

have sufficient goods or estate to pay costs of prosecution, in every such case it shall be in the power of the court before whom such acquittal or conviction shall be, to tax such costs for court charges as the case shall appear to require, not exceeding the fees or costs stated by this act; and such costs so taxed by the courts of general sessions of the peace, shall be paid out of the respective county treasuries; and such costs so taxed by the superior court of judicature, court of assize and general goal delivery shall be paid by the sheriffs of the respective counties, out of such fines and forfeitures as may have arisen and been incurred by force of any judgment or sentence of such court; and allowance shall be made by the province treasurer to the several sheriffs for any sums paid as aforesaid: and when and so often as it shall happen that any sheriff shall not have in his hands any monies received for fines and forfeitures as aforesaid, such costs shall be paid out of the province treasury.

Allowance to be made to the sheriff.

[SECT. 5.] This act to continue and be in force three years, and no longer. [*Passed March 5, 1765.*]

Limitation.

CHAPTER 27.

AN ACT IN ADDITION TO, AND IN EXPLANATION OF, TWO ACTS MADE AND PASSED IN THE PRESENT YEAR OF HIS MAJESTY'S REIGN, THE ONE, INTITLED "AN ACT FOR DETERMINING THE TIMES FOR HOLDING THE SUPERIOR COURT OF JUDICATURE, COURT OF ASSIZE AND GENERAL GOAL DELIVERY IN THE SEVERAL COUNTIES WITHIN THIS PROVINCE;" THE OTHER, INTITLED "AN ACT DETERMINING AT WHAT TIMES AND PLACES THE SEVERAL INFERIOR COURTS OF COMMON PLEAS AND COURTS OF GENERAL SESSIONS OF THE PEACE SHALL BE HELD WITHIN AND FOR THE SEVERAL COUNTIES OF THE PROVINCE, FOR THE FUTURE."

WHEREAS, in and by an act made and passed in the present year of his majesty's reign, intituled "An Act for determining the times for holding the superior court of judicature, court of assize and general goal delivery in the several counties within this province," it is, among other things, enacted as follows: viz., "That all appeals, writs of review, recognizances, warrants, processes, matters or things whatsoever, returnable to, or which might have been proceeded on, adjudged and determined at, any court, the time for holding which is altered by this act, shall be in like manner returnable to, and may in like manner be proceeded on, adjudged and determined at, the court in the same county to be holden next after by virtue of this act;" and in and by another act, made and passed in the present year of his majesty's reign, intituled "An Act determining at what times and places the several inferior courts of common pleas and courts of general sessions of the peace shall be held within and for the several counties in the province for the future," it is, among other things, enacted as follows; viz., "That all original writs, summons, warrants, recognizances, executions, processes, matters or things of what kind soever, returnable to, or which might have been adjudged, determined or acted upon at, any court, the time for holding of which is altered by this act, shall be in like manner returnable to, adjudged, determined and acted upon at, the court in the same county to be holden next after by virtue of this act;" and whereas it may be doubtful whether the said clauses, or either of them, extend to the service of executions which are returnable to any court the time for holding which is altered by the said acts, after the day when, by law, such executions would have been returnable if the said acts had not passed,—

Preamble.

1764-65, chap. 17, § 2.

1764-65, chap. 20, § 2.

Be it therefore enacted by the Governor, Council and House of Representatives,

Service of executions rendered valid, the alteration of the times for holding the several courts notwithstanding.

[SECT. 1.] That the service of all executions already made, or which shall be made, after the day on which such executions would, by law, have been returnable if the time for holding the courts to which they are or may be returnable had not been altered by the before-mentioned acts, and before the day on which they are made returnable by force of the said acts, shall be deemed as valid and effectual, to all intents and purposes whatsoever, as if such service had been made before the day on which they would, by law, have been returnable if the said acts had not been made and passed.

Preamble.

And whereas divers writs, summons and other processes have issued, or may issue, within the several counties of the province, after the passing of the aforesaid acts, and such writs, summons or other processes may have been, or may be, made returnable to the court to which, by law, they would have been returnable, if the aforesaid acts had not been made and passed,—

Be it therefore further enacted,

Writs, summons and other processes, established.

[SECT. 2.] That all writs, summons and processes whatsoever, which have issued or been commenced, or may issue or commence, after the passing the aforesaid acts, which are, or may be, made returnable on such day as, by law, they would have been returnable, if the said acts had not passed, shall still be deemed returnable to the court to be held on such day, unless the time of holding such court be altered by one or other of the said acts; and in such case such writs, summons or other process shall be and are hereby declared to be returnable to the court to be held within and for the same county next after, and shall, to all intents and purposes, be as valid and effectual in law as if the said acts had not been made and passed. [*Passed March 5, 1765.*]

CHAPTER 28.

AN ACT TO CARRY INTO EXECUTION AN ORDER OF THE GENERAL COURT, FOR NUMBERING THE PEOPLE WITHIN THIS PROVINCE.

Preamble.

Reciting an order of court.

WHEREAS the great and general court of this province, the second day of February, one thousand seven hundred and sixty-four, came into the following order; viz., “Upon consideration of his excellency’s message of the nineteenth, currant, ordered, that the selectmen of each town and district in this province, chosen for the year one thousand seven hundred and sixty-four, do, as soon as conveniently may be, take an exact account of the number of dwelling-houses, families and people, of their respective towns and districts, including as well Indians civilized, negroes and molattoes, as white people; and females as well as males; and distinguish them in this form; namely,—

White people under sixteen years,	{ Males,
	{ Females,
Above sixteen years,	{ Males,
	{ Females,
Families,	
Houses,	
Negroes and molattoes,	{ Males,
	{ Females,
Indians,	{ Males,
	{ Females,

and return the same into the secretary’s office, by the last day of December next;”* *and whereas* several of the selectmen of towns and

* Council Records, vol. xxv., p. 185.