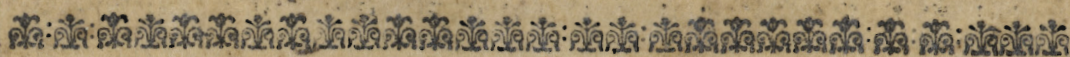
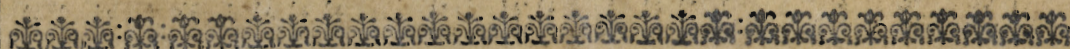


Wm Hancock Esq. Secy. 300

AN
ORDINANCE
Wm For Regulating *Hancock*
Courts of Judicature
IN THE
Province of New-Jersey.



Wm
William



Printed by William Bradford in New-York, 1724.

Clerk of the Court of Common Pleas
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IN THE

Province of Virginia

1607

OF VIRGINIA

VI

&

An Ordinance for Regulating the Courts of Judicature in the Province of *New-Jersey*.

GEORGE, by the Grace of God, of Great Britain, France and Ireland, KING, Defender of the Faith, &c. Whereas We have thought fit, by Advice of the most Honourable, the Lords of Our Privy Council, at Our Court at St. James's, on the Twentieth Day of January, in the Eighth Year of Our Reign, to Disallow some Laws or Acts of General Assembly of the Province of *New-Jersey*, made and Enacted by the Governour, Council and Representatives of that Province, in General Assembly met, viz. One Act, Entituled, *An Act for shortning of Law Suits and Regulating the Practice of the Law*; One other Act, Entituled, *An Act for Acknowledging and Recording of Deeds and Conveyances of Land within each respective County of this Province*; and one other Act, Entituled, *An Act for Enforcing the Observation of an Ordinance for Establishing Fees within this Province*. And Whereas a late Ordinance for Establishing Courts of Judicature within the same Province, was in some measure made conformable to one of the said Laws, so as aforesaid Disallowed. And whereas another Ordinance was made, bearing Date the Twenty ninth Day of April, 1723. upon the Repeal of the said Acts, for Regulating of Courts of Judicature, which is found inconvenient to the Inhabitants of this Province, both as to the Times of the Sitting of the Courts, and for want of Persons authorized to take Bail in the Counties, and of Courts for Tryals of Causes in the Counties, that came to issue in the Supreme Court, *We have therefore thought fit to Ordain, & We do hereby Ordain, Direct and Impower* Every Justice of the Peace residing within any Town or County in the Province of *Nova Caesaria* or *New-Jersey*, to have Cognizance of all Causes and Cases of Debt and Trespass, of the Value of *Forty Shillings*, or under; All which Causes and Cases shall and may be Heard, Tryed and finally Determined, without a Jury, by any of the said Justices of the Peace, as aforesaid, Excepting such Cases where the Titles of Land are or may be any wise concerned.

The Preamble.

Justices to have Cognizance of all causes of Debt & Trespass to the Value of Forty Shillings and under.

AND We do hereby further Ordain and Direct, That the Process of Warring against Free-holders and Inhabitants shall be
by

The Process
against Free-
holders to be
by Summons.

by Summons under the Hand of any of the said Justices of the Peace, directed to the Constable of the Town or Precinct, or to any deputed by him, where the Party Complained against doth dwell or reside. Which Summons shall be served upon the Person or left at the House or Place of Abode of the Defendant, Four Days, at least, before the Time appointed for the Hearing of the Plaintiff. And in case the Defendant does not appear at the time appointed, on Affidavit made by the said Constable or his Deputy, That the said Summons was duly served on the Defendants Person or left at the Defendants House or Place of Abode, with some of the Family of the said Defendant, the Justice granting such Summons may, and shall not otherwise, proceed to Hear such Cause or Causes, and Determine the same in the Defendants Absence, and grant Execution thereupon, directed to any of the Constables or Deputy Constables, to be levied upon the Defendants Goods and Chattles, and for want thereof upon the Person of the Defendant, which he is hereby Impowered and Directed to execute accordingly.

Upon Non-
appearance of
the Defendant
Execution to
be granted.

The Process
against an
Itinerant to be
by Warrant.

And We do hereby further Ordain and Direct, That the Process against an Itinerant Person, Inmate or Forreigner shall be by Warrant from any one Justice of the Peace, to be served by any Constable or his Deputy within that County, who shall, by virtue thereof, Arrest the Party, and him safely keep till he shall be carried before the said Justice, who shall and may immediately Hear, Try and finally Determine all such Causes and Cases of Debt and Trespas, as aforesaid, to the Value of *Forty Shillings*, or under, by Awarding Judgment and Execution. And if Payment be not immediately made, the Constable shall deliver the said Party to the Sheriff of that County, who is hereby Required and Impowered to take him into Custody, and him safely keep until Payment be made of the same, with Charges.

Appeal from
the Justices
allowed.

Provided always, and We do hereby further Ordain and Direct, That an Appeal shall be allowed to the Justices of the same County at the next General Court of Sessions of the Peace held, for any Sum upwards of *Ten Shillings*, in all Causes or Cases Cognizable before them.

*County Court
for holding
of Pleas.*

And Whereas We are given to understand, that many of the Inhabitants of Our said Province live Remote from the Places in which We have appointed Our Supream Court to be held, and that it will be of great Ease and Conveniency to the said Inhabitants that a Court be held in each County, for the Hearing, Trying and Determining of such Actions and Causes of Actions as shall arise within each of the said Counties, and Determinable by Juries of

(5)

of the same, We being willing and desirous to promote the Ease, Well-being and Security of all Our Loving Subjects, Inhabitants of the said Province of *New-Jersey*, and that Right and Justice may be distributed among them, and that all matters of Difference may be Determined by their Equals and Neighbours, as nigh as the present Circumstances of Our said Province will admit, according to the good and antient Laws and Usages of Our Kingdom of *Great Britain*, *Do Ordain and Direct*, That the County Courts for holding of Pleas, continue to be held and kept in each of the severall and respective Counties of Our Province of *New-Jersey*, to Hear, and by the Verdict of Twelve Good Honest and Lawful Free-holders inhabiting within the said respective County where the said Court is held, to Try and Determine all Suits, Controversies, Quarrels and Differences that may arise within the said County between Our Loving Subjects, for any Sum above the Value of *Forty Shillings* (Causes wherein the Right or Title of any Lands, Tenements or Hereditaments in any wise concerned, Excepted) Which said Suits, Controversies, Quarrels and Differences shall be Tryed and Determined in the said Courts by a Jury of Twelve Good and Lawful Free-holders, as aforesaid, and not otherwise.

Causes to be
Tryed by a
Jury of twelve
Good Men,

And Whereas it may so happen, that by the Craft and Artful Practice of the Persons concerned in the said Causes, Quarrel and Controversies Tryable in the said County Courts for holding of Pleas, the said Causes, Quarrels and Controversies may be drawn, contrary to Our Royal Intention, from the Examination of the Jury, to the great Delay and Hindrance of Justice, and it may also happen, that upon Special Verdicts given in Our said County Courts for holding of Pleas, and upon the Pleadings, before and after Verdict, Matters of Law may arise, *We have therefore thought fit to Ordain and Direct*, That on any Special Verdict found by a Jury in any of the said Courts, or any Joynder in Demurrer, or Pleading before or after Verdict, whereby any Points of Law may be in issue (such Points of Law as are necessary to be Determined by the Judges of the said Courts, for the Regulation and Information of the Jury, only Excepted) That then and in such Case, the Clerk of any of the said County Courts, respectively, where the same shall happen, shall make up a Record of all the Pleadings or Special Verdicts, as the case may happen, and Transmit the same to the Chief Justice of the Supreme Court, at the next Supreme Court that shall sit after such Joynder in Demurrer,

On Demurrer
or Special Ver-
dict given, the
Cause shall be
Removed to
the Supreme
Court,

B

murrer,

mutret, Pleading made or Special Verdict given, that Judgment may be given thereon, by the Justices of Our Supreme Court.

Times of the
General Sessions in the
Counties of

And We do hereby Ordain and Direct, That the Courts of General Sessions of the Peace, and County Courts for holding of Pleas, shall be held and kept in each respective County within this Province, at the Times and Places hereafter mentioned, that is to say, The first and next Court of Sessions and Pleas, at the Times and Places to which the same Courts were respectively last Adjourned, and afterwards, in every year, to be Opened on the following Days, *viz.*

Bergin.

For the County of *Bergin*, at the Court-house of the said County on the second *Monday* of *September*, first *Monday* of *December*, third *Monday* of *February*, and second *Monday* of *May*.

Essex.

For the County of *Essex*, at *Newark*, on the *Thursday* next ensuing after the second *Monday* of *September*; the *Thursday* next ensuing after the first *Monday* of *December*; the *Thursday* next ensuing after the third *Monday* of *February*; the *Thursday* next ensuing after the second *Monday* of *May*.

Middlesex,

For the County of *Middlesex*, at the City of *Perth-Amboy*, on the third *Monday* of *September*, Second *Monday* of *December*, Fourth *Monday* of *February*, and Fourth *Monday* of *May*.

Somerset,

For the County of *Somerset*, at the Court-house of the same County, on the *Thursday* next ensuing after the Third *Monday* of *September*; The *Thursday* next ensuing after the second *Monday* of *December*; The *Thursday* next ensuing after the Fourth *Monday* of *February*; and the *Thursday* next ensuing after the Fourth *Monday* of *May*.

Monmouth,

For the County of *Monmouth*, at the Court-house of the same County, on the first *Tuesday* of *October*, Third *Tuesday* of *December*, First *Tuesday* of *March*, and Second *Tuesday* of *June*.

Hunterdon,

For the County of *Hunterdon*, at the Court-house of the same County, the Third *Monday* of *October*, Fourth *Monday* of *December*, Second *Monday* of *March*, and Fourth *Monday* of *July*.

Burlington,

For the County of *Burlington*, at the Town-house of *Burlington*, on the *Thursday* next ensuing after the Fourth *Monday* of *July*; The *Thursday* next ensuing after the third *Monday* of *October*; The *Thursday* next ensuing after the Fourth *Monday* of *December*; And the *Thursday* next ensuing after the Second *Monday* of *March*.

Gloucester,

For the County of *Gloucester*, at *Gloucester*, on the Second *Monday* of *August*, Fourth *Monday* of *October*, First *Monday* of *January*, and Third *Monday* of *March*.

Salem,

For the County of *Salem*, at *Salem*, on the *Thursday* next ensuing after the Second *Monday* of *August*; The *Thursday* next ensuing after the Fourth *Monday* of *October*; The *Thursday* next ensuing

ensuing after the First Monday of *January*; And the *Thursday* next ensuing after the Third Monday of *March*.

For the County of *Cape-May*, at *Cape-May*, the Second *Tuesday* of *July*, the First *Tuesday* of *November*, the Second *Tuesday* of *January*, and the First *Tuesday* of *April*. And shall sit any time, not exceeding Three Days.

And Whereas the Times of the Sitting of Our Supreme Court of Our said Province of *New-Jersey*, are, by Experience, found to be inconvenient, and to occasion Delay in the Administration of Justice, to the great Hurt of several of Our Loving Subjects who have Causes depending in Our said Supreme Court. For Remedy whereof, for the Future, *We have thought fit to Ordain, and do hereby Ordain and Direct*, That Our Supreme Court of Our said Province of *New-Jersey* shall sit and be held at the Places following, and shall sit at and during the Times herein after mentioned, That is to say, The next Supreme Court at *Burlington* and *Amboy*, at the Times unto which the said Courts were last, respectively, Adjourned, and afterwards on the First *Tuesday* of *August* at *Burlington*, the Fourth *Tuesday* of *September* at *Perth-Amboy*. The last *Tuesday* of *March* at *Burlington*, and the Third *Tuesday* of *May* at *Perth-Amboy*, yearly. Which Supreme Court shall Continue for any Term not Exceeding Five Days, and is hereby fully impowered to have Cognizance of all Pleas, Civil, Criminal and Mixt, within this Province, as fully and amply, to all Intents, Constructions and Purposes whatsoever, as the Courts of Kings-Bench, Common-Pleas and Exchequer have, or ought to have in Our Kingdom of *Great Britain*. In which Court all and every Person and Persons whatsoever may Commence and Prosecute any Action or Suit, Real, Personal or Mixt, above the Value of *Five Pounds*. And any Action, Suit or Controversie, Information, Indictment, or Prosecution Depending, or on which Judgment has been given in any of Our Inferiour Courts, may, by *Certiorari*, *Habeas Corpus*, *Writ of Error*, or any other Lawful Writ or Method, be Removed into Our said Supream Court, from any of the Inferiour Courts within Our said Province.

Times of the
sitting of the
Supreme
Court.

4 Terms
a year

And We do hereby further Ordain and Direct, That the Office of Clerk of the said Supream Court of Judicature shall be kept by himself or his sufficient Deputy, at *Perth-Amboy* in the Eastern-Division; and *Burlington* in the Western-Division. And that all Writs and Process of the Supreme Court for Our Province of *New-Jersey*, shall issue out of the Office in either of the said Places indifferently, and that the Courts at *Perth-Amboy* and *Burlington*, shall take Cognizance of such Writs and Process accordingly. Nevertheless so, that all Actions and Causes of Actions arising in either the Eastern or Western Division of this Province, are to be

Clerks Office
to be kept at
Burlington
and *Amboy*.

Tryed

Tried in, and a Verdict given by Jurors of That Division only in which the Cause of Action shall arise, as near and agreeable to the Laws, Customs and Usages in Our Kingdom of *Great Britain*, as may be.

Bail to be
taken in the
Counties,

And Transmitt-
ed to the Su-
pream Court,

According to
an Act of Par-
liament,

And for the greater Ease and Benefit of all Our Loving Subjects inhabiting within Our Province of *New-Jersey*, and of all Persons whatsoever in taking Recognizance of Special Bail upon all Actions and Suits depending, or to be depending in Our said Supreme Court in Our said Province of *New-Jersey*, We do hereby Impower any two of Our Judges of Our Supreme Court, of which Our Chief Justice to be always one, to grant one or more Commission or Commissions under the Seal of the said Supreme Court, from time to time, as need shall require, to impower such and so many Persons, as by Our said Chief Justice and other Judge of Our Supreme Court aforesaid, shall be thought fit and necessary, in all and every the several Counties in Our said Province of *New-Jersey*, to take and receive all and every such Recognizance or Recognizances of Bail or Bails, as any Person or Persons shall be willing and desirous to acknowledge or make before any of the Persons so impowered, in any Action or Suit depending, or hereafter to be depending in Our said Supreme Court of Our Province of *New-Jersey*, in such manner and Form, and by such Recognizance or Bail-Piece as the Judges of Our Supreme Court have here-to-fore used to take the same; Which said Recognizance or Recognizances of Bail or Bail-piece shall be Transmitted to some one of the Judges of Our Supreme Court, and by him received, upon payment of the usual Fees, and Affidavits made, according to the Directions in one Act of the Parliament in *England*, made in the 4th and fifth years of the Reign of Our Royal Predecessors *William* and *Mary*, King and Queen of *England*, *Scotland*, *France* and *Ireland*, &c. Entituled, *An Act for taking Special Bails in the Country, upon Actions and Suits depending in the Courts of Kings-Bench, Common-Pleas and Exchequer at Westminster*. Which Act of Parliament We hereby Recommend to Our Judges of Our Supreme Court in Our said Province of *New-Jersey*, and to the Persons by them impowered to take and receive Recognizances of Special Bail, as a Direction to Govern themselves by, as nearly as the Circumstances of Our said Province of *New-Jersey* will admit the same to be done.

And Whereas the bringing of Juries and Evidences from the several Counties within Our Province of *New-Jersey*, will be at the great Charge and Expence of such of Our Loving Subjects as have Causes Depending, or that will be Depending in Our
Supreme

Supreme Court of Our said Province of *New-Jersey*, We do, for the ease and benefit of Our said Loving Subjects, *further Ordain*, That Our Chief Justice or other Justice of Our Supreme Court, shall annually and every Year (if there be occasion) go into every County in our said Province, except the Counties of *Bergin* and *Cape-May*, and there hold a Court for the Tryal of such Causes arising in the several and Respective Counties, as are brought to Issue in our said Supreme Court, which Causes our Chief Justice or other Justice of our said Supreme Court, is hereby Impowered to hear and try, by Jurors of the said Counties, and on any Verdict in any of the said Counties, within our said Province, Judgment to Give, at our next Supreme Court of Judicature, to be holden at our City of *Perth-Amboy*, or Town of *Burlington*, after such Verdict given in any of the said Counties, within our said Province of *New-Jersey*, which Court for Tryal of Causes shall be held in our several Counties, excepting *Bergin* and *Cape-May*, for and during a Term not exceeding *Five Days*, and at the Times and Places following, that is to say,

A Supreme Court so be held in each County,

For the Counties of *Essex* and *Bergin*, on the first *Thursday* after the second *Monday* of *May*, at *Newark*.

In the County of *Essex*,

For the County of *Somerset*, the *Thursday* next ensuing after the fourth *Monday* of *May*, at the Court-house of the same County.

Somerset,

For the County of *Monmouth*, the first *Tuesday* of *October*, at *Freehold*.

Monmouth,

For the County of *Hunterdon*, the *Monday* of *July*, at *Trent-Town*.

Hunterdon,

For the County of *Gloucester*, the *Thursday* next ensuing after the third *Monday* of *July*, at *Gloucester*.

Gloucester,

For the Counties of *Salem* and *Cape-May*, the third *Monday* of *July*.

Salem,

Hereby Requiring and Commanding Our High-Sheriff, Justices of the Peace, the Mayor and Aldermen of any Corporation within any of Our said Counties, and all Officers, Magisterial and Ministerial of any Courts within Our said Counties, to be Attending on Our Chief Justice, or other Justice going the Circuit, at his Coming into and Leaving their several Counties, and during his Abode within the same, on Penalty to be proceeded against according to Law, for their or any of their Neglect and Contempt of Our Royal Authority and Command hereby signified.

And it is further Ordained, That the Commissioners to be appointed for Taking of Special Bails in the respective Counties of this Province, for every Bail-piece taken by them, shall take the

the Sum of *Three Shillings*, and no more. And the Commissioners for Taking of Affidavits, for every Sheet in an Affidavit, *One Shilling*, and no more.

In Testimony whereof We have caused these Our Letters to be made Patent, and the Seal of Our Province of *New-Jersey* to be thereunto Affixed. *Witness* Our Trusty & Well-beloved *William Burnet*, Esq; Capt. General and Governour in Chief of the Provinces of *New-Jersey*, *New-York*, and Territories thereon depending in *America*, and Vice-Admiral of the same, &c. in Council at *Perth-Amboy*, the 23th Day of *April*, in the Tenth year of Our Reign, *Annoq; Domini. 1724.*

P. 111
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