

Disposition
of the pro-
ceeds di-
rected.
To free
schools.
Proviso.

be distributed amongst the several counties of this state, and the city of Baltimore, for the support of free schools, as provided for by one other act passed at the present session; *Provided however*, that the said moneys shall be continued on deposit in the Union Bank of Maryland, and the Franklin Bank of Baltimore, in case the said banks will consent to retain the same on the conditions herein before provided.

In case the
banks de-
cline.

SEC. 2. *And be it enacted*; That if none of the incorporated banks will accept of the deposit of the aforesaid money, upon the terms herein before provided, and give adequate security to the treasurer for the payment thereof, the said treasurer shall be, and hereby is authorized to invest the same in the stock of this state, or in any other safe and productive fund, at his discretion.

CHAPTER 309.

AN ACT to repair injuries done by Fire from Rail Road Engines.

Case of
injury.

SEC. 1. *Be it enacted, by the General Assembly of Maryland*, That if any woods, fields or other property, real or personal, be burned or injured, by the fire or sparks from any locomotive engine or other machine, the rail road company in whose use, employment or service, or upon whose rail road such engine or machine may be at the time such fire is communicated or such burning occasioned, shall pay damages to the owner or owners of any such property, equal to the injury which may be done to the same, by any such fires or burning, the damages to be recovered by an action on the case in the county court where the injury is done.

Payment
directed.

Recov-
er-
able.

Tried at
first term.

SEC. 2. *And be it enacted*, That all suits or actions for damages under this act, shall be tried at the first term of the court in which they are brought, if process be served on the defendant ten days before the meeting of the court, and if process be not served ten days previous to the meeting of the court, then the suit or action to be tried at the next term; the ten days to be exclusive of the day of serving and the day of the meeting of the court.

Sufficient
service of
process.

SEC. 3. *And be it enacted*, That a service of the process upon any director, officer, attorney, agent or servant of any defendant in any action under this act, shall be deemed a sufficient service, and if the defendant shall fail to appear at the first term, if the process was served ten clear days previous thereto, or at the second term if process was served within the ten days, the court upon application of the plaintiff at any time after the second day of the term, and proof of the service of the process, either by the sheriff's return thereto, or by affidavit that the same was served, shall enter a judgment by default against the defendant, and damages shall be assessed and ascertained, by a jury empannelled at bar, as in cases of writs of enquiry.

Proceedings
authorized.