

1700. for the sum or value he obtained judgment for, from the time judgment was obtained, till the time of sale, or till satisfaction be made." Interest is therefore, generally speaking, a legal incident of every judgment. *Fitzgerald v. Caldwell's executors*. 4 Dallas, 252.— See pa. 289. (*Ibid.*)

Interest is due for the sum awarded, on a parol award. (MSS. Reports Sup. Court.) Where judgments are affirmed upon writ of error, the execution may

include the interest from the date of the original judgment. 2 Dallas, 256. See *ibid.* 303.

See the rules for computing interest on a decree of reversal or affirmation in the Supreme Court of the *United States*. 3 Dallas, 88-103. 338. 356.

The rule for computing interest on a judgment given as a security for what might be recovered on a trial, 3 Dallas, 506.

CHAPTER XLIX.

An ACT for the better regulation of servants in this province and territories.

FOR the just encouragement of servants in the discharge of their duty, and the prevention of their deserting their masters or owners service, *Be it enacted*, That no servant, bound to serve his or her time in this province, or counties annexed, shall be sold or disposed of to any person residing in any other province or government, without the consent of the said servant, and two justices of the peace of the county wherein he lives or is sold, under the penalty of ten pounds; to be forfeited by the seller.

No servant to be sold out of this government, without his consent,

II. *And be it further enacted*, That no servant shall be assigned over to another person by any in this province or territories, but in the presence of one Justice of Peace, of the county, under the penalty of ten pounds; which penalty, with all others in this act expressed, shall be levied by distress and sale of goods of the party offending.

Nor assigned over, except before a justice,

III. *And be it enacted*, That every servant that shall faithfully serve four years, or more, shall, at the expiration of their servitude, have a discharge, and shall be duly clothed with two complete suits of apparel, whereof one shall be new, and shall also be furnished with one new axe, one grubbing-hoe, and one weeding-hoe, at the charge of their master or mistress.

Servants dues.

IV. *And for prevention of servants quitting their masters service, Be it enacted*, That if any servant shall absent him or herself from the service of their master or owner for the space of one day or more, without leave first obtained for the same, every such servant shall, for every such day's absence, be obliged to serve five days, after the expiration of his or her time, and shall further make such satisfaction to his or her master or owner, for the damages and charges sustained by such absence, as the respective County Court shall see meet, who shall order as well the time to be served, as other recompence for damages sustained.

Penalty on servants running away.

V. *And whosoever shall apprehend or take up any runaway servant, and shall bring him or her to the Sheriff of the county, such person shall, for every such servant, if taken up within ten miles of the servant's abode, receive ten shillings, and if ten miles or upwards, twenty shillings reward, of the said Sheriff, who is hereby required to pay the same, and forthwith to send notice to the master or owner,*

The reward for taking them up.

of whom he shall receive five shillings, prison fees, upon delivery of the said servant, together with all other disbursements and reasonable charges for and upon the same. 1700.

VI. And to prevent the clandestine employing of other men's servants, *Be it enacted*, That whosoever shall conceal any servant of this province or territories, or entertain him or her twenty-four hours, without his or her master's or owner's knowledge and consent, and shall not within the said time give an account thereof to some Justice of the Peace of the county, every such person shall forfeit twenty shillings for every day's concealment. And in case the said Justice shall not, within twenty-four hours after complaint made to him, issue his warrant, directed to the next constable, for apprehending and seizing the said servant, and commit him or her to the custody of the Sheriff of the county, such Justice shall, for every such offence, forfeit five pounds. And the Sheriff shall by the first opportunity, after he has received the said servant, send notice thereof to his or her master or owner; and the said Sheriff, neglecting or omitting in any case to give notice to the master or owner of their servant being in his custody as aforesaid, shall forfeit five shillings for every day's neglect after an opportunity has offered, to be proved against him before the next county court, and to be there adjudged.

Penalty for
concealing
them.

Justice's duty,
and fine
on neglect.

Also, the
Sheriff's.

VII. And for the more effectual discouragement of servants imbezbling their masters or owners goods, *Be it enacted*, That whosoever shall clandestinely deal or traffick with any servant, white or black, for any kind of goods or merchandize, without leave or order from his or her master or owner, plainly signified or appearing, shall forfeit treble the value of such goods to the owner; and the servant, if a white, shall make satisfaction to his or her master or owner by servitude, after the expiration of his or her time, to double the value of the said goods: And if the servant be a black, he or she shall be severely whipped, in the most public place of the township where the offence was committed.

Clandestine
dealing with
servants.

Passed in 1700.—Recorded A. vol. I. page 38. (g)

(g) The supplement to this act passed March 9th, 1771, (post. chap. 625) recites, that no clear and express authority is given to the Court by the original act to order and enforce the delivery and payment of freedom dues to the said servants, at the expiration of their servitude, and such servants are left to their remedy by action of covenant, &c. and provides, that the Justices in the Court of Quarter Sessions, on complaint made, by petition, by any servant, who shall have served out his or her time, that his or her last master or mistress, their executors or administrators, have not furnished him or her with freedom dues, and performed the covenants in his or her indenture mentioned, to cause the said master, &c. to come before them, and, after hearing, &c. if it shall appear just and reasonable, to adjudge, order and direct delivery or payment of such freedom dues, sums of money, or

other things, as shall be justly due to the said servant, at the expiration of his or her servitude, according to law, and the covenants in his or her indentures mentioned; and on neglect or refusal of the master, &c. to comply with such order, in such time as the Justices shall appoint, to adjudge the value of the freedom dues, and give judgment, and award execution, with reasonable costs of suit, to be levied by any constable accordingly. And if the petitioner shall be found to have no just cause of complaint, he or she shall pay all cost, to be recovered and levied in manner aforesaid.

The second section obviates a doubt whether the Court of Quarter Sessions, could, after the expiration of the term of servitude, make an order to compel a runaway servant to serve a further period, in satisfaction of the injury done to the master or mistress; and enacts, that

1700. if any person, being a servant, shall absent him or herself from the service of his or her master, &c. without leave first obtained, the Court of Quarter Sessions, on application of the master, &c. whether before or after the expiration of such person's time of servitude, shall oblige such person to make a full recompence for the damages and charges the said Court shall adjudge to be sustained by such absence, either by serving five days for every day he or she was so absent, or by such other reasonable satisfaction, as to the Justices shall seem meet.

The last section repeals so much of the third section of the original act, as relates to servants having a new grubbing hoe, an axe, and a weeding hoe.

By the third section of an act entitled "A supplementary act to a law of this province, entitled an act that no public house or inn, within this province, be kept without licence," it is enacted "that if any inn-holder, &c. shall receive, harbour, entertain or trust any minor under the age of twenty-one years, or any servant, knowing them to be such, or after having been cautioned or warned to the contrary by the parent, guardian, master or mistress of such minor or servant, in the presence of one or more credible witness or witnesses, such inn-holder, &c. so offending, shall, for the first or second offence, being duly convicted thereof, forfeit and pay the sum of twenty shillings for every such offence, over and above the loss and forfeiture of any debt such minor or servant shall or may contract for liquors or entertainment. And for the third offence, his licence to be declared null and void, to forfeit and pay the sum of five pounds, and be for ever after incapable of keeping a public house," &c.

Passed August 26th, 1721, (post. chap. 244.)

By the seventh and ninth sections of the act for the gradual abolition of slavery, passed March 1st, 1780, (post. chap. 870,) the offences and crimes of negroes and mulattoes, as well slaves as freemen, shall be tried and punished as in the case of other inhabitants, except that a slave shall not bear witness against a freeman. And the reward for taking them up when they abscond, and the penalties for enticing them away, dealing with, or harbouring them shall be the same as in the case of servants bound for four years; which repeals, of course, the last sentence, or clause of the act in the text.

See the act of 1st March, 1780, above mentioned; and a supplement passed 29th March, 1788, (post. chap. 1334,) respecting negro servants generally.

And for the laws respecting German emigrants, indentured, to pay their passage, &c. see the acts of April 8th, 1785, (post. chap. 1156,) and the act of March 19th, 1810, which obliges the master or mistress of German redemptioners, who are minors, arriving at Philadelphia after the passing of that act, to give such redemptioner six weeks schooling for every year of his or her term of servitude—which duty shall be inserted in the indentures, by the Register of German passengers.

By the 18th section of the act for the relief of the poor, passed March 9th, 1771, (post. chap. 635,) indentured servants legally and directly imported from Europe, shall obtain a legal settlement in the city, borough, township or place, in which such servant shall first serve with his or her master or mistress, for the space of sixty days, and if afterwards such servant shall duly serve in any other place, for the space of twelve months, such servant shall obtain a legal settlement where such service was last performed, either with his or her first master or mistress, or on an assignment.

The same provision is incorporated in the 17th section of the act for the consolidation and amendment of the laws, as far as they respect the poor of the city of Philadelphia, the district of Southwark, and the township of the Northern Liberties, passed March 29th, 1803, (post. chap. 2357.)

It has been decided in the Supreme Court (MSS. Reports) that free negroes and mulattoes can be bound in this state as servants, only until 21 years of age: but those who have been bound in other states may be compellable to serve until 28 years old, according to the terms of their indentures. But to constitute an indenture of servitude, express words, binding the servant, *as such*, to the master, are necessary.

A guardian cannot bind out his ward as a servant, nor can a parent, for money paid to himself.

This was settled in the case of the *Commonwealth v. Keppel*, 2 Dallas, 197, in which the Court unanimously held such an indenture to be void, and not supported by the act in the text; that an indenture, by which an infant is bound to serve, and not to learn any trade, occupation, or labour, cannot be supported upon the principles of the common law, nor by the express words of any statute—and so far as servitude depended upon the *custom of the country*, that custom extended to imported servants only, which was founded on necessity, and extended to all such as were

imported, whether minors or adults, and was thought to be mutually beneficial to the colony, and to the emigrant. But no such necessity existed as to the children who were already in the province, and the custom never extended to them. The overseers of the poor have no authority to bind out minors as *servants*, even such as are the objects of public charity. They must be bound apprentices to some "art, trade, occupation or labour." No parent, under any circumstances, can make his child a *servant*. Though he is entitled to the service of his child, he cannot enforce it, as a master can that of his servants; he cannot commit him to gaol if he runs away; he cannot demand the penalty of five days service, for every day of absence; and therefore it is impossible that he can transfer such right to another.

For the law respecting apprentices, see the 12th section of the act establishing the Orphans' Court, passed in 1713, (post chap. 197.) The act for regulat-

ing apprentices within this province, passed 29th Sept, 1770, (post chap. 616.) The 8th section of the act for the relief of the poor, before cited. The supplement to the act of Sept. 1770, passed April 11th, 1799, (post chap. 2074.) The different local acts for establishing poor-houses—and the 2d section of the act of April 2d, 1803, (post chap. 2377,) for the confinement of runaway and disorderly apprentices in Philadelphia.

By the 7th section of the act against adultery and fornication, passed in 1705, (post chap. 122,) if any single woman, being a servant by indenture or covenant, have a bastard child within the time of her servitude, she shall serve such further time, beyond the term in her indenture or covenant mentioned, as the Sessions shall think fit, as a compensation to her master or mistress, for the loss and damage they had sustained by reason thereof; *provided*, it be not more than two years, nor less than one.

1700.

CHAPTER LVI.

An ACT for regulating and maintaining of fences.

FOR preventing all disputes and differences that may arise through the neglect or insufficiency of fences in this province, and counties annexed, *Be it enacted*, That all corn-fields and grounds kept for inclosures, within the said province and counties annexed, shall be well fenced with fence, at least five feet high, of sufficient rail or logs, and close at the bottom; and whosoever, not having their grounds enclosed with such sufficient fence as aforesaid, shall hurt, kill or do damage to any horse, kine, sheep, hogs or goats, of any other persons, by hunting or driving them out of or from the said grounds, shall be liable to make good all damages sustained thereby to the owner of the said cattle. *Provided*, That all sorts of swine going at large, contrary to the intent of an act made and passed this present session, entitled, "An act for restraining of swine from running at large," shall not fall nor be deemed within the construction of this act. *But* if any horse, kine, sheep, hogs or goats, or any kind of cattle, shall break into any man's inclosure, the fence being of the aforesaid height and sufficiency, and by the view of two persons, for that purpose appointed by the County Court, found and approved to be such, then the owner of such cattle shall be liable to make good all damages to the owner of the inclosure; for the first offence single damages only, and ever after double the damages sustained. And all persons having any unruly horses, mares, or cattle, that are not to be kept off by such fences as aforesaid, are ordered, and shall be obliged to take effectual care to restrain the same from trespassing on their neighbours inclosures.

How fences shall be made.

Swine running at large not within this act.

Damages to be paid for trespasses.