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Editors T. F. GRENEKER, R. H. GRENEKER.

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District Courts.

AN ACT TO ESTABLISH DISTRICT COURTS.

Enacted by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, as follows:

I. In each Judicial District of the State, except Charleston, there shall be established a District Court, which shall be organized by the Judge thereof as soon as possible after his election; except in the Judicial District of Charleston, there shall be established two District Courts, one for the Election District of Charleston, and one for the Election District of Berkeley.

II. The Judge of each District Court shall receive, from the Treasurer of the State, a salary of five hundred dollars a year, payable quarterly; and shall be entitled, for a further compensation, to receive, annually, from the District Court Fund, hereinafter prescribed, an additional sum as follows: For Abbeville District, seven hundred dollars; Barnwell District, seven hundred dollars; Colleton District, one thousand dollars; Chester District, five hundred dollars; Darlington District, five hundred dollars; Edgefield District, eight hundred dollars; Fairfield District, five hundred dollars; Georgetown District, one thousand dollars; Laurens District, five hundred dollars; Newberry District, five hundred dollars; Orangeburg District, five hundred dollars; Richland District, one thousand dollars; Sumter District, seven hundred dollars; Union District, five hundred dollars; York District, five hundred dollars; Williamsburg District, five hundred dollars; Berkeley Election District, one thousand dollars; Beaufort District, one thousand dollars; Kershaw District, five hundred dollars; and for the District Judge of each of the other Judicial Districts of this State, the sum of five hundred dollars: *Provided, however,* that in case the District Court Fund in any District shall prove insufficient for the purpose of such additional compensation, as is herein provided, to claim for the whole, or any part, of such additional compensation upon the Treasury of the State shall arise by reason of such deficiency: *And provided, also,* that the time when the salaries herein provided for shall commence, shall be when the Court is organized, and the Judge empowered to execute this Act.

III. For each District Court, the Clerk and Sheriff of the District shall respectively be Clerk and Sheriff, and may be in person, or by deputy, whenever, in this Act, or other Acts passed at this session, one of these officers is mentioned, either he or his deputy, is meant, unless the context shows that he himself is intended.

IV. The Judge, Clerk and Sheriff of a District Court, shall each, before entering on the duties of his office, take the official oath prescribed in the Constitution of the State, and also the following oath, to wit: "I solemnly swear (or affirm) that, as Judge, Clerk or Sheriff, as the case may be, of the District Court for the District of _____, I will earnestly endeavor to do what is required of me by law, and without prejudice for or against race or color, to conduct myself as becomes an upright and faithful officer." These oaths shall be endorsed on the commission or certificate of appointment of the officer, and with it be entered on the Journal of the District Court.

V. The office of every Magistrate now in office shall continue according to the terms of appointment under which it is held, with the power and rights now by law attaching, and incident to such office. The Magistrates who are appointed to exercise the powers and duties, and to have the rights imposed by this Act and the Act entitled "An Act to establish and regulate the domestic relations of persons of color, and to amend the law in relation to paupers and vagrancy," shall be appointed in every District by the District Judge thereof, by and with the advice and consent of a majority of the delegation of such District in the General Assembly, in such manner and so located as the condition of the District may, from time to time, require; and such Magistrates shall have all the powers and rights, and may exercise all the duties of Magistrates, by law conferred on Magistrates. Each Magistrate so appointed shall, before entering on the duties of his office, take before the Clerk of the District the oaths heretofore prescribed for the District Judge, and also the oath prescribed in the second section of the "Act concerning the office and duties of Magistrates," passed A. D. 1839, and shall sign a roll as required in that section. The term of his office shall be four years from the day he signed the roll.

VI. The sum which limits the proceedings by summary process is enlarged to one hundred dollars exclusive of costs. In every case under that proceeding, either party may be a witness in his own behalf, or may be required by the adverse party to testify, either by calling served with a subpoena, or by being called up under a commission, in like manner as in like circumstances another witness in the case could be; the practice now prevailing in reference to interrogatories propounded to an adverse party not being hereby interfered with. And in every such case no person shall be held incompetent as a witness because of interest. Of all such cases, where both the parties litigant are white persons, there shall be concurrent jurisdiction in the Superior Court of Law, and in the District Court; in all laws, rules, fees powers and practice in respect to such cases which may prevail in the Superior Court being extended to the District Court.

VII. The District Court shall have exclusive jurisdiction, subject to appeal, of all civil cases where one or both of the parties are persons of color, and of all criminal cases wherein the accused is a person of color, and also of all cases of misdemeanor affecting the person or property of a person of color, and of all cases of bastardy, and all cases of vagrancy, not tried before a Magistrate. In these cases, the same laws, fees, powers and practice shall prevail in the District Court as in the Superior Court, except as to Juries, concerning which provision is hereinafter made, and except as to matters of form, concerning which power is hereinafter given to the Court of Appeals. In the District Court, prosecutions shall be conducted by the Attorney-General, or Solicitor of the Circuit to which the District belongs, or by a deputy appointed by such Attorney-General or Solicitor, or, in the absence of all of these, by an Attorney appointed by the District Judge. Whenever any case affecting the person or property of a person of color, which arises within the District of a District Judge, that Judge may have an interest, the process may be made returnable, and the case be tried before the District Court of an adjoining District which the plaintiff or actor in the case may select.

VIII. The District Court shall have the same power and jurisdiction as the Superior Court of Law in reference to Constables, Juries, punishment of contempt. The District Court shall have power in all cases of tenants holding over, cases of forcible entry and detainer, cases under the Insolvent Debtors' Acts, where the arrest and detention are under the process of a District Court, all cases under the Prison Bound Act, and all matters of District police; the practice being always conformed, in general, to that of the Superior Court, subject to the rules which may be made by the Court of Appeals.

IX. The Judge of a District Court shall, in all respects, have the power of a Magistrate for his District. He shall exercise supervision over the Clerk and Sheriff of his Court, the Coroner, all Magistrates, Constables, Commissioners and other public functionaries of his District; and from him to any of them may proceed orders, rules and attachments, or writs of mandamus, prohibition, certiorari, quo warranto or scire facias.

X. The Judge of a District Court shall have the powers in respect to *habeas corpus* which two Magistrates have under the ninth section of the "Act concerning the office and duties of Magistrates," passed A. D. 1839; he may admit to bail in all cases bailable, and in all cases triable in his Court, and may also exercise jurisdiction under *habeas corpus* at common law in all cases within his District, where the liberty of a person of color is restrained, or the liberty of any person is restrained by a person of color; and in all cases within his District, which affect white persons only, except that he shall not have the power of a Judge of a Superior Court to discharge or let to bail a white person charged with a felony not clerageable, against whom a true bill has been found.

XI. The Judge of a District Court shall have the power which is given to two Magistrates by the Act of 1837, concerning vagrants; and shall likewise have the power which two Magistrates have under the twenty-third section of the "Act concerning the office and duties of Magistrates," passed A. D. 1839, in respect to tenants holding over; and in the case of a tenant holding over, or of an issue of fact to be tried under the Prison Bound Act, or in any other case where, by law, there is provision for trial or inquiry by a jury before one or more Magistrates, the District Judge may either proceed to organize a Jury, as Magistrates are directed to do, and have trial before himself at a place to be appointed by him, or may take the case into his Court, and submit it to a Jury organized there, as is hereinafter provided; and the verdict, had in either course shall have all the effect which any verdict before Magistrates would have; an appeal may be taken by either party to a Circuit Judge at Chambers, or in open Court, from the decision of the District Court on the trial of any case between landlord and tenant, or of forcible entry and detainer: *Provided,* that notice of the appeal shall be given in writing to the District Judge, and to the opposite party, or his attorney, within twenty-four hours after the decision shall have been rendered, and that a time, not exceeding twenty days, shall be stated in the notice, as the time at which the application to hear the appeal will be made, and what place shall state before what Judge, and what place the application will be made. It shall be the duty of the District Judge on whom the notice of appeal may be served, to deliver to the appellant, or his attorney, within two days after service of such notice, a certified copy of all the proceedings in the case, and for such certificate and copy, the Clerk of the District Court shall be entitled to charge as costs, in the case, fifty cents for the certificate and one mill for each word of such copy. The Judge, before whom the appeal shall be heard, shall have the power to reverse the decision, if there be no evidence upon which to sustain it, in cases where the decision shall be for the plaintiff or actor; or may in any case grant a new trial, or order an issue made up to be tried in the Circuit Court.

XII. The District Court shall be always open, and shall be a Court of Record; ordinarily, it shall sit in the Court Room of the District Court House, except in the District of Berkeley. A place near by shall be provided by the Commissioners of Public Buildings for its sittings, when the Court Room may be occupied by the Superior Court. For any sitting, except the quarterly sittings hereinafter mentioned, the District Judge may, however, appoint any place in the District; and these parties, witnesses, Jurors and other persons concerned, shall be bound, having due notice, to attend; every summons, notice and process being, however, understood to require attendance at the Court House, if another place be not specified.

XIII. All judgments and decrees obtained in the District Court, the effect of which would be to create a lien on the property of the defendant, shall be entered up at such times as judgment obtained in the Circuit Court thence next ensuing may be entered up.

XIV. On the first Monday of every month shall be a monthly sitting of the District Court, which shall continue as long as the dispatch of business may require. At this sitting may be tried small and mean causes, small

matters, civil and criminal, between persons of color, between white persons and persons of color, between master and servant, between master and apprentice, and between employer and laborer. Petty misdemeanors, imputed to persons of color, complaints by persons of color against white persons of misdemeanors, for which a fine not exceeding twenty dollars is a sufficient punishment, civil suits, involving not more than twenty dollars, in which a person of color is a party, and questions concerning vagrants and paupers not requiring a jury. Any business to which a Judge at Chambers is competent, and other business which does not require a jury, may also be done, besides all business which may be done, as aforesaid, may also, at this sitting of the District Court, be tried cases of aggravated misdemeanors and clerageable felonies, of which persons of color may be accused, and of misdemeanors requiring punishment exceeding a fine of twenty dollars, and affecting the person or property of a person of color, of which white persons may be accused. These cases may be tried by a common jury, organized as hereinafter provided, and, in case of conviction, punishment shall be awarded by the Judge, according to the practice of the Superior Court of Law. At this sitting may also be tried cases of tenants holding over, cases under the Prison Bound or Insolvent Debtor Act, which are herebefore mentioned, and any issue in a civil suit ordered to be tried before a common jury.

XV. Previous to a monthly sitting, if the nature of the business shall require a Jury, the Judge shall direct the Sheriff to summon a Common Jury. Thereupon, the Sheriff shall return the names of eighteen citizens of the District, and from these nine shall be drawn, in the presence of the Judge, at least ten days before the said monthly sitting; and the Jury so drawn shall be summoned by the Sheriff, and served with tickets, at least five days before they are required to attend; and they shall be bound to attend under the penalties which may fall upon defaulting Jurors in the Superior Court of Law. Of those who attend, six shall be drawn in open Court, of whom the four first drawn shall constitute the Common Jury for that sitting; the other two being supernumeraries to supply vacancies. The others who may attend shall be discharged without pay; but the six drawn shall be entitled to like pay as Jurors in the Superior Court of Law. If less than six, out of the nine summoned, should attend, the Sheriff shall summon a sufficient number that may be drawn of the original eighteen, or in case of their insufficiency, of any other citizens. *Provided,* no person shall be required to attend as a Juror more than once in six months. The right to challenge a Juror is given to the accused and to the prosecuting officer in any criminal case triable before a Jury, at a monthly sitting; and the same right is given to each party in a civil suit there triable; unanimity of the four Jurors shall be requisite for a verdict.

XVI. Four times a year there shall be a quarterly sitting of the District Court, to be continued as long as business may require, and if necessary to be adjourned from week to week; at which, besides any business that may be done at a monthly sitting, may be tried cases of summary process pending in the District Court; civil suits, above the summary jurisdiction, wherein one or both of the parties are persons of color, cases of crime or felony punishable by death without benefit of clergy, of which persons of color may be accused, and of other matters pending in the Court. The proceedings in the cases severally shall be, in general, similar to those in like cases in the Superior Court of Law, subject to the diversities in form which may be produced by the rules adopted by the Court of Appeals, as hereinafter provided.

XVII. For each quarterly sitting, Jurors shall be drawn at a monthly sitting, not more than forty or less than ten days before such quarterly sitting, who shall, under a venire, be summoned by the Sheriff five days preceding the time which may be fixed for the commencement of the quarterly sitting. With a view to these Jurors, once in every two years a list shall be procured from the Tax Collector; from that the names of all Jurors qualified to sit as Jurors in the Superior Court, shall be entered on tickets, and from these tickets there shall be drawn, for each quarterly sitting, twenty-four, to be copied in the panel annexed. At the quarterly sitting, from the list of the twenty-four who attend, eight shall be drawn, in open Court, who shall constitute a Grand Jury, and twelve shall be drawn, to constitute a Petit Jury of six, to be called a Special Jury, and six supernumeraries. Of the Grand Jurors, the concurrence of six shall be necessary to the finding of a true bill. In the Special Jury, unanimity of the six shall be required for a verdict. At the opening of a trial, in a capital case, at least twelve Jurors shall be present, and of these the accused may make peremptory challenges until the number shall be reduced to six. At the opening of a trial in a civil suit, or in a criminal case, not capital, not more than ten Jurors need be present, and each party alternately in a civil suit, and the accused, in a criminal case not capital, may make peremptory challenges until the Jury of six is left. If there should not be sufficient reduction by challenges, the six shall be ascertained by drawing. An insufficient number in any instance shall be supplied by Jurors whom the Sheriff shall summon, of the same persons, and in the same way, as has been herebefore provided in respect to a Common Jury. A Special Jury may do anything for which a Common Jury is competent. Challenges for cause at either the monthly or quarterly sittings shall be unlimited. A separate jury box shall be provided for the District Court, and in respect to Juries, the orders of Court, duties of Tax Collector, Sheriff and Clerk, pay of Jurors, penalties for default, and all laws and practice shall, with such modifications as the provisions herein made, and the rules adopted by the Court of Appeals, may render necessary, be the same in the District Court as in the Superior Court.

XVIII. The Judge shall take care, by proper arrangements of the order of business, and by discharging all Jurors who may be present above the necessary number, to reduce the expenses of his Court as much as justice will permit. Each Juror shall receive from the Clerk a certificate signed by the Clerk and countersigned by the Judge, for such sum as for like services he would have received if a Juror of the Superior Court; and

this sum shall be paid under the order of the District Court Judge. In like manner, there shall be a certificate and payment for any Constable that may attend the Court under the order of the Sheriff, of whom there shall not be more than three without the order of the Judge which shall be granted only in cases of necessity. The Clerk shall enter on the Journal of the Court a roll containing the names of the Jurors and Constables, who receive certificates, with the sums paid to them respectively, and copies of the rolls for the year preceding, the Clerk shall, annually, after the quarterly sitting of each year, which ends next before the regular session of the General Assembly, transmit to the Treasurer, a condensed statement of all the rolls for all the Districts of the State shall be contained in the annual report of the Treasurer.

XIX. The Judges of the Court of Appeals shall, from time to time, fix the days upon which the quarterly sittings of the District Court in each District shall convene, avoiding, as far as possible, interference with the Superior Court in that District or neighboring Districts, giving public notice of the several days fixed, and making no unnecessary changes.

XX. The District Court shall have exclusive jurisdiction, subject to appeal, of all matters of equity, wherein one or both of the parties are persons of color. These matters shall be heard and determined by the District Judge at a quarterly sitting, or at such other time as with his concurrence the parties may fix, with an appeal from the Chancellor on Circuit. In respect to them, the Commissioner in Equity for the District shall regard the Judge of the District Court as he does the Chancellor, in respect to matters in the Superior Court of Equity; and in both of these Courts, the law, practice, fees, modes of proceeding, and effect of orders a process shall be, as nearly as may be, the same.

XXI. The Judge of a District Court may practice as an Attorney or Solicitor in the Superior Courts of the Law and Equity, except in cases which have been argued before him or heard in his Court, but he shall not have a partner in the practice in the District of which he is the Judge.

XXII. The Clerk of the District Court shall attend the monthly and quarterly sittings of the Court, and all other sittings at which the Judge shall require him to attend. He shall keep a full and exact journal of every order, decision, verdict, sentence and act of the Court; having one book for civil suits, in which only white persons are parties; second, a book for vagrancy and bastardy; third, a book for civil suits, in which persons of color are parties; and a fourth, for criminal matters, affecting persons of color. All process from the Court shall be signed by him and be sealed. All papers which come into his office shall be carefully kept, and those which are to remain there shall be arranged, labeled and filed away as nearly as may be, according to the directions given by law, concerning papers of the Superior Courts.

XXIII. The Judge shall himself keep a journal of all orders, decisions, sentences and Acts of the Court, when in absence of the Clerk, he is sitting without a Jury, which journal shall, from time to time, at least once a quarter, be filed in the Clerk's office. He may, when necessary, appoint a Clerk pro-

XXIV. The Sheriff shall execute all orders, sentences and process from the District Court, under like penalties for neglect as for neglect of like orders, sentences and process from the Superior Court, and in like manner he shall, for such neglect, be liable to rule, attachment, action and forfeiture. The Sheriff shall have power to call on the *posse comitatus*, to aid him in the execution of all such orders, sentences and process, mesne or final, in civil or criminal matters, where more force than that of one man is required, or resistance is apprehended. Every person who being called to aid as one of the posse, does not immediately and earnestly give aid according to the direction of the Sheriff, shall be subject to rule and attachment for contempt, and to a fine not less than twenty dollars, nor more than five hundred dollars.

XXV. The return day of the District Court, for mesne process in civil suits, triable at the quarterly sitting, shall be eight days before each quarterly sitting. In the Superior Court and District Court, the law and practice shall be the same as to the liens of judgment and decrees, as to the manner of serving process, process served after return days, several defendants residing in different Districts, writs of *fiere facias* and *capias ad faciendum*, exemptions from arrest, bail bonds, orders for suspending executions, writs of attachment, and all other matters wherein diversity is not produced by Act of the Legislature, or rules made by the Judges as hereinafter provided.

XXVI. All fees for services required from the Clerk and Sheriff of the District Court shall be paid in cash by the party requiring the services, and according to the judgment and order of the Court, may or may not be recovered against the opposite party. This provision shall extend to all cases, by summary process, in the Superior Courts of Law.

XXVII. The Sheriff shall keep the papers which come to his office from a District Court separate from those which come from a Superior Court. He shall in one book enter all mesne process from the District Court, and in another all final process from that Court, taking care, however, to preserve the priority of lines by attachment or execution, whatever Court the process may come from.

XXVIII. All fines, penalties, forfeitures and other moneys belonging to the District Court Fund, which the Sheriff may collect under orders, sentences or process of the District Court, and all such moneys as may be turned over to him by any other officer, the Sheriff shall hold under the security of his official bond, until they shall be paid under the order or draft of the District Judge. Each Magistrate shall, at least once in every three

months, report and pay to the Chairman of the Board of Relief of Indigent Persons of Color, the moneys received by him from aids, taxes, fines and penalties, and all other moneys belonging to the District Court Fund, which have come to his hands. On the first day of each quarterly sitting of the District Court, the Sheriff, the Clerk, each Magistrate of the District, the Chairman of the Board aforesaid, the Superintendents of Convicts, and every person (besides a Constable, who may have had charge of convicts or received wages or other moneys which belong to the District Court Fund, shall each make to the Court a full and minute report of his receipts, disbursements and payments, showing the items on each side of the account, and the exact balance in his hands, accompanied by an estimate of the probable receipts and requirements in his department for the next quarter. The report of the chairman aforesaid shall specially set forth all known delinquencies of Magistrates in reporting, paying and discharging other duty, with the name of the delinquents. The District Judge shall examine all these reports carefully, and take the most prompt and energetic means to prevent and correct all delinquencies and omissions. Having ascertained the amount of the District Court Fund which is on hand, including what he himself may have, he shall, by orders entered on the Journal of the Court, direct payments to be made by the officers respectively, in such sums as he may designate, to the following purposes, namely: 1. The usual additional compensation of the Judge, of which one-fourth shall be taken each quarter. 2. Jurors' certificates. 3. Expenses of the Court, including fees payable out of the District Court Fund. 4. Pay of Superintendent and other expenses of convicts. 5. Balance to be paid to the Chairman of the Board of Relief of Indigent Persons of Color for the uses of that Board. For their services in respect to the collection and disbursement of the District Court Fund, the several officers shall, in the settlement of their accounts, be allowed commissions as follows: The Sheriff and Magistrate shall each have five per centum upon all sums collected by him, to be in addition to commissions which, with other fees, a Sheriff or Constable may exact from persons against whom he executes process; and the Sheriff and Magistrate shall each be further allowed two-and-a-half per centum upon the proper disbursement made by him. The Clerk, Superintendent of Convicts, Jailor and other persons who may have had supervision of convicts, or received wages belonging to the District Court Fund shall each have two-and-a-half per centum upon all sums collected by him, and two-and-a-half per centum upon all sums disbursed by him. In no case shall sums collected be understood to include sums received from some other of the officers who are required to make reports as herebefore required, nor disbursements to include sums turned over to another of these officers. It shall be the duty of the District Judge to guard the fund against duplicated commissions, as well as against other improper charges. The Chairman of the Board of Relief of Indigent Persons of Color shall be allowed commissions upon his own collections, and disbursements as another Magistrate is, and in addition shall, for each semi-annual report to his Board, and each quarterly report to the Court, be allowed, out of the District Court Fund, a sum not less than five dollars, nor more than twenty dollars, which the District Judge shall fix according to the quantity of business done by him, and the manner in which it was done. The Clerk shall, under the supervision of the Judge of the District Court, annually, at some early day, between the quarterly sitting of the Court, which next precedes the regular session prepare and transmit to the Treasurer a report from his District Court, issued by the Clerk and certified by the Judge. This report shall contain a condensed statement compiled from the reports which are made to the Court, and from the Journals of the Court, showing the amount of the District Court Fund, how much from each source, the commissions for collection; the whole disbursements, and how much for each general purpose, the commission upon disbursements, other expenses, the balance on hand, and the liabilities unpaid. The Treasurer shall aggregate the reports of the Clerks so as to show results for the whole State, and shall lay before the General Assembly a tabular statement of the Clerk, noting particularly any District Court from which reports had not been received.

XXIX. An indictment against a white person for the homicide of a person of color shall be tried in the Superior Court of Law, and shall be all other indictment in which a white person is accused of a capital felony, affecting the person or property of a person of color.

XXX. In every case, civil and criminal, in which a person of color is a party, or which affects the person or property of a person of color, persons of color shall be competent witnesses. The accused, in such a criminal case, and the parties, in every such civil case, may be witnesses, and so may every other person who is a competent witness; and in every such case, either party may offer testimony to his own character, or that of his adversary, or of the prosecutor, or of the third person mentioned in an indictment.

XXXI. A magistrate shall have jurisdiction over small disputes, controversies and complaints that may arise in his neighborhood between persons of color and a white person, and of petty misdemeanors committed by or towards a person of color, between master and servant, between employer and apprentice, and between employer and laborer, and civil suits, involving not more than twenty dollars in which a person of color is a party, or which affects the person or property of a person of color, persons of color shall be competent witnesses. The accused, in such a criminal case, and the parties, in every such civil case, may be witnesses, and so may every other person who is a competent witness; and in every such case, either party may offer testimony to his own character, or that of his adversary, or of the prosecutor, or of the third person mentioned in an indictment.

XXXII. An action of legal proceeding not involving the title to land, in which a person of color is plaintiff or defendant, must be commenced as below specified, or it will be barred, namely: An action founded upon a tort within three months from the time the cause of action arose; an action founded upon a contract not in writing, within six months from the time the cause of action arose; an action founded upon a contract in writing, wherein the debt or damages do not exceed two hundred dollars within three months from the time the cause of action arose; except that, first, a payment of part, with a distinct acknowledgment of a balance due, or an express promise to pay a well defined sum, shall constitute a new era from which the period of limitation shall run on a matter of contract. Second, that if any legal proceeding shall be commenced within the limited period, in good faith for recovery upon tort contract, and shall terminate, without judgment for the plaintiff, its termination shall constitute the period from which the time shall be counted. Third, that these shall not be included in the computation of time between the death of a white person, defendant, and grant of administration or probate to his personal representative. Nor fourth, the time during which an executor or administrator and defendant is by law protected from suit. Nor fifth, the time during which a person of color, defendant, may be absent from the District in which the cause of action arose, or may be absconding in that District.

XXXIII. In reference to wills, executors and administrators, distribution of estates after payment of debts, the rights and remedies of legatees and next to kin, and all other matters relating to testators and intestates, the same which applies to white persons shall extend to persons of color.

XXXIV. To the District court there shall be an appeal from the Ordinary in respect to matters which affect persons of color, to be conducted as in like cases is an appeal to a Superior Court. An appeal from a Magistrate shall go to the District Court, the appellant paying in cash, to the Magistrate, one dollar, as a fee for the report. An appeal from a

garnishee what is supposed to be in his hands belonging to such person of color, may set out a short summons against the garnishee, upon which the sum certain before mentioned, with costs and the amount of property claimed to be in the hands of the garnishee shall be set down, which summons a Magistrate may issue, if the amount of money or value of property claimed from the garnishee is twenty dollars or under, and the District Court must issue, if it is above that sum. The summons having been issued, the garnishee, if he acknowledge his indebtedness to the person of color before mentioned, or his possession of property belonging to him, may pay to the plaintiff in attachment, if his debt to the person of color be due, or give his note to such plaintiff, if such debt be payable at a future day, and may surrender to such plaintiff, any chose in action or other property of the person of color in his possession, so as to discharge the amount claimed from him, or so much thereof as will satisfy the tax and costs, and the receipt of the plaintiff in attachment shall be an acquittance of the garnishee who sues against the person of color. If the garnishee should not acknowledge, pay, give note and surrender as above, to the satisfaction of the plaintiff in attachment, the garnishee shall, in obedience to the summons, make the return, on oath, to the Magistrate or District Court, as the case may be, as if anything he owes to the person of color either presently due or payable in future, or has in possession belonging to him. If the plaintiff should be thus satisfied, the garnishee shall pay, give note and surrender as before mentioned; but if the plaintiff should still be dissatisfied, he and the garnishee, with other witnesses (if from the person of color may be one on either side) shall be heard, and orders respecting the matter between them become by the Magistrate or District Court according to the truth as they may appear. If the garnishee should not make a return, or meet the trial, judgment shall be rendered against him for the amount or value claimed from him in the summons. Any property surrendered by a garnishee before or after trial, shall be sold under the order of the Magistrate or Court, and the proceeds applied to the payment of the tax and costs, and the surplus, if any, shall be paid to the person of color. For goods delivered or wasted after service of the summons, the garnishee who had them in his possession, shall be made answerable. Like proceedings may be had upon any second or subsequent attachment, priority between various plaintiffs pursuing the same garnishee being settled according to the priority of the different dates of their attachments against him.

XXXV. Questions of color and caste shall be conclusively determined by a verdict rendered upon an issue of fact joined in a case of prohibition or mandamus. The writ in such may be granted, upon application made by or in behalf of any person alleged to be a person of color, against any Sheriff, Magistrate or other officer, who is proceeding in a way that would be proper toward a person of color, and not proper toward a white person, or who, at the instance of the person in question, to do what a white person shall have a right to demand to be done, or may be granted by any Judge of a Superior Court, or the Judge of the District Court to whom such writ the officer belongs, the burden of proof being, by the order of the Judge, thrown upon that party against whom his opinion inclines; according to the judgment which he may form, upon inspection of the person in question, affidavits or documents. The issue shall be tried in the Superior Court of Law for the District aforesaid. Inspection of the person in question, and of his kindred, testimony direct, or from reputation, concerning his parentage, and testimony concerning his conduct and reputation in society, may enter into his evidence. The Attorney General or Solicitor of the District, or any other competent party, officer in the law, may be present in such cases, and may be heard, previously had, in a case wherein the person in question was a party, or wherein his caste was collaterally tried in a case between other parties, may be received in evidence; but shall not be conclusive or have weight beyond what, under the circumstances, the Jury may give.

XXXVI. An action of legal proceeding not involving the title to land, in which a person of color is plaintiff or defendant, must be commenced as below specified, or it will be barred, namely: An action founded upon a tort within three months from the time the cause of action arose; an action founded upon a contract not in writing, within six months from the time the cause of action arose; an action founded upon a contract in writing, wherein the debt or damages do not exceed two hundred dollars within three months from the time the cause of action arose; except that, first, a payment of part, with a distinct acknowledgment of a balance due, or an express promise to pay a well defined sum, shall constitute a new era from which the period of limitation shall run on a matter of contract. Second, that if any legal proceeding shall be commenced within the limited period, in good faith for recovery upon tort contract, and shall terminate, without judgment for the plaintiff, its termination shall constitute the period from which the time shall be counted. Third, that these shall not be included in the computation of time between the death of a white person, defendant, and grant of administration or probate to his personal representative. Nor fourth, the time during which an executor or administrator and defendant is by law protected from suit. Nor fifth, the time during which a person of color, defendant, may be absent from the District in which the cause of action arose, or may be absconding in that District.

XXXVII. In reference to wills, executors and administrators, distribution of estates after payment of debts, the rights and remedies of legatees and next to kin, and all other matters relating to testators and intestates, the same which applies to white persons shall extend to persons of color.

XXXVIII. To the District court there shall be an appeal from the Ordinary in respect to matters which affect persons of color, to be conducted as in like cases is an appeal to a Superior Court. An appeal from a Magistrate shall go to the District Court, the appellant paying in cash, to the Magistrate, one dollar, as a fee for the report. An appeal from a