city solicitor.

Prosecutions for violations of all police or municipal ordinances or regulations and for violation of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only, or imprisonment not exceeding one year, shall be conducted in the name of the District of Columbia and by the city solicitor or his

assistants. All other criminal prosecutions shall be conducted in the name of the United States and by the attorney for the United States for the District of Columbia or his assistants. —by United States attorney.

SEC. 933. If in any case any question shall arise as to whether under the preceding section the prosecution should be conducted by the city solicitor or by the attorney of the United States for the District of Columbia, the presiding justice shall forthwith, either of his own motion or upon suggestion of the city solicitor or the attorney of the United States, certify the case to the court of appeals of the District of Columbia, which court shall hear and determine the question in a summary way. In every such case the defendant or defendants shall have the right to be heard in the court of appeals. The decision of such court shall be final. —where doubtful as to who shall conduct.

SEC. 934. PLACE OF IMPRISONMENT.—When any person shall be sentenced to imprisonment for a term not exceeding six months the court may direct that such imprisonment shall be either in the workhouse or in the jail. When any person is sentenced for a term longer than six months and not longer than one year such imprisonment shall be in the jail, and where the sentence is imprisonment for more than one year it shall be in the penitentiary. Cumulative sentences aggregating more than one year shall be deemed one sentence for the purposes of the foregoing provision. When the punishment of an offense may be imprisonment for more than one year the prosecution shall be in the supreme court of the District. When the maximum punishment is imprisonment for one year or less the prosecution may be in the police court. Place of imprisonment. Prosecution, etc.

SEC. 935. APPEALS BY UNITED STATES AND DISTRICT OF COLUMBIA.—In all criminal prosecutions the United States or the District of Columbia, as the case may be, shall have the same right of appeal that is given to the defendant, including the right to a bill of exceptions: *Provided*, That if on such appeal it shall be found that there was error in the rulings of the court during the trial, a verdict in favor of the defendant shall not be set aside. Government allowed same right of appeal as defendant. *Proviso.* —verdict for defendant not to be set aside, etc.

SEC. 936. COMMUTATION OF FINE.—In all cases in the District of Columbia where a defendant is sent to jail or to the workhouse in default of the payment of a fine he shall be released upon the payment of the balance of the fine due by him after crediting thereon as paid an amount equal to the proportion the time thus served by him in the jail or workhouse bears to the whole time he was to serve under the sentence. Commutation of fine.

SEC. 937. DEDUCTION FOR GOOD CONDUCT.—All persons sentenced to and imprisoned in the jail or in the workhouse of the District of Columbia, and confined there for a term of one month or longer, who conduct themselves so that no charge of misconduct shall be sustained against them, shall have a deduction of five days in each month made from the term of their sentence and shall be entitled to their discharge so much the earlier upon the certificate of the warden of the jail for those confined in the jail and the certificate of the intendant of the Washington Asylum for those confined in the workhouse of their good conduct during their imprisonment (with the approval of the judge making the commitment); and it shall be the duty of said judge to write or cause to be written in the docket of his court, across the face of the commitment of the person to be so discharged, the following words: "Discharged by order of the court (giving date) on account of good conduct during imprisonment." Deduction for good conduct.

SEC. 938. BAIL.—Whenever a person charged with crime is held to bail the court shall have power to allow a deposit with the clerk of such court of money in the amount of the bail instead of requiring a bond or recognizance, and in case of default to declare such deposit forfeited to the United States or the District of Columbia as the case may be. Bail.

Failure to take action an abandonment of prosecution.

SEC. 939. ABANDONMENT OF PROSECUTION.—If any person charged with a criminal offense shall have been committed or held to bail to await the action of the grand jury, and within nine months thereafter the grand jury shall not have taken action on the case, either by ignoring the charge or by returning an indictment into the proper court, the prosecution of such charge shall be deemed to have been abandoned and the accused shall be set free or his bail discharged, as the case may be: *Provided, however*, That the supreme court of the District of Columbia holding a special term as a criminal court, or, in vacation, any justice of said court, upon good cause shown in writing, and, when practicable, upon due notice to the accused, may from time to time enlarge the time for the taking action in such case by the grand jury.

Proviso. —enlargement of time.

CHAPTER TWENTY-ONE.

DESCENTS.

Descents.

Children.

SEC. 940. CHILDREN.—On the death of any person seized of an estate in fee simple in lands, tenements, or hereditaments in the District of Columbia, and intestate thereof, the same shall descend in fee simple to such person's kindred in the following order, namely: First. To his child or children and their descendants, if any, equally.

Estate descended from father.

SEC. 941. ESTATE DESCENDED FROM FATHER.—If there be no child or descendant of a child, and the estate descended to the intestate on the part of the father, then to the brothers and sisters of the intestate, of the blood of the father, and their descendants equally.

SEC. 942. If there be no brother or sister, as aforesaid, or descendant from a brother or sister, then to the grandfather on the part of the father; and if no such grandfather living, then to the descendants of such grandfather and their descendants in equal degree equally; and if no descendant of such grandfather, then to the father of such grandfather, and if none such living, then to the descendants of such father in equal degree; and so on, passing to the next lineal male paternal ancestor, and if none such, to his descendants in equal degree equally, without end.

SEC. 943. If there be no paternal ancestor or descendant from such ancestor, then to the mother of the intestate, and if no mother living, then to her descendants in equal degree equally.

SEC. 944. If there be no mother living, or descendants from such mother, then to the maternal ancestors and their descendants, in the same manner as is above directed as to the paternal ancestors and their descendants.

Estate descended from mother.

SEC. 945. ESTATE DESCENDED FROM MOTHER.—If the estate descended to the intestate on the part of the mother, and said intestate shall leave no child or descendant of a child surviving him, then the estate shall go to his brothers and sisters, of the blood of the mother, and their descendants in equal degree equally.

SEC. 946. If there be no such brother or sister or descendant of such brother or sister, then to the grandfather on the part of the mother, and if no such grandfather living, then to his descendants in equal degree equally; if no such descendant of such grandfather, then to the father of such grandfather, and if none such living, then to his descendants in equal degree; and so on, passing to the next male maternal ancestor, and, if none such living, to his descendants in equal degree equally.

SEC. 947. If there be no such maternal ancestor or descendant from such maternal ancestor, then to the father, and if no father living, then to his descendants in equal degree equally; and if no father or descendant from the father, then to the paternal ancestors and their descendants, in the same manner as hereinbefore directed as to the maternal ancestors.

Estate acquired by purchase.

SEC. 948. ESTATE ACQUIRED BY PURCHASE.—If the estate was acquired by the intestate by purchase, or descended to or vested in him in any other manner than as hereinbefore mentioned, and there be no child or descendant of a child of such intestate, then the estate shall descend to his brothers and sisters of the whole blood and their descendants in equal degree equally.

Half-blood brothers and sisters.

SEC. 949. HALF-BLOOD BROTHERS AND SISTERS.—If there be no brother or sister of the whole blood, or descendant of such brother or sister, then to the brothers and sisters of the half blood and their descendants in equal degree equally.

Paternal and maternal ancestors alternately.

SEC. 950. PATERNAL AND MATERNAL ANCESTORS ALTERNATELY.—If there be no brother or sister of the whole or the half blood, or any descendant from such, then to the father, and if no father living, then to the mother, and if no mother living, then to the grandfather on the part of the father, and if no such grandfather living, then to the descendants of such grandfather in equal degree equally; and if no such grandfather or any descendant from him, then to the grandfather on the part of the mother, and if no such grandfather, then to his descendants in equal degree equally; and so on without end, alternating the next male paternal ancestor and his descendants, and the next male maternal ancestor and his descendants, and giving preference to the paternal ancestor and his descendants.

Husband and wife.

SEC. 951. HUSBAND AND WIFE.—If there be no descendants or kindred of the intestate, as aforesaid, to take the estate, then the same shall go to the husband or wife, if any, as the case may be; and if the husband or wife be dead, then to his or her kindred, in the like course as if such husband or wife had survived the intestate and had then died entitled to the estate by purchase; and if the intestate has had more husbands or wives than one, and all shall have died before such intestate, then the estate shall be equally divided among the kindred of the several husbands or wives in equal degree equally.

Trust estates.

SEC. 952. TRUST ESTATES.—Whenever a trustee is seized of the naked legal estate in any lands, tenements, or hereditaments in fee simple, and shall die intestate thereof, the said legal estate shall be deemed to have descended to such person or persons as would inherit the beneficial estate if the same were vested in him according to the provisions aforesaid.

Heir must be such at time of death of ancestor.

SEC. 953. HEIR MUST BE SUCH AT TIME OF DEATH OF ANCESTOR.—No right in the inheritance shall accrue to or vest in any person other than the children of the intestate and their descendants, unless such person is in being and capable in law to take as heir at the time of the intestate's death; but any child or descendant of the intestate born after the death of the intestate shall have the same right of inheritance as if born before his death.

When whole and half blood take equally.

SEC. 954. WHEN WHOLE AND HALF BLOOD TAKE EQUALLY—There shall be no distinction between brothers and sisters of the whole and of the half blood, all being descendants of the same father, where the estate descended on the part of the father, nor between the brothers and sisters of the whole and the half blood, all being descendants of the same mother, where the estate descended on the part of the mother.

Representation.

SEC. 955. REPRESENTATION.—If in the descending or collateral line any father or mother shall be dead, leaving a child or children, such child or children shall, by representation, be considered in the same degree as the father or mother would have been if living, and shall have the same share of the estate as the father or mother if living would have been entitled to, and no more; and in such case, when there are more children than one, the share aforesaid shall be equally divided among such children.

Coparcenary.

SEC. 956. COPARCENARY.—There shall be no estate in coparcenary in the District, and where two or more persons inherit from an intes-

tate by virtue of the provisions aforesaid they shall be tenants in common.

Antenuptial children.

SEC. 957. ANTENUPTIAL CHILDREN.—If any man shall have a child or children by any woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall, in virtue of such marriage and acknowledgment, be legitimated and capable in law of inheriting and transmitting heritable property as if born in wedlock.

Illegitimate children.

SEC. 958. ILLEGITIMATE CHILDREN.—The illegitimate child or children of any female and the issue of such illegitimate child or children shall be capable in law of taking real estate by inheritance from their mother, or from each other, or from the descendants of each other, as the case may be; and where such illegitimate child or children shall die leaving no descendants or brothers or sisters, or the descendants of such brothers or sisters, then and in that case the mother of such illegitimate child or children, if living, shall be entitled as heir to the real estate of such illegitimate child or children, and if the mother be dead, the heirs of the mother shall take in like manner as if such illegitimate child or children had been born in lawful wedlock.

Advancement to be brought into hotchpot.

SEC. 959. ADVANCEMENTS.—Any child or children of an intestate, or their issue, who may have received from the intestate any real estate by way of advancement may elect to come into partition with his other heirs on bringing such advancement, or the value thereof at the time such advancement was received, into hotchpot with the estate descended; but such child or children, or their issue, shall not be entitled to claim a share by descent without bringing such advancement, or the value thereof as aforesaid, into the common stock or hotchpot, if there be another child or children unprovided for: *Provided*, That if any child or children or descendant shall have been advanced by the intestate by settlement or portion of personalty, which shall not be equalized under the provisions of section three hundred and seventy-nine of this code, such advance shall be treated as real estate for the purposes of this section.

Proviso.
Where personalty treated as real estate.

Alien ancestors.

SEC. 960. ALIEN ANCESTORS.—In making title by descent it shall be no bar to a party claiming as heir that any ancestor, whether living or dead, through whom he derives his descent from the intestate is or has been an alien.

Party committing murder or manslaughter takes no interest in estate of deceased.

SEC. 961. PARTY COMMITTING MURDER OR MANSLAUGHTER TAKES NO INTEREST IN ESTATE OF DECEASED.—No person who shall be convicted of the felonious homicide of another, either by way of murder or manslaughter, shall take any estate or interest of any kind whatsoever in any kind of property whatsoever from that other by way of inheritance, distribution, devise, or bequest, or shall take any remainder, reversion, or executory interest dependent upon the death of that other; and the estate or interest or property to which the person so convicted would have succeeded or would have taken in any way from or after the death of the person so killed by him shall go as if the person so convicted had died before the person whom he shall be convicted of killing. And every policy of insurance procured, directly or indirectly, by the person so convicted for his own benefit or payable to him upon the life of the person so killed shall be void. This act shall not affect the rights of bona fide purchasers of any such property for value without notice.

When lands escheat.

SEC. 962. WHEN LANDS ESCHEAT.—Any lands within the District of Columbia of which any person has died or shall hereafter die seized in fee simple, without any heir of the whole blood who could have inherited if he had been a citizen of the United States, or without leaving any relation of the half blood within two degrees, that is, first cousins as the same are reckoned by the common law, shall escheat to the United States.

CHAPTER TWENTY-TWO.

DIVORCE.

Divorce.

SEC. 963. PETITION.—All applications for divorce or for a decree annulling a marriage shall be made by petition to the supreme court of the District, and the proceedings thereupon shall be the same as in equity causes, except so far as otherwise herein provided.

Petition.

SEC. 964. PROOF REQUIRED.—No decree for a divorce, or decree annulling a marriage, shall be rendered on default, without proof; nor shall any admission contained in the answer of the defendant be taken as proof of the facts charged as the ground of the application, but the same shall, in all cases, be proved by other evidence.

Proof required.

SEC. 965. DECREE ANNULLING MARRIAGE.—A decree annulling the marriage as illegal and void may be rendered on any of the grounds mentioned in chapter forty-three as invalidating a marriage.

Decree annulling marriage.

SEC. 966. CAUSES FOR DIVORCE A VINCULO AND FOR DIVORCE A MENSA ET THORO.—A divorce from the bond of marriage may be granted only where one of the parties has committed adultery during the marriage: *Provided*, That in such case the innocent party only may remarry, but nothing herein contained shall prevent the remarriage of the divorced parties to each other: *And provided*, That legal separation from bed and board may be granted for drunkenness, cruelty, or desertion: *And provided*, That marriage contracts may be declared void in the following cases:

Adultery only a cause for divorce a vinculo.

—innocent party may remarry.

—divorced parties may remarry each other.

Avoidance of marriage contracts.

First. Where such marriage was contracted while either of the parties thereto had a former wife or husband living, unless the former marriage had been lawfully dissolved.

Second. Where such marriage was contracted during the lunacy of either party (unless there has been voluntary cohabitation after the lunacy) or was procured by fraud or coercion.

Third. Where either party was matrimonially incapacitated at the time of marriage and has continued so.

Fourth. Where either of the parties had not arrived at the age of legal consent to the contract of marriage (unless there has been voluntary cohabitation after coming to legal age), but in such cases only at the suit of the party not capable of consenting.

SEC. 967. FOREGOING SECTION NOT RETROACTIVE.—The provisions of this Act shall not invalidate any marriage heretofore solemnized according to law, or affect the validity of any decree or judgment of divorce heretofore pronounced.

—existing marriages etc., unaffected.

SEC. 968. IN SUITS FOR DIVORCE A VINCULO DIVORCE A MENSA ET THORO MAY BE DECREED.—Where a divorce from the bond of marriage is prayed for the court shall have authority to decree a divorce from bed and board if the causes proved be sufficient to entitle the party to such relief only.

In suits for divorce a vinculo divorce a mensa et thoro may be decreed.

SEC. 969. REVOCATION OF DIVORCE A MENSA ET THORO.—In all cases where a divorce from bed and board is decreed it may at any time thereafter be revoked by the court upon the joint application of the parties to be discharged from the operation of the decree.

Revocation of divorce a mensa et thoro.

SEC. 970. CAUSES ARISING AFTER DIVORCE A MENSA ET THORO.—Where a divorce from bed and board has been decreed the court may afterwards decree an absolute divorce between the parties for any cause arising since the first decree and sufficient to entitle the complaining party to such decree.

Causes arising after divorce a mensa et thoro.

SEC. 971. ONLY RESIDENTS DIVORCED.—No decree of nullity of marriage or divorce shall be rendered in favor of anyone not a resident of the District of Columbia, and no divorce shall be decreed in favor of any person who has not been a bona fide resident of said District for at least three years next before the application therefor for any cause

Only residents divorced.

which shall have occurred out of said District and prior to residence therein.

Issue of a marriage annulled.

SEC. 972. ISSUE OF A MARRIAGE ANNULLED.—In case any marriage shall be declared by decree to have been void on account of either party having a former wife or husband living, if it shall appear that said marriage was contracted in good faith by the other party and in ignorance of said obstacle to the marriage, that fact shall be found and declared by the decree, and in such case the issue of said marriage shall be deemed to be the legitimate issue of the parent who was capable of contracting.

Issue of a lunatic's marriage.

SEC. 973. ISSUE OF A LUNATIC'S MARRIAGE.—Where a marriage is declared null and void on account of the idiocy or lunacy of either party at the time of the marriage the issue of the marriage shall be deemed legitimate.

Legitimacy of issue of a marriage dissolved.

SEC. 974. LEGITIMACY OF ISSUE OF A MARRIAGE DISSOLVED.—A divorce for any of the causes herein provided for shall not affect the legitimacy of the issue of the marriage dissolved by such divorce, but the legitimacy of such issue, if questioned, shall be tried and determined according to the course of the common law.

Alimony pendente lite.

SEC. 975. ALIMONY PENDENTE LITE.—During the pendency of a suit for divorce, or a suit by the husband to declare the marriage null and void, where the nullity is denied by the wife, the court shall have power to require the husband to pay alimony to the wife for the maintenance of herself and their minor children committed to her care, and suit money, including counsel fees, to enable her to conduct her case, whether she be plaintiff or defendant, and to enforce obedience to any order in regard thereto by attachment and imprisonment for disobedience. The court may also enjoin any disposition of the husband's property to avoid the collection of said allowances, and may, in case of the husband's failure or refusal to pay such alimony and suit money, sequestrate his property and apply the income thereof to such objects. The court may also determine whether the husband or wife shall have the care and custody of infant children pending the proceedings.

Permanent alimony.

SEC. 976. PERMANENT ALIMONY.—When a divorce is granted to the wife, the court shall have authority to decree her permanent alimony sufficient for her support and that of any minor children whom the court may assign to her care, and to secure and enforce the payment of said alimony in the manner before mentioned, and may, if it shall seem fit, retain to the wife her right of dower in the husband's estate.

Where application made by husband.

SEC. 977. If the divorce is granted on the application of the husband, the court may, nevertheless, require him to pay alimony to the wife, if it shall seem just and proper; but in such case the husband may appeal.

Case open for future orders as to alimony.

SEC. 978. After a decree of divorce in any case granting alimony and providing for the care and custody of children, the case shall still be considered open for any future orders in those repects.

Maiden name of wife restored.

SEC. 979. MAIDEN NAME OF WIFE RESTORED.—In granting a divorce from the bond of marriage the court may restore to the wife her maiden or other previous name.

Maintenance of wife.

SEC. 980. MAINTENANCE OF WIFE.—Whenever any husband shall fail or refuse to maintain his wife and minor children, if any, although able so to do, the court, on application of the wife, may decree that he shall pay her, periodically, such sums as would be allowed to her as permanent alimony in case of divorce for the maintenance of herself and the minor children committed to her care by the court, and the payment thereof may be enforced in the same manner as directed in regard to such permanent alimony.

Suit to declare a marriage valid.

SEC. 981. SUIT TO DECLARE A MARRIAGE VALID.—When the validity of any alleged marriage shall be denied by either of the parties thereto the other party may institute a suit for affirming the marriage, and

upon due proof of the validity thereof it shall be decreed to be valid, and such decree shall be conclusive upon all parties concerned.

Court to assign attorney in uncontested cases.

SEC. 982. COURT TO ASSIGN ATTORNEY IN UNCONTESTED CASES.—In all uncontested divorce cases, and in any other divorce case where the court may deem it necessary or proper, a disinterested attorney shall be assigned by the court to enter his appearance for the defendant and actively defend the cause, and such attorney shall receive such compensation for his services as the court may determine to be proper, such compensation to be paid by the parties as the court may direct.

Corespondents.

SEC. 983. CORRESPONDENTS.—In all divorce cases where adultery is charged the person or persons with whom the adultery is charged to have been committed shall be made defendant or defendants and brought in by personal service of process or by publication as in other cases.

CHAPTER TWENTY-THREE.

EJECTMENT.

Ejectment.

Parties.

SEC. 984. PARTIES.—Every action of ejectment shall be brought in the name of the real claimant and may be brought against the person actually occupying the premises claimed, either in person or by tenant, or, if they be not actually occupied, against some person exercising acts of ownership thereon adversely to the plaintiff. If a lessee be made a defendant at the suit of a party claiming against the title of his landlord such landlord may appear and be made a party defendant in the place of his lessee. And any person claiming to be in possession may, on motion, be admitted to defend the action.

Form of declaration.

SEC. 985. FORM OF DECLARATION.—The plaintiff in his declaration must describe the premises claimed with reasonable certainty, and set forth distinctly the nature and quantity of the estate claimed by him in the same, and it shall be sufficient for him to state in addition thereto that the plaintiff was possessed of the premises, and while he was so possessed the defendant entered wrongfully into possession of the same and withholds the possession thereof from the plaintiff, or wrongfully detains such possession, or that the defendant is wrongfully exercising acts of ownership thereon. Such acts of ownership, however, unaccompanied with possession shall not, except as hereinafter provided, be held to amount to an adversary possession, so as to make it necessary for the plaintiff to sue in order to avoid the bar of the statute of limitations.

Counts.

SEC. 986. COUNTS.—The declaration may contain several counts and several parties may be named as plaintiffs, jointly in one count and separately in others.

Pleading.

SEC. 987. PLEADING.—The defendant may demur or may plead the general issue of "not guilty," which shall put in issue the plaintiff's title and right to the possession and under which all matters of defense may be given in evidence.

Evidence.

SEC. 988. EVIDENCE.—It shall be sufficient to entitle the plaintiff to a verdict to show that he is entitled, as against the defendant, to the immediate possession of the premises claimed and that the defendant is in possession thereof, holding adversely to the plaintiff, or is exercising acts of ownership over the same adversely to the plaintiff; except that in an action by one or more joint tenants or tenants in common against their cotenants, the plaintiffs shall be required to prove an actual ouster or some other act amounting to a denial of the plaintiff's title and his exclusion from the enjoyment of the property.

Outstanding legal title.

SEC. 989. OUTSTANDING LEGAL TITLE.—It shall be no bar to the plaintiff's recovery that the legal title to the property claimed is outstanding in another as mortgagee or trustee, if the mortgage or deed of trust has been satisfied and the plaintiff would be entitled to an

unconditional decree for the release or reconveyance of the property to him, nor shall the mortgagee or trustee in such case be entitled to maintain an action of ejectment against the party so entitled.

Where vendee entitled to equitable decree of conveyance, etc.

SEC. 990. Where real property has been sold under a written contract executed by the vendor, and there has been such a performance of its terms by the vendee as would entitle him to a decree in equity for a conveyance of the legal title, without condition, such vendor shall not be entitled at law, any more than in equity, to recover said property from the vendee.

Mortgagor.

SEC. 991. MORTGAGOR.—Wherever, by the terms of a mortgage or deed of trust, the debtor is entitled to retain possession of the property conveyed until default in the payment of the debts secured, said mortgage or deed of trust shall be no bar to the recovery of possession of the property in ejectment, before such default, by the mortgagor or grantor, against either the mortgagee or trustee or a stranger.

Several judgments against defendants.

SEC. 992. SEVERAL JUDGMENTS AGAINST DEFENDANTS.—If it appears on the trial that some of the defendants occupy distinct parcels of the property claimed, in severalty, the plaintiff, if entitled to recover, may have several judgments against the respective parties, according to the proof of occupancy.

Recovery of less than is claimed.

SEC. 993. RECOVERY OF LESS THAN IS CLAIMED.—The plaintiff, under a claim to certain described premises, may recover less than the whole property claimed, and, under a claim to an entire property, may recover an undivided part thereof.

Joint tenants and tenants in common.

SEC. 994. JOINT TENANTS AND TENANTS IN COMMON.—Joint tenants must sue jointly in ejectment, but tenants in common may sue either jointly or separately, and any numbers of tenants in common, less than the whole number entitled, may sue jointly in reference to their undivided interests.

Mesne profits and damages.

SEC. 995. MESNE PROFITS AND DAMAGES.—The plaintiff may embody in his declaration, in a separate count, a claim for the mesne profits received by the defendant from the property sued for or for the clear value of the use and occupation thereof to the defendant during his occupation thereof, and during the plaintiff's ownership thereof, within a period commencing three years before the commencement of the suit and extending to the time of the verdict, and also damages for waste or injury to the premises during said period; and if the jury find for the plaintiff they may, at the same time, find and assess the said mesne profits, or the value of said use and occupation and the amount of said damages and, besides a judgment for the recovery of the property, there shall be rendered a judgment against the defendant for the amount so found by the jury, except in the case provided for in section ten hundred and three hereafter.

Landlord and tenant.
—action by landlord; what may be embodied in declaration.

SEC. 996. LANDLORD AND TENANT.—If the action be by a landlord against his tenant, the plaintiff may embody in his declaration, in separate counts, a claim for furniture if leased with the realty, for arrears of rent due at the termination of the tenancy, a claim for double rent in cases authorized by this code from the termination of the tenancy to the verdict for possession, and a claim for damages for waste or injury to the premises or furniture during the defendant's occupancy of the same and before the commencement of the suit; and if the jury find for the plaintiff, they may at the same time find the amounts due for arrears of rent and for double rent and for damages as aforesaid, and judgment shall be rendered accordingly.

Plaintiff may sue separately for rent or damages.

SEC. 997. PLAINTIFF MAY SUE SEPARATELY FOR RENT OR DAMAGES.—The plaintiff in ejectment shall not be bound to join his claim for rent or damages with his claim for the recovery of the land, and his omission to do so shall not prevent him from suing for the same separately.

Expiration of title pending suit.

SEC. 998. EXPIRATION OF TITLE PENDING SUIT.—If the title of the plaintiff in ejectment shall expire after the commencement of the suit but before the trial, and but for said expiration he would have been entitled to recover, the verdict shall find such facts, and the plaintiff shall be entitled to recover his damages sustained by the wrongful withholding of the possession.

Adverse possession.

SEC. 999. ADVERSE POSSESSION.—In an action to recover vacant and unimproved lots of ground it shall not be necessary, in order to maintain the defense of adversary possession, to show that the premises in controversy had been inclosed; but if it appear that the property had been assessed for taxation to the defendant, or those under whom he claims, and that he or they had regularly paid the taxes on the same and were the only persons who had exercised control over the same for a period of fifteen years before the bringing of the action, such facts shall be the equivalent of possession by actual inclosure.

Verdict for plaintiff.

SEC. 1000. VERDICT.—If the plaintiff's title be established by proof, the verdict of the jury shall be generally for the plaintiff as to the whole or part of the property claimed in the declaration, as the case may be; if, on the contrary, the plaintiff fail to make satisfactory proof of title, the verdict shall be for the defendant as to the whole or part of the property, as the case may be, and it may be for the plaintiff as to part and for the defendant as to other part thereof, and judgment shall be rendered according to the verdict, except as hereinafter provided.

—for defendant, etc.

SEC. 1001. If it appear on the trial that the defendant did not wrongfully enter into possession of the property sued for, or exercise acts of ownership over the same adversely to the plaintiff, as aforesaid, the verdict of the jury shall be that the defendant is not guilty, and thereupon judgment shall be rendered in favor of the defendant against the plaintiff for the costs of the action, but such judgment shall not be a bar to a future action by the plaintiff against the defendant for the recovery of the property.

Judgment.

SEC. 1002. JUDGMENT.—Any final judgment rendered in an action of ejectment shall be conclusive as to the title thereby established as between the parties to the action and all persons claiming under them since the commencement of the action.

Improvements.

SEC. 1003. IMPROVEMENTS.—If at any time before the trial the defendant shall give notice that if the verdict of the jury shall be in favor of the plaintiff's title the defendant will claim the benefit of permanent improvements that may have been placed on the property by the defendant or those under whom he claims, and shall offer evidence at the trial tending to show that he or those under whom he claims had peaceably entered into possession of the premises in controversy under a title which he or they had reason to believe and did believe to be good, and had erected valuable and permanent improvements on said property, which were begun in good faith before the commencement of the suit, the jury shall be directed, in case they find in favor of the plaintiff's title and also find that such permanent improvements were made by the defendant, or those under whom he claims under the circumstances aforesaid, to assess—

—assessment of damages for, etc.

First. The damages of the plaintiff, being the clear value over and above taxes and necessary expenses of the use and occupation of the property, exclusive of said improvements, to the defendant and those under whom he claims, during the whole period of their occupation of the same to the date of the verdict, and also any damage done to the property, by waste or otherwise, by said parties during said occupation.

Second. The present value to the plaintiffs of any permanent improvements which may have been placed on the premises by the defendant or those under whom he claims.

Third. The present value to the defendant of the property of the plaintiff without and exclusive of the said improvements.

—jury may view premises, etc.

SEC. 1004. In addition to evidence offered at the trial as to said values, the jury may be directed to view the premises, and their said assessments shall be returned with their verdict and recorded with the same.

—appeal.

If either party shall feel aggrieved by said assessment he may, within three days after the verdict, move to set the assessment aside, and the court may, for good cause shown, set the same aside and order another jury to be impaneled in the cause to make a new assessment.

—where damages exceed value of improvements.

SEC. 1005. If the damages of the plaintiff, assessed as aforesaid, shall exceed the value of said permanent improvements as ascertained by the jury, the plaintiff shall be entitled to a judgment for the excess in like manner as directed in section nine hundred and ninety-five aforesaid.

—equal.

SEC. 1006. If the value of said improvements, so ascertained, shall equal but not exceed the plaintiff's damages, as found by the jury, the plaintiff shall only be entitled to judgment for the recovery of the property sued for and costs.

—election of plaintiff.

SEC. 1007. ELECTION OF PLAINTIFF.—If the value of said improvements shall be found by the jury to exceed the damages of the plaintiff, the plaintiff may elect either to pay to the defendant the amount of said excess or to demand of the defendant the value of the plaintiff's property, without the improvements, as fixed by the jury, and tender to the defendant a deed for said property, with all the plaintiff's right, title, and interest in the same.

Payment for improvements.

SEC. 1008. PAYMENT FOR IMPROVEMENTS.—If the said plaintiff shall pay to the defendant, within the time fixed therefor by the court, or, in case of his refusal to accept the same, shall pay into court for his use the amount of such excess of the value of said improvements over the damages of the plaintiff, the plaintiff shall be entitled forthwith to a judgment and writ of possession.

Tender of deed by plaintiff.

SEC. 1009. TENDER OF DEED BY PLAINTIFF.—If the plaintiff shall tender a deed as aforesaid to the defendant and demand the value of his property without the said improvements, as found by the jury, and the defendant shall fail or refuse to pay the same within the time fixed therefor by the court, the plaintiff shall, in like manner, be entitled to a judgment and writ of possession; and in case the plaintiff shall be a minor, the court may authorize said deed to be executed by his guardian.

Judgment for defendant.

SEC. 1010. JUDGMENT FOR DEFENDANT.—If the plaintiff shall fail or refuse either to pay the defendant the excess of the value of the improvements over the amount of the plaintiff's damages, or to tender a deed to the defendant, as aforesaid, and accept from him the value of the plaintiff's property, exclusive of the improvements, as aforesaid, the defendant may pay said value into court for the use of the plaintiff, and thereupon the defendant shall be entitled to a judgment in his favor, but without costs, which judgment shall be a bar to any future action by the plaintiff against the defendant to recover said property for cause theretofore existing.

CHAPTER TWENTY-FOUR.

SUBCHAPTER ONE.

Estates.

ESTATES.

What estates in District.

SEC. 1011. WHAT ESTATES IN DISTRICT.—Estates in land in the District shall be estates of inheritance, estates for life, estates for years, estates at will, and estates by sufferance.

Fee simple estates.

SEC. 1012. FEE SIMPLE ESTATES.—All estates of inheritance, including such as were formerly estates tail, shall be adjudged estates in fee simple.

—may be absolute, etc.

SEC. 1013. An estate in fee simple may be either absolute or qualified, as to one and his heirs during an existing condition of things of uncertain duration.

Freeholds.

SEC. 1014. FREEHOLDS.—Estates of inheritance and estates for life shall continue to be denominated freeholds, and estates for years shall be chattels real; estates at will or by sufferance shall be chattel interests, but shall not be liable, as such, to sale under execution; and all estates may be subject to conditions precedent or subsequent.

Estates pour autre vie.

SEC. 1015. ESTATES PUR AUTRE VIE.—An estate for the life of a third person, whether limited to heirs or otherwise, shall be deemed a freehold only during the life of the grantee or devisee, but after his death it shall be deemed a chattel real and be a part of his personal estate.

Estates classified.

SEC. 1016. ESTATES CLASSIFIED.—Estates are either in possession or in expectancy.

—possession.

SEC. 1017. An estate in possession exists when the owner has an immediate right to the possession of the land.

—expectancy.

SEC. 1018. An estate in expectancy is either a reversion or a future estate.

Reversions.

SEC. 1019. REVERSIONS.—A reversion is the residue of an estate left in the grantor who has conveyed, or in the heirs of the devisor who has devised a particular estate less than his own, and which residue returns to his or their possession on the expiration of the particular estate.

Future estates.

SEC. 1020. FUTURE ESTATES.—A future estate is one limited to commence at a future day, either without the intervention of a precedent estate or after the expiration or determination of a precedent estate created at the same time and by the same conveyance or devise.

—when a remainder.

SEC. 1021. If it is to commence upon the full expiration of such precedent estate, it is a remainder and may be transferred by that name.

—when a conditional limitation.

If it is to commence on a contingency which, if it happen, will abridge or determine such precedent estate before its expiration, it shall be known as a conditional limitation.

Vested and contingent future estates.

SEC. 1022. VESTED AND CONTINGENT FUTURE ESTATES.—A future estate is vested when there is a person in being who would have an immediate right to the possession of the land upon the expiration of the intermediate or precedent estate, or upon the arrival of a certain period or event when it is to commence in possession. It is contingent when the person to whom or the event upon which it is limited to take effect in possession or become a vested estate is uncertain.

Perpetuities.

SEC. 1023. PERPETUITIES.—Except in the case of gifts or devises to charitable uses, every future estate, whether of freehold or leasehold, whether by way of remainder or without a precedent estate, and whether vested or contingent, shall be void in its creation which shall suspend, or may by possibility suspend, the power of absolute alienation of the property, so that there shall be no person or persons in being by whom an absolute fee in the same, in possession, can be conveyed, for a longer period than during the continuance of not more than one or more lives in being and twenty-one years thereafter.

Chattels real.

SEC. 1024. CHATTELS REAL.—The provisions aforesaid as to future estates shall apply to limitations of chattels real as well as to freehold estates, so that the absolute ownership of a term for years and power to dispose of the same shall not be suspended for a longer period than the absolute power of alienation in respect to a fee simple.

What estates created by deed or will.

SEC. 1025. WHAT ESTATES CREATED BY DEED OR WILL.—Subject to the provisions aforesaid, a freehold estate as well as a chattel real may be created by deed or will to commence at a future day, absolutely or conditionally; an estate for life may be created in a term for years and a remainder limited thereon; a remainder of freehold or for years, either vested or contingent, may be created expectant on the determination of a term for years, and a fee may be limited on a fee upon a

contingency which must happen, if at all, within the period herein prescribed.

Alternative future estates.

SEC. 1026. ALTERNATIVE FUTURE ESTATES.—Two or more future estates may be created to take effect in the alternative, so that if the first in order shall fail to vest the next in succession may be substituted for it and take effect accordingly.

Remainder to heirs.

SEC. 1027. REMAINDER TO HEIRS.—Where a remainder shall be limited to the heirs or heirs of the body of a person to whom a life estate in the same premises shall be given, the persons who, on the termination of the life estate, shall be the heirs or the heirs of the body of such tenant for life shall be entitled to take in fee simple as purchasers by virtue of the remainder so limited.

Posthumous children.

SEC. 1028. POSTHUMOUS CHILDREN.—Where a future estate shall be limited to heirs, or issue, or children, posthumous children shall be entitled to take in the same manner as if living at the death of their parent; and a future estate depending on the contingency of the death of any person without heirs, or issue, or children shall be defeated by the birth of a posthumous child of such person.

Expectant estates not to be defeated.

SEC. 1029. EXPECTANT ESTATES NOT TO BE DEFEATED.—No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate, by disseizin, forfeiture, surrender, merger, or otherwise, except when such destruction is expressly provided for or authorized in the creation of such expectant estate; nor shall an expectant estate thus liable to be defeated be on that ground adjudged void in its creation.

Expectant estate alienable.

SEC. 1030. EXPECTANT ESTATE ALIENABLE.—Expectant estates shall be descendible, devisable, and alienable in the same manner as estates in possession.

Tenancies in common and joint tenancies.

SEC. 1031. TENANCIES IN COMMON AND JOINT TENANCIES.—Every estate granted or devised to two or more persons in their own right, including estates granted or devised to husband and wife, shall be a tenancy in common, unless expressly declared to be a joint tenancy; but every estate vested in executors or trustees, as such, shall be a joint tenancy.

Estates for years.

SEC. 1032. ESTATES FOR YEARS.—An estate for a determinate period of time is an estate for years.

Estates from year to year.

SEC. 1033. ESTATES FROM YEAR TO YEAR.—An estate expressed to be from year to year shall be good for one year only.

Estates by sufferance.

SEC. 1034. ESTATES BY SUFFERANCE.—All estates which by construction of the courts were estates from year to year at common law, as where a tenant goes into possession and pays rent without an agreement for a term, or where a tenant for years, after the expiration of his term, continues in possession and pays rent and the like, and all verbal hirlings by the month or at any specified rate per month, shall be deemed estates by sufferance.

Estates from month to month, etc.

SEC. 1035. ESTATES FROM MONTH TO MONTH, AND SO FORTH.—An estate may be from month to month or from quarter to quarter, or, as otherwise expressed, it may be by the month or by the quarter, if so expressed in writing.

Estates at will.

SEC. 1036. ESTATES AT WILL.—An estate at will is one held by the joint will of lessor and lessee, and which may be terminated at any time, as herein elsewhere provided, by either party; and such estate shall not exist or be created except by express contract: *Provided, however*, That in case of a sale of real estate under mortgage or deed of trust or execution, and a conveyance thereof to the purchaser, the grantor in such mortgage or deed of trust, execution defendant, or those in possession claiming under him, shall be held and construed to be tenants at will, except in the case of a tenant holding under an unexpired lease for years, in writing, antedating the mortgage or deed of trust.

Proviso.

—conveyance under mortgage, etc., sale, grantor deemed tenant at will, etc.

SUBCHAPTER TWO.

POWERS.

Powers.

SEC. 1037. DEFINITION.—A power is an authority to do some act in relation to lands or the creation of estates therein or of charges thereon which the owner granting or reserving such power might himself lawfully perform. Definition.

SEC. 1038. GENERAL POWER.—A power is general where it authorizes the alienation in fee, by means of a conveyance, will, or charge, of the lands embraced in the power to any alienee whatever. General power.

SEC. 1039. SPECIAL POWER.—A power is special— Special power.

First. Where the persons or class of persons to whom the disposition of the lands under the power is to be made are designated.

Second. Where the power authorizes the alienation, by means of a conveyance, will, or charge, of a particular estate or interest less than a fee.

SEC. 1040. BENEFICIAL POWER.—A general or special power is beneficial where no person other than the grantee has, by the terms of its creation, any interest in its execution. Beneficial power.

SEC. 1041. EFFECT OF ABSOLUTE POWER TO OWNER OF PARTICULAR ESTATE.—Where an absolute power of disposition, not accompanied by any trust, shall be given to the owner of a particular estate for life or years, such estate shall be changed into a fee, absolute in respect to the rights of creditors and purchasers but subject to any future estates limited thereon in case the power should not be executed or the lands should not be sold for the satisfaction of debts. Effect of absolute power to owner of particular estate.

SEC. 1042. EFFECT OF SUCH POWER TO ONE WITHOUT PARTICULAR ESTATE.—Where a like power of disposition shall be given to any person to whom no particular estate is limited, such person shall also take a fee, subject to any future estates that may be limited thereon but absolute in respect to creditors and purchasers. Effect of such power to one without particular estate.

SEC. 1043. EFFECT WHERE NO REMAINDER ON PARTICULAR ESTATE.—In all cases where such power of disposition is given and no remainder is limited on the estate of the grantee of the power, such grantee shall be entitled to an absolute fee. Effect where no remainder on particular estate.

SEC. 1044. CONSTRUCTION OF POWER TO PARTICULAR TENANT TO DEVISE THE INHERITANCE.—Where a general and beneficial power to devise the inheritance shall be given to a tenant for life or for years, such tenant shall be deemed to possess an absolute power of disposition, within the meaning and subject to the provisions of the three last preceding sections. Construction of power to particular tenant to devise the inheritance.

SEC. 1045. RIGHT OF GRANTOR TO RESERVE POWER.—The grantor in any conveyance may reserve to himself any power, beneficial or in trust, which he might lawfully grant to another, and every power thus reserved shall be subject to the provisions of this subchapter as if granted to another. Right of grantor to reserve power.

SEC. 1046. LIABILITY OF BENEFICIAL POWERS IN EQUITY.—Every special and beneficial power shall be liable, in equity, to the claims of creditors, and the execution of the power may be decreed for the benefit of the creditors entitled. Liability of beneficial powers in equity.

SEC. 1047. GENERAL POWERS IN TRUST.—A general power is in trust when any person or class of persons other than the grantee of such power is designated as entitled to the proceeds, or any portion of the proceeds or other benefits to result from the alienation of the lands, according to the power. General powers in trust.

SEC. 1048. SPECIAL POWERS IN TRUST.—A special power is in trust— Special powers in trust.

First. When the disposition which it authorizes is limited to be made to any person or class of persons other than the grantee of such power.

Second. When any person or class of persons other than the grantee

is designated as entitled to any benefit from the disposition or change authorized by the power.

Trust powers imperative.

SEC. 1049. TRUST POWERS IMPERATIVE.—Every trust power, unless its execution or nonexecution is made expressly to depend on the will of the grantee, is imperative and imposes a duty on the grantee the performance of which may be compelled in equity for the benefit of the parties interested.

Selection under trust powers.

SEC. 1050. SELECTION UNDER TRUST POWERS.—A trust power does not cease to be imperative where the grantee has the right to select any and exclude others of the persons designated as the objects of the trust.

—where no specifications as to shares, etc.

SEC. 1051. Where a disposition under a power is directed to be made to or among or between several persons, without any specifications of the share or sum to be allotted to each, all the persons designated shall be entitled to an equal proportion. But when the terms of the power import that the estate or fund is to be distributed between the persons so designated, in such manner or proportions as the trustee of the power may think proper, the trustee may allot the whole to any one or more of such persons in exclusion of the others.

Execution of trust powers for benefit of creditors and assignees.

SEC. 1052. EXECUTION OF TRUST POWERS FOR BENEFIT OF CREDITORS AND ASSIGNEES.—The execution in whole or in part of any trust power may be decreed in equity for the benefit of the creditors or assignees of any person entitled to compel its execution when the interest of the objects of such trust is assignable.

Manner of executing powers.

SEC. 1053. MANNER OF EXECUTING POWERS.—No power can be executed except by some instrument in writing, which would be sufficient in law to pass the estate or interest intended to pass under the power if the person executing the power were the actual owner.

SEC. 1054. Where a power to dispose of lands is confined to a disposition by devise or will, the instrument of execution must be a will duly executed; and where a power is confined to a disposition by grant it can not be executed by will, although the disposition is not intended to take effect until after the death of the party executing the power.

SEC. 1055. Every instrument executed by the grantee of a power conveying an estate or creating a charge, which such grantee would have no right to convey or create unless by virtue of his power, shall be deemed a valid execution of the power, although such power be not recited or referred to therein.

CHAPTER TWENTY-FIVE.

EVIDENCE.

Evidence.

Oath.

SEC. 1056. OATH.—All evidence shall be given under oath according to the forms of the common law, except that where a witness has conscientious scruples against taking an oath, he may, in lieu thereof, solemnly, sincerely, and truly declare and affirm; and wherever herein any application, statement, or declaration is required to be supported or verified by an oath it is to be understood that such affirmation is the equivalent of an oath.

Perjury.

SEC. 1057. PERJURY.—A person swearing, affirming, or declaring, or giving testimony in any form where an oath is authorized by law, is lawfully sworn, and will be guilty of perjury in a case where he would be guilty of said crime if sworn according to the forms of the common law.

Testimony de bene esse.

SEC. 1058. TESTIMONY DE BENE ESSE.—The testimony of any witness may be taken in any civil cause depending in any court of the District of Columbia, whether the cause be at issue or not, by deposition de bene esse, under any of the following conditions:

—when may be taken.

First. Where the witness lives at a greater distance than one hundred miles from the place of trial.

Second. Where the witness is likely to go out of the United States or out of the District to a place more than one hundred miles from the place of trial and not return in time for the trial.

Third. Where the witness is infirm or aged, or for any other reason the party desiring his testimony fears he may not be able to secure the same at the time of trial, whether said witness resides within the District or not.

Fourth. If during the trial any witness is unable, by reason of sickness or other cause, to attend the trial, the deposition of such witness may, in the discretion of the court, be taken and read at the trial.

—before whom.

The deposition may be taken before any judge of any court of the United States; before any commissioner or clerk of any court of the United States, or any examiner in chancery of any court of the United States; before any chancellor, justice, or judge or clerk of any court of any State or Territory or other place under the sovereignty of the United States, or any notary public or justice of the peace within any place under the sovereignty of the United States: *Provided*, That no such person shall be eligible to take such deposition who is counsel or attorney for any party to the cause or who is in any wise interested in the event of the cause.

Proviso.
—interested persons barred.

Notice.

Before proceeding to take the deposition reasonable written notice of the time, place, names, and addresses of the witnesses shall be given by the party or his attorney proposing to take the deposition to the attorney of record, if there be one, of the adverse party, and if not, to the party himself, which notice shall be at least twenty days more than the time necessary to reach the place of taking such deposition, and shall specify the name or names of the witnesses, the time and place of taking the same, and the name and official character of the person before whom the same is to be taken; but it shall not be lawful to require the adverse party to attend the taking of a deposition at more than one place on the same day.

—to whom given in actions in rem.

In all cases in rem the person having the agency or possession of the property at the time of seizure shall be deemed the adverse party until a claim shall have been put in, when the claimant and the person having the agency or possession as aforesaid shall both be entitled to the notice.

—where notice impracticable.

When by reason of absence of the party or his attorney of record, or other cause, the giving of the notice herein required shall be impossible or impracticable, and there shall be urgent necessity for taking such deposition, the notice shall be given in such manner as a justice of the supreme court of the District of Columbia shall direct.

Summons.

Summons to any witness to appear and testify shall be issued by the person or officer before whom the deposition is to be taken, and served by the marshal of the United States or his deputy within the place where the witness resides; and the witness may be compelled to appear and testify by the officer before whom the deposition is to be taken in the same manner as witnesses may be compelled to appear and testify in court; and for the purpose of executing the provisions of this section any of the persons authorized to take such depositions are hereby vested with all the power and authority for compelling the attendance of the witness and the giving of his testimony which by law or usage are vested in any of the judges of the courts of the United States, and shall be entitled, upon summary application, to the aid of the courts of the United States to compel such attendance and giving of testimony.

Compelling attendance.

Oath, etc.

Every person deposing as herein provided shall first swear or solemnly and truly affirm to tell the truth, the whole truth, and nothing but the truth in answer to such questions as are propounded to him by the parties or their counsel; and the adverse party or his counsel shall have the right to cross-examine such witness.

How deposition may be taken, etc.

The questions propounded to the witness and the answers of the witness thereto shall be taken down in writing; and the same may be

taken down stenographically by the officer taking the deposition or a competent and disinterested stenographer engaged by him, and afterwards transcribed into writing or typewriting, and, in the presence of the officer taking the deposition, read over to the witness, and signed by him. If the witness be unable to write or refuse to sign the deposition the officer taking the same shall certify the fact and the reason, if any, assigned by the witness.

—to be sealed; cost of, etc.

The deposition of the witness or witnesses, together with the certificate of the officer taking the same, shall be by said officer sealed up and indorsed with the title of the cause in which the deposition is taken, and the cost of taking the same and by whom paid, and by him transmitted to the court in the District of Columbia in which the cause is pending, and by him deposited, postage prepaid, in the United States mail.

—not to be used if witness can be produced.

If, at the time of trial, the witness can be produced to testify in open court the deposition shall not be read in evidence; but if the attendance of the witness can not be produced then the said deposition shall be admissible in evidence, subject to such objections to the questions and answers as were noted at the time of taking the deposition, or within ten days after the return thereof, and would be valid were the witness personally present in court.

Granting dedimus potestatem and in perpetuam rei memoriam.

In any case where the interests of justice may require the supreme court of the District of Columbia may grant a dedimus potestatem to take depositions according to common usage, and may, according to the usages of chancery, direct depositions to be taken in perpetuam rei memoriam if they relate to any matters that might be cognizable in any court of the United States.

Foreign depositions, letters rogatory, etc.

When the testimony of any witness residing in any place not within the sovereignty of the United States is desired in any cause pending in any court of the District of Columbia, the same may be taken upon interrogatories and cross-interrogatories filed in the said court, and transmitted by said court under letters rogatory, addressed to some court of record in the foreign State in which said witness is then to be found.

Witnesses not to attend out of country, etc.

SEC. 1059. No witness shall be required, under the provisions of the preceding section, to attend at any place out of the county where he resides, nor more than forty miles from the place of his residence, to give his deposition; nor shall any witness be deemed guilty of contempt for disobeying any subpœna directed to him by virtue of the said section, unless his fee for going to, returning from, and one day's attendance at the place of examination are paid or tendered to him at the time of the service of the subpœna.

—tender of fees.

Commission to take depositions in common law actions.

SEC. 1060. COMMISSION TO TAKE DEPOSITIONS.—On motion made in any common law action in the District, by a party thereto, the court may order a commission to issue to such person or persons as the court may name to take the deposition of any witness residing or being out of the District on interrogatories and cross-interrogatories, to be filed and accompany such commission, as may be provided by the rules of the court, and said commission shall be executed, returned, and published according to the practice in courts of equity: *Provided*, That such depositions shall not be admitted at the trial of the action if, at the time, the witness be present in the District and his attendance can be obtained by the process of the court.

Proviso.
—not to be used if witness can be produced.

Testimony in equity cases.

SEC. 1061. TESTIMONY IN EQUITY CAUSES.—In equity causes in the District the testimony of the witnesses may be taken in the manner provided by the rules of the Supreme Court of the United States for practice in equity, and of the supreme court of the District of Columbia not inconsistent therewith: *Provided*, The court may, in its discretion, for proper cause shown, order the testimony to be taken orally in its presence or under a commission, according to the usages of chancery, or before examiners, upon any reasonable notice as directed in

Proviso.
—when orally taken.

the preceding section, as the court may order and direct; and according to the same usages the court may, upon application by any party interested, direct depositions to be taken in perpetuam rei memoriam, in relation to matters that may be cognizable in the court. —in perpetuam rei memoriam.

SEC. 1062. COMMISSIONS FROM COURTS OUT OF THE DISTRICT.—When a commission is issued by any court of the United States or of any State for taking the testimony of a witness named therein within the District of Columbia, the same proceedings shall be had in relation thereto as are directed by sections eight hundred and sixty-eight and eight hundred and sixty-nine of the Revised Statutes of the United States. Commissions from courts out of the District.

SEC. 1063. COMPETENCY OF WITNESSES.—Except as herein elsewhere provided, no person shall be incompetent to testify in any civil action or proceeding by reason of his being a party thereto or interested in the result thereof; but, if otherwise competent to testify, he shall be competent to give evidence on his own behalf and competent and compellable to give evidence on behalf of any other party to such action or proceeding. Competency of witnesses.

SEC. 1064. TESTIMONY OF SURVIVING PARTY.—If one of the original parties to a transaction or contract has, since the date thereof, died or become insane or otherwise incapable of testifying in relation thereto, the other party thereto shall not be allowed to testify as to any transaction with or declaration or admission of the said deceased or otherwise incapable party in any action between said other party or any person claiming under him and the executors, administrators, trustees, heirs, devisees, assignees, committee, or other person legally representing the deceased or otherwise incapable party, unless he be first called upon to testify in relation to said transaction or declaration or admission by the other party, or the opposite party first testify in relation to the same, or unless the transaction or contract was made or had with an agent of the said deceased or otherwise incapable party, and said agent testifies in relation thereto, or unless called to testify thereto by the court. Testimony of surviving party.

SEC. 1065. TESTIMONY OF DECEASED OR INSANE PARTY.—If a party, after having testified at a time when he was competent to do so, shall die or become insane or otherwise incapable of testifying, his testimony may be given in evidence in a subsequent trial in relation to the same subject-matter between the same parties, or their legal representatives, as the case may be; and in such case the opposite party may testify in opposition thereto. Testimony of deceased or insane party.

SEC. 1066. PARTNERS.—Where any of the original parties to a contract or transaction which is the subject of investigation are partners or other joint contractors, or jointly entitled or liable, and some of them have died or otherwise become incapable of testifying, any others with whom the contract or transaction was personally made or had, or in whose presence or with whose privity it was made or had, or admissions in relation to the same were made, shall not, nor shall the adverse party, be incompetent to testify because some of the parties or joint contractors, or those jointly entitled or liable, have died or otherwise become incapable of testifying. Partners.

SEC. 1067. CONVICTION OF CRIME.—No person shall be incompetent to testify, in either civil or criminal proceedings, by reason of his having been convicted of crime other than perjury, but such fact may be given in evidence to affect his credit as a witness, either upon the cross-examination of the witness or by evidence aliunde; and the party cross-examining him shall not be concluded by his answers as to such matters. In order to prove such conviction of crime it shall not be necessary to produce the whole record of the proceedings containing such conviction, but the certificate, under seal, of the clerk of the court wherein such proceedings were had, stating the fact of the conviction and for what cause, shall be sufficient. Conviction of crime not to incapacitate, etc.

Husband and wife.

SEC. 1068. HUSBAND AND WIFE.—In both civil and criminal proceedings, husband and wife shall be competent but not compellable to testify for or against each other.

Confidential communications.

SEC. 1069. CONFIDENTIAL COMMUNICATIONS.—In neither civil nor criminal proceedings shall a husband or his wife be competent to testify as to any confidential communications made by one to the other during the marriage.

Record debt, proof of.

SEC. 1070. RECORD DEBT, PROOF OF.—An exemplification of the record under the hand of the keeper of the same, and the seal of the court or office where such record may be made, shall be good and sufficient evidence to prove any record made or entered in any of the States or Territories of the United States; and the certificate of the party purporting to be the keeper of such record, accompanied by such seal, shall be prima facie evidence of that fact.

Record of deeds and wills.

SEC. 1071. RECORD OF DEEDS AND WILLS.—The copy of the record of any deed or other instrument of writing, not of a testamentary character, where the laws of the State, Territory, or country where the same may be recorded require such record, and which has been recorded agreeably to such laws, and the copy of any will which such laws require to be admitted to probate and record, by judicial decree, and of the decree of the court admitting the same to probate and record, under the hand of the clerk or other keeper of such record and the seal of the court or office in which such record has been made, shall be good and sufficient prima facie evidence to prove the existence and contents of such deed, or will, or other instrument of writing, and that it was executed as it purports to have been.

Production of books and papers.

SEC. 1072. PRODUCTION OF BOOKS AND PAPERS.—In an action at common law the court may, on motion, and on reasonable notice thereof, require the parties to produce books and writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might heretofore have been compelled to produce the same by the ordinary rules of proceeding in chancery.

Physicians, privileged communication to.

SEC. 1073. PHYSICIANS, TESTIMONY OF.—In the courts of the District of Columbia no physician or surgeon shall be permitted, without the consent of the person afflicted, or of his legal representatives, to disclose any information, confidential in its nature, which he shall have acquired in attending a patient in a professional capacity and which was necessary to enable him to act in that capacity: *Provided*, That this section shall not apply to evidence in criminal cases where the accused is charged with causing the death of or inflicting injuries upon a human being, and the disclosure shall be required in the interests of public justice.

Proviso.
—exception.

CHAPTER TWENTY-SIX.

EXECUTION.

Execution.

When issued.

SEC. 1074. WHEN ISSUED.—Where the right to issue an execution is not suspended by agreement or by an injunction or by an appeal operating as a supersedeas, a writ of execution may be issued immediately on the rendition of the judgment or at any time within three years thereafter; and where the right to issue the same is suspended by any of the causes aforesaid said writ may be issued within three years after the removal of the suspension, and every such writ shall be returnable on or before the sixtieth day after its date.

Alias writs.

SEC. 1075. ALIAS WRITS.—If the execution be issued and returned unsatisfied, in whole or in part, within said period of three years, an alias writ may be issued at any time during the life of the judgment.

Return.

SEC. 1076. RETURN.—If the return shall be omitted to be made on or before the return day expressed in the writ it may nevertheless be made afterwards as of that date.

Scire facias.

SEC. 1077. SCIRE FACIAS.—If said writ shall not be issued within the time allowed therefor, as aforesaid, it shall not be issued until a scire facias has been issued upon said judgment and a fiat has been rendered thereupon. Said fiat shall be deemed a renewal of the judgment, and the same rule shall apply thereto in relation to the issuing of execution thereon as to the original judgment.

Fiat.

SEC. 1078. FIAT.—At any time during the life of the original judgment the plaintiff may elect, instead of issuing execution thereon within the time allowed therefor, to issue a scire facias on the same and obtain a new judgment as aforesaid.

Lien of execution.

SEC. 1079. LIEN OF EXECUTION.—A writ of fieri facias issued upon a judgment of the supreme court of the District shall be a lien from the time of its delivery to the marshal upon all the goods and chattels of the judgment defendant, except such as may be exempted from levy and sale by express provision of law.

Death of debtor.

SEC. 1080. DEATH OF DEBTOR.—The death of the judgment debtor after the execution has been delivered to the marshal shall not affect his authority to proceed against the property bound by it.

Judgment of justice of the peace.

SEC. 1081. JUDGMENT OF JUSTICE OF THE PEACE.—An execution issued on a judgment of a justice of the peace shall not be a lien on the personal property of the judgment defendant except from the time when it is actually levied, and then it shall have priority over any execution issued out of said supreme court after said levy. It shall not be levied on real estate.

On what fieri facias may be levied.

SEC. 1082. ON WHAT FIERI FACIAS MAY BE LEVIED.—The writ of fieri facias may be levied on all goods and chattels of the debtor not exempt as aforesaid, and upon gold and silver coin, bank notes or other money, bills, checks, promissory notes or bonds, or certificates of stock in corporations owned by said debtor, and upon money owned by him in the hands of the marshal or of a constable charged with the execution of such writ, and such fieri facias issued from said supreme court may be levied on all leasehold and freehold estates of the debtor in land.

Levy on money.

SEC. 1083. LEVY ON MONEY.—If the fieri facias is levied on money belonging to the judgment defendant the marshal shall not expose the same to sale, but shall account for it as money collected, but bills or other evidences of debt levied upon shall be sold as other personal property is sold, and the marshal is hereby authorized and empowered to indorse the same to pass title to the purchaser.

Levy on chattels pledged.

SEC. 1084. LEVY ON CHATTELS PLEDGED.—The interest of the debtor in personal chattels lawfully pledged for the payment of a debt or performance of a contract, or held by a trustee and in which the debtor's interest is only equitable, may be levied upon in the hands of the pledgee or trustee without disturbing the possession of the latter, and the lien thus obtained may be enforced by proceedings in equity.

Appraisement.

SEC. 1085. APPRAISEMENT.—All property levied upon, except money, shall be appraised by two sworn appraisers and sold at public auction for cash; personal property after ten days' notice by advertisement, and leasehold and freehold estate in land after a twenty days' previous notice by advertisement, containing a description sufficiently definite to be embodied in a conveyance of the title.

Attachment, when issued.

SEC. 1086. ATTACHMENT, WHEN ISSUED.—An attachment may be issued upon a judgment either before or after or at the same time with a fieri facias: *Provided*, That if costs are unnecessarily multiplied thereby they shall be charged to the party causing the same to be issued.

Proviso.—costs.

Scire facias unnecessary.

SEC. 1087. SCIRE FACIAS UNNECESSARY.—The said attachment may be issued at any time during the life of the judgment, without issuing a scire facias previously thereto.

On what attachment may be levied.

SEC. 1088. ON WHAT ATTACHMENT MAY BE LEVIED.—An attachment may be levied upon the judgment debtor's credits due him from third persons and upon his interest in letters patent for inventions issued by the United States.

Interrogatories.

SEC. 1089. INTERROGATORIES.—In all cases of attachment the plaintiff may exhibit interrogatories in writing, in such form as may be allowed by the rules or special order of the court, to be served upon any garnishee concerning any property of the defendant in his possession or charge or any indebtedness of his to the defendant at the time of the service of the attachment or between the time of such service and the filing of his answers to said interrogatories; and the garnishee shall file his answers, under oath, to such interrogatories within ten days after service of the same upon him. In addition to the answers to written interrogatories required of him, the garnishee may, on motion, be required to appear in court and be examined orally, under oath, touching any property or credits of the defendant in his hands.

How attachments levied.

SEC. 1090. HOW ATTACHMENTS LEVIED.—The attachment shall be levied upon credits of the defendant in the hands of a garnishee by serving him with a copy of the writ of attachment and of the interrogatories accompanying the same, and a notice that any property or credits of the defendant in his hands are seized by virtue of the attachment. It may be levied upon debts due to the defendant upon any judgment or decree by a similar service upon the debtor owing the same.

Money in hands of an officer.

SEC. 1091. MONEY IN HANDS OF AN OFFICER.—The said attachment may be levied upon money or property of the defendant in the hands of the marshal or coroner, and shall bind the same from the time of service, and shall be a legal excuse to the officer for not paying or delivering the same as he would otherwise be bound to do.

How levied on patent rights.

SEC. 1092. HOW LEVIED ON PATENT RIGHTS.—The said attachment may be levied upon any patent right of the defendant by the marshal by leaving a copy of the writ with the Commissioner of Patents, with a notice that he has seized said patent rights, and for what purpose, and he shall return a copy of said notice with the writ. The said notice shall thereupon be recorded in the record of assignments in the Patent Office.

Preservation of property seized.

SEC. 1093. PRESERVATION OF PROPERTY SEIZED.—The court may make all orders necessary for the preservation of the property attached, and if the same be perishable, or for other reasons a sale of the same shall be expedient, may order that the same be sold and the proceeds paid into court and held subject to its order.

Pleading to the attachment.

SEC. 1094. PLEADING TO THE ATTACHMENT.—Any garnishee or stranger to the suit who may make claim to the property attached as hereinafter provided, may plead to the attachment, and such plea shall be considered as raising an issue without replication, and any issue of fact thereby made may be tried by the court or by a jury impaneled for the purpose, if either party desire it.

Traversing garnishee's answers.

SEC. 1095. TRAVERSING GARNISHEE'S ANSWERS.—If any garnishee shall answer to interrogatories that he has no property or credits of the defendant or less than the amount of the plaintiff's judgment, the plaintiff may traverse such answer as to the existence or amount of such property or credits, and the issue thereby made may be tried as provided in the last aforesaid section; and in such case, where judgment is rendered for the garnishee, the plaintiff shall be adjudged to pay to the garnishee, in addition to his taxed costs, a reasonable counsel fee; and if such issue be found for the plaintiff, judgment shall be rendered as if possession of the property or credits had been confessed by the garnishee.

Claims by third persons.

SEC. 1096. CLAIMS BY THIRD PERSONS.—Any person may file his petition in the cause, under oath, at any time before the final dispo-

sition of the property attached or its proceeds, not being real estate, setting forth a claim thereto or an interest in or lien upon the same; and the court, without other pleadings, shall inquire into the claim, and, if either party request it, impanel a jury for the purpose, who shall be sworn to try the question involved as an issue between the claimant as plaintiff and the parties to the suit as defendants, and the court may make all such orders as may be necessary to protect any rights of the petitioner.

Judgment of condemnation of property.

SEC. 1097. JUDGMENT OF CONDEMNATION OF PROPERTY.—Where the attachment has been levied upon specific property, on the return by the marshal judgment of condemnation of the same may be entered, and so much thereof as may be necessary to satisfy the plaintiff's judgment may be sold under a fieri facias; or, if said property shall have been sold under interlocutory order of the court, the proceeds, or so much thereof as may be necessary, shall be applied to the plaintiff's claim by order of the court.

Judgment against garnishee.

SEC. 1098. JUDGMENT AGAINST GARNISHEE.—If a garnishee shall have admitted credits in his hands, in answer to interrogatories served upon him, or the same shall have been found upon an issue made as aforesaid, judgment shall be entered against him for the amount of credits admitted or found as aforesaid, not exceeding the amount of the plaintiff's judgment, and costs, and execution shall be had thereon not to exceed the credits in his hands; but if said credits shall not be immediately due and payable, execution shall be stayed until the same shall become due; and if the garnishee shall have failed to answer the interrogatories served on him, or to appear and show cause why a judgment of condemnation should not be entered, such judgment shall be entered against him for the whole amount of the plaintiff's judgment and costs, and execution shall be had thereon.

Condemnation and sale of patent rights.

SEC. 1099. CONDEMNATION AND SALE OF PATENT RIGHTS.—If the property attached be a patent right, on the marshal's return judgment of condemnation of the said property shall be entered and the marshal shall sell the same under fieri facias at public auction in the same manner as real estate. Any patent right condemned and sold as aforesaid shall be assigned by the marshal to the purchaser in the same manner in which such assignments are made by private persons, and his said assignment may be recorded in the proper book or record of assignment in the Patent Office.

Delivery of possession of property sold.

SEC. 1100. DELIVERY OF POSSESSION OF PROPERTY SOLD.—When real estate is sold by virtue of any execution, and the judgment defendant or any person claiming under him since the rendition of the judgment is in actual possession of the property and refuses to deliver possession thereof to the purchaser upon demand made therefor, it shall be lawful for the court, on the application of the purchaser, to require the person so in possession to show cause why possession should not be delivered according to said demand, and, if no good cause be shown, to issue a writ of habere facias possessionem, requiring the marshal to put the purchaser in possession. If the party in possession shall allege under oath a title derived from the judgment debtor prior to the judgment or a title superior to that of the defendant, said writ shall not issue, but the purchaser may have his remedy by an action of ejectment or the summary remedy before a justice of the peace as herein provided in subchapter one of chapter one.

Change of marshal.

SEC. 1101. CHANGE OF MARSHAL.—If the marshal die, be removed from office, or become otherwise disqualified from executing a writ of execution received by him, the same may be executed and returned by his deputy or successor in office.

Defective sale.

SEC. 1102. DEFECTIVE SALE.—If upon the sale of property under execution the title of the purchaser is invalid by reason of a defect in the proceedings, the purchaser may be subrogated to the rights of the

creditor against the debtor to the extent of the money paid by him and applied to the debtor's benefit, and to that extent shall have a lien on the property sold against all persons except bona fide purchasers without notice; but the creditor shall not be required to refund the purchase money on account of the invalidity of the sale.

Remedy of marshal.

SEC. 1103. REMEDY OF MARSHAL.—Where the marshal or any other officer to whom execution has been delivered levies upon and sells in good faith property not subject thereto and applies the proceeds thereof toward the satisfaction of the judgment, and a recovery is had against him for its value, the officer, on payment of said value, may, on motion and due notice thereof to the defendant, have the satisfaction of said judgment vacated, and execution shall issue thereon for his use as if said levy and sale had not been made.

Decree in equity.

SEC. 1104. DECREE IN EQUITY.—The aforegoing provisions shall be applicable to an unconditional decree in equity for the payment of money. Such decree may be revived by scire facias, and the same writs of execution may be issued thereon within the same time and have the same effect as liens, and shall be executed and returned in the same manner as if issued upon a common-law judgment.

CHAPTER TWENTY-SEVEN.

Exemptions.

EXEMPTIONS.

What property of householder exempt.

SEC. 1105. WHAT PROPERTY OF HOUSEHOLDER EXEMPT.—The following property, being the property of the head of a family or householder residing in the District of Columbia, shall be exempt from distraint, attachment, levy, and sale on execution or decree of any court in the District:

First. All wearing apparel belonging to all persons and to all heads of families being householders.

Second. All beds, bedding, household furniture, stoves, cooking utensils, and so forth, not exceeding three hundred dollars in value.

Third. Provisions for three months' support, whether provided or growing.

Fourth. Fuel for three months.

Fifth. Mechanics' tools and implements of the debtor's trade or business amounting to two hundred dollars in value, with two hundred dollars' worth of stock for carrying on the business of the debtor or his family. This exemption shall apply to merchants.

Sixth. The library and implements of a professional man or artist, to the value of three hundred dollars.

Seventh. One horse, mule, or yoke of oxen; one cart, wagon, or dray, and harness for such team.

Eighth. Farming utensils, with food for such team for three months, and, if the debtor be a farmer, any other farming tools of the value of one hundred dollars.

Ninth. All family pictures and all the family library, not exceeding in value four hundred dollars.

Tenth. One cow, one swine, six sheep.

Exemptions valid when property is in transitu.
—qualification where debt due for wages of servants, etc.

And these exemptions shall be valid when the property is in transitu, the same as if at rest; but no property named and exempted in this section shall be exempted from attachment or execution for any debt due for the wages of servants, common laborers, or clerks, except the wearing apparel, beds and bedding, and household furniture for the debtor and family.

Mortgage of exempt property.

SEC. 1106. MORTGAGE OF EXEMPT PROPERTY.—No deed of trust, assignment for the benefit of creditors, bill of sale, or mortgage upon any exempted articles shall be binding or valid unless signed by the wife of the debtor, if he be married and living with his wife.

Earnings exempt.

SEC. 1107. EARNINGS.—The earnings, not to exceed one hundred dollars each month, of all actual residents of the District of Columbia who provide for the support of a family in said District, for two months next preceding the issuing of any writ or process from any court or officer of and in said District, against them, shall be exempt from attachment, levy, seizure, or sale upon such process, and the same shall not be seized, levied on, taken, reached, or sold by attachment, execution, or any other process or proceedings of any court, judge, or other officer of and in said District.

CHAPTER TWENTY-EIGHT.

FEES OF OFFICERS AND OTHERS.

Fees of officers and others.

SEC. 1108. NOTHING HEREIN TO PROHIBIT AGREEMENTS WITH CLIENTS.—The following, and no other, compensation shall be taxed and allowed to attorneys, solicitors, proctors, district attorney, clerk of the supreme court of the District, marshal, commissioners, witnesses, and jurors, except in cases otherwise provided for by law; but nothing herein shall be construed to prohibit attorneys, solicitors, and proctors from charging or receiving from their clients other than the Government such reasonable compensation for their services, in addition to the taxable costs, as may be in accordance with general usage or may be agreed upon:

Nothing herein to prohibit agreements with clients.

Docket fee of attorneys, etc.

SEC. 1109. ATTORNEYS, SOLICITORS, AND PROCTORS.—On a trial before a jury in civil or criminal causes or before referees, or on a final hearing in equity or admiralty, a docket fee of twenty dollars: *Provided*, That in cases of admiralty and maritime jurisdiction where the libelant recovers less than fifty dollars the docket fee of his proctor shall be only ten dollars.

Proviso.
—admiralty cases, etc.

In cases at law where judgment is rendered without a jury, ten dollars.

In cases at law when the cause is discontinued, five dollars.

For scire facias, or other proceedings on recognizances, five dollars.

For each deposition taken and admitted in evidence in a cause, two dollars and fifty cents.

For services rendered in a case removed from the supreme court of the District by an appeal to the court of appeals, five dollars.

—district attorney.

For examination by the district attorney before a judge or commissioner of persons charged with crime, five dollars a day for the time necessarily employed.

For each day of the district attorney's attendance in court, five dollars.

When an indictment for a crime is tried before a jury and a conviction is had the district attorney may be allowed, in addition to the fees herein provided, a counsel fee in proportion to the importance of the cause, not exceeding thirty dollars.

There shall be paid to the district attorney two per centum on all moneys collected or realized in any suit or proceeding under the revenue law conducted by him to which the United States is a party, in lieu of all costs and fees in such proceeding.

When the district attorney appears by direction of the Secretary or Solicitor of the Treasury on behalf of any officer of the revenue in any suit against such officer for any act done by him, or to recover any money received by him and paid into the Treasury in the course of his official duty, he shall receive such compensation as may be certified to be proper by the court and approved by the Secretary of the Treasury.

Clerk's fees.

SEC. 1110. CLERK'S FEES.—For issuing and entering every process, commission, summons, capias, execution, warrant, attachment, or other writ, except a writ of venire, or a summons or subpœna for a witness, one dollar.

For issuing a writ of subpœna or summons, twenty-five cents.

For filing and entering every declaration, plea, or other paper, twenty-five cents.

For administering an oath or affirmation, except to a juror, twenty-five cents.

For taking an acknowledgment, fifty cents.

For taking and certifying depositions to file, twenty cents for each folio of one hundred words.

For a copy of such deposition furnished to a party on request, ten cents a folio.

For entering any return, rule, order, continuance, judgment, decree, or recognizance, or drawing any bond, or making any record, certificate, return, or report, for each folio, fifteen cents.

For a copy of any entry or record, or any paper on file, for each folio, ten cents.

For making dockets or indexes, issuing venire, taxing costs, and all other services on the trial or argument of a cause where issue is joined and testimony given, three dollars.

For making dockets or indexes, taxing costs, and all other services in a cause where issue is joined but no testimony is given, two dollars.

For making dockets or indexes, taxing costs, and all other services in a cause which is dismissed or discontinued or where judgment or decree is made or rendered without issue, one dollar.

For making dockets and taxing costs in cases removed by appeal, one dollar.

For affixing the seal of the court to any instrument when required, twenty-five cents.

For every search for any particular judgment or lien, fifteen cents.

For swearing applicant, recording and making certificate of declaration to become a citizen of the United States, one dollar.

For swearing applicant, recording and making certificate of naturalization, three dollars.

For searching the records of the court for judgments, decrees, or other instruments constituting a general lien on real estate and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

For receiving, keeping, and paying out money in pursuance of any statute or order of court, one per centum of the amount so received, kept, and paid.

For his attendance on the court while actually in session, five dollars per day.

For all services rendered to the United States in cases in which the United States is a party of record, five dollars.

For each marriage license, one dollar.

For each official certificate of marriage, one dollar.

For each certificate of official character, including the seal, fifty cents.

For filing and recording notice of mechanic's lien, one dollar.

For entering release of mechanic's lien, fifty cents.

Fees appertaining to the probate court.
R. S. D. C., secs. 931, 932, pp. 109, 110.

SEC. 1111. FEES APPERTAINING TO THE PROBATE COURT.—The fees shall be those now prescribed by section nine hundred and thirty-one of the Revised Statutes of the United States, relating to the District of Columbia, and by orders of the said probate term under section nine hundred and thirty-two of the said Revised Statutes, except that in all cases when the estate does not exceed two hundred dollars in value the register of wills shall not receive any fees; and when the estate does not exceed five hundred dollars the fees of the register of wills shall not exceed ten dollars: *Provided*, That for any services required of the register of wills, as clerk of the probate court, for which no fees are specified by statute, he may be allowed to collect the fees prescribed by this code to be collected by the clerk of the supreme court of the District of Columbia for similar services.

Fees of register of wills.

SEC. 1112. MARSHAL'S FEES.—For the service of any warrant, attachment, summons, capias, or other writ (except execution, venire, or a summons or subpœna for a witness), one dollar for each person on whom service may be made: *Provided, however*, That for the service of any citation, summons, notice, or rule issued by the probate court the fee shall be fifty cents for each person on whom service may be made. Marshal's fees.

Proviso. Citations, etc., issued from probate court.

For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow.

For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one-third cents each.

For holding an inquisition or other proceeding before a jury, including the summoning of a jury, five dollars.

For serving a writ of subpœna on a witness, fifty cents; and no further compensation for a copy, summons, or notice for a witness.

For summoning appraisers, fifty cents.

For executing a deed prepared by a party or his attorney, one dollar.

For drawing and executing a deed, five dollars.

For copies of writs or papers furnished at request of any party, ten cents a folio.

For every proclamation in admiralty, thirty cents.

For serving an attachment in rem or libel in admiralty, two dollars.

For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, not exceeding two dollars and fifty cents a day.

When the debt or claim in admiralty is settled by the parties without a sale of the property, a commission of one per centum on the first five hundred dollars of the claim or decree, and one-half of one per centum on the excess of any sum thereof over five hundred dollars: *Provided*, That when the value of the property is less than the claim such commission shall be allowed only on the appraised value thereof. Where claim in admiralty is settled without a sale of the property.

Proviso. —when value of the property less than claim.

For sale of vessels or other property under process in admiralty and for receiving and paying over the money, two and one-half per centum on any sum under five hundred dollars, and one and one-half per centum on the excess of any sum over five hundred dollars.

For disbursing money to jurors and witnesses and for other expenses, two per centum.

For expenses while employed in endeavoring to arrest under process any person charged with or convicted of crime, the sum actually expended, not to exceed two dollars a day.

For every commitment or discharge of a prisoner, fifty cents.

For transporting criminals convicted of a crime in the District to a prison in a State or Territory designated by the Attorney-General, the reasonable actual expense of transportation of the criminals, the marshal, and the guards, and the necessary subsistence and hire.

For attending court and bringing in and committing prisoners and witnesses during the term, five dollars a day.

For attending examinations before a commissioner and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day, and for each deputy, not exceeding two, necessarily attending, two dollars a day.

For fuel, lights, and other contingencies that may accrue in holding the courts, the amount of his expenses necessarily incurred.

For levying upon leasehold or freehold property in land and selling the same, a commission of one and one-half per centum on the proceeds to the amount of the debt.

For levying upon leasehold or freehold property in land where no sale thereof is made, one dollar.

For levying upon personal property and selling the same, a commission of three per centum on the proceeds to the amount of the debt

and the reasonable cost for storage, keeper, insurance, advertising, and auctioneer.

Levying on personal property. Where no sale is made. —additional compensation.

For levying upon personal property where no sale thereof is made, two dollars and fifty cents and the reasonable cost for storage, keeper, and insurance incurred for the preservation of the same: *Provided*, That the court, on notice to all parties in interest, may allow additional compensation.

Commissioners' fees.

SEC. 1113. COMMISSIONERS' FEES.—Drawing a complaint, with oath and jurat to same, fifty cents; copy of complaint, with certificate to same, thirty cents.

Issuing a warrant of arrest, seventy-five cents.

Issuing a commitment and making copy of same, one dollar.

Entering a return, fifteen cents.

Issuing a subpœna or subpœnas in any one case, with five cents for each necessary witness in addition to the first, twenty-five cents.

Drawing a bond of defendant and sureties, taking acknowledgment of same, and justification of sureties, seventy-five cents.

Administering an oath (except to witness as to attendance and travel), ten cents.

Recognizance of all witnesses in a case when the defendant or defendants are held for court, fifty cents.

Transcripts of proceedings when required by order of court and transmission of original papers to court, sixty cents.

Copy of warrant of arrest, with certificate to same when defendant is held for court and the original papers are not sent to court, forty cents.

Order in duplicate to pay all witnesses in a case—for first witness, thirty cents, and for each additional witness, five cents, and for oath to each witness as to attendance and travel, five cents.

Hearing, etc., criminal charges. *Provisos.* —limit, etc.

For hearing and deciding on criminal charges and reducing the testimony to writing, when required by law or order of court, five dollars a day for the time necessarily employed: *Provided*, That not more than one per diem shall be allowed in a case, unless the account shall show that the hearing could not be completed in one day, when one additional per diem may be specially approved and allowed by the court: *Provided further*, That not more than one per diem shall be allowed for any one day: *And provided further*, That no per diem shall be allowed for taking a bond or recognizance and passing on the sufficiency of the bond or recognizance and the sureties thereon when the bond or recognizance was taken after the defendant had been committed to prison upon a final commitment, or has given bond or been recognized for his appearance at court, or when the defendant has been arrested on a capias or bench warrant or was in custody under any process or order of a court of record.

When no per diem allowed for taking a bond, etc.

For the examination and certificate in cases of the application for discharge of poor convicts, imprisoned for nonpayment of fine, or fine and costs, and all services connected therewith, three dollars.

For attending to a reference in a litigated matter in a civil cause at law, in equity, or in admiralty, in pursuance of an order of the court, three dollars a day.

For taking and certifying depositions to file in civil cases, ten cents for each folio.

For each copy of the same furnished to a party on request, ten cents for each folio.

For issuing any warrant under the tenth article of the treaty of August ninth, eighteen hundred and forty-two, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any parties charged with any crime or offense set forth in said articles, two dollars.

For issuing any warrant under the provision of the convention for the surrender of criminals between the United States and the King of the French, concluded at Washington November ninth, eighteen hundred and forty-three, two dollars.

For hearing and deciding upon the case of any person charged with any crime or offense and arrested under the provisions of said treaty or of said convention, five dollars a day for the time necessarily employed.

Such commissioners shall keep a complete record of all proceedings before them in criminal cases in a well bound book, which record book shall be delivered to and be preserved by the clerk of the supreme court of the District of Columbia on the death, resignation, removal, or expiration of the term of the commissioner, for which record the commissioner shall receive no compensation.

Witness fees.

SEC. 1114. WITNESS FEES.—For each day's attendance in court or before any officer pursuant to law, one dollar and twenty-five cents; and when a witness is subpœnaed in more than one cause between the same parties at the same term only one per diem compensation shall be allowed for attendance; and for traveling, at the rate of five cents per mile, coming and returning to and from the witness's place of abode, when summoned from without the District to testify in the courts of the District.

Court officers not entitled, etc.

No officer of the United States courts shall be entitled to witness fees for attending before a court or commissioner where he is officiating.

Juror's fees.

SEC. 1115. JUROR'S FEES.—For actual attendance at court, two dollars a day during such attendance.

CHAPTER TWENTY-NINE.

FRAUDS, STATUTE OF.

Frauds, statute of.

Estates created by parol.

SEC. 1116. ESTATES CREATED BY PAROL.—Every estate in lands, tenements, or hereditaments for a greater term than one year attempted to be created by parol, or otherwise than by deed as provided in subchapter one of chapter sixteen, shall be an estate by sufferance.

Actions to charge executors, etc.

SEC. 1117. ACTIONS TO CHARGE EXECUTORS, AND SO FORTH.—No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, which need not state the consideration, and signed by the party to be charged therewith or some other person thereunto by him lawfully authorized.

Trusts, declaration of.

SEC. 1118. DECLARATIONS OF TRUST.—All declarations or creations of trust or confidence of any lands, tenements, or hereditaments shall be manifested and proved by some writing signed by the party who is by law enabled to declare such trust or by his last will in writing, or else they shall be utterly void and of none effect.

—grants and assignments of.

All grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same or by such last will or devise, or else shall likewise be utterly void and of none effect.

—by implication, etc.

Where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the impli-

cation or construction of law, or be transferred or extinguished by an act or operation of law, then and in every such case such trust or confidence shall be of the like force and effect as the same would have been if this statute had not been made.

Sale of goods.

Sec. 1119. Sale of goods.—No contract for the sale of any goods, wares, and merchandise for the price of fifty dollars or upward shall be allowed to be good except the buyer shall accept part of the goods so sold and actually receive the same or give something in earnest to bind the bargain or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such a contract or their agent thereunto lawfully authorized.

Chapter Thirty.

FRAUDULENT CONVEYANCES AND ASSIGNMENTS.

Fraudulent conveyances and assignments.

Intent to defraud creditors.

Sec. 1120. Intent to defraud creditors.—Every conveyance or assignment, in writing or otherwise, of any estate or interest in lands or rents and profits issuing from the same, or in goods or things in action, and every charge upon the same, and every bond or other evidence of debt given, or judgment or decree suffered, with the intent to hinder, delay, or defraud creditors or other persons having just claims or demands of their lawful suits, damages, or demands, shall be void as against the persons so hindered, delayed, or defrauded: *Provided*, That nothing herein shall be construed to affect or impair the title of a purchaser for a valuable consideration, unless it shall appear that such purchaser had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor: *Provided further*, That the question of fraudulent intent shall be deemed a question of fact and not of law.

Provisos.

—notice.

Intent; deemed a question of fact.

—to defraud purchasers.

Sec. 1121. Intent to defraud purchasers.—Every conveyance of any estate or interest in land or the rents and profits thereof, and every charge upon the same, made or created with the intent to defraud prior or subsequent purchasers for a valuable consideration of the same lands, rents, or profits, shall, as against such purchasers, be void; but no such conveyance or charge shall be deemed fraudulent in favor of a subsequent purchaser who shall have actual or legal notice thereof at the time of his purchase, unless it appear that the grantee in such conveyance, or the person to be benefited by such charge, was privy to the fraud intended.

Executors, etc., may sue to vacate fraudulent deed.

Sec. 1122. Executors, and so forth, may sue to vacate fraudulent deed.—Any executor, administrator, receiver, assignee, or other trustee of an estate, or of the property and effects of an insolvent estate, corporation, association, partnership, or individual, may, for the benefit of creditors and others interested in the estate or property so held in trust, disaffirm, treat as void, and resist all acts done, transfers and agreements made in fraud of the rights of any creditor, including themselves and others interested in any estate or property held by or of right belonging to any such trustee or estate; and every person who in fraud of the rights of creditors and others shall have received, taken, or in any manner interfered with the estate, property, or effects of any deceased person or insolvent corporation, association, partnership, or individual shall be liable, in the proper action, to the executors, administrators, receivers, or other trustees of such estate or property for the same, or the value of any property or effects so received or taken, and for all damages caused by such acts to any such trust estate.

CHAPTER THIRTY-ONE.

GUARDIAN AND WARD.

Guardian and ward.

SEC. 1123. NATURAL GUARDIANS.—The father and mother shall be the natural guardians of the person of their minor children. If either dies or is incapable of acting, the natural guardianship of the person shall devolve upon the other: *Provided, however*, That in case of the death of either parent from whom said children shall inherit or take by devise or bequest, such parent may by deed or last will and testament appoint a guardian of the property of the children, subject to the approval of the proper court of the District of Columbia: *And provided further*, That nothing herein contained shall be held to limit or affect the power of a court of equity to appoint some other person guardian of such children when it shall be made to appear to said court that the welfare of said children requires it.

Father and mother the natural guardians. —death of one.

Proviso. —of one bequeathing property.

Where parents unfit, etc.

SEC. 1124. TESTAMENTARY GUARDIANS.—Every father or mother, whether of full age or not, when the other parent does not survive, may, by last will and testament, appoint a guardian of the person to have the care, custody, and tuition of his or her infant child, not being a married female; and if the person so appointed shall refuse the trust, said court may appoint another person in his place.

Testamentary guardians.

SEC. 1125. APPOINTMENT BY COURT.—If any infant shall have neither natural nor testamentary guardian, a guardian of the person may be appointed by the probate court in its own discretion or on the application of any next friend of such infant.

Appointment by court.

SEC. 1126. WHEN GUARDIANSHIP CEASES.—The natural guardianship or the appointive guardianship of the person aforesaid shall cease, in the case of a male infant when he is twenty-one years of age, and in the case of a female infant when she is eighteen years of age or marries.

When guardianship ceases.

SEC. 1127. WHEN GUARDIAN OF ESTATE IS APPOINTED BY COURT.—Subject to the provisions of the preceding sections of this chapter, whenever land shall descend or be devised to any infant under twenty-one years of age, or such infant shall be entitled to a distributive share of the personal estate of an intestate, or to a legacy or bequest under a last will, or shall acquire any real or personal property by gift or purchase, the said court may appoint a guardian of said infant's estate; and if there shall be a guardian of the person of such infant the guardian of the estate so appointed may be the same or a different person. The said appointment may be made at any time after the probate of the will or the grant of administration where the infant is entitled as devisee, legatee, or next of kin.

When guardian of estate is appointed by court.

SEC. 1128. PREFERENCES.—Whenever it shall be necessary for the court to appoint a guardian of the infant's estate, as aforesaid, the father, if living, or, if he be dead, then the mother, if living, or, if the infant be a married female her husband, shall have the preference over other persons, unless the infant be over fourteen years of age, as hereinafter directed: *Provided*, That in the judgment of the court the parent or husband so entitled shall be a suitable person to have the management of the infant's estate.

Who to be preferred as guardian.

Proviso. —must be a suitable person.

SEC. 1129. HUSBAND OR PARENT ENJOINED.—On the application of any friend of an infant entitled to real or personal estate, or in the exercise of its own discretion, the court may enjoin any parent or husband or testamentary guardian of such infant from interfering with said infant's estate without being appointed and giving bond as guardian of such estate.

Husband or parent enjoined.

SEC. 1130. CONSENT OF INFANT.—When it shall be necessary to appoint a guardian, either of the person or the estate, of an infant,

Consent of infant to selection of guardian.

the infant shall, if practicable, be brought before the court, and, if over the age of fourteen years, shall be entitled to select and nominate his or her guardian; and if a guardian shall have been appointed before the infant has attained the age of fourteen years, the said infant, upon arriving at said age, may select a new guardian, notwithstanding the appointment before made: *Provided, however*, That the court shall, in all cases, approve the character and competency of the guardian selected by the infant, and such guardian shall be under the same obligations and discharge the same duties as if selected by the court; and whenever, after a guardian of the estate has been previously appointed, the infant shall select a new guardian upon arriving at the age of fourteen years, and said new selection is approved by the court, and the person so selected is duly appointed and qualified, the guardian previously appointed shall settle his final account and turn over his ward's estate to the newly appointed guardian.

Proviso. —approval by court, etc.

Bond of guardian.

SEC. 1131. BOND OF GUARDIAN.—Every guardian appointed by the court, except corporations authorized to act as guardians, before entering upon or taking possession of or interfering with the estate of the infant, shall execute a bond to the United States in such penalty and with such surety or sureties as the court shall approve, to be recorded and to be liable to be put in suit for the use of any person interested, with the following condition:

—condition.

"The condition of the above obligation is such that if the above bounden ....., as guardian to ....., shall faithfully account to the court, as required by law, for the management of the property and estate of the infant under his care, and shall also deliver up said property agreeably to the order of the court or the directions of law, and shall in all respects perform the duty of guardian to the said ..... according to law, then the above obligation shall cease; it shall otherwise remain in full force and virtue."

One bond for several wards.

SEC. 1132. ONE BOND FOR SEVERAL WARDS.—Where the same person is guardian to any number of persons entitled to shares of the same estate the court may accept one bond instead of separate bonds for each ward, and said bond shall be liable to be put in suit for the use of all or either of the wards as fully as separate bonds might be.

Possession to guardian.

SEC. 1133. POSSESSION TO GUARDIAN.—On the execution of his bond, as required as aforesaid, the guardian shall be entitled to an order of the court directing the real and personal estate of the ward to be delivered into his possession, and all legacies and distributive shares to which the ward may be entitled to be paid or delivered to him whenever they shall be properly payable or distributable according to law.

Inventory.

SEC. 1134. INVENTORY.—Every guardian, within three months after the execution and approval of his bond, shall return to the court, under oath, an inventory of the real and personal estate of his ward and of the probable annual income thereof, and the court may direct the said estate to be appraised and the annual income thereof to be ascertained by two competent persons, to be appointed by the court, who shall report their appraisement and finding under oath.

Accounts.

SEC. 1135. ACCOUNTS.—It shall be the duty of the guardian to manage the estate for the best interests of the ward, and once in each year, or oftener if required, he shall settle an account of his trust, under oath. He shall account for all profit and increase of his ward's estate and the annual value thereof, and shall be allowed credit for taxes, repairs, improvements, expenses, and commissions not exceeding ten per centum of the principal of the personal estate and on the annual income of the estate, and shall not be answerable for any loss or decrease sustained without his fault; and the court shall determine the amounts to be annually expended in the maintenance and education of the infant, regard being had to his future condition and prospects

in life; and the court, if it shall deem it advantageous to the ward, may allow the guardian to exceed the income of the estate and to make use of the principal and sell the same or part thereof, under its order, as hereinbefore provided in subchapter three of chapter one; but no guardian shall sell any property of his ward without an order of the court previously had therefor.

Sale of realty.

SEC. 1136. SALE OF REALTY.—Whenever any guardian shall think that the interests of his ward will be promoted by a sale of his real estate for the purpose of reinvesting the proceeds in other property or securities, he may make application therefor to the court, and such proceedings shall be had thereupon as directed in subchapter three of chapter one, aforesaid.

Allowances.

SEC. 1137. ALLOWANCES.—Any allowance which may be made to a guardian for the clothing, support, maintenance, education, or other expenses incurred for the ward or his estate, before said guardian shall have given bond or been appointed, shall have the same effect and operation in law as if the same had been made subsequently to the appointment of said guardian and his giving bond.

Surety.

SEC. 1138. SURETY.—If any surety of a guardian, setting forth by petition that he apprehends himself to be in danger of suffering by said suretyship, shall pray to be relieved, the court, after service of a summons on the guardian to answer the petition, may order him to give counter security for the indemnity of the original surety, or to deliver the ward's estate into the hands of the surety or of some other person; in either of which cases the person into whose hands the ward's estate shall be delivered shall be required to give sufficient security for the proper management and application of the same, and such further order may be passed for the relief of the petitioner as may seem just.

Final account.

SEC. 1139. FINAL ACCOUNT.—On the arrival of any ward at the age of twenty-one years the guardian shall exhibit a final account of his trust to the court, and shall deliver up, agreeably to the court's order, to the ward all the property of said ward in his hands, including bonds and other securities, and on his failure so to do his bond may be put in suit in the name of the United States for the use of the party interested, and he may be attached, as herein elsewhere provided.

Husband as guardian.

SEC. 1140. HUSBAND AS GUARDIAN.—Whenever any female infant, to whom a guardian of her estate has been appointed, shall marry she may select her husband as the guardian of her said estate, with the approval of the court, and after he is duly appointed and qualified by giving bond, as is required in other cases, the powers of the guardian previously appointed shall cease, and he shall settle his final account and turn over his ward's estate to her husband, agreeably to the order and directions of the court.

Nonresident infant.

SEC. 1141. NONRESIDENT INFANT.—Whenever any infant or lunatic residing without the District, but within the United States, is entitled to property in the District or to maintain any action therein, a general guardian of his estate, appointed by a court of competent jurisdiction in the State or Territory where said infant or lunatic resides, may apply to the court, by petition, for ancillary letters of guardianship. Said petition must be under oath and be accompanied with duly certified copies of the record and proceedings, showing the appointment of said guardian, and that he has given a sufficient bond to account for all property and money that may come into his hands by virtue of the authority hereby conferred. The court may thereupon issue to said guardian ancillary letters of guardianship, without bond and without citation, or may cite such persons as it may think proper, to show cause why the said application should be refused.

—petition for ancillary letters of guardianship, etc.

Ancillary guardian, suits by, etc.

SEC. 1142. SUITS BY ANCILLARY GUARDIAN.—Upon the granting of said ancillary letters the said guardian shall be entitled to institute

and prosecute to judgment any action in the courts of the District, to take possession of all property of his said ward, and collect and receive all moneys belonging and due to him therein, to give full receipt and acquittances for debts and to release all claims, liens, and mortgages to him belonging, on property in said District, in the same manner as if his authority had been originally conferred by the supreme court of said District: *Provided*, That said guardian shall be required to give security for the costs which may accrue in any action brought by him, in the same manner as other nonresidents bringing suit in the courts of said District.

Proviso.
—must give security for the costs.

CHAPTER THIRTY-TWO.

HABEAS CORPUS.

Habeas corpus.

—how obtained.

SEC. 1143. HOW OBTAINED.—Any person committed, detained, confined, or restrained from his lawful liberty within the District, under any color or pretense whatever, or any person in his or her behalf, may apply by petition to the supreme court of the District, or any justice thereof, for a writ of habeas corpus, to the end that the cause of such commitment, detainer, confinement, or restraint may be inquired into; and the court or the justice applied to, if the facts set forth in the petition make a prima facie case, shall forthwith grant such writ, directed to the officer or other person in whose custody or keeping the party so detained shall be, returnable forthwith before said court or justice.

—how served

SEC. 1144. HOW SERVED.—The said writ shall be served by delivering it to the officer or other person to whom it is directed, or by leaving it at the prison or place at which the party suing it out is detained; and such officer or other person shall forthwith, or within such reasonable time as the court or justice shall direct, make return of the writ and cause the person detained to be brought before the court or justice, according to the command of the writ, and shall likewise certify the true cause of his detainer or imprisonment, if any, and under what color or pretense such person is confined or restrained of his liberty.

Evasion.

SEC. 1145. EVASION.—On any application for a writ of habeas corpus, if probable cause be shown for believing that the person charged with confining or detaining the person applying or on whose behalf the application is made is about to remove the person so detained from the place where he may then be, for the purpose of evading any writ of habeas corpus or for other purposes, or that he would evade or not obey any such writ, the court or justice shall insert in the writ a clause commanding the marshal to serve the writ on the person to whom it is directed and cause said person immediately to be and appear before the court or justice, together with the person so confined or detained, and it shall thereupon be the duty of the marshal immediately to carry the person charged with the detention, together with the person detained, before the court or justice, and said court or justice shall proceed to inquire into the matter.

Refusal to produce.

SEC. 1146. REFUSAL TO PRODUCE.—If any officer or other person to whom a writ of habeas corpus may be directed shall neglect or refuse to make return thereof, or to bring the body of the person detained, according to the command of the writ, he shall forfeit to the person detained the sum of five hundred dollars, and besides shall be liable to attachment and punishment as for a contempt.

Copy of commitment may be demanded.

SEC. 1147. COPY OF COMMITMENT.—Any person committed or detained, or any person in his behalf, may demand a true copy of the warrant of commitment or detainer, and any officer or other person detaining him who shall refuse or neglect to deliver to him a true copy

of the warrant of commitment or detainer, if any there be, within six hours after the demand, shall forfeit to the party so detained the sum of five hundred dollars.

Inquiry into cause of detention.

SEC. 1148. INQUIRY INTO CAUSE OF DETENTION.—On the return of the writ of habeas corpus and the production of the person detained the court or justice shall immediately inquire into the legality and propriety of such confinement or detention, and if it shall appear that such person is detained without legal warrant or authority, he shall immediately be released or discharged; or if the court or justice shall deem his detention to be lawful and proper, he shall be remanded to the same custody, or, in a proper case, admitted to bail, if he be confined on a charge of a bailable criminal offense; and if he be bailed, the court or justice shall require a sufficient bond or recognizance to answer in the proper court, and transmit the same to said court.

Traversing return.

SEC. 1149. TRAVERSING RETURN.—Any person at whose instance or in whose behalf a writ of habeas corpus has been issued may traverse the return thereto, or plead any matters showing that there is not a sufficient legal cause for his confinement or detention, and the court or justice may issue process for witnesses or for the production of papers, which shall be served and enforced in like manner as similar process issued in a cause depending in court, if the court or justice shall be satisfied of the materiality of the testimony proposed to be adduced.

Right of parent, guardian, or husband.

SEC. 1150. RIGHT OF PARENT, GUARDIAN, OR HUSBAND.—Any person entitled to the custody of another person, unlawfully confined or detained by a third person, as a parent, guardian, committee, or husband, entitled to the custody of a minor child, ward, lunatic, or wife, upon application to the court or a justice as aforesaid, and showing just cause therefor, under oath, shall be entitled to a writ of habeas corpus, directed to the person confining or detaining as aforesaid, requiring him forthwith to appear and produce before the court or justice the person so detained, and the same proceedings shall be had in relation thereto as hereinabove authorized, and the court or justice, upon hearing the proofs, shall determine which of the contesting parties is entitled to the custody of the person so detained, and commit the custody of said person to the party legally entitled thereto.

CHAPTER THIRTY-THREE.

HUSBAND AND WIFE.

Husband and wife.

Wife's property exempt from husband's debts.

SEC. 1151. WIFE'S PROPERTY EXEMPT FROM HUSBAND'S DEBTS.—All the property, real, personal, and mixed, belonging to a woman at the time of her marriage, and all such property which she may acquire or receive after her marriage from any person whomsoever, by purchase, gift, grant, devise, bequest, descent, in the course of distribution, by her own skill, labor, or personal exertions, or as proceeds of a judgment at law or decree in equity, or in any other manner, shall be her own property as absolutely as if she were unmarried, and shall be protected from the the debts of the husband and shall not in any way be liable for the payment thereof: *Provided*, That no acquisition of property passing to the wife from the husband after coverture shall be valid if the same has been made or granted to her in prejudice of the rights of his subsisting creditors.

Proviso.
Conveyance from husband to wife not to prejudice subsisting creditors.

Conveyance of estate from husband to wife.

SEC. 1152. HUSBAND MAY CONVEY DIRECTLY TO WIFE—Whenever any interest or estate of any kind in any property, real, personal, or mixed, situate, lying, or being within this District, has been or shall hereafter be sold, conveyed, assigned, mortgaged, leased, transferred, or delivered by any husband directly or indirectly to his wife, and has been or shall hereafter be subsequently sold, conveyed, assigned, mortgaged, leased, transferred, or delivered by such wife and husband

—subsequent sale of.

during their coverture, or hereafter by such wife solely or by such wife after such coverture has terminated, or shall hereafter be devised or bequeathed by such wife during such coverture or after such coverture has terminated, the fact of such previous sale, conveyance, assignment, mortgage, lease, or delivery by such husband, directly or indirectly, to his wife shall not hereafter be deemed or taken, at law or in equity, to have given, preserved, or reserved, nor to give, preserve, or reserve, to any subsisting creditor of such husband, by reason of any debt or obligation, claim, or demand whatsoever, any other or greater right, lien, or cause of action against such interest or estate, or against any third person, his heirs, executors, administrators, or assigns, than such creditors would have had in case such interest or estate had been sold, conveyed, assigned, mortgaged, leased, transferred or delivered, or devised, or bequeathed by such husband directly to such third person. And the fact of such previous sale, conveyance, assignment, mortgage, lease, or delivery by such husband directly or indirectly to his wife, or the recital thereof in any instrument of writing whatever, shall not hereafter be deemed or taken, at law or in equity, to give or impart nor to have given or imparted notice to any third person, his heirs, executors, administrators, or assigns of the existence or of the possibility or probability of the existence of any subsisting creditor or creditors of such husband.

—effect of first transfer on rights of subsisting creditors of husband.

No trustee necessary.

SEC. 1153. NO TRUSTEE NECESSARY.—It shall not be necessary for a married woman to have a trustee to secure to her the sole and separate use of her property; but if she desires it she may make a trustee by deed, or she may apply to a court of equity and have a trustee appointed, in which appointment the uses and trusts for which the trustee holds the property shall be declared.

Property of wife.

SEC. 1154. PROPERTY OF WIFE.—Married women shall hold all their property, of every description, for their separate use as fully as if they were unmarried, and shall have power to dispose of the same by deed, mortgage, lease, will, gift, or otherwise, as fully as if they were unmarried: *Provided*, That no disposition of her real or personal property, or any portion thereof, by deed, mortgage, bill of sale, or other conveyance, shall be valid if made by a married woman under twenty-one years of age.

Proviso.
—of wife under age.

Power of wife to trade, and to sue and be sued.

SEC. 1155. POWER OF WIFE TO TRADE, AND TO SUE AND BE SUED.—Married women shall have power to engage in any business, and to contract, whether engaged in business or not, and to sue separately upon their contracts, and also to sue separately for the recovery, security, or protection of their property, and for torts committed against them, as fully and freely as if they were unmarried; contracts may also be made with them, and they may also be sued separately upon their contracts, whether made before or during marriage, and for wrongs independent of contract committed by them before or during their marriage, as fully as if they were unmarried, and upon judgments recovered against them execution may be issued as if they were unmarried; nor shall any husband be liable upon any contract made by his wife in her own name and upon her own responsibility, nor for any tort committed separately by her out of his presence without his participation or sanction: *Provided*, That no married woman shall have power to make any contract as surety or guarantor, or as accommodation drawer, accepter, maker, or indorser.

Husband's liability.

Proviso.
Limit on wife's power to contract.

Contracts deemed made with reference to her separate estates.

SEC. 1156. CONTRACTS OF WIFE.—Every contract made by a married woman which she has the power to make shall be deemed to be made with reference to her estate which is made her separate estate by this chapter, and also her equitable separate estate, if any she has, as a source of credit to the extent of her power over the same, unless the contrary intent is expressed in the contract.

Infant feme covert.

SEC. 1157. INFANT FEME COVERT.—In case any married woman entitled to a separate estate as aforesaid shall be an infant under twenty-one years of age, she shall be under the same disabilities in regard thereto as other infants, except as herein elsewhere provided, and a guardian of said estate shall be appointed.

Dower.

SEC. 1158. DOWER.—A widow shall be entitled to dower in lands held by equitable as well as legal title in the husband at any time during the coverture, whether held by him at the time of his death or not, but such right of dower shall not operate to the prejudice of any claim for the purchase money of such lands or other lien on the same.

Estate by the curtesy.

SEC. 1159. ESTATE BY THE CURTESY.—On the death of any married woman owning real estate in fee simple and intestate thereof, if there has been a child born of the marriage capable of inheriting said property, the husband surviving her shall be entitled to an estate by the curtesy therein, whether the wife's estate be legal or equitable and whether the wife's seizin be in deed or in law only.

Administration on wife's estate.

SEC. 1160. ADMINISTRATION ON WIFE'S ESTATE.—On the death of any married woman owning real or personal estate and intestate thereof, her said estate shall be administered on as if she had been unmarried, and in the appointment of her administrator her husband shall be entitled to be preferred. After payment of her debts her said personal estate shall be the property of her husband.

Insurance of husband's life.

SEC. 1161. INSURANCE OF HUSBAND'S LIFE.—Any married woman, by herself and in her name, or in the name of any third person, with his assent, as her trustee, may insure or cause to be insured for her sole use, the life of her husband for any definite period or for the term of his natural life; and any husband may cause his own life to be insured for the sole use of his wife, and may also assign any policy of insurance upon his own life to his wife for her sole use; and in case of the wife surviving her husband the sum or net amount of such insurance becoming due and payable by the terms of the insurance shall be payable to her for her own use, free from the claims of the representatives of her husband or any of his creditors.

—not liable for husband's debts.

SEC. 1162. INSURANCE NOT LIABLE FOR HUSBAND'S DEBTS.—All policies of life insurance upon the life of any person which may hereafter mature, and which have been or shall be taken out for the benefit of or bona fide assigned to the wife or children of or any relative dependent upon such person, or any creditor, shall be vested in such wife or children or other relative or creditor, free and clear from all claims of the creditors of such insured person.

—payable on death of wife to children.

SEC. 1163. INSURANCE PAYABLE ON DEATH OF WIFE TO CHILDREN.—If the wife shall die before her husband, the amount of such insurance may be payable after her death to the children or descendants for their use, and to their guardian if under age; and if there be no children or descendants of the wife living at the time of her death, to her legal representatives.

Receipt of married woman.

SEC. 1164. RECEIPT OF MARRIED WOMAN.—The receipt of any married woman for the payment of money deposited by her before or after marriage shall be a valid discharge to any individual or corporation making such payment: *Provided*, That nothing contained in this section shall prevent any creditor of the husband from attaching the same or restraining the payment by injunction if the deposit was made in fraud of his creditors.

Proviso.
—attachment if in fraud of creditors, etc.

Lunatic, insane, or permanently absent wife.

SEC. 1165. LUNATIC, INSANE, OR PERMANENTLY ABSENT WIFE.—Where any married woman is a lunatic or insane, and has been so found upon inquisition, and the said finding remains in force, or where any married woman has been absent or unheard of for seven years, the husband of such lunatic or insane or absent person may grant and convey by his separate deed, whether the same be absolute or by way

of lease or mortgage, as fully as if he were unmarried, any real estate which he may have acquired since the finding of such inquisition or since the beginning of such absence.

Debts of wife before marriage.

SEC. 1166. DEBTS OF WIFE BEFORE MARRIAGE.—No husband shall be liable in any manner for any debts of his wife contracted or for any claims or demands of any kind against her arising prior to marriage, but she and her property shall remain liable therefor in the same manner as if the marriage had not taken place.

Legal proceedings against wife.

SEC. 1167. LEGAL PROCEEDINGS AGAINST WIFE.—Proceedings at law or in equity, according to the nature of such debts, claims, or demands, may be taken against such married woman, notwithstanding her coverture, in her married name, joining her husband therein as defendant if he be within the District; but no judgment or decree shall pass against the husband or his estate, but such judgment or decree shall be passed against the wife only; and it shall operate only upon her estate held and owned by her prior or subsequent to said marriage.

Power of wife to appoint attorney.

SEC. 1168. POWER OF WIFE TO APPOINT ATTORNEY.—Any married woman against whom any proceeding may be taken under the two preceding sections shall have power to appoint an attorney at law to act for her in such proceeding.

Procedure to eject married woman who is a tenant.

SEC. 1169. PROCEDURE TO EJECT MARRIED WOMAN WHO IS A TENANT.—In all cases in which a married woman is or shall hereafter be a tenant of real estate in this District, and has defaulted in the payment of rent therefor or has made other default, it shall be lawful for the landlord to make such reentry or bring such action for recovery of the demised premises as he or she might do if the lessee were a feme sole and had contracted for the payment of said rents or the performance of other acts and to suffer such reentry to be made upon default therein.

Married woman may make covenant running with the land.

SEC. 1170. MARRIED WOMAN MAY MAKE COVENANT RUNNING WITH THE LAND.—In all deeds hereafter made to married women of real estate or chattels real it shall be competent for the grantee or lessee to bind herself and her assigns by any covenant running with or relating to said real estate or chattels real the same as if she were a feme sole.

Equitable separate estate.

SEC. 1171. EQUITABLE SEPARATE ESTATE.—Nothing contained in the preceding sections of this chapter shall be construed to prevent the creation of equitable separate estates. Said estates shall be held according to the provisions of the respective settlements thereof and shall be subject to and governed by the rules and principles of equity applicable to such estates.

Devise in lieu of dower.

SEC. 1172. DEVISE IN LIEU OF DOWER.—Every devise of land or of any estate therein, or bequest of personal estate to the wife of the testator, shall be construed to be intended in bar of her dower in lands or share of the personal estate, respectively, unless it be otherwise expressed in the will.

Renunciation of bequest.

SEC. 1173. RENUNCIATION OF BEQUEST.—A widow shall be barred of her right of dower in the land or share in the personal estate by any such devise or bequest, unless within six months after administration may be granted on her husband's estate she shall file in the probate court a written renunciation to the following effect:

"I, A B, widow of ....., late of ....., deceased, do hereby renounce and quit all claim to any bequest or devise made to me by the last will of my husband exhibited and proved according to law; and I elect to take in lieu thereof my dower or legal share of the estate of my said husband."

But by renouncing all claim to a devise or bequest, or devises or bequests, of personal property, made to her by the will of her husband, she shall be entitled to one-third part of the personal estate of

her husband which shall remain after payment of his just debts and claims against him, and no more.

Devise of both realty and personalty.

SEC. 1174. DEVISE OF BOTH REALTY AND PERSONALTY.—If the will of the husband devise and bequeath a part of both real and personal estate to the wife, she shall renounce the whole or be otherwise barred of her right to both real and personal estate.

Devise of either realty or personalty.

SEC. 1175. DEVISE OF EITHER REALTY OR PERSONALTY.—If the will devise only a part of the real estate or bequeath only a part of the personal estate, the devise or bequest shall bar her of only the real or personal estate, as the case may require: *Provided, nevertheless*, That if the devise of either real or personal estate, or of both, shall be expressly in lieu of her legal share of one or both she shall accordingly be barred, unless she renounce as aforesaid.

Proviso.
—if expressly in lieu of her legal share, etc.

When nothing passed by the devise.

SEC. 1176. WHEN NOTHING PASSED BY THE DEVISE.—If, in effect, nothing shall pass by such devise she shall not be thereby barred, whether she shall or shall not renounce as aforesaid, it being the intent hereof that a widow accepting or abiding by a devise in lieu of her legal right shall be considered a purchaser with a fair consideration.

Husband liable for wife's acts in certain cases.

SEC. 1177. HUSBAND LIABLE FOR WIFE'S ACTS IN CERTAIN CASES.—Nothing in this chapter shall be construed to relieve the husband from liability for the debts, contracts, or engagements which the wife may incur or enter into upon the credit of her husband, or as his agent, or for necessaries for herself or for his or their children; but as to all such cases his liability shall be or continue as at common law.

CHAPTER THIRTY-FOUR.

INTEREST AND USURY.

Interest and usury.

Rate of interest.

SEC. 1178. RATE OF INTEREST.—The rate of interest in the District upon the loan or forbearance of any money, goods, or things in action, and the rate to be allowed in judgments and decrees, in the absence of express contract as to such rate of interest, shall be six dollars upon one hundred dollars for one year, and at that rate for a greater or less sum or for a longer or shorter time.

Express contracts.

SEC. 1179. EXPRESS CONTRACTS.—The parties to a bond, bill, promissory note, or other instrument of writing for the payment of money at any future time may contract therein for the payment of interest on the principal amount thereof at any rate not exceeding ten per centum per annum.

What is usury.

SEC. 1180. WHAT IS USURY.—If any person or corporation shall contract in the District, verbally, to pay a greater rate of interest than six per centum per annum, or shall contract, in writing, to pay a greater rate than ten per centum per annum, such contract shall be deemed usurious, and shall be void as to the excess of said interest above the rate of six per centum per annum, as aforesaid, and the creditor to whom the principal debt is due shall only be entitled to recover said principal debt with interest thereon at the rate of six per centum per annum. But no person, being a party to any contract for such unlawful interest, shall be liable to any penalty or forfeiture or criminal prosecution in consequence thereof.

Action to recover usury paid.

SEC. 1181. ACTION TO RECOVER USURY PAID.—If any person or corporation in the District shall directly or indirectly take or receive any greater amount of interest than is herein declared to be lawful, whether in advance or not, the person or corporation paying the same shall be entitled to sue for and recover the amount of the unlawful interest so paid from the person or corporation receiving the same, provided said suit be begun within one year from the date of such payment.

Unlawful interest to be credited.

SEC. 1182. UNLAWFUL INTEREST TO BE CREDITED.—In any action brought upon any contract for the payment of money with interest at a rate forbidden by law, as aforesaid, any payments of interest that may have been made on account of said contract in excess of the lawful interest shall be deemed and taken to be payments made on account of the principal debt, and judgment shall be rendered for no more than the balance found due after deducting and properly crediting the excess of interest so paid; but no bona fide indorsee of negotiable paper purchased before due shall be affected by any usury exacted by any former holder of said paper unless he had actual notice of the usury before his purchase.

Testimony of parties.

SEC. 1183. TESTIMONY OF PARTIES.—Whenever in any action to recover a debt the defendant shall claim that payments of unlawful interest on said debt have been made to said plaintiff or those under whom he claims, which the defendant is entitled to have credited on the principal of the debt, the plaintiff or the party who received said unlawful interest may be examined as a witness to prove the payment of the same, and shall not be excused from testifying in relation thereto, nor shall a creditor who is made defendant to a bill in equity exhibited against him for discovery as to payments of unlawful interest made to him be excused from answering as to the same.

Judgments for liquidated debt.

SEC. 1184. JUDGMENTS FOR LIQUIDATED DEBT.—In an action in the supreme court of the District to recover a liquidated debt on which interest is payable by contract or by law or usage the judgment for the plaintiff shall include interest on the principal debt from the time when it was due and payable, at the rate fixed by the contract, if any, until paid.

Judgments for damages.

SEC. 1185. JUDGMENTS FOR DAMAGES.—In an action to recover damages for breach of contract the judgment shall allow interest on the amount for which it is rendered from the date of the judgment only; but nothing herein shall forbid the jury, or the court, if the trial be by the court, from including interest as an element in the damages awarded, if necessary to fully compensate the plaintiff. In an action to recover damages for a wrong the judgment for the plaintiff shall bear interest.

Judgment in suits on contracts made elsewhere.

SEC. 1186. JUDGMENT IN SUITS ON CONTRACTS MADE ELSEWHERE.—In an action on a contract for the payment of a higher rate of interest than is lawful in the District, made or to be performed in any State or Territory of the United States where such contract rate of interest is lawful, the judgment for the plaintiff shall include such contract interest to the date of the judgment and interest thereafter at the rate of six per centum per annum until paid.

CHAPTER THIRTY-FIVE.

JAIL.

Jail.

Warden.

SEC. 1187. WARDEN.—The supreme court of the District shall have authority to appoint a suitable person to act as warden of the jail and to remove such officer whenever, in the opinion of the court, the public interests may require his removal, and to fill all vacancies which may occur.

Term of office.

SEC. 1188. TERM OF OFFICE.—The warden shall hold office for the term of four years, unless sooner removed in accordance with the preceding section.

Salary.

SEC. 1189. SALARY.—He shall receive an annual salary of eighteen hundred dollars, which shall include all fees and emoluments.

Bond.

SEC. 1190. BOND.—The warden shall, before entering upon his office, execute to the United States a bond for the faithful performance of the

duties thereof, in the penal sum of five thousand dollars, with sureties to be approved by some judge of the supreme court of the District.

Powers and duties.

SEC. 1191. POWERS AND DUTIES.—The warden shall have the exclusive supervision and control of the jail of the District and be accountable for the safe-keeping of all prisoners legally committed thereto, and shall have all the power and discharge all the duties legally exercised and discharged over said jail and the prisoners therein prior to the twenty-ninth day of February, eighteen hundred and sixty-four, by the marshal of the District.

Employment of prisoners.

SEC. 1192. EMPLOYMENT OF PRISONERS.—Persons sentenced to imprisonment in the jail may be employed at such labor and under such regulations as may be prescribed by the supreme court of the District and the proceeds thereof applied to defray the expenses of the trial and conviction of any such person.

Commitment by marshal unimpaired.

SEC. 1193. COMMITMENT BY MARSHAL.—Nothing in the preceding sections of this chapter shall be construed to impair or interfere with the authority of the marshal of the District to commit persons to the jail or to produce them in open court or before any judicial officer when thereto required.

Delivery to marshal.

SEC. 1194. DELIVERY TO MARSHAL.—It shall be the duty of the warden to receive such prisoners and to deliver them to the marshal or his duly authorized deputy, on the written request of either, for the purpose of taking them before any court or judicial officer, as provided in the preceding section.

Subordinate officers.

SEC. 1195. SUBORDINATE OFFICERS.—The warden shall have authority to appoint such subordinate officers, guards, and employees as are necessary for the proper management and safe-keeping of prisoners, which may be authorized by law, subject to the approval of the chief justice of the supreme court of the District.

Rules for government of prisoners.

SEC. 1196. SUPREME COURT OF THE DISTRICT OF COLUMBIA TO MAKE RULES.—It shall be the duty of the supreme court of the District to make such rules for the government and discipline of the prisoners confined in the jail as shall be deemed necessary for the health, security, and the protection of such prisoners from cruel treatment by any person in charge thereof.

Annual report of warden.

SEC. 1197. ANNUAL REPORT.—The warden shall annually, in the month of November, make a detailed report to the Attorney-General.

Execution in capital cases.

SEC. 1198. EXECUTION IN CAPITAL CASES—Whenever any person confined in the jail is adjudged to suffer death, it shall be the duty of the warden to carry such judgment into execution.

—mode.

SEC. 1199. MODE OF EXECUTION.—The manner of inflicting the punishment of death shall be by hanging.

—place.

SEC. 1200. PLACE OF EXECUTION.—Persons adjudged to suffer death shall be executed within the walls of the jail of the District, or within the yard or inclosure thereof, and not elsewhere.

—officers to attend.

SEC. 1201. OFFICERS TO ATTEND.—It shall be the duty of the warden or one of his deputies, with such officers of the prison, constables, and other peace officers as the warden or deputy may deem necessary and proper, to attend at such execution.

—who may be present.

SEC. 1202. WHO MAY BE PRESENT.—The warden or his deputy shall invite the district attorney, the counsel of the prisoner, two or more physicians, and twelve respectable citizens to be present at every such execution, and at the request of the person to be executed shall also allow any of his near relatives and any ministers of the gospel (not more than three) to be present thereat.

—who may not be present.

SEC. 1203. WHO MAY NOT BE PRESENT.—No persons other than those mentioned in the two preceding sections, and no person whatever under the age of twenty-one years, shall be allowed to witness any such execution.

Subsistence of prisoners.

SEC. 1204. SUBSISTENCE OF PRISONERS.—There shall be allowed and paid by the Attorney-General for the subsistence of prisoners in the custody of any marshal of the United States and the warden of the jail in the District of Columbia such sum as it reasonably and actually costs to subsist them. And it shall be the duty of the Attorney-General to prescribe such regulations for the government of the marshals and the warden of the jail in the District of Columbia in relation to their duties under this chapter as will enable him to determine the actual and reasonable expenses incurred.

CHAPTER THIRTY-SIX.

Joint contracts.

JOINT CONTRACTS.

What contracts joint and several.

SEC. 1205. WHAT CONTRACTS JOINT AND SEVERAL.—Every contract and obligation entered into by two or more persons, whether partners or merely joint contractors, whether under seal or not, and whether written or verbal, and whether expressed to be joint and several or not, shall for the purposes of suit thereupon be deemed joint and several.

Death of joint contractor.

SEC. 1206. DEATH OF JOINT CONTRACTOR.—If one or more of such persons shall die, his or their executors, administrators, or heirs shall be bound by said contract in the same manner and to the same extent as if the same were expressed to be joint and several.

Merger.

SEC. 1207. MERGER.—If an action be brought against all the parties to such contract, but service of process is had against some only of the defendants, or an action is brought against and service had on some only of the parties, a judgment against the parties so served shall not work an extinguishment or merger of the cause of action on which such judgment is founded as respects the parties not so served, but they shall remain liable to be sued separately.

Death after suit brought.

SEC. 1208. DEATH AFTER SUIT BROUGHT.—If any one of several defendants in an action shall die after the commencement of the action, his legal representatives may be made parties thereto as directed in chapter two aforesaid.

Evidence.

SEC. 1209. EVIDENCE.—In actions ex contractu against alleged joint debtors it shall not be necessary for the plaintiff to prove their joint liability as alleged in order to maintain his action, but he shall be entitled to recover, as in actions ex delicto, against such of the defendants as shall be shown by the evidence to be jointly indebted to him, or against one only, if he alone is shown to be indebted to him, and judgment shall be rendered as if the others had not been joined in the suit.

Separate compromise.

SEC. 1210. SEPARATE COMPROMISE.—Any one of several joint debtors, when their debt is overdue, may make a separate composition or compromise with their creditors, with the same effect as is provided in the case of parties in chapter forty-seven, on partners.

CHAPTER THIRTY-SEVEN.

Joinder of parties and causes of action.

JOINDER OF PARTIES AND CAUSES OF ACTION.

SEC. 1211. Where money is payable by two or more persons jointly or severally or jointly and severally upon the same obligation or instrument, one action may be sustained and judgment recovered against all or any of the parties by whom the money is payable, at the option of the plaintiff; but if separate actions be brought unnecessarily against the several parties to such contract, the said actions may on motion be consolidated, and the plaintiff shall be allowed the costs of one action only.

CHAPTER THIRTY-EIGHT.

JUDGMENTS AND DECREES.

Judgments and decrees.

SEC. 1212. LIMITATIONS—Every final judgment at common law and every final decree in equity for the payment of money rendered in the supreme court of the District, and every judgment of a justice of the peace certified to and docketed in the clerk's office of the said supreme court, as herein elsewhere directed, shall be good and enforceable, by an execution issued thereon, for the period of twelve years only from the date when an execution might first be issued thereon, or from the date of the last revival thereof under scire facias, except as provided in the next section; but the time during which the judgment creditor is stayed by agreement, or injunction, or other order, or by the operation of an appeal from enforcing the judgment is not to be computed as part of said period of twelve years. Limitations.

SEC. 1213. EXPIRATION OF JUDGMENT OR DECREE.—At the expiration of said period of twelve years the said judgment or decree shall cease to have any operation or effect, and no action shall be brought on the same nor any scire facias or execution issued on the same thereafter; but this provision shall in no wise affect any proceeding that may be then pending for the enforcement of the said judgment or decree. Expiration of judgment or decree.

SEC. 1214. LIEN OF JUDGMENT OR DECREE.—Every final judgment at common law and every unconditional final decree in equity for the payment of money from the date when the same shall be rendered, every judgment of a justice of the peace when docketed in the clerk's office of the supreme court of the District of Columbia, and every recognizance taken by said supreme court, or a justice thereof, from the time when it shall be declared forfeited, shall be a lien on all the freehold and leasehold estates, legal and equitable, of the defendants bound by such judgment, decree, or recognizance, in any lands, tenements, or hereditaments in the District, whether such estates be in possession or be reversions or remainders, vested or contingent. And any recognizance taken in the police court, after being forfeited, may be transmitted to the clerk's office of said supreme court and therein docketed in the same manner as the judgment of a justice of the peace as aforesaid, and thereupon shall have the same effect as if taken in the said supreme court; and said lien shall continue as long as such judgment, decree, or recognizance shall be in force or until the same shall be satisfied or discharged. Lien of judgment or decree. —forfeited recognizance, police court. —duration of lien.

SEC. 1215. SCIRE FACIAS.—If during the period of twelve years from the rendition of the judgment or decree, or from judgment upon a scire facias thereon, the creditor shall cause a scire facias to be issued upon the judgment or decree and a fiat shall be issued thereupon, the effect of such fiat shall be to extend the effect and operation of said judgment or decree with the lien thereby created and all the remedies for the enforcement of the same for the period of twelve years from the date of such fiat. Scire facias.

SEC. 1216. LIEN OF MORTGAGE.—Where real property is sold and conveyed and, at the same time, a mortgage or deed of trust thereupon is given by the purchaser to secure the payment of the whole or any part of the purchase money, the lien of the said mortgage or deed of trust on the property shall be superior to that of a previous judgment or decree against the purchaser. Lien of mortgage.

SEC. 1217. DOCKET.—The clerk of said supreme court shall keep and maintain a docket, to be known as the judgment docket, in which shall be entered the titling of every cause and proceeding in which any judgment or decree may be entered or any recognizance taken, as aforesaid, including recognizances transmitted from the police court, Docket.

as aforesaid, with a minute of the dates and amounts thereof, and said judgments, decrees, and recognizances shall be indexed in the names of all the principals and sureties bound thereby.

CHAPTER THIRTY-NINE.

LANDLORD AND TENANT.

Landlord and tenant.

When notice to quit unnecessary.

SEC. 1218. WHEN NOTICE TO QUIT NOT NECESSARY.—When real estate is leased for a certain term no notice to quit shall be necessary, but the landlord shall be entitled to the possession, without such notice, immediately upon the expiration of the term.

Notices to quit.

SEC. 1219. NOTICES TO QUIT.—A tenancy from month to month, or from quarter to quarter, may be terminated by a thirty days' notice in writing from the landlord to the tenant to quit, or by such a notice from the tenant to the landlord of his intention to quit, said notice to expire, in either case, on the day of the month from which such tenancy commenced to run.

Tenancy at will.

SEC. 1220. TENANCY AT WILL.—A tenancy at will may be terminated by thirty days' notice in writing by either landlord or tenant.

Tenancy by sufferance.

SEC. 1221. TENANCY BY SUFFERANCE.—A tenancy by sufferance may be terminated at any time by a notice in writing from the landlord to the tenant to quit the premises leased, or by such notice from the tenant to the landlord of his intention to quit on the thirtieth day after the day of the service of the notice. If such notice expires before any periodical installment of rent fall due, according to the terms of the tenancy, the landlord shall be entitled to a proportionate part of such installment to the date fixed for quitting the premises.

Notice not to be recalled.

SEC. 1222. NOTICE NOT TO BE RECALLED.—Neither landlord nor tenant, after giving notice as aforesaid, shall be entitled to recall the notice so given without the consent of the other party, but after the expiration of the notice given by the tenant as aforesaid the landlord shall be entitled to the possession as if he had given the proper notice to quit; and after the expiration of the notice given by the landlord as aforesaid the tenant shall be entitled to quit as if had given the proper notice of his intention to quit.

Service of notice.

SEC. 1223. SERVICE OF NOTICE.—Every notice to the tenant to quit shall be served upon him personally, if he can be found, and if he can not be found it shall be sufficient service of said notice to deliver the same to some person of proper age upon the premises, and in the absence of such tenant or person to post the same in some conspicuous place upon the leased premises.

Refusal to quit, double rent.

SEC. 1224. REFUSAL TO QUIT, DOUBLE RENT.—If the tenant, after having given notice of his intention to quit as aforesaid, shall refuse, without reasonable excuse, to surrender possession according to such notice, he shall be liable to the landlord for rent at double the rate of rent payable according to the terms of tenancy for all the time that the tenant shall so wrongfully hold over, to be recovered in the same way as the rent accruing before the termination of the tenancy.

Ejectment or summary proceedings.

SEC. 1225. EJECTMENT OR SUMMARY PROCEEDINGS.—Whenever a lease for any definite term shall expire, or any tenancy shall be terminated by notice as aforesaid, and the tenant shall fail or refuse to surrender possession of the leased premises, the landlord may bring an action of ejectment to recover possession in the supreme court of the District; or the landlord may bring an action to recover possession before a justice of the peace, as provided in chapter one, subchapter one, aforesaid.

Claims for arrears of rent and double rent may be joined with claim for recovery.

SEC. 1226. ARREARS OF RENT AND DOUBLE RENT.—In either case the landlord may join with his claim for recovery of the possession of the leased premises a claim for all arrears of rent accrued to the termi-

nation of the tenancy, and, when the tenant has given the notice, for double rent from the termination of the tenancy to the verdict, or judgment, if the trial be by the court, for possession and for damages for waste: *Provided*, That in such action before a justice of the peace the amount so claimed shall be within his jurisdiction. If judgment for possession be rendered in favor of the plaintiff, he shall be entitled, at the same time, to a judgment for said arrears of rent, and for said double rent, as the case may be, to the date of the verdict or judgment as aforesaid, and for damages for waste.

Proviso.
—action before a justice of the peace.
Judgment.

SEC. 1227. CONSOLIDATION OF ACTIONS.—If actions be brought separately, either in said supreme court or before a justice of the peace, for arrears of rent and for the possession, they may be afterwards consolidated and one judgment rendered in them for the possession and also for the rent.

Consolidation of actions.

SEC. 1228. PLEA OF TITLE.—If, in such action to recover possession before a justice of the peace, the defendant shall plead a title in himself or in some person under whom he claims, not derived from the plaintiff, the further proceeding therein shall be as directed in said subchapter one of chapter one aforesaid.

Plea of title.

SEC. 1229. LIEN FOR RENT.—The landlord shall have a tacit lien for his rent upon such of the tenant's personal chattels, on the premises, as are subject to execution for debt, to commence with the tenancy and continue for three months after the rent is due and until the termination of any action for such rent brought within said three months.

Lien for rent.

SEC. 1230. HOW ENFORCED.—The said lien may be enforced—

—how enforced.

First. By attachment, to be issued upon affidavit that the rent is due and unpaid; or, if it be not due, that the defendant is about to remove or sell some part of said chattels.

Second. By judgment against the tenant and execution, to be levied on said chattels, or any of them, in whosesoever hands they may be found.

Third. By action against any purchaser of said chattels, with notice of the lien, in which action the plaintiff may have judgment for the value of the chattels purchased by the defendant not exceeding the rent in arrear.

SEC. 1231. HOW ATTACHMENT ENFORCED.—Such attachment may be issued in any action for the recovery of the possession of the leased premises by the landlord, in which the rent in arrear, or double rent, or both, shall be claimed as aforesaid, and it shall be lawful for any officer to whom the writ of attachment shall be delivered to be executed to break open an outer or inner door when necessary to the execution of the same.

How attachment enforced.

SEC. 1232. APPEAL.—Either party against whom judgment is rendered by a justice of the peace, in the action aforesaid by the landlord to recover possession of the leased premises, may appeal from such judgment, and such appeal shall be tried in the supreme court in the same manner in which appeals from justices of the peace are taken and tried in other cases.

Appeal.

SEC. 1233. UNDERTAKING ON APPEAL.—In case of an appeal by the defendant his undertaking, in order to operate as a supersedeas, shall be an undertaking to abide by and pay the judgment rendered by the justice of the peace, if it shall be affirmed, together with the costs of the appeal, and to pay all intervening damages to the leased property and compensation for the use and occupation thereof, from the date of the judgment appealed from to the date of its affirmance; and in said undertaking the said defendant and his sureties, the latter submitting themselves to the jurisdiction of the court, shall agree that if the judgment be affirmed judgment may be rendered against them by the appellate court for the amount of the judgment so affirmed and the intervening damages, compensation, and costs aforesaid.

Undertaking on appeal.

Right of action of assignee of reversion.

SEC. 1234. ASSIGNEE OF REVERSION.—The grantee or assignee of the reversion of any leased premises shall have the same right of action against the lessee, his personal representatives, heirs, or assigns, for rent or for any forfeiture or breach of any covenant or condition in the lease which the grantor or assignor might have had; and the assignee of the lessee shall have the same rights of action against the lessor, his grantee, or assignee, upon any covenants in the lease which the lessee might have had against the lessor.

Real and personal property leased together; judgment may be for both.

SEC. 1235. Whenever real and personal property shall be leased together, as, for example, a house with the furniture contained therein, the landlord, either in an action of ejectment or in the summary proceeding for possession, before a justice of the peace, provided for in subchapter one of chapter one, may have a judgment for recovery of the personalty as well as for the recovery of the realty.

Agreement as to notice.

SEC. 1236. AGREEMENT AS TO NOTICE.—Nothing herein contained shall be construed as preventing the parties to a lease, by agreement in writing, from substituting a longer or shorter notice to quit than is above provided or to waive all such notice.

CHAPTER FORTY.

Liens.

LIENS.

Mechanic's lien.

SEC. 1237. MECHANIC'S LIEN.—Every building erected, improved, added to, or repaired by the owner or his agent, and the lot of ground on which the same is erected, being all the ground used or intended to be used in connection therewith, or necessary to the use and enjoyment thereof, to the extent of the right, title, and interest, at that time existing, of such owner, whether owner in fee or of a less estate, or lessee for a term of years, or vendee in possession under a contract of sale, shall be subject to a lien in favor of the contractor with such owner or his duly authorized agent for the contract price agreed upon between them, or, in the absence of an express contract, for the reasonable value of the work and materials furnished for and about the erection, construction, improvement, or repair of or addition to such building, or the placing of any engine, machinery, or other thing therein or in connection therewith so as to become a fixture, though capable of being detached: *Provided*, That the person claiming the lien shall file the notice herein prescribed.

Proviso. —claimant to file notice.

Notice of lien.

SEC. 1238. NOTICE.—Any such contractor wishing to avail himself of the provision aforesaid, whether his claim be due or not, shall file in the office of the clerk of the supreme court of the District during the construction or within three months after the completion of such building, improvement, repairs, or addition, or the placing therein or in connection therewith of any engine, machinery, or other thing so as to become a fixture, a notice of his intention to hold a lien on the property hereby declared liable to such lien for the amount due or to become due to him, specifically setting forth the amount claimed, the name of the party against whose interest a lien is claimed, and a description of the property to be charged, and the said clerk shall file said notice and record the same in a book to be kept for the purpose.

Subcontractor's lien.

SEC. 1239. SUBCONTRACTOR.—Any person directly employed by the original contractor, whether as subcontractor, material man, or laborer, to furnish work or materials for the completion of the work contracted for as aforesaid, shall be entitled to a similar lien to that of the original contractor upon his filing a similar notice with the clerk of the supreme court of the District to that above mentioned, subject, however, to the conditions set forth in the following sections.

—conditions of, etc.

SEC. 1240. CONDITIONS.—All such liens in favor of parties so employed by the contractor shall be subject to the terms and conditions of the original contract except such as shall relate to the waiver

of liens and shall be limited to the amount to become due to the original contractor and be satisfied, in whole or in part, out of said amount only; and if said original contractor, by reason of any breach of the contract on his part, shall be entitled to recover less than the amount agreed upon in his contract, the liens of said parties so employed by him shall be enforceable only for said reduced amount, and if said original contractor shall be entitled to recover nothing said liens shall not be enforceable at all.

Notice to owner by subcontractor.

SEC. 1241. NOTICE TO OWNER.—The said subcontractor or other person employed by the contractor as aforesaid, besides filing a notice with the clerk of the supreme court as aforesaid, shall serve the same upon the owner of the property upon which the lien is claimed, by leaving a copy thereof with said owner or his agent, if said owner or agent be a resident of the District, or if neither can be found, by posting the same on the premises; and on his failure to do so, or until he shall do so, the said owner may make payments to his contractor according to the terms of his contract, and to the extent of such payments the lien of the principal contractor shall be discharged and the amount for which the property shall be chargeable in favor of the parties so employed by him reduced.

—failure to notify.

After notice, owner to retain amount of subcontractor's claim, etc.

SEC. 1242. OWNER'S DUTY.—After notice shall be filed by said party employed under the original contractor and a copy thereof served upon the owner or his agent as aforesaid, the owner shall be bound to retain out of any subsequent payments becoming due to the contractor a sufficient amount to satisfy any indebtedness due from said contractor to the said subcontractor, or other person so employed by him, secured by lien as aforesaid, otherwise the said party shall be entitled to enforce his lien to the extent of the amount so accruing to the principal contractor.

Subcontractor entitled to know terms of contract.

SEC. 1243. SUBCONTRACTOR ENTITLED TO KNOW TERMS OF CONTRACT.—Any subcontractor or other person employed by the contractor as aforesaid shall be entitled to demand of the owner or his authorized agent a statement of the terms under which the work contracted for is being done and the amount due or to become due to the contractor executing the same, and if the owner or his agent shall fail or refuse to give the said information, or willfully state falsely the terms of the contract or the amounts due or unpaid thereunder, the said property shall be liable to the lien of the said party demanding said information, in the same manner as if no payments had been made to the contractor before notice served on the owner as aforesaid.

Advance payments to defeat subcontractor's lien.

SEC. 1244. ADVANCE PAYMENTS.—If the owner, for the purpose of avoiding the provisions hereof, and defeating the lien of the subcontractor or other person employed by the contractor, as aforesaid, shall make payments to the contractor in advance of the time agreed upon therefor in the contract, and the amount still due or to become due to the contractor shall be insufficient to satisfy the liens of the subcontractors or others so employed by the contractor, the property shall remain subject to said liens in the same manner as if such payments had not been made.

Priority of lien.

SEC. 1245. PRIORITY OF LIEN.—The lien hereby given shall be preferred to all judgments, mortgages, deeds of trusts, liens, and incumbrances which attach upon the building or ground affected by said lien subsequently to the commencement of the work upon the building, as well as to conveyances executed, but not recorded, before that time, to which recording is necessary, as to third persons; except that nothing herein shall affect the priority of a mortgage or deed of trust given to secure the purchase money for the land, if the same be recorded within ten days from the date of the acknowledgment thereof. When a mortgage or deed of trust of real estate securing advances thereafter to be made for the purpose of erecting buildings and improvements

thereon is given, or when an owner of lands contracts with a builder for the sale of lots and the erection of buildings thereon, and agrees to advance moneys toward the erection of such buildings, the lien hereinbefore authorized shall have priority to all advances made after the filing of said notices of lien, and the lien shall attach to the right, title, and interest of the owner in said building and land to the extent of all advances which shall have become due after the filing of such notice of such lien, and shall also attach to and be a lien on the right, title, and interest of the person so agreeing to purchase said land at the time of the filing of said notices of lien. When a building shall be erected or repaired by a lessee or tenant for life or years, or a person having an equitable estate or interest in such building or land on which it stands, the lien created by this act shall only extend to and cover the interest or estate of such lessee, tenant, or equitable owner.

Lien enforced by bill in equity; contents of.

SEC. 1246. HOW LIEN ENFORCED.—The proceeding to enforce the lien hereby given shall be a bill in equity, which shall contain a brief statement of the contract on which the claim is founded, the amount due thereon, the time when the notice was filed with the clerk, and a copy thereof served on the owner or his agent, if so served, and the time when the building or the work thereon was completed, with a description of the premises and other material facts; and shall pray that the premises be sold and the proceeds of sale applied to the satisfaction of the lien. If such suit be brought by any person entitled, other than the principal contractor, the latter shall be made a party defendant, as well as all other persons who may have filed notices of liens, as aforesaid. All or any number of persons having liens on the same property may join in one suit, their respective claims being distinctly stated in separate paragraphs; and if several suits are brought by different claimants and are pending at the same time, the court may order them to be consolidated.

—parties, etc.

Decree of sale.

SEC. 1247. DECREE OF SALE.—If the right of the complainant, or of any of the parties to the suit, to the lien herein provided for shall be established, the court shall decree a sale of the land and premises or the estate and interest therein of the person who, as owner, contracted for the erection, repair, improvement of, or addition to the building, as aforesaid.

Subcontractor preferred to contractor.

SEC. 1248. SUBCONTRACTOR PREFERRED TO CONTRACTOR.—If the original contractor and the persons contracting or employed under him shall both have filed notices of liens, as aforesaid, the latter shall first be satisfied out of the proceeds of sale before the original contractor, but not in excess of the amount due him, and the balance, if any, of said amount shall be paid to him.

Distribution.

SEC. 1249. DISTRIBUTION.—If one, or some only, of the persons employed under the original contractor shall have served notice on the owner, as aforesaid, before payments made by him to the original contractor, said party or parties shall be entitled to priority of satisfaction out of said proceeds to the amount of such payments; but, subject to this provision, if the proceeds of sale, after paying thereout the costs of the suit, shall be insufficient to satisfy the liens of said parties employed under the original contractor the said proceeds shall be distributed ratably among them to the extent of the payments accruing to the original contractor subsequently to the service of notice on the owner by said parties, as aforesaid.

Several buildings.

SEC. 1250. SEVERAL BUILDINGS.—In case of labor done or materials furnished for the erection or repair of two or more buildings joined together and owned by the same person or persons, it shall not be necessary to determine the amount of work done or materials furnished for each separate building, but only the aggregate amount upon all the buildings so joined, and the decree may be for the sale of all

the buildings and the land on which they are erected as one building, or they may be sold separately if it shall seem best to the court.

When suit to be commenced.

SEC. 1251. WHEN SUIT TO BE COMMENCED.—Any person entitled to a lien, as aforesaid, may commence his suit to enforce the same at any time within a year from and after the filing of the notice aforesaid or within six months from the completion of the building or repairs aforesaid, on his failure to do which the said lien shall cease to exist, unless his said claim be not due at the expiration of said periods, in which case the action must be commenced within three months after the said claim shall have become due.

Extent of ground bound by lien.

SEC. 1252. EXTENT OF GROUND BOUND BY LIEN.—If there be any contest as to the dimensions of the ground claimed to be subjected to the lien aforesaid, the court shall determine the same upon the evidence and describe the same in the decree of sale.

Entry of satisfaction.

SEC. 1253. ENTRY OF SATISFACTION.—Whenever any person having a lien by virtue hereof shall have received satisfaction of his claim and cost, he shall, on the demand, and at the cost of the person interested, enter said claim satisfied, in the clerk's office aforesaid, and on his failure or refusal so to do he shall forfeit fifty dollars to the party aggrieved, and all damages that the latter may have sustained by reason of such failure or refusal.

Payment into court to effect release.

SEC. 1254. PAYMENT INTO COURT AND RELEASE.—In any suit to enforce a lien hereunder, the owner of the building and premises to which such lien may have attached, as aforesaid, may be allowed to pay into court the amount claimed by the lienor, and such additional amount, to cover interest and costs, as the court may direct, or he may file a written undertaking, with two or more sureties, to be approved by the court, to the effect that he and they will pay the judgment that may be recovered and costs, which judgment shall be rendered against all the persons so undertaking. On the payment of said money into court, or the approval of such undertaking, the property shall be released from such lien, and any money so paid in shall be subject to the final decree of the court. No such undertaking shall be approved by the court until the complainant shall have had at least two days' notice of the defendant's intention to apply to the court therefor, which notice shall give the names and residences of the persons intended to be offered as sureties and the time when the motion for such approval will be made, and such sureties shall make oath, if required, that they are worth, over and above all debts and liabilities, double the amount of said lien. The complainant may appear and object to such approval.

—or bond to pay judgment.

—notice.

Undertaking to discharge liens before suit.

SEC. 1255. UNDERTAKING TO DISCHARGE LIENS BEFORE SUIT.—Such an undertaking as above mentioned may be offered before any suit brought in order to discharge the property from existing liens, in which case notice shall be given as aforesaid to the parties whose liens it is sought to have discharged, and the same proceedings shall be had as above directed in relation to the undertaking to be given after the commencement of the suit, and said undertaking shall be to the effect that the owner and his said sureties will pay any judgment that may be rendered in any suit that may thereafter be brought for the enforcement of said lien.

Decree against sureties.

SEC. 1256. DECREE AGAINST SURETIES—If such undertaking be approved before any suit brought, such suit shall be a suit in equity against the owner, to which the sureties may be made parties; if the undertaking be approved after suit brought, the said sureties shall ipso facto become parties to the suit, and in either case the decree of the court shall be against the sureties as well as the owner.

No action by subcontractor against owner.

SEC. 1257. NO ACTION BY SUBCONTRACTOR AGAINST OWNER.—No subcontractor, material man, or workman employed under the original

contractor shall be entitled to a personal judgment or decree against the owner of the premises for the amount due to him from said original contractor, except upon a special promise of such owner, in writing, for a sufficient consideration, to be answerable for the same.

Judgment for deficiency upon a sale.

SEC. 1258. JUDGMENT FOR DEFICIENCY UPON A SALE.—In any suit brought to enforce a lien by virtue of the provisions aforesaid, if the proceeds of the property affected thereby shall be insufficient to satisfy such lien, a personal judgment for the deficiency may be given in favor of the lien or against the owner of the premises or the original contractor, as the case may be, whichever contracted with him for the labor or materials furnished by him, provided such person be a party to the suit and shall have been personally served with process therein.

Lien on wharves and lots.

SEC. 1259. WHARVES AND LOTS.—Any person who shall furnish materials or labor in filling up any lot or in constructing any wharf thereon, or dredging the channel of the river in front of any wharf, under any contract with the owner, shall be entitled to a lien for the value of such work or materials on said lot and wharf upon the same conditions and to be enforced in the same manner as in the case of work done in the erection of buildings, as hereinbefore provided.

Lien for repairing personal property.

SEC. 1260. OTHER LIENS.—Any mechanic or artisan who shall make, alter, or repair any article of personal property at the request of the owner shall have a lien thereon for his just and reasonable charges for his work done and materials furnished, and may retain the same in his possession until said charges are paid; but if possession is parted with by his consent such lien shall cease.

Lien of innkeeper.

SEC. 1261. INNKEEPER.—Every innkeeper, keeper of a boarding house, or house of private entertainment shall have a lien upon and may retain possession of the baggage and effects of any guest or boarder for the amount which may be due him from such guest for board and lodging until such amount is paid.

—of liveryman.

SEC. 1262. LIVERYMAN.—It shall be lawful for all persons keeping or boarding any animals at livery within the District, under any agreement with the owner thereof, to detain such animals until all charges under such agreement for the care, keep, or board of such animals shall have been paid: *Provided*, *however*, That notice in writing shall first be given to such owner in person or at his last known place of residence of the amount of such charges and the intention to detain such animal or animals until such charges shall be paid.

Proviso. —notice.

Enforcement by sale.

SEC. 1263. ENFORCEMENT BY SALE.—If the amount due and for which a lien is given by any of the last three sections is not paid after the end of a month after the same is due, and the property bound by said lien does not exceed the sum of fifty dollars, then the party entitled to such lien, after demand of payment upon the debtor, if he be within the District, may proceed to sell the property so subject to lien at public auction, after giving notice once a week for three successive weeks in some daily newspaper published in the District, and the proceeds of such sale shall be applied, first, to the expenses of such sales and the discharge of such lien, and the remainder, if any, shall be paid over to the owner of the property.

Enforcement by bill in equity.

SEC. 1264. ENFORCEMENT BY BILL IN EQUITY.—If the value of the property so subject to lien shall exceed the sum of fifty dollars, the proceeding to enforce such lien shall be by bill or petition in equity, and the decree, which shall be rendered according to the due course of proceedings in equity, besides subjecting the thing upon which the lien was attached to sale for the satisfaction of the plaintiff's demand, shall adjudge that the plaintiff recover his demand against the defendant from whom such claim is due, and may have execution therefor as at law.

CHAPTER FORTY-ONE.

LIMITATION OF ACTIONS

Limitation of actions.

SEC. 1265. PERIODS OF LIMITATIONS—No action shall be brought for the recovery of lands, tenements, or hereditaments after fifteen years from the time the right to maintain such action shall have accrued; nor on any executor's or administrator's bond after five years from the time of the right of action accrued thereon; nor on any other bond or single bill, covenant, or other instrument under seal after twelve years after the accruing of the cause of action thereon; nor upon any simple contract, express or implied, or for the recovery of damages for any injury to real or personal property, or for the recovery of personal property or damages for its unlawful detention after three years from the time when the right to maintain any such action shall have accrued; nor for any statutory penalty or forfeiture, or for libel, slander, assault, battery, mayhem, wounding, malicious prosecution, false arrest or false imprisonment after one year from the time when the right to maintain any such action shall have accrued; and no action the limitation of which is not otherwise specially prescribed in this section shall be brought after three years from the time when the right to maintain such action shall have accrued: *Provided*, That if any person entitled to maintain any of the actions aforesaid shall be at the time of the accruing of such right of action under twenty-one years of age, non compos mentis, or imprisoned, such person or his proper representative shall be at liberty to bring such action within the respective times in this section limited after the removal of such disability, except that where any person entitled to maintain an action for the recovery of lands, tenements, or hereditaments, or upon any instrument under seal, shall be at the time such right of action shall accrue under any of the disabilities aforesaid, such person or his proper representative may bring such action within five years after the removal of such disability, and not thereafter.

Periods of limitations for recovery of lands; actions on bonds, etc.

—on other actions.

Proviso.
Persons under disability when right of action accrues.

SEC. 1266. SUITS AGAINST DECEDENTS' ESTATES.—In suits against the estate of a deceased person, in computing the time of limitation the interval between the death of the deceased and the granting of letters testamentary or of administration shall not be counted as part of said time of limitation.

Suits against decedent's estates.

SEC. 1267. FOREIGN JUDGMENTS—Every action upon a judgment or decree rendered in any State or Territory of the United States or in any foreign country shall be barred if by the laws of such State, Territory, or foreign country such action would there be barred and the judgment or decree be incapable of being otherwise enforced there; and whether so barred or not, no action shall be brought in the District on any such judgment or decree rendered more than ten years before the commencement of such action.

Foreign judgments.

SEC. 1268. ACTION BY THE UNITED STATES.—None of the provisions aforesaid shall apply to any action in which the United States is the real and not merely the nominal plaintiff.

Action by the United States.

SEC. 1269. ABSENCE OF DEFENDANT.—If, when a cause of action accrues against a person who is a resident of the District of Columbia, he is out of the District or has absconded or concealed himself, the period limited for the bringing of the action shall not begin to run until he comes into the District or while he is so absconded or concealed; and if after the cause of action accrues he abscond or conceal himself, the time of such absence or concealment shall not be computed as any part of the period within which the action must be brought.

Absence of defendant.

SEC. 1270. ACTION STAYED BY INJUNCTION.—Where the bringing of an action has been stayed by an injunction or other order of a court

Action stayed by injunction.

of justice, or or by statutory prohibition, the time of such stay shall not be part of the time limited for the commencement of the action.

New promise to be in writing.

SEC. 1271. NEW PROMISE TO BE IN WRITING, AND SO FORTH.—In actions of debt or upon the case grounded upon any simple contract, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take any case out of the operation of the statute of limitations or to deprive any party of the benefit thereof unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby: *Provided*, That nothing herein contained shall alter or take away, or lessen the effect of any payment of any principal or interest made by any person whatsoever: *Provided, also*, That in actions to be commenced against two or more joint contractors, or executors, or administrators, if it shall appear at the trial, or otherwise, that the plaintiff, though barred by the statute of limitations as to one or more of such joint contractors, or executors, or administrators, shall nevertheless be entitled to recover against any other or others of the defendants by virtue of a new acknowledgment or promise or otherwise, judgment may be given for the plaintiff as to such defendant or defendants against whom he shall recover. No indorsement or memorandum of any payment hereafter written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom such payment shall purport to be made, shall be deemed sufficient proof of such payment so as to take the case out of the operation of the statute of limitations.

Provisos. Payments.

Judgment may be against one of several joint contractors, etc.

Directions as to debts in a will.

SEC. 1272. DIRECTIONS AS TO DEBTS IN A WILL.—No provision in the will of a testator devising his real estate, or any part thereof, subject to the payment of his debts, or charging the same therewith, shall prevent the statute of limitations from operating against such debts, unless it plainly appears to be the testator's intention that it shall not so operate.

CHAPTER FORTY-TWO.

MANDAMUS.

Mandamus.

—how applied for.

SEC. 1273. HOW APPLIED FOR.—All applications for granting writs of mandamus shall be commenced by petition, verified by affidavit of the applicant, setting forth fully the ground of his application.

Rule on defendant.

SEC. 1274. RULE ON DEFENDANT.—Upon the filing of such petition the court may lay a rule requiring the defendant therein named to show cause, within such time as the court may deem proper, why a writ of mandamus should not issue as prayed, a copy of which rule shall be served upon such defendant by a day to be therein limited.

Defendant's answer.

SEC. 1275. DEFENDANT'S ANSWER.—The defendant, by the day named in such order, unless for cause shown the court shall extend the time, shall file an answer to such petition, fully setting forth all the defenses upon which he intends to rely in resisting such application, which shall be verified by his affidavit.

Pleadings and further proceedings.

SEC. 1276. PLEADINGS AND FURTHER PROCEEDINGS.—The petitioner may plead to or traverse all or any of the material averments set forth in said answer, and the defendant shall take issue or demur to said plea or traverse within five days thereafter; and such further proceedings shall thereupon be had in the premises for the determination thereof as if the petitioner had brought an action for a false return.

Time of trial of issue.

SEC. 1277. TIME OF TRIAL OF ISSUE.—If issue shall be joined on such proceedings, the same shall stand for trial at as early a day as the court shall appoint.

Trial.

SEC. 1278. TRIAL.—Such issues shall be tried by a jury if both parties in writing require it, otherwise they shall be heard and determined by the court; and in case a verdict shall be found for the petitioner, or if

the court upon hearing determine for the petitioner, or judgment be given for him upon demurrer or for want of a plea, such petitioner shall thereupon recover his damages and costs as he might have done in an action for a false return, to be levied by execution, and a peremptory writ of mandamus shall be granted thereupon without delay against the defendant.

Judgment for defendant.

SEC. 1279. JUDGMENT FOR DEFENDANT.—If judgment shall be given for the defendant he shall recover his costs of suit, to be levied in the manner aforesaid.

Defendant's default: ex parte hearing

SEC. 1280. DEFENDANT'S DEFAULT.—If the defendant shall neglect to file his answer to the petition by the day named in the order of the court, after being served with notice thereof, the said court shall thereupon proceed to hear the said petition ex parte, within five days thereafter, and if it shall be of opinion that the facts and law of the case authorize the granting of a mandamus as prayed, it shall thereupon without delay order a peremptory mandamus to issue, and shall also adjudge to the petitioner his costs of suit.

—dismissal

SEC. 1281. If the court shall, upon such ex parte hearing, be of opinion that the facts and law of the case do not authorize the granting of a mandamus, it shall dismiss such petition with costs.

Appeal.

SEC. 1282. APPEAL.—In case of an appeal by the defendant the court shall fix the penalty of the appeal bond necessary to be given to stay the execution or enforcement of the order appealed from.

CHAPTER FORTY-THREE.

MARRIAGE.

Marriage.

Prohibitions —void ab initio.

SEC. 1283. PROHIBITIONS.—The following marriages are prohibited in the District of Columbia and shall be absolutely void ab initio, without being so decreed, and their nullity may be shown in any collateral proceedings, namely:

First. The marriage of a man with his grandmother, grandfather's wife, wife's grandmother, father's sister, mother's sister, mother, stepmother, wife's mother, daughter, wife's daughter, son's wife, sister, son's daughter, daughter's daughter, son's son's wife, daughter's son's wife, wife's son's daughter, wife's daughter's daughter, brother's daughter, sister's daughter.

Second. The marriage of a woman with her grandfather, grandmother's husband, husband's grandfather, father's brother, mother's brother, father, stepfather, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, husband's son's son, husband's daughter's son, brother's son, sister's son.

Third. The marriage of any persons either of whom has been previously married and whose previous marriage has not been terminated by death or a decree of divorce.

—marriage may also be decreed to be void.

SEC. 1284. MARRIAGE MAY BE DECREED TO BE VOID.—Any of such marriages may also be declared to have been null and void by judicial decree.

When void from date of decree.

SEC. 1285. WHEN VOID FROM DATE OF DECREE.—The following marriages in said District shall be illegal, and shall be void from the time when their nullity shall be declared by decree, namely:

First. The marriage of an idiot or of a person adjudged to be a lunatic.

Second. Any marriage the consent to which of either party has been procured by force or fraud.

Third. Any marriage either of the parties to which shall be incapable, from physical causes, of entering into the married state.

By whom proceedings to nullify to be brought.

SEC. 1286. BY WHOM SUIT BROUGHT.—A proceeding to declare the nullity of a marriage may be instituted in the case of an infant under the age of consent by such infant, through a next friend, or by the parent or guardian of such infant; and in the case of an idiot or lunatic by next friend. But no such proceedings shall be allowed to be instituted by any person who, being fully capable of contracting a marriage, has knowingly and willfully contracted any marriage declared illegal by the foregoing sections.

Marriage out of District.

SEC. 1287. MARRIAGE OUT OF DISTRICT.—If any marriage declared illegal by the aforegoing sections shall be entered into in another jurisdiction by persons having and retaining their domicile in the District of Columbia, such marriage shall be deemed illegal, and may be decreed to be void in said District in the same manner as if it had been celebrated therein.

By whom marriage ceremony performed.

SEC. 1288. BY WHOM MARRIAGE CEREMONY PERFORMED.—For the purpose of preserving the evidence of marriages in the District, every minister of the gospel appointed or ordained according to the rites and ceremonies of his church, whether his residence be in the District or elsewhere in the United States or the Territories, may be authorized by any justice of the supreme court of the District of Columbia to celebrate marriages in the District. And marriages may be celebrated in the District by any justice of the peace or by any judge or justice of any court of record.

Unauthorized marriage.

SEC. 1289. UNAUTHORIZED MARRIAGE.—If any one except a minister or other person authorized by the foregoing section shall hereafter celebrate the rites of marriage in said District, he shall be subject to the penalty prescribed in the following section.

Celebrant to have license: penalty.

SEC. 1290. LICENSE.—No person authorized hereby to celebrate the rites of marriage shall do so in any case without first having delivered to him a license therefor issued from the clerk's office of said supreme court, under a penalty of not more than five hundred dollars, in the discretion of the court, to be recovered upon information in the police court of the district.

Clerk to examine applicant, etc.

SEC. 1291. DUTY OF CLERK.—It shall be the duty of the clerk of the supreme court before issuing any license to solemnize a marriage to examine any applicant for said license under oath and to ascertain the names, ages, and color of the parties desiring to marry, and if they are under age the names of their parents or guardians, whether they were previously married, whether they are related or not, and if so, in what degree, which facts shall appear on the face of the application, of which the clerk shall provide a printed form, and any false swearing in regard to such matters shall be deemed perjury.

Consent of parent or guardian.

SEC. 1292. CONSENT OF PARENT OR GUARDIAN.—If any male person intending to marry and seeking a license therefor shall be under twenty-one years of age, or any female so intending shall be under eighteen years of age, and shall not have been previously married, the said clerk shall not issue such license unless the father of such person, or, if there be no father, the mother, or, if there be neither father nor mother, the guardian, if there be such, shall consent to such proposed marriage, either personally to the clerk, or by an instrument in writing attested by a witness and proved to the satisfaction of the clerk.

Form of license.

SEC. 1293. FORM OF LICENSE.—Licenses to perform the marriage ceremony shall be in the following form:

Number ------.

To any minister or other person authorized to celebrate marriages in the District of Columbia, greeting:

You are hereby authorized to celebrate the rites of marriage between ----------, of ----------, and ---------- of ----------, and having done so, you are commanded to make return of the same

to the clerk's office of the supreme court of said District within ten days, under a penalty of fifty dollars for default therein.

Witness my hand and seal of said court this ..... day of ....., anno Domini .....

By ——— ———, Clerk.
By ——— ———, Assistant Clerk.

Return coupon to be filed with clerk.

Said return shall be made in person or by mail, on a coupon issued with said license and bearing a corresponding number therewith, within ten days from the time of said marriage, and shall be in the following form:

—form of.

Number .....

I, ..., who have been duly authorized to celebrate the rites of marriage in the District of Columbia, do hereby certify that, by authority of a license of corresponding number herewith, I solemnized the marriage of ..... and ....., named therein, on the ..... day of ....., at ....., in said District.

A second coupon, of corresponding number with the license, shall be attached to and issued with said license, to be given by the minister or other person celebrating the marriage to the contracting parties, and shall be in the following form:

Number.....

I hereby certify that on this .... day of ....., at ....., ... and ..... were by me united in marriage in accordance with the license issued by the clerk of the supreme court of the District of Columbia.

Name .....
Residence .....

—penalty.

SEC. 1294. DUTY OF MINISTER OR OTHER PERSON CELEBRATING MARRIAGE.—Any minister or other person, having solemnized the rites of marriage under the authority of a license issued as aforesaid, who shall fail to make return as therein required, shall be liable to a penalty of fifty dollars upon conviction of said failure upon information in the police court of said district.

Record of licenses.

SEC. 1295. RECORD.—The clerk of the said court shall provide a record book in his office, consisting of applications and licenses in blank, to be filled up by him with the names and residences of the parties for whose marriage any license may have been issued, said applications and licenses to be numbered consecutively from one upward; and also a record book in which shall be recorded, in the order of their numbers, the certificates of the minister or other persons authorized, upon their return to said office, corresponding to said record book of licenses issued, and a copy of any license and certificate of marriage so kept and recorded, certified by the clerk under his hand and seal, shall be competent evidence of the marriage.

—of certificates, etc.

Slave marriages deemed valid.

SEC. 1296. SLAVE MARRIAGES.—All colored persons in the District who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife, and were cohabiting together as such or in any way recognizing the relation as existing on the twenty-fifth day of July, eighteen hundred and sixty-six, whether the rites of marriage have been celebrated between them or not, are deemed husband and wife, and are entitled to all the rights and privileges and subject to the duties and obligations of that relation in like manner as if they had been duly married according to law. All the children of such persons shall be deemed legitimate, whether born before or after the date mentioned. When such parties have ceased to cohabit before such date, in consequence of the death of the woman

—children legitimate.

or from any other cause, all the children of the woman recognized by the man to be his shall be deemed legitimate.

Children of colored persons married according to local customs may inherit, etc.

SEC. 1297. COLORED PERSONS.—The issue of any marriage of colored persons contracted and entered into according to any custom prevailing at the time in any of the States wherein the same occurred shall, for all purposes of descent and inheritance and the transmission of both real and personal property within the District of Columbia, be deemed and held to be legitimate and capable of inheriting and transmitting inheritance, and taking as next of kin and distributes according to law, from and to their parents or either of them, and from and to those from whom such parents or either of them may inherit or transmit inheritance, anything in the laws of such State to the contrary notwithstanding: *Provided*, That nothing herein shall be construed as implying that any such marriage is not valid or such issue legitimate for all other purposes.

—implication as to such marriage.

CHAPTER FORTY-FOUR.

NAME, CHANGE OF.

Name, change of.

—filing petition.

SEC. 1298. PROCEEDING FOR CHANGE OF NAME.—Any person of full age, being a resident of the District and desirous to have his name changed, may file a petition in the supreme court setting forth the reasons therefor and also the name desired to be assumed.

—notice, publication of.

SEC. 1299. NOTICE.—Notice of the filing of such petition, containing the substance and prayer thereof, shall be published for three consecutive weeks in some newspaper in general circulation published in the District prior to the hearing of the petition.

Decree.

SEC. 1300. DECREE.—The court, or the justice holding an equity term thereof, on proof of such notice and upon such showing as may be deemed satisfactory, may change the name of the applicant according to the prayer of the petition.

CHAPTER FORTY-FIVE.

NEGLIGENCE CAUSING DEATH.

Negligence causing death.

Liability.

SEC. 1301. LIABILITY.—Whenever by an injury done or happening within the limits of the District of Columbia the death of a person shall be caused by the wrongful act, neglect, or default of any person or corporation, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured, or if the person injured be a married woman, have entitled her husband, either separately or by joining with the wife, to maintain an action and recover damages, the person who or corporation which would have been liable if death had not ensued shall be liable to an action for damages for such death, notwithstanding the death of the person injured, even though the death shall have been caused under circumstances which constitute a felony; and such damages shall be assessed with reference to the injury resulting from such act, neglect, or default causing such death, to the widow and next of kin of such deceased person: *Provided*, That in no case shall the recovery under this act exceed the sum of ten thousand dollars: *And provided further*, That no action shall be maintained under this chapter in any case when the party injured by such wrongful act, neglect, or default has recovered damages therefor during the life of such party.

Provisos.

Amount recoverable limited.

Recovery during life of party a bar to action.

By whom suit to be brought.

SEC. 1302. BY WHOM SUIT TO BE BROUGHT.—Every action shall be brought by and in the name of the personal representative of such deceased person, and within one year after the death of the party injured.

SEC. 1303. DISTRIBUTION OF DAMAGES.—The damages recovered in such action shall not be appropriated to the payment of the debts or liabilities of such deceased person, but shall inure to the benefit of his or her family and be distributed according to the provisions of the statute of distribution in force in the said District of Columbia. Distribution of damages.

CHAPTER FORTY-SIX.

NEGOTIABLE INSTRUMENTS.

Negotiable instruments.

SEC. 1304. DEFINITIONS.—In this chapter, unless the context otherwise requires— Definitions.

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counterclaim and set-off.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument, complete in form, to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed, and "writing" includes print.

The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily" liable.

In determining what is a "reasonable time" or an "unreasonable time" regard is to be had to the nature of the instrument, the usage of trade or business, if any, with respect to such instruments, and the facts of the particular case.

Where the day or the last day for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day. Where last day falls on holiday.

In any case not provided for in this act the rules of the law merchant shall govern. Law merchant.

SEC. 1305. WHEN NEGOTIABLE.—An instrument to be negotiable must conform to the following requirements: When instrument negotiable.

First. It must be in writing and signed by the maker or drawer.

Second. It must contain an unconditional promise or order to pay a certain sum in money.

Third. It must be payable on demand or at a fixed or determinable future time.

Fourth. It must be payable to order or to bearer; and,

Fifth. Where the instrument is addressed to a drawee he must be named or otherwise indicated therein with reasonable certainty.

SEC. 1306. SUM PAYABLE.—The sum payable is a sum certain within the meaning hereof, although it is to be paid— Certainty as to sum.

First. With interest; or,

Second. By stated installments; or,

Third. By stated installments, with a provision that upon default

in payment of any installment or of interest the whole shall become due; or,

Fourth. With exchange, whether at a fixed rate or at the current rate; or,

Fifth. With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

When promise is unconditional.

SEC. 1307. WHEN PROMISE IS UNCONDITIONAL.—An unqualified order or promise to pay is unconditional within the meaning hereof, though coupled with—

First. An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or,

Second. A statement of the transaction which gives rise to the instrument.

But an order or promise to pay out of a particular fund is not unconditional.

Time of payment.

SEC. 1308. TIME OF PAYMENT.—An instrument is payable at a determinable future time, within the meaning hereof, which is expressed to be payable—

First. At a fixed period after date or sight; or,

Second. On or before a fixed or determinable future time specified therein; or,

Third. On or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

Additional provisions not affecting negotiability.

SEC. 1309. PROMISE IN ADDITION TO PROMISE OF PAYMENT.—An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which—

First. Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or,

Second. Authorizes a confession of judgment if the instrument be not paid at maturity; or,

Third. Waives the benefit of any law intended for the advantage or protection of the obligor; or,

Fourth. Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

Omissions not affecting negotiability.

SEC. 1310. DATE.—The validity and negotiable character of an instrument are not affected by the fact that—

First. It is not dated; or,

Second. Does not specify the value given, or that any value has been given therefor; or,

Third. Does not specify the place where it is drawn or the place where it is payable; or,

Fourth. Bears a seal; or,

Fifth. Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

When payable on demand.

SEC. 1311. INSTRUMENT PAYABLE ON DEMAND.—An instrument is payable on demand—

First. Where it is expressed to be payable on demand, or at sight, or on presentation; or,

Second. In which no time for payment is expressed.

Where an instrument is issued, accepted, or indorsed when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand.

When payable to order.

SEC. 1312. INSTRUMENT PAYABLE TO ORDER.—The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of—

First. A payee who is not maker, drawer, or drawee; or,

Second. The drawer or maker; or,

Third. The drawee; or,

Fourth. Two or more payees jointly; or,

Fifth. One or some of several payees; or,

Sixth. The holder of an office for the time being.

Where the instrument is payable to order, the payee must be named or otherwise indicated therein with reasonable certainty.

When payable to bearer.

SEC. 1313. INSTRUMENT PAYABLE TO BEARER.—The instrument is payable to bearer—

First. When it is expressed to be so payable; or,

Second. When it is payable to a person named therein or bearer; or,

Third. When it is payable to the order of a fictitious or nonexisting person and such fact was known to the person making it so payable; or,

Fourth. When the name of the payee does not purport to be the name of any person; or,

Fifth. When the only or last indorsement is an indorsement in blank.

Terms, when sufficient.

SEC. 1314. WHAT SUFFICIENT LANGUAGE.—The instrument need not follow the language herein employed, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.

Presumption as to date.

SEC. 1315. PRESUMPTION AS TO DATE.—Where the instrument or an acceptance or any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance, or indorsement, as the case may be.

Antedating and postdating. *Proviso.* —not to be fraudulent, etc.

SEC. 1316. ANTEDATING AND POSTDATING.—The instrument is not invalid for the reason only that it is antedated or postdated: *Provided*, That this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

When date may be inserted.

SEC. 1317. WANT OF DATE.—Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him the date so inserted is to be regarded as the true date.

Blanks, when may be filled.

SEC. 1318. BLANKS.—Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature, in order that the paper may be converted into a negotiable instrument, operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument, when completed, may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time; but if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

Completing without authority.

SEC. 1319. COMPLETING WITHOUT AUTHORITY.—Where an incomplete instrument has not been delivered it will not, if completed and negotiated without authority, be a valid contract in the hands of any holder as against any person whose signature was placed thereon before delivery.

Delivery.

—when effectual.

—when presumed.

SEC. 1320. DELIVERY.—Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting, or indorsing as the case may be; and in such case the delivery may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him, so as to make them liable to him, is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

Construction when instrument is ambiguous.

—rules.

SEC. 1321. CONSTRUCTION.—Where the language of the instrument is ambiguous, or there are omissions therein, the following rules of construction apply:

First. Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount.

Second. Where the instrument provides for the payment of interest without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof.

Third. Where the instrument is not dated it will be considered to be dated as of the time it was issued.

Fourth. Where there is conflict between the written and printed provisions of the instrument, the written provisions prevail.

Fifth. Where the instrument is so ambiguous that there is doubt whether it is a bill or note, the holder may treat it as either at his election.

Sixth. Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser.

Seventh. Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

Liability of person who signs in a trade or assumed name.

SEC. 1322. WHO NOT LIABLE ON.—No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

Signature by agent.

Authority, how shown.

SEC. 1323. SIGNATURE BY AGENT.—The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose, and the authority of the agent may be established as in other cases of agency.

Agent, when not liable on.

SEC. 1324. AGENT, WHEN NOT LIABLE ON.—Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized, but the mere addition of words describing him as an agent or as filling a representative character without disclosing his principal does not exempt him from personal liability.

Signature by procuration.

SEC. 1325. SIGNATURE BY PROCURATION.—A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

Indorsement by corporation or infant, effect of.

SEC. 1326. INDORSEMENT BY CORPORATION OR INFANT.—The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

Forged signature, effect of.

SEC. 1327. FORGED SIGNATURE.—Where a signature is forged or made without the authority of the person whose signature it purports to be it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto can be acquired through or under such signature, unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

Consideration. Presumption.

SEC. 1328. PRESUMPTION OF VALUABLE CONSIDERATION.—Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration, and every person whose signature appears thereon to have become a party thereto for value.

What is value.

SEC. 1329. WHAT IS VALUE.—Value is any consideration sufficient to support a simple contract. An antecedent or preexisting debt constitutes value, and is deemed such whether the instrument is payable on demand or at a future time.

Who is holder for value.

SEC. 1330. WHO IS HOLDER FOR VALUE.—Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who became such prior to that time.

Where the holder has lien on instrument.

SEC. 1331. Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

Absence of consideration.

SEC. 1332. ABSENCE OR FAILURE OF CONSIDERATION.—Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise.

Accommodation parties.

SEC. 1333. ACCOMMODATION PARTIES.—An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

—liability of.

Negotiation, what constitutes.

SEC. 1334. NEGOTIATION.—An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder, completed by delivery.

Indorsement, how made.

SEC. 1335. INDORSEMENT.—The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

—must be of entire instrument.

SEC. 1336. The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument; but where the instrument has been paid in part it may be indorsed as to the residue.

—kinds of indorsement.

SEC. 1337. An indorsement may be either special or in blank; and it may also be either restrictive or qualified or conditional.

—special indorsement.

SEC. 1338. SPECIAL INDORSEMENT.—A special indorsement specifies the person to whom or to whose order the instrument is to be payable;

—in blank.

and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer and may be negotiated by delivery.

Convertibility of blank into special indorsement.

SEC. 1339. The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

Restrictive indorsement.

SEC. 1340. RESTRICTIVE INDORSEMENT.—An indorsement is restrictive which either—

First. Prohibits the further negotiation of the instrument; or,

Second. Constitutes the indorsee the agent of the indorser; or,

Third. Vests the title in the indorsee in trust for or to the use of some other person. But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

—rights conferred by.

SEC. 1341. A restrictive indorsement confers upon the indorsee the right—

First. To receive payment of the instrument.

Second. To bring any action thereon that the indorser could bring.

Third. To transfer his rights as such indorsee where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

Qualified indorsement.

SEC. 1342. QUALIFIED INDORSEMENT.—A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse," or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument.

Conditional indorsement.

SEC. 1343. CONDITIONAL INDORSEMENT.—Where an indorsement is conditional, a party required to pay the instrument may disregard the condition and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

Special indorsement, when payable to bearer.

SEC. 1344. SPECIAL INDORSEMENT, WHEN PAYABLE TO BEARER.—Where an instrument payable to bearer is indorsed specially it may, nevertheless, be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.

Joint payees not partners.

SEC. 1345. JOINT PAYEES NOT PARTNERS.—Where an instrument is payable to the order of two or more payees or indorsees who are not partners all must indorse, unless the one indorsing has authority to indorse for the others.

Payable to "cashier."

SEC. 1346. PAYABLE TO CASHIER.—Where an instrument is drawn or indorsed to a person as "cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer, and may be negotiated by either the indorsement of the bank or corporation or the indorsement of the officer.

Payee's name misspelled.

SEC. 1347. PAYEE'S NAME MISSPELLED.—Where the name of a payee or indorsee is wrongly designated or misspelled he may indorse the instrument as therein described, adding, if he think fit, his proper signature.

Indorsement by representative.

SEC. 1348. INDORSEMENT BY REPRESENTATIVE.—Where any person is under obligation to indorse in a representative capacity he may indorse in such terms as to negative personal liability.

Presumption of negotiation before maturity.

SEC. 1349. PRESUMPTION OF NEGOTIATION BEFORE MATURITY.—Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue.

Presumption as to place of making.

SEC. 1350. PRESUMPTION AS TO PLACE OF MAKING.—Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

Negotiable instrument continues such.

SEC. 1351. NEGOTIABLE INSTRUMENT CONTINUES SUCH.—An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

Striking out indorsements.

SEC. 1352. STRIKING OUT INDORSEMENTS.—The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out and all indorsers subsequent to him are thereby relieved from liability on the instrument.

Transfer without indorsing.

SEC. 1353. TRANSFER WITHOUT INDORSING.—Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferrer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferrer. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

Transfer back to prior party.

SEC. 1354. TRANSFER BACK TO PRIOR PARTY.—Where an instrument is negotiated back to a prior party such party may, subject to the provisions of this act, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

Rights of holder.

SEC. 1355. RIGHTS OF HOLDER.—The holder of a negotiable instrument may sue thereon in his own name, and payment to him in due course discharges the instrument.

Who is holder in due course.

SEC. 1356. WHO IS HOLDER IN DUE COURSE.—A holder in due course is a holder who has taken the instrument under the following conditions:

First. That it is complete and regular upon its face.

Second. That he became the holder of it before it was over due, and without notice that it had been previously dishonored, if such was the fact.

Third. That he took it in good faith and for value.

Fourth. That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

—who not.

SEC. 1357. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

Notice before full amount paid.

SEC. 1358. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

Defective title.

SEC. 1359. DEFECTIVE TITLE.—The title of a person who negotiates an instrument is defective within the meaning hereof when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear or other unlawful means, or for any illegal consideration, or when he negotiates it in breach of faith or under such circumstances as amount to a fraud.

—what constitutes notice.

SEC. 1360. NOTICE OF INFIRMITY.—To constitute notice of an infirmity in the instrument, or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect or knowledge of such facts that his action in taking the instrument amounted to bad faith.

Holder in due course free from defenses.

SEC. 1361. HOLDER IN DUE COURSE FREE FROM DEFENSES.—A holder in due course holds the instrument free from any defect of title of prior parties and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

Not held in due course, paper is same as nonnegotiable.

SEC. 1362. NOT HELD IN DUE COURSE, PAPER IS SAME AS NONNEGOTIABLE.—In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were nonnegotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

Who deemed holder in due course, etc.

SEC. 1363. WHAT PRESUMPTION WHEN TRANSFEREE'S TITLE SHOWN DEFECTIVE.—Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder in due course. But the last-mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

Liability of maker.

SEC. 1364. LIABILITY OF MAKER.—The maker of a negotiable instrument, by making it, engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

Liability of drawer.

SEC. 1365. LIABILITY OF DRAWER.—The drawer, by drawing the instrument, admits the existence of the payee and his then capacity to indorse, and engages that on due presentment the instrument will be accepted and paid, or both, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negativing or limiting his own liability to the holder.

Liability of acceptor.

SEC. 1366. LIABILITY OF ACCEPTOR.—The acceptor, by accepting the instrument, engages that he will pay it according to the tenor of his acceptance, and admits—

—admissions.

First. The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

Second. The existence of the payee and his then capacity to indorse.

When person deemed indorser.

SEC. 1367. IRREGULAR INDORSEMENT.—A person placing his signature upon an instrument otherwise than as a maker, drawer, or acceptor is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

Signature in blank by stranger.

SEC. 1368. SIGNATURE IN BLANK BY STRANGER.—Where a person not otherwise a party to an instrument places thereon his signature in blank before delivery he is liable as indorser in accordance with the following rules:

—rules of liability.

First. If the instrument is payable to the order of a third person he is liable to the payee and to all subsequent parties.

Second. If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

Third. If he signs for the accommodation of the payee he is liable to all parties subsequent to the payee.

Warranty where negotiation by delivery.

SEC. 1369. NEGOTIATING BY DELIVERY OR QUALIFIED INDORSEMENT.—Every person negotiating an instrument by delivery or by a qualified indorsement warrants—

First. That the instrument is genuine and in all respects what it purports to be.

Second. That he has a good title to it.

Third. That all prior parties had capacity to contract.

Fourth. That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section do not apply to

persons negotiating public or corporate securities other than bills and notes.

Liability of general indorser.

SEC. 1370. WHAT INDORSER WARRANTS TO SUBSEQUENT HOLDERS.—Every indorser who indorses without qualification warrants to all subsequent holders in due course—

First. The matters and things mentioned in subdivisions one, two, and three of the next preceding section; and,

Second. That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder or to any subsequent indorser who may be compelled to pay it.

Indorsing paper negotiable by delivery.

SEC. 1371. INDORSING PAPER NEGOTIABLE BY DELIVERY.—Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

In what order indorsers liable.

SEC. 1372. IN WHAT ORDER INDORSERS LIABLE.—As respects one another indorsers are liable prima facie in the order in which they indorse, but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally.

Negotiation by agent.

SEC. 1373. NEGOTIATION BY AGENT.—Where a broker or other agent negotiates an instrument without indorsement he incurs all the liabilities prescribed by section thirteen hundred and sixty-nine of this act, unless he discloses the name of his principal and the fact that he is acting only as agent.

Presentment for payment.

—not necessary on principal debtor.

—drawer and indorsers.

SEC. 1374. PRESENTMENT FOR PAYMENT, WHERE TO BE MADE.—Presentment for payment is not necessary in order to charge the person primarily liable on the instrument, but if the instrument is by its terms payable at a special place and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But, except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

When to be made.

SEC. 1375. WHEN TO BE MADE.—Where the instrument is not payable on demand presentment must be made on the day it falls due. Where it is payable on demand presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

What is sufficient presentment.

SEC. 1376. WHAT IS SUFFICIENT.—Presentment for payment to be sufficient must be made—

First. By the holder or by some person authorized to receive payment on his behalf.

Second. At a reasonable hour on a business day.

Third. At a proper place, as herein defined.

Fourth. To the person primarily liable on the instrument, or, if he is absent or inaccessible, to any person found at the place where the presentment is made.

Place of presentment.

SEC. 1377. Presentment for payment is made at the proper place—

First. Where a place of payment is specified in the instrument and it is there presented.

Second. Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented.

Third. Where no place of payment is specified, and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment.

Fourth. In any other case if presented to the person to make pay-

ment wherever he can be found or if presented at his last known place of business or residence.

Instrument must be exhibited.

SEC. 1378. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

Where the instrument payable at a bank.

SEC. 1379. Where the instrument is payable at a bank presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

Where principal debtor is dead.

SEC. 1380. Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative, if such there be, and if, with the exercise of reasonable diligence, he can be found.

Persons liable as partners.

SEC. 1381. Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

Presentment to joint debtors.

SEC. 1382. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

When not required to charge drawer.

SEC. 1383. WHEN NOT REQUIRED TO CHARGE DRAWER OR INDORSER.—Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

—indorser.

SEC. 1384. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented.

Excuses for failure to present.

SEC. 1385. EXCUSES FOR FAILURE.—Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.

When presentment dispensed with.

SEC. 1386. WHEN DISPENSED WITH.—Presentment for payment is dispensed with—

First. Where, after the exercise of reasonable diligence, presentment as required hereby can not be made.

Second. Where the drawee is a fictitious person.

Third. By waiver of presentment, express or implied.

When instrument is dishonored by nonpayment.

SEC. 1387. WHEN INSTRUMENT IS DISHONORED.—The instrument is dishonored by nonpayment when—

First. It is duly presented for payment and payment is refused or can not be obtained; or,

Second. Presentment is excused and the instrument is overdue and unpaid.

Liability of person secondarily liable.

SEC. 1388. RIGHT OF ACTION ON NONPAYMENT.—Subject to the provisions hereof, when the instrument is dishonored by nonpayment an immediate right of recourse to all parties secondarily liable thereon accrues to the holder.

Time of maturity.

SEC. 1389. WHEN NEGOTIABLE INSTRUMENT IS PAYABLE.—Every negotiable instrument is payable at the time fixed therein, without grace. When the day of maturity falls upon Sunday or a holiday the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a

Holidays.

holiday. The following days in each year, namely, the first day of January, commonly called New Year's Day; the twenty-second day of

February, known as Washington's Birthday; the Fourth of July; the thirtieth day of May, commonly called Decoration Day; the first Monday in September, known as Labor's Holiday; the twenty-fifth day of December, commonly called Christmas Day; every Saturday, after twelve o'clock noon; any day appointed or recommended by the President of the United States as a day of public fasting or thanksgiving, and the day of the inauguration of the President, in every fourth year, shall be holidays in the District within the meaning of this section. Whenever any day set apart as a legal holiday shall fall on Sunday, then and in such case the next succeeding day shall be a holiday; and in such cases and in all cases in which a Sunday and a holiday shall fall on successive days all commercial paper falling due on any of said days shall, for all purposes of presenting for payment or acceptance, be deemed to mature and be presentable for payment or acceptance on the next secular or business day succeeding.

—falling on Sunday.

SEC. 1390. Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event the time of payment is determined by excluding the day from which the time is to begin to run and by including the date of payment.

Time, how computed.

SEC. 1391. Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

Where instrument payable at a bank.

SEC. 1392. Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

Payment due course, what constitutes.

SEC. 1393. NOTICE OF DISHONOR.—Except as herein otherwise provided, when a negotiable instrument has been dishonored by nonacceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

Notice of dishonor. —to whom given.

SEC. 1394. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who, upon taking it up, would have a right to reimbursement from the party to whom the notice is given.

—by whom.

SEC. 1395. Notice of dishonor may be given by an agent, either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

—given by an agent.

SEC. 1396. FOR WHOSE BENEFIT.—Where notice is given by or on behalf of the holder it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

—given on behalf of the holder.

SEC. 1397. Where notice is given by or on behalf of a party entitled to give notice it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

—given by party entitled, etc.

SEC. 1398. Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon or he may give notice to his principal. If he give notice to his principal he must do so within the same time as if he were the holder, and the principal, upon the receipt of such notice, has himself the same time for giving notice as if the agent had been an independent holder.

Agent may give notice.

SEC. 1399. FORM OF NOTICE.—A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

When notice sufficient.

SEC. 1400. The notice may be in writing or merely oral, and may be given in any terms which sufficiently identify the instrument and indicate that it has been dishonored by nonacceptance or nonpayment. It may in all cases be given by delivering it personally or through the mails.

Form of notice.

To whom given.

SEC. 1401. TO WHOM GIVEN.—Notice of dishonor may be given either to the party himself or to his agent in that behalf.

—when party dead.

SEC. 1402. WHEN PARTY DEAD.—When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if, with reasonable diligence, he can be found. If there be no personal representatives, notice may be sent to the last residence or last place of business of the deceased.

Notice to partners.

SEC. 1403. PARTNERS.—Where the parties to be notified are partners, notice to any one partner is notice to the firm, even though there has been a dissolution.

Person jointly liable.

SEC. 1404. JOINT PARTIES.—Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

Bankrupts.

SEC. 1405. BANKRUPT, AND SO FORTH.—Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

Time within which notice must be given.

SEC. 1406. MAY BE GIVEN AS SOON AS INSTRUMENT IS DISHONORED.—Notice may be given as soon as the instrument is dishonored; and unless delay is excused, as hereinafter provided, must be given within the time fixed by this act.

When parties reside in same place.

SEC. 1407. WHEN TO BE GIVEN IF HOLDER AND PARTY RESIDE IN SAME PLACE.—Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

First. If given at the place of business of the person to receive notice, it must be given before the close of business hours on the following day.

Second. If given at his residence, it must be given before the usual hours of rest on the day following.

Third. If sent by mail, it must be deposited in the post-office in time to reach him in the usual course on the day following.

—in different places.

SEC. 1408. WHEN IF THEY RESIDE IN DIFFERENT PLACES.—Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

First. If sent by mail, it must be deposited in the post-office in time to go by mail the day following the day of dishonor, or, if there be no mail at a convenient hour on that day, by the next mail thereafter.

Second. If given otherwise than through the post-office, then within the time that notice would have been received in due course of mail if it had been deposited in the post-office within the time specified in the last subdivision.

Mailing notice sufficient.

SEC. 1409. MAILING NOTICE SUFFICIENT.—Where notice of dishonor is duly addressed and deposited in the post-office the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

—deposit in post-office, what constitutes.

SEC. 1410. Notice is deemed to have been deposited in the post-office when deposited in any branch post-office or in any letter box under the control of the Post-Office Department.

Notice to subsequent parties, time of.

SEC. 1411. PARTY NOTIFIED ALLOWED WHAT TIME.—Where a party receives notice of dishonor he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

To what address sent.

SEC. 1412. TO WHAT ADDRESS SENT.—Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

First. Either to the post-office nearest to his place of residence, or to the post-office where he is accustomed to receive his letters; or,

Second. If he live in one place and have his place of business in another, notice may be sent to either place; or,

Third. If he is sojourning in another place, notice may be sent to the place where he is so sojourning.

But where the notice is actually received by the party within the time specified by this act it will be sufficient, though not sent in accordance with the requirements of this section.

Waiver of notice.

SEC. 1413. WAIVER OF NOTICE.—Notice of dishonor may be waived either before the time of giving notice has arrived or after the omission to give due notice, and the waiver may be express or implied.

—who may be affected by.

SEC. 1414. Where the waiver is embodied in the instrument itself it is binding upon all parties, but where it is written above the signature of an indorser it binds him only.

Waiver of protest.

SEC. 1415. WAIVER OF PROTEST.—A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of a formal protest, but also of presentment and notice of dishonor.

When notice dispensed with.

SEC. 1416. WHEN NOTICE DISPENSED WITH.—Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it can not be given to or does not reach the parties sought to be charged.

When delay excused.

SEC. 1417. WHEN DELAY EXCUSED.—Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate notice must be given with reasonable diligence.

When notice not required as to drawer.

SEC. 1418. WHEN NOTICE NOT REQUIRED AS TO DRAWER.—Notice of dishonor is not required to be given to the drawer in either of the following cases:

First. Where the drawer and the drawee are the same person.

Second. Where the drawee is a fictitious person or a person not having capacity to contract.

Third. Where the drawer is the person to whom the instrument is presented for payment.

Fourth. Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument; or,

Fifth. Where the drawer has countermanded payment.

When not required as to indorser.

SEC. 1419. WHEN NOT REQUIRED AS TO INDORSER.—Notice of dishonor is not required to be given to an indorser in either of the following cases:

First. Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument.

Second. Where the indorser is the person to whom the instrument is presented for payment; or,

Third. Where the instrument was made or accepted for his accommodation.

Notice of payment, when not necessary.

SEC. 1420. NOTICE OF NONPAYMENT, WHEN NOT NECESSARY.—Where due notice of dishonor by nonacceptance has been given, notice of a subsequent dishonor by nonpayment is not necessary, unless in the meantime the instrument has been accepted.

Omission to give notice of nonacceptance, effect.

SEC. 1421. OMISSION TO GIVE NOTICE OF NONACCEPTANCE.—An omission to give notice of dishonor by nonacceptance does not prejudice the rights of a holder in due course subsequent to the omission.

Protest on other instruments than foreign bills.

SEC. 1422. PROTEST ON OTHER INSTRUMENTS THAN FOREIGN BILLS.—Where any negotiable instrument has been dishonored it may be protested for nonacceptance or nonpayment, as the case may be; but protest is not required except in the case of foreign bills of exchange.

The original protest of a notary public in the District, under his hand and official seal, of any bill of exchange, check, or order for nonacceptance or nonpayment, or of any promissory note for nonpayment, stating the presentment by him of such bill of exchange, check, order, or promissory note for acceptance or payment and the nonacceptance

or nonpayment thereof, and the service of notice thereof on any of the parties to such bill of exchange, promissory note, or check, and the mode of giving such notice, and the reputed place of business or residence of the party to whom the same was given shall be prima facie evidence of the facts therein contained.

When negotiable instrument discharged.

SEC. 1423. WHEN NEGOTIABLE INSTRUMENT DISCHARGED.—A negotiable instrument is discharged—

First. By payment in due course by or on behalf of the principal debtor.

Second. By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation.

Third. By the intentional cancellation thereof by the holder.

Fourth. By any other act which will discharge a simple contract for the payment of money.

Fifth. When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

When person secondarily liable discharged.

SEC. 1424. WHEN PERSON SECONDARILY LIABLE DISCHARGED.—A person secondarily liable on the instrument is discharged—

First. By an act which discharges the instrument.

Second. By the intentional cancellation of his signature by the holder.

Third. By the discharge of a prior party.

Fourth. By a valid tender of payment made by a prior party.

Fifth. By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved.

Sixth. By an agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable or unless the right of recourse against such party is expressly reserved.

Payment by party secondarily liable not a discharge.

SEC. 1425. PAYMENT BY PARTY SECONDARILY LIABLE NOT A DISCHARGE.—Where the instrument is paid by a party secondarily liable thereon it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements and again negotiate the instrument, except—

First. Where it is payable to the order of a third person and has been paid by the drawer; and,

Second. Where it was made or accepted for accommodation and has been paid by the party accommodated.

Renouncing rights against party.

SEC. 1426. RENOUNCING RIGHTS AGAINST PARTY.—The holder may expressly renounce his rights against any party to the instrument before, at, or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument; but a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

Cancellation unintentionally.

—burden of proof.

SEC. 1427. CANCELLATION.—A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where an instrument or any signature thereon appears to have been canceled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority.

Alteration, effect of.

SEC. 1428. ALTERATION.—Where a negotiable instrument is materially altered without the assent of all parties liable thereon it is avoided, except as against a party who has himself made, authorized, or assented to the alteration and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

SEC. 1429. WHAT IS A MATERIAL ALTERATION.—Any alteration which changes— —what is a material alteration.

First. The date.

Second. The sum payable, either for principal or interest.

Third. The time or place of payment.

Fourth. The number or the relations of the parties.

Fifth. The medium or currency in which payment is to be made.

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect is a material alteration.

SEC. 1430. FORM OF BILL OF EXCHANGE.—A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer. Bills of exchange. Definition.

SEC. 1431. NOT AN ASSIGNMENT OF FUNDS.—A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same. Not an assignment of funds.

SEC. 1432. TO WHOM ADDRESSED.—A bill may be addressed to two or more drawees jointly, whether they are partners or not, but not to two or more drawees in the alternative or succession. Bills addressed to more than one drawee.

SEC. 1433. FOREIGN AND INLAND BILLS.—An inland bill of exchange is a bill which is or on its face purports to be both drawn and payable within this District. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill the holder may treat it as an inland bill. Foreign and inland bills.

SEC. 1434. WHERE DRAWER AND DRAWEE SAME PERSON.—Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note. Where drawer and drawee same person.

SEC. 1435. REFEREE IN CASE OF NEED.—The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need; that is to say, in case the bill is dishonored by nonacceptance or nonpayment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not, as he may see fit. Referee in case of need.

SEC. 1436. ACCEPTANCE.—The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money. Acceptance. —how made.

SEC. 1437. The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill, and if such a request is refused may treat the bill as dishonored. Holder entitled to acceptance on face of bill.

SEC. 1438. Where an acceptance is written on a paper other than the bill itself it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value. Acceptance on separate instrument.

SEC. 1439. ACCEPTANCE BEFORE BILL DRAWN.—An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value. Acceptance before bill drawn.

SEC. 1440. TIME ALLOWED FOR ACCEPTING.—The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation. Time allowed for accepting.

SEC. 1441. ACCEPTANCE, WHEN DEEMED MADE.—Where a drawee to whom a bill is delivered for acceptance destroys the same or refuses Acceptance, when deemed made.

within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or nonaccepted to the holder he will be deemed to have accepted the same.

Acceptance of incomplete bill.

SEC. 1442. WHEN BILL MAY BE ACCEPTED.—A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by nonpayment. But when a bill payable after sight is dishonored by nonacceptance and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

Kinds of acceptance.
—general.

SEC. 1443. FORM OF ACCEPTANCE.—An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

—acceptance to pay at place named general acceptance.

SEC. 1444. ACCEPTANCE TO PAY AT PLACE NAMED.—An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.

Qualified acceptance.

SEC. 1445. QUALIFIED ACCEPTANCE.—An acceptance is qualified which is—

First. Conditional; that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated.

Second. Partial; that is to say, an acceptance to pay part only of the amount for which the bill is drawn.

Third. Local; that is to say, an acceptance to pay only at a particular place.

Fourth. Qualified as to time.

Fifth. The acceptance of some one or more of the drawees, but not of all.

—rights of parties as to.

SEC. 1446. HOLDER NOT BOUND TO TAKE.—The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance he may treat the bill as dishonored by nonacceptance. Where a qualified acceptance is taken, the drawer and indorsers are discharged from liability on the bill unless they have expressly or impliedly authorized the holder to take a qualified acceptance or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must within a reasonable time express his dissent to the holder or he will be deemed to have assented thereto.

Presentment for acceptance.

SEC. 1447. WHEN PRESENTMENT FOR ACCEPTANCE MUST BE MADE.—Presentment for acceptance must be made—

—when to be made.

First. Where the bill is payable after sight, or in any other case where presentment for acceptance is necessary in order to fix the maturity of the instrument; or,

Second. Where the bill expressly stipulates that it shall be presented for acceptance; or,

Third. Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

—consequence of failure.

SEC. 1448. CONSEQUENCE OF FAILURE.—Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fail to do so, the drawer and all indorsers are discharged.

When presentment to be made and to whom.

SEC. 1449. WHEN PRESENTMENT TO BE MADE AND TO WHOM.—Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour on a business day, and before the bill is overdue, to the drawee or some person authorized to accept or refuse acceptance on his behalf; and,

First. Where a bill is addressed to two or more drawees who are not

partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only.

Second. Where the drawee is dead, presentment may be made to his personal representative.

Third. Where the drawee has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

May be made on any day on which payment might be demanded.

SEC. 1450. MAY BE MADE ON ANY DAY ON WHICH PAYMENT MIGHT BE DEMANDED.—A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections thirteen hundred and seventy-six and thirteen hundred and eighty-nine of this act. When Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock noon on that day.

Excuses for delay.

SEC. 1451. EXCUSES FOR DELAY.—Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawers and indorsers.

Excuses for nonpresentment.

SEC. 1452. EXCUSES FOR NONPRESENTMENT.—Presentment for acceptance is excused and a bill may be treated as dishonored by nonacceptance in either of the following cases:

First. When the drawee is dead, or has absconded, or is a fictitious person, or a person not having capacity to contract by bill.

Second. Where after the exercise of reasonable diligence presentment can not be made.

Third. Where, although presentment has been irregular, acceptance has been refused on some other ground.

When bill dishonored by nonacceptance.

SEC. 1453. WHEN BILL DISHONORED BY NONACCEPTANCE.—A bill is dishonored by nonacceptance—

First. When it is duly presented for acceptance and such an acceptance as is prescribed by this Act is refused or can not be obtained; or,

Second. When presentment for acceptance is excused and the bill is not accepted.

Duty of holder where bill not accepted.

SEC. 1454. Where a bill is duly presented for acceptance and is not accepted within the prescribed time, the person presenting it must treat the bill as dishonored by nonacceptance or he loses the right of recourse against the drawer and indorsers.

—rights of.

SEC. 1455. When a bill is dishonored by nonacceptance an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

Protest, when necessary.

SEC. 1456. PROTEST.—Where a foreign bill, appearing on its face to be such, is dishonored by nonacceptance, it must be duly protested for nonacceptance, and where such a bill which has not previously been dishonored by nonacceptance is dishonored by nonpayment it must be duly protested for nonpayment. If it is not so protested the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary.

—form.

SEC. 1457. FORM.—The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify—

First. The time and place of presentment.

Second. The fact that presentment was made, and the manner thereof.

Third. The cause or reason for protesting the bill.

Fourth. The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

—by whom made.

SEC. 1458. BY WHOM.—Protest can be made by—

First. A notary public; or,

Second. By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

—when made.

SEC. 1459. WHEN TO BE MADE.—When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

—where made.

SEC. 1460. WHERE MADE.—A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonored by nonacceptance it must be protested for nonpayment at the time when it is expressed to be payable, and no further presentment for payment to or demand on the drawee is necessary.

Protest for nonacceptance and nonpayment.

SEC. 1461. BILL MAY BE PROTESTED FOR BOTH NONACCEPTANCE AND NONPAYMENT.—A bill which has been protested for nonacceptance may be subsequently protested for nonpayment.

Protest for better security.

SEC. 1462. PROTEST FOR BETTER SECURITY.—Where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

When dispensed with.

SEC. 1463. WHEN DISPENSED WITH.—Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the bill must be noted or protested with reasonable diligence.

When bill lost.

SEC. 1464. WHEN BILL LOST, AND SO FORTH.—Where a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

Acceptance for honor.
—when made.

SEC. 1465. ACCEPTANCE FOR HONOR.—Where a bill of exchange has been protested for dishonor by nonacceptance or protested for better security and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for part only of the sum for which the bill is drawn, and where there has been an acceptance for honor for one party there may be a further acceptance by a different person for the honor of another party.

—how made.

SEC. 1466. An acceptance for honor supra protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

When deemed for honor of the drawer.

SEC. 1467. Where an acceptance for honor does not expressly state for whose honor it is made it is deemed to be an acceptance for the honor of the drawer.

Liability of acceptor.

SEC. 1468. LIABILITY OF ACCEPTOR FOR HONOR.—The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

Agreement of acceptor.

SEC. 1469. The acceptor for honor by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance, provided it shall not have been paid by the drawee, and provided, also, that it shall have been duly presented for payment and protested for nonpayment and notice of dishonor given to him.

Maturity of bill payable after sight.

SEC. 1470. Where a bill payable after sight is accepted for honor its maturity is calculated from the date of the noting for nonacceptance and not from the date of the acceptance for honor.

Protest.

SEC. 1471. Where a dishonored bill has been accepted for honor supra protest, or contains a reference in case of need, it must be

protested for nonpayment before it is presented for payment to the acceptor for honor or referee in case of need.

Presentment for payment to acceptor, how made.

SEC. 1472. Presentment for payment to the acceptor for honor must be made as follows:

First. If it is to be presented in the place where the protest for nonpayment was made it must be presented not later than the day following its maturity.

Second. If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section fourteen hundred and eight.

—excused, when.

SEC. 1473. EXCUSED, WHEN.—The provisions of section thirteen hundred and eighty-five apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

Must be protested for nonpayment.

SEC. 1474. MUST BE PROTESTED FOR NONPAYMENT.—When the bill is dishonored by the acceptor for honor it must be protested for nonpayment by him.

Payment for honor, —who may make.

SEC. 1475. PAYMENT FOR HONOR.—Where a bill has been protested for nonpayment any person may intervene and pay it supra protest for the honor of any person liable thereon, or for the honor of the person for whose account it was drawn.

—how made.

SEC. 1476. The payment for honor supra protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honor, which may be appended to the protest or form an extension to it.

Declaration of payment for honor.

SEC. 1477. The notarial act of honor must be founded on a declaration made by the payer for honor, or by his agent in that behalf, declaring his intention to pay the bill for honor and for whose honor he pays.

Preference to parties offering to pay.

SEC. 1478. Where two or more persons offer to pay a bill for the honor of different parties the person whose payment will discharge most parties to the bill will be given the preference.

Effect on subsequent parties where bill paid for honor.

SEC. 1479. Where a bill has been paid for honor all parties subsequent to the party for whose honor it is paid are discharged; but the payer for honor is subrogated for and succeeds to both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

Where holder refuses to receive payment supra protest.

SEC. 1480. Where the holder of a bill refuses to receive payment supra protest he loses his right of recourse against any party who would have been discharged by such payment.

Rights of payer for honor.

SEC. 1481. The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

Bills in sets. —constitute one bill.

SEC. 1482. BILLS IN A SET.—Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitute one bill.

Where parts come to different holders.

SEC. 1483. WHERE PARTS COME TO DIFFERENT HOLDERS.—Where two or more parts of a set are negotiated to different holders in due course the holder whose title first accrues is, as between such holders, the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Liability of holder who indorses two or more parts to different persons.

SEC. 1484. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

Acceptance.

SEC. 1485. HOW ACCEPTED AND LIABILITY OF ACCEPTOR.—The acceptance may be written on any part, and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

Payment by acceptor.

SEC. 1486. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

Effect of discharging one set.

SEC. 1487. Except as herein otherwise provided, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

Promissory notes and checks. Definitions.

SEC. 1488. PROMISSORY NOTES AND CHECKS.—A negotiable promissory note, within the meaning hereof, is an unconditional promise in writing, made by one person to another, signed by the maker, engaging to pay on demand or at a fixed or determinable future time a sum

—promissory notes.

certain in money to order or to bearer. Where a note is drawn to the maker's own order it is not complete until indorsed by him.

—check.

SEC. 1489. A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions hereof applicable to a bill of exchange payable on demand apply to a check.

—when check must be presented for payment.

SEC. 1490. WHEN CHECK MUST BE PRESENTED FOR PAYMENT.—A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

—certifying check, effect.

SEC. 1491. CERTIFYING CHECK.—Where a check is certified by the bank on which it is drawn the certification is equivalent to an acceptance.

—procured by holder, effect.

SEC. 1492. DRAWER AND INDORSERS DISCHARGED.—Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon.

Check not an assignment of funds.

SEC. 1493. CHECK NOT AN ASSIGNMENT OF FUNDS.—A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder unless and until it accepts or certifies the check.

CHAPTER FORTY-SEVEN.

PARTNERS.

Partners.

Composition with individual member of a firm.

SEC. 1494. COMPOSITION WITH CREDITORS ON DISSOLUTION.—Where a partnership is dissolved, by mutual consent or otherwise, any partner may make a separate composition or compromise with any creditor of the partnership; and such composition or compromise shall be a full and effectual discharge to the debtor who makes the same, and to him only, of and from all and every liability to the creditor with whom the same is made, according to the terms thereof.

—memorandum exonerating partner from liability.

SEC. 1495. Every such debtor who makes such composition or compromise may take from the creditor with whom he makes the same a note or memorandum, in writing, exonerating him from all and every individual liability incurred by reason of his connection with the partnership, which note or memorandum may be given in evidence by such debtor, in bar of such creditor's right of recovery against him; and if such liability be by judgment, then, on the production and filing with the clerk of the notes or memorandum, the clerk shall enter the judgment as released by the plaintiff as far as the compromising debtor is concerned.

—other partners not discharged, etc.

SEC. 1496. Such compromise or composition with an individual member of a firm shall not be held to discharge the other partners, nor shall it impair the right of the creditor to proceed against such members of the partnership as have not been discharged; and the members of the partnership so proceeded against shall be permitted to set off any demand against the creditor which could have been set off had the suit been brought against all the individuals composing the firm.

Nor shall the compromise or discharge of an individual member of a firm prevent the other members of the firm from availing themselves of any defense that would have been available had this chapter not been passed, except that they shall not set up the discharge of one individual as a discharge of the other partners, unless it appear that all were intended to be discharged; but the discharge of any such partner shall be deemed a payment to the creditor equal to the proportionate interest of the partner discharged in the partnership concern.

—partner's liability for partnership debts.

SEC. 1497. Such compromise or composition of a member of a firm with a creditor of such firm shall in no wise affect the right of the other partners to call on the member who makes it for his ratable proportion of any partnership debt which they may be compelled to pay.

Limited partnerships.

SEC. 1498. LIMITED PARTNERSHIPS.—Limited partnerships for the transaction of any mercantile, mechanical, or manufacturing business within the District may be formed by two or more persons upon the terms, with the rights and powers, and subject to the conditions and liabilities prescribed in this chapter.

—of whom composed.

SEC. 1499. Such partnership may consist of one or more persons, who shall be called general partners and who shall be jointly and severally responsible as general partners are by law, and of one or more persons who shall contribute, in actual cash payments, a specific sum as capital to the common stock, who shall be called special partners.

Number of special partners.

SEC. 1500. NUMBER.—The number of special partners shall in no partnership exceed six.

—liability.

SEC. 1501. LIABILITY.—The special partners shall not be liable for the debts of the partnership beyond the fund contributed by them to the capital.

Certificate of.

SEC. 1502. CERTIFICATE TO BE SIGNED.—Persons desirous of forming a limited partnership shall make and severally sign a certificate, which shall contain—

First. The name or firm under which such partnership is to be conducted.

Second. The general nature of the business intended to be transacted.

Third. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their respective places of residence.

Fourth. The amount of capital which each special partner shall have contributed to the common stock.

Fifth. The period at which the partnership is to commence and the period at which it is to terminate.

Acknowledgment and recording.

SEC. 1503. ACKNOWLEDGMENT AND RECORDING.—The certificate shall be acknowledged by the several persons signing the same before a judge of any court in the District, or before any notary public, and such acknowledgments shall be made and certified in the same manner as the acknowledgments of deeds of land, and when so acknowledged and certified shall be filed in the office of the clerk of the supreme court of the District, and shall be recorded by him at large in a book kept for that purpose, open to public inspection.

Affidavits.

SEC. 1504. AFFIDAVITS.—At the time of filing the original certificate, with the evidence of the acknowledgment thereof, as directed in the preceding section, an affidavit of one or more of the general partners shall also be filed therewith in the same office, stating that the sums specified in the certificate to have been contributed by each of the special partners to the common stock have been actually and in good faith paid in cash.

Partnership formed only after filing, etc., certificate, etc.

SEC. 1505. No such partnership shall be deemed to have been formed until a certificate shall have been made, acknowledged, filed, and recorded, nor until an affidavit shall have been made and filed, as directed by the three preceding sections.

False statements in certificate.

SEC. 1506. FALSE STATEMENTS.—If any false statement, not the result of accident or mistake, shall be made in the certificate or affidavit required by the preceding sections of this chapter, all the persons interested in the partnership shall be liable for all the engagements of such partnership as general partners.

Publication.

SEC. 1507. PUBLICATION.—The partners shall publish the terms of the partnership, when registered, three times a week for at least four weeks immediately after such registry in two newspapers to be designated by the clerk of the supreme court of the District, the first publication to appear within one week after the registry.

—effect want of publication.

SEC. 1508. If the publication prescribed in the preceding section be not made, the partnership shall be deemed general.

Affidavits of publication.

SEC. 1509. The affidavits of the publication of the notice required by section fifteen hundred and seven by the editor or publishers of the newspapers in which the same shall have been published shall be filed with the clerk directing the same, and shall be prima facie evidence of the facts therein contained, the affidavit of any one editor or publisher of each newspaper being sufficient.

Renewal of partnership to be certified, etc.

SEC. 1510. RENEWAL OF PARTNERSHIP.—Every renewal or continuance of a partnership beyond the time originally fixed for its duration shall be certified, acknowledged, and recorded, and an affidavit of a general partner be made and filed, and notice be given in the manner required by the provisions of this chapter for its original formation.

—otherwise deemed a general partnership.

SEC. 1511. Every partnership which shall be renewed and continued otherwise than as provided in this chapter shall be deemed a general partnership.

What shall be a dissolution.

SEC. 1512. WHAT SHALL BE A DISSOLUTION.—Every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership.

Effect of certain acts.

SEC. 1513. EFFECT OF CERTAIN ACTS.—Every partnership which shall in any manner be carried on after any such alteration shall have been made shall be deemed a general partnership, unless renewed as a special partnership under the provisions of section fifteen hundred and ten.

Name to be used.

SEC. 1514. NAME TO BE USED.—The business of the partnership may be conducted under the name of any one or more of the general partners, and with or without the addition of the word Co. or company, as the parties may determine.

What names to be used in suits.

SEC. 1515. WHAT NAMES TO BE USED IN SUITS.—In any action or suit brought on any contract or engagement of the partnership, or to enforce any liability of the same, the general partners whose names shall be used in the firm or business shall be the only necessary defendants; and any judgment or decree recovered against such defendants shall have the same legal effect and operation and execution thereon shall be enforced and have like effect against the partnership assets as if the judgment or decree had been recovered against the general partners.

When special deemed general partner.

SEC. 1516. If the name of any special partner shall be used in the firm with his privity, he shall be deemed a general partner.

Who to transact business.

SEC. 1517. WHO TO TRANSACT BUSINESS.—The general partners only shall transact the business, and if a special partner shall interfere contrary to this provision he shall be deemed a general partner, but he may from time to time examine into the state and progress of the partnership concerns and advise as to their management.

Withdrawal of capital.

SEC. 1518. WITHDRAWAL OF CAPITAL—No part of the sum which any special partner shall have contributed to the capital stock shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits, or otherwise, during the continuance of the partnership,

but any partner may annually receive lawful interest on the sum so contributed by him if the payment of such interest shall not reduce the original amount of such capital; and if after payment of such interest any profits shall remain to be divided, he may also receive his portion of such profits.

Reduction of capital.

SEC. 1519. REDUCTION OF CAPITAL.—If it shall appear that by the payment of interest or profits to any special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital, with interest, on being notified thereof.

Assignment with preferences.

SEC. 1520. ASSIGNMENT WITH PREFERENCES.—Every sale, assignment, or transfer of any property or effects of a partnership, or of any general partner, made by such partnership or general partner when insolvent or in contemplation of insolvency, or after or in comtemplation of the insolvency of any general partner, with the intent of giving preference to any creditor of such partnership or insolvent partner, and every judgment confessed, lien created, or security given by such partnership or general partner under the like circumstances and with the like intent, shall be void as against the creditors of such partnership.

—penalty, special partner.

SEC. 1521. Every special partner who shall violate any of the provisions of the two preceding sections, or who shall concur in or assent to any such violation by the partnership or by any individual partner, shall be liable as a general partner.

No partner to claim before creditors are paid.

SEC. 1522. NO PARTNER TO CLAIM BEFORE CREDITORS ARE PAID.—In case of the insolvency or bankruptcy of a partnership no special partner shall, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership shall be satisfied.

When suits to be against general partners only.

SEC. 1523. SUITS TO BE AGAINST GENERAL PARTNERS ONLY, IN WHAT CASES.—All suits respecting the business of the partnership shall be brought by and against the general partners only, subject to the provisions of section fifteen hundred and fifteen, except in those cases in which provision is made in this chapter that special partners shall be deemed general partners and special partnerships general partnerships, in which cases all persons so becoming general partners may be joined with those originally general partners in any suit brought against such partnerships.

—when brought against general and special partners; latter discovered not to be suable, etc.

SEC. 1524. If, in any case or suit brought against general and special partners, it shall appear at the trial of the case that the special partners or any one of them are not liable to the suit of the plaintiff, the court may proceed to judgment or decree against the partners who may appear to be liable, in the same manner as if such partners were the only parties defendant to the suit, excepting that the partners who may be deemed not liable shall recover their legal costs against the plaintiffs.

Suit against special partner becoming liable after judgment against general partners.

SEC. 1525. If, in any case or suit brought against general and special partners, the creditor shall recover a judgment or obtain a decree against the general partners only, and shall afterward discover that special partners, or some one or more of them, have become liable as general partners, he may bring a new suit against such special partner or partners.

—force of judgments, etc.

SEC. 1526. In the suits mentioned in the two preceding sections the judgment recovered shall be prima facie evidence of the amount due by the partnerships, and the partnership debt shall not be merged in any judgment or decree recovered or obtained against any partner or partners as against any other partner or partners.

Voluntary dissolution.

SEC. 1527. VOLUNTARY DISSOLUTION.—No dissolution of such partnership by act of the partners shall take place previous to the time specified in the certificate of its formation, or in the certificate of its renewal, unless in consequence of the death of one of the partners or

insolvency of the partnership or of one of the general partners, nor until a notice of such dissolution shall have been filed and recorded in the office of the clerk of the supreme court of the District, and published once a week for four weeks in two newspapers to be designated by the clerk, which publication may be proved by affidavit, and recorded as hereinbefore prescribed for the publication of the certificate for the formation of such partnership.

Liability of the general partners to each other, etc.

SEC. 1528. LIABILITY OF THE GENERAL PARTNERS.—The general partners shall be liable to account to each other and to the special partners for the management of the concern, both at law and in equity.

CHAPTER FORTY-EIGHT.

PAYMENT OF MONEY INTO COURT.

Payment of money into court.

In what cases.

SEC. 1529. IN WHAT CASES.—In any personal action the defendant may pay into court a sum of money on account of what is claimed by the plaintiff, or by way of compensation or amends, with costs to the time of such payment, and plead that he is not indebted to the plaintiff (or that the plaintiff has not sustained damages) to a greater amount than said sum.

—right of plaintiff.

SEC. 1530. RIGHT OF PLAINTIFF.—The plaintiff may accept the said sum, either in full satisfaction or in part satisfaction, and reply to the plea generally, and if issue thereon be found for the defendant judgment shall be given for the defendant and he shall recover his costs.

Defendant's right on claim by third party.

SEC. 1531. DEFENDANT'S RIGHT ON CLAIM BY THIRD PARTY.—Upon affidavit by the defendant, in an action upon contract or for the recovery of personal property, that a third party, without collusion with him, has or makes claim to the subject of the action, and that he, the defendant, is ready to pay or dispose of the same as the court may direct, the court may make an order for the safe-keeping or for the payment or deposit in court of the subject of the action, or the delivery thereof to such person as it may direct, and also an order requiring such third party to appear in a reasonable time and maintain or relinquish his claim against the defendant; and if said third party, having been served with a copy of the order by the marshal, fail to appear the court may declare him barred of all claim in respect to the subject of the action against the defendant therein; but if he appear he shall be allowed to make himself defendant in the action in lieu of the original defendant, who shall be discharged from all liability to either of the other parties in respect to the subject of the action on his compliance with the order of the court for the payment, deposit, or delivery thereof.

—appearance, etc., of third party.

CHAPTER FORTY-NINE.

PLEADINGS AND PRACTICE IN RELATION THERETO.

Pleadings and practice in relation thereto.

Joinder of claims.

SEC. 1532. JOINDER OF CLAIMS.—The plaintiff may join in his declaration in debt, in separate counts, different claims for liquidated amounts due him, whether founded on judgment, specialty, or simple contract, and also claims for unliquidated damages for breach of contract, whether growing out of specialties or simple contract. He may also join in his declaration in trespass, in separate counts, different claims for damages for torts, whether committed with force or not. He shall not be allowed to join in the same declaration counts sounding in tort and counts sounding in contract.

Waiver of demurrer.

SEC. 1533. WAIVER OF DEMURRER.—In all cases, civil or criminal, in which any or either party shall demur to any indictment, declara-

tion, or other pleading of the adverse party, and said demurrer shall be overruled, the party demurring shall have the right to plead over, by traverse or otherwise, without waiving his said demurrer; and upon appeal shall have the right to insist upon his demurrer and have the benefit thereof as fully as if he had not pleaded over.

Non est factum.

SEC. 1534. NON EST FACTUM.—No plea of nón est factum shall be received unless it be verified by the oath of the party tendering the same, or unless the defendant, being heir, executor, or administrator of the person alleged to have made the deed, obtain leave of the court, upon just cause shown, to put in such plea without verification.

Plaintiff's official character, how denied.

SEC. 1535. PLAINTIFF'S OFFICIAL CHARACTER, HOW DENIED.—If either party wishes to deny the right of any other party to claim as executor, or as trustee, or in other representative capacity, or as a corporation, he shall deny the same specially under oath.

CHAPTER FIFTY.

PROCESS.

Process.

Summons.

SEC. 1536. SUMMONS.—In all common-law civil suits and actions in the District of Columbia the process for compelling the defendant's appearance shall be a summons in the following form:

—form.

SUMMONS.

In the supreme court of the District of Columbia.

A B, plaintiff,
versus
C D, defendant.
} At law. Number....

The President of the United States to the defendant, ..., greeting:

You are hereby summoned to appear in this court on or before the twentieth day, exclusive of Sundays and legal holidays, after the day of service of this writ upon you, to answer the plaintiff's suit and show why he should not have judgment against you for the cause of action stated in his declaration; and in case of your failure so to appear and answer, judgment will be given against you by default.

Witness the honorable ....., chief justice of said court, the ..... day of ....., anno Domini ....

——— ———, Clerk,
By ——— ———, Assistant Clerk.

Service on foreign corporations.

SEC. 1537. SERVICE ON FOREIGN CORPORATIONS.—In actions against foreign corporations doing business in the District all process may be served on the agent of such corporation or person conducting its business, or, in case he is absent and can not be found, by leaving a copy at the principal place of business in the District, or, if there be no such place of business, by leaving the same at the place of business or residence of such agent in said District, and such service shall be effectual to bring the corporation before the court.

CHAPTER FIFTY-ONE.

QUO WARRANTO.

Quo warranto.

Against whom issued.

SEC. 1538. AGAINST WHOM ISSUED.—A quo warranto may be issued from the supreme court of the District in the name of the United States—

First. Against a person who usurps, intrudes into, or unlawfully holds or exercises within the District a franchise or public office, civil or military, or an office in any domestic corporation.

Second. Against any one or more persons who act as a corporation within the District without being duly authorized, or exercise within the District any corporate rights, privileges, or franchises not granted them by the laws in force in said District.

And said proceedings shall be deemed a civil action.

Who may institute.

SEC. 1539. WHO MAY INSTITUTE.—The Attorney-General or the district attorney may institute such proceeding on his own motion, or on the relation of a third person. But such writ shall not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified, setting forth the grounds of the application, or until the relator shall file a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court may prescribe, conditioned for the payment by him of all costs incurred in the prosecution of the writ in case the same shall not be recovered from and paid by the defendant.

If Attorney-General and district attorney refuse.

SEC. 1540. IF ATTORNEY-GENERAL AND DISTRICT ATTORNEY REFUSE.—If the Attorney-General and district attorney shall refuse to institute such proceeding on the request of a person interested, such person may apply to the court by verified petition for leave to have said writ issued; and if in the opinion of the court the reasons set forth in said petition are sufficient in law, the said writ shall be allowed to be issued by any attorney, in the name of the United States, on the relation of said interested person, on his compliance with the condition prescribed in the last section as to security for costs.

Relator claiming office.

SEC. 1541. RELATOR CLAIMING OFFICE.—When such proceeding is against a person for usurping an office, on the relation of a person claiming the same office, the relator shall set forth in his petition the facts upon which he claims to be entitled to the office.

Notice to defendant.

SEC. 1542. NOTICE TO DEFENDANT.—On the issuing of the writ the clerk may fix a time within which the defendant may appear and answer the same. If the defendant can not be found in the District, the court may direct notice to be given to him by publication as in other cases of proceedings against nonresident defendants, and upon proof of publication, if the defendant shall not appear, judgment may be rendered as if he had been personally served.

Nonappearance after service by publication.

—after personal service.

SEC. 1543. If the defendant shall not appear as required by the writ, after being personally served, the court may proceed to hear proof in support of the writ, and render judgment accordingly.

Pleading.

SEC. 1544. PLEADING.—The defendant may demur or plead specially or plead "Not guilty" as the general issue, and the United States may reply as in other actions of a civil character; and any issue of fact shall be tried by a jury if either party shall require it, otherwise it shall be determined by the court.

Verdict.

SEC. 1545. VERDICT.—Where the defendant is found by the jury to have usurped or intruded into or unlawfully held or exercised an office or franchise, the verdict shall be that he is guilty of the act or acts in question, and judgment shall be rendered that he be ousted and excluded therefrom and that the relator recover his costs.

Usurping corporate franchise.

SEC. 1546. USURPING CORPORATE FRANCHISE.—Where the proceeding is against persons acting as a corporation without being legally incorporated, the judgment against the defendants shall be that they be perpetually restrained and enjoined from the commission or continuance of the acts complained of.

Elections of directors, etc.

SEC. 1547. ELECTIONS OF DIRECTORS, AND SO FORTH.—Where the proceeding is against a director or trustee of a corporation and the court finds that at his election either illegal votes were received or legal votes rejected, or both, sufficient to change the result if such error be corrected, judgment may be rendered that the defendant be ousted, and that the relator, if entitled to be declared elected, be admitted to the office, and a mandamus may be issued to the proper parties, being officers or members of said corporation, to admit him to

said office. The said judgment may require the defendant to deliver to the relator all books, papers, and other things in his custody or control pertaining to the said office, and obedience to said judgment may be enforced by attachment.

Action against intruder for damages.

SEC. 1548. ACTION AGAINST INTRUDER FOR DAMAGES.—At any time within a year after such judgment the said relator may bring an action against the party ousted and recover the damages sustained by him by reason of such usurpation of the office to which he was entitled.

CHAPTER FIFTY-TWO.

REPLEVIN.

Replevin.

Not necessary to demand property before action, etc.

SEC. 1549. WILL LIE FOR WHAT.—In any action of replevin brought to recover any personal property to which the plaintiff is entitled, which may have been wrongfully taken by or may be in the possession of and wrongfully detained by the defendant, it shall not be necessary to demand possession of said property before bringing the action therefor; but in such cases the costs of the action shall be awarded as the court may order.

Declaration.

SEC. 1550. DECLARATION.—The declaration in replevin shall be in the following or equivalent form: "The plaintiff sues the defendant for (wrongly taking and detaining) (unjustly detaining) his, said plaintiff's, goods and chattels, to wit: (describe them) of the value of ——— dollars. And the plaintiff claims that the same be taken from the defendant and delivered to him; or, if they are eloigned, that he may have judgment of their said value and all mesne profits and damages, which he estimates at ——— dollars, besides costs."

Affidavit.

SEC. 1551. AFFIDAVIT.—At the time of filing the declaration in replevin, the plaintiff, his agent, or attorney shall file an affidavit stating—

First. That, according to affiant's information and belief, the plaintiff is entitled to recover possession of chattels proposed to be replevied, being the same described in the declaration.

Second. That the defendant has seized and detained or detains the same.

Third. That said chattels were not subject to such seizure or detention and were not taken upon any writ of replevin.

Undertaking.

SEC. 1552. UNDERTAKING.—The plaintiff shall at the same time enter into an undertaking with surety, approved by the clerk, to abide by and perform the judgment of the court in the premises.

If goods not seized.

SEC. 1553. IF GOODS NOT SEIZED.—If the officer's return of the writ of replevin be that he has served the defendant with copies of the declaration, notice to plead, and summons, but that he could not get possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the same and damages for detention, or he may renew the writ in order to get possession of the goods and chattels themselves.

Publication against defendant.

SEC. 1554. PUBLICATION AGAINST DEFENDANT.—If the officer's return be that he has taken possession of the goods and chattels sued for, but that the defendant is not to be found, the court may order that the defendant appear to the action by some fixed day; and of this order the plaintiff shall cause notice to be given by publication in some newspaper of the District at least three times, the first of which shall be at least twenty days before the day fixed for the defendant's appearance.

Default.

SEC. 1555. DEFAULT.—If the defendant fails to appear, the court may proceed as in case of default after personal service.

Pleading.

SEC. 1556. PLEADING.—If the defendant appear he may plead not guilty, in which case all special matters of defense may be given in evidence, or he may plead specially.

Motion for return of property.

SEC. 1557. MOTION FOR RETURN.—On the taking possession of the goods and chattels by the marshal, by virtue of the writ of replevin, the defendant may, on one day's notice to the plaintiff or his attorney, move for a return of the property to his possession; and the court may thereupon inquire into the circumstances and manner of the defendant's obtaining possession of such property, and if it shall seem just may order the property to be returned to the possession of the defendant, to abide the final judgment in the action, and may, in its discretion, require the defendant to enter into an undertaking, with surety or sureties, similar to that required of the plaintiff upon the commencement of the action, and in such case a judgment for the plaintiff shall be rendered against the surety or sureties, as well as against the defendant. If it shall appear that the possession of the property was forcibly or fraudulently obtained by the defendant, or that the possession, being first in the plaintiff, was procured or retained by the defendant without authority from the plaintiff, the court may refuse to order the return. The defendant may also, on similar notice, object to the sufficiency of the security in the undertaking, and the court may require additional security, in default of which the property shall be returned to the defendant, but the action may proceed as if the property had not been taken.

Officer's duty when notified of impending motion.

SEC. 1558. OFFICER'S DUTY.—If the defendant shall notify the officer taking possession of the property, in writing, of his intention to make either of the motions aforesaid, it shall be the duty of the officer to retain possession of the property until said motion shall be disposed of, provided that the same shall be filed and notice given, as aforesaid, to the plaintiff, or his attorney, within two days thereafter.

Damages.

SEC. 1559. DAMAGES.—Whether the defendant plead and the issue thereon joined is found against him, or his plea is held bad on demurrer, or he makes default after personal service or after publication, the plaintiff's damages shall be ascertained by the jury trying the issue, where one is joined, or by a jury of inquest, where there is no issue of fact, and the damages shall be the full value of the goods, if eloigned by the defendant, including, in every case, the loss sustained by the plaintiff by reason of the detention, and judgment shall pass for the plaintiff accordingly.

Judgment for defendant.

SEC. 1560. JUDGMENT FOR DEFENDANT.—If the issue be found for the defendant, or the plaintiff dismiss or fail to prosecute his suit, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant with damages, or, on failure, that the defendant recover against the plaintiff and his surety the damages by him sustained, to be assessed by the jury trying the issue; or, where the plaintiff dismisses or fails to prosecute his suit, by the jury of inquest.

—where defendant has eloigned things sued for.

SEC. 1561. If the defendant has eloigned the things sued for the court may instruct the jury, if they find for the plaintiff, to assess such damages as may compel the defendant to return the things.

Judgment for plaintiff.

SEC. 1562. JUDGMENT FOR PLAINTIFF.—The judgment in such cases shall be that the plaintiff recover against the defendant the value of the goods as found and the damages so assessed, to be discharged by the return of the things, within ten days after the judgment, with damages for detention, which the jury shall also assess.

CHAPTER FIFTY-THREE.

SET-OFF.

Set-off.

What can be set-off.

SEC. 1563. WHAT CAN BE SET-OFF.—Mutual debts and claims under contract between the parties to a common-law action, or between one party and the testator or intestate of the other, or between the testators or intestates of both parties, may be set off against each other by plea in bar, whether said debts or claims be of the same or a different

nature or degree, and whether the claims be for liquidated debts or unliquidated damages for breach of contract; and if either debt be in the form of the penalty of a bond the exact sum to be set off shall be stated in the plea.

Form of plea.

SEC. 1564. FORM OF PLEA.—The plea of set-off may be as follows: That the plaintiff, at the commencement of the suit, was, and still is, indebted to the defendant in the sum of ..... dollars, for that, and so forth, as appears by the particulars of said indebtedness hereunto annexed; and defendant is willing that the same may be set off against the plaintiff's demand.

Set-off an action by defendant.

SEC. 1565. SET-OFF AN ACTION BY DEFENDANT.—A defendant who files a plea of set-off, founded on a claim against the plaintiff, shall be deemed to have brought an action at the time of filing such plea against the plaintiff for the matters mentioned in the plea; but it shall not be necessary that the amount of the claim so sought to be set off shall be such that the court would have jurisdiction of an original action to recover the same; and the plaintiff shall not thereafter be allowed to dismiss his suit without the consent of the defendant, but the defendant shall be entitled to a trial of and judgment upon his claim, but the same shall be open to the same defenses to which it would be open in an action brought by him thereon; and on the trial of an issue on said plea of set-off judgment shall be rendered for the balance found due, whether to the plaintiff or to the defendant, with costs: *Provided*, That nothing herein contained shall be construed to enlarge the jurisdiction of justices of the peace so as to authorize any judgment by any such justice in excess of three hundred dollars.

Proviso.
—jurisdiction of justices of the peace not enlarged.

Effect of assignment.

SEC. 1566. EFFECT OF ASSIGNMENT.—When cross demands have existed between persons under such circumstances that if one had brought an action against the other a counterclaim or set-off could have been pleaded, neither can be deprived of the benefit thereof by an assignment by the other; but in an action by the assignee of any nonnegotiable debt the defendant may set off any indebtedness to him of the assignor, existing before notice of the assignment, as well as any indebtedness to him of the plaintiff.

Set-off as to part.

SEC. 1567. SET-OFF AS TO PART.—If the defendant's plea of set-off covers or applies to only part of the plaintiff's demand judgment may be forthwith rendered for the part not controverted and the costs accrued until the filing of the plea, and the case shall be proceeded with for the residue as if the part for which judgment was rendered had not been included therein.

Action against principal and sureties.

SEC. 1568. ACTION AGAINST PRINCIPAL AND SURETIES.—In an action against principal and sureties an indebtedness of the plaintiff to the principal may be set off as if he were the sole defendant, and in such case, if the indebtedness so set off shall exceed the plaintiff's demand, the judgment for the excess shall be in favor of the defendant, who is sued as principal.

Action by trustee.

SEC. 1569.—ACTION BY TRUSTEE.—If the plaintiff is trustee for another, or has no actual interest in the contract on which the action is founded, a demand against the plaintiff shall not be pleaded by way of set-off, but a demand against the person whom he represents or for whose benefit the action is brought may be pleaded.

Action by or against executor, etc.

SEC. 1570. ACTION BY OR AGAINST EXECUTOR, AND SO FORTH.—In an action against an executor or administrator, in his representative capacity, the defendant may plead, by way of set-off, a demand belonging to the decedent where he would have been entitled to rely upon the same in an action against him; and in an action brought by an executor or administrator, in his representative capacity, a demand against the decedent, belonging at the time of his death to the defendant, may be pleaded by way of set-off, as if the action had been brought by the decedent in his lifetime.

Setting off judgments.

SEC. 1571. SETTING OFF JUDGMENTS.—Where reciprocal claims between different parties have passed into judgments the court may, on motion, in its discretion, order that the judgments shall be set off against each other and satisfaction of both be entered to the amount of the smaller claim.

CHAPTER FIFTY-FOUR.

Sureties.

SURETIES.

Counter security.

SEC. 1572. COUNTER SECURITY.—When the surety, or his personal representatives, of any officer, commissioner, receiver, or trustee appointed under a decree of court and required to give bond shall apprehend himself to be in danger of suffering from the suretyship and shall petition the court to be relieved from the suretyship, or that the court shall require said officer, commissioner, receiver, or trustee to give counter security, the court may, on reasonable notice to the trustee or other officer, require him to give counter security or to give a new bond in the same manner as if none had been given by him, and on his failure so to do by a day named may remove him from his office or trust and appoint a new trustee or other officer in his stead to complete the duties of his office or trust, and may thereupon order him to deliver over to his successor all the trust property, including moneys, books, papers, bonds, notes, and evidences of debt, and may compel compliance with said order by attachment.

Surety or indorser paying judgment against principal and himself to have recourse against principal.

SEC. 1573. JUDGMENTS AGAINST.—Where any person shall recover a judgment or money decree against the principal debtor and a surety or indorser, and the judgment shall be satisfied by the surety or indorser, the latter shall be entitled to have the judgment or money decree entered by the clerk to his use and to have execution in his own name against the principal, and where any judgment or money decree shall be rendered against several sureties and one of them shall satisfy the whole debt, the said surety shall be entitled to have the judgment or decree entered to his use, as aforesaid, and to have execution against each of the other sureties in the judgment or decree for a proportionate part of the debt so paid by him; and on the motion of said surety so paying the entire debt and notice to the other sureties the court may determine for what amount execution shall issue against each of the other sureties.

CHAPTER FIFTY-FIVE.

Surveyor.

SURVEYOR.

Office to be office of record of plats of all property, etc.

SEC. 1574. OFFICE.—The office of the surveyor of the District shall be the legal office of record of the plats of all private property, in the District of Columbia, and authenticated copies of all records of the division of squares and lots made between the public and the original proprietors or otherwise authorized by law shall be kept in said office.

—transcripts from records.

SEC. 1575. TRANSCRIPTS.—All transcripts from such records certified by the surveyor shall be prima facie evidence thereof.

Records District property.

SEC. 1576. RECORDS.—The records of the surveyor of the District of Columbia shall be a part of the United States property under the jurisdiction of the Commissioners of the District of Columbia.

Salary of surveyor.

SEC. 1577. SALARY.—The surveyor of the District of Columbia shall receive a salary of three thousand dollars per annum in lieu of fees, and shall be appointed by the Commissioners of the District of Columbia for a term of four years, unless sooner removed for cause, and shall be under the direction and control of the said Commissioners.

—bond.

SEC. 1578. BOND.—The surveyor shall give bond to the United States in the penalty of twenty thousand dollars, with security, to be

approved by the Commissioners, conditioned for the faithful discharge of the duties of his office, and shall take and subscribe an oath or affirmation before the Commissioners that he will faithfully and impartially discharge the duties of his office, which bond and oath shall be deposited with the Commissioners of the District of Columbia.

Assistant surveyor.

SEC. 1579. ASSISTANT SURVEYOR.—The Commissioners of the District of Columbia, on the recommendation of the surveyor, are hereby authorized to appoint one assistant surveyor, at a salary of one thousand eight hundred dollars per annum, and such employees as may in the judgment of the Commissioners of the District of Columbia be required for the surveyor's office and operation, at an aggregate expense of not exceeding ten thousand dollars in any one year.

Scale of plats.

SEC. 1580. SCALE OF PLATS.—The plats and squares and subdivisions of the city of Washington shall be drawn upon a uniform scale of not less than one inch to fifty feet, and shall show the lines of all subdivisions of the squares as the same existed at the date of the completion of each square.

Subdivisions.

SEC. 1581. SUBDIVISIONS.—Whenever the proprietor of any square or lot shall deem it necessary to subdivide the same into convenient building lots or portions for sale and occupancy and alleys for their accommodation, he may cause a plat to be made by the surveyor, on which shall be expressed the dimensions and length of all the lines of such portions as are necessary for defining and laying off the same on the ground, and may certify such subdivision under his hand and seal, in the presence of two or more credible witnesses, upon the same plat or on a paper or parchment attached thereto.

Certification of correct plat.

SEC. 1582. At the request of the proprietor the surveyor shall examine whether the lots or parcels into which any square or lot may be subdivided as provided in the preceding section agree in dimensions with the whole of the square or lot so intended to be subdivided, and whether the dimensions expressed on the plat of subdivision be the true dimensions of the parts so expressed; and if upon such examination he shall find the plat correct, he shall certify the same under his hand and seal, with such remarks as appear to him necessary, and shall record the plat as examined in a book to be kept by him for that purpose.

Reference to subdivisions.

SEC. 1583. REFERENCE TO SUBDIVISIONS.—When a subdivision of any square or lot shall be so certified, examined, and recorded, the purchaser of any part thereof or any person interested therein may refer to the plat and record for description in the same manner as to squares and lots divided between the Commissioners and original proprietors.

Alleys.

SEC. 1584. ALLEYS.—The ways, alleys, or passages laid out or expressed on any plat of subdivision shall be and remain to the public or subject to the uses declared by the person making such subdivision at all times under the same police regulations as the alleys laid off by the Commissioners on division with the original proprietors.

Deficiency in number of feet.

SEC. 1585. DEFICIENCY IN NUMBER OF FEET.—Whenever the surveyor shall lay off any lot, or any parts into which a square or lot may be subdivided, as provided in this chapter, he shall measure the whole of that front of the square on which such lot or part lies, and if, on such admeasurement, the whole front of the square exceeds or falls short of the aggregate of the fronts of the lots on that side of the square, as the same are recorded, he shall apportion such excess or deficiency among the lots or pieces on that front agreeably to their respective dimensions.

Party walls.

—when wall deemed to stand on adjoining lot.

SEC. 1586. PARTY WALLS.—Whenever, on such admeasurement, the wall of a house previously erected by any proprietor shall appear to stand on the adjoining lot of any other person in part less than seven inches in width thereon, such wall shall be considered as standing

altogether on the land of such proprietor, who shall pay to the owner of the lot on which the wall may stand a reasonable price for the ground so occupied, to be decided by arbitrators or a jury, as the parties interested may agree.

—when deemed party wall.

SEC. 1587. If the wall of any house already erected cover seven inches or more in width of the adjoining lot, it shall be deemed a party wall, according to the regulations for building in the District, and the ground so occupied more than seven inches in width shall be paid for as provided in the preceding section.

—certificate of.

SEC. 1588. The surveyor shall ascertain and certify and put on record, at the request and expense of any person interested therein, the fact of the occupation of land by a party wall, as mentioned in the preceding section.

Adjusting lines of buildings.

SEC. 1589. ADJUSTING LINES OF BUILDINGS.—It shall be the duty of the surveyor to attend, when requested, and examine the foundation or walls of any house to be erected, when the same shall be level with the street or surface of the ground, for the purpose of adjusting the line of the front of such building to the line of the street and correctly placing the party wall on the line of division between that and the adjoining lot; and his certificate of the fact shall be admitted as evidence and binding on the parties interested.

Order of survey to be speedily executed.

SEC. 1590. ORDER OF SURVEY TO BE SPEEDILY EXECUTED.—The surveyor shall, as speedily as possible, execute any order of survey made by any court or private individual of any lot or square within the city of Washington, or of any land within the District of Columbia outside of said city, and shall make due return of a true plat and certificate thereof.

Surveys for District.

SEC. 1591. SURVEYS FOR DISTRICT.—It shall be the duty of the surveyor to execute any surveying work for the District of Columbia without charge, on the order of the Commissioners; and all fees for surveys made by the surveyor or the assistant surveyor shall be paid over to the collector of taxes of the District of Columbia under regulations to be prescribed by the Commissioners of the District of Columbia, and be covered into the Treasury of the United States as other revenues of the District are now; and the field notes of the surveyor and his assistant shall be preserved and shall be a part of the public property of the District of Columbia, and all records, plats, plans, and other papers or documents now existing, or hereafter made or secured by the office of the said surveyor, shall be delivered by each surveyor to his successor in office, and no plat or survey of land shall be recorded in the office of the surveyor of the District of Columbia except it be certified to as correct by the surveyor of said District.

—fees, etc.

—field notes, etc.

Assistant surveyor's duties.

SEC. 1592. ASSISTANT SURVEYOR'S DUTIES.—The assistant surveyor shall take the same oath his principal is required to take, and may, during the continuance of his office, discharge and perform any of the official duties of his principal, and any default or misfeasance in office by the assistant surveyor, or other assistant or helper of the surveyor, shall be deemed a breach of the official bond of his principal.

Fees of surveyor.

SEC. 1593. FEES.—The Commissioners of the District of Columbia are hereby authorized from time to time to prescribe a schedule of fees to be charged by the surveyor for his services, which schedule shall be printed and conspicuously displayed in the office of the surveyor.

Subdivisions of United States squares.

SEC. 1594. SUBDIVISIONS OF UNITED STATES SQUARES.—Whenever the President shall deem it necessary to subdivide any square or lot belonging to the United States within the city of Washington, not reserved for public purposes, into convenient building lots or portions for sale and occupancy, and alleys for their accommodation, he may cause a plat to be made by the surveyor in the manner prescribed in

this chapter, which plat shall be recorded by the surveyor; and the provisions of this chapter shall extend to the lots, pieces, and parcels of ground contained in such plat as fully as to subdivisions made by individual proprietors.

Alterations of boundaries, etc.

SEC. 1595. ALTERATIONS OF BOUNDARIES, AND SO FORTH.—Whenever the proprietor of any tract or parcel of land in the District of Columbia shall desire or deem it necessary to subdivide or alter boundaries, or change the surveys of any such tract or parcel of land, such subdivision, alteration, or change shall be by the surveyor of the District of Columbia, or his assistant, only, and shall be entered in the plat book or books of said surveyor. All such subdivisions, alterations, or changes shall be certified by the surveyor, the party wishing such plat, and two competent witnesses, whose names shall be appended thereto.

Records of divisions to be kept in surveyor's office, etc.

SEC. 1596. RECORDS OF DIVISIONS.—All records, or copies thereof, of the divisions of squares and lots heretofore made between the public and the original proprietors, or which are authorized by this chapter, shall be kept in the office of the surveyor of the District of Columbia, and the surveyor shall put up, label, index, and preserve all the maps, charts, plats, plans, and other drawings and papers relating to the District of Columbia or which appertain to his office, and which may come to his office for deposit, record, or otherwise.

Errors of surveyor, recovery for.

SEC. 1597. ERRORS.—Whenever it shall be made to appear to the satisfaction of the Commissioners that the surveyor has been guilty of culpable error or neglect, by which the District may be obliged to pay damages, it shall be lawful for the Commissioners to deduct and retain from the salary of the surveyor the amount of damages which the District may have paid in each and every case; and in case the salary then due the said surveyor shall be insufficient to cover the damages which the District shall have paid the Commissioners are hereby required to institute suit upon the bond of the surveyor for the recovery of such damages.

Boundaries and grades of lots to be marked.

SEC. 1598. BOUNDARIES OF LOTS TO BE MARKED.—It shall also be the duty of the surveyor on the request of the proprietor or proprietors of any square, lot, or piece of ground within the District of Columbia to set out and mark the proper lines, and furnish to him, her, or them a certificate describing the dimensions and boundaries of the same, according to the plan.

Books, maps, etc., to be kept by surveyor.

SEC. 1599. BOOKS, MAPS, AND SO FORTH, TO BE KEPT BY SURVEYOR.—The surveyor shall keep his office in a room designated by the Commissioners for the purpose, and shall not be engaged in the transaction of any business appertaining to any other office or appointment which may be held by him, and shall in his said office preserve and keep all such maps, charts, surveys, books, records, and papers relating to the District of Columbia, or to any of the avenues, streets, alleys, public spaces, squares, lots, and buildings thereon, or any of them, as shall for the purpose of being deposited in his office come into his hands or possession; and shall, in books provided or to be provided for that purpose, keep a true record of every survey, certificate, or account which shall be made, issued, or prepared by him, and also shall preserve and keep in good order and repair the instruments in his said office belonging to the District.

—deemed property of the District.

SEC. 1600. PAPERS, AND SO FORTH, TO BE THE PROPERTY OF THE DISTRICT OF COLUMBIA.—All papers, plats, and records of his office shall be deemed the property of the District of Columbia, and shall constitute a part of the public records; and in all cases of vacancy in the office, by resignation or otherwise, they shall be transferred to his successor in office.

Commissioners to make regulations as to plats, etc.

SEC. 1601. PLATS, WHEN TO BE RECORDED.—The Commissioners are authorized and directed to make and publish such general orders as may be necessary to regulate the platting and subdividing of all lands

—recording plats

and grounds in the District of Columbia under their jurisdiction; and no such plat of subdivision made in pursuance of such orders shall be admitted to record in the office of the surveyor of said District without an order to that effect indorsed thereon by the Commissioners of said District.

Streets, etc.

SEC. 1602. STREETS, AND SO FORTH.—All spaces on any duly recorded plat of land thereon designated as streets, avenues, or alleys shall thereupon become public ways, provided they are made in conformity with the preceding section.

Cemeteries, right of way through, for streets, etc.

SEC. 1603. CEMETERIES.—If by the extension of any of the present streets or avenues or the opening of any public way it becomes necessary to traverse any grounds now used as a cemetery or place of burial, the Commissioners are empowered to secure a right of way through the same by stipulation with the proprietors thereof.

Subdivision to conform to plan of Washington.

SEC. 1604. SUBDIVISION TO CONFORM TO PLAN OF WASHINGTON.—No subdivision of land in the District of Columbia without the limits of the city of Washington shall be recorded in the office of the surveyor or in the office of the recorder of deeds unless the same shall have been first approved by the Commissioners of the District of Columbia and be in conformity with the recorded plans for a permanent system of highways.

Changing of alleyways.

SEC. 1605. CHANGING OF ALLEYWAYS.—That whenever all the owners of an entire square, or all the owners of a part of a square bounded on all sides by public streets, in the District of Columbia, shall present to the Commissioners of the Distirct of Columbia a petition asking that any alley or alleys within said square or part of square may be closed wholly or partially, and shall in said petition offer to dedicate for public use, and shall so dedicate if in the opinion of the Commissioners of said District such dedication is necessary, as alleyways ground owned by the petitioners in amount equal at least in area to that of the alleyway sought to be closed, and shall also present to said Commissioners with said petition a correct plat of said square or part of square signed by all of the owners thereof, upon which shall be accurately delineated the positions and dimensions of the existing alley way or ways and a subdivision of the entire area of the alley or alleys sought to be closed into parcels, according to an agreement of all said owners for the future ownership of the same, the name of the agreed future owner of each parcel being marked thereon, and showing also the position and dimensions of the new alley way or ways proposed to be substituted therefor, it shall be the duty of said Commissioners, upon being satisfied of the truth of the facts stated in the petition as to ownership and of correctness of the plat, and also that the proposed change will not be detrimental to the public convenience, to make an order declaring the existing alley way or ways closed, as prayed for, and opening the new alley way or ways proposed to be substituted therefor.

—rights to vest, etc., after Commissioners' order recorded.

SEC. 1606. That the Commissioners shall cause a certified copy of the order to be attached to the plat and delivered to the petitioners, who shall file the same for record with the recorder of deeds of the District and also in the office of the surveyor of the District, each of whom shall record the same, and thereafter the right of the public to use the alley way or ways declared closed and the proprietary interest of the United States therein shall forever cease and determine, and the title to the same shall be vested according to the agreement of the owners as shown in the aforesaid plat, each person being thenceforward the owner in fee simple of the parcel or parcels upon which his name shall be marked as provided in the aforegoing section. The new alley way or ways described in said order and delineated on said plat shall thereafter be and remain dedicated to public use as alleyways,

and, like other alleys of said city, shall be under the care and control of the city authorities.

Obliterating subdivisions and alleys for owner of an entire square, etc.

SEC. 1607. OBLITERATING SUBDIVISIONS AND ALLEYS.—Whenever the title in fee simple to an entire square is vested in one person or in tenants in common, or partners, and such owner or owners desire to improve said square by the erection of a building thereon, covering not less than two-thirds of the area thereof, or for the purpose of some business enterprise, the Commissioners of the District may, on the petition of such owner or owners, setting forth such ownership, the purpose for which it is desired to use such square, and the manner and the time in which it is proposed to improve the same, on being satisfied of the truth of the facts stated in the petition, and also that the proposed change and use will not be detrimental to the public interests, make an order canceling any previous subdivision of said square and obliterating all alleys therein. They shall cause a certified copy of such order to be attached to a plat of said square and delivered to the petitioners, who shall file the same for record with the recorder of deeds, and also the surveyor of the District, each of whom shall record the same.

Commissioners may open, etc., alleys.

—on petition.

—to preserve order.

—for drainage.

—for vehicle traffic.

—for health.

—minor streets.

SEC. 1608. OPENING, AND SO FORTH, OF ALLEYS.—The Commissioners of the District of Columbia are authorized to condemn, open, extend, widen, or straighten alleys in the District of Columbia upon the presentation to them of the plat of the alley to be condemned, opened, widened, extended, or straightened, accompanied by a petition of the owners of more than one-half of the real estate in the square in which such alley is sought to be opened, widened, extended, or straightened; or when the Commissioners of the District of Columbia shall certify that the preservation of peace, good order, and public morals require that any such alley should be opened, extended, widened, or straightened; or when said Commissioners shall deem that such opening, extending, widening, or straightening of an alley is necessary in order to provide proper drainage facilities for the square in which said alley is sought to be opened, extended, widened, or straightened; or when said Commissioners shall certify that such opening, extending, widening, or straightening of an alley is necessary in order to properly accommodate vehicle traffic in such square; or when the health officer of said District shall certify that such opening, extension, widening, or straightening of an alley is necessary for the public health; and to open, extend, widen, or straighten minor streets in said District, of a width not less than forty feet nor more than sixty feet, to run through a square from one street to another, whenever in the judgment of said Commissioners the public interests require it: *Provided*, That in the opening, extension, widening, or straightening of an alley or minor street it shall be lawful to close any original alley, or part of an original alley, the fee of which is in the United States, which may thereby become useless or unnecessary; and that it shall also, in like manner, be lawful to close any other alleys or parts of alleys, the title thereto to revert to the person or persons who dedicated the same for alley purposes, or to their assigns: *And provided further*, That the Commissioners of the District of Columbia are authorized, whenever in their judgment the same may be necessary or expedient, to close any alley or part of an alley the width of which is less than ten feet: *Provided*, That the assent thereto, in writing, is obtained from the owners of a majority of the real estate abutting thereon; that if the fee title to the land contained in the alley or part of an alley so to be closed is in the United States the said Commissioners are authorized to dispose of said land by sale to the owners of the lots or parts of lots contiguous thereto, at a price to be agreed upon between the said Commissioners and said owners, which price

Provisos.
—closing original alleys.

—any alley less than 10 feet wide.

—assent of abutting owners.

shall not be less than the current market price of the ground in the contiguous lots; that if the fee title to the land in the alley or part of alley so to be closed is not in the United States the title to said land shall revert to the person or persons who dedicated the same for alley purposes, or to his or their heirs or assigns.

—when fee is in U. S., etc.

Plat of alley.

SEC. 1609. That it shall be the duty of the surveyor of said District, as soon as may be thereafter, to distinctly mark off such alley in the manner in which it may be designated in the petition therefor, and make out triplicate plats of such alley, showing its courses and boundaries and the quantity in square feet which may be taken from the lots or parts of lots in the square by the opening, extending, widening, or straightening thereof, and showing also the alley or part of alley to be closed, if any, and the lots or parts of lots to which the land contained in such closed alley is to be annexed; one of which plats shall be deposited with the recorder of deeds of said District, to be filed among the records of his office, another kept in the office of the surveyor of said District, and one filed in the office of the Commissioners of the District of Columbia.

—filing.

Commissioners may agree with contiguous owners for purchase of land in closed alley, etc.

SEC. 1610. That in the opening, extension, widening, or straightening of an alley or minor street, as herein provided for, it shall be lawful for the Commissioners of the District of Columbia to close any alley or part of an alley thereby rendered useless or unnecessary, the fee to which is in the United States, by entering into an agreement with the owners of the lots or parts of lots contiguous thereto for the purchase by them of the land contained in said alley sought to be closed, at a price to be agreed upon by the said Commissioners and said owners, which price shall not be less per square foot than the assessed value per square foot of the contiguous lots; said agreements to be in duplicate, one of which shall be filed in the office of the recorder of deeds and the other in the office of the Commissioners of the District of Columbia, and the sums so agreed to be paid shall be assessed severally against the lots or parts of lots to which the land so purchased shall be annexed; such assessments to bear interest at the rate of ten per centum per annum until paid, and shall be collected as other taxes are collected: *Provided, however*, That the Commissioners of the District of Columbia may, in their discretion, sell and convey the land contained in the alley to be closed, for cash, to any person or persons; that the Commissioners of the District of Columbia may, in the opening, extension, widening, or straightening of an alley, close an alley, or part of an alley, the fee to which is not in the United States, provided the owners of all the lots or parts of lots abutting thereon and the party or parties holding the fee title to the land contained in the alley to be closed shall first sign and file a petition therefor in triplicate, together with a plat thereof in triplicate, as provided by section sixteen hundred and eight of this code. One copy of said plat shall be filed and recorded in the office of the surveyor of the District of Columbia, one in the office of the recorder of deeds, and the other in the office of the Commissioners of the District of Columbia.

Proviso.

—or sell same to anyone.

Closing alley on petition of owner and abutting owners.

Damages.

SEC. 1611. DAMAGES.—That upon the filing of such plat by the surveyor in the office of the Commissioners of the District of Columbia, as aforesaid, the said Commissioners shall make an application in writing to the marshal of the District of Columbia to summon and impanel a jury of twelve citizens who have no interest in the real estate mentioned in the said petition (and it is hereby made his duty to summon and impanel the same in all such cases, upon application to him in writing by said Commissioners), and who, having first taken and subscribed an oath in writing to discharge the duty imposed upon them by the provisions of this act justly and impartially, shall proceed to ascertain and appraise the damages which may accrue to the real estate of any person or persons by the opening, extending, widening,

—impaneling jury.

—appraisal, etc.

or straightening of such alley or minor street, which shall be the value of the land at the time of the taking; and they shall make and file a statement in writing, signed by them, of the damages so ascertained and appraised, in the office of the Commissioners of the District of Columbia, and a duplicate of said statement in the office of the recorder of deeds for the said District, and the amount thereof shall be paid to the persons, respectively, entitled thereto by said District of Columbia, out of any funds available therefor; and all such alleys or minor streets or extensions, widenings, or straightenings shall thereafter be kept open and free for public use.

Apportionment of damages among lots benefited.

SEC. 1612. That the said jury shall apportion an amount equal to the amount of said damages so ascertained and appraised as aforesaid, including five dollars for the services of said marshal when actually employed and five dollars per diem for the services of each of said jurors when actually employed, according as each lot or part of a lot of land in such square may be benefited by the opening, widening, extending, or straightening of such alley or minor street: *Provided, however*, That in cases provided for in section sixteen hundred and ten of this code the sums paid or agreed to be paid for the land contained in any alley or part of alley to be closed shall first be deducted from the amount of benefits so to be assessed; and they shall make due return of such apportionment to the recorder of deeds and to the Commissioners of the District of Columbia, in which they shall designate each lot or part of a lot of land in such square so benefited, and the amount so apportioned to each, respectively; and in case of failure to pay the amount so apportioned, it shall be the duty of said Commissioners, or some one designated by them, to levy an assessment upon each lot or part of lot of land in accordance with such apportionment, the same to be collected as other special assessments upon real estate are collected; and said assessment shall bear interest at the rate of ten per centum per annum until paid.

Proviso.
—deductions.

—return of apportionment.

—assessment on failure to pay, etc.

Notice of meeting of jury.

SEC. 1613. That the said marshal shall give or cause to be given at least ten days' written or printed notice of the time and place of the meeting of such jurors, for the purposes aforesaid, to each proprietor of land in the square designated as the location of such alley or minor street. If the proprietor be a resident of the District of Columbia, the notice shall be served by delivering a copy thereof to him or her personally, or leaving it at the usual residence with some person over ten years of age. If the proprietor be a nonresident, the notice shall be served by delivering a copy thereof to his or their tenant or agent, or depositing it in the post-office at Washington City, inclosed in a post-paid envelope, which shall be addressed to the proprietor at his or her post-office address. If the proprietor or proprietors be under twenty-one years of age, the notice shall be served as hereinbefore provided upon the guardian or parent of such minor or minors. A return of such service and the manner thereof shall be made by the marshal to the Commissioners of the District of Columbia, and shall be filed among the records of said District.

Alleys previously opened made valid.

SEC. 1614. ALLEYS PREVIOUSLY OPENED, AND SO FORTH.—That all alleys opened or extended in the city of Washington since June thirtieth, eighteen hundred and seventy-one, under an ordinance of the late corporation of Washington approved November fourth, eighteen hundred and forty-two, are hereby made valid: *Provided*, That nothing in this code shall affect the rights of parties to suits now pending in such cases.

Proviso.
—pending suits unaffected.

Alleys heretofore closed by subdivision.

SEC. 1615. That all alleys or parts of alleys heretofore closed by subdivision, with the approval of the Commissioners, shall remain unaffected by this code.

Disposition of moneys from sale of land.

SEC. 1616. MONEYS FROM SALE OF LAND.—If any money from the sale of land in which the United States is interested shall remain after

carrying out the provisions of the preceding sections of this code, such moneys shall be paid into the Treasury of the United States by the Commissioners of the District of Columbia.

CHAPTER FIFTY-SIX.

Uses and trusts.

USES AND TRUSTS.

Legal estate to be in cestui que use.

SEC. 1617. THE LEGAL ESTATE TO BE IN CESTUI QUE USE.—Where lands, tenements, or hereditaments are conveyed or devised to one person, whether for years or for a freehold estate, to the use of or in trust for another, no estate or interest, legal or equitable, shall vest in the trustee, but the person entitled, according to the true intent and meaning of such instrument, to the actual possession of the property and the receipt of the rents and profits thereof, in law or in equity, shall be deemed to have a legal estate therein of the same quality and duration and subject to the same conditions as his beneficial interest, except where the title of such trustee is not merely nominal but is connected with some power of actual disposition or management of the property conveyed.

Purchaser for value.

SEC. 1618. PURCHASER FOR VALUE.—No implied or resulting trust shall be alleged or established to defeat or prejudice the title of a purchaser for a valuable consideration and without notice of such trust; and where an express trust is created, but is not contained or declared in the conveyance to the trustee, such conveyance shall be deemed absolute in favor of purchasers from the trustee for value and without notice of the trust.

CHAPTER FIFTY-SEVEN.

Warehousemen.

WAREHOUSEMEN.

Lien of warehousemen.

SEC. 1619. LIEN OF WAREHOUSEMEN.—Every person, firm, association, or corporation lawfully engaged in the business of storing goods, wares, merchandise, or personal property of any description shall have a lien first, except for taxes thereon, for the agreed charges for storing the same and for all moneys advanced for freight, cartage, labor, insurance, and other necessary expenses thereon. Said lien for such unpaid charges, upon at least one year's storage and for the aforesaid advances in connection therewith, may be enforced by sale at public auction, after thirty days' notice in writing mailed to the last known address of the person or persons in whose name or names the said property so in default was stored, and said notice shall also be published for six days in a daily newspaper in the District of Columbia. And after deducting all storage charges, advances, and expenses of sale, any balance arising therefrom shall be paid by the bailee to the bailor of such goods, wares, merchandise, or personal property, his assigns or legal representatives.

—sale, etc.

—may be in bulk, etc.

SEC. 1620. ASSIGNEE.—Said property may be so sold either in bulk or in separate pieces, articles, packages, or parcels, as will in the judgment of the lien holder secure the largest obtainable price: *Provided*, That if the person or persons storing said property shall have assigned or transferred the title thereto and have duly recorded said assignment or transfer upon the books of the storage warehouse, the written notice of sale shall also be mailed to said transferee or assignee.

Proviso.
Notice to assignee of stored property.

Where title in issue.

SEC. 1621. WHERE TITLE IN ISSUE.—Whenever the title or right of possession to any goods, wares, merchandise, or personal property on storage shall be put in issue by any judicial proceeding, the same shall be delivered upon the order of the court, after prepayment of the storage charges and cash advances then due by the person at whose instance such change of possession is so ordered, and who shall be enti-

tled to recover such payment as part of the costs in such proceeding, or, if defeated therein, he shall be credited with such payment in taxation of costs against him. And unless the person, firm, association, or corporation so conducting a storage business shall claim some right, title, or interest in said stored property other than the lien hereinabove authorized, he, it, or they shall not be made a party to such judicial proceedings.

CHAPTER FIFTY-EIGHT.

WASTE.

Waste.

Joint tenant or tenant in common against cotenant.

SEC. 1622. JOINT TENANT OR TENANT IN COMMON AGAINST COTENANT.—Any joint tenant or tenant in common may maintain an action for waste committed by his cotenant, or in a suit for a partition, or a sale for purpose of partition, may have said waste charged against the share of the cotenant committing the same.

CHAPTER FIFTY-NINE.

WILLS.

Wills.

What may be devised.

SEC. 1623. WHAT MAY BE DEVISED.—All lands, tenements, and hereditaments, and personal estate which might pass by deed or gift, or which would, in case of the proprietor's dying intestate, descend to or devolve on his or her heirs or other representatives, shall be subject to be disposed of, transferred, and passed by his or her last will, testament, or codicil, under the following restrictions:

Perpetuities.

SEC. 1624. PERPETUITIES.—No will, testament, or codicil shall be effectual to create any interest in perpetuity, or make any limitation, or appoint any uses, except as permitted by this code.

Who capable of making will.

SEC. 1625. WHO CAPABLE OF MAKING WILL.—No will, testament, or codicil shall be good and effectual for any purpose whatever unless the person making the same be, if a male, of the full age of twenty-one years, and if a female, of the full age of eighteen years, and be at the time of executing or acknowledging it, as hereinafter directed, of sound and disposing mind and capable of executing a valid deed or contract.

Form of will.

SEC. 1626. FORM OF WILL AND REVOCATION.—All wills and testaments shall be in writing and signed by the testator, or by some other person in his presence and by his express directions, and shall be attested and subscribed in the presence of the said testator by at least two credible witnesses, or else they shall be utterly void and of no effect; and, moreover, no devise or bequest, or any clause thereof, shall be revocable otherwise than by some other will or codicil in writing or other writing declaring the same, or by burning, canceling, tearing, or obliterating the same by the testator himself or in his presence and by his direction and consent; but all devises and bequests shall remain and continue in force until the same be burned, canceled, torn, or obliterated by the testator or by his direction in the manner aforesaid, or unless the same be altered or revoked by some other will, testament, or codicil in writing, or other writing of the testator signed in the presence of at least two witnesses attesting the same, any former law or usage to the contrary notwithstanding.

Revocation.

Revival of will after revocation.

SEC. 1627. REVIVAL OF WILL AFTER REVOCATION.—No will or codicil, or any part thereof, which shall be in any manner revoked shall, after being revoked, be revived otherwise than by the reexecution thereof, or by a codicil executed in the manner hereinbefore required, and then only to the extent to which an intention to revive is shown.

After-acquired real estate.

SEC. 1628. AFTER-ACQUIRED REAL ESTATE.—Any will hereafter executed which shall, by words of general import, devise all the estate or all the real estate of the testator shall be deemed, taken, and held to operate as a valid devise of any real estate acquired by said testator

after the execution of such will, unless it shall appear therefrom that it was not the intention of the testator to devise such after-acquired property.

Powers.

SEC. 1629. POWERS.—No appointment made by will in the exercise of a power shall be valid unless the same be so executed that it would be valid for the disposition of the property to which the power applies if it belonged to the testator.

Satisfaction of legacy.

SEC. 1630. SATISFACTION OF LEGACY.—A provision for or advancement to any person shall be deemed a satisfaction, in whole or in part of a devise or bequest to such person contained in a previous will if it would be so deemed in case the devisee or legatee were the child of the testator; and, whether he be a child or not, it shall be so deemed in all cases in which it shall appear from parol or other evidence to be so intended.

Devisee dying before testator, heirs to take, etc.

SEC. 1631. LAPSED OR VOID DEVISES.—If a devisee or legatee die before the testator, leaving issue who survive the testator, such issue shall take the estate devised or bequeathed as the devisee or legatee would have done if he had survived the testator, unless a different

Lapsed devises.

disposition be made or required by the will. Unless a contrary intention appear by the will, such property as shall be comprised in any devise or bequest in such will which shall fail or be void or otherwise incapable of taking effect shall be deemed included in the residuary devise or bequest, if any, contained in such will.

Leaseholds.

SEC. 1632. LEASEHOLDS.—A devise of the land of a testator, or of his land in any place, or in the occupation of a person named or otherwise described in a general manner, shall be construed to include his leasehold estates or any of them to which such descriptions shall extend, as well as freehold estates, unless a contrary intention shall appear by the will.

General devise of all property.

SEC. 1633. GENERAL DEVISE OF ALL PROPERTY.—Every devise and bequest purporting to be of all real or personal property, or both, belonging to the testator shall be construed to include also all property of either or both kinds, respectively, over which he has a general power of appointment, and the legal title of all such property which he holds in trust, unless the contrary intention shall appear in the will or codicil containing such devise or bequest.

Nuncupative wills invalid.
Soldiers may dispose of movables, etc.

SEC. 1634. NUNCUPATIVE WILLS.—No nuncupative will hereafter made shall be valid in the District; but any soldier being in actual military service, or mariner being at sea, may dispose of his movables, wages, and personal estate by word of mouth: *Provided*,

Proviso.
—witnesses, etc.

That such disposition shall be proved by at least two witnesses who were present at the making thereof and were requested by the testator to bear witness that such was his last will, nor unless such will were made in the time of the last sickness of the deceased, and the substance thereof reduced to writing within ten days after the making thereof.

Bequests for religious purposes valid only when made one month before death, etc.

SEC. 1635. BEQUESTS FOR RELIGIOUS PURPOSES.—No devise or bequest of lands, or goods, or chattels to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to or for the support, use, or benefit of or in trust for any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, shall be valid unless the same shall be made at least one calendar month before the death of the testator.

CHAPTER SIXTY.

Repeal provisions.

REPEAL PROVISIONS.

SEC. 1636. All acts and parts of acts of the general assembly of the State of Maryland general and permanent in their nature, all like acts and parts of acts of the legislative assembly of the District of Columbia, and all like acts and parts of acts of Congress applying solely to

the District of Columbia in force in said District on the day of the passage of this act are hereby repealed, except:

—exceptions

First. Acts and parts of acts relating to the rights, powers, duties, or obligations of the United States.

Second. Acts and parts of acts relating to the Court of Claims.

Third. Acts and parts of acts relating to the organization of the District government, or to its obligations, or the powers or duties of the Commissioners of the District of Columbia, or their subordinates or employees, or to police regulations, and generally all acts and parts of acts relating to municipal affairs only, including those regulating the charges of public-service corporations.

Fourth. Acts and parts of acts relating to the militia.

Fifth. All penal statutes authorizing punishment by fine only or by imprisonment not exceeding one year, or both.

Sixth. Acts and parts of acts of Congress relating solely to the Departments of the General Government in the District of Columbia, or any of them.

Seventh. Acts or parts of acts authorizing, defining, and prescribing the organization, powers, duties, fees, and emoluments of the register of wills of the District of Columbia and his office.

Eighth. An act to regulate the practice of pharmacy in the District of Columbia, approved June fifteenth, eighteen hundred and seventy-eight; an act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June sixth, eighteen hundred and ninety-two; an act regulating the construction of buildings along alleyways in the District of Columbia, approved July twenty-second, eighteen hundred and ninety-two; an act for the promotion of anatomical science, and to prevent the desecration of graves in the District of Columbia, approved February twenty-sixth, eighteen hundred and ninety-five; an act to provide for the incorporation and regulation of medical and dental colleges in the District of Columbia, approved May fourth, eighteen hundred and ninety-six; an act relating to the testimony of physicians in the courts of the District of Columbia, received by the President May thirteenth, eighteen hundred and ninety-six; an act to regulate the practice of medicine and surgery, to license physicians and surgeons, and to punish persons violating the provisions thereof in the District of Columbia, approved June third, eighteen hundred and ninety-six; and, generally, all acts or parts of acts relating to medicine, dentistry, pharmacy, the commitment of the insane to the Government Hospital for the Insane in the District of Columbia, the abatement of nuisances, and public health.

All acts and parts of acts included in the foregoing exceptions, or any of them, shall remain in force except in so far as the same are inconsistent with or are replaced by the provisions of this code.

Incorporation of permanent provisions taken from appropriation acts, etc.

SEC. 1637. The incorporation into this code of any general and permanent provision taken from an act making appropriations, or from an act containing other provisions of a private or temporary character, shall not repeal nor in any way affect any appropriation or any provision of a private or temporary character contained in any of said acts, but the same shall remain in force.

—repeals not to affect pending, etc., causes.

SEC. 1638. The repeal by the preceding section of any statute, in whole or in part, shall not affect any act done or any right accruing or accrued or any suit or proceeding had or commenced in any civil cause before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue and may be enforced in the same manner as if such repeal had not been made: *Provided*, That the provisions of this code relating to procedure or practice and not affecting the substantial rights of parties shall apply to pending suits or proceedings civil or criminal.

Proviso.

—procedure, etc.

Acts of Congress hereafter passed, effect of.

SEC. 1639. The enactment of this code is not to affect or repeal any act of Congress which may be passed between the date of this act and the date when this act is to go into effect; and all acts of Congress that may be passed hereafter are to have full effect as if passed after the enactment of this code, and, so far as such acts may vary from or conflict with any provision contained in this code, they are to have effect as subsequent statutes and as repealing any portion of this act inconsistent therewith.

Operation of common law, etc., unaffected.

SEC. 1640. Nothing in the repealing clause of this code contained shall be held to affect the operation or enforcement in the District of Columbia of the common law or of any British statute in force in Maryland on the twenty-seventh day of February, eighteen hundred and one, or of the principles of equity or admiralty, or of any general statute of the United States not locally inapplicable in the District of Columbia or by its terms applicable to the District of Columbia and to other places under the jurisdiction of the United States, or of any municipal ordinance or regulation, except in so far as the same may be inconsistent with, or is replaced by, some provision of this code.

Prosecution of prior offenses.

SEC. 1641. All offenses committed and all penalties or forfeitures incurred in the District prior to the date on which this code is to take effect may be prosecuted and punished in the same manner and with the same effect as if this code had not been enacted.

Actions barred by limitation under chapter 41, etc.
Ante, p. 1389.

SEC. 1642. Where any action or proceeding by the provisions of chapter forty-one of this code would be barred at the time it goes into effect, or within one year thereafter, which would not be so barred by prior laws, such action or proceeding may be brought or instituted within such period of one year, anything in said chapter to the contrary notwithstanding.

Approved, March 3, 1901.

March 3, 1901.

CHAP. 855.—An Act To extend the provisions of section eight of the Act entitled "An Act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, concerning prosecutions for cutting timber on public lands, to California, Oregon, and Washington.

Repeal of timber-culture laws.
What sufficient defense to timber depredation suits in Colorado, Montana, etc.
Vol. 26, pp. 1093, 1099.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section eight of the Act entitled "An Act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, as amended by an Act approved March third, eighteen hundred and ninety-one, chapter five hundred and fifty-nine, page ten hundred and ninety-three, volume twenty-six, United States Statutes at Large, be, and the same is hereby, amended as follows: After the word "Nevada," in said amended Act, insert the words "California, Oregon, and Washington."

—in California, Oregon, and Washington.

Approved, March 3, 1901.

March 3, 1901.

CHAP. 856.—An Act Authorizing and directing the Secretary of the Interior to issue a patent to the heir or heirs of one Tawamnoha, or Martha Crayon, conveying to them certain lands in the State of North Dakota, confirming certain conveyances thereof, and for other purposes.

Conveyance to heirs of Tawamnoha, or Martha Crayon, of Devils Lake Sioux Reservation, authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed, upon due proof of the death of one Tawamnoha, or Martha Crayon, an Indian woman, late of the Devils Lake Sioux Indian Reservation, and due proof of