

deficiency, and if any of them do not appear, or are set aside on challenge, the parties, or their attorneys, may again strike out, as before, and so, toties quoties, in like manner, until a jury be obtained; and the jurors so struck shall be empannelled, and sworn as the jury to try the cause.

XVII. *And be it enacted*, That on the application of either plaintiff or defendant the general court may, in their discretion, in any action between merchant and merchant, or between any merchant and his factor or agent, respecting mercantile dealings and transactions between them that are of great importance, and intricate from the length or multiplicity of items or particulars, or that will probably involve some new and difficult question of law, and also in other special and similar case of difficulty and intricacy, (although not between merchants, or a merchant and his factor or agent,) issue a special venire facias, directed to the sheriff of any county, or, if necessary, to sheriffs of different counties of the shire where such action is to be tried, to summon and return a jury of merchants to attend the said court on a day to be appointed and mentioned in such writ, for the trial of such cause, and such sheriff shall, in virtue of such precept, summon and return twenty-four, or such number as the court shall direct, of the most respectable and experienced merchants of his county, citizens of this state, above the age of twenty-five, and under fifty-five years, and having a freehold of above one hundred acres of land in his county, or property in the county assessed to above five hundred pounds current money, and out of the said jurors, or such of them as shall appear, a jury may be agreed on or struck in the manner herein before directed, and the jury so agreed on or struck shall be empannelled and sworn as the jury to try such cause; and all the expence of such jury shall be paid by the parties equally, or in such proportion as they shall agree, but if they do not agree, then the whole expence shall be paid by the party applying for such jury; and if any person returned shall not appear, or after appearance shall wilfully withdraw from the presence of the court, such person so offending may be fined by the court, in their discretion, not exceeding the sum of fifty pounds current money.

XVIII. *And be it enacted*, That the sheriffs of the several counties for the time being shall annually, and upon the first day of the sitting of their respective county courts in the spring of the year, return an alphabetical and true list, in writing, of the christian and surnames of all persons in their respective counties, qualified, according to this act, as grand and petit jurors in the general court, to their respective county courts, and the said courts are hereby required carefully to examine the said list, and diligently to inquire if any persons qualified to be jurors are omitted, and whether any persons not qualified to be jurors have been inserted, and if they find that any have been omitted, they shall order the sheriff to add them to the list, and if they find that any have been inserted by mistake, who ought to be omitted, they shall order the sheriff to strike out such person from the said list; and to obtain full information on this subject, the said courts may examine the said sheriff, and his deputies, or any other persons, (on oath or affirmation,) and if it shall appear to the said courts, that the said sheriff wilfully omitted out of any such list any person or persons whose name or names ought to be inserted, or that the said sheriff wilfully inserted any person or persons who ought to be omitted, the said courts shall fine the said sheriff for every person so omitted or inserted in such list contrary to the meaning of this act, not exceeding five pounds current money; and if any sheriff shall take any money, or other reward, for omitting or inserting any person in his said list, such sheriff shall forfeit not exceeding fifty pounds current money for every such offence; and the said county courts shall direct the clerk of their county immediately to enter such list (with the corrections, if any,) among the proceedings of the said court; and the said clerk shall forthwith thereafter deliver the original list (with the corrections, if any,) to the sheriff of his county, for his government in returning of grand and petit jurors to the general court; and such sheriff, immediately on receiving the said list, shall cause the same to be entered faithfully, fairly and alphabetically, in a book to be kept by him for that purpose, and such sheriff shall deliver the said original list to the clerk of the general court; and if any clerk of any county, or any sheriff, shall neglect any duty above required, such clerk or sheriff shall forfeit not exceeding fifty pounds current money for every neglect; and if any sheriff shall summon and return any person to serve as a grand or petit juror to the said court, whose name is not inserted in such list, such sheriff shall forfeit not exceeding fifty pounds current money for every offence; and every sheriff shall enter or register, in a book to be kept by him for that purpose, in alphabetical order, the names of such persons as shall be summoned, and shall serve as jurors; and the said sheriffs shall so conduct themselves in summoning the respective jurors from those whose names are entered in the said list, as to prevent, as far as possible, a burthen or hardship from falling on individuals, as far as is consistent with his chief duty of returning the most capable and best qualified as he is herein before required; and if any sheriff, or his deputy, shall, directly and indirectly, take or receive any money, or other reward, to excuse any person from serving, or being summoned to serve, as a grand or petit juror to the general court, or under that colour or pretence, such sheriff, or deputy sheriff, so offending, shall forfeit fifty pounds current money for every offence; and every sheriff, on going out of office, shall deliver to his successor (when required) the book containing the said list, and the register of the service of the said jurors during his being in office, under the penalty of fifty pounds current money, and on the death of any sheriff, his executor or administra-

tor shall also (on demand) deliver to the successor the said list and register, under the penalty of fifty pounds current money; and any of the said fines may be imposed by the general court on any clerk, sheriff or his deputy, or on the executor or administrator of any sheriff, on examination and proof of such offence in a summary way; and the levy courts of the said counties may make such allowance to the said sheriffs and clerks, for the execution of the aforesaid duties, as they may think reasonable.

XIX. *And be it enacted*, If any person not qualified to serve on juries according to this act, or exempted from such duty, shall find his name mentioned in such list, or being qualified, shall be so circumstanced in other respects as to make it improper to summon him as a jurymen, such person may apply to the county court to which such list was returned, and the said court, upon satisfaction, by the oath of the party complaining, or other proof, that he is not qualified to serve; or that he is exempted, or ought to be exempted from serving as a jurymen, shall order his name to be struck out or omitted in such list, and on producing a certificate of such order to the sheriff, he shall immediately strike such person out of his list.

XX. *And be it enacted*, If by any means of challenges, or default of jurors, a sufficient number of jurors shall not appear, in any criminal or civil case, the general court may award a tales, directed to the sheriff of Annapolis county, or to the sheriff of Talbot county, as the case may be, to summon and return so many of his county as will make up a full jury, and the said tales shall be liable to the same challenges as the principal jurors; and if any person returned shall not appear, or after appearance shall wilfully withdraw from the presence of the court, such person so offending may be fined by the court, in their discretion, not exceeding the sum of twenty pounds current money.

XXI. *And be it enacted*, That the sheriffs of the respective counties in this state shall summon and return, as grand and petit jurors to their respective county courts, the best and most capable persons mentioned in the list above directed to be taken, subject to the same provisions and penalties respecting the same, prescribed in their duty in summoning the jurors to attend the general court; and a special jury may be selected or struck in any county court, at the request of the plaintiff or defendant, in the same manner as above provided in the general court.

XXII. This act to continue for seven years, and until the end of the next session of assembly thereafter.

By the senate, December 2, 1795: Read the first time and ordered to lie on the table.

By order,

H. WARFIELD, clk.

By the senate, December 16, 1795: Read the second time and will pass.

By order,

H. WARFIELD, clk.

By the house of delegates, December 18, 1795: Read the first time and ordered to lie on the table.

By order,

W. HARWOOD, clk.

By the house of delegates, December 21, 1795: Read the second time and will not pass.

By order,

W. HARWOOD, clk.

MANHEIM, October 19.

AT three o'clock yesterday morning, one of the French camps on the river Necker, was surprised by the Austrians, who took advantage of a thick fog, and had beside a large body of horse. The French fell back within the guns of the town; they fought obstinately from five until eleven o'clock in the morning, and the loss must of course have been very great on both sides. The Austrians attacked at once, towards the gate of the Necker, and that of Heidelberg. The fog was so opaque, that in spite of a constant fire from the fortifications, they drew near enough to pour into the town two or three bomb shells. By twelve o'clock the fog dissolved, and the Austrians retired. The French had been relieved by the regiment of carabineers, and some battalions of infantry. General Dixmier commanded in the engagement. The French have forced them to retreat, though much more numerous, superior to them particularly in cavalry. Some prisoners arrived at Mannheim in the afternoon. It is reported that the Austrians fortify their position on the heights of the Gibbet, in order to keep the French back nearer the fortrefs. The cannonade began again by four o'clock in the afternoon, and the Austrians advanced a little, but were forced to fall back, and about six o'clock retired to the neighbouring villages. General Pichegru continues here, though his general quarters have been removed to Nunsfadi.

To day all is quiet.

Oct. 20. The armies were yesterday in battle array, the light horse only engaged in skirmishes. The Austrians at last fell back as far as one league, and left the fortifications they were erecting on the heights of the Gibbet at a quarter of a league distant from Mannheim. It is reported, that in the evening their cavalry, as they were disposing themselves to rush on the carabineers, have been much injured by unexpected volleys of musket shot.

AMSTERDAM, October 22.

We have official intelligence from the Cape of Good Hope, received by the committee for the marine department. The governor, who is not an Orangist, informs, that the inhabitants are well affected towards the new order of things. There had indeed been some

dissensions among them, but they happily subsided on the appearance of an enemy, and were determined to make an obstinate resistance.

Letters from Surinam inform, that the inhabitants of that colony are well disposed, and their courage revived by the arrival at Cayenne of three French frigates and twelve hundred troops. Collet and Billard are arrived at the place of destination.

COLOGNE, October 21.

Last night was a general illumination. The Austrian army under general Clairfayt has crossed the Rhine and arrived here. The French have withdrawn their troops from the left of the Rhine, above Andernach, as intelligence had been received from Mannheim, that general Wurmser had defeated general Pichegru; the particulars of which are not yet known here, which would make their positions in those environs very dangerous.

Last night general Clairfayt received intelligence that the French had taken post and encamped on the other side the Rohr, beyond Juliers, the same position which general Miranda took three years ago, under general Dumourier. This morning the Austrians marched out of this city, joined by 8000 citizens, who are put in different battalions to fill up the losses. It is supposed they are gone in pursuit of the French.

October 28.

This moment the bells are ringing here, as the news is arrived that the French were attacked on the 26th instant, on the Rohr, by the Austrians, and after two hours disputing the ground, have made a precipitate retreat towards Aix-la-Chapelle.

October 30.

The loss of the French, in the battle of the 26th instant, was 1370 killed, 1680 wounded, and 700 taken prisoners, with 28 pieces of cannon; the Austrians have pursued them, and entered the 28th in the evening, Aix-la-Chapelle, which is evacuated by the French, who are still retreating.

Very extraordinary accounts are arrived at Aix-la-Chapelle from Maestricht; that the inhabitants having received the news of the Austrians crossing the Rhine, and being joined by 2400 Dutch soldiers, there in garrison, had in the night surrounded the 3500 French national soldiers in that garrison, made them prisoners, and offered the surrender of Maestricht to general Clairfayt. We doubt, however, the truth of this news, but it is an undoubted fact that the Austrians are received at every place with open arms.

P A R I S, October 27.

The king of England has thought proper to have three different opinions—one peaceful, as it respects Hanover—another for negotiation, as it respects Bremen—and a third warlike, as it respects Great-Britain. How he can reconcile three such discordant opinions, cannot be easily accounted for, unless it be granted that his brain is turned, and that he is likely to be again seized with the royal mania.

The queen of Portugal continues in the same state of indisposition, under which she has laboured for some time past. The direction of all the affairs of that government is confided to the prince of Brasil, and a council.

L O N D O N, November 5.

On Tuesday evening a vessel arrived from Dover. The passengers on board this ship bring the news of a report having prevailed at Ostend, accompanied by circumstances that procured it general belief, of several attacks having been made by the Austrians on the French, which ended in the total rout of the latter. Thirty-five thousand men, or, according to some accounts, forty thousand, are said to have been lost, in killed, wounded, and prisoners, on the part of the vanquished, who have lost all their magazines, ammunition, &c. It is added, that the panic was so great among the French that they fled in all directions, and that numbers of them had crossed the Rhine, without arms or provisions.—When we consider that the French were in a manner destitute of cavalry, and that the Austrians had taken care to collect a most formidable body of horse, the advantage to be derived from this circumstance over a retreating army, renders the account of the numbers stated to be lost by the former, extremely probable.

We find upon further inquiry into the circumstance of the above information, that Clairfayt had first attacked the French, and driven them with great loss to Mannheim, where Wurmser had attacked them again, and in both attacks the French had met with the most signal defeats.

The report at Ostend was, that the Louis was 4300 livres in assignats.

The paper of the 28th mentions, that the constitution had been put in force on the 27th ult.

We understand, that by the same vessel which brought this account, French papers of the 28th and 29th ult. were received, by which it appears, that a general wish for peace prevailed at Paris, and that the Parisians were, almost universally clamorous for the establishment of the new constitution. Hence it would seem as if the constitution, which was to have been put in force on the 27th, had by the intrigues of those who were anxious to retain the power which they had been so long accustomed to exercise, been deferred.

General Menou, who had been arrested on a charge of having favoured the sections, which the convention had employed him to reduce, has been tried and acquitted, to the great satisfaction of the people of Paris. The circumstance of this acquittal, by a military commission, and that of the satisfaction evinced by the Parisians, on the occasion, afford some satisfaction to the supposition, that both the troops and the inhabitants of