

# ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,  
ON THE TWENTY-SEVENTH DAY OF OCTOBER,  
A.D. 1703.

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## CHAPTER 10.

AN ACT IN ADDITION TO THE ACT FOR PROVIDING OF POUNDS, &c.

WHEREAS it often happens that the owners of cattle, sheep or swine, impounded, notwithstanding due notice thereof given them, neglect to compound or make satisfaction for the trespass and damage done, but suffer their creatures to lye long time in pound, to the augmenting of charge, and otherwise proving inconvenient; for remedy whereof,—

*Be it declared and enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,*

That if the owner of any neat cattle, horses, sheep, or swine, impounded, being duely notified thereof, shall not, within the space of forty-eight hours next after such notice given, replevie his creatures, or otherwise orderly obtain their release, the party trespassed upon making application to a justice of the peace within the same county for a warrant of apprizement, such justice is hereby directed and impowred to make out a warrant to two or more sufficient, indifferent persons, and to administer an oath unto them to make a due and equal apprizement and estimate of the value of such creatures, or so many of them as shall be sufficient to answer the damage and all charges; and the party damaged may retain and keep the creatures so apprizd, to his own use, or make sale of them, at his pleasure, rendring the overplus of the apprizd value, if any be, to the owner. [*Passed November 30; published December 3.*]

Justice of the peace to make out a warrant of apprizement.

The impounder to make sale or retain to his own use.

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## CHAPTER 11.

AN ACT TO PREVENT DISORDERS IN THE NIGHT.

WHEREAS great disorders, insolencies and burglaries are oftentimes raised and committed in the night time by Indian, negro and molatto servants and slaves, to the disquiet and hurt of her majesty's good subjects; for prevention whereof,—

*Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,*

[SECT. 1.] That no Indian, negro or molatto servant, or slave, may presume to be absent from the families whereto they respectively belong, or be found abroad in the night time, after nine a clock, unless it be upon some errand for their respective masters or owners.

Indian, negro and molatto servants not to be abroad after nine at night.

If found abroad or misbehaving themselves to be apprehended and sent to the house of correction.

[SECT. 2.] And all justices of the peace, constables, tythingmen, watchmen, and other her majesty's good subjects, being householders within the same town, are hereby respectively impowred to take up and apprehend, or cause to be apprehended, any Indian, negro or molatto servant or slave that shall be found abroad after nine a clock at night, and shall not give a good and satisfactory account of their business, make any disturbance, or otherwise misbehave themselves, and forthwith convey them before the next justice of the peace (if it be not over-late in the night), or to restrain them in the common prison, watch-house or constable's house, until the morning, and then cause them to appear before a justice of the peace, who shall order them to the house of correction, to receive the discipline of the house and then be dismiss'd, unless they be charged with any other offence than absence from the families whereto they respectively belong, without leave from their respective masters or owners; and in such towns where there is no house of correction, to be openly whip'd by the constable, not exceeding ten stripes. [Passed December 1; published December 3.]

## CHAPTER 12.

### AN ACT RELATING TO EXECUTORS AND ADMINISTRATORS.

FOR the better preventing of executors or administrators doing of wrong, or falsifying of the trust in them reposed,—

*Be it declared and enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,*

Executors to exhibit an inventory or give bond.

[SECT. 1.] That henceforth every executor named in any will, taking upon him that charge by proving of such will, within the space of three months next after probate thereof (or at such further and longer time as the judge of probate shall see meet to allow, the circumstances of any estate requiring the same), shall exhibit into the register's office, upon oath, a full and true inventory of the whole estate of the deceased, so far as is then come to his hands and knowledge, and shall add thereto what and so much as may further afterwards appear; or otherwise shall give bond, with one or more sufficient sureties, to pay the debts and legacies of the testator, on pain of forfeiting five pounds per month for every month's neglect thereof afterward, as is by law provided for not presenting of a will, and to be recovered in like manner: *provided nevertheless,*

Penalty for neglect.

No bond to be accepted where the estate is bequeathed in general. 12 Mass. 203.

[SECT. 2.] That in wills, where, after the payment of debts and of any certain particular legacy or legacies, the residue or remainder of the estate is bequeathed generally to any one or more persons other than the executors themselves, in every such case an inventory of the estate shall be presented upon oath as aforesaid, and no bond be accepted in lieu thereof; and the executors shall be liable to accompt as administrators are by law obliged to do.

Executor, being residuary legatary, may sue his co-executor.

[SECT. 3.] And any executor, being a residuary legatary, may bring his action of accompt, against his co-executor or executors, of the estate of the testator in their hands, and may also sue for and recover his equal and ratable part thereof; and any other residuary legatary shall have like remedy against the executors.

*And be it further enacted by the authority aforesaid,*

Writs of attachment, &c., not to go against the body of the executor or administrator.

[SECT. 4.] That all writs of attachment and execution shall run only against the goods or estate of the party deceased, in the hands of his executor or administrator, and not against their bodies; nor shall any executor or administrator be held to special bayle upon mean