LAWS OF MARYLAND.

PASSED NOVEMBER SESSION, 1802.

An act respecting land certificates.

WHEREAS it is represented to the general assembly, that there are various instances where orders have been passed for correcting certificates, and where certificates found erroneous have not been returned within the time limited by law, and it appearing just that the proprietors of such certificates should have the same benefit of the warrant and caution money paid on such certificates as on vacated certificates; therefore,

Be it enacted by the general assembly of Maryland, That in cases where an order has passed, or may pass, for the correction of a land certificate by the judge of the land office, or where a certificate is found erroneous by the examiner-general, and the corrected certificate is not, or may not be returned within the time limited by law, it shall be lawful for the register of the land office to issue a land warrant to the amount of the caution money, and the money paid for improvements, if any, in the same manner as if such certificates had been vacated.

An Act to make public the proceedings of the levy court in the several counties of this state, and to repeal part of an act of assembly therein mentioned.

WHEREAS the several purposes for which monies are levied in the several counties in this state ought to be as generally known as possible; therefore,

Be it enacted by the general assembly of Maryland, That the levy courts in the several counties in this state shall annually cause their clerks respectively to make out as many fair and correct lists of the monies levied for county charges as there are election districts in the county, specifying therein the amount levied for the poor, the amount, if any, levied for repairing the court-house or gaol in the county, also for making and repairing bridges and roads, also the amount which may be levied for any other purpose, clearly designated under general heads; which said lists shall be signed by the respective clerks, and shall by them be delivered to the respective sheriffs, at least ten days before the election for delegates, under the penalty of one hundred dollars; and the sheriffs respectively are hereby required and directed to set up one of said lists at each place of holding the election in each election district of the county, within six days after the same shall have been delivered to him by the clerk, under the penalty of one hundred dollars, which said penalties herein imposed shall be recovered as other penalties are by law recovered.

And be it enacted, That all that part of the act entitled A supplement to the act for the establishment and regulation of levy courts in the several counties of this state, which requires that the governor and council shall appoint and commission the justices of the levy court from the list of those annually commissioned as justices of the peace, be and the same is hereby repealed.

A supplement to an act, entitled An act relating to writs of capias ad satisfaciendum, passed at November session, seventeen hundred and eighty-nine.

BE it enacted by the general assembly of Maryland, That in case any writ of *capias ad satisfaciendum* has been or shall be issued out of the court of chancery, on which there hath been or shall be an arrest of the defendant or defendants, if the plaintiff or plaintiffs, with the consent of the defendant or defendants, have elected, or shall elect, not to call the said execution during the term to which it was or may be returnable, it shall be lawful for such plaintiff or plaintiffs to proceed against every such defendant or defendants, and his, her or their heirs, devisees, executors or administrators, by a new execution, or such other process as the nature of the case may require, for such sum of money or tobacco as may remain unsatisfied on his, her or their judgment or decree, in the same manner that he, she or they might have done if such defendant or defendants had not been arrested on the former writ of execution.

An act vesting certain powers in the congress of the United States.

BE it enacted by the general assembly of Maryland, That this state do hereby give and grant their full approbation and consent, that the congress of the United States may appropriate, towards the repairing, and keeping in repair, the post roads, or any one or more of them, within this state, such sum or sums of money as they in their wisdom may deem right, and to lay out and apply the same to said purpose in any manner they by law may direct, and to appoint any person or persons they may elect to see to the proper application of the money, according to the provisions that may be contained in any law they may pass for that purpose, and the person or persons appointed as aforesaid shall have all the power, right and authority that may be specified in said act of congress; provided, that nothing herein contained shall extend or be construed to extend to authorise congress to pass any law for the changing the direction of the roads, or any one of them, as now established, or to authorise them to pass a law for the opening of a new road; and provided also, that nothing herein contained shall extend to authorise the congress of the United States to vest in any person or persons whom they may appoint a right to cut down or use the timber, or other materials, of any person or persons whatever, against his, her or their consent; and provided also, that nothing herein contained shall vest a right in the soil of any such road, or divest any right that any person or persons may be entitled to under any law establishing turnpike roads.

A Supplement to an act for amending, and reducing into system, the laws and regulations concerning last wills and testaments, the duties of executors, administrators and guardians, and the rights of orphans and other representatives of deceased persons.

BE *it enacted by the general assembly of Maryland*, That if an executor or administrator conceives that he hath not assets sufficient to discharge the claim, or any part thereof, for which a suit shall be brought against him, he may plead the fact, and a trial by jury shall be had thereupon; and if, on any trial so had against an executor or administrator, and the debt or demand of the plaintiff shall be contested, and there be any other issue joined than upon the subject of assets, the jury, if they find for the plaintiff upon the issues so to be joined, and the amount of assets so found by them be less than the debt or demand of the plaintiff, they shall declare the amount of the debt or demand, and likewise the sum to be paid by the defendant to the plaintiff, regard being had to the amount of assets in hand, and the debts due from the deceased, the court shall thereupon enter judgment against the defendant for the penalty of the bond, or damages laid in the plaintiff's declaration, and cost of suit, if the court shall so direct, which said debt or damages shall be released upon the payment of the sum ascertained to be paid by the verdict of the jury, and interest thereon from the time of rendering the said judgment, which said sum, so ascertained to be paid by the verdict of the jury, is to be levied of the goods and chattels of the deceased, or of the proper goods and chattles of the defendant, and residue of the debt or damages, so ascertained as aforesaid, is to be levied of the goods and chattles of the deceased which may hereafter come to the hands of the defendant to be administered, with interest as aforesaid, or of the proper goods and chattles of the defendant; and if such goods and chattles shall thereafter come to the hands of the defendant, as executor or administrator as aforesaid, or into the hands of any other person who may have authority to administer the goods of the deceased, the plaintiff may issue on the said judgment a writ *scire facias*, suggesting the coming of assets to the hands of the executor or administrator, liable and subject to the payment of the residue of the said debt or demand, with interest as aforesaid so due, upon which, if the defendant contests the same, there shall be a trial by jury as aforesaid—provided nevertheless, that in all cases where the amount of the claim of the plaintiff has been ascertained, by confession or otherwise, in any case now depending in any court, and the same has been referred to an auditor to ascertain the sum for which judgment shall be entered agreeable to the provisions of the act to which this is a supplement, that the auditor, previous to his marshaling the assets, shall cause notice to be given to the executor or administrator of the time and place of his proceeding to marshal the assets as aforesaid, and should it appear to the auditor that there has been no full and final account passed by the orphans court, he shall nevertheless proceed to marshal the assets, and ascertain as aforesaid, from the papers which may be produced to him, unless it shall be made appear to him, by a certificate from the orphans court, that there has been good cause why such full or final account has not been passed by such executor or administrator.

And be it enacted, That the crop growing on the land of any deceased person at the time of his or her death, except where the land is devised, shall be considered, and is hereby declared, to be assets in the hand of an executor or administrator, and shall be included in the inventory to be taken and returned according the original act.

And be it enacted, That any person who may conceive him or herself aggrieved by a judgment, decree, decision or order, of the orphans court, may appeal to the county court of the county where such judgment, decision or order, may be made, and that on such appeal the county court shall have the same power, jurisdiction and authority, that the general court or chancery court would have had on an appeal to either of those courts under the original act; provided nevertheless, that nothing herein contained shall be construed to affect the right of appeal from the orphans court to the court of chancery or general court, as allowed by the act to which this is a supplement.

And be it enacted, That the registers of wills in their respective counties, in the recess of the orphans court, shall and they are hereby authorised and empowered to pass any account against the estate of any deceased person where the amount of such account or claim doth not exceed the sum of fifty dollars.

And be it enacted, That in all cases where letters have issued, or hereafter may issue, to any person to collect and preserve the estate of a deceased person, it shall and may be lawful for such collector, after complying with the requisites prescribed by the said original act, to bring suits for the recovery of debts, or other property of the deceased, in the same manner as an executor or administrator might or could do, and that the property recovered or received by the collector shall be delivered to the person obtaining the letters testamentary or of administration, and in case of neglect or refusal, such collector may be proceeded against in the same manner as prescribed by said act; provided, that in case such letters shall be revoked, pending any such action, either by the express revocation of the court who issued the same, or by the granting of letters testamentary or of administration on the same estate, there shall be the same proceedings, and the executor or administrator, as the case may be, shall have the same authority and control over any such action, as in cases where the letters testamentary or of administration of any plaintiff are or shall be revoked.

And be it enacted, That if any letters testamentary or of administration shall be revoked by the orphans court, and new letters granted, pending any action at law or in equity against any person appointed an executor or administrator by such letters so revoked, there shall be the same proceedings in the action upon the suggestion of such revocation of the letters as is directed by the act of seventeen hundred and eighty-five, chapter eighty, in cases where the defendant shall have died pending such action, and in case there had been a judgment rendered previous to the revocation of the letters, a *scire facias* shall issue upon such judgment against the proper executor or administrator, suggesting the revocation of the letters of the former executor or administrator, and there shall be the same proceedings, as in ordinary cases against executors and administrators, but if the letters testamentary or of administration of the plaintiff be revoked pending such action, or after judgment as aforesaid, there shall be the same proceedings as is provided by the fourth section of the fifth chapter of the act to which this is a supplement.

And be it enacted, That in case a judgment shall be obtained against any executor or administrator, made a defendant as aforesaid, and it shall not be found by the jury that such executor or administrator has assets sufficient to discharge the same, the plaintiff in such judgment may also issue a *scire facias* on such judgment against the executor or administrator whose letters have been revoked as aforesaid, suggesting that such executor or administrator, as the case may be, did receive assets of the deceased, liable to such judgment, more than was paid over or delivered by such executor or administrator to the person or persons obtaining the said letters testamentary or of administration, and in case the same shall be controverted, it shall be ascertained and determined by a jury, in the same manner as in cases of *scire facias*, suggesting assets against the second executor or administrator, and in case of a verdict and judgment being given against such former executor or administrator, execution may issue thereon in the same manner as against other executors or administrators, and the plaintiff may also proceed against the securities in the same manner as against the securities of an executor or administrator whose letters have not been revoked.

And, whereas compelling an executor or administrator to take notice of all judgments and decrees against the deceased is productive of great inconvenience, as well to the executor or administrator as to the other creditors, in as much as he cannot, with safety, pay off other debts, though the said judgments or decrees may be fully discharged, unless such executor or administrator is in possession of the receipt or other legal evidence of the payment; and it appearing proper that such creditors, as to the manner and time of producing their claims, should be placed in the same situation as others, therfore, *Be it enacted*, That an executor or administrator shall not be bound to take notice of or discover any judgment or decree against him or her deceased, but such judgment or decree creditor shall exhibit his claim in the same manner as other creditors, and in case the same shall not be exhibited, such claim shall be barred in the same manner as if it rested on bond or simple contract; provided, that nothing herein contained shall extend, or be construed to extend, to deprive such creditor of the preference given by the original act in cases where the claim is in due time exhibited.

And be it enacted, That in no case shall the order made by the orphans court, or by the register of wills, that an account or claim will pass when paid, be deemed of validity to establish such account or claim, 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.

And be it enacted, That in all cases where suits have been brought, and are now depending, against an executor or administrator, the same shall be proceeded on according to the provisions of this act; provided, that to enable such executor or administrator to plead such new matter or plea as this alteration of the law may require, and to support the same by evidence, it shall be lawful for the court before whom such suit may be depending to continue such suit until the end of the third term after the term to which such suit might have been continued before the passage of this act.

And, whereas the personal property of deceased persons, who have died or shall die intestate, without leaving representatives within certain degrees of consanguinity by the acts of seventeen hundred and nineteen, chapter fourteen, and seventeen hundred and twenty-nine, chapter twenty-four, devolved on the free schools of the county of the deceased, and in most of the counties the free schools having been abolished, the executor or administrator of such deceased persons have retained the property to their own use and benefit: *Be it enacted*, That in all instances where by law the property of deceased persons would have descended or devolved on the free schools of any county, if such free schools had existed, the same shall be, and it is hereby declared to be, the property of the college, if any, in such county, or if none, the property of any school to which the public aid by law has been or may be extended, and if none, to go to the county where the property of such person or persons so dying may lie; and that the trustees of the college or school, or the justices of the levy court, respectively, as the case may be, shall have the same right, power and authority, to sue for and recover such property, as the visitors, trustees or governors, of any such free school might or could have done; saving to the different schools in this state the rights which, by existing laws, they now respectively possess.

And be it enacted, That all monies or other property recovered or obtained under this act, if by a college or school, shall be applied in the same manner that other public funds granted them are to be applied, and if by the levy court, towards the discharge of the levy, or for the support of schools in the county, as the justices of the court may determine on.

And be it enacted, That the seventh, eighth and ninth sections of chapter eight, and such other parts of the act to which this is a supplement, as are repugnant to the provisions of this act, be and the same are hereby repealed.

SEVENTH

CONGRESS OF THE UNITED STATES;

At the Second Session,

Begun and held at the city of Washington, in the territory of Columbia, on Monday, the sixth of December, one thousand eight hundred and two.

AN ACT

To provide for the granting of clearances to ships or vessels owned by citizens of the United States, lying in the river Mississippi, south of the southern boundary of the United States, and therein to amend an act, entitled, "An act to regulate the collection of duties on imports and tonnage," and for other purposes.

BE *it enacted by the senate and house of representatives of the United States of America, in congress assembled*, That whenever aticles of the growth, produce or manufacture of the United States, shall be intended to be exported from any of the ports of the United States within the Mississippi, by the way of New-Orleans, to any foreign port, the identity of such articles shall be ascertained and certified in the same manner by the proper officers as has been or hereafter may be provided, for the transportation of the same articles to any of the ports of the United States, without the Mississippi.

Sect. 2. *And be it further enacted*, That it shall be lawful for the collector of the customs for the district of Mississippi, to grant to any ship or vessel owned by citizens of the United States, laden with articles of the growth, produce or manufacture, of the said states and actually lying in some part of the river Mississippi, south of the southern boundary of the United States, a clearance in the same manner as if such ship or vessel was lying within the said district, which clearance shall be of the form following, to wit;

"District of Mississippi, to
Port of Adams,

These are to certify to all whom it doth concern, That master or commander of the burthen tons or thereabouts, mounted with guns, (if any) navigated with men built, now lying in the river Mississippi, out of the limits of the United States, and bound for having on board (here specify the articles if required) being of the growth, produce or manufacture of the United States, or (if no specification be required) being laden with articles of the growth, produce or manufacture of the United States, hath here cleared his said vessel according to law:

Given under my hand and seal, at the custom house of Port Adams, this day of one thousand eight hundred and in the year of the independence of the United States of America."

Provided nevertheless, That such clearance shall not be granted until the identity of the articles laden on board such ship or vessel, as being of the growth, produce or manufacture of the United States, shall be established to the satisfaction of the said collector, either by the exhibition of a certificate to that effect, from the consul, vice consul or other authorised agent of the United States, residing at or near New-Orleans on the said river, or otherwise: *And provided also*, That before the departure of such ship or vessel for any foreign port or place without the said river, it shall be the duty of the master or commander thereof to exhibit such clearance to the said consul, vice consul or other authorised agent of the United States, who shall certify thereon, under his consular seal, if he be satisfied that the state of the cargo at the time of such exhibition, correspond therewith, that such is the case; or if the whole or any part thereof shall have been unladen, or otherwise changed, so as not to agree with the tenor of such clearance, he shall accordingly state the same.

Sect. 3. *And be it further enacted*, That the consul, vice consulor or other authorized agent of the United States, residing at New Orleans, or at such other place of deposit on the banks of the Mississippi, south of the southern boundary of the United States, as may be assigned by virtue of the treaty of San Lorenzo shall be entitled to receive from the captains or owners of American vessels, two dollars for each certificate, he shall sign, certifying that the articles contained in such certificate, are of the growth, produce, or manufacture of the United States; and he shall also be authorized to employ a proper person to attend to the landing and loading of such articles, whose duty therein, and compensation, shall be the same as those of an inspector of customs in one of the ports of the United States, which compensation shall be considered as a charge against the revenue, and defrayed by the collector for the district of Mississippi out of the moneys received by him on account of the duties on tonnage and merchandize.

NATHANIEL MACON.
Speaker of the House of Representatives.
A. BURR,
Vice President of the United States, and President of the Senate.

APPROVED, February 19th, 1803.
TH: JEFFERSON,
President of the United States.

Wednesday, February 23.

IN SENATE.

The order of the day was called for on Mr. Ross's resolutions.

The vice-president said, that before entering upon the discussion of that subject, he wished to submit to the discussion of the senate a question of construction.

Mr. Jackson rose and said, that before any thing was done upon that subject, he wished to make a few remarks.

The vice-president hesitatingly sat down.

Mr. Jackson proceeded by saying, that he wished to make a few remarks respecting stenographers. He said, he never wished for any honor though the newspapers which he did not deserve. He had formerly voted for admitting stenographers upon the floor of the senate, but did not suppose that they were thereby authorized to publish *lies*. He then read a paragraph respecting himself from the Washington Federalist, and declared that it was utterly false. Mr. Jackson was proceeding with great zeal, when

The vice-president rose, and called him to order.

Mr. Jackson said, he *must* be permitted to proceed. He had only a few observations to make.

The vice-president stood, and called to order.

Mr. Jackson raised his voice, and looked another way. He said he was not going to propose any resolution, nor did he take that method of obtaining satisfaction: he merely wished to put the gentlemen upon their guard as to what they published, and to inform them that he should demand satisfaction in a different——[Here Mr. Jackson was effectually interrupted by a general call to order from every part of the senate: he sat down saying, he would appeal to the house whether he had not a right to be heard.]

The vice president remarked, that by the construction which had been given to one of the rules of the house, it appeared to be in the power of any two members, by making and seconding a motion, to have the galleries cleared at any period of a discussion, and thus to reverse a standing order of the senate, which is, that the proceedings shall be public. He thought that no two senators ought to possess such power, and therefore claimed the decision of the senate, whether that was the legitimate construction of the rule.

A conversation of considerable length ensued, and several resolutions, applicable to the particular discussion upon Mr. Ross's resolutions, were proposed and withdrawn. At length the vote was taken, and it was decided, that upon a motion made and seconded the galleries shall be cleared; all the democratic senators, except Mr. Cocke, voted for that construction.

The order of the day upon Mr. Ross's resolutions was then taken up.

Mr. White, of Delaware, opened the discussion with a very handsome and spirited speech in favor of the resolutions.

Mr. Breckenridge, of Kentucky, followed him, and opposed the resolutions. He concluded his speech by offering the resolutions some time since published, as a substitute.

Mr. Clinton, of New-York then made a speech against Mr. Ross's resolutions.

Mr. Dayton, of New-Jersey, replied to him.

Mr. Cocke, of Tennessee, opposed the resolutions.

Mr. Mason, of Massachusetts, spoke in favor of them: and

Mr. Jackson, of Georgia, against them.

The senate then adjourned.

Instructions for Vaccine Inoculation.

Let the vaccine fluid be taken, for the purpose of innoculation, from a pustule that is making its progress regularly, and which possesses the true vaccine character, on any day from the fifth to the eighth, or even a day or two later, provided the efflorescence be not then formed around it. When the efflorescence is formed, it is always most prudent to desist from taking any more of the virus from that pustule.

To obtain the virus, let the edges of the pustule be greatly punctured with a lancet in several points. It will gradually ooze out, and should be inserted upon the arm, about midway between the shoulder and the elbow, either by means of a very slight scratch, not exceeding the eighth part of an inch, or a very small punctiform puncture.

A little red spot will appear on the punctured part on the third day, if the operation succeed, which on the fourth or fifth becomes perceptibly vesicated. It goes on increasing till the tenth day, when it is generally surrounded by a rose colored efflorescence, which remains nearly stationary for a day or two. The efflorescence then fades away and the pustule is gradually covered into a hard glossy scab, of a dark mahogany color. These progressive stages of the pustule are commonly completed in sixteen or seventeen days.

A single pustule is sufficient to secure the constitution from the small pox; but as we are not always certain the puncture may take effect, it will be prudent to inoculate in both arms, or to make two punctures in the same arm, about an inch and a