

# American Legal History – Russell

## **1 William Waller Hening, The Statutes at Large; Being a Collection of all the Laws of Virginia, from the First Session of the Legislature in the Year 1619 (R. & W. & G. Barton 1923)**

MARCH, 1642-3--18th CHARLES 1st. ACT XXII. 1: 254.

WHEREAS there are divers loytering runaways in the collony who very often absent themselves from their masters service, And sometimes in two or three monthes cannot be found, whereby their said masters are at great charge in finding them, And many times even to the losse of their year's labour before they be had, *Be it therefore enacted and confirmed* that all runaways that shall absent themselves from their said masters service shall be lyable to make satisfaction by service at the end of their tymes by indenture (vizt.) double the tyme of service soe neglected, And in some cases more if the comissioners for the place appointed shall find it requisite and convenient. And if such runnaways shall be found to transgresse the second time or oftener (if it shall be duely proved against them) that then they shall be branded in the cheek with the letter R. and passe under the statute of incorrigible rogues, Provided notwithstanding that where any servants shall have just cause of complaint against their masters or mistrises by harsh or unchristianlike usage or otherways for want of diet, or convenient necessaryes that then it shall be lawfull for any such servant or servants to repaire to the next comissioner to make his or their complaint, And if the said commissioner shall find by good and sufficient proofes, that the said servant's cause of complaint is just, The said comissioner is hereby required to give order for the warning of any such master or mistris before the comissioners in their severall county courts, where the matter in difference shall be decided as they in their discretions shall think fitt, And that care be had that no such servant or servants be misused by their masters or mistrises, where they shall find the cause of complaint to be just. Be it further also enacted that if any servant running away as aforesaid shall carrie either peice, powder and shott, And leave either all or any of them with the Indians, And being thereof lawfully convicted shall suffer death as in case of felony.

MARCH, 1642-3 ACT XXVI, 1:257.

WHEREAS divers controversies have risen between masters and servants being brought into the colony without indentures or covenants to testify their agreements whereby both masters and servants have been often prejudiced, *Be it therefore enacted and confirmed* for prevention of future controversies of the like nature, that such servants as shall be imported having no indentures or covenants either men or women if they be above twenty year old to serve fowre year, if they shall be above twelve and under twenty to serve five years, And if under twelve to serve seaven years.

MARCH, 1654-55 - 6th of Commonwealth, ACT VI, 1:411.

BE it enacted by this Grand Assembly, That all Irish servants that from the first of September, 1653, have bin brought into this collony without indenture(notwithstanding the for servants without indentures it being only the benefitt of our own nation) shall serve as followeth, (vizt.) all above sixteen yeares old to serve six years, and all under to serve till they be twenty-four years old and in case of dispute in that behalfe the court shall be judge of their age.

MARCH, 1659-60, 11th of Commonwealth, ACT XIV, 1:538

*An Act for repealing an Act for Irish Servants.*

WHEREAS the act for Irish servants comeing in without indentures enjoying them to serve six yeeres, carried with it both rigour and inconvenience, many by the length of time they have to serve being discouraged from comeing into the country, And by that meanes the peopling of the country retarded, And these inconveniences augmented by the addition of the last clause in that act, That all aliens should be included, *Bee it therefore enacted and confirmed*, That the whole act be repealed and made void and null, And that for the future no servant comeing into the country without indentures, of what christian nation soever, shall serve longer then those of our own contry, of the like age: *And it is furtherenacted*, That what alien soever arrive here before that clause was inserted and that hath been by vertue of that last clause inforced to serve any time longer then the custom of the countrey did oblige them to shall be allowed competent wages by their severall masters for the time they have overserved, Any act, order of court or judgment to the contrary notwithstanding, *Provided alwaies* that all such aliens as came in servants during the time that the said clause was in force shall serve according to the tenor of that act.

William Waller Henning - Vol II, MARCH, 1660-1, 13th Charles II, ACT XXII, 2:26.

*English running away with negroes.*

*BEE itt enacted* That in case any English servant shall run away in company with any negroes who are incapable of making satisfaction by addition of time, *Bee itt enacted* that the English so running away in company with them shall serve for the time of the said negroes absence as they are to do for their owne by a former act.

MARCH, 1661-2, ACT CII, 14th Charles II, 2:116.

*Run-aways.*

WHEREAS there are diverse loytering runaways in this country who very often absent themselves from their masters service and sometimes in a long time cannot be found, that losse of the time and the charge in the seeking them often exceeding the value of their labor: *Bee it therefore enacted* that all runaways that shall absent themselves from their said masters shalbe lyable to make satisfaction by service after the times by custome or indenture is expired (vizt.) double their times of service soe neglected, and if the time of their running away was in the crop or the charge of recovering them extraordinary the court shall lymitt a longer time of service proportionable to the damage the master shall make appeare he hath susteyned, and because the adjudging the time they should serve is often referred untill the time by indenture is expired, when the prooffe of what is due is very uncertaine, *it is enacted* that the master of any runaway that intends to take the benefitt of this act, shall as soone as he hath recovered him carry him to the next commissioner and there declare and prove the time of his absence, and the charge he hath bin at in his recovery, which commissioner thereupon shall grant his certificate, and the court on that certificate passe judgment for the time he shall serve for his absence; and in case any English servant shall run away in company of any negroes who are incapable of making satisfaction by addition of a time, *it is enacted* that the English soe running away in the company with them shall at the time of service to their owne masters expired, serve the masters of the said negroes for their absence soe long as they should have done by this act if they had not beene slaves, every christian in company serving his proportion; and if the negroes be lost or dye in such time of their being run away, the christian servants in company with them shall by

proportion among them, either pay fower thousand five hundred pounds of tobacco and caske or fower yeares service for every negroe soe lost or dead.

December 1662 - 14th Charles II, 2:170, Act XII.

*Negro womens children to serve according to the condition of the mother.*

WHEREAS some doubts have arrisen whether children got by any Englishman upon a negro woman should be slave or ffree, *Be it therefore enacted and declared by this present grand assembly*, that all children borne in this country shalbe held bond or free only according to the condition of the mother, *And* that if any christian shall committ ffornication with a negro man or woman, hee or shee so offending shall pay double the ffinnes imposed by the former act.

September 1667 - 19th Charles II, ACT III, 2:260.

*An act declaring that baptisme of slaves doth not exempt them from bondage.*

WHEREAS some doubts have risen whether children that are slaves by birth, and by the charity and piety of their owners made pertakers of the blessed sacrament of baptisme, should by vertue of their baptisme be made ffree; *It is enacted and declared by this grand assembly, and the authority thereof*, that the conferring of baptisme doth not alter the condition of the person as to his bondage or freedome; that diverse masters, ffreed from this doubt, may more carefully endeavour the propagation of christianity by permitting children, though slaves, or those of growth if capable to be admitted to that sacrament

September 1668 - 20th Charles II, Act VII (1668), 2:267.

*Negro women not exempted from tax.*

WHEREAS some doubts, have arisen whether negro women set free were still to be accompted tithable according to a former act, *It is declared by this grand assembly* that negro women, though permitted to enjoy their freedome yet ought not in all respects to be admitted to a full fruition of the exemptions and impunities of the English, and are still lyable to payment of taxes.

October 1669 - 21st Charles II, 2:270, Act I.

*An act about the casuall killing of slaves.*

WHEREAS the only law in force for the punishment of refractory servants (*a*) resisting their master, mistress or overseer cannot be inflicted upon negroes, nor the obstinacy of many of them by other than violent means suppressed, *Be it enacted and declared by this grand assembly*, if any slave resist his master (or other by his masters order correcting him) and by the extremity of the correction should chance to die, that his death shall not be accounted felony, but the master (or that other person appointed by the master to punish him) be acquitted from molestation, since it cannot be presumed that premeditated malice (which alone makes murder felony) should induce any man to destroy his own estate.

October 1670 - 22nd Charles II, Act V, 1670,2:280.

*Noe Negroes nor Indians to buy christian servants.*

Whereas it hath been questioned whether Indians or negroes manumitted, or otherwise free, could be capable of purchasing christian servants, *It is enacted* that no negro or Indian though baptised and enjoyed their own freedom shall be capable of any such purchase of christians, but yet not debarred from buying any of their own nation.

June 1680 - 32nd Charles II, Act X, 2.481.

*An act for preventing Negroes Insurrections.*

WHEREAS the frequent meeting of considerable numbers of negro slaves under pretence of feasts and burials is judged of dangerous consequence; for prevention whereof for the future, *Bee it enacted by the kings most excellent majesty by and with the consent of the generall assembly, and it is hereby enacted by the authority aforesaid*, that from and after the publication of this law, it shall not be lawful for any negro or other slave to carry or arme himselfe with any club, staffe, gunn, sword or any other weapon of defence or offence, nor to goe or depart from of his masters ground without a certificate from his master, mistress or overseer, and such permission not to be granted but upon particular and necessary occasions; and every negro or slave soe offending not having a certificate as aforesaid shall be sent to the next constable, who is hereby enjoyned and required to give the said negro twenty lashes on his bare back well layd on, and soe sent home to his said master, mistress or overseer. *And it is further enacted by the authority aforesaid* that if any negro or other slave shall presume or lift up his hand in

opposition against any christian, shall for every such offence, upon due prooffe made thereof by the oath of the party before a magistrate, have and receive thirty lashed on his bare back well laid on. *And it is hereby further enacted by the authority aforesaid* that if any negroe or other slave shall absent himself from his masters service and lye hid and lurking in obscure places, comitting injuries to the inhabitants, and shall resist any person or persons that shalby any lawfull authority be employed to apprehend and take the said negroe, that then in case of such resistance, it shalbe lawfull for such person or persons to kill the said negroe or slave soe lying out and resisting, and that this law be once every six months published at the respective county courts and parish churches within this colony.

William Waller Henning - Vol. III, April 1692 - 4th William and Mary, Act III, 3.102

*An act for the more speedy prosecution of slaves comitting Capitall Crimes.*

WHEREAS a speedy prosecution of negroes and other slaves for capital offences is absolutely necessarie, that others being deterred by the condign punishment inflicted on such offenders, may vigorously proceed in their labours and be affrighted to commit the like crimes and offences, and whereas such prosecution has been hitherto obstructed by reason of the charge and delay attending the same,

Be it therefore enacted by their Majesties Lieutenant Governour, Councill and Burgesses of this present Generall Assembly and the authority therof, and it is hereby enacted. That every negro or other slave which shall after this present session of Assembly commit or perpetrate any cappitall offence which the law of England requires to be satisfied with the death of the offender or loss of member, after his committing of the said offence, shall be forthwith committed to the common gaol of the county within which such offence shall be committed, there to be safely continued, well laden with irons, and that the sheriff of the said county doe forthwith signify the same to the governoar for the time being, who is desired and impowered to issue out a commission of oyer and terminer directed to such persons of the said county as he shall think fitt, which persons forthwith after the receipt of the said commission are required and commanded publicly at the courthouse of the said county to cause the offender to be arraigned and indicted, and to take for evidence the confession of the party or the oaths of two witnesss or of one with pregnant circumstances, without the sollemnitie of jury, and the offender being found

guilty as aforesaid, to pass judgment as the law of England provides in the like case, and on such judgment to award execution.

And be it enacted by the authority aforesaid, and it is hereby enacted, That all horses, cattle and hoggs marked of any negro or other slaves marke, or by any slave kept, and which shall not by the last day of December next, be converted by the owner of such slave to the use and marke of the said owner, shall be forfeited to the use of the poore of the parish wherein such horse, beast, or hogg shall be kept, seizable by the church wardens thereof.

And be it enacted by the authority aforesaid, and it is hereby enacted that where it shall happen that any damage shall be hereafter committed by any negro or other slave living at a quarter, where there is noe christian overseer, the same damage shall be recompenced by the owner of such slave to the party injured.

October 1705 - 4th Anne, Chap XXIII, 3.333.

*An act declaring the Negro, Mulatto, and Indian slaves within this dominion, to be real estate.*

I. FOR the better settling and preservation of estates within this dominion,

II. *Be it enacted, by the governor, council and burgesses of this present general assembly, and it is hereby enacted by the authority of the same;* That from and after the passing of this act, all negro, mulatto, and Indian slaves, in all courts of judicature, and other places, within this dominion, shall be held, taken, and adjudged, to be real estate (and not chattels;) and shall descend unto the heirs and widows of persons departing this life, according to the manner and custom of land of inheritance, held in fee simple.

III. *Provided always,* That nothing in this act contained, shall be taken to extend to any merchant or factor, bringing any slaves into this dominion, or having any consignments thereof, unto them, for sale: But that such slaves, whilst they remain unsold, in the possession of such merchant, or factor, or of their executors, administrators, or assigns, shall, to all intents and purposes, be taken, held, and adjudged, to be personal estate, in the same condition they should have been in, if this act had never been made.

IV. *Provided also*, That all such slaves shall be liable to the payment of debts, and may be taken by execution, for that end, as other chattels or personal estate may be.

V. *Provided also*, That no such slaves shall be liable to be escheated, by reason of the decease of the proprietor of the same, without lawful heirs: But all such slaves shall, in that case, be accounted and go as chattels, and other estate personal.

VI. *Provided also*, That no person, selling or alienating any such slave, shall be obliged to cause such sale or alienation to be recorded, as is required by law to be done, upon the alienation of other real estate: But that the said sale or alienation may be made in the same manner as might have been done before the making of this act.

VII. *Provided also*, That this act, or any thing therein contained, shall not extend, nor be construed to extend, to give any person, being owner of any slave or slaves, and not seized of other real estate, the right or privilege as a freeholder, meant, mentioned, and intended, by one act of this present session of assembly, intituled, *An act for regulating the elections of Burgesses, for settling their privileges, and for ascertaining their allowances*.

VIII. *Provided also*, That it shall and may be lawful, for any person, to sue for, and recover, any slave, or damage, for the detainer, trover, or conversion thereof, by action personal, as might have been done if this act had never been made.

IX. *Provided always*, That where the nature of the case shall require it, any writ *De Partitione facienda*, or of dower, may be sued forth and prosecuted, to recover the right and possession of any such slave or slaves.

X. *Provided, and be it enacted*, That when any person dies intestate, leaving several children, in that case all the slaves of such person, (except the widow's dower, which is to be first set apart) shall be inventoried and appraised; and the value thereof shall be equally divided amongst all the said children; and the several proportions, according to such valuation and appraisement, shall be paid by the heir (to whom the said slaves shall descend, by virtue of this act) unto all and every the other said children. And thereupon, it shall and may be lawful for the said other children, and every of them, and their executors or administrators, as the case shall be, to commence and prosecute an action upon the case, at the common law, against such heir, his heirs, executors and



administrators, for the recovery of their said several proportions, respectively.

XI. *And be it further enacted by the authority aforesaid,* That if any widow, seised of any such slave or slaves, as aforesaid, as of the dower of her husband, shall send, or voluntarily permit to be sent out of this colony and dominion, such slave or slaves, or any of their increase, without the lawful consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, usage or custom to the contrary notwithstanding. And if any widow, seized as aforesaid, shall be married to an husband, who shall send, or voluntary permit to be sent out of this colony and dominion, any such slave or slaves, or any of their increase, without the consent of him or her in reversion; in such case, it shall be lawful for him or her in reversion, to enter into, possess and enjoy all the state which such husband holdeth, in right of his wife's dower, for and during the life of the said husband.

October 1705 - 4th Anne. CHAP. KLIX. 3.447.

*An act concerning Servants and Slaves.*

I. *Be it enacted, by the governor, council, and burgesses, of this present general assembly, and it is hereby enacted, by the authority of the same,* That all servants brought into this country without indenture, if the said servants be christians, and of christian parentage, and above nineteen years of age, shall serve but five years; and if under nineteen years of age, 'till they shall become twenty-four years of age, and no longer.

II. *Provided always,* That every such servant be carried to the country court, within six months after his or her arrival into this colony, to have his or her age adjudged by the court, otherwise shall be a servant no longer than the accustomed five years, although much under the age of nineteen years; and the age of such servant being adjudged by the court, within the limitation aforesaid, shall be entered upon the records of the said court, and be accounted, deemed, and taken, for the true age of the said servant, in relation to the time of service aforesaid.

III. *And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That when any servant sold for the custom, shall pretend to have indentures,

the master or owner of such servant, for discovery of the truth thereof, may bring the said servant before a justice of the peace; and if the said servant cannot produce the indenture then, but shall still pretend to have one, the said justice shall assign two months time for the doing thereof; in which time, if the said servant shall not produce his or her indenture, it shall be taken for granted that there never was one, and shall be a bar to his or her claim of making use of one afterwards, or taking any advantage by one.

*IV. And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That all servants imported and brought into this country, by sea or land, who were not christians in their native country, (except Turks and Moors in amity with her majesty, and others that can make due proof of their being free in England, or any other christian country, before they were shipped, in order to transportation hither) shall be accounted and be slaves, and as such be here bought and sold notwithstanding a conversion to christianity afterwards.

*V. And be it enacted, by the authority aforesaid, and it is hereby enacted,* That if any person or persons shall hereafter import into this colony, and here sell as a slave, any person or persons that shall have been a freeman in any christian country, island, or plantation, such importer and seller as aforesaid, shall forfeit and pay, to the party from whom the said freeman shall recover his freedom, double the sum for which the said freeman was sold. To be recovered, in any court of record within this colony, according to the course of the common law, wherein the defendant shall not be admitted to plead in bar, any act or statute for limitation of actions.

*VI. Provided always,* That a slave's being in England, shall not be sufficient to discharge him of his slavery, without other proof of his being manumitted there.

*VII. And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That all masters and owners of servants, shall find and provide for their servants, wholesome and competent diet, clothing, and lodging, by the discretion of the county court; and shall not, at any time, give immoderate correction; neither shall, at any time, whip a christian white servant naked, without an order from a justice of the peace: And if any, notwithstanding this act, shall presume to whip a christian white servant naked, without such order, the person so offending, shall forfeit and pay for the same, forty shillings sterling, to the party injured: To be recovered, with costs, upon petition, without the formal process of an action, as in and by this act is

provided for servants complaints to be heard; provided complaint be made within six monts after such whipping.

VIII. *And also be it enacted, by the authority aforesaid, and it is herby enacted,* That all servants, (not being slaves,) whether imported, or become servants of their own accord here, or bound by any court or church-wardens, shall have their complaints received by a justice of the peace, who, if he find cause, shall bind the master over to answer the complaint at court; and it shall be there determined: And all complaints of servants, shall and may, by virtue hereof, be received at any time, upon petition, in the court of the county wherein they reside, without the formal process of an action; and also full power and authority is hereby given to the said court, by their discretion, (having first summoned the masters or owners to justify themselves, if they think fit,) to adjudge, order, and appoint what shall be necessary, as to diet, odging, clothing, and correction: And if any master or owner shall not thereupon comply with the said court's order, the said court is hereby authorised and impowered, upon a second just complaint, to order such servant to be immediately sold at an outcry, by the sheriff, and after charges deducted, the remainder of what the said servant shall be sold for, to be paid and satisfied to such owner.

IX. *Provided always, and be it enacted,* That if such servant be so sick or lame, or otherwise rendered so uncapable, that he or she cannot be sold for such a value, at least, as shall satisfy the fees, and other incident charges accrued, the said court shall then order the church-wardens of the parish to take care of and provide for the said servant, until such servant's time, due by law to the said master, or owner, shall be expired, or until such servant, shall be so recovered, as to be sold for defraying the said fees and charges: And further, the said court, from time to time, shall order the charges of keeping the said servant, to be levied upon the goods and chattels of the master or owner of the said servant, by distress.

X. *And be it also enacted,* That all servants, whether, by importation, indenture, or hire here, as well feme coverts, as others, shall, in like manner, as is provided, upon complaints of misusage, have their petitions received in court, for their wages and freedom, without the formal process of an action; and proceedings, and judgment, shall, in like manner, also, be had thereupon.

XI. *And for a further christian care and usage of all christian servants, Be it also enacted, by the authority aforesaid, and it is hereby enacted,* That no

negros, mulattos, or Indians, although christians, or Jews, Moors, Mahometans, or other infidels, shall, at any time, purchase any christian servant, nor any other, except of their own complexion, or such as are declared slaves by this act: And if any negro, mulatto, or Indian, Jew, Moor, Mahometan, or other infidel, or such as are declared slaves by this act, shall, notwithstanding, purchase any christian white servant, the said servant shall, *ipso facto*, become free and acquit from any service then due, and shall be so held, deemed, and taken: And if any person, having such christian servant, shall intermarry with any such negro, mulatto, or Indian, Jew, Moor, Mahometan, or other infidel, every christian white servant of every such person so intermarrying, shall, *ipso facto*, become free and acquit from any service then due to such master or mistress so intermarrying, as aforesaid.

XII. *And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That no master or owner of any servant shall during the time of such servant's servitude, make any bargain with his or her said servant for further service, or other matter or thing relating to liberty, or personal profit, unless the same be made in the presence, and with the approbation, of the court of that county where the master or owner resides: And if any servants shall, at any time bring in goods or money, or during the time of their service, by gift, or any other lawful ways or means, come to have any goods or money, they shall enjoy the propriety thereof, and have the sole use and benefit thereof to themselves. And if any servant shall happen to fall sick or lame, during the time of service, so that he or she becomes of little or no use to his or her master or owner, but rather a charge, the said master or owner shall not put away the said servant, but shall maintain him or her, during the whole time he or she was before obliged to serve, by indenture, custom, or order of court: And if any master or owner, shall put away any such sick or lame servant, upon pretence of freedom, and that servant shall become chargeable to the parish, the said master or owner shall forfeit and pay ten pounds current money of Virginia, to the church-wardens of the parish where such offence shall be committed, for the use of the said parish: To be recovered by action of debt, in any court of record in this her majesty's colony and dominion, in which no essoin, protection, or wager of law, shall be allowed.

XIII. And whereas there has been a good and laudable custom of allowing servants corn and cloaths for their present support, upon their freedom; but nothing in that nature ever made certain, *Be it also enacted, by the authority aforesaid, and it is hereby enacted,* That there shall be paid and allowed to

every imported servant, not having yearly wages, at the time of service ended, by the master or owner of such servant, viz: To every male servant, ten bushels of indian corn, thirty shillings in money, or the value thereof, in goods, and one well fixed musket or fuzee, of the value of twenty shillings, at least: and to every woman servant, fifteen bushels of indian corn, and forty shillings in money, or the value thereof, in goods: Which, upon refusal, shall be ordered, with costs, upon petition to the county court, in manner as is herein before directed, for servants complaints to be heard.

*XIV. And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That all servants shall faithfully and obediently, all the whole time of their service, do all thir masters or owners just and lawful commands. And if any servant shall resist the master, or mistress, or overseer, or offer violence to any of them, the said servant shall, for every such offence, be adjudged to serve his or her said master or owner, one whole year after the time, by indenture, custom, or former order of court, shall be expired.

*XV. And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That no person whatsoever shall buy, sell, or receive of, to, or from, any servant, or slave, any coin or commodity whatsoever, without the leave, licence, or consent of the master or owner of the said servant, or slave: And if any person shall, contrary hereunto, without the leave or licence aforesaid, deal with any servant, or slave, he or she so offending, shall be imprisoned one calender month, without bail or main-prize; and then, also continue in prison, until he or she shall find good security, in the sum of ten pounds current money of Virginia, for the good behaviour for one year following; wherein, a second offence shall be a breach of the bond and moreover shall forfeit and pay four times the value of the things so bought, sold, or received, to the master or owner of such servant, or slave: To be recovered, with costs, by action upon the case, in any court of record in this her majesty's colony and dominion, wherein no essoin, protection, or wager of law, or other than one imparlance, shall be allowed.

*XVI. Provided always, and be it enacted,* That when any person or persons convict for dealing with a servant, or slave, contrary to this act, shall not immediately give good and sufficient security for his or her good behaviour, as aforesaid: then, in such case, the court shall order thirty-nine lashes, well laid on, upon the bare back of such offender, at the common whipping-post of the

county, and the said offender to be thence discharged of giving such bond and security.

*XVII. And also be it enacted, by the authority aforesaid, and it is hereby enacted, and declared,* That in all cases of penal laws, whereby persons free are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every five hundred pounds of tobacco, or fifty shillings current money, unless the servant so culpable, can and will procure some person or persons to pay the fine; in which case, the said servant shall be adjudged to serve such benefactor, after the time by indenture, custom, or order of court, to his or her then present master or owner, shall be expired, after the rate of one month and a half for every hundred pounds of tobacco; any thing in this act contained, to the contrary, in any-wise, notwithstanding.

*XVIII. And if any women servant shall be delivered of a bastard child within the time of her service aforesaid, Be it enacted, by the authority aforesaid, and it is hereby enacted,* That in recompence of the loss and trouble occasioned her master or mistress thereby, she shall for every such offence, serve her said master or owner one whole year after her time by indenture, custom, and former order of court, shall be expired; or pay her said master or owner, one thousand pounds of tobacco; and the reputed father, if free, shall give security to the church-wardens of the parish where that child shall be, to maintain the child, and keep the parish indemnified; or be compelled thereto by order of the county court, upon the said church-wardens complaint: But if a servant, he shall make satisfaction of the parish, for keeping the said child, after his time by indenture, custom, or order of court, to his then present master or owner, shall be expired; or be compelled thereto, by order of the county court, upon complaint of the church wardens of the said parish, for the time being. And if any woman servant shall be got with child by her master, neither the said master, nor his executors administrators, nor assigns, shall have any claim of service against her, for or by reason of such child; but she shall, when her time due to her said master, by indenture, custom or order of court, shall be expired, be sold by the church-wardens, for the time being, of the parish wherein such child shall be born, for one year, or pay one thousand pounds of tobacco; and the said one thousand pounds of tobacco, or whatever she shall be sold for, shall be employed, by the vestry, to the use of the said parish. And if any woman servant shall have a bastard child by a negro, or mulatto, over and above the years service due to her master or owner, she shall immediately, upon the expiration of her time to her then present master or

owner, pay down to the church-wardens of the parish wherein such child shall be born, for the use of the said parish fifteen pounds current money of Virginia, or be by them sold for five years to the use aforesaid: And if a free christian white woman shall have such bastard child, by a negro, or mulatto, for every such offence, she shall, within one month after her delivery of such bastard child, pay to the church-wardens for the time being, of the parish wherein such child shall be born, for the use of the said parish fifteen pounds current money of Virginia, or be by them sold for five years to the use aforesaid: And in both the said cases, the church-wardens shall bind the said child to be a servant, until it shall be of thirty one years of age.

XIX. And for a further prevention of that abominable mixture and spurious issue, which hereafter may increase in this her majesty's colony and dominion, as well by English, and other white men and women intermarrying with negroes or mulattos, as by their unlawful coition with them, *Be it enacted, by the authority aforesaid, and it is hereby enacted,* That whatsoever English, or other white man or woman, being free, shall intemarry with a negro or mulatto man or woman, bond or free, shall, by judgment of the county court, be committed to prison, and there remain, during the space of six months, without bail or mainprize; and shall forfeit and pay ten pounds current money of Virginia, to the use of the parish, as aforesaid.

XX. *And be it further enacted,* That no minister of the church of England, or other minister, or person whatsoever, within this colony and dominion, shall hereafter wittingly presume to marry a white man with a negro or mulatto woman; or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying, for every such marriage the sum of ten thousand pounds of tobacco; one half to our sovereign lady the Queen, her heirs and successors, for and towards the support of the government, and the contingent charges thereof; and the othe half to the informer; To be recovered, with costs, by action of debt, bill, plaint, or information, in any court of record within this her majesty's colony and dominion, wherein no essoin, protection, or wager of law, shall be allowed.

XXI. And because poor people may not be destitute of employment, upon suspicion of being servants, and servants also kept from running away, *Be it enacted, by the authority aforesaid, and it is hereby enacted,* That every servant, when his or her time of service shall be expired, shall repair to the court of the county where he or she served the last of his or her time, and

there, upon sufficient testimony, have his or her freedom entered; and a certificate thereof from the clerk of the said court, shall be sufficient to authorise any person to entertain or hire such servant, without any danger of this law. And if it shall at any time happen, that such certificate is won out, or lost, the said clerk shall grant a new one, and therein also recite the accident happened to the old one. And whoever shall hire such servant, shall take his or her certificate, and keep it, 'till the contracted time shall be expired. And if any person whatsoever, shall harbour or entertain any servant by importation, or by contract, or indenture made here, not having such certificate, he or she so offending, shall pay to the master or owner of such servant, sixty pounds of tobacco for every natural day he or she shall so harbour or entertain such runaway: To be recovered, with costs, by action of debt, in any court of record within this her majesty's colony and dominion, wherein no essoin, protection, or wager of law, shall be allowed. And also, if any runaway shall make use of a forged certificate, or after the same shall be delivered to any master or mistress, upon being hired, shall steal the same away, and thereby procure entertainment, the person entertaining such servant, upon such forged or stolen certificate, shall not be culpable by this law: But the said runaway, besides making reparation for the loss of time, and charges in recovery, and other penalties by this law directed, shall, for making use of such forged or stolen certificate, or for such theft aforesaid, stand two hours in the pillory, upon a court day: And the person forging such certificate, shall forfeit and pay ten pounds current money; one half thereof to be to her majesty, her heirs and successors, for and towards the support of this government, and the contingent charges thereof; and the other half to the master or owner of such servant, if he or she will inform or sue for the same, otherwise to the informer: To be recovered, with costs, by action of debt, bill, plaint or information, in any court of record in this her majesty's colony and dominion, wherein no essoin, protection, or wager of law, shall be allowed. And if any person or persons convict of forging such certificate, shall not immediately pay the said ten pounds, and costs, or give security to do the same within six months, he or she so convict, shall receive, on his or her bare back, thirty-nine lashes, well laid on, at the common whipping post of the county; and shall be thence discharged of paying the said ten pounds, and costs, and either of them.

XXII. *Provided*, That when any master or mistress shall happen to hire a runaway, upon a forged certificate, and a servant deny that he delivered any such certificate, the *Onus Probandi* shall lie upon the person hiring, who upon



failure therein, shall be liable to the fines and penalties, for entertaining runaway servants, without certificate.

XXIII. And for encouragement of all persons to take up runaways, *Be it enacted, by the authority aforesaid, and it is hereby enacted,* That for the taking up of every servant, or slave, if ten miles, or above, from the house or quarter where such servant, or slave was kept, there shall be allowed by the public, as a reward to the taker-up, two hundred pounds of tobacco; and if above five miles, and under ten, one hundred pounds of tobacco: Which said several rewards of two hundred, and one hundred pounds of tobacco, shall also be paid in the county where such taker-up shall reside, and shall be again levied by the public upon the master or owner of such runaway, for reimbursement of the same to the public. And for the greater certainty in paying the said rewards and re-imbursement of the public, every justice of the peace before whom such runaway shall be brought, upon the taking up, shall mention the proper-name and sur-name of the taker-up, and the county of his or her residence, together with the time and place of taking up the said runaway; and shall also mention the name of the said runaway, and the proper-name and sur-name of the master or owner of such runaway, and the county of his or her residence, together with the distance of miles, in the said justice's judgment, from the place of taking up the said runaway, to the house or quarter where such runaway was kept.

XXIV. *Provided,* That when any negro, or other runaway, that doth not speak English, and cannot, or through obstinacy will not, declare the name of his or her masters or owner, that then it shall be sufficient for the said justice to certify the same, instead of the name of such runaway, and the proper name and sur-name of his or her master or owner, and the county of his or her residence and distance of miles, as aforesaid; and in such case, shall, by his warrant, order the said runaway to be conveyed to the public gaol, of this country, there to be continued prisoner until the master or owner shall be known; who, upon paying the charges of the imprisonment, or give caution to the prison-keeper for the same, together with the reward of two hundred or one hundred pounds of tobacco, as the case shall be, shall have the said runaway restored.

XXV. And further, the said justice of the peace, when such runaway shall be brought before him, shall, by his warrant commit the said runaway to the next constable, and therein also order him to give the said runaway so many lashes

as the said justice shall think fit, not exceeding the number of thirty-nine; and then to be conveyed from constable to constable, until the said runaway shall be carried home, or to the country gaol, as aforesaid, every constable through whose hands the said runaway shall pass, giving a receipt at the delivery; and every constable failing to execute such warrant according to the tenor thereof, or refusing to give such receipt, shall forfeit and pay two hundred pounds of tobacco to the church-wardens of the parish wherein such failure shall be, for the use of the poor of the said parish: To be recovered, with costs, by action of debt, in any court of record in this her majesty's colony and dominion, wherein no essoin, protection or wager of law, shall be allowed. And such corporal punishment shall not deprive the master or owner of such runaway of the other satisfaction herre in this act appointed to be made upon such servant's running away.

XXVI. *Provided always, and be it further enacted,* That when any servant or slave, in his or her running away, shall have crossed the great bay of Chesapeak, and shall be brought before a justice of the peace, the said justice shall, instead of committing such runaway to the constable, commit him or her to the sheriff, who is hereby required to receive every such runaway, according to such warrant, and to cause him, her, or them, to be transported again across the bay, and delivered to a constable there; and shall have, for all his trouble and charge herein, for every such servant or slave, five hundred pounds of tobacco, paid by the public; which shall be re-imbursed again by the master or owner of such runaway, as aforesaid, in manner aforesaid.

XXVII. *Provided also,* That when any runaway servant that shall have crossed the said bay, shall get up into the country, in any county distant from the bay, that then, in such case, the said runaway shall be committed to a constable, to be conveyed from constable to constable, until he shall be brought to a sheriff of some county adjoining to the said bay of Chesapeak, which sheriff is also hereby required, upon such warrant, to receive such runaway, under the rules and conditions aforesaid; and cause him or her to be conveyed as aforesaid; and shall have the reward, as aforesaid.

XXVIII. And for the better preventing of delays in returning of such runaways, *Be it enacted,* That if any sheriff, under sheriff, or other officer of, or belonging to the sheriffs, shall cause or suffer any such runaway (so committed for passage over the bay) to work, the said sheriff, to whom such runaway shall be so committed, shall forfeit and pay to the master or owner, of every such

servant or slave, so put to work, one thousand pounds of tobacco; To be recovered, with costs, by action of debt, bill, plaint, or information, in any court of record withint this her majesty's colony and dominion, wherein no essoyn, protection, or wager of law, shall be allowed.

*XXIX. And be it enacted, by the authority aforesaid, and it is hereby enacted,* That if any constable, or sheriff, into whose hands a runaway servant or slave shall be committed, by virtue of this act, shall suffer such runaway to escape, the said constable or sheriff shall be liable to the action of the party grieved, for recovery of his damages, at the common law with costs.

*XXX. And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That every runaway servant, upon whose account, either of the rewards aforementioned shall be paid, for taking up, shall for every hundred pounds of tobacco so paid by the master or owner, serve his or her said master or owner, after his or her time by indenture, custom, or former order of court, shall be expired, one calendar month and an half, and moreover, shall serve double the time such servant shall be absent in such running away; and shall also make reparation, by service, to the said master or owner, for all necessary disbursements and charges, in pursuit and recovery of the said runaway; to be adjudged and allowed in the county court, after the rate of one year for eight hundred pounds of tobacco, and so proportionably for a greater or lesser quantity.

*XXXI. Provided,* That the masters or owners of such runaways, shall carry them to court the next court held for the said county, after the recovery of such runaway, othwise it shall be in the breast of the court to consider the occasion of delay, and to hear, or refuse the claim, according to their discretion, without appeal, for the refusal.

*XXXII. And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That no master, mistress, or overseer of a family, shall knowingly permit any slave, not belonging to him or her, to be and remain upon his or her plantation, above four hours at any one time, without the leave of such slave's master, mistress, or overseer, on penalty of one hundred and fifty pounds of tobacco to the informer; cognizable by a justice of the peace of the county wherein such offence shall be committed.

*XXXIII. Provided also,* That if any runaway servant, adjudged to serve for the charges of his or her pursuit and recovery, shall, at the time, he or she is so

adjudged, repay and satisfy, or give good security before the court, for repayment and satisfaction of the same, to his or her master or owner, within six months after, such master or owner shall be obliged to accept thereof, in lieu of the service given and allowed for such charges and disbursements.

XXXIV. And if any slave resist his master, or owner, or other person, by his or her order, correcting such slave, and shall happen to be killed in such correction, it shall not be accounted felony; but the master, owner, and every such other person so giving correction, shall be free and acquit of all punishment and accusation for the same, as if such accident had never happened: And also, if any negro, mulatto, or Indian, bond or free, shall at any time, lift his or her hand, in opposition against any christian, not being negro, mulatto, or Indian, he or she so offending, shall, for every such offence, proved by the oath of the party, receive on his or her bare back, thirty lashes, well laid on; cognizable by a justice of the peace for that county wherein such offence shall be committed.

XXXV. *And also be it enacted, by the authority aforesaid, and it is hereby enacted,* That no slave go armed with gun, sword, club, staff, or other weapon, nor go from off the plantation and seat of land where such slave shall be appointed to live, without a certificate of leave in writing, for so doing, from his or her master, mistress, or overseer: And if any slave shall be found offending herein, it shall be lawful for any person or persons to apprehend and deliver such slave to the next constable or head-borough, who is hereby enjoined and required, without further order or warrant, to give such slave twenty lashes on his or her bare back, well laid on, and so send him or her home: And all horses, cattle, and hogs, now belonging, or that hereafter shall belong to any slave, or of any slaves mark in this her majestys colony and dominion, shall be seised and sold by the church-wardens of the parish, wherein such horses, cattle, or hogs shall be, and the profit thereof applied to the use of the poor of the said parish: And also, if any damage shall be hereafter committed by any slave living at a quarter where there is no christian overseer, the master or owner of such slave shall be liable to action for the trespass and damage, as if the same had been done by him or herself.

XXXVI. *And also it is hereby enacted and declared,* That baptism of slaves doth not exempt them from bondage; and that all children shall be bond or free, according to the condition of their mothers, and the particular directions of this act.

XXXVII. And whereas, many times, slaves run away and lie out, hid and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this her majesty's colony and dominion, *Be it therefore enacted, by the authority aforesaid, and it is hereby enacted,* That in all such cases, upon intelligence given of any slaves lying out, as aforesaid, any two justices (*Quorum unus*) of the peace of the county wherein such slave is supposed to lurk or do mischief, shall be and are empowered and required to issue proclamation against all such slaves, reciting their names, and owners names, if they are known, and thereby requiring them, and every of them, forthwith to surrender themselves; and also empowering the sheriff of the said county, to take such power with him, as he shall think fit and necessary, for the effectual apprehending such out-lying slave or slaves, and go in search of them: Which proclamation shall be published on a Sabbath day, at the door of every church and chapel, in the said county, by the parish clerk, or reader, of the church, immediately after divine worship: And in case any slave, against whom proclamation hath been thus issued, and once published at any church or chapel, as aforesaid, stay out, and do not immediately return home, it shall be lawful for any person or persons whatsoever, to kill and destroy such slaves by such ways and means as he, she, or they shall think fit, without accusation or impeachment of any crime for the same: And if any slave, that hath run away and lain out as aforesaid, shall be apprehended by the sheriff, or any other person, upon the applicaiton of the owner of the said slave, it shall and may be lawful for the county court, to order such punishment to the said slave, either by dismembring, or any other way, not touching his life, as they in their discretion shall think fit, for the reclaiming any such incorrigible slave, and terrifying others from the like practices.

XXXVIII. *Provided always, and it is further enacted,* That for every slave killed, in pursuance of this act, or put to death by law, the master or owner of such slave shall be paid by the public:

XXXIX. And to the end, the true value of every slave killed, or put to death, as aforesaid, may be the better known; and by that means, the assembly the better enabled to make a suitable allowance thereupon, *Be it enacted,* That upon application of the master or owner of any such slave, to the court appointed for proof of public claims, the said court shall value the slave in money, and the clerk of the court shall return a certificate thereof to the assembly, with the rest of the public claims.

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