

tained shall be construed so as to bind the state to pay the value of the same, or make reparation for any damages which may arise by such defective title: And it is further provided, that in consideration of the said lots being granted for the purposes aforesaid, the commonwealth reserves the right to the several counties within the same, to send their convicts to the present prison of the city and county of Philadelphia, agreeably to the provisions set forth in the penal laws of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That immediately after the said prison shall be completed, and suitable for the admission of prisoners, the said inspectors shall cause to be removed thereunto, all persons that may be then confined in the prison of the city and county of Philadelphia, under the denomination of prisoners for trial, vagrants, runaway or disorderly servants and apprentices, and all such other descriptions of persons, (except convicts) as have been heretofore confined in the county prison, and to receive into the said new prison, all persons of the aforesaid description that may hereafter be legally committed.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 218.

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## CHAPTER MMCCCLXXXIX.

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A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ENABLE THE JUSTICES OF THE SUPREME COURT, TO HOLD CIRCUIT COURTS WITHIN THIS COMMONWEALTH." (2).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That whenever any sheriff or other proper officer, who by virtue of any testatum executions or other writs grounded thereon, or by virtue of any other executions whatever, issued either by the supreme or circuit courts, shall hereafter take in execution and sell, any lands, tenements or hereditaments, shall die or be removed before

any deed shall be executed by him to the purchaser, then and in every such case the plaintiff, or purchaser, may apply to the circuit court of the supreme court, in the county wherein the lands, tenements or hereditaments so as aforesaid lie, and set forth the case to the said circuit court, with the reason why the title was not perfected by the former sheriff, or other officer who sold the same; and thereupon the said circuit court shall, as justice and equity require, order and direct the sheriff or other proper officer for the time being, to perfect such title, and execute a deed for the same to the purchaser; and upon such order obtained as aforesaid, and entered on the records of the said circuit court, it shall and may be lawful for the sheriff or other proper officer, according to the said order and direction, and he is hereby empowered and required, upon the full discharge and payment of the money or price for which the said lands, tenements or hereditaments, with such costs and charges as remain unpaid to the former sheriff or other officer, to make, execute, deliver and acknowledge any deed or deeds; and to perform and do all matters and things that by the former sheriff, or other officer, might, could or ought to have been performed or done in and about the premises; which, when done and performed, shall be held and adjudged as effectual in law, as if the title had been completed by the former sheriff or other proper officer.

Section II. (Section II, P. L.) And whereas, it frequently occurs, that defendants in ejectment commit great waste and destruction of the premises demanded, during the pendency of the suit, and before the trial thereof; and it has been heretofore considered that the writ of estrepement, to prevent such waste and destruction, can issue only upon affidavit filed, and motion to the court in term time, and the necessity of the case may require a more expeditious remedy, and it is just and proper to extend the remedy of the said writ: Be it therefore further enacted by the authority aforesaid, That when any ejectment shall be depending in the supreme court, circuit court, or court of common pleas, it shall and may be lawful for the prothonotary or clerk of the court, in which such ejectment is or shall be depending, upon affidavit of the

plaintiff, or other person knowing the fact, filed in his office, that the tenant or defendant in such ejectment has committed, or is committing waste and destruction of or in the premises, to issue a writ of estrepement to prevent the same of course, without motion to the court and in vacation; which affidavit shall be sworn before one of the judges of the supreme court or common pleas, and shall be considered regular though the judge before whom it shall be taken, may not be a judge of the court in which such ejectment shall or may be depending.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 219.  
Note (4). Chapter 2032; 16 Statutes at Large, p. 199.

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## CHAPTER MMCCCXL.

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AN ACT RELATING TO THE CLAIM OF THIS COMMONWEALTH,  
AGAINST ELIZABETH SERGEANT AND ESTHER WATERS, SURVIV-  
ING EXECUTRIXES OF DAVID RITTENHOUSE, ESQUIRE, DECEASED.

Whereas by an act of congress for the erecting of tribunals, competent to determine the propriety of captures during the late war between Great Britain and her then Colonies, passed the twenty-fifth day of November, one thousand seven hundred and seventy-five, it is enacted in the fourth section thereof as follows, viz. "That it be and is hereby recommended to the several legislatures in the United Colonies, as soon as possible, to erect courts of justice, or give jurisdiction to the courts now in being, for the purpose of determining concerning the captures to be made aforesaid, and to provide that all trials in such case be had by a jury, under such qualifications as to the respective legislatures shall seem expedient;" and in the sixth section thereof as follows, viz: "That in all cases an appeal shall be allowed to the congress, or to such person or persons as they shall appoint, for the trial of appeals:" And whereas by an act of the general assembly of Pennsylvania, passed the ninth day of September, one thousand seven hundred and seventy-eight,<sup>(1)</sup> entitled "An act for establishing a court of admiralty," appeals were allowed from the said court in all cases, unless from the determination or finding