

An Act to explain and amend the Act for declaring the Negro, Mulatto, and Indian Slaves, within this Dominion, to be real Estate; and Part of one other Act, intituled An Act for the Distribution of Intestates Estates, declaring Widows Rights to their deceased Husbands Estates, and for securing Orphans Estates. (a)

Preamble.
Ch. 3. 1705.

I. **W**HEREAS the Act made in the fourth Year of the Reign of the late *Queen Anne, declaring the Negro, Mulatto, and Indian Slaves, within this Dominion, to be real Estate,* hath been found by Experience very beneficial for the Preservation and Improvement of Estates in this Colony, yet many Mischiefs have arisen, from the various Constructions, and contrary Judgments and Opinions, which have been made and given thereupon, whereby many People have been involved in Lawsuits and Controversies, which are still like to increase: For Remedy whereof, and to the End the said Act may be fully and clearly explained and amended,

The Act 4.
Ann Ch. 3. to
be construed as
herein after ex-
pressed, viz.

II. *BE it enacted, by the Lieutenant Governour, Council, and Burgessees, of this present General Assembly, and it is hereby enacted, by the Authority of the same,* that the said Act shall hereafter be construed, and the true Intent and Meaning thereof is hereby declared, to be, in the several Cases herein after mentioned, as the same is herein after expressed and declared, and not otherwise, that is to say:

Property of
Slaves sold,
given, or be-
queathed,
transferred, as
if such Slaves
were a Chattel.

III. **W**HENEVER any Person shall by Bargain and Sale, or Gift, either with or without Deed, or by his last Will and Testament in Writing, or by any

(a) See 4. Ann. (1705) Cap. 3. and Notes subjoined.

nuncupative Will, bargain, sell, give, dispose, or bequeath, any Slave or Slaves, such Bargain, Sale, Gift, or Bequest, shall transfer the absolute Property of such Slave or Slaves to such Person or Persons to whom the same shall be so sold, given, or bequeathed, in the same Manner as if such Slave or Slaves were a Chattel; and no Remainder of any Slave or Slaves shall or may be limited by any Deed, or the last Will and Testament in Writing, of any Person whatsoever, otherwise than the Remainder of a Chattel personal, by the Rules of the common Law, can or may be limited, except in the Manner herein after mentioned and directed.

A. D. 1727.

Remainder of any Slave shall not be limited otherwise than the Remainder of a Chattel, except as herein after mentioned.

IV. AND that where any Slave or Slaves have been or shall be conveyed, given, or bequeathed, or have or shall descend to any Feme Covert, the absolute Right, Property, and Interest, of such Slave or Slaves, is hereby vested, and shall accrue to, and be vested in, the Husband of such Feme Covert; and that where any Feme Sole is or shall be possessed of any Slave or Slaves, as of her own proper Slave or Slaves, the same shall accrue to, and be absolutely vested in, the Husband of such Feme, when she shall marry.

Slaves conveyed, &c. or descending to any Feme Covert, vested in the Husband.

V. AND that any Infant above the Age of eighteen Years, by his or her last Will and Testament in Writing, may dispose and bequeath the absolute Right, Property, and Interest, of any Slave or Slaves whereof he or she shall be possessed.

Infants above the Age of 18 Years, may bequeath Slaves by Will in Writing.

VI. AND that no Slave or Slaves whatsoever shall be forfeited, except in such Cases where the Lands and Tenements of the Person incurring the Forfeiture is, should, or might, be forfeited.

Slaves not liable to other Forfeitures than Lands are subject to.

VII. AND that no Executor or Administrator hath or shall have any Power to sell or dispose of any Slave or Slaves of his Testator or Intestate, except for the paying and satisfying the just Debts of such Testator or Intestate, and then only where there is not sufficient of the personal Estate of such Testator or Intestate to satisfy and pay such Debts; and in that Case it shall and may be lawful for the Executor or Administrator to sell and dispose of such Slave or Slaves, as shall be sufficient to raise so much Money as the personal Estate falls short of the Payment of the Debts.

Executors, &c. shall not sell Slaves, except for Payment of Debts, and where the personal Estate of the Testator, &c. falls short.

VIII. AND that when a Mother shall die intestate, leaving one or more Slave or Slaves, other than the Slave or Slaves which she holds as of her Dower, the Heir at Law shall be accountable to the younger Children for their Proportions of the Value of such Slave or Slaves, in the same Manner as he should or might be accountable in Case of a Father's dying and leaving such Slaves.

Mother dying intestate, and leaving Slaves, other than of her Dower, the Heir shall pay a Proportion to the younger Children.

IX. PROVIDED always, that nothing in this Act contained shall be construed to change or alter the Property of any Slave or Slaves which by the Judgment of the General Court, or any County Court, have been heretofore adjudged to belong to any Person or Persons whatsoever; but such Judgment shall remain, and for ever hereafter shall be deemed and taken to be, valid and binding.

Property of Slaves heretofore adjudged by any Court confirmed by this Act.

X. PROVIDED also, that where any Person hath heretofore, by Deed executed in his Lifetime, or by his last Will and Testament in Writing, disposed of any Slave or Slaves for the Life or Lives of any Person or Persons whatsoever, and hath thereupon limited any Remainder, such Remainder shall be good and effectual in Law to transfer the absolute Property of such Slave or Slaves to the Person or Persons to whom such Remainder hath been limited, and no otherwise.

And also Remainder of Slaves heretofore limited.

A. D. 1727.
 For settling
 Slaves, &c. to
 descend with
 Lands and
 Tenements,

XI. AND whereas the true Design of the said Act, and the Policy thereof, was and is to preserve Slaves for the Use and Benefit of such Persons to whom Lands and Tenements shall descend, be given, or devised, for the better Improvement of the same, which cannot be done, according to the Custom and Method of improving Estates in this Colony, without Slaves, and therefore it may be very advantageous to Estates to establish a Method for settling Slaves, and their Increase, so as they may go and descend with Lands and Tenements: To which End,

Any Persons
 may, by Deed or
 Will, annex
 Slaves, and
 their Increase,
 to Lands and
 Tenements.

XII. *BE it further enacted, by the Authority aforesaid,* that it shall and may be lawful for any Person or Persons whatsoever, by Deed executed in his or their Lifetimes, or by his or their last Will and Testament, wherein any Lands and Tenements shall hereafter be settled, conveyed, or devised, in Fee Tail, or for Life or Lives, to settle, convey, or devise, any Slave or Slaves, and in such Deed or last Will to declare that such Slave or Slaves, and their Increase, so long as any of them shall be living, shall descend, pass, and go, as Part of the Freehold, to such Person or Persons to whom such Lands and Tenements shall be so conveyed or devised, and to whom the same shall from Time to Time descend and come; and such Declaration shall be good and effectual in Law to annex such Slave or Slaves to the Freehold and Inheritance of such Lands and Tenements, and they, and their Increase, so long as any of them shall be living, shall descend, pass, and go, in Possession, Reversion, and Remainder, with such Lands and Tenements: Or where any Person shall, by his Deed executed in his Lifetime, or by his last Will and Testament in Writing, settle, convey, or devise, any Lands and Tenements in Fee Tail, or for Life or Lives, and shall, in the same Deed or Will, settle, convey, or devise, any Slave or Slaves, with the same Limitation or Limitations with which such Lands and Tenements shall be so settled, conveyed, or devised, such Limitation or Limitations shall amount to a Declaration of the Intent of the Party settling, conveying, or devising the same, that the same should be annexed to such Lands and Tenements, and shall descend, pass, and go therewith, from Time to Time, as aforesaid.

And Slaves so
 annexed shall
 go in Possession,
 Reversion, and
 Remainder,
 with the Lands,
 &c.

Slaves settled,
 &c. with the
 same Limita-
 tions, and in the
 same Deed, &c.
 with Lands,
 &c. shall be an-
 nexed to and go
 with such
 Lands, &c.

Tenant in
 Tail may annex
 Slaves to his
 Estate, which
 shall descend,
 under the like
 Limitation, as if
 such Settlement
 had been made
 when the Estate
 was first
 created.

XIII. AND where any Person or Persons now are, or hereafter shall be, seized of Lands or Tenements in Fee Tail, it shall and may be lawful for such Person or Persons, by Deed executed in his or their Lifetime, or by his or their last Will and Testament, to annex to the same Lands and Tenements all or any Slave or Slaves which such Tenant in Tail shall, during such his Estate, purchase, acquire, or be possessed of; and to declare that such Slave or Slaves, and their Increase, so long as any of them shall be living, shall descend, pass, and go, in Possession, Reversion, or Remainder, as Part of the Freehold, under the like Limitation or Limitations with which such Lands and Tenements are or have been settled, conveyed, or devised: And such Declaration shall be as effectual to annex the said Slave or Slaves, and their Increase, to such Lands and Tenements, as if the same had been settled, conveyed, or devised, by the same Deed or Will, whereby the Estate in the said Lands and Tenements was at first made and created.

Slaves an-
 nexed, &c. li-
 able to be taken
 in Execution
 and sold for
 Payment of
 Debts: The
 Tenant in
 Possession.

XIV. BUT forasmuch as the greatest Part of the visible Estates of the Inhabitants of this Colony doth generally consist of Slaves, and it may happen in future Time, after several Descents of Slaves, so annexed to Lands as aforesaid, that many People may not be acquainted with such Settlements, and so Creditors may be deceived and hindered in the Recovery of just Debts; and, moreover, to bind the Property of Slaves, so as they may not be liable to the Payment of Debts, must lessen, and in Process of Time may destroy, the Credit of the Country:

XV. *IT is hereby provided, and enacted,* that notwithstanding any Slave or Slaves shall be annexed as aforesaid to any Lands and Tenements settled, con-

veyed, or devised, in Fee Tail, in Possession or Remainder, as aforesaid, such Slave or Slaves, or their Increase, shall be liable to be taken in Execution and sold for the satisfying and paying the just Debts of the Tenant in Tail for the Time being; and such Sale shall be good and effectual against him or her, and his or her Issue, and all other Persons whatsoever, claiming under such Settlement.

A. D. 1717.

Such Sale good against the Heir.

XVI. PROVIDED nevertbeles, that if any Person shall be hereafter possessed of any Slave, or Slaves in Right of his Wife, which shall be so annexed to Lands as aforesaid, such Slave or Slaves shall not be liable to be taken in Execution or sold for the satisfying any Debt of such Husband, so as to bar the Wife of any Right which she may claim under any Settlement made in Pursuance of this Act after his Death.

Proviso. Slaves annexed, &c. belonging to the Wife, not liable for Debts of her Husband.

XVII. AND whereas it is by the said Act provided that Writs of Dower and Partition may be brought and maintained for recovering Dower, or making Partition of Slaves, as the Case may be; and the Process and Proceedings in those Writs are not well adapted to the Circumstances of living Things, and are very tedious and difficult:

Writs of Dower and Partition.

XVIII. BE it further enacted, by the Authority aforesaid, that where any Person or Persons have or shall have a Right to demand Dower, or have Partition of any Slave or Slaves, such Person or Persons shall and may exhibit a Bill in Equity for that Purpose against the Person or Persons of whom the same may be demanded; and the Court before whom such Bill shall be exhibited shall compel the Defendant or Defendants to answer, and shall and may proceed upon such Bill and Answer, although the Defendant or Defendants, or any of them, be under the Age of twenty one Years, according to the Course and Rules of Equity, and shall and may make such Decree for the Assignment of such Dower, or making such Partition, in such Manner as shall be most agreeable to Equity: And such Assignment of Dower, or Partition, shall be as effectual as if the same were made in the ordinary Methods of the common Law.

Dower or Partition may be demanded by Bill in Equity.

Court to compel the Defendant to answer notwithstanding Non-agr., and to decree the Assignment of such Dower or Partition.

XIX. AND be it further enacted, by the Authority aforesaid, that where it shall be necessary for the younger Child or Children of any Person whatsoever to bring any Suit against the Heir at Law, for recovering his or their Proportion of the Value of any Slave or Slaves, pursuant to the said Act, instead of an Action upon the Case, such Child or Children shall and may exhibit his or their Bill in a Court of Equity for recovering such Proportion; and the Court before whom such Bill shall be exhibited shall and may proceed upon the Bill, and the Answer of the Defendant, although he shall be under the Age of twenty one Years, and give such Relief for the recovering and compelling the Payment of such Proportion of the true Value of such Slave or Slaves as shall be agreeable to the Rules of Equity, any Thing in the said Act contained to the contrary thereof in any Wife notwithstanding.

Younger Children may exhibit a Bill in Equity against the Heir at Law for their Proportion of any Slaves.

Court to decree Relief against such Heir, although under Age.

XX. AND whereas by Part of one other Act, made in the fourth Year of the Reign of the said late Queen Anne, intituled *An Act for the Distribution of Intestates Estates, declaring Widows Rights to their deceased Husbands Estates, and for securing Orphans Estates*, it is provided that no Person by his last Will and Testament may give a less Share or Proportion of his Estate than is therein directed, and that any Will made contrary to that Act may be set aside, for so much, upon the Petition of the Wife; and soasmuch as it is doubted whether that Part of the said Act hath any Relation to the Disposition of Slaves, and what Right a Widow hath to the Slaves of her deceased Husband, in Case of his dying testate: To the End all Doubts and Questions thereupon may be removed, and a better Method may be settled for Women to recover their Rights than by Petition to set aside the Will,

Recital of Part of Cap. 7. 1705.

A. D. 1727.

Widows not satisfied with the Provision made for them by their Husbands Will may, within nine Months after the Husband's Death, in Court, or by Deed, renounce their Legacies, &c. and may demand Dower of the Slaves, and shall enjoy them during her Life; and shall have such Share of the personal Estate as is given by 4 Ann. Cap. 7. If such Declaration be not made within the Time limited, she shall be barred to renounce the Will.

XXI. BE it further declared and enacted, by the Authority aforesaid, that when any Widow shall not be satisfied with the Provision made for her by her Husband's Will it shall and may be lawful for such Widow, within nine Months after her Husband's Death, before the Court where such Will shall be proved, or by Deed executed in the Presence of two or more Witnesses, to declare that she will not accept, receive, or take, the Legacy or Legacies to her given and bequeathed, or any Part thereof, and will renounce all Benefit and Advantage which she might claim by such last Will, and after such Declaration to demand and recover her Dower of all the Slaves whereof her Husband died possessed, which she shall enjoy during her natural Life; and after her Death, or other Determination of that Estate, the same shall go to the Person or Persons in whom the Property thereof would have vested in Case the Dower had not been demanded: And, moreover, such Widow shall have such Share of the personal Estate of her Husband as by the said Act is directed; but if such Declaration be not made within the Time before limited, she shall be for ever barred to claim any other Part of her Husband's Estate than shall be given or bequeathed by such last Will.

C H A P V.

An Act for erecting a Town in each of the Counties of Spotsylvania and King George.

Preamble.

I. **W**HEREAS great Numbers of People have of late seated themselves and their Families upon and near the River *Rappanock*, and the Branches thereof above the Falls, and great Quantities of Tobacco and other Commodities are every Year brought down to the upper Landings upon the said River to be shipped off and transported to other Parts of the Country, and it is necessary that the poorer Part of the said Inhabitants should be supplied from thence with Goods and Merchandise in Return for their Commodities, but for Want of some convenient Place, where Traders may cohabit and bring their Goods to, such Supplies are not to be had without great Disadvantages, and good Houses are greatly wanted upon some navigable Part of the said River, near the Falls, for the Reception and safe keeping of such Commodities as are brought thither, and for the Entertainment and Sustenance of those who repair thither from remote Places with Carriages drawn by Horses or Oxen; and forasmuch as the Inhabitants of the County of *Spotsylvania* have made humble Supplication to this General Assembly that a Town may be laid out in some convenient Place, near the Falls of the said River, for the Cohabitation of such as are minded to reside there for the Purposes aforesaid, whereby the peopling that remote Part of the Country will be encouraged, and Trade and Navigation may be increased:

Fifty Acres of Land vested in Trustees, who are appointed Directors.

II. BE it enacted, by the Lieutenant Governour, Council, and Burgessees, of this present General Assembly, and it is hereby enacted, by the Authority of the same, that within six Months after the passing of this Act fifty Acres of Land, Parcel of a Tract of Land belonging to *John Royston* and *Robert Buckner*, of the County of *Gloucester*, situate, lying, and being, upon the south Side of the River *Rappanock* aforesaid, in the County of *Spotsylvania*, commonly called or known by the Name of the *Lease Land*, shall be surveyed and laid out, taking the whole Breadth of the said Tract of Land upon the River, by the Surveyor of the said County of *Spotsylvania*; and the said fifty Acres of Land, so to be surveyed and laid out, shall be and is hereby vested in *John Robinson*, Esq; *Henry Willis*, *Augustine Smith*, *John Taliaferro*, *Harry Beverly*, *John Waller*, and *Jeremiah Clowder*, of the County of *Spotsylvania*, Gentlemen, and their Successours, in Trust, for the several Purposes hereafter mentioned; and the said *John Robinson*, *Henry Willis*, *Augustine Smith*, *John Taliaferro*, *Harry Beverly*, *John Waller*, and *Jeremiah*