

T H E

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Leg

ASSEMBLY

OF THE STATE OF

NORTH CAROLINA.

P A S S E D

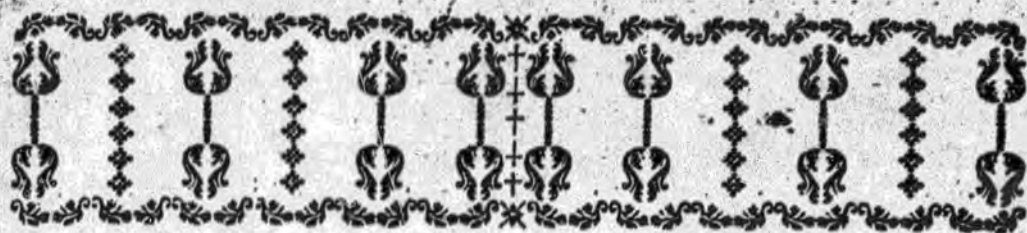
At a GENERAL ASSEMBLY

begun and held at NEWBERN on the Fifteenth Day of
November, in the Year of our Lord One Thousand Seven
Hundred and Seventy Seven, and in the Second Year of
the Independence of the said State: Being the Second
Session of this Assembly.

Published by Authority.

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A C T S
O F
A S S E M B L Y
O F T H E S T A T E O F
N O R T H C A R O L I N A.

At a GENERAL ASSEMBLY begun and held at *Newbern* on the Fifteenth Day of *November*, in the Year of our Lord One Thousand Seven Hundred and Seventy Seven, and in the Second Year of the Independence of the said State: Being the Second Session of this Assembly.

RICHARD
CASWELL,
Esquire, Go-
vernour.

C H A P. I.

An Act for establishing Offices, for receiving Entries of Claims for Lands in the several Counties within this State, for ascertaining the Method of obtaining Titles to the same, and for other Purposes therein ment ioned.

I. **W**HEREAS it is expedient that the Lands within this State should be parcelled out to industrious People, for the Settlement thereof, and increasing the Strength and Number of the People of the Country, by affording an easy and comfortable Subsistence for Families:

Preamble.

II. *BE it therefore Enacted by the General Assembly of the State of North-Carolina, and it is hereby Enacted by the Authority of the same, That the Justices of the Peace in every County within this State, on the second Day of the next Court which shall be held after the End of this present Session of Assembly, and afterwards at the next Court which shall be held after each respective Vacancy, shall elect one good and sufficient Person to receive Entries of Claims for Lands within such County respectively, and also one Person properly qualified to be Surveyor of Lands within the same; at which Election, whosoever shall appear to have the Majority of the Votes of the Justices then present, shall be deemed duly elected, and no other; and every Person so duly elected for either of the Offices aforesaid, shall hold the said Offices respectively during good Behaviour.*

Entry Takers
and Surveyors
to be elected.

A. D. 1777.

Entries how to
be made.Proviso for
registering
Deeds.Quantity of
Acres to be
granted to one
Person.Persons to
take the Oaths,
and pay the
Purchase Mo-
ney, before
they enter
Lands.Purchase Mo-
ney, where
more Land is
claimed than
allowed to one
Person.Manner of
entering and
surveying
Lands.

III. *AND* be it further Enacted, by the Authority aforesaid, That it shall and may be lawful for any Person, who is or shall hereafter become a Citizen of this State, according to the Constitution thereof, and who shall perform the several Requisites by this Act required, to enter with the Entry Taker of any County within this State, a Claim for any Lands lying in such County, which have not been granted by the Crown of Great Britain, or the Lords Proprietors of Carolina, or any of them, in Fee, before the fourth Day of July, in the Year One Thousand Seven Hundred and Seventy Six, or which have accrued, or shall accrue to this State, by Treaty or Conquest, every such Citizen, performing every Thing by this Act required to be previously done. *Provided*, That when any Person shall have, *bona fide*, purchased Lands, and has failed to register the Deeds for the same within the Times required by Law, nothing herein contained shall bar him from availing himself of the further Times given for registering such Deeds by any subsequent Law. *Provided*, That no Person shall be intitled to claim any greater Quantity of Land than Six Hundred and Forty Acres, where the Survey shall be bounded in any Part by vacant Lands, or more than One Thousand Acres, between the Lines of Lands already surveyed and laid out for any other Person.

IV. *AND* be it also Enacted, by the Authority aforesaid, That every Person, except a Guardian who shall claim for an Orphan Child, and except Persons absent in the Service of this State, or the United States, before he shall enter a Claim for any of the Lands aforesaid, shall take and subscribe the Oath, or Affirmation, of Allegiance and Abjuration, prescribed by the Law of this State, which Oath the Entry Officer is hereby impowered and required to administer; and every Person claiming shall also, before he shall be entitled to enter a Claim for any of said Lands, pay into the Hands of the Entry Taker at the Rate of Two Pounds Ten Shillings for every Hundred Acres, together with the Fees, which shall be by this Act made lawful. *Provided*, That where any Person shall claim a greater Quantity of Lands aforesaid than Six Hundred and Forty Acres for himself, and One Hundred Acres for his Wife and of his Children, including all that such Persons may have claimed, in one or more Tracts or Surveys under this Act, within Twelve Months from the End of this present Session of Assembly, shall pay for every Hundred Acres exceeding the Quantity aforesaid Five Pounds, and so in Proportion.

V. *AND* be it also Enacted, by the Authority aforesaid, That the Claimant of any Land shall produce to the Entry Taker a Writing, setting forth the Name of the County wherein the Land shall be situated, the nearest Water Courses and remarkable Places, and such Water Courses, Lakes, or Ponds, as may be therein, the natural Boundaries and Lines of any other Person or Persons, if any, which divide it from other Lands; and every such Writing shall be endorsed by the Entry Taker, with the Name of the Claimant, and the Number of Acres claimed, and a Copy thereof shall be entered in a Book, well bound and ruled, with a large Margin, and into Spaces of equal Distances, every Space to contain only one Entry, and every Entry shall be made in the Order of Time in which it shall be received, and numbered in the Margin; and if no Person shall appear within three Months after to make Claim for the same Lands, the Entry Taker shall deliver to the Party a Copy of the Entry, with its proper Number, and an Order to the County Surveyor to survey the same; which Order shall be written, or printed, on at least a Half Sheet of Paper: But if any Person shall ap-
pear

pear within the Time aforesaid, and set up a Claim to any Lands which shall be entered, the Entry Taker shall note the same in the Margin of the Book of Entries, opposite to the Claim in Dispute, and shall transmit a Copy of the whole to the County Court, to be proceeded on as by this Act is directed, and in the mean Time shall forbear to issue any Order to the Surveyor relative thereto.

VI. AND whereas many of the good People of this State, during the Discontinuance of Land Offices therein, have settled and improved Lands, with Intention to become lawful Proprietors thereof; and by Reason there was no Method for ascertaining the Bounds of their respective Claims, it may happen that Disputes may arise respecting Bounds and Priority of Occupancy; and it is expedient that all such Disputes be terminated with as little Delay and Expence as possible, consistent with Justice, and the Constitution of this State: *Be it therefore Enacted, by the Authority aforesaid,* That when the Entry Taker shall certify to the County Court a disputed Claim, in Manner as by this Act directed, the said Court shall order the Sheriff to summon a Jury of good and lawful Men, unconnected by Affinity or Consanguinity with the contending Parties, who shall be above all Exceptions, and having given the Parties Ten Days previous Notice, shall go with the said Jury on the Premises, and the Jury being sworn to do equal Right between the Parties, to cause the Witnesses on both Sides to be examined, and the Allegations of the Parties to be made before such Jury, and to receive the Verdict of the said Jury, and return the same, together with the Pannel, to the next County Court; and at the said Court, if it shall appear that the Jury have found generally for any of the Parties, then the Court shall order an authentic Copy of the Verdict to be delivered to the Party for whom the same shall be found, who upon entering the same with the Entry Taker, and performing the Requisites by this Act required, shall obtain a Certificate and Order of Survey, in like Manner as if he had made Entry of a Claim for the same Premises; and the Officer shall refund to the other Party all the Money which he has received from him, except the Fees to himself, for the Services actually performed; and in all Cases where the Jury shall find a special Verdict, the County Court shall decide thereon according to the Right of the Case, and shall order such Determination to be delivered to the Party, who may thereupon proceed as in Case of a general Verdict. *Provided,* That where it shall be made appear to the County Court that the Jury were partial, or not all good and lawful Men as required by the Constitution, or have been influenced by any unfair Practices of the Party for whom they shall find, the said Court shall order a new Trial, and the Proceeding shall be as before directed.

VII. AND in order to prevent Disputes and Delays to Persons in obtaining Titles to the Lands before mentioned, *Be it further Enacted, by the Authority aforesaid,* That where a Claim shall be made to any Lands for which a prior Claim has been duly entered, before such subsequent Claim shall be received, the Party making the same shall enter into Bond with the Entry Taker, with sufficient Security, payable to the adverse Party, in the Sum of Fifty Pounds, that he will prosecute the said Claim with Effect; and if he shall fail therein, he shall pay all Costs and Damages which shall accrue, which Costs shall not exceed the Fees in Cases of Juries of View in Causes respecting the Title or Bounds of Lands, and the Clerks and Attornies Fees as by Law established in other Causes, but may be diminished by the Courts respectively, as they shall judge right.

Manner of trying disputed Claims to Entries of Lands:

Proviso: for a new Trial.

Persons making subsequent Claims, to give Bond to prosecute them.

A. D. 1777.

Proviso, not to bar the Claim of Persons having prior Titles.

Right not obtained as by this Act directed, void.

Survey return to Surveyor, bound, and describe Lands

Proviso, to enter Islands.

Grants to be made by the Secretary, and recorded within twelve Months.

Entry Takers, Surveyors, Registers, and Secretary's Fees.

VIII. *PROVIDED*, That nothing in this Act contained shall extend to effect the Right, Title or Interest, which any Citizen may have in Lands heretofore obtained by Patent from the Crown of Great Britain, or any Person claiming by, from, or under the same, or to bar any Right of Action, Entry or Possession, to such Lands appertaining; but all such Rights, Titles, Interests, Rights of Action, Entry and Possession, shall be and remain as if this Act had never been made.

IX. *AND be it also Enacted, by the Authority aforesaid*, That every Right, Title, Claim, Interest, or Property, by any Person or Persons set up or pretended to any of the before mentioned Lands which shall not be obtained in Manner by this Act directed, or by Purchase or Inheritance from some Person or Persons becoming Proprietors by Virtue thereof, or which shall be obtained in Fraud, Elusion or Evasion of the Provisions and Restrictions thereof, shall be deemed and are hereby declared utterly void.

X. *AND be it further Enacted, by the Authority aforesaid*, That every County Surveyor, upon receiving the Copy of the Entry and Order of Survey for any Claim of Lands, shall as soon as may be lay off and survey the same, agreeable to this Act, and make thereof two fair Plots, the Scale whereof shall be mentioned on such Plots, and shall set down in Words the Beginning, Angles, Distances, Marks, and Water Courses, and other remarkable Places, crossed or touched by or near to the Lines of such Lands, and also the Quantity of Acres, and shall transmit the Plots to the Secretary's Office, together with the Warrant, or Order of Survey, one of which, with the Warrant, shall be filed by the Secretary, and the other annexed to the Grant. And no Surveys shall be made without Chain Carriers, who shall actually measure the Land surveyed, and shall be paid by the Party for whom the Survey shall be made; and such Chain Carriers shall be sworn to measure justly and truly, and to deliver a true Account thereof to the Surveyor, which Oath every Surveyor is hereby empowered and required to administer: And every Survey shall be bounded by natural Boundaries, or right Lines, running East, West, North, and South, and shall be an exact Square or Oblong, the Length not exceeding double the Breadth, unless where such Lines interfere with Lands already granted or surveyed, or unless where the Survey shall be made on any navigable Water; in which last Case the Water shall form one Side of the Survey, and the Breadth on such Water shall not be more than one fourth Part of the Distance back from the Water. *Provided nevertheless*, That nothing herein contained shall be construed to extend to prevent any Person from entering a Claim for any Island or Islands in navigable Waters, the Quantity of which shall not exceed what is allowed by this Act to be contained in one Entry.

XI. *AND be it Enacted, by the Authority aforesaid*, That the Secretary shall make out Grants for all Surveys returned to his Office, which Grants shall be authenticated by the Governor, and countersigned by the Secretary, and recorded in his Office, ready to be delivered to the Parties to whom the same shall be made, on the first Day of April and October in every Year; and every Person obtaining a Grant for Lands, shall within twelve Months after such Grant shall be perfected as aforesaid, cause the same to be registered in the Register's Office of the County where the Lands shall lie, otherwise such Grant shall be void.

XII. *AND be it further Enacted, by the Authority aforesaid*, That the several Entry Takers, Surveyors, Registers, and the Secretary, shall be entitled to have and receive the Fees hereafter particularly specified, and no more, that is to say: To the Entry Taker, for all Services, Sixteen Shillings

Shillings. To the Surveyor, for making the Survey, and all other Services for every Three Hundred Acres or under, Thirty Shillings; and for every One Hundred Acres more, Three Shillings. To the Secretary, for making out the Grants, and recording the same, Five Shillings. To the Governor's Secretary, for the Great Seal, Three Shillings.

XIII. *AND be it also Enacted, by the Authority aforesaid,* That every Entry Taker shall, on or before the First Day of April and October in every Year, pay into the Public Treasury all such Monies as he shall receive for Entries; and in Consideration of the said Service, and the Risk of such Monies, and for carrying the Grants from the Secretary's Office to his County, and delivering the same when called for to the Persons to whom they shall be made (which he is hereby required to do) it shall and may be lawful for him to retain Two per Cent.

A.D. 1727
Entry Taker to pay all Monies into the Treasury, and allowed 2 per Cent.

XIV. *AND be it also Enacted, by the Authority aforesaid,* That every Entry Taker and Surveyor, before entering upon the Execution of his Office, shall take and subscribe in open Court the Oath prescribed for the Qualification of Officers, and also an Oath that he will well and impartially discharge the several Duties of his respective Office; and shall enter into Bond, with sufficient Security, to be approved by the County Court, in the Sum of Two Thousand Pounds, to the Governor for the Time being, and his Successors, for the faithful Discharge of his respective Duty; which Bond, upon a Breach of the Condition thereof, shall be assigned by the Governor to the Party or Parties injured, who shall and may maintain an Action or Actions thereon in his or their own Name or Names, and shall not become void upon the first Recovery, or if Judgment be for the Defendant, but may be put in Suit from Time to Time, until the whole Penalty shall be recovered; and every Entry Taker shall also give Bond, in the Sum of Eight Thousand Pounds, payable to the Governor for the Time being, and his Successors, well and truly to pay to the Public Treasury all such Monies as he is or shall be required by Law to pay in Virtue of his Office; and in Case where the Entry Taker shall fail to pay the Monies by him received into the Public Treasury as required by Law, the Treasurer shall cite the Delinquent and his Securities to the next Superior Court to be held for the District wherein the County of which he is Entry Taker shall be situated, and such Court shall direct an Issue to be immediately made up and tried by a Jury, and if it shall be found that the Entry Taker has failed to make Payment as by Law required, or shall fail to appear on such Citation, the Court shall give Judgment and award Execution against him and his Securities, for the Sum which shall be found or appear to be due from him. And upon such Citation, the Treasurer shall be intitled to demand and receive of such Entry Taker his Entry Book, and every other Evidence, by Books or Papers, which by this Law such Entry Taker is directed to keep; and if such Entry Taker shall, upon such Demand, neglect or refuse to deliver such Books or Papers to be made Use of in the Trial of such Citation, such Refusal shall be deemed a presumption amounting to full Proof, and Judgment pass against the Entry Taker for the Amount of the whole Sum demanded by the Citation, and Execution shall go accordingly.

Entry Takers to take the Oath, and give Bond.

Public Money how recovered from them.

XV. *AND be it also Enacted, by the Authority aforesaid,* That every Entry Taker and Surveyor who shall neglect or refuse to perform the several Duties by this Act required, or shall knowingly suffer the Provisions and Restrictions thereof to be eluded or evaded, or shall ask, demand, or receive, directly or indirectly, any greater Fees than are by this Act made lawful, shall forfeit the Sum of Five Hundred Pounds, to be recovered by Action of Debt, Bill or Plaint; and moreover shall forfeit all Right to Office, and shall be for ever disabled from holding the same, or any other Office within this State: Provided that no Person shall take up any Lands under this Act in Washington County, in any greater

Pen. on Entry Taker refusing his Duty, or taking unlawful Fees.

A. D. 1777.

What Lands may be taken in Washington County.

Persons who have Preference to Lands in Virtue of old Entries or Occupancy.

Quantity than Six Hundred and Forty Acres for himself, and One Hundred Acres for his Wife, and One Hundred Acres for each of his Children, until the Legislature shall make further Provision relative thereto.

XVI. *AND provided also, and be it further Enacted by the Authority aforesaid,* That every Person or Persons, and his or their Heirs or Assigns, who in the Office of the late Earl *Granville*, or in the late Public Land Office, have heretofore made any Entry or Entries, or who since the Death of the said Earl *Granville* hath possessed and actually improved any vacant or unappropriated Lands for which no just Claim by Entry in any Office shall have been made; shall be intitled, in Preference to all others; to enter and obtain a Grant or Grants for the same, so that such Entry or Entries be made on or before the First Day of *January*, One Thousand Seven Hundred and Seventy Nine, and so that no such Grant shall contain more than Six Hundred and Forty Acres; subject nevertheless to the Payment of Five Pounds for every Hundred Acres, and so in Proportion, which any Person shall claim over and above the Quantity which by the Provisions of this Act each Person is allowed to claim for the Price of Fifty Shillings for every Hundred Acres, and so in Proportion; any Thing herein before contained to the contrary notwithstanding.

Not to extend to lapsed Lands.

Proviso, for Persons claiming under Indian Titles.

XVII. *PROVIDED nevertheless;* That this Act shall not extend to confirm any Entry made or Grant obtained in the late Public Land Office, for Lands in the late Lord *Granville's* District, or to any Entry which hath heretofore lapsed for want of suing out a Patent or Grant agreeable to the Regulations heretofore established and in Use within this Territory. *Provided also,* That nothing in this Act contained shall be construed to prevent or bar any Persons, being Subjects of this State, and claiming Property in any Lands therein by Conveyance or Grant from any Nation of *Indians*, from the Right of Trial by Jury, or a Hearing before the General Assembly of the State at a future Day.

Entry Taken how to enter Lands for themselves.

XVIII. *AND be it further Enacted, by the Authority aforesaid,* That if any Entry Taker shall be desirous to make any Entry of Lands in his own Name, such Entry shall be made in its proper Place before a Justice of the Peace of the County not being a Surveyor or Assistant, which Entry the Justice shall return to the County Court at their next Sitting, and the County Court shall insert such Entry; and every Entry made by or for such Entry Taker in any other Manner than is herein directed, shall be illegal and void, and any other Person may enter, survey, and obtain a Grant for the same Land.

What Money to be received.

XIX. *AND be it further Enacted, by the Authority aforesaid,* That no Entry Taker shall receive, for the Use of this State, any other Sort of Money for the Entry of Lands than Continental Bills of Credit, or the Dollar Bills emitted at the Congress held at *Hillsborough* and *Halifax*.

C H A P. II.

An Act for establishing Courts of Law, and for regulating the Proceedings therein.

Preamble.

I. **W**HEREAS it is necessary to a due and regular Administration of Justice, that Courts be established in this State;

State divided into Districts, and Courts established.

II. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That from and after the passing of this Act this State shall be, and it is hereby divided into Six several Districts, that is to say, the Districts of *Wilmington*, *Newbern*, *Edenton*, *Halifax*, *Hillsborough*, and *Salisbury*, in each of which a Court for the Trial of Causes, civil and criminal, shall be established, by the Name of the Superior Court of Law in the District where the same shall be held; and the said Courts shall consist of Three Judges, being Men of Abilities, Integrity, and learned in the Law, who shall have Cognizance and legal Jurisdiction of all Pleas, real, personal, and mixt,

mixt; and also all Suits and Demands relative to Legacies, Filial Portions, and Estates of Intestates; all Pleas of the State, and criminal Matters, of what Nature, Degree, or Denomination soever, whether brought before them by original or mesne Process, or by *Certiorari*, Writ of Error, Appeal from any Inferior Court, or by any other Ways or Means whatsoever: And they are hereby declared to have full Power and Authority to give Judgment, and to award Execution, and all other necessary Process thereupon; and shall have, use, exercise, and enjoy, the same Powers and Authorities, Rights, Privileges, and Preheminences, as were had, used, exercised, and enjoyed, by any former Judges in this Territory, except where it is, or may be otherwise directed by this, or any other Act, or where such Authorities, Rights, Privileges, or Preheminency, or any of them, may be inconsistent with, or repugnant to, the Form of Government and Constitution by Law established: And in Case of the Death or Absence of any of the said Judges, it shall and may be lawful for one or more of the same Judges, by himself or themselves, to hold any of the said Courts, and to take Cognizance, and give Judgment, and award Execution, in the same Manner as all the said Judges might have done, had they been present. *Provided always*, That Demurrers, Cases agreed, special Verdicts, Bills of Exception to Evidence, and Motions in Arrest of Judgment, shall not be argued but before Two or more of the said Judges.

III. AND for the Benefit of Suitors, and to prevent Irregularities in making up Records, *Be it Enacted, by the Authority aforesaid*, That the said Judges shall appoint Clerks of Skill and Probity to the several and respective Courts hereby established, who shall each of them give Bond, with sufficient Security, payable to the said Judges, and their Successors in Office, in the Sum of Two Thousand Pounds, for the safe keeping of the Records, and the faithful Discharge of his Duty in Office; which said Bond shall be lodged in the Secretary's Office, and may be put in Suit on the Assignment of the said Judges, or their Successors, by the Party or Parties injured, in his or their own Name; and shall not become void upon the first Recovery, or if Judgment be given against the Plaintiff, but may from Time to Time be put in Suit, by Action of Debt, until the whole Penalty shall be recovered.

IV. AND *be it Enacted, by the Authority aforesaid*, That the Clerks of the said Courts, when so appointed, shall hold their Offices during their good Behavior therein; but before entering upon the Execution thereof, shall before his Excellency the Governor take the Oath for the Qualification of Public Officers, and also the following Oath, *to wit*,

I A. B. do swear, that by myself, or any other Person, I neither have given, nor will give, to any Person or Persons whatsoever, any Gratuity, Gift, Fee, or Reward, in Consideration of my Appointment to the Office of Clerk of the said Office. I also solemnly swear, that I do not, directly or indirectly, hold any other lucrative Office in this State. And I do further swear, that I will execute the Office of Clerk of the said Office for the said Office without Prejudice, Favour, Affection, or Partiality, to the best of my Skill and Ability.

SO HELP ME GOD.

And the Governor is hereby required to issue his Proclamation to every County of this State, notifying to the good People thereof the Names of those Persons who have qualified as Clerks of the Courts of the respective Districts, agreeable to this Law, and requiring all Persons to pay Obedience to all Precepts issued by them by Virtue thereof: And if it shall be discovered that any of the said Clerks, after his Appointment, shall have violated his said Oath, or wittingly, willingly, and corruptly, have done any Thing contrary to the true Intent and Meaning of the said Oath, such Clerk shall be deemed upon Conviction guilty of Misbehavior in Office, and shall for ever afterwards be incapable of holding any Office, civil or military, within this State.

V. AND

of D. 1777.

Judges may act separately.

Except in Demurrers, &c.

Clerks to be appointed.

To hold their Offices during good Behavior

Their Oath.

Governor to issue a Proclamation, notifying their Qualification.

Pen. on them for Misbehavior.

A. D. 1777.
Judges to take
the Oaths.

V. AND be it further Enacted, by the Authority aforesaid, That the said Judges, before they act as such, shall in open Court, or before the Governor for the Time being, take the Oath appointed for the Qualification of Public Officers; and also the following Oath, to wit,

I A. B. do solemnly swear, that I will well and truly serve the State of North Carolina, in the Office of _____ of the Superior Courts of Law of the said State. I will do equal Law and Right to all Persons, Rich and Poor, without having Regard to any Person. I will not wittingly or willingly take by myself, or by any other Person, any Fee, Gift, Gratuity, or Reward whatsoever, for any Matter or Thing by me to be done by Virtue of my Office, except the Fees and Salary by Law appointed. I will not maintain by myself, or by any other, privately or openly, any Plea or Quarrel depending in any of the said Courts. I will not delay any Person of common Right, by Reason of any Letter or Command from any Person or Persons in Authority to me directed, or for any other Cause whatsoever; and in Case any Letters or Orders come to me contrary to Law, I will proceed to enforce the Law, such Letters or Orders notwithstanding. I will not give my Voice for the Appointment of any Person to be Clerk of any of the said Courts, but such of the Candidates as appear to me sufficiently qualified for that Office; and in all such Appointments I will nominate without Reward, the Hope of Reward, Prejudice, Favour, or Partiality, or any other sinister Motive whatsoever. And finally, in all Things belonging to my Office, during my Continuance therein, I will faithfully, truly, and justly, according to the best of my Skill and Judgment, do equal and impartial Justice to the Public and to Individuals.

SO HELP ME GOD.

Pen. for acting
before qualify-
ing.

And if any of the said Judges shall presume to act in his Office before he shall have taken the Oaths hereby directed, he shall forfeit and pay One Thousand Pounds, to be recovered by Action of Debt in any of the Superior Courts; one Half to the Use of the State, towards defraying the Charges of Government, and the other Half to the Person or Persons who shall sue for the same.

Courts when
held.

VI. AND be it Enacted, by the Authority aforesaid, That the several Superior Courts of Law shall be held for the several Districts in this State on the following Days, and in the following Places, that is to say, For the District of Salisbury, in the Town of Salisbury, for the Counties of Rowan, Mecklenburg, Tryon, Anson, Surry, Guilford, Burke, Washington, and Wilkes, on the Fifth Days of March and September. For the District of Hillsborough, in the Town of Hillsborough, for the Counties of Orange, Granville, Wake, Chatham, and Caswell, on the Twenty Fourth Days of March and September. For the District of Halifax, in the Town of Halifax, for the Counties of Halifax, Northampton, Edgcomb, Bute, Martin, and Nash, on the Twelfth Days of April and October. For the District of Edenton, in the Town of Edenton, for the Counties of Chowan, Perquimons, Pasquotank, Currituck, Bertie, Tyrrell, Hertford, and Camden, on the First Days of May and November. For the District of Newbern, in the Town of Newbern, for the Counties of Craven, Carteret, Beaufort, Johnston, Hyde, Dobbs, and Pitt, on the Twentieth Days of May and November. For the District of Wilmington, in the Town of Wilmington, for the Counties of New Hanover, Onslow, Bladen, Duplin, Cumberland, and Brunswick, on the Seventh Days of June and December. And each Term shall continue Twelve natural Days, exclusive of Sundays, by Adjournment from Day to Day, if the Business shall require so long Time, but otherwise may be sooner determined. Provided always, That if the Day by this Act appointed for holding any of the said Courts shall happen to fall on a Sunday, then such Court shall be held the next succeeding Day, any Thing herein contained to the contrary notwithstanding.

Admission of
Attornies.

VII. AND be it further Enacted, by the Authority aforesaid, That all Persons who have heretofore obtained Licences to practise as Attornies in the Courts under the late Government, and have been admitted as such, shall hereafter be permitted to practise in such Courts in which they were heretofore admitted to practise,

practise, without any further Examination; and every Person who shall hereafter apply for Admission to Practise as an Attorney, shall undergo an Examination before Two or more Judges of the Superior Courts of this State, and if such Person shall be found to possess a competent Share of Law Knowledge, and be a Person of upright Character, such Judges shall give him a Certificate, under their Hands and Seals, to practise in any Court of this State for which they may judge him qualified.

A. D. 1777.

VIII. *AND* be it further Enacted, by the Authority aforesaid, That no Person coming into this State from any other State, or from any foreign Country, with an Intention to practise the Law, shall by the said Judges be admitted to practise as an Attorney, unless he shall have previously resided one Year in this State, or unless such Person shall produce to the said Judges a Testimonial from the chief Magistrate of such State or Country, or from some other competent Authority, that he is of an unexceptionable moral Character; and all such Attornies, before they shall be admitted to practise in any Court, shall in open Court, before the Judges thereof, take the following Oath, viz.

Persons coming into this State with Intention to practise, how admitted.

I A. B. do swear, that I will truly and honestly demean myself in the Practice of an Attorney, according to the best of my Knowledge and Ability.

Their Oath.

SO HELP ME GOD.

And upon such Qualification had, and Oath taken, such Attornies, as well as those who have heretofore obtained Licences, may act as Attornies during their good Behavior.

IX. *AND* be it further Enacted, by the Authority aforesaid, That all real Actions, Actions of Ejectment, Trespass, *Quare Clausum Fregit*, Suits on penal Statutes, and Pleas of the State, shall be commenced in the Court of the District wherein the Cause of Action shall arise, or the Offence be committed, and not in any other District; and all Actions of Debt, other than on penal Statutes, all Actions of Detinue and Replevin, Actions of Account Render, Assault and Battery, and for the unlawful taking of Goods, all Actions upon the Case, and Suits for Legacies, and for distributive Shares of Intestates Estates, shall be brought to the Court of the District where both Parties reside; and where the Parties live in different Districts, shall be brought to the Court of either District, at the Option of the Plaintiff; and where the Plaintiff shall reside beyond Seas, or in a different State or Government, shall be brought to the Court of the District where the Defendant resides; and where any Action or Suit shall be brought otherwise than is herein directed, such Action or Suit may be abated, on the Plea of the Defendant.

Actions in what Districts to be brought.

X. *AND* be it Enacted, by the Authority aforesaid, That no Suit shall be originally commenced in any of the said Courts for any Debt or Demand of less Value than One Hundred Pounds, where the Plaintiff and Defendant live in the same District, or for less than Fifty Pounds, where the Parties live in different Districts; and if any Suit shall be commenced contrary to the true Intent and Meaning hereof, or if any Person shall demand a greater Sum than is due, on Purpose to evade this Act; in either Case the Plaintiff shall be nonsuited, and pay Costs. *Provided always*, That if the Plaintiff, or any other Person for him, will make an Affidavit (to be filed in the Court) that the Sum for which his Suit shall be brought is really due, but that for want of Proof, or that the Time limited for the Recovery of any Article, bars a Recovery, then, and in that Case, such Plaintiff shall have a Verdict and Judgment for what appears to be legally proved; any Thing herein before mentioned to the contrary notwithstanding. *And provided also*, That nothing herein contained shall extend, or be construed to extend, to Suits on Bonds, penal Bills, or any other Action of Debt, grounded on a Penalty, where the Balance due on such Bond or penal Bill, or other Action of Debt, is not of less Value than the Sums herein before mentioned, to be limited for bringing Suits in the said Courts.

Of what Value Suits may be commenced in the Superior Courts.

Proviso, for the Plaintiff to prove his Debt

Not to extend to Suits on Bonds, &c.

A. D. 1777.

Pen. on Plain-
tiff for false
swearing.Courts kept
up.Till the first
Term, Writs
may bear Test
immediately.Process to be
marked on the
Day on which
it issues.Process when
returnable.Provide, for
criminal Pro-
cess.Sheriff's Duty
when Process
issues to him.Indorsement
of Bail Bonds
returned.

XI. *AND be it further Enacted, by the Authority aforesaid,* That if any Plaintiff, or other Person, shall hereafter swear falsely, in order to obtain a Recovery in any of the said Courts, he shall, upon Conviction thereof, be adjudged guilty of Perjury, and suffer as in Cases of wilful and corrupt Perjury.

XII. *AND be it Enacted, by the Authority aforesaid,* That none of the said Courts, nor any of the Proceedings therein depending, shall be discontinued by Reason of the Death of any of the said Judges, or by their not attending at any Term; but in such Cases all Pleas, Causes, Matters and Things, therein depending, shall stand continued and remain in the same Condition in which they shall then be, to the next succeeding Term.

XIII. *AND be it Enacted, by the Authority aforesaid,* That until the Commencement of the first Term of each of the said Courts, original Process may bear Test at the Time of issuing the same, and such Writs and Process so tested before such Term, shall be valid in Law, any Usage or Practice of Courts to the contrary notwithstanding: And after the first Term of each Court, the Clerk or Attorney issuing Process, shall mark thereon the Day on which the same shall be issued, and the Sheriff or other Officer receiving the same, in order to execute, shall in like Manner mark on each Process the Day on which he shall have received it; and every Clerk, Attorney, Sheriff, or other Officer, neglecting so to do, shall forfeit and pay the Sum of Fifty Pounds; to be recovered by Action of Debt, in any Court of Record having Cognizance thereof, by any Person who shall sue for the same, with Costs.

XIV. *AND be it further Enacted, by the Authority aforesaid,* That all Writs and other Process (except Subpœnas for Witnesses returnable immediately) shall be returned the First Day of the Term to which the same shall be returnable, and shall be executed at least Ten Days before the Beginning of such Term; and if any original or mesne Process shall be taken out within Ten Days before the Beginning of any Term, such Process shall be made returnable to the Term next succeeding that which shall commence within Ten Days after taking out such Process, and not otherwise; and all Process made returnable at any other Term, or executed at any other Time, or in any other Manner, than by this Act is directed, shall be adjudged void upon the Plea of the Defendant.

XV. *PROVIDED nevertheless,* That nothing herein contained shall be construed to invalidate or vacate any Process, Warrant or Precept, to be issued by any of the Judges of the said Courts, or any Justice of the Peace, or Clerk of any Court, on any criminal Prosecution on Behalf of the State, but that the same may be issued at any Time, and made returnable to any Day of the Term; and the Proceedings on criminal Suits and Prosecutions shall be agreeable to the Practice heretofore in Use in this Territory, except where the same is or may be otherwise directed, any Thing herein contained to the contrary notwithstanding.

XVI. *AND be it Enacted, by the Authority aforesaid,* That when any Writ shall issue from any of the said Courts, whereby any Sheriff, or other Officer, shall be commanded to take the Body of any Person or Persons, to answer to any Action in any of the said Courts, such Sheriff shall take Bond, with Two sufficient Securities, in double the Sum for which such Person or Persons shall be held in Arrest (Executors, Administrators, and Persons sued on such penal Statutes as do not expressly require Bail, excepted) and shall return such Bond with the Writ; and in Case the Sheriff shall fail or neglect to take such Bail, or the Bail returned be held insufficient, on Exception taken and entered the same Term to which such Process shall be returnable, the Sheriff having due Notice thereof, he shall be deemed and stand as special Bail, and the Plaintiff may proceed to Judgment, according to the Rules herein after prescribed.

XVII. *AND be it Enacted, by the Authority aforesaid,* That all Bail Bonds returned to any of the said Courts, shall be assigned by the Sheriff returning the same, by Indorsement thereon, in the following Form, to wit, " I A. B. Sheriff

iff of County, do hereby assign the within Obligation and Condition to G. D. the Plaintiff therein named, his Executors and Administrators, to be sued for according to the Statute in such Case made and provided. In Witness whereof, I have hereunto set my Hand and Seal, the Day of _____ in the Year of our Lord One Thousand Seven Hundred and ____ And every Sheriff failing to make such Assignment, shall be deemed, held, and taken as special Bail, in the same Manner as if no Bail Bond had been returned.

A. D. 1777.

XVIII. *AND be it Enacted, by the Authority aforesaid,* That when any Sheriff shall return that he hath taken the Body of any Defendant, and committed him to the Prison of his County (which is hereby declared to be the proper Prison for such Commitment) the Plaintiff may enter the Defendant's Appearance, and he shall be at Liberty to plead as if such Appearance had been entered by himself, and the Plaintiff may proceed to Judgment as in other Cases in this Act directed; nevertheless the Defendant shall not be discharged out of Custody, but by putting in Bail, or Rule of Court.

Proceedings where he returns the Body in Custody.

XIX. *AND be it Enacted, by the Authority aforesaid,* That all Bail taken according to the Directions of this Act, shall be deemed, held, and taken to be special Bail, and as such liable to the Recovery of the Plaintiff; but the Plaintiff, after final Judgment, shall not take out Execution against such Bail, until an Execution be first returned that the Defendant is not to be found in his proper County, and until a *Scire Facias* hath been made known to the Bail, which *Scire Facias* shall not issue until such Execution shall have been so returned; and after Return of such Execution against the Principal, and *Scire Facias* against the Bail, Execution may issue against the Principal and Securities, or any of them, or any of their Estates, unless the Bail shall surrender the Principal before the Return of the first *Scire Facias*, or shall appear and plead upon the Return thereof; any Law, Custom, or Practice, to the contrary thereof, in any wise, notwithstanding.

All Bail taken special, and when liable to Recovery.

XX. *AND it is hereby Enacted, by the Authority aforesaid,* That the Bail shall have Liberty, before final Judgment obtained against him, to surrender to the Court from which the Process issued, or to the Sheriff returning such Process during the Sitting of such Court, or to the Sheriff in the Recess of such Court, the Principal in Discharge of himself; and such Bail shall, at any Time before such Judgment had, have full Power and Authority to arrest the Body of his Principal, and secure him until he shall have an Opportunity to surrender him to the Sheriff who made the Arrest, or to the Court to which the Process was returnable; and such Sheriff is hereby required to receive such Surrender, and hold the Body of the Defendant in Custody, as if Bail had never been given.

Bail may surrender the Principal.

XXI. *AND be it Enacted, by the Authority aforesaid,* That when any *Scire Facias* shall by the proper Officer be returned to have been made known to the Bail, and they in Consequence thereof shall appear, they shall be obliged to plead, and the Issue shall be tried the same Term to which the Process shall be returned, unless sufficient Cause be shewn to the Court to the contrary; but the Bail shall not be admitted to plead *non est Factum*, unless they first file an Affidavit of the Truth of their Plea.

Scire Facias made known, the Bail to plead, and be tried the first Term.

XXII. *PROVIDED nevertheless,* That if any Sheriff shall return on a *Scire Facias* to him directed, that the Principal is imprisoned by Virtue of any Process civil or criminal, the Court to which such *Scire Facias* is returnable shall, on Motion of the Plaintiff or Bail, order and direct that such Principal be retained where he or she shall be a Prisoner, until the Plaintiff's Judgment and Cost shall be paid, or he or she otherwise discharged by due Course of Law; a Copy of which Order being served on the Keeper of such Prison before such Prisoner's Release, shall be a sufficient Authority for him to retain such Prisoner until such Order be complied with, and shall be deemed a Surrender of the Principal, and a Discharge of the Bail.

Provido where the Principal is in Gaol, & Proceedings thereupon.

XXIII. AND

A. D. 1777.

Proceedings
where the Sher-
riff returns the
Plaintiff not to
be found.

XXIII. AND for the better ascertaining what Procefs shall issue when the Sheriff shall return that the Defendant is not to be found within his County, *Be it Enacted, by the Authority aforesaid,* That when the Sheriff shall make such Return in any civil Action, the Plaintiff may at his Election sue out an Attachment against the Estate of such Defendant, or an *Alias* or *Pluries Capias*, until he be arrested, returnable in the same Manner as original Procefs; and if the Sheriff shall return any Goods by him attached, and the Defendant shall fail to appear and plead within the Time herein directed, the Plaintiff shall be intitled, if in an Action of Debt, to final Judgment, and if in an Action on the Case, to an interlocutory Judgment, and in Consequence thereof may execute a Writ of Inquiry the next succeeding Term; and the Goods so attached, if not relieved or sold, according to the Rules herein after prescribed for Goods taken on original Attachments, shall remain in the Custody of the Sheriff until final Judgment, and then be disposed of in the same Manner as Goods taken in Execution on a Writ of *Fieri Facias*; and if the Judgment shall not be satisfied by the Goods attached, the Plaintiff may have Execution for the Residue.

Judgment final
the first Court,
Inquiry may
be executed as
to the Value of
the Currency.

XXIV. *AND be it Enacted, by the Authority aforesaid,* That in Case any Plaintiff shall obtain Judgment final at the first Term to which the Procefs shall be returnable on an Action of Debt, it shall be lawful for him to execute his Inquiry as to the Value of any foreign Currency or Money for which the Suit may be brought, at the same Term in which such Judgment shall be entered or obtained.

Where At-
tachment may
be issued.

XXV. *AND be it Enacted, by the Authority aforesaid,* That upon any Complaint being made, on Oath, to any of the Judges of the said Courts, or to any Justice of any of the County Courts; by any Person or Persons, his, her, or their Attorney, Agent or Factor, that any Person hath removed, or is removing him or herself out of the County privately, or so absconds or conceals him or herself that the ordinary Procefs of Law cannot be served on such Debtor, and if such Plaintiff, his, her, or their Attorney, Agent, or Factor, further swears to the Amount of his, her, or their Debt or Demand, to the best of his, her, or their Knowledge and Belief, it shall be lawful for such Justice, and he is hereby impowered and required, to grant an Attachment against the Estate of such Debtor, wherever the same may be found, or in the Hands of any Person or Persons indebted to, or having any of the Effects of the Defendant, or so much thereof as shall be of Value sufficient to satisfy the Debt or Demand, and Costs of such Complaint; which Attachment shall be returned to the Court where the Suit is cognizable, and shall be deemed the leading Procefs in such Action, and the same Proceedings shall be had thereon as on Judicial Attachments.

Bond to be
given before
Attachment
granted.

XXVI. *PROVIDED* always, That every such Justice, before granting such Attachment, shall take Bond and Security of the Party for whom the same shall be issued, his, her, or their Attorney, Agent or Factor, payable to the Defendant, in double the Sum for which the Complaint shall be made, conditioned for satisfying all Costs which shall be awarded to such Defendant in Case the Plaintiff shall be cast in the Suit, and also all Damages which shall be recovered against the Plaintiff in any Suit or Suits which may be brought against him, for wrongfully suing out such Attachment; which Bond, together with the Affidavit of the Party complaining, subscribed with his proper Name, shall be returned by the Justice taking the same to the Court to which the Attachment is returnable; and every Attachment issued without Bond and Affidavit taken, and returned as aforesaid, shall be abated on the Plea of the Defendant.

Justices may
issue Attach-
ments.

XXVII. AND for the Ease and Convenience of Creditors and others who may be injured as aforesaid, and to remove Doubts with Respect to the Authority of the Justices of the County Courts in issuing Attachments; *Be it Enacted, by the Authority aforesaid,* That it shall and may be lawful for any Justice of the County Courts,

Courts, upon Complaint made to him by any Person or Persons as aforesaid, to issue Attachments under the Rules and Regulations before mentioned, and make the same returnable to any of the said Courts where the same is cognizable; any Law, Usage, or Custom, to the contrary, notwithstanding.

A. D. 1777.

XXVII. *AND be it Enacted, by the Authority aforesaid,* That when any Person who shall be an Inhabitant of any other Government, so that he cannot personally be served with Process, shall be indebted to any Person a Resident of this State, and hath any Estate within the same, any of the said Justices may grant an Attachment against the Estate of such foreign Person, under the Rules, Restrictions, and Regulations, before mentioned, and the same Proceedings may be had thereon.

Attachment may issue against the Estates of Persons in other Governments.

XXVIII. *AND be it Enacted, by the Authority aforesaid,* That when any Goods, or other Estate, shall be attached by Virtue of any Attachment, whether judicial or original, it shall and may be lawful for the Defendant or Defendants, his, her, or their Attorney, Agent or Factor, to replevy the same, by giving Bond, with sufficient Security, to the Sheriff, or other Officer serving such Attachment; which said Bond the Sheriff, or other Officer, is hereby empowered and required to take, to appear at the Court to which such Attachment is returnable, and to abide by, perform and satisfy, the Order and Judgment of such Court; and when the Estate attached shall by Three Justices of the County Court, to be summoned by the Sheriff for that Purpose, be certified on Oath to be perishable, and the Person or Persons to whom it belongs, his, her, or their Attorney, Agent, or Factor, shall not within Sixty Days after the serving of such Attachment replevy the same, then such Estate shall be sold at public Vendue by the Sheriff, or other Officer, he having first advertised such Sale at the Court House, and other public Places in his County, at least Ten Days before the Sale; and the Money arising by such Sale shall be liable to the Judgment obtained upon such Attachment, and deposited in the Hands of the Clerk of the Court to which the Process shall be returnable, there to wait the Event of such Judgment; and where the Sheriff, or other Officer, shall serve an Attachment in the Hands of any Person or Persons supposed to be indebted to, or supposed to have any of the Effects of the Party absconding or residing out of this State, he shall at the same Time summon such Person or Persons as a Garnishee or Garnishees, in Writing, to appear at the Court to which the Attachment shall be returnable, within the first Four Days of the First Term thereof, there to answer upon Oath what he or she is indebted to the Defendant, and what Effects of the Defendant he or she hath in his or her Hands, and had at the Time of serving such Attachment, and what Effects or Debts of the Defendant there are in the Hands of any other, and what Person, to his or her Knowledge and Belief; and where any Attachment shall be served in the Hands of any Garnishee in Manner aforesaid, it shall be lawful, upon his or her Appearance and Examination, to enter up Judgment, and award Execution against any such Garnishee, for all Sums of Money due to the Defendant from him or her, and for all Effects and Estate of any Kind belonging to the Defendant in his or her Possession or Custody, for the Use of the Plaintiff, or so much thereof as shall be sufficient to satisfy the Debt and Costs, and all Charges incident on levying the same; and all Goods and Effects whatsoever in the Hands of any Garnishee or Garnishees belonging to any Defendant, shall be liable to satisfy the Plaintiff's Judgment, and shall be delivered to the Sheriff, or other Officer, serving the Attachment; and where any Garnishee shall be returned by the Sheriff, or other Officer, summoned in Manner aforesaid, and shall fail to appear and discover, on Oath, as by this Act is directed, it shall be lawful for the Court, after solemnly calling the Garnishee, and such Court is hereby authorized and required, to enter a conditional Judgment against such Garnishee, and upon such Judgment so entered, a *Scire Facias* shall issue against such Garnishee,

Proceedings on Attachments.

A. D. 1777.

returnable the next Term, to shew Cause, if any he hath, why final Judgment should not be entered against him; and upon such *Scire Facias* being duly executed and returned, if such Garnishee shall fail to appear at the next Term, and discover, on Oath, in Manner aforesaid, the Court shall confirm such Judgment, and award Execution for the Plaintiff's whole Judgment and Costs; and if upon the Examination of any Garnishee, it shall appear to the Court that there is any of the Defendant's Estate in the Hands of any Person or Persons who have not been summoned, such Court shall, upon Motion of the Plaintiff, grant a judicial Attachment, to be levied in the Hands of such Person or Persons having any of the Estate of the Defendant in his, her, or their Custody or Possession, who shall appear and answer, and be liable as other Garnishees.

Attachment may be granted against the Lands of Persons out of the State, and Proceedings thereon.

XXIX. AND whereas divers Persons residing in other States or Governments, possessed of Lands, Tenements, and Hereditaments, in this State, may have contracted, or may contract Debts with the Inhabitants of this State, without having personal Estate in the same to satisfy such Debts and Damages; and whereas by the Policy and Genius of our present Constitution, Lands and Tenements ought to be made subject to the Payment of just Debts, when the Debtor hath not within the Limits of this State Goods and Chattels sufficient to satisfy the same; *Be it therefore Enacted, by the Authority aforesaid,* That all Processes which heretofore issued against Goods, Chattels, Lands and Tenements, shall for the future issue in the same Manner, and such as issued only against Goods and Chattels, shall hereafter issue against Lands and Tenements, as well as Goods and Chattels; and the Sheriff, upon such Attachment, Execution, or other Process, shall proceed to levy the same upon the Goods and Chattels of the Defendant, in the first Instance, if any there be; but if to the best of his Knowledge there be no such Goods and Chattels, or not sufficient to answer the Plaintiff's Demand, he shall execute the same upon the Lands and Tenements to the Amount of the whole Debt, or of so much as may remain more than the Value of the Goods and Chattels so found, and such Lands and Tenements shall be liable, under the Restriction aforesaid, to be sold to satisfy the Judgment of the Plaintiff; and where any Sheriff shall have levied Process upon Lands and Tenements, in Manner aforesaid, and Judgment shall have been thereupon had, he shall not proceed to sell the same, until in the most public Place in his Bailiwick he shall, Forty Days at least before the Day of Sale, have advertised the same.

Estate repleviable.

XXX. PROVIDED always, That it shall be lawful for any Person, against whose Estate any Attachment hath issued as aforesaid, his or her Attorney, Agent or Factor, at any Time before final Judgment entered, or Writ of Inquiry, executed, upon giving special Bail, to replevy the Estate so attached, and plead to issue, so that the Plaintiff is not thereby delayed of his Trial. *And provided also,* That no judicial Process shall be issued against the Estate of any Person residing without the Limits of this State, unless such Process is grounded on an original Attachment, or unless the leading Process in such Suit has been executed on the Person of the Defendant when within the State.

No Process to issue against Estates of Persons out of the State.

XXXI. AND to prevent Errors in issuing Attachments, and taking Bonds thereupon, *Be it Enacted, by the Authority aforesaid,* That the Attachment shall be in the following Form, that is to say

The State of North Carolina,

To the Sheriff of _____ County, Greeting

Form of the Attachment.

WHEREAS A. B. (or A. B. Attorney, Agent or Factor, as the Case may be, of C. D.) hath complained, on Oath, to _____ Esquire, Justice of the Superior Courts of Law, or of the County Court of _____ that E. F. is justly indebted to him (or to the said A. B.) to the Amount of _____ and Oath having been also made that the said E. F. hath removed, or is about to remove himself out of your County, or so absconds or conceals himself

himself that the ordinary Process of Law cannot be served on him, (or is an Inhabitant of another Government, if the Case is so) and the said ^{having} given Bond and Security, according to the Directions of the Act of the General Assembly in such Case made and provided: We therefore command you that you attach the Estate of the said E. F. if to be found in your County, or so much thereof, repleviabie on Security, as shall be of Value sufficient to satisfy the said Debt and Costs, according to the Complaint; and such Estate so attached, in your Hands to secure, or so to provide that the same may be liable to further Proceedings thereupon, to be had at the Court to be held for

of _____ at _____ on the _____ Day of _____ next, so as to compel the said E. F. to appear and answer the above Complaint of the said _____ when and where you shall make known to the said Court how you shall have executed this Writ. Witness _____ Esquire, Justice of the said Court, at _____ the _____ Day of _____ in the

A. D. 1797.

10
5
7.4

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3.4
7.4
2.6.3

Year of *American Independence.*
Which attachment shall be signed and sealed by the Justice granting the same. And the Bond to be given on obtaining such Attachment shall be in the following Form, to wit,

K NOW all Men, by these Presents, that We _____ all of the County of _____ are held and firmly bound unto _____ in the Sum of _____ to be paid to the said _____ his certain Attorney, Executors, Administrators; or Assigns. For which Payment well and truly to be made, we bind ourselves, and each of us, our and each of our Heirs, Executors and Administrators, jointly and severally, firmly by these Presents. Sealed with our Seals, and dated the _____ Day of _____ in the Year of our Lord One Thousand Seven Hundred and _____

Form of the Bond.

T HE Condition of the above Obligation is such, that whereas the above bounden _____ hath the Day of the Date hereof prayed an Attachment, against the Estate of the above named _____ at the Suit of _____ against the Estate of the above named _____ for the Sum of _____ and hath obtained the same, returnable to the _____ Court, to be held at _____ on the _____ Day of _____ next: Now if the said _____ shall prosecute his said Suit with Effect, or in Case he fail therein, shall well and truly pay and satisfy to the said _____ all such Costs and Damages as shall be awarded and recovered against the said _____ his Heirs, Executors, or Administrators, in any Suit or Suits which may be hereafter brought for wrongfully suing out the said Attachment; then the above Obligation to be void, otherwise to remain in full Force and Effect.

The Condition.

XXXII. *PROVIDED* nevertheless, That no Attachment shall be abated for want of Form, if the essential Matters expressed in the foregoing Precedent be set forth in such Attachment.

No Attachment to be abated for want of Form.

XXXIII. *AND* be it Enacted, by the Authority aforesaid, That in all Suits commenced or prosecuted by Attachment against the Estate of Persons residing out of the Government, the Court to which the same shall be brought shall stay all Proceedings in such Suits for so long Time as they may think necessary; not exceeding one Year from the Time of the Return of such Process, and where it can be conveniently done, Notice shall issue from the Court to the Defendant; and if the Defendant appear, put in Bail, and plead within the Time limited for his Appearance, in such Case his Estate shall be liberated, and the Garnishee discharged; and it shall be lawful for the Jury to give in Damages legal Interest upon the Plaintiff's Recovery, during the Time of such extraordinary Continuances, even in Cases where Interest is not usually allowed in the Courts.

Proceedings on Suits on Attachments of Estates of Persons out of the State.

XXXIV. *AND* be it Enacted, by the Authority aforesaid, That the following Rules and Methods shall be observed in the said Courts, to wit,

Rules of Court.

The Plaintiff shall file his Declaration in the Clerk's Office on or before the second Day of the Term to which his Suit shall be brought, and serve the Defendant

A. D. 1777. Defendant with a Copy at least five Days before the Commencement of such Term, otherwise the Action may be abated on the Plea of the Defendant.

The Defendant shall appear and plead, or demur, within the first Three Days of the Term to which the Writ shall be returnable, otherwise the Plaintiff may have Judgment by Default, which in Actions of Debt shall be final, unless where Damages are suggested on the Roll; and in that Case, and in all others not herein specially provided for, where the Recovery shall be in Damages, a Writ of Inquiry shall be executed at the next succeeding Term. *Provided*, That where the Nature of the Action requires special Pleading, the Time for Pleading may be enlarged.

Where the Defendant pleads specially, the Plaintiff shall reply or demur within Three Days, or a *Non Pros* may be entered by the Defendant; and if the Plaintiff replies, and in his Replication tenders an Issue, the Defendant shall join Issue, or demur in Three Days, otherwise the Plaintiff may have Judgment; and where the Defendant rejoins to the Plaintiff's Replication, he shall file his Rejoinder within Three Days, or Judgment shall go against him, unless the Time for Pleading shall be enlarged as aforesaid; and the same Time shall be given, and Rules observed, through the whole Course of the Pleadings.

Where a special Verdict shall be found, a Case agreed, a Demurrer filed, or a Bill of Exceptions to the Evidence tendered, Time shall be allowed, upon Motion of either Party, to the next Term to argue the same.

For the better Preservation of the Records of the Courts when any Cause is finally determined, the Clerk of each Court shall enter all the Proceedings therein in a Book well bound, and an entire and perfect Record make thereof.

All Jury Causes shall be first tried.

All Motions in Arrest of Judgment shall be argued within the Three last Days of the Term in which the Issue shall be tried, the Defendant's Attorney first serving the Plaintiff's Attorney with a Copy of the Reasons in Arrest of Judgment the Day immediately following that on which such Motion shall be made.

Arguments on Writs of Error, special Verdicts, Cases agreed, Demurrers, Petitions for Legacies, and Distributions of Intestates Estates, shall be heard upon the Four last Days of the Term.

No Plea in Abatement shall be received in any of the said Courts, unless the Party offering the same shall by Affidavit, or otherwise, prove the Truth of such Plea.

Where a Plea in Abatement shall be pleaded, and upon Argument the same shall be adjudged insufficient, the Plaintiff shall recover against the Defendant full Costs to the Time of overruling such Plea, including the Costs of Court; and the Plaintiff in Replevin, or Defendant in any other Action, may plead as many several Matters as may be necessary for his Defence, so that he be not admitted to plead and demur to the whole.

XXXV. *AND be it Enacted, by the Authority aforesaid*, That all the Statutes of England and Great Britain for the Amendment of the Law, commonly called Statutes of Jeoffails, and which were heretofore enforced in this Territory by any Act or Acts of the General Assembly under the late Government, are hereby declared to have continued, and to be now in full Force in this State, and shall be duly observed by all Judges and Justices of the several Courts of Record within the same, according to the true Intent and Meaning of the said Statutes, unless where the same are or may be altered by this or any other Act.

XXXVI. *AND be it Enacted, by the Authority aforesaid*, That for taking the Testimony of Witnesses in all Causes which may be depending in the Superior and County Courts, the following Rules shall be observed and put in Practice,

to wit,

Statutes of
Jeoffails en-
forced.

Rules for Wit-
nesses.

In all Suits where Witnesses are to appear at any of the said Courts, the Clerk, at the Request of the Party, shall issue a Subpœna, directed to the Sheriff, or other Officer of the County where such Witness or Witnesses are said to reside, mentioning the Time and Place for his, her, or their Appearance, the Names of the Parties to the Suit wherein the Testimony is to be given, and the Party at whose Instance such Witness or Witnesses is or are summoned.

Every Subpœna made returnable immediately shall be issued only in Term Time, and shall be personally served on the Witness or Witnesses therein named.

A Copy of every Subpœna issued by the Clerks in the Vacation, in Case the Witness or Witnesses therein named is or are not to be found, may be left at their usual Places of Residence; and such Copy, certified by the Sheriff or other Officer, left as aforesaid, shall be deemed a legal Summons, and the Person or Persons therein named shall be bound to appear in the same Manner as if personally summoned.

XXXVII. *AND be it Enacted, by the Authority aforesaid,* That every Witness being summoned to appear in any of the said Courts, in Manner as herein before directed, shall appear accordingly, and continue to attend from Term to Term, until discharged by the Court, or the Party at whose Instance such Witness shall be summoned; and in Default thereof, shall forfeit and pay to the Party at whose Instance the Subpœna issued, the Sum of Fifty Pounds, and shall be further liable to the Action of such Party for the full Damage which may be sustained for want of such Witness's Testimony, who shall recover the same by *Scire Facias*, with Costs.

XXXVIII. *PROVIDED always,* That if it shall so happen that the Suit depending shall in the Vacation be accommodated and settled between the Parties, and the Party at whose Instance such Witness was summoned should neglect or omit to discharge him or her from further Attendance, and he or she, for want of such Discharge, should attend at the next Term, then, and in that Case, the Witness, upon Oath made of the Facts, shall be intitled to a Ticket from the Clerk in the same Manner as other Witnesses, and shall recover from the Party at whose Instance he was summoned, the same Allowance which by this Act is given to Witnesses for their Attendance at the said Court, with Costs. *Provided also,* That if any Witness shall hereafter swear falsely, in order to obtain a Ticket, he shall upon Conviction be adjudged guilty of Perjury, and suffer as in Cases of corrupt and wilful Perjury. *And provided further,* That if sufficient Cause be shewn by the Person so summoned, and failing to appear, of his or her Incapacity to attend at the Time and Place mentioned in the Subpœna, then no Forfeiture or Penalty shall be incurred by such Failure; but if on Notice given by the Court, sufficient Cause be not shewn at the next succeeding Term after such Failure, it shall and may be lawful for such Court, on Motion, to grant Judgment, and award Execution, for the Forfeiture before mentioned, against the Person so summoned and failing to appear as aforesaid.

XXXIX. *AND be it further Enacted, by the Authority aforesaid,* That when any Person who may be a Witness in any Cause in any of the said Courts, shall reside out of this State, or shall by Reason of Age, bodily Infirmary, or any other Cause, be incapable of attending to give his Testimony in Court, Oath thereof being made, or the Truth of the Matter otherwise appearing, the Judge or Judges of the Court wherein such Suit is depending shall and may, by Commission, empower such and so many Persons as may be thought necessary to take and receive the Deposition of such Witness, which being duly taken and returned as herein after is directed, shall be received as legal Testimony.

XL. *PROVIDED always,* That the Party praying such Commission shall give such Notice to the adverse Party of the Time and Place when and where such Commission is to be executed, as the Court shall think proper; and the adverse Party shall have Power to cross examine any Witness whose Deposition shall

A.D. 1777.

To attend till discharged.

Proviso, where the Suit is settled.

Pen. for false swearing.

Proviso, for Incapacity to attend.

Where Depositions may be taken.

Proviso, for the adverse Party to have Notice.

A. D. 1777.

Persons leaving the State, their Depositions may be taken.

shall be so taken; and all Depositions otherwise taken than as herein is directed; unless by Consent of Parties, shall be void to all Intents and Purposes.

XLII. *AND be it further Enacted, by the Authority aforesaid,* That if any Person who may be a Witness in any Cause depending in any of the said Courts; shall be under a Necessity of leaving this State before such Cause is to be tried; or even before such Cause shall be at Issue, upon Oath thereof made before any of the Justices of the said Courts, such Justice is hereby impowered to order the Clerk of the Court where such Cause is depending to issue a Commission to one or more Persons to take the Deposition of such Witness, Notice being first given to the adverse Party of the Time and Place when and where such Deposition is to be taken, at least Ten Days previous to the Time of executing such Commission; which Deposition when returned, taken in Manner aforesaid, shall be received as legal Evidence.

Pen. for Refusal to give Evidence.

Proviso, for Quakers.

Negroes, &c. no Evidence, except against each other.

Witnesses to attend till discharged.

Witnesses Privilege.

Their Allowance for Attendance.

Clerks to take Probate of Evidence Tickets.

XLII. *AND be it further Enacted, by the Authority aforesaid,* That if any Person who shall be summoned as a Witness in any of the said Courts, or before any Persons appointed to take Depositions as aforesaid, shall refuse to give Testimony on Oath, such Person so refusing shall by the Court, or by the Commissioner before whom he shall be summoned, be committed to the common Prison, there to remain, without Bail or Mainprize, until he shall be willing to give Testimony, in such Manner as the Law doth or may direct. *Provided,* The People called Quakers shall have the Liberty of giving their Testimony by Way of solemn Affirmation, in all Causes whatsoever, criminal as well as civil. *And provided also,* That all Negroes, Indians, Mulattoes, and all Persons of mixed Blood, descended from Negro and Indian Ancestors, to the fourth Generation inclusive (though one Ancestor of each Generation may have been a white Person) whether Bond or free, shall be deemed and taken to be incapable in Law to be Witnesses in any Case whatsoever, except against each other.

XLIII. *BE it Enacted, by the Authority aforesaid,* That every Witness being summoned to appear in any of the said Courts on a criminal Prosecution, or Plea of the State, shall appear accordingly, and continue to attend from Day to Day until discharged by the Court, the Attorney for the State, or the Party at whose Instance he shall be summoned; and in Default thereof, shall forfeit and pay the Sum of One Hundred Pounds, for the Use of the State, unless upon Notice issued and made known, sufficient Cause be shewn for such Failure at the next succeeding Term.

XLIV. *AND be it further Enacted, by the Authority aforesaid,* That during the Attendance of any Person summoned as a Witness to any Court whatsoever, and during the Time that such Person is going to, and returning from the Place of such Attendance, allowing one Day for every Twenty Five Miles such Witness has to travel to and from his Place of Residence, no Sheriff or other Officer shall serve or execute on any Person so attending, going to, or returning from such Court, any Writ or Process, Warrant, Order, Judgment, or Decree, in any Cause (Summons for Witnesses excepted) and if any such shall be executed, the same shall be, and is hereby declared null and void.

XLV. *AND be it further Enacted, by the Authority aforesaid,* That for every Mile any Witness shall travel, either going to or coming from the Court to which such Witness shall be summoned to appear, there shall be paid to him, by the Party at whose Instance the Subpoena shall have issued, Two Pence Half-penny per Mile, together with the necessary Ferriages, and Six Shillings per Day for every Day he shall attend, until he shall have given Testimony, or shall be discharged. *Provided,* That in any Bill of Costs there shall not be allowed the Charge of more than Two Witnesses to any particular Matter of Fact.

XLVI. *AND be it Enacted, by the Authority aforesaid,* That the Clerks of the said Courts are hereby impowered and directed to take Probate of all Evidence Tickets upon Oath, and certify the same.

XLVII. *AND*

XLVII. *AND be it further Enacted, by the Authority aforesaid,* That the said Courts shall have Power and Authority to grant Writs of Error for correcting the Errors of any Inferior Court, and the Party praying such Writ, before the same shall issue, shall assign Error, and give Bond and Security, to the Satisfaction of the Court, to abide by, perform and fulfil, the Judgment which shall be given thereon by such Court; and if upon Argument of any Writ of Error, or Trial of any Appeal from an Inferior Court, the Judgment or Decree of the Inferior Court shall be reversed, the Superior Court shall grant Judgment, or make such Decree thereupon, as should have been made up or entered in such Inferior Court, and shall and may issue Execution thereupon, without granting a Writ of *Procedendo*; and to prevent the obtaining of Writs of Error by Surprise, the Party praying such Writ in a civil Cause, shall give Notice in Writing to the adverse Party, at least Ten Days before Motion, of his Intention to move for such Writ, and no such Writ shall be granted without Affidavit of such Notice.

A. D. 1777.
Writs of Error granted.

XLVIII. *AND be it further Enacted, by the Authority aforesaid,* That all Causes, Actions, Writs, Suits, Attachments, Plaints, Process, Appeals, Recognizances, and Presentments whatsoever, which remained undetermined in any of the late Superior Courts within this Territory, or in any of the late Courts of *Oyer and Terminer* and General Gaol Delivery, held under any Act of Assembly or Ordinance of Congress, or such as shall be returnable to, or had, or shall have Day or Days in any of the said Courts, and other Matters and Things in them depending, and not fully determined, except for criminal Offences committed before the Declaration of Independence, shall be transferred and put on the Dockets of the respective Courts hereby established, in the same Order in which they now stand, or ought to stand, on the Dockets of the said late Courts respectively, and shall be proceeded on by the Courts hereby established according to the Method by this Act directed, as if they had been originally commenced in any of the same.

Cases transferred to the Superior Cr. Dockets.

XLIX. *PROVIDED always,* That nothing herein contained shall extend, or be construed to extend, to such Suits as are now upon the Dockets of the said late Superior Courts, and still depending, and which were instituted in the Name of the King of *Great Britain*, when this Territory was under his Government, and owed Allegiance to him, for Quitrents, and Arrears of Quitrents, said to be due for Lands held of the said King, but that all such Suits shall be dismissed and done away as if the same had never been commenced.

Suits for Quitrents excepted.

L. *AND be it further Enacted, by the Authority aforesaid,* That in all Cases, wherein by any Act of Assembly heretofore made, Action is given, or Recovery directed to be had, in any of the late Superior Courts within this Territory, Suit may be brought for the same Cause of Action, and Recovery had in the Courts hereby established, and Judgment and Execution shall be awarded, as in other Cases by this Act directed.

Action given in the late Superior Courts, Suit may be brought for the same in the present Courts.

LI. *AND be it Enacted, by the Authority aforesaid,* That all Writs and other Process, and all Suits, Appeals, and Proceedings whatsoever, issued, granted, or prosecuted, in the said late Superior Courts, or in the said late Courts of *Oyer and Terminer* and General Gaol Delivery, wherein Judgment hath been entered, or Decree made, shall and may be taken Cognizance of by the Courts hereby established; and such Courts may respectively award Execution, and other necessary Proceedings on such Judgments and Decrees, in the same Manner as if such Suits had been originally commenced in such Courts; any Law, Custom, or Usage, to the contrary, notwithstanding.

Process begun in the late Courts, may be taken Cognizance of in the present Courts.

LII. *AND be it further Enacted, by the Authority aforesaid,* That where in any of the late Superior Courts, or in any of the late Courts of *Oyer and Terminer* and General Gaol Delivery before mentioned, any Recognizance has been forfeited, or Fine imposed, and not hitherto levied or paid, it shall and may be lawful

Forfeited Recognizances in the late Courts to be levied.

A. D. 1777.

lawful for the Courts hereby established, in their respective Districts, to issue Execution for levying the same, after the Party has been served with a *Scire Facias*, and Judgment awarded against him; and on all Recognizances which shall hereafter be forfeited, and on Fines which shall hereafter be imposed in any of the Superior Courts, the same Process shall issue, and the Fine or Forfeiture be levied in the same Manner, unless sufficient Cause can be shewn, on the Return of the *Scire Facias*, why such Fines or Forfeitures should be discharged, or mitigated by the Court.

Commission of
Oyer and Terminer may be
issued.

LIII. AND whereas many of the Prisons within this State are insufficient for the Retention of Persons who may commit Offences against the same, and the Peace and good Government thereof; therefore, for the speedy Trial of such Offenders, *Be it Enacted, by the Authority aforesaid*, That the Governor, or Commander in Chief for the Time being, is hereby impowered and required, by and with the Advice of the Council of State, as often as it shall be found necessary, to issue a Commission to the Justices of the Superior Courts of this State, impowering them, or any of them, to hold a Court of Sessions of the Peace, *Oyer and Terminer* and General Gaol Delivery, for the Trial of such Offenders; and to hear, try and determine, all Crimes and Misdemeanors, of what Nature or Kind soever, wherewith such Offenders, or any of them, shall stand charged, and to give Judgment, and award Execution thereon.

Time not allowed in Pleas
of Limitation.

LIV. *AND be it further Enacted, by the Authority aforesaid*, That the Time elapsed since the Sixth Day of March, One Thousand Seven Hundred and Seventy Three, until the End of the present Session of this General Assembly, shall not be allowed of in the Superior Courts hereby established in any Plea of Limitation, or in the Computation of Time allowed for proving Accounts, under the Act for ascertaining the Method of proving Book Debts.

Justices continued till the
next County
Courts.

LV. *AND be it further Enacted, by the Authority aforesaid*, That the Justices of the Peace appointed by this General Assembly at their last Session, and who qualified as such, shall have and hold, and may exercise the Powers of Justices of the Peace, until the Sitting of the next County Court of their respective Counties.

Justices to
take the Oaths
of the State,
and

LVI. *AND be it further Enacted, by the Authority aforesaid*, That every Person nominated and appointed a Justice of the Peace, and Justice of any County Court, before entering upon and executing the said Offices, shall publicly, in the Court-House of his County, on a Court Day, take the Oaths appointed, or which shall be appointed by the General Assembly, for the Qualification of Public Officers, and also the following Oath, to wit,

This Oath.

I, A. B. do solemnly swear, that as a Justice of the Peace, and a Justice of the County Court of Pleas and Quarter Sessions in the County _____ in all Articles in the Commission to me directed, I will do equal Right to the Poor and to the Rich, to the best of my Judgment, and according to the Laws of the State. I will not privately or openly, by myself or any other Person, be of Counsel in any Quarrel or Suit depending before me; and I will hold the County Court and Quarter Sessions of my County as the Statutes in that Case shall and may direct. The Fines and Amerciaments that shall happen to be made, and the Forfeitures that shall be incurred, I will cause to be duly entered, without Concealment. I will not wittingly or willingly take by myself, or by any other Person for me, any Fee, Gift, Gratuity, or Reward whatsoever, for any Matter or Thing by me to be done by Virtue of my Office, except such Fees as are or may be directed and limited by Statute; but well and truly I will do my Office of a Justice of the Peace, as well within the County Court of Pleas and Quarter Sessions as without. I will not delay any Person of common Right, by Reason of any Letter or Order from any Person or Persons in Authority to me directed, or for any other Cause whatever; and if any Letter or Order come to me contrary to Law, I will proceed to enforce the Law, such Letter or Order notwithstanding. I will not direct, or cause to be directed, any Warrant by me to be made to the Parties; but will direct all such Warrants to the

Sheriff

Sheriff or Constables of the County, or other the Officers or Ministers of the State, or other indifferent Persons, to do Execution thereof. And finally, in all Things belonging to my Office, during my Continuance therein, I will faithfully, truly, and justly, according to the best of my Skill and Judgment, do equal and impartial Justice to the Public and to Individuals.

A. D. 1777

SO HELP ME GOD.

And if any Person whatsoever shall presume to execute the Office of a Justice of the Peace, or the Office of a Justice of any County Court, without first qualifying himself in the Manner by this Act required, he shall for every such Offence forfeit and pay the Sum of One Hundred Pounds, one Moiety thereof to the State, towards the Support of Government, and the other Moiety to him or them who will sue for the same; to be recovered, with Costs, by Action of Debt, in any Court where the same may be cognizable.

Pen. for acting without qualifying.

LVII. AND be it Enacted, by the Authority aforesaid, That the said County Courts of Pleas and Quarter Sessions shall be constantly held upon the following Days, to wit, For the County of Anson, on the First Mondays in January, April, July, and October. For Mecklenburg, on the Second Mondays in January, April, July, and October. For Tryon, on the Third Mondays in January, April, July, and October. For Burke, on the Fourth Mondays in January, April, July, and October. For Rowan, on the First Mondays in February, May, August, and November. For Surry, on the Second Mondays in February, May, August, and November. For Guilford, on the Third Mondays in February, May, August, and November. For Washington, on the Fourth Mondays in February, May, August, and November. For Granville, on the First Mondays in February, May, August, and November. For Chatham, on the Second Mondays in February, May, August, and November. For Wake, on the Third Mondays in February, May, August, and November. For Orange, on the Fourth Mondays in February, May, August, and November. For Caswell, on the First Mondays in March, June, September, and December. For New Hanover, on the First Mondays in January, April, July, and October. For Onslow, on the Second Mondays in January, April, July, and October. For Duplin, on the Third Mondays in January, April, July, and October. For Cumberland, on the Fourth Mondays in January, April, July, and October. For Bladen, on the First Mondays in February, May, August, and November. For Brunswick, on the Third Mondays in March, June, September, and December. For Bute, on the Second Mondays in February, May, August, and November. For Halifax, on the Third Mondays in February, May, August, and November. For Edgecomb, on the Fourth Mondays in February, May, August, and November. For Nash, on the First Mondays in January, April, July, and October. For Northampton, on the First Mondays in December, March, June, and September. For Martin, on the Second Mondays in December, March, June, and September. For Perquimans, on the Third Mondays in January, April, July, and October. For Currituck, on the First Mondays in March, June, September, and December. For Pasquotank, on the Third Mondays in March, June, September, and December. For Chowan, on the Fourth Mondays in March, June, September, and December. For Tyrrell, on the Third Mondays in February, May, August, and November. For Bertie, on the Second Mondays in February, May, August, and November. For Hertford, on the Fourth Mondays in February, May, August, and November. For Cambden, on the Second Mondays in March, June, September, and December. For Beaufort, on the First Mondays in March, June, September, and December. For Craven, on the Second Mondays in March, June, September, and December. For Johnston, on the last Mondays in February, May, August, and November. For Carteret, on the Third Mondays in March, June, September, and December. For Hyde, on the last Mondays in February, May, August, and November. For Pitt, on the

Courts when held.

A. D. 1777.

the Fourth Mondays in January, April, July, and October. For *Dobbs*, on the First Mondays in January, April, July, and October. For *Wilkes*, on the First Mondays in March, June, September, and December.

And how long
to sit.

LVIII. *PROVIDED* nevertheless, That if the Business of any of the said Courts cannot be determined on the Day of the Term, the Justices may adjourn from Day to Day, not exceeding Six Days; at the End of which Time, the Causes and Matters which may be depending before them, and not then finally determined, shall be continued to the next succeeding Term.

One Justice
may adjourn.

LIX. *PROVIDED* also, That if by Reason of Indisposition, or other Inability, bad Weather, or other Accidents, it shall so happen that a sufficient Number of Justices shall not meet for holding the said Courts, or any of them, on the Days by this Act appointed, in such Case it shall and may be lawful for any one Justice to adjourn the Court whereof he shall be a Member from Day to Day, not exceeding Three Days, until a sufficient Number of Justices can attend to hold the Court.

Courts, or
Process not
discontinued.

LX. *AND* be it further Enacted, by the Authority aforesaid, That none of the said County Courts, nor any Process in any of them depending, shall be discontinued for or by Reason of the Justices failing to hold Court upon the Day by Law appointed, or of any Alteration of any of the Days appointed for holding the said Courts, but in every such Case, all such Process, Matters, and Things depending, shall stand continued, and all Appearances upon Returns of Process shall be made to the next succeeding Term in Course, in the same Manner as if such succeeding Term had been the same Term to which such Process had stood continued, or such Returns or Appearances had been made; and all Recognizances, Bonds, and Obligations for Appearances, and all Returns, shall be of the same Force and Validity for the Appearance of any Person or Persons at such succeeding Term, and all Summonses for Witnesses as effectual, as if the next succeeding Term had been expressly mentioned therein.

Courts Power

LXI. *AND* be it Enacted, by the Authority aforesaid, That the Justices of the said County Courts of Pleas and Quarter Sessions, or any Three of them, shall and may take Cognizance of, and are hereby declared to have full Power and Authority, and Jurisdiction, to hear, try and determine, all Causes whatsoever at the Common Law, within their respective Counties, where the Debt, Damages, or Cause of Action is above Five Pounds, (Actions of Trespass in Ejectment, Formedon in Descender, Remainder and Reverter, Dower, Partition, Perjury, and such Felony and Criminal Causes where the Judgment, upon Conviction, shall be for the Loss of Life, Limb, or Member, excepted) and all Petit Larcenies, Assaults, Batteries, and Trespasses, (other than such Trespasses where the Title of Freehold may come in Question) Breaches of the Peace, and other Misdemeanors of what Kind soever, of an inferior Nature; and all Actions of Detinue, Trover, and on Penal Statutes, Suits for filial Portions, Legacies, and distributive Shares of Intestates Estates, and all other Matters relating thereto: And the said Justices of the Peace, and every of them, during their Continuance in Office, as well within their County Courts of Pleas and Quarter Sessions as without, shall have full Power and Authority as amply and fully to all Intents and Purposes as any Justice of the Peace in this Territory had, or ought to have had, by Virtue of any Act or Acts of Assembly heretofore made under the late Government, to preserve, maintain and keep the Peace within their respective Counties.

May take Pro-
bate of Wills.

LXII. *AND* be it further Enacted, by the Authority aforesaid, That the said Courts of Pleas and Quarter Sessions shall and may, within their respective Counties, take the Probate of Wills, and order the same to be recorded in proper Books to be kept for that Purpose; and the said Courts shall and may make Orders for issuing Letters Testamentary, and Letters of Administration, which Letters shall be signed and issued by the Clerk of the said Court, and may by

Summons,

Summons, upon Application to them made, compell any Person or Persons whatsoever within their respective Counties having in their Possession any Will or Testament of any deceased Person to exhibit the same to the Court for legal Probate thereof; and whoever being legally summoned shall, in Contempt of the Court, refuse to produce any such Will in his or her Possession, or having been in his or her Possession shall refuse to inform the Court, on Oath, where such Will then is, or in what Manner he or she hath disposed of the same, such Person shall, by Order of Court, be committed to the common Prison of the County, there to remain without Bail or Mainprize untill such Will shall be produced, and due Submission made to the Court for the Contempt; and the Court shall, and is hereby impowered, in Case of such Persons Removal, to issue such Summons and Process for Commitment, into any County in this State.

A. D. 1777.

LXIII. *PROVIDED* always, That if any Person who shall claim a Right to execute any Will, or to administer the Estate of any Intestate, and shall think himself injured by Order of Court for Letters Testamentary or of Administration, shall be intitled to an Appeal to the Superior Court of the District where such Order shall be made, subject to the same Regulations as in other Cases of Appeal; and such Superior Court is hereby declared to have Cognizance thereof, and shall, at their Sitting next succeeding such Appeal, determine the same, and upon such Determination had, such Court shall proceed to grant the Letters to the Persons intitled to the same, he or she giving Bond, with sufficient Security for the faithful Discharge of the Trust.

Right of Appeal.

LXIV. *AND* for the better Preservation of Wills and other Papers relating to the Estates of deceased Persons; *Be it Enacted by the Authority aforesaid*, That all original Wills, Inventories and Accounts of Executors and Administrators, shall remain in the Clerks Office among the Records of the respective Counties where the same shall be proved or exhibited; and to the said Wills, Inventories and Accounts, any Person may have Access as to the other Records, except for the Time they shall or may be removed before any other Court upon the Determination of any Controversy.

Wills, &c. to remain among the Court Records.

LXV. *AND be it further Enacted, by the Authority aforesaid*, That the Clerks of the County Courts of Pleas and Quarter Sessions shall, in the Month of January Annually, return to the Secretary's Office a List of all Orders for Letters Testamentary, and Letters of Administration, granted by the respective Courts in the preceeding Year, containing the Names of the Testators and Intestates, their Executors and Administrators, and the Names of the Securities for Administration; and also Copies of the Inventories and Accounts exhibited from Time to Time; which Lists and Copies the Secretary is hereby required to have recorded in his Office alphabetically in Books to be kept for that Purpose; and the Secretary shall and may take and receive for the Copy of every such Order, and for the Copy of every such Inventory and every such Account, the same Fees which the Clerks of the Courts are or shall be intitled to for such Services, which Fees the Clerk of the Court of Pleas where the Business shall be transacted is hereby impowered and required to demand and receive, and shall return the same to the Secretary's Office with the Copies of such Order, Inventory and Account respectively.

Clerks to transmit Lists of Wills to the Secretary's Office.

LXVI. *AND be it further Enacted, by the Authority aforesaid*, That where any Vacancy now is, or shall hereafter happen in the Office of County Clerk, the Court of Pleas and Quarter Sessions of the County where such Vacancy shall be shall appoint a Person of Skill and Probity to fill such Vacancy; and all Clerks of the said Courts shall hold their Offices during their good Behavior therein.

Clerks to be appointed for Vacancies.

LXVII. *AND be it Enacted, by the Authority aforesaid*, That the Clerks of the several County Courts of Pleas and Quarter Sessions, at the first Court to be holden in their respective Counties after the Expiration of this present Session

To give Bond.

of

A. D. 1777.

of the General Assembly, shall each give Bond, with sufficient Security, in the Sum of Two Thousand Pounds, payable to the Justices of the said Courts respectively, and their Successors in Office, for the safe keeping the Records and the faithful Discharge of his Duty in Office; which said Bond shall be lodged in the Secretary's Office, and may be assigned and put in Suit, and Recovery had in the same Manner, and according to the like Rules and Restrictions as are herein before prescribed for Suits on Bonds given by Clerks of the Superior Courts; and each of the said County Court Clerks shall at the same Time, take and subscribe the Oath appointed to be taken for the Qualification of Public Officers, and the Oath of Office herein before directed to be taken by Clerks of the Superior Courts: And the Offences herein before mentioned of any Candidate or Person in Nomination for the Office of Clerk of any of the said County Courts shall incur the same Incapacities, and the Violation of the Oath of Office in the Particulars herein before specified, shall, on Conviction, be attended with the same Penalties, Incapacities and Disabilities, as are in like Cases to be inflicted on Clerks of the Superior Courts, or Candidates or Persons in Nomination for such Clerkships for such Offences and Violation.

County Courts to appoint an Attorney.

LXVIII. *AND be it Enacted, by the Authority aforesaid,* That the County Courts are hereby authorized and required to appoint an Attorney, properly qualified, to act for and in Behalf of the State in each respective County within this State, who shall hold his Office during good Behavior, and shall and may prosecute all Matters cognizable in the County Court of Pleas and Quarter Sessions wherein he shall be appointed, for and in Echalf of the State.

All Debts of 5l. or under, cognizable before one Justice.

LXIX. *AND be it Enacted, by the Authority aforesaid,* That all Debts and Demands of Five Pounds, and under, where the Balliance due on any Specialty, Contract, Note or Agreement, or for Goods, Wares and Merchandizes sold and delivered, or Work and Labour done, are hereby declared to be cognizable and determinable by any one Justice of the Peace, who may give Judgment and thereupon award Execution against the Goods and Chattels or Body of the Debtor, which shall be executed and returned by the Sheriff, Constable or other Officer, to whom the same may be directed, in the same Manner as other Writs of *Fieri Facias* or *Capias ad Satisfaciendum* are to be executed and returned.

Right of Appeal.

LXX. *PROVIDED nevertheless,* That if either of the Parties shall be dissatisfied with the Judgment given by such Justice, he may appeal to the next County Court of Pleas and Quarter Sessions, first giving Security for prosecuting such Appeal with Effect; and the Cause shall be re-heard and finally determined by the Justices the same Court, without any further Process, in a summary Way without a Jury; and Judgment shall be given thereupon, and the Party cast shall pay the Cost of all the Proceedings, to be taxed by the Court.

When to be made.

LXXI. *PROVIDED also,* That the Cause shall be tried by, and the Appeal made from such Justice, Five Days at least before the Term to which the Appeal shall be made, otherwise the Cause shall be continued to the next succeeding Term. *And provided further,* That the Justices before whom the Suit was first heard shall, at the Request of the respective Parties, summons such Witnesses to Court as they shall name, but shall not sit in Court or give Judgment on the Appeal.

Justice that tries the Cause, to summon Witnesses, but not to sit on the Appeal.

Attachment returnable to Court.

LXXII. *AND be it further Enacted, by the Authority aforesaid,* That every Justice of the County Courts shall have Power, and they are hereby authorized and required, upon any Complaint being made by any Person or Persons, for any Debt or Damage, Matter or Thing, cognizable in the County Courts of Pleas and Quarter Sessions of this State, to grant an original Attachment against the Estate of any Person absconding or concealing himself, or removing out of the County privately, returnable to the Court of such County, observing there-

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in the Rules and Restrictions directed for granting original Attachments in the Superior Courts; and all Sheriffs and Coroners shall execute and return the same, and observe the Rules and Directions appointed to be observed in executing Attachments returnable to the Superior Courts; and the like Judgment, Recovery, Remedy, Relief, and Proceedings, shall be had thereupon, as in the like Cases are grantable in the said Superior Courts.

LXXIII. *AND be it further Enacted, by the Authority aforesaid,* That any one Justice of the Peace, in Cases where by this Act he has Jurisdiction, may issue an original Attachment against the Estate of any absconding or absent Debtor, upon the Oath of the Plaintiff, his Agent or Attorney, directed to the Sheriff or any Constable of the County, first taking sufficient Security, as in other Cases of Attachments; and the Proceedings thereon shall be in a summary Way, in the same Manner as on a Warrant, and the Defendant may replevy the Goods attached, and either Party may appeal from the Judgment of the Justice, in Manner as is herein before directed.

LXXIV. *AND be it further Enacted, by the Authority aforesaid,* That all original Proceſs, and all subsequent Proceſs thereupon, to bring any Person or Persons to answer to any Action, Suit, Bill or Plaint, in any County Court of Pleas and Quarter Sessions (except Subpœnas for Witnesses, which in Term Time may be made returnable immediately) shall be issued by the Clerk of such Court, and shall be returnable to the First Day of Term, and shall be executed at least Five Days before the Return thereof; and if any Person takes out any Writ or Proceſs whilst such Court is sitting, or within Five Days before the Beginning of the Term, such Writ or Proceſs shall be made returnable to the Term next after that then held, or to be held within Five Days as aforesaid, and not otherwise; and all Writs and Proceſs issued, made returnable, or executed in any other Manner, or at any other Time, than is herein before directed, may be abated upon the Plea of the Defendant.

LXXV. *PROVIDED always,* That nothing herein contained shall extend, or be construed to extend to invalidate or vacate any Writ, Proceſs, Warrant or Precept, issued by a Justice, or other Officer having Jurisdiction thereof, on any criminal Prosecution, or in Behalf of the State, but the same may be made returnable to any Day in the Term; and the Proceedings in all criminal Cases shall be had according to the Laws and Statutes of this State, and in the Mode heretofore practised within the Limits thereof, under the Laws formerly in Use therein.

LXXVI. *AND be it further Enacted, by the Authority aforesaid,* That when any Writ or Proceſs shall issue to take the Body or Bodies of any Person or Persons, to answer to any Plaintiff in any civil Action in any County Court of Pleas and Quarter Sessions, the Sheriff shall return therewith a Bail Bond, with Two sufficient Securities, for double the Sum for which the Person or Persons shall be held in Arrest (Executors and Administrators, and Persons sued on such penal Statutes as do not expressly require Bail, excepted) to the Clerk, on or before the First Day of every Term; and if the Sheriff shall not return Bail, or the Bail returned be held insufficient, upon Exception taken thereto, and entered on the Docket, the same Term to which the Writ shall be returnable, and Notice given that Term to the Sheriff to justify, then, and in such Case, the Sheriff shall be held and stand as special Bail for the Defendant, and the Plaintiff may proceed to Judgment, according to the Rules herein after mentioned; and the Plaintiff, on Recovery, may take out Execution against the Defendant or Sheriff, or both, any Law, Usage, or Custom, to the contrary, notwithstanding. *Provided always,* That if the Defendant puts in Bail before the Time to plead by the Rules hereafter mentioned is expired, then the Sheriff shall be discharged. *Provided also,* That the Sheriff may surrender the Defendant in Discharge of himself, at any Time before final Judgment obtained against the said Bail.

A. D. 1777.

Attachment granted by a Justice.

Proceſs how issued and returned.

Proviso in criminal Cases.

Proceedings where Proceſs issues to the Sheriff in civil Cases.

A. D. 1777.

Execution to
issue to any
County after
Judgment.

LXXVII. AND be it further Enacted, by the Authority aforesaid, That where any Judgment or Decree shall be obtained in any County Court of Pleas and Quarter Sessions for any Debt, Damages, Portion, Legacy, or distributive Share of an Intestate's Estate, and the Person against whom such Judgment or Decree shall be obtained shall remove him or herself and Effects, or shall reside out of the Limits of the Jurisdiction of such Court, it shall be lawful for the Clerk of the Court where such Judgment shall be given or Decree made, at the Request of the Plaintiff, to issue Execution to any County of this State where the Defendant or his Goods may be found, and the Sheriff, or other Officer to whom the same may be directed, is hereby impowered and required to execute the same, and make return thereof, in the same Manner as is directed for the Returns of Process issuing from the Superior Courts.

Proceedings
where Non est
Inventus is re-
turned.

LXXVIII. AND for the better ascertaining what Process may be issued where the Sheriff shall return that the Defendant is not to be found in his County, It is hereby Enacted, That when any Sheriff shall make such Return, the Plaintiff in any civil Action may take out an Attachment against the Estate of such Defendant, returnable as is herein before directed for the Return of other Process, thereupon to enforce an Appearance, or an *Alias* or *Pluries Capias*, until such Defendant be arrested, at the Election of the Plaintiff; and if the Sheriff shall return such Attachment executed, the Plaintiff shall file his Declaration according to the Rules of the Court, and proceed as in other Cases.

Proceedings
on Attach-
ments the
same as in the
Superior Cts.

LXXIX. AND be it further Enacted, by the Authority aforesaid, That the same Rules, Method and Proceedings, shall be had, kept and observed, by the said County Courts of Pleas and Quarter Sessions, and the Officers thereof, in granting, issuing, executing, and returning Process, and awarding Judgment on judicial Attachments, and the like Remedy, Recovery and Relief, against the Sheriffs and Bail, as in like Cases are provided by Law in Suits depending, or to be commenced in the Superior Courts of Law.

Rules of
Court.

LXXX. AND for the regular Prosecution and Determination of Suits, entering up Judgments, and Preservation of the Records in the said County Courts of Pleas and Quarter Sessions; Be it Enacted, by the Authority aforesaid, That the following Rules and Methods shall be observed, to wit,

The Plaintiff in every Suit shall file his Declaration on the First Day of the Term, or First calling of the Cause in Court, and shall also serve the Defendant, or his Attorney, with a Copy thereof, at least Five Days before the Term.

If the Plaintiff fails to file his Declaration, or to appear and prosecute his Suit, the Defendant may enter a *Non Profs.*

The Defendant shall enter his Appearance, and file his Plea in Writing, whether general or special, the First Term; and if he fails so to do, the Plaintiff shall have Judgment, which in Actions of Debt shall be final, except where Damages are suggested on the Roll; in which Case, and in all others where the Plaintiff is to recover in Damages, a Writ of Enquiry shall be executed the next succeeding Term.

The Defendant may plead as many several Matters as he may think necessary, so that he be not admitted to plead and demur to the whole.

All Issues, whether general or special, shall be heard and tried the next succeeding Term after the Issue shall be made up, unless sufficient Cause be shewn to the Court why such Causes should be continued.

All Jury Causes at Issue shall be first heard and tried.

Every Motion in Arrest of Judgment shall be argued the last Day of the Term in which the Issue shall be tried, the Defendant's Attorney first serving the Plaintiff's Attorney with a Copy of the Reasons in Arrest of Judgment; unless upon sufficient Reasons shewn, and approved of by the Court, further Time shall be allowed.

When a special Verdict shall be found, a Case agreed, a Demurrer filed, or a Bill of Exceptions to the Evidence tendered, Time shall be allowed, at the Motion of either Party, to the next succeeding Term.

A. D. 1777.

LXXXI. AND for Prevention of Vexation by dilatory Pleas, *It is hereby Enacted, by the Authority aforesaid,* That no Plea in Abatement shall be received in any Action or Suit in the said County Courts, unless the Truth thereof be sufficiently shewn to the Court by Affidavit or otherwise, and in all Actions where the Declaration shall plainly set forth sufficient Matter of Substance for the Court to proceed upon the Merits of the Cause, the Suit shall not abate for want of Form in the Proceedings; and when any Plea shall be pleaded in any Action, and upon Argument thereof the same shall be adjudged insufficient to abate such Action, the Plaintiff shall recover against the Defendant full Costs to the Time of overruling such Plea, including the Costs of Court.

Dilatory Pleas prevented.

LXXXII. AND for granting Appeals from the County Courts of Pleas and Quarter Sessions to the Superior Courts, *Be it Enacted, by the Authority aforesaid,* That when any Person or Persons, either Plaintiff or Defendant, shall be dissatisfied with the Sentence, Judgment or Decree, of any County Court, he may pray an Appeal from such Sentence, Judgment or Decree, to the Superior Court of Law of the District wherein such County Court shall be; but before obtaining the same, shall enter into Bond, with Two sufficient Securities, for prosecuting the same with Effect, and for performing the Judgment, Sentence and Decree, which the Superior Court shall pass or make thereon, in case such Appellant shall have the Cause decided against him.

Appeals granted.

LXXXIII. AND because it may happen that in issuing Process, carrying on the Proceedings, and rendering Judgments in the said County Courts, there may be Error to reverse Judgment; *Be it Enacted, by the Authority aforesaid,* That when any Person shall be desirous to prosecute a Writ of Error, he shall move the County Court of Pleas and Quarter Sessions where such Suit is or hath been depending, to allow a Writ of Error, he first entering into Bond as before directed in Cases of Appeals; and the Court is hereby empowered and required to allow thereof, as if such Writ of Error should be then and there produced from the Superior Court.

Writs of Error granted.

LXXXIV. AND for prosecuting Appeals, *Be it Enacted, by the Authority aforesaid,* That when any Person shall have appealed to a Superior Court in Manner above directed, a Transcript of the Record of the Suit on which the Appeal shall be made, shall be delivered to the Clerk of the Superior Court at least Fifteen Days before the sitting of the Term, and shall by him be filed the same Day on which he receives the same; and if the Trial of the County Court was of an Issue to the Country, a Trial *de Novo* shall be had, and if on a Hearing on a Petition for a filial Portion or Legacy, or distributive Share of an Intestate's Estate, or other Matter relating thereto, a re-Hearing at the Superior Court, without Notice given by either Party; and if such Transcript of the Record is not filed within the Time aforesaid, or if the Appellant shall fail to appear, or to prosecute his Appeal, then the Judgment, Sentence or Decree, of the County Court shall be affirmed, and the Appellant shall pay double Costs in the Superior Court.

Appeals how prosecuted.

LXXXV. AND for prosecuting Writs of Error, *Be it Enacted, by the Authority aforesaid,* That the following Method of Practice shall be observed, that is to say, A Transcript of the Records and Proceedings in the County Court, in the Suit in which any Writ of Error shall be granted or allowed, shall be transmitted and delivered to the Clerk of the Superior Court at least Fifteen Days before the sitting of the Term; and in Case the Plaintiff in Error shall neglect to file such Writ, and assign Error as aforesaid, or shall fail to appear, or to prosecute the same, then the Judgment of the County Court shall be affirmed, and he shall be adjudged to pay double Costs in the Superior Court.

Writs of Error how prosecuted.

LXXXVI. PRO-

A. D. 1777.

Proviso, where there shall not be 30 Days between the last Day of the Term and the sitting of the Superior Crt.

On Appeals, Clerks to make up a Record of Proceedings for the Appellant.

Proviso, where the Judges think there is sufficient Matter in the Transcript.

Proceedings where Clerks receive Transcripts of Records on Appeals.

Actions transposed to the present Court Dockets.

LXXXVI. PROVIDED *always*, That if it shall so happen that there shall not be Thirty Days between the last Day of the Term or Hearing in the County Court, and the next Term of the Superior Court to which such Appeal shall be made, or Writ of Error allowed, then such Appeal or Writ of Error shall be continued, and a Transcript of the Records and Proceedings shall be transmitted and filed in like Manner in the Office of the Superior Court, the Term succeeding that which shall immediately follow such County Court Term, in which such Trial and Hearing shall be had as aforesaid.

LXXXVII. AND *be it further Enacted, by the Authority aforesaid*, That in every County Court of Pleas and Quarter Sessions within this State, when any Appeal shall be granted, or Writ of Error allowed, the Clerk of such Court shall immediately make up a full and perfect Record of all the Proceedings in such Cause, and shall within Ten Days after the final Adjournment of the Term in which the Cause shall be heard, give an attested Copy of such Record, with a Taxation of all Costs accrued, to the Appellant, or Plaintiff in Error, if required, and shall endorse on such Copy the Day or Days on which the same may have been demanded, and the Day on which it shall be delivered, and sign his Name as Clerk thereto; and if by Reason of the Delay of any Clerk, any Transcript shall not be filed in Time, or that the Record is so erroneously or inartificially made up, that the Superior Court cannot proceed thereon, such Clerk, in any of the said Cases, shall, upon Trial, be adjudged guilty of Misbehaviour in Office, and shall forfeit and pay to the Person intitled to such attested Copy the Sum of Fifty Pounds, to be recovered by Action of Debt, in any Court having Cognizance thereof; and shall be further liable to an Action on the Case for all Damages which such Person may sustain, for the Want of such Copy.

LXXXVIII. PROVIDED *always*, That if the Judge or Judges of the Superior Court should be of Opinion that there appears to be sufficient Matter of Substance in the Transcript of the Record and Proceedings on any Appeal or Writ of Error, to enable them to proceed thereon, the same shall not be dismissed for want of Form, any Thing herein contained to the contrary notwithstanding.

LXXXIX. AND *be it further Enacted, by the Authority aforesaid*, That the Clerks of the Superior Courts respectively, upon receiving a Transcript of the Record and Proceedings in any Suit, on which an Appeal shall be made, or Writ of Error allowed, shall give a Receipt to the Person delivering the same, and shall immediately endorse thereon the Day on which it shall be delivered, and if he receives it Fifteen Days before the sitting of the Term of the then next Superior Court, he shall enter it upon the Docket of Causes for Trial, and deliver to the Parties such Summonies for their Witnesses as they may require; but if such Transcript shall be delivered to the Clerk of the Superior Court within Fifteen Days before the sitting of such Term as aforesaid, then such Clerk shall enter the Cause on the Reference Docket of such Court; and if the Clerk of any Superior Court shall refuse, neglect or omit, to do any of the Duties which he is hereby required to perform, such Clerk shall, upon Trial and Conviction, be deemed guilty of Misbehaviour in Office, and shall forfeit and pay to the Appellant, or Plaintiff in Error, One Hundred Pounds, to be recovered by Action of Debt, in any Court having Cognizance thereof; and be further liable to an Action on the Case for all Damages which such Appellant, or Plaintiff in Error, may sustain, by Reason of such Refusal, Neglect, or Omission.

XC. AND *be it further Enacted, by the Authority aforesaid*, That all Causes, Actions, Suits, Writs, Plaints, Process, Recognizances, Indictments, and Presentments whatsoever, heretofore commenced, and not yet determined in any of the late Inferior Courts of Pleas and Quarter Sessions in this Territory under the late Government, or in any of the County Courts and Sessions of the Peace established by Ordinance of Congress, or Act of the General Assembly, or such

as shall be returnable to, or had, or shall have Day or Days in any of the said late Courts, or other Matters and Things in them or any of them depending, except for criminal Offences committed before the Declaration of Independence, not fully determined, after the passing of this Act shall be transposed and carried off the Dockets of each the said late Courts respectively, into the Dockets of the several County Courts of Pleas and Quarter Sessions by this Act established, in the same Order and Condition in which they shall then stand on the Dockets of the said late Courts respectively, and shall be proceeded on by the County Courts hereby established according to the Method by this and other Acts, passed this Session, is directed, as if the same had been originally commenced therein.

XCI. *AND be it further Enacted, by the Authority aforesaid,* That all Writs and other Procefs, and all Suits and Proceedings whatsoever, issued, granted or prosecuted, in any of the said late Courts last mentioned, wherein Judgment hath been entered or Decree made, shall and may be taken Cognizance of by the Courts of the respective Counties by this Act established; and such Courts may respectively award Execution, or other necessary Procefs, on such Judgment or Decree, and proceed in the same Manner as if such Suits had been originally commenced in the County Courts by this Act established; any Law, Usage, or Custom, to the contrary, notwithstanding.

XCII. *AND be it further Enacted, by the Authority aforesaid,* That all Suits, Procefs, Informations, Indictments, Presentments, Recognizances, Bonds, and other Matters (Suits heretofore instituted for Quitrents excepted) commenced, prosecuted, made or taken, and all Penalties, Fines, Forfeitures, and Amerciaments, incurred in the Name or the Use of the King of Great Britain, when this Territory was under his Government, and owed Allegiance to him, and not yet paid or satisfied, and all Breaches on penal Statutes directed to be prosecuted in the Name of the said King, shall be prosecuted and proceeded on in the Name of the State; in the same Manner as if such Suits, Procefs, Informations, Indictments, Recognizances, Bonds, penal Statutes, and other Matters, had been commenced, prosecuted, made, taken, or directed to be sued in the Name of the State; and the Governor, or Commander in Chief for the Time being, is hereby authorized and required, upon Application made to him for that Purpose, to assign all Sheriffs Bonds, or other Bonds taken in the Name of the said King, by Virtue of any Act of Assembly heretofore made, to the Party or Parties injured, to be sued for in his or their own proper Name or Names; and all Breaches in Statutes heretofore made in the Time of the late Government, and directed to be prosecuted in the Name of the Governor, and all Bonds made by Virtue of any Act of Assembly payable to the Governor, shall be prosecuted in the Name of the present Governor, or the Commander in Chief for the Time being; and all Breaches on penal Statutes directed to be sued in the Name of the Vestry and Churchwardens of the late respective Parishes, shall be prosecuted in the Name of the Justices of the County where such Parish was situated; and all Penalties on Statutes directed to be for the Use of the King, or the late Lord Proprietors, or to be recovered in their, or either of their Names, to any other Use, shall be to the Use of this State; and all Penalties directed to be applied to the Use of the Public, and to the Uses of the respective Counties, shall be to those Uses respectively; and all Penalties directed to be applied to the Use of the late Parishes respectively, shall be applied to the Use of the respective Counties in which such Parishes were situated; and the several Superior and County Courts hereby established, are hereby authorized and empowered to give Judgment, and award Execution thereon accordingly; any Law, Usage or Custom, to the contrary, in any wise, notwithstanding.

XCIII. *AND be it further Enacted, by the Authority aforesaid,* That all Fines, Amerciaments, Forfeitures, and Recoveries on penal Statutes, heretofore recovered and paid to any Officer, shall be accounted for and paid in Manner as by

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A. D. 1777.

Procefs in the late Courts to be cognizable in the present Courts.

All Suits, Procefs, &c. commenced under the late Government, to be in the Name of the State; and all Bonds, Penalties, &c. then to the King, now to the Use of the State; and the Penalties to be paid to the County.

Fines, &c. paid to any Officer, to be accounted for and all Fines

this

A. D. 1777.

hereafter recovered, how paid and accounted for.

this Act is directed; and on Neglect or Refusal, may be sued for and recovered by the Persons respectively to whom Fines, Amerciaments, Forfeitures, and Recoveries on penal Statutes, not heretofore recovered, are by this Act payable; and all Fines, Amerciaments, Forfeitures, and Recoveries on penal Statutes, hereafter to be levied and received, and those in the Hands of the late Officers, or any of them, shall be paid to the Clerks of the respective Courts where the same shall be imposed or recovered, and shall by such Clerks be accounted for and paid to the Person or Persons to whom the same shall be payable; and all such Fines, Amerciaments, Forfeitures, and Recoveries on penal Statutes, as are or shall be directed to be applied to the Use of the State, shall by the respective Clerks of the Courts of Law hereby established, be accounted for on Oath, and paid to the Treasurer once in every Year, and the said Clerks shall send certified Transcripts of all such Accounts at the same Time to the General Assembly, at their sitting next ensuing such Payment made; and all such Fines, Amerciaments, Forfeitures, and Recoveries on penal Statutes, directed to be applied to any other Public or County Use, and to be received by any other Person or Persons, shall be accounted for in like Manner, and paid to the Person or Persons to whom the same is or may be payable; and if any Clerk shall fail or neglect to account or pay in Manner as by this Act is directed, or shall conceal any Money or Monies which are payable as aforesaid, such Failure or Neglect shall be deemed, upon Conviction, a Misbehaviour in Office, and the Clerk so neglecting or failing, shall for ever afterwards be incapable of holding any Office of Trust or Profit in this State.

Criminals allowed Council, and may challenge Jurors.

XCIV. AND be it Enacted, by the Authority aforesaid. That every Person accused of any Crime or Misdemeanor whatsoever, shall be intitled to Council in all Matters which may be necessary for his Defence, as well to Facts as to Law; and every Person on Trial for his Life, may make a peremptory Challenge of Thirty Five Jurors.

Clerks where to keep their Offices, and to give Attendance.

XCv. AND be it further Enacted, by the Authority aforesaid, That the Clerks of the Superior Courts shall keep their Offices in the respective Towns where the said Courts are directed to be held; and the Clerks of all the several Courts of Law hereby established shall by themselves, or their lawful Deputies, give due Attendance at their respective Offices, and all Deputies shall take the Oath appointed for the Qualification of Public Officers, and an Oath of Office; and in Case of the Death of the Clerk of any Court in the Vacation, his Deputy shall hold the Office of Clerk until he or another shall be appointed agreeable to Law, and shall be intitled to the Fees and Perquisites of the Office until such Appointment; any Law, Usage, or Custom, to the contrary notwithstanding.

In Case of Death, Deputy to hold.

Fees due on Suits in the late Courts, how, and to whom paid.

XCvI. AND whereas Doubts may arise to whom Fees which accrued and became due on Suits and Proceedings in the late Courts, and which at the Time of Discontinuance of the said Courts respectively, or the Removal of any Officer to whom Fees were due, were not finally determined, or which being determined, the Fees due thereon have not been levied or received, shall be paid: For ascertaining whereof, and for providing a Remedy for all Persons to whom any Fees or other Monies are due, and have heretofore been paid to any Officer of any of the late Courts in this State; *Be it Enacted, by the Authority aforesaid,* That all Fees due to any Person or Persons, on Suits or Proceedings in any of the before mentioned late Courts in this Government, which have not been finally determined, or which being determined, the Fees due thereon have not been levied or received, shall be paid to the Person or Persons to whom the same were payable, his or their Executors, Administrators or Assigns; and the Clerks of the several Courts of Law by this Act established, are hereby authorized and required to issue Executions for all such Fees, and when returned to their respective Offices, pay the same to the Persons to whom such Fees are due and payable.

XCvII. AND

XCVII. *AND be it Enacted, by the Authority aforesaid,* That all Fees and other Monies, heretofore paid into the Hands of any Clerk or Sheriff, and not fully accounted for and paid to the Person or Persons to whom the same were due and payable, his, her, or their Executors, Administrators, or Assigns, and all Fees which were heretofore due and unpaid, but shall be paid hereafter as aforesaid, shall and may be sued for in any Court having Cognizance thereof; and if any of the late or present Clerks, or other Person who may happen to be sued in Virtue of this Act, be at the Time of such Suit in the Possession of any Records, Dockets, Minutes or other Documents, which are suggested to contain Proofs of the Fees or other Monies sued for, and shall upon Notice previously given refuse to produce the same, or shall refuse to make Oath that such Records, Dockets, Minutes or other Documents, contain a full and true Account of all Fees and other Monies by him received in Virtue of his Office, such Defendant shall be deemed guilty of a fraudulent Concealment, and the Plaintiff shall recover the whole Sum for which his Suit shall be brought; any Law, Usage, or Custom, to the contrary, in any wise, notwithstanding.

XCVIII. *AND be it further Enacted, by the Authority aforesaid,* That the Time elapsed between the Sixth Day of *March*, One Thousand Seven Hundred and Seventy Three, and the Nineteenth Day of *March*, One Thousand Seven Hundred and Seventy Four, and the Time between the Tenth Day of *September*, One Thousand Seven Hundred and Seventy Five, and the End of this present Session of the General Assembly, shall not be allowed of in the County Courts hereby established in any Plea of Limitation, or in the Computation of Time allowed for proving Accounts, under the Act ascertaining the Method of proving Book Debts.

XCIX. *AND be it further Enacted, by the Authority aforesaid,* That in all Actions whatsoever, the Party in whose Favour Judgment shall be given, or in Case of a Nonsuit, Dismission, or Discontinuance, the Defendant shall be intitled to full Costs, unless where it is or may be otherwise directed by Statute.

C. *AND be it Enacted, by the Authority aforesaid,* That Attachments issued against the Estates of absconding Debtors, or Persons suspected of Intentions to depart this Territory, by any of the late Committees, or any of the late or present Justices of the Peace, by Virtue of any Resolve or Ordinance of Congress, or any Resolve or Act of the General Assembly, shall and may be taken Cognizance of by the Courts hereby established, Regard being had to their respective Jurisdictions, and shall be proceeded on in the same Manner as Attachments which may be issued in Virtue of this Act; any Law, Usage, or Custom, to the contrary, notwithstanding.

CI. *PROVIDED,* That no Person who hath taken, or shall take Part with the Enemies of *America*, or who hath or shall refuse, when lawfully required thereto, to take the Oath of Allegiance and Abjuration required by the Laws of this State, or who hath or shall remove from this State, or any of the United States, to avoid giving their Assistance in repelling the Invasions of the common Enemy, or who hath or shall reside, or be under the Dominion of the Enemies of *America*, other than such as are detained as Prisoners of War, nor any Person claiming by Assignment, Representation, or otherwise, by or under any such Person, shall have or receive any Benefit of this Act; but all Right of commencing or prosecuting any Suit or Suits, Action or Actions, real, personal, or mixt, shall be, and is hereby suspended, and shall remain suspended, until the Legislature shall make further Provision relative thereto.

A. D. 1777.
All Fees paid to Clerks, &c. may be sued for, and Pen. on Clerks refusing to give up Dockets, &c.

Time not allowed in Pleas of Abatement.

In all Actions, Costs to go with the Cause.

Attachments by Committees, may be taken Cognizance of by the Court.

Persons precluded from the Benefits of Law.

A. D. 1777.

C H A P. III.

An Act to regulate and ascertain the Fees of Clerks in the Superior and County Courts, Justices of the Peace, and Attornies, in this State, and directing the Method of paying the same.

Preamble.

I. **W**HEREAS it is absolutely necessary that the Fees of Clerks in the Superior and County Courts, the Fees of Justices of the Peace, and Attornies, be regulated and ascertained;

II. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That for the future the following Fees only shall be received by the Clerks of the Superior and County Courts, and no other or greater Fees or Charges whatsoever shall be deemed or construed by the former Acts of Assembly, *to wit,*

Clerks Fees.

For every leading Process returned to the first Court, and all subsequent Processes, Appearances, Pleas, Rules, Orders, and other Services necessary thereon, until making up an Issue inclusive, and also for Dismission or final Judgment, where either happens, or for Confession of Judgment, to the Clerk of the Court Twelve Shillings. For every Continuance or Reference of every Cause after the second Court, including all Fees for every Service necessary thereon, Four Shillings. For the Court at which the Cause is determined, including all Fees for every necessary Service thereon, and entering final Judgment inclusive, Ten Shillings, over and above the Fees above mentioned. For every Subpœna, provided the Party insert no more than Four Witnesses in the same, Two Shillings. For every Execution, or Order of Sale, when necessary, issued and returned, including all Services thereon, with taxing Costs and Copy, and entering Satisfaction, Five Shillings. For every *Scire Facias* against Bail, with making up an Issue thereon, or entering Judgment, without Plea, including all Fees for every Service necessary thereon (provided that the Party paying Costs shall not be subject to this, unless the *Scire Facias* is requisite and required by the Plaintiff) Eight Shillings. For giving a Copy of the Record of any Cause, when demanded by either of the Parties, Six Shillings. For every Order or Rule of Court made, or Matters foreign to the Suits depending in Court, and Copy thereof when demanded, Two Shillings and Eight Pence. For entering on the Minutes the Probate of a Will, qualifying Executors, making Certificate, recording the Will, and giving Copy thereof, Ten Shillings and Eight Pence. For granting Administration, taking Bond, and all other Services thereon, Ten Shillings and Eight Pence. For all Services necessary to be done by the Clerk of the Court, towards issuing Letters of Administration or Letters Testamentary, Five Shillings. For all Services, proving, recording, and filing an Inventory, Account of Sales or Account Current; exhibited by an Executor, Administrator, or Guardian, or for Search, Copy, and Certificate of the same, if the Estate be under One Hundred Pounds Value, One Shilling and Four Pence; if above One Hundred Pounds Value, Four Shillings. For every Marriage Licence and Bond, and all other necessary Services thereon, Five Shillings. For Ordinary Licence and Bond, and all the Services necessary to be done thereon, Five Shillings. For Tavern Rates, Two Shillings and Six Pence. For searching a Record out of Court, Eight Pence. For proving or entering Acknowledgment of a Conveyance of Land, or other Estate, and certifying the same, with the Order for Registration, and Examination of a Feme Covert, without Commission, Two Shillings and Eight Pence. For a Commission to take the Examination of a Feme Covert or Witnesses in any Cause depending in the Superior Court, the Return thereon, entering, and all other Services necessary thereon, Three Shillings. For Guardian or other Bonds taken in Court, and for recording the same, and all other necessary Services thereon, every Fee relative thereto included, Eight Shillings. For Indentures for binding out Apprentices, making Order thereon, and filing and recording the same, including all Fees for every Service necessary, Five Shillings and Four Pence. For a special *Venire Facias* in an Action of Ejectment, or where the Bounds of Lands shall come in Question, when the said Writ shall be issued, Eight Shillings. For a special Verdict or Demurrer, or Motion in Arrest of Judgment, and Argument thereon, Four Shillings. For Writ of Error or Appeal, with a Transcript of the Record, and all Services thereon, Ten Shillings. For making out Certificates of Witnesses or Jurymens Attendance, Eight Pence. For recording a Mark or Brand, and granting Certificates thereof if required, One Shilling and Four Pence.

Ex Officio Services.

III. *AND be it further Enacted, by the Authority aforesaid,* That all the Services to be done by the Clerks of the Superior and County Courts within this State, for which Fees are not provided in this Act, shall be deemed and construed *ex Officio* Services, for which the Clerks shall demand no Fee or Reward whatever, except what shall be allowed such Clerks by the County Courts of their respective Counties for such Services.

Clerks may issue Execution for their Fees.

IV. *AND be it further Enacted, by the Authority aforesaid,* That it shall and may be lawful for the Clerks of the Superior and County Courts, on the Fees not being paid by the Party from whom they are due, to make out Execution, directed to the Sheriff of the County where the Party resides, and the said Sheriff shall levy the same in Virtue of the said Execution as in other Cases; and to the said Execution shall be annexed a Copy of the Bill of Coits of the Fees on which such Execution shall issue, wrote in Words at Length, without any Abreviation whatsoever; and all Executions issuing without the Copy of such Bill of Coits annexed, shall be deemed illegal, and no Sheriff shall serve or execute the same.

Costs to be paid in Continuance.

V. *AND be it further Enacted, by the Authority aforesaid,* That whenever it shall be the Opinion of the Court that the Party praying a Continuance should not obtain it, without Payment of all Costs attending the same, the whole of these Costs shall be paid before the Continuance is granted; and the Party paying such Costs shall not be intitled to recover them, although the Judgment of the Court should finally be in his Favour.

VI. AND

VI. *AND be it further Enacted, by the Authority aforesaid,* That if any Person shall hereafter conceive himself aggrieved by any Clerk of the Superior or County Courts, in taxing or charging other or greater Fees than by this Act allowed, it shall and may be lawful for such Person aggrieved, either by himself or his Attorney, to complain to the Court where such Offender is Clerk, and the said Court, at the Term to which such Complaint shall be made, shall take such Matter into their Consideration, and the same shall be tried by a Jury; and if the Jury shall find the Complaint to be true, and that the Party is guilty of the Misdemeanors alleged against him, then the said Court shall not only order immediate Restitution to be made to the Party injured, together with all Costs and Damages, but also may, and they are hereby required, to set such Fine as they shall think proper on such Clerk, not exceeding the Sum of Fifty Pounds; and the Court shall commit such Clerk to Gaol if he refuses or delays to obey their Judgment, there to remain until he has satisfied the Party injured, agreeable to the Judgment of the Court, and also paid the Fine inflicted on him to the Sheriff; which Fine shall be applied towards defraying the contingent Charges of the County where such Court shall be held, and shall be accounted for by the Sheriff at the same Time as he accounts for the County Tax. *Provided,* That such Clerk shall have Ten Days Notice in Writing previous to the Sitting of the Court where such Complaint is intended to be made, and that there shall be at least Five Justices on the Trial of such Complaint, if in the County Court; and the Notice shall be in these Words, or to this Effect: "I intend to complain of you to the next Court, for taking more Fees in the Suit of ——— against ——— than the Law allows." And a Copy of this Notice directed to the Clerk, and signed by the Complainant, proved by the Oath of the Person who served it, with a Copy of the Bill of Costs from the Officer who levied the same, shall be sufficient for the Jury to ground their Verdict on, and the Court to give Judgment in Pursuance thereof, without any other further Process.

VII. *AND be it Enacted, by the Authority aforesaid,* That if any Clerk shall, during the Sitting of the Court whereof he is Clerk, demand other or greater Fees than by this Act allowed, the Court shall immediately, on Complaint being made thereof, determine what Fee or Fees shall be paid to the said Clerk by the Party complaining.

VIII. *AND be it further Enacted, by the Authority aforesaid,* That if any Clerk of any Court in this State shall hereafter be guilty of any Breach or Neglect of Duty enjoined by Law, either by his own Consent or Verdict of the Jury, it shall, on the second Conviction, be adjudged and deemed a Misdemeanour in Office, for which such Clerk shall be suspended by the said Court.

IX. *PROVIDED nevertheless,* That in Case the Clerk shall be dismissed with the Determination of the County Court, he may appeal to the Superior Court of the District, in which Case there shall be a Trial by Jury; where if the Suspension of the County Court shall be confirmed, the said Clerk shall ever after be rendered incapable of acting as Clerk of any Court in this State.

X. *AND be it further Enacted, by the Authority aforesaid,* That it shall and may be lawful for every Justice of the Peace in this State to take and receive the following Fees for Business done out of Court, *to wit,* For every original Attachment granted, taking Bond thereon included, Five Shillings. For every Warrant, One Shilling. For all the Subpoenas in any one Suit, One Shilling. For every Judgment, One Shilling. For every Execution, One Shilling. And every Justice of the Peace taking, receiving, or demanding, any greater Fee or Reward, for any of the above Services, shall forfeit and pay Ten Pounds for every Offence, one Half to the Person injured, the other Half to be applied towards defraying the contingent Charges of the County where the Offence is committed; to be recovered by Action or Debt, in the County where such Justice shall reside.

XI. *AND be it Enacted, by the Authority aforesaid,* That all Fees by this Act directed to be paid to the Justices of the Peace, shall be taxed in a Bill of Costs; and shall be paid by him who fails in his Suit, or against whom a Recovery shall be had.

XII. *AND be it further Enacted, by the Authority aforesaid,* That it shall and may be lawful for each and every Attorney at Law to take and receive from their respective Clients the following Fees, *to wit,*

For every Act on in the Superior Court, except where the Titles or Bounds of Lands come in Question, the Sum of Two Pounds Ten Shillings. For every such Action in the County Court, One Pound Five Shillings. For every real Action, or such as respects the Titles of Lands, Five Pounds. For every Petition for the Recovery of Legacies and filial Portions, or distributive Shares of Intestates Estates, if in the Superior Court, Three Pounds Ten Shillings. If in the inferior Court, One Pound Fifteen Shillings. For every Opinion or Advice in Matters cognizable in the Superior Court, where no Suit is or shall be brought, and prosecuted or defended by the Attorney giving such Advice, but not otherwise, Twenty Shillings. For every Opinion or Advice in Matters cognizable in the County Court, where no Suit is or shall be brought, and prosecuted or defended by the Attorney giving such Advice, but not otherwise, Ten Shillings.

XIII. *AND be it further Enacted, by the Authority aforesaid,* That the Clerk of each respective Court within this State is hereby directed and required to tax in every Bill of Costs, where an Attorney shall have been actually employed by the Party who shall recover, or be otherwise intitled to receive, such Fee as is by this Act allowed, and no more.

XIV. *AND be it further Enacted,* That if any Attorney, in any Superior or County Court, shall wilfully or willingly be guilty of any Neglect in any Cause, the Court before whom such Cause shall be depending, on Complaint, and Proof thereof made within Six Months after such Neglect, shall have full Power and Authority to order such Attorney to pay all Costs occasioned by such Neglect; and every Bill, Bond, Promise, or other Engagement, of what Denomination soever, for the Payment of any other or larger Fees than before enumerated, shall be utterly void and of no Effect; any Usage to the contrary notwithstanding.

XV. *AND be it further Enacted, by the Authority aforesaid,* That every Act and Acts of Assembly now in Force, allowing Fees to Attorneys and Clerks of the Superior and County Courts in civil Causes, is and are hereby repealed and made void, to all Intents and Purposes, as if the same had never been made.

A. D. 1777.

Method of Complaint against Clerks for taking exorbitant Fees.

Method during the sitting of Court.

Pen. for Misdemeanour.

Right of Appeal.

Justices Fees.

Taxed in the Bill of Costs.

Attorneys Fees.

Fee taxed in the Bill of Costs.

Pen. for Neglect of Duty, or taking greater Fees.

Repealing Clause.

A. D. 1777.

C H A P. IV.

An Act directing the Method of electing Members of the General Assembly, and other Purposes.

Preamble.

I. **W**HEREAS there is not any Law in Force for directing the Mode to be observed in electing Members of the General Assembly;

General Election when held

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That from and after the Ratification of this Act, the annual Election of Members of the General Assembly shall be held on the Tenth Day of *March* in each Year, and if such Day should happen on *Saturday* or *Sunday*, then on the *Monday* next following, at the Court-House of the respective Counties; and that the Sheriffs, or other returning Officers, shall advertise the Day and Place of Election at the Court-House, and other public Places within their respective Counties, at least Twenty Days before such Election.

Proviso, to hold it at any other Place than the Court House.

III *PROVIDED* always, That during the present War with *Great Britain*, if by Invasion of the Enemy, or any public Commotion or domestic Insurrection, it may become unsafe for the Electors to attend at the Court-Houses of their respective Counties, it shall and may be lawful for the returning Officer of any County where such Invasion, Commotion, or Insurrection, may happen, to appoint any safe Place in his County for the holding of such Election, giving legal Notice thereof to the Electors, any Thing herein contained to the contrary notwithstanding.

Inspectors of the Poll to be appointed.

IV. *AND* be it further Enacted, by the Authority aforesaid, That the County Courts respectively, at the Sessions next preceding the Day of Election in every Year, shall appoint Two Inspectors to superintend the Election; and if it shall at any Time so happen that any County Court shall fail to make such Appointment, or any Person so appointed shall refuse to serve, the Sheriff, with the Advice of Three Justices of the Peace, or if none shall be present, Three reputable Freeholders, shall before the Beginning of such Election appoint Inspectors for the Purpose aforesaid; and every Inspector who shall be appointed by either of the Ways aforesaid, and serving pursuant to such Appointment, shall be held and deemed eligible at such Election.

Manner of taking the Poll.

V. *AND* be it further Enacted, by the Authority aforesaid, That the Sheriffs, or the returning Officers, shall on the Day, and at the Place for holding each respective Election, be provided with small Boxes, one for receiving the Ballots for the Senator, and the other receiving the Ballots for Members of the House of Commons, and where there is a Town having a Right of Representation, a third Box for receiving the Ballots for such Town Member; and the returning Officer, or his Deputy, shall receive the Tickets in Presence of the Inspectors, (who are to be appointed as hereafter directed) and put each Ticket into its proper Box; and all the Boxes shall be locked, or otherwise well secured, until the Election shall be finished; and the returning Officer shall keep the Election open Two Days, and no longer; and the returning Officer shall at Sunset of the first Day, and in Presence of the Inspectors, put his Seal on the Place to be made for the Reception of the Tickets, which shall continue until the Election shall be renewed the succeeding Day, and shall then be taken off in Presence of the Inspectors.

Manner of Electors giving their Votes, and Sheriffs declaring the Members duly elected.

VI. *AND* be it Declared and Enacted, by the Authority aforesaid, That every Person qualified to vote in Manner directed by the Form of Government, who shall attend for that Purpose at any Election, shall give to the returning Officer, in Presence of the Inspectors, a Ticket or Scroll of Paper, rolled up, in which shall be written the Name or Names of the Person or Persons for whom he intends to vote, which Ticket shall be put into its proper Box, in Manner before directed; and at the same Time the returning Officer, and each of the Inspectors, shall

shall take down, in separate Lists, the Name of every Person voting, distinguishing those who shall vote for Senators in one List, those for County Members of the House of Commons in a second, and where there shall be a Town Election, those who vote for a Town Member in a third; and when the Election shall be finished, the returning Officer and the Inspectors shall, in Presence of such of the Electors as may choose to attend, open the Boxes one after another, and number the Ballots of one Box before they shall open another, at the same Time reading aloud the Names of the Persons who shall appear in each Ticket; and if there shall be two Tickets rolled up together, or if any Ticket shall contain the Names of more Persons than such Elector has a Right to vote for, in either of these Cases, such Ticket shall not be numbered in taking the Ballots, but shall be adjudged void; and when each Class of Tickets shall be numbered, the Persons having the greatest Number of Ballots shall be declared duly elected; but where two Persons shall have an equal Number of Votes, the returning Officer shall have the casting Vote, but shall not vote in any other Case whatsoever.

VII. *PROVIDED nevertheless*, That it shall and may be lawful for the Sheriff, or other returning Officer of Mecklenburg County, and he is hereby authorized and required, to direct his lawful Deputy to open an Election at the House commonly called *The Cold Water Meeting-House*, and there, on the first Day of any Election, to receive the Ballots of the Persons intitled to vote in the said County, living on the East Side of *Caddle Creek* and *Rocky River*, from the Mouth of the said Creek, under the Rules and Regulations herein before and afterwards directed; and the ballots so taken shall be sealed up by the Deputy, and transmitted to the returning Officer of Mecklenburg County on the second Day of each Election, on or before One of the Clock in the Afternoon; and such Ballots so taken shall, and are hereby declared to be Part of the Election for the said County, any Thing herein contained to the contrary notwithstanding.

VIII. *AND be it further Enacted, by the Authority aforesaid*, That every Person, before he shall be admitted to give his Vote at any Election, shall, if required, swear (or affirm if a Quaker) that he is qualified to the Constitution, and that he hath not voted before at such Election.

IX. *AND be it Enacted, by the Authority aforesaid*, That every Election hereafter to be made by Virtue of any Writ from either House of the General Assembly, shall be conducted and regulated in the same Manner as annual Elections, so far as the particular Case can be applied to the general Rules.

X. *AND it is hereby Enacted, by the Authority aforesaid*, That every Election hereafter to be made in this State shall begin at Twelve of the Clock at Noon, on the Day appointed for such Election.

XI. *AND be it further Enacted, by the Authority aforesaid*, That if any Person shall hereafter vote at any Election, who by Law shall not be intitled to vote at such Election, he shall forfeit and pay the Sum of Five Pounds lawful Money of this State; to be recovered with Costs, by Action of Debt, in any Court of Record having Cognizance thereof, one Half to the Justices of the County wherein such Election shall be had, to be applied towards lessening the County Tax, and the other Half to him or them who shall sue for the same; and where any Suit shall be brought against any Person for voting as aforesaid, without having a Right to such Vote, the *Onus Probandi* shall lie upon the Defendant.

XII. *AND be it Enacted, by the Authority aforesaid*, That if any Person shall at any Time before or after any Election, either directly or indirectly, give any Money, Gift, Gratuity, or Reward, to any Elector or Electors, or to any County or Town, in order to be elected, or to procure any other Person to be elected as a Member of the General Assembly, every Person so offending shall forfeit and pay Five Hundred Pounds lawful Money of this State; to be recovered

A. D. 1777.

Proviso, for Mecklenburg Elections.

Electors to be sworn.

Writs of Election from the Assembly, made in the Manner of annual Elections.

Elections when to begin.

Pen. on Persons voting, who are not qualified.

Pen. on Candidates giving Rewards, &c.

A. D. 1777.

ed by Action of Debt, in any Court of Record having Cognizance thereof, with Costs, and shall be incapacitated to serve as a Member during the Continuance of that General Assembly, for which such Election shall be made as aforesaid.

Delegates, &c.
not to sit in
Assembly.

XIII. *AND it is further Declared and Enacted, by the Authority aforesaid, That the Delegates from this State in the Congress of the United States, and Officers of the Courts of Admiralty and Courts of Equity, shall be, and are hereby declared to be incapable of being elected as Members to serve in the General Assembly, or to enjoy Seats therein; and any Member of the General Assembly who shall accept any such Office, shall thereby vacate his Seat therein.*

Members of
Assembly to be
sworn.

XIV. *AND be it further Enacted, by the Authority aforesaid, That every Person elected as a Member of the General Assembly shall, before he shall take his Seat therein, take the Oath of Allegiance appointed to be taken for the Qualification of Members of the General Assembly and Public Officers, and also the following Oath, to wit,*

I DO solemnly swear, that I have not, by myself or any other Person or Persons, either directly or indirectly, given, or caused to be given, any Gift, Gratuity, Reward, or Present whatsoever, to any Person or Persons, for his or their Votes, to obtain a Seat in the present General Assembly; and that I will not, during my continuing a Member thereof, take or receive privately the Profits, or any Part of the Profits of any Office within this State, either for my own Use, or for the Use or Uses of any Person or Persons whatsoever, otherwise than what is or shall be allowed by Law.

SO HELP ME GOD.

And every Person violating the said Oath, shall be expelled from his Seat in the General Assembly.

Where no Sher-
riff, Coroner
to take the
Poll, and give
Copies when
demanded.

XV. *AND it is further Enacted, by the Authority aforesaid, That if at any Time it shall happen that there shall be no Sheriff in any County qualified according to Law, the Coroner or Coroners in such County is, and are hereby empowered to hold the Election for such County; and such Sheriff or Coroner, within Ten Days after every Election, shall, at the Request of any Person elected to serve in the General Assembly, or other Person in his Behalf, cause fair Copies of the Lists of Votes, and the Number of Ticket Ballots for each Candidate, to be made out and delivered to the Person requesting the same, or to his Order, which Lists and Numbers shall be signed by the returning Officer; and if any Officer shall refuse so to do, or to make Elections in any other Manner than by this Act is directed, or shall neglect or refuse to make Returns of the Elections by him to be made or taken, the Officer so offending shall forfeit and pay Five Hundred Pounds lawful Money of this State; to be recovered by Action of Debt, in any Court of Record having Cognizance thereof, with Costs, one Half to the Governor for the Time being, for the Use of the State, and the other Half to such Person as shall sue for the same.*

Meeting of
the General
Assembly.

XVI. *AND be it Enacted, by the Authority aforesaid, That the General Assembly shall meet for ever hereafter on the First Monday in April in each Year, which is hereby declared to be the annual Meeting of the General Assembly of this State.*

C H A P. V.

An Act for directing the Method of appointing Jurors in all Causes, civil and criminal.

Preamble.

I. **W**HEREAS a Trial by Jury is one of the best Securities of the Rights of the People, and a just Decision of Suits and Controversies in the several Courts of Law within this State depend on the Integrity and Capacity of Jurymen;

II. BE

II. *BE it Enacted by the General Assembly of the State of North Carolina, and by the Authority of the same,* That the Justices of the County Courts within the District of each Superior Court of Law within this State, shall, and they are hereby directed, before the Sitting of any Superior Court, to nominate Forty Eight Freeholders to serve as Jurymen at such Superior Courts. *Provided always,* That no County Court shall knowingly nominate any Person to serve as a Juror at two Courts successively, or any Person who shall have an Action or Suit at Issue in the Superior Court at the Term to which he shall be so nominated.

A. D. 1777.
Jurors for the
Superior Cts.

III. *AND be it further Enacted, by the Authority aforesaid,* That the Number of Freeholders to be nominated for each County to serve as Jurors shall be proportioned as follows, to wit, Craven County Twelve, Carteret Six, Beaufort Six, Hyde Six, Dobbs Eight, Pitt Six, Johnston Four, New Hanover Twelve, Bladen Eight, Onslow Eight, Duplin Eight, Cumberland Six, Brunswick Six, Chowan Ten, Perquimans Five, Pasquotank Six, Currituck Five, Tyrrell Five, Bertie Eight, Hertford Five, Camden Four, Wilkes Two, Washington Two, Surry Four, Guilford Six, Anson Six, Mecklenburg Eight, Tryon Four, Burke Four, Rowan Twelve, Orange Fourteen, Granville Twelve, Wake Six, Chatham Eight, Caswell Eight, Halifax Twelve, Edgecomb Six, Bute Ten, Northampton Ten, Nash Six, Martin Four; a List of which Jurors so nominated shall be delivered by the Clerk of each County Court to the Sheriff, who shall, and is hereby required to summon the Persons so nominated to serve as Jurymen at the Superior Court; and if any Jurymen so summoned shall fail to appear, he shall be fined the Sum of Fifty Pounds, unless he can shew sufficient Cause to the next Court to excuse his non-Appearance; which Fine shall be applied to the Payment of such Jurors as shall attend from the said County, and thereby lessen the County Tax.

Number for
each County.

IV. *PROVIDED always,* That if any of the said County Courts shall fail or neglect to nominate Freeholders to serve as Jurors as aforesaid, or the Persons so nominated shall fail to attend, it shall and may be lawful for such Superior Court to order and direct the Sheriff to summon other Freeholders of the By-standers to serve as Jurymen, and the Persons so summoned shall be deemed and held as lawful Jurymen. *Provided,* That such By-standers as shall be so summoned shall and may every Day be discharged, and the succeeding Day, and so from Day to Day, during the Continuance of the Court, the Sheriff shall summon of the By-standers so many as shall be necessary; and every Person so summoned of the By-standers, who shall not appear and serve as Jurymen, shall be fined in the Sum of Three Pounds, unless he can shew sufficient Cause, to be admitted by the Court; to be applied as before directed.

Proviso, for
By-standers,
where there is
a Failure of
Jurors.

V. *AND that the Fines may be applied according to the Direction of this Act, Be it further Enacted, by the Authority aforesaid,* That the Fines herein imposed shall be levied by the Sheriff of each respective County wherein each Person shall reside, who shall be summoned as Jurymen as is herein directed, and shall fail to appear and serve as such, and such Sheriff shall be accountable for the same to the County Court of his County.

Fines how le-
vied.

VI. *AND be it further Enacted, by the Authority aforesaid,* That the Sheriff of each respective County shall, and is hereby required, to summon the Freeholders in the List to be delivered to him by the Clerk of the County Court of his County, at least Ten Days before the Sitting of the Superior Court of which such Freeholders are to attend as Jurors, which he may do personally, or by leaving a Note or Summons in Writing at the Dwelling-House of such Freeholder so to be nominated as aforesaid.

Sheriff when
to summon
Jurors.

VII. *AND be it Enacted, by the Authority aforesaid,* That the Clerk of each Superior Court shall every Day during the Continuance of such Court write the Names of all Petit Jurors appearing on Scrolls or Pieces of Paper, which shall be put into a Box, and on every Issue in every Suit where it is not otherwise

Jurors how
drawn.

A. D. 1777.

agreed by Consent, a Child under Ten Years old, in open Court, shall draw out of the said Box Twelve of the said Scrolls or Pieces of Paper, and the Persons whose Names shall be on the said Scrolls or Pieces of Paper, drawn as aforesaid, shall be the Jurors to try such Issue, provided that they all do appear; and in Case of Defaulters, other Scrolls shall be drawn, till a sufficient Number shall appear to make a complete Jury.

Proviso, where challenged.

VIII. *PROVIDED* always, That if any of the Jurors whose Names shall be drawn as is herein before directed, shall be lawfully challenged, other Scrolls shall be drawn in Manner aforesaid, as Occasion may require, till a complete Number of Jurors shall be made out.

Allowance for attending Superior Courts.

IX. *AND* whereas the attending Superior Courts will be very expensive to Jurors; for Remedy whereof, *Be it Enacted, by the Authority aforesaid*, That each and every Juror who shall attend either of the Superior Courts to which he shall be nominated as aforesaid, and summoned in Virtue of this Act, upon producing a Certificate from the Clerk of the Superior Court of the Time of his Attendance, to the County Court of the County where he resides, shall have and receive Eight Shillings for every Day he shall travel and attend as aforesaid, and an Allowance for his Ferriage, if certified as aforesaid, to be paid out of the County Tax.

In Land Suits, two Surveyors to attend the Juries.

X. *AND* be it further *Enacted, by the Authority aforesaid*, That in all Suits in the Superior and County Courts within this State, wherein the Title or Bounds of Lands shall come in Question, if it shall appear to the Court necessary, such Court may order Two Surveyors, one to be named by each Party, to attend, and run out and survey the Lands in Dispute, agreeable to the Bounds and Lines expressed in each Parties Titles, and make Three accurate Plans of such Surveys, and return the same to such Court; which Order such Surveyors are hereby required to obey, and shall be allowed Twenty Shillings each for every Day they shall be travelling to and from attending the Surveys, and performing the Duty by this Act required; which Allowance shall be taxed in the Bill of Costs, and paid by the Party cast.

Proviso, where one may attend.

XI. *PROVIDED* nevertheless, If the Parties shall agree to have but One Surveyor appointed to perform such Services, that then, and in such Cases, the Court shall order one Surveyor only to attend, survey, and run out the Lands in Dispute, who shall return Three Plans in the same Manner, and be intitled to the same Allowance, as he would have been intitled to if Two Surveyors had been appointed.

Jurors for the County Courts

XII. *AND* be it *Enacted, by the Authority aforesaid*, That the Justices of the County Courts shall, at the Sessions of their respective Courts, nominate Thirty Freeholders to serve as Grand and Petit Jurors at the next ensuing Court of the County, and a List thereof shall by the Clerk be delivered to the Sheriff of such County, who is hereby required to summon the Persons therein named to attend as Jurymen at such Courts respectively, at least Five Days before the Sitting of such Court, which said Jury shall appear and give their Attendance accordingly, till discharged by the Court; and that there may not be a Default of Jurors, it shall and may be lawful, during the Sitting of the County Court, for the Sheriff, by Order of the said Court, to summon of the By-standers other Jurors being Freeholders, to serve on the Petit Jury from Day to Day; and on any Day of the said Court, the Justices may discharge those who have served the preceding Day.

Their Attendance enforced.

XIII. *AND* to enforce the Attendance of Jurymen at the said County Courts *Be it Enacted, by the Authority aforesaid*, That every Person who shall hereafter be summoned in Virtue of this Act to appear as Jurymen at any County Court such Person so failing to appear, or to give his Attendance till discharged by Order of the Court, shall be fined Three Pounds by the Justices of the County Court, to be applied towards defraying the Charges of the County, and lessening

ing the County Tax, unless he shall shew sufficient Cause to the next succeeding Court for such Failure.

A. D. 1777.

XIV. *AND* be it further Enacted, by the Authority aforesaid, That no Sheriff, or other Officer, shall serve or execute any Writ, or other Process, on the Body of any Juror, during his Attendance on, going to, and returning from any of the said Superior or County Courts; any such Service shall be void, and the Defendant may on Motion be discharged.

Jurors exempt from Process.

XV. *AND* be it further Enacted, by the Authority aforesaid, That the Judges of the Superior Court shall direct the Names of all the Jurors returned from the Counties of the District where such Court shall be held, to be wrote on Scrolls of Paper, which Scrolls of Paper shall be put into a Box, and drawn out by a Boy under Ten Years of Age, and the first Eighteen drawn shall be a Grand Jury for the said Court, and the Residue of the Names in the Box shall be the Names of those who shall serve as a Petit Juror for the said Court.

Manner of drawing Jurors

C H A P. VI.

An Act to amend an Act for declaring what Crimes and Practices against the State shall be Treason, and what shall be Misprision of Treason, and providing Punishments adequate to Crimes of both Classes, and for preventing the Dangers which may arise from Persons disaffected to the State.

I. *BE* it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That every Person and Persons (Prisoners of War excepted) now inhabiting or residing within the Limits of the State of North Carolina, or who shall voluntarily come into the same hereafter to inhabit or reside, do owe and shall pay Allegiance to the State of North Carolina.

Persons owing Allegiance.

II. *AND* be it further Enacted, by the Authority aforesaid, That if any Person or Persons belonging to, or residing within this State, and under the Protection of its Laws, shall take a Commission or Commissions from the King of Great Britain, or any under his Authority, or other the Enemies of this State, or the United States of America, or shall levy War against this State, or the Government thereof, or knowingly and wilfully shall aid or assist any Enemies at open War against this State, or the United States of America, by joining their Armies, or by assisting, or procuring or persuading others to assist for that Purpose, or by furnishing such Enemies with Arms, Ammunition, Provision, or any other Article for their Aid or Comfort, or shall form, or be in any wise concerned in forming, any Combination, Plot or Conspiracy, for betraying this State, or the United States of America, into the Hands or Power of any foreign Enemy, or shall give any Intelligence to the Enemies of this State for that Purpose, every Person so offending, and being thereof legally convicted by the Evidence of Two sufficient Witnesses, or standing mute, or peremptorily challenging more than Thirty Five Jurors, in any Court of Oyer and Terminer, or other Court that shall and may be established for the Trial of such Offences, shall be adjudged guilty of High Treason, and shall suffer Death without the Benefit of Clergy, and his or her Estate shall be forfeited to the State. *Provided*, That the Judge or Judges of the Court wherein such Conviction may be, shall and may order and appropriate so much of the Traitor's Estate as to him or them may appear sufficient for the Support of his or her Family.

High Treason.

III. *AND* be it further Enacted, by the Authority aforesaid, That if any Person or Persons within this State shall attempt to convey Intelligence to the Enemies of this State, or of the United States, or shall publickly and deliberately speak or write against the Public Defence, or shall maliciously and advisedly endeavour to excite the People to resist the Government of this State, or persuade them to return to a Dependence on the Crown of Great Britain, or shall knowingly spread false and dispiriting News, or maliciously and advisedly terrify and discourage the People from assisting into the Service of this State, or the United States, or shall stir up or excite Tumults, Disorders, or Insurrections in the State, or dispose the People to favour the Enemy, or oppose, or endeavour to prevent the Measures carrying on in Support of the Freedom and Independence of the said United States, every such Person or Persons, being thereof legally convicted by the Evidence of Two or more credible Witnesses, or other sufficient Testimony, shall be adjudged guilty of Misprision of Treason, and shall suffer Imprisonment during the War, and forfeit to the State one Half of his, her, or their Lands, Tenements, Goods and Chattels.

Misprision of Treason.

IV. *AND* be it further Enacted, by the Authority aforesaid, That all Offences by this Act declared Misprision of Treason, shall be cognizable before any Justice of Peace of the County where the Offence was committed, or where the Offender can be found; and every Justice of the Peace within this State, on Complaint to him made on the Oath or Affirmation of one or more credible Person or Persons, shall cause such Offender to come before him, and enter into a Recognizance, with one or more sufficient Surety or Sureties, to be and appear at the next Superior Court of the District wherein the Offence was committed, and abide the Judgment of the said Court, and in the mean Time to be of the Peace and good Behaviour to all People within the State; and for want of such Surety or Sureties,

Where cognizable.

the

A. D. 1777.

Persons to take
the Oath of
Allegiance.

the said Justice shall and may commit such Offender either to the Gaol of the County or District where the Offence was committed, and appoint a Guard for the safe conveying him to such Gaol; and all Persons charged on Oath or Affirmation with any Crime or Crimes by this Act declared to be Treason against the State, shall be dealt with, and proceeded against, in like Manner as the Law directs in Respect of other capital Crimes.

V. AND whereas the Safety of the State, and the present critical Situation of Affairs, make it necessary that all Persons who owe or acknowledge Allegiance or Obedience to the King of Great Britain should be removed out of the State; Be it Enacted, by the Authority aforesaid, That all the late Officers of the King of Great Britain, and all Persons (Quakers excepted) being Subjects of this State, and now living therein, or who shall hereafter come to live therein, who have traded immediately to Great Britain or Ireland within Ten Years last past, in their own Right, or acted as Factors, Storekeepers, or Agents, here or in any of the United States of America or Ireland, shall take the following Oath of Abjuration or Allegiance, or depart out of the State, viz.

I WILL bear faithful and true Allegiance to the State of North Carolina, and will truly endeavour to support, maintain, and defend the independent Government thereof, against George the Third, King of Great Britain, and his Successors, and the Attempts of any other Person, Prince, Power, State or Potentate, who by secret Arts, Treasons, Conspiracies, or by open Force, shall attempt to subvert the same, and will in every Respect conduct myself as a peaceful orderly Subject; and that I will disclose and make known to the Governor, some Member of the Council of State, or some Justice of the Superior Courts or of the Peace, all Treasons, Conspiracies, and Attempts, committed or intended against the State, which shall come to my Knowledge.

And that all Persons being Quakers, Moravians, Menonists, and Dunkards, and under the Circumstances above mentioned, shall make the following Affirmation, or depart the State:

Quakers Affirmation.

I A. B. do solemnly and sincerely declare and affirm, that I will bear true Fidelity to the independent State of North Carolina, and to the Powers and Authorities which are or may be established for the good Government thereof; and I do renounce any Fidelity to the present King of Great Britain, his Heirs and Successors; and that I will disclose and make known to the Governor, some Member of the Council of State, Judge of the Superior Courts, or Justice of the Peace, all Treasons, Conspiracies, or Attempts, committed or intended against the same, which shall come to my Knowledge.

And the said Oath or Affirmation shall be taken and subscribed in open Court, in the County where the Person or Persons taking the same shall or do usually reside.

Justices may
issue Citations
against Per-
sons, and Pro-
ceedings there-
on.

VI. AND be it further Enacted, by the Authority aforesaid, That the County Courts in each and every County, and every Justice of the Peace in each respective County, shall have full Power to issue Citations against Persons coming within the above Description, as Officers, Merchants, Traders, Factors, Storekeepers, or Agents, and to demand Surety on Recognizance if necessary, and to require their Attendance at the next ensuing Court to be held for the County: And if any Person so cited (due Proof being made thereof) shall fail or neglect to attend, or attending shall refuse to take the said Oath or Affirmation (as the Case may be) then the said Court shall and may have full Power and Authority to order such Person to depart out of this State, to Europe or the West Indies, within Sixty Days, and may take Bond and Security, in the Name of the Governor, for the Benefit of the State, for faithful Compliance with such Order; and if any Person so ordered shall fail or neglect to depart within the limited Time, such Bond shall be forfeited to the State, without good and sufficient Reasons shewn to, and approved of by the Governor and Council; and the Justices, or any of them, in the County wherein the Person so failing or neglecting to depart shall be found, shall and may cause him to be apprehended and brought before the Court of the County where the Order was made; and the said Court shall in such Case send the Person so offending as speedily as may be out of the State, either to Europe or the West Indies, at the Cost and Charges of such Offender, and to this End shall and may direct the Clerk of the Court to issue an Order or Orders to any Sheriff in the State to seize and sell so much of the Goods and Chattels, Lands and Tenements, of such Person within his Bailiwick, as may be judged necessary by said Court to defray such Costs and Charges, together with the Costs and Charges of apprehending and confining such Person until he shall be sent out of the State; and the Sheriff to whom such Order of Court shall be directed, is hereby required to obey the same, and to execute proper Conveyances, and to return the Money arising by any Sale made by Virtue of such Order, after deducting his Fees and Commissions as in other Cases, to the next County Court of the County from whence such Order issued, under the Penalty of Five Hundred Pounds current Money; to be recovered by Action of Debt, in any Court having Cognizance thereof, one Half for the Use of the State, the other Half to the Person that shall sue for the same; and if any Surplus shall remain after paying all Costs and Charges for apprehending, confining, and sending such Person out of the State, then the County Court shall cause such Surplus to be paid the Owner. Provided nevertheless, That all and every such Person and Persons shall have Liberty to sell and dispose of his or their Estates, and after satisfying all just Demands, to export the Amount in Produce (Provisions and Naval Stores excepted) and may also nominate and appoint an Attorney or Attornies to sell and dispose of his or their Estates, for his or their Use and Benefit; but in Case any real Estate belonging to any such Person shall remain unsold for more than Three Months next after the Owner thereof hath departed this State, the same shall be forfeited to and for the Use of the Public.

Pen. on Per-
sons returning.

VII. AND be it further Enacted, That if any Person so departing, or sent off from this State, shall return to the same, then such Persons shall be adjudged guilty of Treason against the State, and shall and may be proceeded against in like Manner as is herein directed in Cases of Treason.

VIII. AND whereas among other Things it was enacted in an Act, intituled, An Act for declaring what Crimes and Practices against the State shall be Treason, and what shall be Misprision of Treason, and providing Punishments adequate to Crimes of both Classes, and for preventing the Dangers which may arise from Persons disaffected to the State, that each and every Justice in each respective County may cite any Person or Persons to appear before the County Court where such Person or Persons usually reside, and

take the aforefaid Oath or Affirmation; and in Cafe of non-Attendance or Refusal, the faid Court fhall and may have full Power to compel fuch Perfon or Perfons to leave the State, under the fame Regulations herein mentioned in other Cafes. And as fome Scruples have arifen with Refpect to the Manner by Law required for the Service of fuch Citations, and as by many it has been held that a Service upon the Perfon of him intended to be cited was neceffary, before his Attendance in Court could be legally compelled, as many fufpected Perfons, by continual Abfence from their Place of Abode, or frequently removing from thence, have rendered the Service of fuch personal Citations difficult, and in fome Cafes impracticable, whereby they evade the Intentions of the faid Act, and cannot be obliged to take the faid Oath prefcribed, nor be made fubject to the Penalties ordained for neglecting or refufing the fame: And whereas there is great Reafon to believe that there are divers Perfons whole Intentions are inimical to the State, who would in Cafe of Invaftion by our Enemies, or the Expectation of immediate Support of them, carry fuch Intentions into Praétice, but who artfully in their open Demeanor and Deportment betray no fuch Defign, whereby from not incurring particular Suspicion, they have efaped being cited; and as it becomes the Duty of every Member of Society to give proper Affurance of Fidelity to the Government from which he enjoys Protection, and by their Refusal fo to do, the Voice of Reafon and Juftice, confirmed by the Praétice of all Nations, proclaim that they fhould no longer enjoy the Privileges of Freemen of the faid State; and as the Penalties ordained by the faid Act have been in a great Meafure evaded by the Difficulty or Impossibility of procuring Veffels to transport all fuch Recufants beyond Sea, or from their being unable to pay the Expence of the Voyage, by which Means fuch Perfons ftill remain within this State, without fuffering the Penalties they have juftly deferved; *Be it further Enacted, by the Authority aforesaid,* That the County Court of each refpective County which fhall fit after the laft Day of February, fhall divide the County into feveral Diftricts, in each of which fhall refide one or more Juftices of the Peace, which faid Juftices within their refpective Diftricts are hereby enjoined and required to adminifter fuch Oath of Allegiance or Affirmation, as the Cafe may be, to all free Male Perfons above Sixteen Years of Age (Perfons *non compos Mentis*, Prifoners of War, only excepted) and fuch Juftice or Juftices in their refpective Diftricts fo allotted to him or them, fhall immediately after the Sitting of the faid Court, in different Parts of the faid County, one of which fhall be the Court-Houfe of the fame, and alfo upon the Church, if any there be, poft and publish a Notice in Writing of the Places and Times when and where he or they will attend within their refpective Diftricts to adminifter fuch Oath or Affirmation; and all fuch Perfons who are Inhabitants of the faid Diftricts refpectively (and it is declared that a Residence of one Week fhall in this Inftance conftitute any Perfon an Inhabitant, feafaring Perfons and foreign Traders excepted) being above the Age of Sixteen Years, and of found Mind, fhall at fuch Time attend upon fuch Juftice of the Peace, and take the Oath or Affirmation required, as the Cafe may be, and fubfcribe the fame in a Book which fuch Juftice or Juftices fhall keep for that Purpose, or in Cafe of fuch Juror or Affirmant not being able to write, the Juftice fhall write fuch Juror or Affirmant's Name, which Book or Lift fhall at the next fucceeding Court be returned to the faid Court, together with the Names of thofe within his or their refpective Diftrict refufing or neglecting the fame; and if any Perfon (fuch only as are by this Act excepted) fhall fail to attend, or attending at fuch Time and Place as he fhall have been warned by fuch public Notice, fhall refufe to take the Oath, or make fuch Affirmation, as the Cafe may be, except excufed by Sicknefs or unavoidable Neceffity, or other fufficient Reafon, to be adjudged of by the next County Court, the Party offering fuch Excufe proffering at the fame Time to take fuch Oath or Affirmation, as the Cafe may be, which in this Cafe fuch County Court are directed to adminifter, fuch Perfon or Perfons fo offering, fhall be ordered by the faid County Court next after fuch Failure or Neglect, to take the faid Oath, or quit the State, and depart to the *West Indies* or *Europe* in Sixty Days; and if he or they fhall fail fo to do, and fhall at the Expiration of fuch Term be found within this State, then the County Court fhall and may, at their Difcretion, either exercife the fame Power and Authority with Refpect to fuch Perfon or Perfons, in Order to compel his or their Departure out of the State, as is herein before provided, with Regard to the late Officers of the King of *Great Britain*, and Perfons who have traded to *Great Britain* or *Ireland* within Ten Years laft paft, or been concerned for, or employed by Perfons trading thereto, within the Time aforefaid, or permit him to remain within the State.

IX. *AND be it further Enacted, by the Authority aforesaid,* That all Perfons failing or refufing to take the Oath of Allegiance, and permitted by the County Courts, as immediately aforefaid, to remain in the State, fhall be adjudged incapable and disabled in Law to have, occupy or enjoy, any Office, Appointment, Licence, or Election of Trust or Profit, civil or military, within this State, and fhall not be capable of being elected to, or aiding by their Votes to elect another to be a Member of Affembly, and fhall not by themfelves, or by Deputy, Attorney or Trustee, execute any fuch Office, Trust or Appointment, and fhall be disabled to profecute any Suit at Law or Equity, or to be Guardians, Executors or Administrators, or capable of any Legacy, or Deed of Gift of Lands, and fhall be disabled from taking any Lands by Defcent or Purchase, or conveying Lands to others for any Term longer than for one Year, and fhall not keep Guns or other Arms within his or their Houfe, but the fame may be feized by a written Order of a Juftice of the County in which he or they refide; and after the Expiration of the faid Sixty Days, he or they fhall not be permitted to depart this State without Permission firft had and obtained from the Governor and Council; and in Cafe of being fuffered to depart, fhall give Bond and fufficient Security, if fuch fhall be required, not to be aiding to the Enemies of this State during his or their Abfence; and in Cafe of their Departure without fuch Permission had, he or they fhall forfeit all their Goods and Chattels, Lands and Tenements, to the Ufe of the State. *Provided nevertheless,* That all and every Perfon who has already taken the Oath, or made the Affirmation prefcribed, before any Authority competent by Law to receive the fame, upon his producing a Certificate of the fame to the Juftice or Juftices appointed to adminifter the faid Oath or Affirmation in their refpective Diftrict where he refides, fhall be held and deemed a good Subject of

A. D. 1777.

County to be divided into Diftricts, and Oaths to be adminiftered.

Disabilities of Perfons fuffered to remain in the State.

Proviso, for Perfons having taken the Oaths.

A. D. 1777.

Pen. for returning.

Repeal Clause.

As to be published.

the State, and shall enjoy the Privileges thereof, as if he had made such Oath or Affirmation in Manner as by this Law directed.

X. *AND be it further Enacted, by the Authority aforesaid,* That if any Person who has been banished this State for not having taken the Oath of Allegiance, or made the Affirmation agreeable to the aforesaid Act, passed the last Session of Assembly, shall return hither, or who may be banished in Consequence of this Act, then such Persons shall be held and deemed guilty of Treason against the State, and shall and may be dealt with in like Manner as is herein directed in Cases of Treason.

XI. *AND be it further Enacted, by the Authority aforesaid,* That all and every other Act and Acts, and every Clause and Article thereof, heretofore made, within the Purview of this Act, is and are hereby repealed and made void, to all Intents and Purposes.

XII. *AND be it further Enacted, by the Authority aforesaid,* That this Act shall be published in all the Newspapers of this State, as soon as the same shall have obtained the Sanction of both Houses of Assembly.

C H A P. VII.

An Act for making Provision for the Poor, and for other Purposes.

Overseers of the Poor to be elected.

I. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That the Freemen in each and every County in the State shall meet on *Either Monday next after the passing of this Act, at the Court-House, or Place where the County Court is commonly held, and on the same Day, and at the same Place, in every three Years thereafter,* then and there to elect seven Freeholders to serve as Overseers of the Poor; and the Sheriff, or his Deputy, is hereby directed to set up an Advertisement at the Place of Election in each County, appointing a Day for the Meeting of the Overseers to be elected, which Day shall not be less than Ten, and not more than Thirty Days after the Election; and the said Sheriff, or his Deputy, shall also summon each and every Overseer to meet on the Day so appointed at the Court-House, or usual Place of holding Court in each respective County, to be qualified according to the Directions of this Act; and if the Sheriff shall fail to appoint and advertise a Day of Meeting as aforesaid, or shall fail to summon each and every Overseer in his County to attend on such Day, such Sheriff shall forfeit and pay the Sum of Ten Pounds for the Default first mentioned, and the Sum of Five Pounds for every Overseer not summoned as aforesaid, to be levied and applied as herein after directed; and the Sheriff shall be paid by the County the Sum of Two Shillings and Eight Pence, for every Overseer he shall summon.

Sheriff to advertise the Day of Election.

II. *AND be it Enacted, by the Authority aforesaid,* That the Sheriff in each respective County shall advertise at the Court-House, and other public Places, the Day of holding the Election of Overseers of the Poor, at least Ten Days before such Election, under the Penalty of Ten Pounds for Neglect; and the Elections of such Overseers shall be held and conducted in the same Manner, and under the same Regulations, as Elections of Members of the House of Commons.

Overseers to take the Oath.

III. *AND be it further Enacted, by the Authority aforesaid,* That the Overseers of the Poor so elected, shall at the first Meeting next after such Election, take before some Magistrate the Oath by Law appointed to be taken by public Officers, and shall repeat and subscribe the following Oath in a Book to be by them kept for that Purpose, to wit,

I A. B. do swear, that I will honestly and faithfully discharge my Office as Overseer of the Poor to the best of Skill and Ability, according to Law.

And every Overseer so elected and qualified, shall be deemed and taken to be an Overseer of the Poor in the County for which he was elected for Three Years.

Pen. for neglecting to qualify.

IV. *AND be it further Enacted, by the Authority aforesaid,* That every Person elected an Overseer of the Poor according to this Act, who shall refuse or neglect to qualify as aforesaid, shall forfeit and pay Five Pounds, to be recovered by the Wardens before any Magistrate, and applied to the Use of the Poor; and the other Persons chosen and qualified as aforesaid, shall elect one or more Freeholder or Freeholders, instead of him or them so refusing or neglecting; and such Person or Persons so chosen shall, after being qualified in Manner aforesaid, be held to be a legal Overseer of the Poor, to all Intents and Purposes.

Wardens to be elected, & Pen. for refusing to serve.

V. *AND be it further Enacted, by the Authority aforesaid,* That the Overseers in each respective County, or a Majority of them, shall at their first Meeting elect Two of their Members to execute the Office of County Wardens for one Year; and if the Persons so elected shall refuse to execute the Office of County Wardens, he or they shall forfeit and pay the Sum of Twenty Pounds, to be recovered and applied as herein after directed; and in such Case, and also in Case of the Death of any County Warden, or Expiration of the Term of Appointment, or Removal out of the County, the said Overseers may proceed to elect another Warden, in the same Manner as in the first Instance. *Provided,* That no Person shall be obliged to serve as County Warden more than One Year in Three succeeding Years. *Provided also,* That no Member of the Council of State, or Member of the General Assembly, shall be compelled to serve in the Office of County Warden, any Thing herein contained to the contrary notwithstanding.

Persons excepted.

Books to be kept for the Proceedings of the Overseers.

VI. *AND be it further Enacted, by the Authority aforesaid,* That the County Wardens of every County shall purchase, at the Expence of the same, well bound Books, for keeping a Journal and Minute of the Proceedings of the Overseers of the Poor, in which shall be fairly stated Accounts of all such Money as they from Time to Time shall receive in Virtue of their Office, and all Disbursements made by them on Account of the County, and the County Wardens in every County shall, upon the Expiration of their Wardenship, order and direct the Clerk of the Overseers of the Poor in their County to make a fair Copy of such Accounts, and set up the same in the Court-House of the County

on some Day of the Court next after the Expiration of their Wardenship, there to continue for Inspection during the Sitting of the Court; and the County Wardens and Clerks who shall fail or neglect so to do, shall forfeit the Sum of Ten Pounds, to be recovered by Action of Debt or Information, in any Inferior Court of Pleas and Quarter Sessions, by any Person suing for the same.

A. D. 1777.

Meeting of the Overseers to be called.

VII. AND be it further Enacted, by the Authority aforesaid, That the County Wardens, or either of them, or if they shall refuse or neglect, any Three of the Overseers of the Poor in each County, shall have Power to call a Meeting or Court of Overseers when necessary, by Summons under his or their Hand or Hands, directed to the Sheriff or Constables of the County, who are hereby directed to execute the same, under the Penalty of Forty Shillings for every Overseer in such Summons named whom he or they shall fail to summon; and every Overseer so summoned, and refusing or neglecting to attend, shall forfeit and pay the Sum of Forty Shillings, unless such Sheriff, Constables, or Overseer, shall shew sufficient Cause for the Omission to the next succeeding Meeting or Court of Overseers, which Penalties shall be recovered and applied as herein after directed.

VIII. AND be it further Enacted, by the Authority aforesaid, That every Agreement and Order by the Vestry of any Parish heretofore entered into or made, for making Provision for a Minister to serve the Cure of the Parish, for supporting the Poor, or defraying the contingent Charges thereof, shall be, and is hereby declared good and available against the Overseers of the Poor in the County wherein such Parish shall be. *Provided*, That no Minister shall be authorized by any Thing herein contained to claim Salary for Services performed since the Eighteenth Day of December, One Thousand Seven Hundred and Seventy Six.

Former Orders of Vestry confirmed.

IX. AND be it Enacted, by the Authority aforesaid, That when any Overseer of the Poor shall die or remove out of the County for which he was elected, the remaining Overseers of the Poor, or a Majority of them, shall elect another in his Stead; and the Person so elected, being duly qualified, shall have the same Authority as other Overseers of the Poor.

Number of Overseers kept up.

X. AND be it further Enacted, That the Meeting or Court of Overseers in every County in this State shall hereafter be held at the Court House, or usual Place of holding the Court of the County; and that the said Overseers, or a Majority of them, in each County, at their first Meeting respectively, shall appoint some Person of Skill and Probity to officiate as Clerk, but such Person shall not be one of their own Body.

Overseers where to meet, and appoint a Clerk.

XI. AND for Payment of any Arrears now due in any Parish in this State to Ministers or others, for Services heretofore performed; *Be it Enacted*, by the Authority aforesaid, That the said Overseers, or a Majority of them, in each County respectively, shall and may at their first Meeting, or within Thirty Days after, lay a Tax, not exceeding One Shilling for every Hundred Pounds Value of all taxable Property, agreeable to the Act for levying a Tax by general Assessment, within such a Parish, and a Poll Tax, not exceeding One Shilling, on all Persons within such Parish not having Estates of the Value of One Hundred Pounds, for the Purpose of paying the Arrears aforesaid; and if the said Overseers of the Poor in any County shall refuse or neglect to lay a sufficient Tax as aforesaid, for the Purposes above mentioned, such Overseers so neglecting or refusing shall be liable to the Action of the Party or Parties aggrieved, his, her, or their Executors or Administrators, for all Damages which he, she, or they, shall or may sustain thereby.

Arrears to be paid.

XII. AND be it Enacted, by the Authority aforesaid, That the Clerk of each County Court shall furnish the Wardens of his County with a true Copy of all the Inventories of taxable Property returned to the Court whereof he is Clerk within Five Months after the passing of this Act, and the Clerk of each and every County Court to which such such Inventories have not been heretofore returned, shall furnish the Wardens of his County with a true Copy of such Inventories within Ninety Days after the Court to which such Inventories at any Time hereafter shall be returned, under the Penalty of Twenty Pounds for Neglect; and each and every Clerk shall be allowed the Sum of Forty Shillings for that Service, to be paid by the County Wardens out of the Money arising by that Tax.

Clerks to furnish the Wardens with Inventories of taxable Property.

XIII. AND whereas in some late Parishes Taxes have been laid for the contingent Charges of the same, and the Sheriffs or Collectors who have received the said Taxes have not accounted, and in other Parishes the said Taxes have not been collected; *Be it Enacted*, by the Authority aforesaid, That the County Wardens in their respective Counties shall have the same Power and Authorities, and may proceed in the same Manner against such Sheriffs or Collectors, as the Churchwardens might heretofore have had or done; and the Overseers of the Poor, or a Majority of them, in their respective Counties, shall and may appoint a Collector or Collectors to collect and receive such Taxes as remain due and uncollected, taking Bond for faithful Compliance; and such Collectors shall have the same Powers, Authorities, and Emoluments, as other Tax Gatherers in this State; and the Money arising from such Collections shall be paid by the said Sheriffs or Collectors to the County Wardens, and applied to the Discharge of Arrears due from the Parishes wherein the same was collected.

Wardens to call Sheriffs, &c. to Account.

XIV. AND for making Provision for the Poor in future, and for Payment of Expences incident thereto; *Be it Enacted*, by the Authority aforesaid, That the Overseers of the Poor, in their respective Counties, shall have full Power and Authority, and are hereby directed and required, at their first Meeting after being duly elected, or within Thirty Days after such Meeting, to lay a Tax, not exceeding Six Pence for every Hundred Pounds Value of all taxable Property, agreeable to the Act for levying a Tax by general Assessment, and a Poll Tax, not exceeding Six Pence on all Persons not having Estates of the Value of One Hundred Pounds, within their Counties respectively, for the Purposes aforesaid; and therefore shall and may annually, at their first Meeting after the County Courts of their respective Counties to which the Inventories of taxable Property in this State shall be returnable, lay a Tax, not exceeding Six Pence for every Hundred Pounds Value of all taxable Property within their Counties respectively, and a Poll Tax, not exceeding Six Pence on all Persons not having Estates of the Value of One Hundred Pounds, for the like Purposes; and if the Overseers of the Poor in any County shall neglect or refuse to lay a sufficient Tax for the Purposes above mentioned, such Overseers shall

Tax laid for the Poor.

A. D. 1777.

Collectors appointed.

Method of Recovery against them.

Time when to be accounted for.

Overseers Powers.

Penalties how recovered.

Sheriffs to advertise the Day of Election.

If prevented by bad Weather, another Time appointed.

Legal Settlement.

Proceedings where poor Persons come into any County.

shall in such Case be liable to the Action of the Party or Parties aggrieved, his, her, or their Executors or Administrators, for all Damages which he, she, or they shall sustain thereby.

XV. AND for the collecting of all Taxes intended to be laid by Way of Assessment on Property under this Act, *Be it further Enacted, by the Authority aforesaid,* That the Overseers of the Poor in each County shall and may appoint Collectors to receive the same, and may take Bonds, with sufficient Securities, of such Collectors, to the Wardens of the County, for duly collecting such Taxes, and paying the same to the Overseers of the Poor for the Purposes intended; and upon the Death, Refusal to act, or Removal out of the County of such Collectors, or any of them, may appoint another or other Collectors, in like Manner as at first; and Collectors so appointed shall have the same Powers, Authorities, and Emoluments, as the Collectors of the Public Tax.

XVI. AND *be it Enacted, by the Authority aforesaid,* That if any Collector of Taxes imposed by Virtue of this Act, shall neglect or refuse to account for and pay the the same, or so much thereof as he shall be chargeable with, after deducting his Commissions, it shall and may be lawful for the Inferior Court of the County wherein such Collector shall live, either before or at any Time after the Expiration of his said Office, on Motion of the County Wardens, to give Judgment against such Collector for all the Money wherewith he shall or may be chargeable to his County, with Coits, and thereupon to award Execution against the Goods and Chattels, Lands and Tenements, of such Collector. *Provided,* That he have Ten Days previous Notice of such Motion.

XVII. AND *be it further Enacted, by the Authority aforesaid,* That the Parish Taxes herein before mentioned, and the Tax directed to be laid for the payment of Arrears due in any Parish to Ministers or others, for Services heretofore performed, shall be collected and accounted for by the Sheriffs or Collectors on or before the First Day of next September; and that the Tax directed to be laid at the first Meeting of the Overseers of the Poor in each County, or within Ten Days after, for making Provision for the Poor in future, and for Payment of Expences incident thereto, shall be collected and accounted for on or before the First Day of March, One Thousand Seven Hundred and Seventy Eight, and to annually on or before the same Day.

XVIII. AND *be it further Enacted,* That the Overseers of the Poor, or a Majority of them, in their respective Counties, shall have the same Powers and Authorities as Vestries heretofore had in their Parishes in every respect, the Power of inducting Ministers, and of laying or applying any future Tax for religious purposes, only excepted.

XIX. AND *be it further Enacted, by the Authority aforesaid,* That the several Forfeitures and Penalties by this Act inflicted, for which no Method of Recovery or Application is herein before directed, shall and may be recovered with Coits, before any Jurisdiction having Cognizance thereof; one Half to the Use of the Informer, the other Half to the County Warden, for the Use of the Poor of the County wherein such Penalties shall be incurred.

XX. AND *be it Enacted, by the Authority aforesaid,* That the Sheriff in each County shall advertise the Election of Overseers of the Poor at least Ten Days before such Election, at the Court-House, and other public Places; and every Sheriff failing to do, shall forfeit and pay Twenty Pounds; to be recovered with Coits, in any Court having Cognizance thereof, by Action of Debt, one Half to the County Wardens, for the Use of the Poor of the County, the other Half to the Person or Persons who shall sue for the same.

XXI. AND *be it Enacted, by the Authority aforesaid,* That if it shall happen, from Badness of Weather, or any other unavoidable Hindrance, that an Election of Overseers of the Poor in any County shall not be held on the Day by this Act appointed for that Purpose, that in such Case the Sheriff shall appoint a Time, not less than Ten, nor exceeding Twenty Days thereafter, for electing Overseers of the Poor in such County, and shall summon the Inhabitants having a Right to vote for Members of the House of Commons to attend, and elect in Manner herein before directed; and every such Election shall be as good and valid, as if the same had been made on the Day by this Act directed.

XXII. AND for determining all Disputes concerning what shall be accounted a legal Settlement, whereby any Person may be intitled to be provided for at the Parish Charge; *It is hereby Enacted and Declared,* That no Person shall be accounted an Inhabitant, so as to have gained a legal Settlement in any Parish, unless such Person shall have been actually resident in such County one whole Year.

XXIII. AND *be it further Enacted, by the Authority aforesaid,* That upon Complaint made by the County Wardens of any County, before a Justice of the Peace, that any poor Person or Persons are come into their County, and likely to become chargeable thereto, it shall be lawful for such Justice, by Warrant under his Hand, to cause such poor Persons to be removed to the County where he or she was legally last settled; but if such poor Person be sick or disabled, and cannot be removed without Danger of Life, the County Wardens shall provide for his or her Maintenance and Cure at the Charge of the Parish, and after Recovery, shall cause him or her to be so removed; and the County wherein he or she was last legally settled shall repay all Charges occasioned by the Sickness, Maintenance, and Cure, of such poor Person, and also all Charges and Expences, if such Person shall die before Removal; and if the County Wardens of the County to which such poor Person belongs, shall refuse to receive and provide for the Person or Persons removed by Warrant as aforesaid, every County Warden so refusing shall forfeit and pay Twenty Pounds, one Half to the Use of the County from whence the Removal was, and the other Half to the Informer; to be recovered by Action of Debt or Information, in the County Court where the Information was made, with Coits of Suit; and if the Wardens of the County where such poor Person was legally settled shall refuse to pay and satisfy all the Charges and Expences aforesaid, in such Case the Wardens of the County refusing shall be liable for the same, to be recovered with Coits, in the County Court as aforesaid; and if any Housekeeper shall entertain such poor Person, and shall not give Notice thereof to the County Wardens of the County, or one of them, within One Month, he or she so offending shall forfeit and pay the Sum of Five Pounds; to be recovered with Coits, by the County Wardens, for the Use of the County, by Action of Debt or Information, in any County Court.

C H A P.

An Act for appointing Sheriffs, and directing their Duty in Office, and for obliging the late Sheriffs and Collectors of Public Monies who are in Arrear, to account for and pay the same, and other Purposes.

BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That every County Court shall annually, at the first Court after the first Day of May, elect and nominate a Freeholder of sufficient Circumstance to execute the Office of Sheriff, who shall thereupon be commissioned by the Governor or Commander in Chief to execute that Office for one Year; and if any Sheriff so nominated shall happen to die in the Time of his Sheriffalty, the Court shall at the next Term elect and nominate another as aforesaid.

II. AND be it Enacted, by the Authority aforesaid, That no Sheriff shall be compellable to serve more than one Year, and until the next succeeding Term of his County Court, after Expiration thereof; and every Person accepting the Office of Sheriff shall, before his executing the same, in his County Court take the Oath appointed for the Qualification of Public Officers, and also the following Oath, *in writ,*

IA. B. do solemnly swear, that I will execute the Office of Sheriff of _____ County to the best of my Knowledge and Ability, agreeable to Law; and that I will not take, accept or receive, directly or indirectly, any Fee, Gift, Bribe, Gratuity, or Reward whatsoever, for returning any Man to serve as a Juror, or for making any false Return in any Process to me directed. And I also swear, that I have not given any Fee, Gift, Gratuity, or Reward, or other Thing whatsoever, to any Person or Persons, for his or their Vote or Interest to procure me to be nominated to the said Office; nor will I hereafter give to any Person or Persons such Fee, Gift, Gratuity, or Reward, for having procured, or contributed to procure me to be nominated thereto.

And such Sheriff shall also enter into Bond, before the Justices of his County Court, with Two or more good and sufficient Securities, in the Penalty of Five Thousand Pounds, payable to the Governor and his Successors, with Condition in Form following, that is to say,

THE Condition of the above Obligation is such, that whereas the above bounden _____ is constituted and appointed Sheriff of _____ County, by a Commission from the Governor, under the Seal of the State, dated the _____ Day of _____ last past; if therefore the said _____ shall well and truly execute and due Return make of Process and Precepts to him directed, and pay and satisfy all Fees and Sums of Money by him received or levied by Virtue of any Process into the proper Office, by which the same by the Tenor thereof ought to be paid, or to the Person or Persons to whom the same shall be due, his, her, or their Executors, Administrators, Attornies or Agents, and in all other Things well, truly and faithfully, execute the said Office of Sheriff, during his Continuance therein, then the above Obligation to be void, otherwise to remain in full Force and Effect.

Which said Bond every County Court is hereby required and empowered to demand and take, and cause to be acknowledged before them in open Court, and recorded; and upon a Breach of the Condition of such Bond, the same shall be assigned by the Governor to the Party or Parties injured, who may maintain an Action thereon, in his or their Name; and no such Bond shall become void upon the first Recovery, or if Judgment shall be given for the Defendant, but may be put in Suit and prosecuted from Time to Time, until the whole Penalty shall be recovered.

III. AND be it further Enacted, by the Authority aforesaid, That every Sheriff who shall be in Office on the First Day of January next, shall at the first Court to be held for his County thereafter, enter into Bond with Security, as is directed for Persons accepting the Office of Sheriff; and if any Person who shall hereafter be appointed Sheriff by Virtue of this Act, shall refuse to accept and execute the Office of Sheriff, he shall forfeit and pay the Sum of Fifty Pounds lawful Money of this State, to the Use of the Public; to be recovered in the Name of the Governor, by Action of Debt, in any Court having Cognizance thereof. *Provided always,* That if any Person who shall hereafter be nominated or appointed to execute the Office of Sheriff of any County in this State, shall be willing to execute the same, but cannot give Security as by this Act is required, and shall make Oath in the County Court that he hath used his best Endeavours, without Fraud or Collusion, to get such Securities, that then such Person shall not incur the Penalty aforesaid, any Thing herein contained to the contrary notwithstanding.

IV. PROVIDED further, and be it Enacted, by the Authority aforesaid, That no Member of the General Assembly, or Council of State, shall be nominated or commissioned, nor shall any practising Attorney be obliged to act as Sheriff of any County within this State.

V. AND be it further Enacted, by the Authority aforesaid, That every Sheriff, by himself or his lawful Officers or Deputies, shall from Time to Time execute all Writs and other Process to him legally issued and directed within his County, or upon any Bay, River or Creek, adjoining thereto, and make due Return thereof, under the Penalty of forfeiting Fifty Pounds lawful Money of this State for each Neglect, where such Process shall be delivered to him Twenty Days before the Sitting of the Court to which the same is returnable, to be paid to the Party grieved by Order of such Court, upon Motion and Proof of such Delivery, unless such Sheriff can shew sufficient Cause to the Court at the next succeeding Court after such Order; and for every false Return the Sheriff shall forfeit and pay Fifty Pounds, one Moiety thereof to the Party grieved, and the other Moiety to him or them that will sue for the same; to be recovered with Costs, by Action of Debt, Bill or Blaint, in any Court of Record, and moreover be further liable to the Action of the Party grieved for Damages; and no Sheriff shall return upon any Writ that the Defendant is not to be found within his Bailiwick, unless such Sheriff shall have actually been at the House or Place of Abode of such Defendant; and where any De-

Manner of appointing Sheriffs.

Sheriff not compelled to serve more than 1 Year.

His Oath.

To give Bond.

The Condition.

Court to take Bond, which on Breach of the Condition, may be sued.

Sheriff is Obedient on the 1st of January, to give Bond.

Proviso, where they cannot get Security.

Persons exempt from serving as Sheriff.

Pen. on Sheriff neglecting to execute Process, or making false Return.

A. D. 1777.

pendant shall be a known Inhabitant of any other County than that of the Sheriff to whom such Procefs shall be directed; the Sheriff shall return the Truth of the Case, and thereupon an Alias shall issue directed to the Sheriff where such Defendant resides, if the original Procefs shall issue from a Superior Court, and Variance of the Addition of the Place of Abode of the Defendant shall not be deemed Error, or Matter of Abatement: And in case at any Time there shall be no Person properly qualified to act as Sheriff in any County in this State, that then it shall and may be lawful for the Coroner of such County, and he is hereby required to execute all Procefs within the same; until some Person shall be appointed, and properly qualified, to act as Sheriff in said County; and such Coroner shall be under the same Rules and Regulations, and subject to the same Fines and Forfeitures, as Sheriffs are by Law, in Relation to the executing and returning of any Procefs to them directed.

Coroner to act where no Sheriff.

Proviso, to exempt Persons from Procefs.

VI. PROVIDED always, That it shall not be lawful for any Sheriff, or other Officer, to execute any Writ or other Procefs upon a Sunday, or upon any Person attending his Duty at a Muster of the Militia, or any Election of Burgesses or Burgesses, or Overseers of the Poor, or County Wardens, or any Person summoned to attend as an Evidence or a Juror; and all such Services of Procefs is hereby declared illegal and void, unless the same be issued against any Person or Persons for Treason, Felony, Riot, Rescous, Breach of the Peace, or upon an Escape out of Prison or Custody, and such Procefs shall and may be executed at any Time or Place.

Sheriff's Duty on serving Executions.

VII. AND be it further Enacted, by the Authority aforesaid, That from and after the first Court which shall happen after the First Day of January next, each and every Sheriff within this State shall, on levying any Execution for any Debt, Damages or Costs, make out, if required, a Bill of his Fees due on such Action or Suit, and set down under the said Bill a true Copy of the Clerk's, Attorney's, and other endorsed Fees, separately and distinctly, and give a Receipt for the same to the Party against whom such Execution shall issue, and also shall endorse the Amount of his own Fees he shall so take on such Execution, to be entered by the Clerk on the Execution Docket, for which Copy the said Sheriff may demand and receive One Shilling of the Person requesting the same; and if any Sheriff, or other Officer, impowered to levy any Execution, shall fail so to do, such Sheriff or other Officer shall forfeit and pay Fifty Pounds to any Person who will sue for the same.

To take Bail Bonds payable to themselves, dischargeable on Prisoner's Appearance.

VIII. AND be it Enacted, by the Authority aforesaid, That it shall not be lawful for any Sheriff, or his Officer or Deputy, to take any Obligation of or from any Person or Persons in his Custody, for or concerning any Matter or Thing relating to his Office, otherwise payable than to himself as Sheriff, and dischargeable upon the Prisoner's Appearance, and rendering himself at the Day and Place required in the Writ, whereupon he was or shall be taken or arrested, and his Securities discharging themselves therefrom as special Bail of such Prisoner, or such Person or Persons keeping within the Limits and Rules of any Prison; and every other Obligation taken by any Sheriff in other Manner or Form by Colour of his Office, shall be null and void, except in any special Case any other Obligation is or shall be by Law particularly and expressly directed: And that no Sheriff shall demand, exact, take or receive, any greater Fee or Reward whatsoever, nor shall have any Allowance, Reward or Satisfaction, from the Public, for any Service by him done, other than such Sum as the County Court shall allow for *ex Officio* Services, and the Allowances given and provided, or which shall be from Time to Time given and provided by Law.

Proceedings in Cases of Prisoners escaping

IX. AND be it further Enacted, by the Authority aforesaid, That if any Person committed, rendered, or charged in Execution, or upon mesne Procefs, to any Prison shall thence escape, it shall and may be lawful to and for any Justice of the Peace of the County where such Prisoner was in Custody, upon Oath of such Escape made before him by the Sheriff, Under-sheriff, or Goaler, or other credible Person, to grant to any Person demanding the same, one or more Warrant or Warrants, under his Hand and Seal, directed to all Sheriffs, Bailiffs, and Conitables within this State, reciting the Cause of such Person's Commitment, and the Time of his or their Escape, and commanding them, and every of them in their respective Counties and Precincts, to seize and re-take such Prisoner so escaped or going at large, and being so taken, forthwith to convey to the Prison where Debtors are usually kept in the County where such re-taking shall be, there to be kept in safe Custody until he or she be thence discharged by due Course of Law; which Warrant the Sheriff is required to obey, and receive the Prisoner into his safe Custody, and to give a Note to the Person or Persons delivering him, her, or them, certifying his Receipt of such Prisoner, and shall also make Return of the Execution of such Warrant to the Court of the County where such Prisoner escaped, and if he or she was there in Custody charged in Execution, then the said Sheriff shall safely keep him or her without Bail or Mainprize, until he or she shall have made full Payment and Satisfaction to the Plaintiff or Plaintiffs, Creditor or Creditors, in whose Name such Execution was issued out, or until the Judgment or Judgments obtained against him or her shall be reversed or discharged by due Course of Law: And if any such Prisoner shall have been in Custody upon mesne Procefs in any Action of Debt, or upon the Case, the Sheriff to whom he or she shall be so committed shall, in like Manner, keep such Prisoner in his safe Custody, and make Return of the Execution of the Warrant by which he or she was re-taken to the Court of the County wherein he or she was first arrested; and thereupon it shall be lawful for the said Court, upon the Plaintiff's filing his Declaration and entering the Defendant's Appearance, to proceed to give Judgment thereon, in the same Manner as if the Defendant had appeared in Court and refused to plead, unless such Defendant shall cause special Bail to be entered in said Court, and shall immediately plead to Issue; and thereupon a Certificate under the Hand of the Clerk of the said Court, that such Bail is given and delivered to the Sheriff in whose Custody such Defendant shall then be, it shall be lawful for him to set at large such Prisoner, and not otherwise; but where any Prisoner escaped, and re-taken upon such Warrant as aforesaid, shall thereafter be charged with Treason, Felony, or other capital Crime, in Behalf of this State, for which he or she ought to be tried in one of the Superior Courts, and shall be for such Cause removed to any Gaol of such Court, every such Prisoner shall be charged in such Gaol with all the Causes wherewith he or she

stood

flood charged in the Gaol from whence he or she escaped, or was removed, until he or she be thence delivered by due Course of Law; any Law, Usage, or Custom, to the contrary notwithstanding.

X. *AND be it further Enacted, by the Authority aforesaid,* That if any Sheriff or other Officer hath made, or shall make any Return upon any Writ of *Fieri Facias* or *Venditioni Exponas*, that he hath levied the Debt, Damages and Coits, or Fees, as in such Writ required, or any Part thereof, and hath not or shall not pay the same into the proper Office, or to the Party to whom the same is payable, or his Attorney, at the Return of such Writ, or hath or shall return upon any Writ of *Capias ad Satisfaciendum*, or Attachment, for not performing a Decree in Chancery for the Payment of any Sum of Money or other Matter, that he hath taken the Body or Bodies of any Defendant or Defendants, and hath the same ready to satisfy the Money or other Matter in such Writ mentioned, and shall have actually received the Money or other Matter from the Defendant or Defendants, or any Part thereof, or suffered him, her or them, to escape with Consent of such Sheriff or Officer, and hath not or shall not pay the same into the proper Office, or to the Party to whom the same is payable, or his Attorney, that then, and in either of the said Cases, it shall and may be lawful for the Creditor, at whose Suit of *Fieri Facias*, *Venditioni Exponas*, *Capias ad Satisfaciendum*, or Attachment, hath or shall issue, upon Motion made in the Court from whence such Writ issued, or in the Superior Court of the District wherein such Sheriff shall reside, to demand Judgment against such Sheriff or other Officer, for the Money or other Matter mentioned in such Writ, and such Court is hereby authorized and required to give judgment accordingly for the same, with Coits, and to award Execution against the Goods and Chattels, Lands and Tenements, of such Sheriff, provided such Sheriff have Ten Days previous Notice of such Motion; and where it shall so happen that the Time of any Persons Sheriffalty shall be expired, or he shall be removed from his Office, before such Motion made by the Creditor or Creditors, the same Remedy, Proceedings, and Relief, shall and may be had against him, as if such Person was actually in Office; any Thing herein contained to the contrary notwithstanding.

XI. *AND be it further Enacted, by the Authority aforesaid,* That where any Sheriff shall take the Body of any Debtor in Execution, and shall wilfully or negligently suffer such Debtor to escape, and such Sheriff, or Person suing out such Execution, shall die before a Recovery can be had against such Sheriff for such Escape, the Person suing out such Execution, his Executors or Administrators, shall and may have and maintain an Action of Debt against such Sheriff, his Executors or Administrators, for the Recovery of all such Sums of Money as are mentioned in the said Execution, and Damages for detaining the same; any Law, Usage or Custom, to the contrary notwithstanding.

XII. *AND for removing all Controversies touching the Manner of turning over Prisoners, upon the Sheriff's quitting his Office; Be it further Enacted, by the Authority aforesaid,* That the Delivery of Prisoners by Indenture between the old Sheriff and the new, or the entering upon Record in Court the Names of the several Prisoners, and the Causes of their Commitment, delivered over to the new Sheriff, shall be sufficient to discharge the late Sheriff from all Suits and Actions for any Escape that shall happen.

XIII. *AND be it Enacted, by the Authority aforesaid,* That the Justices of the respective Counties in this State shall nominate and appoint Registers in the same Manner as is herein before directed for the Choice of Sheriffs, and the Registers so appointed shall hold their respective Offices during their good Behaviour; but each Register, before entering upon the Execution of his Office, shall take the Oath appointed for the Qualification of Public Officers, and an Oath of Office; and shall give Bond, in the Penalty of Five Thousand Pounds, payable to the Governor for the Time being, and his Successors, for the true and faithful Discharge of his Office; which Bond, upon a Breach thereof, shall be assigned to the Party or Parties injured, and may be put in Suit from Time to Time until the whole Penalty shall be recovered.

XIV. *AND be it further Enacted, by Authority aforesaid,* That every County Court in this State shall, and they are hereby impowered, to appoint two or more Coroners within their County, if they shall be of Opinion that more than one will be necessary.

XV. *AND be it further Enacted and Declared, by the Authority aforesaid,* That the Governor for the Time being shall, from Time to Time, as any Vacancy may happen, appoint one or more Persons, properly qualified, to act as Notary or Notaries at the different Ports in this State; and the said Notaries, and every of them, shall take the Oath appointed to be taken for the Qualification of Public Officers, and also an Oath of Office, which Oath may be taken in and administered by the Court of the County in which such Notary shall reside. *Provided always,* That there shall not be more than one Notary appointed to reside in any one Place at the same Time.

XVI. *AND whereas divers Persons, who have formerly been Sheriffs and Collectors of Public Monies within this Territory, are still in Arrear to the Public, and it being necessary that a final Settlement of all such Matters should be made, and that all Public Monies should be paid into the Treasury; Be it therefore Enacted, by the Authority aforesaid,* That the Treasurers of this State be, and are hereby authorized and required, to call all such Sheriffs and Collectors to Account, and to institute Suits against them for the Monies by them respectively due and unaccounted for, and that the Proceedings thereon shall be agreeable to the Laws last in Force in this Territory, for the Recovery of Taxes and other Public Monies; and the Treasurers shall be obliged to account therefor in the same Manner, as if such Laws had still continued and been in full Force.

XVII. *AND be it also Enacted, by the Authority aforesaid,* That every late Sheriff and Collector of Public Monies, his lawful Representatives or Securities, shall and may finish the Collection of any Taxes or Duties yet in Arrear and unpaid, in the same Manner as might have been done under the Laws last in Force for such Purposes.

XVIII. *AND be it further Enacted, by the Authority aforesaid,* That the late Receiver General, and all Deputy Receivers, shall account for and pay into the Hands of the Public Treasurers, or either of them, all such Monies as they may have received by Virtue of their respective Offices, and which on the Fourth Day of July, One Thousand Seven Hundred and Seventy Six, remained in their Hands unaccounted

A. D. 1777.

Remedy against Sheriff, &c. failing to pay Monies by them received in Virtue of any Precept to them directed, or suffering Escapes.

Method of Recovery in Cases of Escape, where the Plaintiff or Sheriff dies.

Method of turning over Prisoners.

Registers appointed.

Coroners appointed.

Governor to appoint Notaries.

Sheriffs, &c. to account for Public Monies

Late Sheriffs to finish the Collection.

Receiver General to account.

A. D. 1777.

unaccounted for; and if any of them shall fail so to do above Six Months after the Ratification of this Act, the Attorney General is hereby authorized to commence a Prosecution against such Delinquent; and to the End that the Deputy Receivers who may have Monies in their Hands may be known, the Justices of the respective County Courts, within Three Months after the passing of this Act, shall transmit to the Public Treasurers respectively, the Names of such Persons as have been Deputy Receivers in their respective Counties, certified by the Clerk, for Twenty Years last past; and every such Deputy as shall not produce a full Discharge from the Receiver General, and make Oath that he hath fully accounted for and paid all the Monies by him received, shall be prosecuted, and notwithstanding a Verdict may be in his Favour, shall pay Costs.

Clerks of the late Superior Courts to account for Monies in their Hands.

XIX. AND whereas there are considerable Sums of Money in the Hands of the Clerks of the late Superior and Inferior Courts, for Governors Fees by them received on Marriage Licences, Letters Testamentary and of Administration, and Guardianhip, and other Fees and Monies by them received for the late Governor, or for the Use of the State; and as all such Monies should be accounted for, and paid to the Use of the Public, *Be it Enacted, by the Authority aforesaid,* That the said late Clerks shall, on or before the First Day of June next, render an Account, on Oath, to the Justices of the respective Counties whereof they were lately Clerks, and to the Justices of the Superior Courts, of all the Fees and Monies by them respectively received for the Use of the late Governor, and of this State, not yet accounted for, and pay the same into the Hands of the present Clerks, in open Court, and the Justices shall cause a Copy of every such Account to be recorded in the Minutes of the Court; and the Clerks of the County Courts hereby established shall be accountable for all such Monies by them received, in the same Manner as for the Monies paid into their respective Offices.

Court Dockets to be inspected for the Fines due.

XX. *AND be it Enacted, by the Authority aforesaid,* That the Justices of the respective Superior and County Courts shall cause the Dockets, Minutes and Records, of the late Superior and Inferior Courts to be inspected and examined, and an Account of all Fines, Forfeitures, Amerciaments, and Recoveries on penal Statutes, where any such Recovery, or Part thereof, was for any Public, County, or Parish Use, to be taken, and to whom the same had been paid, and direct that the same be paid agreeable to Law, and on Failure thereof to be sued for.

C H A P. IX.

An Act to prevent Abuses in taking up stray Horses, Cattle, Hogs and Sheep, and other Things therein mentioned.

Preamble.

Rangers appointed, and Proceedings with Strays.

I. **W**HEREAS it becomes difficult to recover stray Horses, Cattle, Sheep and Hogs, for want of some legal Provision to effect the same;

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That the respective Courts in each County within this State shall appoint a Ranger for their respective Counties, who shall hold his Office during good Behaviour; and that every Freeholder who shall take up any stray Horse, Mare, Gelding or Colt, neat Cattle, Hog or Sheep, shall within Ten Days after the taking up of such Stray (the Owner of such Stray or Strays being to him unknown) make Information on Oath before the Ranger of the County wherein such Stray or Strays shall be so taken up, of the Marks, Brands, and Colour, of each and every such Stray or Strays, and that the same was taken up at his or her Plantation or Place of Abode, and that the Marks or Brands have not been altered or defaced, by Means of, or to the Knowledge of such Taker up; whereupon such Ranger is hereby required to issue his Summons to any Two Freeholders of the Neighbourhood, who after taking the following Oath, *to wit,*

YOU shall swear that you will well and truly view and appraise the Stray or Strays (as the Case may be) in the Summons to you directed without Favour or Partiality, according to your Skill and Ability.

SO HELP YOU GOD.

before the Ranger (who is hereby authorized to administer the same) or some Justice of the Peace for the County where such Stray or Strays shall be so taken up, shall view and appraise such Stray or Strays, and make Return thereof to the said Ranger, under their Hands and Seals; which Appraisement, with a particular and exact Description of the Marks, Brands, Age and Colour, as near as can be ascertained, of each and every such Stray or Strays, together with the Time of taking up, and Place of Abode of the Person taking up the same, shall by such Ranger be entered in a Book to be by him kept for that Purpose, and shall during the Sitting of the next succeeding Court in the County where such Entry shall be made, put up an Advertisement in the most public Place, describing therein the Kind, Marks, Brands, and Colour of all Strays entered as aforesaid; and the Ranger shall have and receive from the Person taking up such Stray or Strays, the Sum of Five shillings for every such Entry to be by him made; and the Person taking up such Stray or Strays, for his Trouble and Expence in taking up the same, and paying as aforesaid, may demand and receive of the Person claiming the Property of the said Stray or Strays, the Sum of Five shillings for each Horse, Two Shillings and six Pence for each Head of Cattle, and One Shilling per Head for every Hog or Sheep.

Property of Strays in the Taker up.

Proviso, for the Owner to recover.

III. *AND be it further Enacted, by the Authority aforesaid,* That the Property of every stray Horse, Mare, Gelding or Colt, neat Cattle, Hog or Sheep, Twelve Months after such Appraisement, and no Property proved by the Owner thereof, shall be deemed to be vested in the Person taking up the same.

IV. *PROVIDED nevertheless,* That it shall and may be lawful for the former Owner of any such Stray or Strays, at any Time within Twelve Months after such Appraisement as aforesaid, on proving his Property to the same, by his own Oath or otherwise, to demand and recover such stray or strays,

of the Valuation thereof, the Claimant first paying the Ranger's Fee, and the Reward for taking up the same.

V. *PROVIDED also*, That where the Taker up of any Stray shall have been at any Expence for keeping and maintaining such Stray, it shall be lawful for him to retain the same until the Owner or Claimer thereof shall pay all such Expence; which Expence shall be ascertained in the following Manner, *to wit*, The Taker up shall obtain from some Justice of the Peace a Warrant, empowering Three Freeholders, by the said Justice to be named, to declare on Oath, upon View of the said Stray, and Examination of Witnesses if necessary, how much the said Taker up ought to demand for the Keeping and Maintenance of the Stray; and such Sum as shall by the said Freeholders, or any Two of them, be so declared, shall be the Sum which the Taker up is and shall be intitled to demand and receive, before the Owner or Claimer can take the Stray out of his Possession.

VI. *AND be it further Enacted, by the Authority aforesaid*, That after the Expiration of Twelve Months, each and every Person so taking up any Stray or Strays, and no Property proved by the Owner thereof, shall account for and pay into the Hands of the County Treasurer, Two Thirds of the appraised Value of all such Stray or Strays, after deducting the Ranger's Fee, and the Reward for taking up the same; and in case any Person so taking up any Stray or Strays, according to the Intent and Meaning of this Act, shall neglect or refuse to account with the said Treasurer, as in this Act before directed, he or she so failing shall forfeit and pay double the appraised Value of all such Stray or Strays by him or her so taken up, to be recovered by Action of Debt, before any Jurisdiction having Cognizance thereof, one Half to the Person suing for the same, and the other Half to the Use of the County wherein such Stray or Strays may be taken up; which said Treasurer is hereby authorized and required to receive and account for the same in the same Manner, and under the same Regulations and Restrictions, as other County Monies; which said Money shall be applied to the Use of the County, where such Stray or Strays shall be so taken up.

VII. *PROVIDED nevertheless*, That it shall and may be lawful for the former Owner thereof, at any Time, on proving his Property by the Oath of one or more indifferent Witnesses, to demand and receive from the County Treasurer Two Thirds of the appraised Value of all such Stray or Strays so accounted for as aforesaid, deducting therefrom the Ranger's Fee, the Reward for taking up, and the Treasurer's Commissions of Two and a Half per Cent. for receiving and accounting for the same.

VIII. *PROVIDED also*, That if after the Appraisalment of any stray Horse, Mare, Gelding or Colt, and Entry thereof made with the Ranger as aforesaid, such Stray should happen to die within the Space of Six Months after such Appraisalment, the Person taking up such Stray or Strays shall not be answerable for the same, unless such Death appears to have been occasioned by ill Usage or Abuse.

IX. *AND be it further Enacted, by the Authority aforesaid*, That if any Person, not being a Freeholder, shall presume to take up any stray Horse, Mare, Gelding or Colt, neat Cattle, Hog or Sheep, or if any Freeholder shall take any such Stray or Strays at any other Place than on his own Land, or shall make Use of any such Stray or Strays before the same shall be appraised as aforesaid, he or she so offending shall for every such Offence forfeit and pay the Sum of Five Pounds, to the Use of the Informer; to be recovered with Costs, before any Jurisdiction having Cognizance thereof, and be further liable to the Action of the Party grieved. *Provided nevertheless*, That nothing herein contained shall extend to prevent any Person from taking up any Stray or strays of any Kind, and carrying the same immediately to the Owner thereof.

X. *AND be it further Enacted, by Authority aforesaid*, That for the more speedy Recovery of Strays, it shall and may be lawful for any Person, at all Times hereafter, to look over and search the Entry Books by this Act directed to be kept by the Ranger in each County in this State, for any Information he may want as to any Horse, Mare, Gelding or Colt, neat Cattle, Hog or Sheep, which heretofore has, or hereafter may stray away from the Owner thereof, the Person requesting such Search first paying One Shilling therefor to the Ranger keeping such Book.

C H A P. X.

An Act for ascertaining the Oath of Allegiance and Abjuration.

I. **W**HEREAS it is necessary, to prevent Persons disaffected to the present Government from enjoying Seats in the Legislature, or holding Offices under the State, that the Oath of Allegiance and Abjuration should be ascertained by a permanent Law;

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same*, That every Person who shall hereafter be elected as a Member of the General Assembly, or who shall be appointed to hold any Office of Trust or Profit in this State, shall, before taking his Seat in the General Assembly, or executing the Office to which he shall be appointed as aforesaid, repeat and subscribe the following Oath, that is to

A. B. do solemnly and sincerely promise and swear, that I will be faithful and bear true Allegiance to the State of North Carolina, and to the Powers and Authorities

N

A. D. 1777.

Stray retained, till Expence of keeping paid.

If no Property proved in 12 Months, two Thirds of the Value to be paid the County Treasurer.

Owner may receive two Thirds of the Value.

Taker up not answerable for the Death of Strays. Who may take up Strays.

Rangers Book may be searched.

Preamble.

Public Officers to take the Oath of Allegiance.

Oath.

A. D. 1777.

ties which are or may be established for the Government thereof, not inconsistent with the Constitution. And I do solemnly and sincerely declare, that I do believe in my Conscience that neither the King of Great Britain, nor the Parliament thereof, jointly with the said King or separately, or any foreign Prince, Person, State, or Potentate, have, or ought to have any Right or Title to the Dominion or Sovereignty of this State, or to any Part of the Government thereof. And I do renounce, refuse, and abjure any Allegiance or Obedience to them, or any of them, or to any Person or Persons put in Authority by or under them, or any of them. And I will do my utmost Endeavours to disclose and make known to the legislative or executive Powers of the said State, all Treasons and traitorous Conspiracies and Attempts whatsoever, which I shall know to be made or intended against the said State. And I do faithfully promise, that I will endeavour to support, maintain and defend, the Independence of the said State, against him the said King, and all other Persons whatsoever. And all these Things I do plainly and sincerely acknowledge and swear, according to these express Words by me spoken, and according to the plain and common Sense and Understanding of the same Words, without any Equivocation, mental Evasion, or secret Reservation whatsoever. And I do make this Acknowledgment, Abjuration, Renunciation, and Promise, heartily, willingly, and truly.

SO HELP ME GOD.

C H A P. XI.

An Act for appointing Naval Officers in the different Ports of this State, and directing their Duty in Office.

Preamble.

I. **W**HEREAS the Laws for the Regulation of Trade cannot be observed, unless there are Officers appointed for that Purpose, and their Duty ascertained;

Naval Officers appointed.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That Naval Officers for the Ports of Currituck, Roanoke, Bath, Beaufort, and Brunswick, shall be chosen by the General Assembly by joint Ballot of both Houses, and shall be commissioned by the Governor for the Time being, and shall each give Bond, payable to the Governor and his Successors, in the Sum of One Thousand Pounds, for the faithful Discharge of his Duty in Office; which Bond shall be lodged in the Secretary's Office, and upon a Breach thereof shall be assigned by the Governor for the Time being to the Party injured, who shall and may maintain a Suit thereon in his own Name, and shall not become void upon the first Recovery, or if Judgment be given for the Defendant, but may be put in Suit from Time to Time, by Action of Debt, until the whole Penalty shall be recovered.*

To be sworn.

III. *AND be it Enacted, by the Authority aforesaid, That every Person to be appointed a Naval Officer as aforesaid, before entering upon the Execution of his Office, shall swear that he will well and truly execute the said Office, without Prejudice or Partiality, and to the best of his Knowledge, agreeable to Law; which Oath may be taken before the Governor, any of the Justices of the Court of Equity or of the Superior Courts, or in any Court of Law in the District or County where he may reside.*

Their Fees.

IV. *AND be it Enacted, by the Authority aforesaid, That the Naval Officers may take the following Fees for their Services, and no more, to wit,*

For entering and clearing Vessels or Boats not decked, if bound to any other State, or to foreign Parts, the Fee of Four Shillings. For entering and clearing every decked Vessel under Twenty Tons Burthen, for administering the Oaths, taking Bonds, and all other necessary Services included, Four Dollars. And for every Vessel of Twenty Tons Burthen and upwards, including all necessary Services, the Sum of Five Dollars.

V. *AND*

V. *AND be it Enacted, by the Authority aforesaid, That every Naval Officer shall on the Receipt of any Fees, give to the Person paying the same, if demanded, a Ticket of such Fees, with a Receipt for the same, under the Penalty of forfeiting for each Refusal the Sum of Fifty Pounds.*

A. D. 1777.
To give a
Ticket of
them.

VI. *AND that all Persons may know what Fees are due to the said Officers, Be it Enacted, by the Authority aforesaid, That the several Naval Officers in this State shall, within Three Months after the Ratification of this Act, put up publicly in their respective Offices a Table of the Fees that may legally be taken by them according to the Directions of this Act, and shall continually keep up the same, under the Penalty of paying for each Day such Table shall not be kept up the Sum of Twenty Shillings.*

Table of Fees
to be set up.

VII. *AND it is hereby Declared and Enacted, by the Authority aforesaid, That if any Naval Officer shall demand, extort, exact or receive, under Colour of his Office, any other or larger Fees than what is particularly mentioned in this Act, or shall refuse to do the particular Service for the Fee or Fees in this Act expressed; such Naval Officer for every such Offence shall forfeit and pay the Sum of One Thousand Pounds.*

Pen. for tak-
ing greater
Fees.

VIII. *AND be it further Enacted, by the Authority aforesaid, That the several Penalties in this Act mentioned shall and may be recovered by Action of Debt, in any Court of Record, by the Person or Persons grieved, with Costs, provided the Suit be commenced within Six Months next after the Forfeiture or Refusal of such Naval Officers shall happen, and not otherwise.*

How recover-
ble.

C H A P. XII.

An Act to amend the Staple of Tobacco, and prevent Frauds.

I. **W**HEREAS the Law heretofore in Force for amending the Staple of Tobacco, and preventing Frauds, hath been found highly beneficial to this State, as well as to the Planters of that Commodity;

Preamble.

II. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That the Inspectors of Tobacco appointed by the County Courts since the last Session of Assembly at any Public Warehouses in this State, be, and they are hereby continued, and declared to be Inspectors at the respective Warehouses for which they were appointed, until Appointments can be had agreeable to this Act, and shall have the same Powers, Authorities and Emoluments, and be subject to the Rules, Regulations and Restrictions, herein after mentioned.*

Inspectors
continued.

III. *BE it Enacted, by the Authority aforesaid, That the Inferior Court of any County in this State, where the Tobacco Inspections and Warehouses are already established, shall annually, at the first Court to be held for their County after the first Day of June, appoint Two discreet and careful Men, well acquainted with the Nature and Qualities of Tobacco, to be Inspectors thereof, who shall well and carefully examine every Hoghead, Cask, or Parcel of Tobacco, brought to their Warehouse, and such Tobacco as they shall find good, sound, and merchantable, and fit for Exportation, they shall cause to be immediately headed, hooped, and nailed, and the Number nett, and Weight and Tare, with the Name of the Warehouse, stamped or marked thereon; and for all Tobacco so passed by them in Crop Hogheads, they shall give to the Owner thereof a Receipt, containing the Warehouse, Number, Gross, Tare, and nett Weight, the Kind of Tobacco, and therein oblige themselves to deliver the same Tobacco to such Owner, or his Order, for Exportation, when demanded; and for all such Tobacco as they shall pass in Parcels, they shall give the Owner a Transfer Note, and all such Parcels of Tobacco they shall immediately pack and prize into Hogheads of at least One Thousand nett Weight, to be by them paid in Discharge of such Transfer Notes to the Persons who shall be possessed of them, deducting from their Transfer Notes when returned to them at the Rate of Two per Cent. for the first Month, and One per Cent. for every Month after One, for Shrinkage, and may also charge out of such Transfer Notes Thirty Pounds of Tobacco for the Cask; and all Tobacco brought into their Warehouses, which in their Judgment is not good, sound, and merchantable, they shall cause to be immediately burned; and where Tobacco is offered for Inspection, and it appears to them Part thereof is only fit to pass, the Owner thereof may separate such good Tobacco from the bad, and that only which is bad shall be burned; but if the Owner refuses to have the same separated, then the Inspectors shall and may burn the whole; and where the Inspectors at any Warehouse shall disagree in their Opinion of the Quality of any Hoghead of Tobacco, or where the Tobacco to be inspected is the Property of one of the Inspectors, then another sworn Inspector from the nearest Warehouse, or Justice of Peace, shall be called, and shall decide, and receive or reject the same; and where any Inspector shall die, or be rendered by Sickness or Accident unable to attend his Duty, then it shall be lawful for any Three Justices of the County to appoint and swear in any proper Person to act as Inspector, until the Disability of the other be removed, or until the Court shall appoint; and such Person so appointed to act shall*

County Court
to appoint
them, their
Duty, and
Manner of In-
spection.

A. D. 1777.

To give Bond.

be under the same Penalties, and intitled to a proportionable Part of the Salary for the Time he shall act, and be under the same Regulations, as if originally appointed by the Court.

IV. *AND* be it further Enacted, by the Authority aforesaid, That the Inspectors to be appointed in Virtue of this Act shall give Bond and Security, to be approved by the Justices appointing them, in the Penalty of One Thousand Pounds, payable to the Governor, or Commander in Chief for the Time being, with Condition they shall respectively execute the Office of Inspector of Tobacco faithfully and truly, according to the Laws in that Case made; which Bond, on any Suggestion made to the Commander in Chief for the Time being of a Breach thereof, shall by him be assigned to the Party injured, to be put in Suit, and shall not be void on any Recovery, until the whole Penalty be recovered; and such Inspectors shall, before they enter on the Duties of their Office, take in open Court the following Oath, to wit,

Their Oath.

YOU shall swear, that you will carefully and diligently view and examine all Tobacco brought to any Public Warehouse whereof you are appointed to be Inspector, and all other Tobacco which you shall be called upon to view and inspect, and that not separate and apart from your Fellow, but in his Presence. And that you will not receive any Tobacco that is not in your Judgment sound, well conditioned, merchantable, and clear of Trass; nor receive, pass or stamp, any Tobacco Hoghead, or Cask of Tobacco, prohibited by an Act of Assembly, intitled, An Act for regulating the Inspection of Tobacco, and preventing Frauds. And that you will not change, alter, or give out any Tobacco, other than such Hoghead or Cask for which the Receipt to be taken in was given; but that you will in all Things well and faithfully discharge your Duty in the Office of an Inspector, according to the Directions of the said Act, without Fear, Favour, Affection, Malice, or Partiality.

SO HELP YOU GOD.

No Tobacco to be exported without Inspection, and Manner of delivering it out.

V. *AND* be it further Enacted, by the Authority aforesaid, That no Tobacco shall be exported out this State until the same has been carried to some Inspection, and there viewed, passed, and stamped, according to the Directions of this Act, or which has already been done, according to the Laws heretofore in Force; and the Inspectors at every Inspection which is, or shall by Virtue of this Act be appointed, on delivering out any Tobacco from their Warehouse for Exportation, shall deliver therewith to the Master or Skipper of the Vessel receiving the same, a Manifest thereof, signed by them, containing the Marks, Numbers, Gross, Nett and Tare, of every Hoghead or Cask then delivered, with the Name of the Warehouse, and the Name of the Vessel and Master thereof in which the same is intended to be exported, and the Name of the Skipper; which Manifest, in case the Tobacco be delivered to any River Craft to be lightened down to any Seaport, shall be delivered therewith, by the Skipper of such Craft, on Board the Ship or Vessel in which the same is to be exported; or in case such Vessel cannot take it in, then in the most convenient Warehouse at or near such Seaport, there to remain until the same shall be shipped in some other Vessel for Exportation, according to the true Intent and Meaning hereof; and all Tobacco Water-borne with Intention to elude this Act, is hereby declared to be forfeited, and shall be the Property of any Person who shall seize and take Possession of the same; and in case of Suit against the Person seizing such Tobacco, he may on the General Issue give this Act in Evidence.

Duty of Halifax Inspectors, and their salaries.

VI. *AND* be it further Enacted, by the Authority aforesaid, That the Inspectors at Halifax Warehouses shall constantly attend their Duty at the said Warehouses from the Tenth Day of October to the Tenth Day of July in every Year, on Penalty of forfeiting Forty Shillings for each Day either of them shall neglect the same, Sickneis or unavoidable Accidents excepted; which Forfeiture shall and may be recovered by Warrant before any Magistrate of the County where the Inspector resides, by any Person suing for the same, to the Use of the Person suing, and shall furthermore be liable to the Action of the Party aggrieved for such Damages as he may sustain; and the Inspectors at the said Inspection of Halifax shall have and receive for their Attendance the Sum of Seventy Five Pounds each, and the Inspectors at Jones's the Sum of Thirty Seven Pounds Ten Shillings each, annually, to commence from the Tenth Day of October last past, to be paid by the Justices of the Inferior Court for their respective Counties, out of the County Money: And the Justices of any County within this State may, and are hereby directed and impowered, if necessary, to appoint such Places for the Inspection of Tobacco in their County, and Inspectors to attend thereat, as to them shall seem most proper, so as such Place of Inspection be at a Landing on some sufficient navigable Stream; and also may, at the Expence of their Counties, purchase or rent Ground, build or rent Warehouses, provide Scales and Weights, and other Matters incident to an Inspection, and allow such Salaries to the Inspectors as they shall judge proper, to be paid out of the Money assessed for the Maintenance and Support of the County Charges; and also shall at any such Inspection, order and limit the Time for the Attendance of such Inspectors at their respective Warehouses; and any Inspector so to be appointed, shall be under the like Bond, Security, and Oath, and subject to the same Forfeiture, Method of Recovery, and Application, as is above directed for the non-Attendance of the Inspectors at Halifax Warehouses.

Justices to appoint Places of Inspection.

Charges of Inspection defrayed.

VII. *AND* for defraying the Charges of Inspection, Be it Enacted, by the Authority aforesaid, That for every Hoghead or Cask of Crop Tobacco delivered by the Inspectors for Exportation, there shall be paid to them by the Owner or Skipper thereof Eight Shillings current Money of this State, for the Use of the County; and for every Hoghead of Transfer Tobacco prized up by them to the Weight herein directed, the Sum of Ten Shillings like Money, Five Shillings whereof for the Use of the County, and the other Five Shillings to reimburse them for Prizing and Nails: And the Inspectors shall, at the first Court for their County after the Tenth Day of July in every Year, lay before the said Court an Account on Oath of all Tobacco by them delivered for Exportation, and also an Account of their Transfer Tobacco remaining on Hand, and what Transfer Notes are not returned to them, shewing what has been gained or lost on the Allowance for Shrinkage above directed, and make a full Settlement with the Court for all Monies they are chargeable with in Virtue of this Act, before they shall obtain any Order from the Court for the Salaries which are or shall be allowed them.

VIII. EE

VIII. *BE it further Enacted, by the Authority aforesaid,* That the Inspectors at *Jones's Warehouse,* and the *Pitch Landing,* in *Northampton County,* respectively, shall pay and satisfy to the Owners of the same the Sum of One Shilling and Six Pence for every Hoghead of Tobacco received, inspected, and delivered out of the said Warehouses, to be deducted out of the Eight Shillings per Hoghead directed to be received for the Use of the County, the Owners of such Warehouses keeping the same in Repair.

A. D. 1777.

Rent of Jones's Warehouse.

IX. *AND be it further Enacted, by the Authority aforesaid,* That no Naval Officer in this State shall clear outwards any Ship or Vessel having Tobacco on Board, until the Captain or Master thereof shall produce and deliver to him such Manifest as above directed, signed by the Inspectors where the same was inspected, for all Tobacco he has on Board; and the Naval Officer clearing such Ship or Vessel, is hereby directed to administer to such Captain or Master, before delivering such Clearance, an Oath to this Purport: That the Manifest by him produced contains a true Account of the Mark, Number, Tare and Nett Weight, stamped or marked on each Hoghead of Tobacco on Board his Vessel, as they were taken down before the same was stowed away. And the said Naval Officer is hereby authorized to take and receive Two Shillings for administering the said Oath. And every Naval Officer who shall clear out any Vessel having Tobacco on Board, without receiving such Manifest, and causing such Oath to be made before them, shall forfeit the Sum of Fifty Pounds Proclamation Money; to be recovered in any Court of Record in this State, by and for the Use of any Person who shall sue for the same.

Manner clearing Vessels with Tob.

X. *AND be it further Enacted, by the Authority aforesaid,* That if any Person shall forge or counterfeit the Stamp, Note or Receipt, of any Inspector, or offer for Sale or Payment, or demand of any Inspector, Tobacco on any such forged Notes or Receipt, knowing it to be such, or shall cause to be exported any Hoghead or Cask of Tobacco stamped with a forged or counterfeit Stamp, or shall take any Stave, Flank or Heading, out of any Hoghead of Tobacco stamped as herein directed, after such Hoghead shall have been delivered from any of the Public Warehouses, every Person so offending, and being thereof legally convicted, shall be adjudged a Felon, and suffer as in Cases of Felony; and if any Inspector's Note shall be lost or destroyed, the Owner thereof may, on making Oath before some Magistrate of the Quantity of Tobacco mentioned in the same, and that the Note is lost or destroyed, and that he or she so making Oath is the lawful Owner thereof, and intitled to receive the Tobacco therein mentioned, obtain a Certificate from the Justice administering such Oath, and shall thereby be intitled to receive the Tobacco for which the lost Note was given; and if any Person shall be convicted of making a false Oath, or producing a forged Certificate, in the above Case, knowing the same to be forged, he shall suffer as in Cases of wilful and corrupt Perjury.

Pen. for forging Inspectors Notes, and Method when they are lost.

XI. *AND be it further Enacted, by the Authority aforesaid,* That if any Warehouse at any of the Tobacco Inspections in this State, that is or shall be appointed, shall happen to be burned, and Tobacco therein destroyed, the Value of the Tobacco so burned shall be paid to the Proprietor thereof by the Counties where the same was made, in Proportion to the Quantity brought to Inspection by the different Counties; and where such Accident shall happen, no Inspector shall be sued, by Reason of any Notes or Receipts by them given for Tobacco so burned.

Warehouses burnt how paid for.

XII. *AND be it further Enacted, by the Authority aforesaid,* That no Inspector of Tobacco shall be capable of being elected Member of Assembly, during his Continuance in his Office of Inspector, or within one Year after; nor shall any Inspector, directly or indirectly, buy or receive, by Way of Barter, Loan or Exchange, any Tobacco whatsoever (Payments in Tobacco for their own Rents excepted) under the Penalty of forfeiting their Office: And when any Person demands Tobacco of any Inspector on their Notes, and shall have Cause to doubt the same hath received Damage after Inspection, Three Justices of the County, nor being Merchants, where the Tobacco is, shall on the Application of the Person demanding the Tobacco, repair immediately to the Warehouse, and there (being first sworn before some other Justice, who is hereby empowered to administer such Oath) well and carefully view and examine the said Tobacco in Dispute, and give their Opinion thereon whether the same ought to pass or be rejected, according to the best of their Judgment and Conscience, without Favour or Affection; and if in their Judgment it is good, sound, and fit for Exportation, the Tobacco so passed shall be a sufficient Tender to the Party demanding on the Notes for the same, and in that Case the Party so calling a Review, shall pay and satisfy to the Justices so attending Eight Shillings each; but if they reject the Tobacco so reviewed, in that Case the Inspectors shall pay the said Justices Eight Shillings each, and shall be liable to the Owner of the Notes for the Value of the Tobacco so rejected, and such Damages as he may sustain by lying out of the same from the Time of demanding.

No Inspector to be a Member Assembly, and Method where Tob. is suspected to be damaged.

XIII. *AND be it further Enacted, by the Authority aforesaid,* That no Slaves within the Counties of *Halifax, Northampton, Bute, Granville, Edgecomb, and Wake,* for his own Benefit, shall cultivate any Tobacco, under the Penalty of Five Pounds current Money of this State for every Five Hundred Hills so cultivated, to be recovered from the Master, Owner or Overseer, of such Slaves, by Action of Debt, before any Jurisdiction having Cognizance thereof; one Half to the Informer, and the other Half to the Use of the County where such Slave shall reside.

Slaves not cultivate Tob.

XIV. *AND be it further Enacted, by the Authority aforesaid,* That nothing herein contained shall extend to the Ports of *Beaufort, Bath, or Currituck,* but that the Naval Officers shall clear out Vessels with Tobacco in the same Manner as heretofore.

Ports excepted

C H A P. XIII.

An Act for amending an Act, intituled, An Act for levying a Tax by Assessment, and other Purposes, passed the last Session of this Assembly.

I. **W**HEREAS the levying a Tax by General Assessment on Property will tend to the Ease of the Inhabitants of this State, and will greatly relieve the poor People thereof; and as the Mode for assessing Property, and collecting Public Taxes in this State, should be appertained and established by Law:

Preamble.

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II. BE

A. D. 1777.

Taxable Property.

II. BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That all Lands and Lots, with their Improvements, Slaves, Money, Money at Interest, and Stock in Trade, wherever the same may be, all Bonds, Notes, or other Obligations for Value on Interest, all Horses and neat Cattle, in this State, shall be held and deemed taxable Property liable to be assessed, and the Taxes laid thereon by Law collected in the Manner directed by this Act.

Courts to lay the Counties out into Districts.

III. AND be it further Enacted, by the Authority aforesaid, That the several County Courts in this State shall at their respective Courts to be held after the First Day of April next, and so at such Courts yearly, and every Year, lay out their respective Counties into moderate and convenient Districts, and shall appoint a Justice of the Peace in each District to receive from every Inhabitant thereof a just and true Account, on Oath, of all the taxable Property which such Person had in Care, or was possessed of in his own Right, or as Agent, Factor or Attorney, or in Trust for any other Person, on the First Day of April then last past; and every Inhabitant of the respective Districts of each County in this State shall, within One Month after such Court, return on Oath to the Justice appointed to receive the same, a true and just Account of all such Articles as by this Act are declared to be taxable Property, which to him belonged as aforesaid on the First Day of April then last past; which Accounts shall be immediately delivered by the Justice receiving the same to the Person appointed to value the taxable Property of the Inhabitants of such District, together with an Account of the taxable Part of his own Estate, upon Oath: And the said Justice of the Peace is hereby required to administer to every Person delivering such Account as aforesaid, the following Oath:

Oath of Persons giving in Lists of their Property.

I A. B. do swear, that the List by me now delivered contains a just Account of all the Lands, Lots, Houses, and their Improvements, Slaves, Money, Money at Interest, Stock in Trade, Bonds, Notes, and other Obligations for Value on Interest, and of all the Horses and neat Cattle which to me belonged, or which were in my Care or Possession as Agent, Factor or Attorney, or in Trust for any other Person whatsoever, on the First Day of April last, without Deduction for any Demands against me, of whatsoever Kind. So help me God. And that I have not, directly or indirectly, lent or conveyed away any Money, or other Part of my Property, by any Means whatsoever, with Intent thereby to evade Payment of the Tax to which by Law the same is liable.

Valuers appointed.

IV. AND be it further Enacted, by the Authority aforesaid, That the said Courts respectively shall annually appoint Three honest and intelligent Persons in each District of their respective Counties, who shall on Oath, to be administered by any Justice of the Peace, value the taxable Property of the Inhabitants of such District, as near as may be, to what the same would then sell for at public Sale for ready Money, and make Return thereof to the next succeeding County Court; and in case they cannot all agree in such Valuation, the Agreement of any Two shall be valid, but where they shall all differ in Opinion respecting the Value of any Property, then, and in that Case, the Valuation of each of the said Persons shall be added together, and the third Part of all the three Sums shall be returned to the Court accordingly; and the Persons appointed to value the taxable Property of such Inhabitants, shall respectively, previous to their valuing the same, take before some Justice of the Peace the following Oath:

Their Oath.

I A. B. do solemnly swear, that I will faithfully, without Favour or Prejudice, and to the best of my Understanding, according to Law, value and appraise the taxable Property of the Inhabitants of the District wherein I am appointed for that Purpose.

SO HELP ME GOD.

Pen. for not giving in Lists of taxable Property.

V. AND be it further Enacted, by the Authority aforesaid, That in case any Person or Persons, his, her, or their Attorney, Agent or Factor, shall fail or refuse in due Time to give in to the Justice of the Peace appointed to receive the same, on Oath, an Account of all his, her, or their taxable Property, agreeable to the Directions, true Intent and Meaning of this Act, it shall and may be lawful for the Assessors in their respective Districts to value and appraise, to the best of their Knowledge, the taxable Property of the Person or Persons so failing or refusing as aforesaid; and the Tax on all such Property shall be fourfold the Sum which such Amount of taxable Property for that Year would otherwise have been liable to, and shall be collected and accounted for as all other Public Taxes.

Poll Tax.

VI. AND be it further Enacted, by the Authority aforesaid, That every Freeman in this State of the Age of Twenty One Years and upwards (other than Soldiers in the Service of the Continent, or of this State) who shall not possess the Value of One Hundred Pounds in taxable Property, shall pay annually, in Lieu of Assessment on Property, a Poll Tax equal to the Tax for that Year on One Hundred Pounds taxable Property, which shall be collected and accounted for as other Taxes mentioned in this Act.

Taxes to be paid the County Treasurers.

VII. AND be it Enacted, by the Authority aforesaid, That the respective Taxgatherers shall collect the Public Tax, and after deducting their Commissions, pay the same to the County Treasurer, on or before the First Day of February in each Year; and the County Treasurers in this State shall, after deducting their respective Commissions, settle with and pay into the Hands of one of the Public Treasurers of the State, on or before the First Day of March in each Year, all such Monies as they shall have received from the Public Taxgatherers; and the County Treasurer and Public Taxgatherers, or any of them, failing to account and pay in Manner by this Act directed, shall forfeit his or their Commissions given by this Act, and shall be liable to pay the whole Sums which they respectively ought to have collected, received and paid: And when any Taxgatherer or County Treasurer shall be in Arrear, it shall be lawful for the Person to whom such Arrears are payable, and he is hereby required, to move for Judgment on the Bond of the Person so in Arrear, in any Court having Cognizance thereof; and such Court, upon due Proof before them made that the Obligors have had Ten Days previous Notice, shall cause them to be called, and if they shall appear and contest the same, the Court shall order an Issue to be speedily made up, and tried by a Jury, and shall give Judgment and award Execution accordingly; but where the Obligors shall fail to appear, the Court shall cause a Jury to be sworn, to inquire what Arrears are due, and shall give Judgment and award Execution accordingly.

VIII. AND

VIII. *AND be it further Enacted, by the Authority aforesaid,* That every Justice of the Peace who shall be appointed to receive Lists of taxable Property from the Inhabitants of their respective Districts, or any of them, or any of the Persons to be appointed to value the Property of the Inhabitants aforesaid, who shall refuse or neglect to do and perform the several and respective Duties required of them by this Act, or any of them, the Person or Persons so refusing or neglecting, shall forfeit and pay for every such Refusal or Neglect the Sum of One Hundred Pounds good and lawful Money of this State; to be recovered by Action of Debt, in the Name of the Governor, and applied to the Use of the Public.

A. D. 1777

Pen. on Justices, &c. refusing their Duty.

IX. *AND be it Enacted, by the Authority aforesaid,* That Inventories of the Estates of Testators, Intestates, Minors, and Absentees, shall be delivered by the Executors, Administrators, Guardians, Agents or Attornies, respectively, in the same Manner as the Estates of other Persons, and on Refusal or Neglect, shall be valued as aforesaid; and the Tax shall be levied of the proper Estate of such Executor, Administrator, Guardian, Agent or Attorney, so refusing or neglecting as aforesaid, any Law, Usage or Custom, to the contrary notwithstanding.

Inventories of Intestates Estates to be delivered.

X. *AND be it further Enacted, by the Authority aforesaid,* That the real Estates of Persons residing out of this State, or Inhabitants thereof, who have not any personal Property therein, shall be assessed yearly by the Persons appointed to value the Estates of the Inhabitants, and a particular and separate Return thereof made to the County Court; and if the Assessment thereon shall not be discharged within two Years after the same became due, then such Estate, or so much thereof as may be necessary to discharge the several Assessments, with all contingent Charges, shall be sold by the Sheriff of the County wherein the same shall lie, by Order of the County Court, any Law or Usage to the contrary notwithstanding; and the taxable Part of the Estates of the Persons appointed to value the Property of the Inhabitants of the respective Districts of every County in this State, shall be valued and appraised by the Court of the County wherein they reside, and the Taxgatherers shall collect and account for the same, and for their own Taxes, with the County Treasurer, as for other Public Taxes.

Real Estates taxed.

XI. *AND be it further Enacted, by the Authority aforesaid,* That if any Person, after being lawfully taxed as aforesaid, shall neglect or refuse to pay the Sum he shall be so taxed for the Space of One Month after the First Day of December in every Year, the respective Collectors or Taxgatherers may, and they are hereby empowered to levy the same by Distress and Sale of the Goods and Chattels of such Delinquent, and shall be intitled to take and receive for such Distress the Sum of Two Shillings and Eight Pence, and no more.

Taxes levied by Distress.

XII. *PROVIDED always,* That no Distress shall be made on Slaves without the Consent of the Owner thereof, if other sufficient personal Estate can be found; and the respective County Courts in this State shall transmit yearly to the General Assembly an exact Account of the Valuation or Assessment in their respective Counties, which Account shall be signed by the presiding Justice in such Court, and certified by the Clerk thereof.

Slaves excepted.

Courts to transmit Accounts of Valuation. Taxgatherers appointed.

XIII. *AND for the more effectual collecting and gathering of the Taxes to be assessed in Virtue of this Act, be it Enacted, by the Authority aforesaid,* That the respective County Courts in this State shall appoint a Collector or Taxgatherer within each District of each respective County, who shall collect all the Taxes of such District, but before executing his said Office shall enter into Bond, with sufficient Security, in double the Sum by him to be collected, payable to the Governor or Commander in Chief for the Time being, for the faithful Discharge of his Duty; and every Taxgatherer shall be allowed at the Rate of Six Pounds for every Hundred Pounds he shall so collect, and so in Proportion for a greater or less Sum.

XIV. *AND be it further Enacted, by the Authority aforesaid,* That the Sheriffs of every County in this State respectively shall, and they are hereby required to demand and receive of the Taxgatherers within their respective Counties, all Sums of Money which shall be collected for Public Taxes by the said Taxgatherers, and for that Purpose the Sheriffs shall be, and they are hereby respectively constituted County Treasurers, and shall be allowed at the Rate of Two Pounds for every Hundred Pounds they shall so receive as aforesaid; and every Sheriff, before he qualifies as such, shall enter into a Bond in the Court of his County, with Two or more sufficient Securities, in double the Amount of the Tax assessed in his County, payable to the Governor or Commander in Chief, with Condition that he will well and truly account for and pay to the Public Treasurer or Treasurers, all such Sums of Money as he shall receive from the Taxgatherers aforesaid, after deducting the Commissions allowed him by this Act.

Sheriffs appointed County Treasurers.

XV. *AND be it Enacted, by the Authority aforesaid,* That if the Justices of the respective County Courts shall fail or neglect to lay out their respective Counties into Districts as directed by this Act, or fail or neglect to appoint a Justice of the Peace in each District to receive the Accounts of the taxable Property of the Inhabitants thereof, or Persons to ascertain the Value of such Property, or a Taxgatherer in each District to collect the Public Taxes, or shall fail or neglect any other Duty by this Act required, every Justice so failing or neglecting as aforesaid, shall forfeit and pay for each Neglect the Sum of One Hundred Pounds; to be recovered by Action of Debt, in any Court of Record, in the Name of the Governor or Commander in Chief, and applied to the Use of this State.

Pen. on Justices neglecting to lay off Districts, &c.

XVI. *AND be it further Enacted, by the Authority aforesaid,* That the respective County Courts in this State may allow the Assessors of taxable Property, and the Persons appointed to summon the Inhabitants to return to the Justices Inventories of such Property, a reasonable Sum annually out of the contingent County Tax, as a Recompence for such Services.

Assessors allowed for their Trouble.

XVII. *AND be it Enacted, by the Authority aforesaid,* That every Person holding Lands by Title of Dower, Curtesy, or other Estate for Life, or on Lease for Ten Years or more, shall pay all such Taxes as shall be on the same assessed, in like Manner as other Owners of Lands are required by this Act.

Persons holding Lands for Life assessed.

XVIII. *AND be it also Enacted, by the Authority aforesaid,* That the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, and Nineteenth Sections of an Act of Assembly, intituled,

Sections repealed.

A. D. 1777.

tuled, *An Act for levying a Tax by General Assessment, and other Purposes*, be, and the same are hereby declared to be repealed, made null and void, to all Intents and Purposes, as if the same had never been made.

C H A P. XIV.

An Act to enforce such Parts of the Statute and Common Laws as have been heretofore in Force and Use here, and the Acts of Assembly made and passed when this Territory was under the Government of the late Proprietors, and the Crown of Great Britain; and for reviving the several Acts therein mentioned.

Preamble.

I. **W**HEREAS Doubts may arise upon the Revolution in Government, whether any and what Laws continue in Force here: For Prevention of which,

Acts enforced.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That all such Statutes and Parts of Statutes, and such Parts of the Common Law, as were heretofore in Force and Use within this Territory, and all the Acts of the late General Assemblies thereof, or so much of the said Statutes, Common Law, and Acts of Assembly, as are not destructive of, repugnant to, or inconsistent with, the Freedom and Independence of this State, and the Form of Government therein established, and which have not otherwise been provided for in Whole or in Part, not abrogated, repealed, expired, or become obsolete, are hereby declared to be in full Force within this State, and shall be observed accordingly.*

Acts revived.

III. *AND be it Enacted, by the Authority aforesaid, That one Act of the General Assembly made under the late Government, intituled, An Act for the more advantageous and easy Manner of obtaining Partitions of Lands in Coparcenary, Joint Tenancy, and Tenancy in Common; one other Act, intituled, An Act to prevent Card Playing, and other deceitful Gaming, passed at Newbern in the Month of December, One Thousand Seven Hundred and Seventy, and since expired; and also one other Act, intituled, An Act for the Relief of Insolvent Debtors, with Respect to the Imprisonment of their Persons, made and passed at Newbern the Sixth Day of March, One Thousand Seven Hundred and Seventy Three, but since repealed by Proclamation; and the following Acts, passed last Session of this present General Assembly, but which will expire with this Session, if not revived, to wit, An Act to prevent hunting with a Gun by Fire Light in the Night; and An Act to prevent counterfeiting the Lottery Tickets of the United States, and other Purposes; and An Act to promote the recruiting Service, apprehending Deserters, and other Purposes therein mentioned; be, and are hereby revived, and declared to be in full Force, so far as the said Acts are not destructive of, repugnant to, or inconsistent with, the Freedom and Independence of this State, and the Form of Government therein established.*

Continuance of the Act.

IV. *AND be it further Enacted, That this Act shall be, continue, and remain in full Force and Virtue, till the End of the next Session of Assembly, and no longer.*

C H A P. XV.

An Act to amend an Act, intituled, An Act to establish a Militia in this State.

Preamble.

I. **W**HEREAS a well regulated Militia is absolutely necessary for the defending and securing the Liberties of a free State;

Capt to return a Muster Roll of his Company.

II. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That every Captain of Militia within this State, once in every Six Months, shall return a Muster Roll of his Company, divided and numbered as by the Act aforesaid is directed, to the commanding Officer of the Regiment, under Pain of forfeiting Five Pounds for every Default; and the commanding Officer of each Regiment shall make an exact Return from such Lists within Twenty Days after receiving the same to the Brigadier General of the District, under Pain of forfeiting Twenty Five Pounds for every Default.*

III. *AND*

III. *AND be it further Enacted*, That the commanding Officer of every Regiment shall twice in every Year, and oftner if thereto required by the Brigadier General of the District, order a general Return, at the most convenient Place for his Regiment, under Pain of forfeiting Twenty Five Pounds for every Default; and every Captain shall muster and train his Company, divided as before directed, once in every Month, and oftner if directed by the commanding Officer, under Pain of forfeiting Five Pounds for every Default; and every Soldier neglecting or refusing to attend the General Muster, shall forfeit the Sum of Twenty Shillings, and if a Private Muster Ten Shillings, to be recovered, together with the foregoing Forfeitures, as herein after directed.

A. D. 1777.

General and private Musters.

IV. *AND be it further Enacted*, That the Brigadier Generals respectively shall return an exact Roll of all the Officers and Soldiers of their Brigades, distinguished into their proper Companies and Divisions, to the Governor, once in every Year, and oftner if required, under the Penalty of One Hundred Pounds for every Default.

Muster Roll to be returned.

V. *AND be it further Enacted*, That each Militia Soldier shall be furnished with a good Gun, Shot Bag, and Powder Horn, a Cutlafs or Tomahawk, and every Soldier neglecting to appear at any Muster accounted as above shall forfeit, for every such Offence, Two Shillings and Six Pence, (unless he can make it appear they were not to be procured) to be recovered as other Fines: And where any Person shall appear to the Field Officers not possessed of sufficient Property to afford such Arms and Accoutrements, the same shall be procured at the Expence of the County and given to such Persons on muster Days, or when ordered into Service, which Guns and Accoutrements, after such Service, shall be returned to the Captain of the Company and by him carefully preserved for future Occasions: And whenever the Militia are called into Service they shall be allowed as follows, viz. Two Baggage Waggon or Four Carts for every Company, and one Waggon or Two Carts for a Brigadier-General. One Waggon or Two Carts for the Field Officers of each Regiment. Two Waggon or Four Carts for the subaltern Officers of each Regiment. Ammunition Waggon at the Discretion of the Brigadier-General. The same Rations to Men and Officers as allowed to the continental Army, to be supplied by Commissaries appointed by the Brigadier. One Bell Tent to each Company; Intrenching Tools, Six Axes, and a sufficient Number of Camp Kettles. And the Pay of the Men and Officers as follows, to wit, A Colonel per Day Twelve Shillings and Six Pence. A Lieutenant Colonel, Ten Shillings. A Major, Ten Shillings. A Captain, Seven Shillings and Six Pence. A Lieutenant and Surgeon, Five Shillings. An Adjutant, Seven Shillings and Six Pence. An Ensign, Four Shillings and Six Pence. A Sergeant, Four Shillings. A Corporal, Drummer, and Fifer, Three Shillings. Each Rank and File Man, Two Shillings and Six Pence. A Brigadier General, One Pound Twelve Shillings.

Militia how accounted.

Allowance when on Service.

VI. *AND be it Enacted, by the Authority aforesaid*, That there shall be one Quarter Master to every Brigade, with Power to appoint Deputies, with the Consent of the Brigadier General; and every Colonel, or commanding Officer of a Battalion, shall appoint a Quarter Master to attend the same, or any Detachment thereof, when ordered into actual Service, to continue only until such Battalion or Detachment shall join the Brigade of which it shall be a Part: And every Quarter Master shall keep an exact Account of the Disbursements within his Department, and produce Vouchers for every Expensiture before the same shall be allowed.

Quarter Master.

VII. *AND be it further Enacted*, That there shall be Ten Light-Horse-Men, and no more, from each Regiment, to be arrayed in one or more Companies when they shall have joined the Brigade, at the Discretion of the Brigadier General.

Light-Horse Men.

VIII. *AND be it further Enacted*, That no Officer or Soldier in the Militia Service shall be tried for any Offence against the Militia Law, or the Articles of War, except by a Court Martial, to consist only of Militia Officers.

Militia how tried.

IX. *AND be it further Enacted*, That no Brigade, Regiment, Company, or Division of Militia, shall be under Command of any but Militia Officers, except when such Militia shall be ordered by the civil Power to join the continental Troops, in which Case the continental Officer of equal, and the militia Officer of superior Denomination, shall command.

Under what Command.

X. *AND be it further Enacted*, That such Division as shall at any Time be called into Service, shall be formed into Companies of not less than Fifty Men each, with a proportionable Number of Officers, Sergeants, Corporals, Fifers and Drummers, and all the Officers of each Regiment shall agree among themselves concerning who shall command the Men directed to march into actual Service; but if they cannot agree, the commanding Officer shall cause Lots to be drawn, and the Officers on whom such Lot shall fall shall command in their proper Rank and Department.

Companies formed.

XI. *AND be it further Enacted*, That all Persons within the Ages of Sixteen and Fifty shall be liable to be drafted, and every Person so drafted obliged to serve, or find an able bodied Person in his Room; provided that the Council of State, Public Secretary, Justices of the Superior Courts of Law and Equity, Justices of the Peace, Attorney General, Ministers of some Church regularly called, and having the Cure of Souls, Treasurer of the Loan Office, Clerks of Courts, Entry Takers and Surveyors, and continental Postmasters and Postriders, shall not be obliged to attend general or private Musters.

Who may be drafted, and exempt from mustering.

XII. *AND be it further Enacted*, That for all Defaults at private Musters, if the Delinquent shall fail to appear at the next succeeding Muster, and shew sufficient Cause for such Default, the Captain shall issue his Warrant to the Sergeant for levying the above Fines by Distress on the Delinquent's Goods and Chattels, and the Fines so collected shall be applied towards providing Arms for such as have not sufficient Property to procure such for themselves; and when no Property can be found, the Delinquent shall and may be taken in Custody, and unless he can find Security for the Payment of the Fine incurred before the next Muster, shall and may be committed for the same for a Space not exceeding Two Days, and shall pay the Prison Fees.

Fines how levied.

A. D. 1777.

Proviso, where
Defaulters may
remove.

XIII. PROVIDED, That where any Person shall fail to appear at any private Muster, and the Captain of the Company may suspect such Person of having an Intention of removing himself out of the County before the next succeeding Muster, in such Case it shall and may be lawful for the Captain to issue a Citation against such Defaulter, requiring him by a certain Day, not exceeding Ten from the Date thereof, to appear and shew Cause, if any he can, why the Fine should not be levied; and if he shall fail to appear, or appearing, to make sufficient Excuse, he shall be subject to the same Proceedings as if he had failed to make Excuse at the succeeding Muster: And every Person who shall think himself aggrieved, may complain to the next Court Martial, and if the said Court shall think he was unjustly fined, they shall order the Money to be refunded, if paid, and if any Security has been given, that the same be released.

Court Martial
held.

XIV. AND be it further Enacted, That there shall be a Court Martial held the Day after every General Muster, to be composed of one Field Officer, and six Captains or Subalterns at least, which said Court shall have full Power to inquire into the Age and Abilities of all Persons enlisted, and to exempt such as they judge incapable of Service, and of all Neglects and Omissions, as well by any Officers or Soldiers, and to hear and determine all Appeals whatever, and to dispose of all Fines for the Use of the County; and the said Court is hereby directed and required to keep a Register of all their Proceedings, and for that Purpose to appoint a Clerk, and allow him a reasonable Salary out of the Fines.

Pen. for resist-
ing the com-
manding Offi-
cer, &c.

XV. AND be it further Enacted, That if any Soldier shall during the Time of any Muster, or when in Service, resist his commanding Officer, or refuse his lawful Commands, such Soldier shall be punished at the Discretion of his Officer, by being tied Neck and Heels not exceeding Fifteen Minutes; and if any Officer or Soldier shall refuse to carry such Commands into Execution, every one so offending shall forfeit and pay the Sum of Five Pounds, to be levied by a Warrant from any Field Officer in the Regiment, on the Goods and Chattels of the Delinquent, and applied as other Fines mentioned in this Act; and if no Goods or Chattels shall be found, it shall and may be lawful to seize and commit such Delinquent for a Space not exceeding four Days, and shall pay the Prison Fees.

Militia ex-
empt from
Process.

XVI. AND be it further Enacted, That no Officer or Soldier going to, continuing at, or returning from any Muster, in any reasonable Time, shall be liable to be arrested by any Officer in any civil Action or Process whatever, any Law, Usage or Custom, to the contrary notwithstanding.

Oath adminis-
tered.

XVII. AND be it further Enacted, That in all Cases where it shall be requisite to administer an Oath relative to any military Matters, any commissioned Officer is hereby required to administer the same.

Manner of
pressing Wag-
gons, &c.

XVIII. BE it further Enacted, That no Officer or Soldier of the Militia or Regulars in this State shall press any Wagon, Cart or Horse, Arms or other Things, of any Nature whatsoever, unless authorized thereto by Warrants under the Hands and Seals of two Justices of the Peace (not being Militia Officers then in actual Service) of the County where such Press shall be necessary; and any Officer or Soldier before he shall press any Thing as aforesaid, shall demand the same peaceably from the Owner or Possessor thereof; and in Case of Refusal, shall produce his Warrant aforesaid before he proceeds to press, and if the Owner or Possessor shall still refuse the Thing demanded, it shall be lawful to press the same; and every Officer or Soldier who shall offend against this Act, shall forfeit and pay Ten Pounds for every such Offence to the Person injured, and be moreover liable to the Action or Actions of the Party grieved, to be recovered before any Jurisdiction having Cognizance thereof; and every Thing so pressed or obtained shall be valued by two indifferent Persons, on Oath, and a Certificate of the Valuation given by such Valuers to the Owner or Possessor from whom the same shall be pressed, obtained, in order that if the same shall not be restored to the Owner or Possessor, he may be allowed such Valuation by the Public.

Pen. for not
appearing on
Alarm.

XIX. AND be it further Enacted, by the Authority aforesaid, That every Person who shall neglect or refuse, on Call or Alarm given, to appear himself in Person, or send an able bodied Man in his Stead, at such Times and Places as shall be appointed by his Captain or other Officer, or who shall refuse to march against the Enemy when commanded, or refuse or neglect to do his Duty, or perform the Service he is put upon by his Captain or other Officer, or shall quit his Post, desert his Colours, or mutiny, it shall and may be lawful for the commanding Officer of the Brigade, Regiment or Company, to whom such Defaulter shall belong, to send a Guard to take him into Custody, and also for one Field Officer or more, two Captains, two Lieutenants, and two Ensigns, or the Majority of them, openly to hold a Court Martial, first taking the following Oath, which is to be taken by all other Court Martials, viz.

YOU shall swear well and truly to try, according to Evidence, in the Matter now before you.

And on Trial and Conviction to punish the Offender according to Martial Law, as the Nature of the Offence may require (Death excepted.) And for want of such Number of Officers to complete a Court Martial, the Offender shall be kept under Guard until such Time as there shall be a sufficient Number for that Purpose.

Proviso, for
Quakers.

XX. PROVIDED, That where any Person shall produce a proper authenticated Certificate from the yearly or quarterly Meeting of the Society of People called Quakers, or the religious governing Authorities of the People called Moravians, Dunkards, and Menonists, every such Person shall be subject to a Fine of Twenty Five Pounds, to be levied of his Goods and Chattels, Lands and Tenements, or of the Goods and Chattels, Lands and Tenements, of any such Society, which may belong to them, in Lieu of their personal Service on any Alarm or Expedition, such Fine to be paid into the Public Treasury, and applied to defray the Expences of the War.

Rules when in
service.

XXI. AND be it further Enacted, by the Authority aforesaid, That when any Brigade shall be ordered into actual Service, the following Rules and Regulations shall be observed, viz. One Wagon Master shall be appointed by the Field Officers of every Battalion, subject to be removed or rejected by the Brigadier General, who before he enters upon his Duty, shall take an Oath, that he shall faithfully

fully execute the said Office; and the Commissaries shall every Morning make a Return to the Waggon Master of the Provisions, which the Waggon Master having examined and compared, shall return signed and certified to the commanding Officer; and the Waggon Master shall attend, as his special Duty, to the Arrangement of the Waggon, taking Care that every Morning no more begin to march than one for every Ton of Provisions, except where there may be half a Ton or upwards over and above what will make a Ton for every Waggon but one, in which Case the one Waggon shall be kept in Service until so much is consumed as to render it below Half a Ton; and in all Cases where the Quantity over a Ton for each Waggon is less than half a Ton, the Overplus shall be distributed into the other Waggon as equally as may be; and every Morning all the empty Waggon shall be discharged, each Waggon having first obtained a Certificate from the Waggon Master, setting forth the Number of Days it had been in service, and the Place where discharged, and the Distance to return; and for every Twenty Miles of such Return, each Waggon shall be allowed Twenty Shillings, or one Day's Pay, and Half the Sum shall be allowed for such Carts as shall be employed in the Service; and every Waggon Master shall be allowed the Pay and Rations of a Major: Also that there be a Paymaster to be appointed to each Brigade, who shall attend the same, and be allowed Major's Pay and Rations; and he shall produce as Vouchers, Receipts from every Officer and Soldier who shall appear on the Muster Rolls of the Brigade to which he belongs, for such Sums as he shall pay away.

XXII. *AND be it further Enacted, by the Authority aforesaid,* That the Divisions made for drafting the Militia in the several Counties in this State, according to a Resolve of Congress, passed at Halifax in May, One Thousand Seven Hundred and Seventy Six, shall continue, and the Persons who have in Pursuance thereof been drafted, and actually called forth into the Service of this State, shall not be again drafted, nor called into actual Service, till according to the Order of the said Divisions, it shall in Rotation come to their Turn to be again drafted, and called into the actual Service of this State, any Thing in this Act contained to the contrary notwithstanding.

XXIII. *WHEREAS* the Penalties incurred by some of the Militia, who refused to march on the late Expedition against the Cherokee Indians, and other Enemies, for the necessary Defence of this State, have been imposed agreeable to Act of Assembly, and Resolves of Congress; and whereas some of the said Penalties incurred and imposed as aforesaid have not been collected, *Be it therefore Enacted, by the Authority aforesaid,* That the Colonel or commanding Officer of every Regiment of Militia in this State shall, and he is hereby empowered and authorized to issue his Precept under his Hand and Seal, directed to the Sheriff of the County where the Offender resides, to levy the said Fines by Distress and Sale of the Offenders Goods and Chattels, and the said Fines shall be applied in the same Manner as other Fines imposed by this Act; and the Sheriffs for this Service, shall out of the said Fines receive the Fees allowed by Law for levying Executions, and for every Neglect or Refusal shall forfeit and pay the Sum of Ten Pounds.

XXIV. *AND be it Enacted, by the Authority aforesaid,* That if any Militia Officers shall fail or neglect to call his respective Regiment, Company or Corps, together, or to exercise, discipline and train the same when assembled, in Manner as by this Act is directed, such Officer so failing or neglecting as aforesaid, shall forfeit and pay as follows, *to wit,* A Colonel Commandant, the Sum of Twenty Five Pounds, a Lieutenant Colonel, the Sum of Twenty Pounds, a Major, the Sum of Twenty Pounds, a Captain, the Sum of Ten Pounds, a Lieutenant, the Sum of Five Pounds, and an Ensign, the Sum of Five Pounds; which several Penalties and Forfeitures may be sued for and recovered by Action of Debt, Bill or Plaint, before any Jurisdiction having Cognizance thereof, with Costs; one Moiety whereof shall be paid to the Brigadier General of the District, to be applied towards purchasing Arms, &c. for the Use of the Militia of the County where the Forfeiture shall be, and the other Half to the Person who shall sue for the same.

XXV. *AND be it further Enacted, by the Authority aforesaid,* That every Militia Officer, before he shall enter upon the Execution of his Office, shall take the Oath appointed for the Qualification of Public Officers.

XXVI. *AND be it also Enacted, by the Authority aforesaid,* That where any Invasion or Insurrection shall happen within this State, the nearest Militia Officer shall give immediate Notice thereof to his next superior Officer, who shall communicate the same to the next Superior, and so on to the Brigadier General, who shall convey the same to the Governor or Commander in Chief, and in the mean Time every such Officer shall use his utmost Endeavours to collect a Force sufficient to repel the Enemy, or suppress the Insurrection; and every Officer failing herein, shall be subject to such Punishment as shall be adjudged by a Court Martial.

XXVII. *AND be it Enacted, by the Authority aforesaid,* That every Serjeant, for levying any Fine for not attending at general or private Musters, and for not appearing properly equipped, shall have and receive the following Fees, *viz.* For Fines for non-Attendance Four Shillings, for Fines for not being equipped One Shilling and Four Pence, to be paid out of the said Fines. And when any Apprentice or Servant, or any Minor, shall absent himself from Militia Duties, he shall be subject to the Penalties by this Act directed for Offences of the same Nature; and if by this Act such Offences are made subject to a Fine or Fines, such Fine or Fines shall be levied by Distress upon the Effects of the Master of such Servant or Apprentice, or upon the Effects of the Parent of such Minor, or of his Guardian, in Case he shall be an Orphan.

XXVIII. *AND be it also Enacted, by the Authority aforesaid,* That all and every Section of the Act before mentioned, which shall come within the Purview of this Act, shall be, and is hereby repealed.

A. D. 1777.

Divisions of Militia to continue.

Manner of collecting former Penalties.

Pen. for not calling Musters.

Officers to take the Oaths.

Method in Case of Invasion.

Serjeant's Fees

Fines of Servants how paid

Repealing Clause.

C H A P. XVI.

A. D. 1777.

An Act to empower the Court of Admiralty of this State to have Jurisdiction in all Cases of Capture of the Ships and other Vessels of the Inhabitants and Subjects of Great Britain, to establish the Trial by Jury in the said Court in Cases of Capture.

Preamble.

I. **W**HEREAS the Continental Congress, by several Resolves, have declared that all Ships and Vessels, as well Ships of War and Transports as Merchant Ships and Vessels, their Tackle, Apparel and Furniture, and all Goods, Wares and Merchandize, belonging to any Inhabitant or Inhabitants of Great Britain, or to any Subject or Subjects of the King of Great Britain (except the Inhabitants of Bermuda and Providence, or Bahama Islands) taken on the High Seas, or between high and low Water Mark, by any armed Vessel, fitted out by any private Person or Persons to whom Commissions shall be granted, or by any of the Vessels of War of these United States, or by any Vessel of War fitted out by, and at the Expence of any of the United States, or which shall happen to be taken near the Shores of any of these States by the People from the Country, or Detachments from the Army, shall be deemed and adjudged lawful Prize; and whereas the said Congress have recommended to the several Assemblies or Legislatures in the said States as soon as possible to erect Courts of Justice, or to give Jurisdiction to those already established in the said States, for determining concerning the Captures to be made as aforesaid, and also recommended that all Trials in such Case be had by a Jury, under such Qualifications as to the respective Legislatures shall seem expedient:

Court of Admiralty, and Proceedings.

II. *BE it therefore Enacted by the General Assembly of this State, and by the Authority of the same, That* the Court of Admiralty of this State shall have Jurisdiction, and may proceed to the Trial and Condemnation of all such Ships and Vessels, their Tackle, Apparel and Furniture, and all Goods, Wares and Merchandize, on Board thereof, as are herein before mentioned; and the Judge of the said Court for the Time being is hereby authorized and required, on Petition to him for that purpose, to appoint a Court to be forthwith held, that only one Motion shall issue, returnable on the Fourth Day from the Time of instituting the Suit, and on the Return of the said Motion, that the Judge shall order a Jury to be summoned, returnable within Four Days thereafter, previous to all Claims to any Ship or Vessel, Goods, Wares or Merchandize, shall be duly entered and made in the usual Form, and attested on Oath on the Return of the said Motion, and not after; and the Claimant or Claimants shall, at the Time of exhibiting the same, give sufficient Security, to be approved of by the Judge of the said Court, to pay double the Costs necessarily incurred by exhibiting his or their Claim, to the Captor or Captors of such Ships, Vessel, Goods, Wares or Merchandize, if the Jury shall find the same to be lawful Prize, and his or their Claim be dismissed; if no Claim be entered within the Time limited, the Jury shall nevertheless be sworn to try the Cause, and their Verdict, with the Decree of the Judge founded thereupon, shall be final and conclusive.

Appeal.

III. *PROVIDED* nevertheless, and it is hereby further Enacted, by the Authority aforesaid, That if any Captor or Captors, Claimant or Claimants, shall not rest satisfied with the Judgment, Sentence or Decree, given in such Court of Admiralty, it shall and may be lawful for the Party or Parties thereby aggrieved to appeal from the same to the Continental Congress, or to such Person or Persons as they shall appoint for the Trial of Appeals, so as the same be demanded within Five Days after definitive Sentence, and lodged with the Secretary of the Congress within Forty Days afterwards, except in Case of the Death of the said Secretary during the Recess of Congress, in which Case the said Appeal shall be lodged in Congress within Twenty Days after the Meeting thereof; and provided the Party appealing shall give good and sufficient Security that he or they will effectually prosecute such Appeal, and answer the Condemnation, and also pay treble such Costs as shall be awarded, in Case the Sentence of such Court of Admiralty be affirmed. *Provided always,* That the Execution of any Sentence so appealed from as aforesaid, shall not be suspended by Reason of such Appeal, in Case the Party or Parties appellants shall give sufficient Security, to be approved of by the Court in which such Sentence shall be given, to pay the full Value thereof to the Appellant or Appellants, in Case the Sentence so appealed from shall be reversed.

Sentence not suspended by Appeal.

Jury to be summoned.

IV. *AND* be it further Enacted, by the Authority aforesaid, That every Judge of Admiralty in this State, when any Cause shall be depending in his Court, shall have Power, and is hereby authorized and required, to issue his Precept, directed to the Marshal, commanding him to summon Twenty Four Freeholders to serve as Jurors, which Precept the Marshal shall execute; and any Person summoned, neglecting or refusing to appear, or appearing shall refuse to serve, the Jury in any Cause then ready for Trial shall be subject and liable to a Fine of Forty Shillings, to be imposed by the Court, which shall be levied by Warrant of Distress and Sale of the Offenders Goods and Chattels, under the Hand and Seal of the Judge of the said Court for the Time being, to be directed to the Marshal, and when recovered shall be paid into the Treasury, and applied to the Use of the State; and the Jurymen who shall serve in the several Courts of Admiralty in this State, shall be allowed Six Shillings per Day for their Attendance.

British Property forfeited.

V. *AND* whereas in the said Resolves it is declared that all Ships or Vessels, with their Tackle, Apparel and Furniture, Goods, Wares and Merchandize, belonging to any Inhabitant or Inhabitants of Great Britain, or any Subject or Subjects of the King of Great Britain (except the Inhabitants of Bermuda and Providence, or Bahama Islands) which shall be taken by any Vessel of War fitted out by, and at the Expence of any of the United States, shall be deemed forfeited, and divided in such Manner and Proportions as the Assembly of such State shall direct; *Be it therefore Enacted, by the Authority aforesaid,* That all Ships and Vessels, except Vessels of War, with their Tackle, Apparel and Furniture, Goods, Wares and Merchandize, belonging to any Inhabitant or Inhabitants of Great Britain, or any Subject or Subjects of the King of Great Britain (except the Inhabitants of Bermuda and Providence,

done, or Bahama Islands) which shall be hereafter taken by any Vessel of War fitted out by, and at the Expence of the State, shall be divided, one Half thereof amongst the Officers, Seamen and Mariners, or Persons acting as such, belonging to, or on Board such Vessel of War, in the following Proportions, that is to say, To the Captain, Two Sixteenth Shares; to the Lieutenants and the Officer of Marines, One Sixteenth Share; to the warrant Officers, One Sixteenth Share; to the petty Officers, One Sixteenth Share; and to the Seamen and Marines, or other Persons acting as such, Three Sixteenth Shares; and the other Half to the Use of this State. *Provided always*, That Vessels of War belonging to the King of Great Britain, or Privateers fitted out for the Purposes of cruising against the Subjects of the United States of America, and not for Trade, with their Guns, Tackle, Furniture, Apparel, and all Merchandize found on Board, taken as aforesaid, shall after Payment of the Fees of Condemnation, be wholly divided and shared to and amongst the Officers, Seamen and Marines, or Persons acting as such, on Board of, or belonging to such Vessel of War, fitted out by, and at the Expence of this State, in the following Manner, that is to say, Four Sixteenths to the Captain; to the Lieutenants and Officer of Marines, Two Sixteenth Shares; to the warrant Officers, Two Sixteenth Shares; to the petty Officers, Two Sixteenth Shares; and to the Seamen and Marines, or other Persons acting as such, Six Sixteenth Shares.

VI. AND be it further Enacted, by the Authority aforesaid, That if any Ship, Vessel or Boat, or any Goods therein, belonging to any Person or Persons residing in, or owing Allegiance to the free United States of America, hath been, or shall hereafter be surprized and taken by any Ships or Vessels of War belonging to the King of Great Britain, or the Ships or Vessels of any of his Subjects thereto authorized by him, and the same shall be retaken and brought into this State by any Ship or other Vessels of War, fitted out under the Authority of the Continental Congress, or by any particular State, or at the Expence and Risk of private Persons of any of the said States, and the former Owner or Owners of such Ship, Vessel, Boat, or Goods, or any Person or Persons on their Behalf, shall exhibit his or their Claim or Claims in the said Court of Admiralty within the Time herein before limited for Exhibition or Claims, and on the Trial of the Cause shall establish and prove the same to the Satisfaction of the Jury, they shall find a Verdict in Favour of such Claimant or Claimants, and the Judge of the said Court is hereby enjoined and required thereupon immediately to order the said Ship, Vessel, Boat, or Goods, to be restored to such former Owner or Owners, he or they paying for, and in Lieu of Salvage, One Eighth Part of the true Value of the Vessel and Cargo, or either of them, if the same hath or have been in Possession of the Enemy Twenty Four Hours, One Fifth Part, if more than Twenty Four Hours, and less than Forty Eight Hours, One Third, if more than Forty Eight Hours, and less than Ninety Six Hours, and One Half, if more than Ninety Six Hours, together with the Costs of Suit (unless such Vessel and Cargo shall after the Capture have been legally condemned as a Prize by some Court of Admiralty, in which Case the Re-captors shall have the whole) which Salvage shall be divided by the Captains, Officers, and others, respectively intitled thereto, if fitted out by this State, in the same Proportion as Prizes are herein first before directed to be divided.

VII. AND be it further Enacted, by the Authority aforesaid, That all Books, Papers and Writings, found in any Ship or Vessel taken as Prize, shall without Delay, on Oath of the Captor, be brought into the Register of the Court of Admiralty wherein such Ship or Vessel may be proceeded against in order to Condemnation, and until such Condemnation or Acquittal, the Ship or Vessel, and her Cargo, shall be under the joint Care of the Captor and the Marshall of the Court of Admiralty, subject nevertheless to such Rules and Orders as the Judge of the said Court shall think proper to make in the Premises.

VIII. AND be it further Enacted, by the Authority aforesaid, That no Register or Deputy Register, or any Marshal or Deputy Marshal, of or belonging to the Court of Admiralty of this State, shall either directly or indirectly act, or be concerned in any Manner, either as an Advocate or Proctor, in any Cause, Matter or Business whatsoever, that shall be depending in the Court to which such Register or Deputy Register, Marshal or Deputy Marshal, shall belong; and that every such Register or Deputy Register, Marshal or Deputy Marshal, who shall be guilty of such Offence, being thereof lawfully convicted on Indictment, shall from thenceforth absolutely forfeit his respective Office and Employment in and belonging to the said Court.

IX. AND be it further Enacted, by the Authority aforesaid, That there shall not be paid unto or amongst the Judge, Register, and Marshal of the said Court, for, towards, or relating to the adjudging or condemning of such Capture as aforesaid, as lawful Prize, or acquitting the same, more than the Sum of One Hundred and Sixty Dollars, to be divided amongst them in the following Proportions, viz. To the Judge, Eighty Dollars; to the Register, Fifty Dollars, except in Cases of Appeal, when he shall be allowed the usual Fees for Copies of the Proceedings; and to the Marshal, Thirty Dollars; and the Marshal shall be intitled to receive *Two per Cent.* on all Sales of Captures, Vessels or Cargoes, condemned in any of the said Courts; and the whole Cost of such in every Cause, including the Fees of the Judge, Marshal and Register, and also the Wages of the Jury, shall be paid by the Libellants, in Case the Cause shall be determined against them; and in Case it shall be determined in their Favour, then the said Fees and Wages shall be paid out of the sales of such Capture, unless where there shall be a Claim or Claims, in which Case the Claimant or Claimants against whom the Cause shall be decided, shall pay such Costs; and the Judge shall also tax to the Marshal his Bill, for all reasonable Costs and Charges for his Care of any Vessel or Cargo committed to his Custody, and also for Storage of Goods, and other necessary Expences, &c. which shall be paid in the same Manner as other Costs.

X. AND be it further Enacted, That if any Commander or Commanders, Officer or Officers, Seamen, Marines, Soldiers or others, shall break Bulk on Board, or embezzle any of the Money, Jewels, Plate, Goods, Wares, Merchandize, Tackle, Furniture or Apparel, of or belonging to such Vessel, Prize or Prizes, so taken, such Commander, Officer, Seaman, Marine, Soldier or other, shall forfeit treble the Value of the Thing embezzled, one Third Part thereof to the Use of this State, and the

A. D. 1777.

How divided.

Men of War to the Captors.

Salvage for retaken Vessels.

Papers, &c. of Prizes to be delivered up.

No Register or Marshal to be Proctor.

Judge & Officers Fees.

Pen. for breaking Bulk.

A. D. 1777.

the other two Third Parts thereof to him or them who shall sue for the same, by Action of Debt, Bill or Plaint, in any Court of Record in this State, wherein no Effoin, Protection, or Wager of Law, or more than one Imparlance, shall be allowed; and shall likewise forfeit all his Share of such Prize to this State.

Prize Money to be paid.

XI. AND be it also Enacted, by the Authority aforesaid, That Payment shall be made to the respective Persons intitled thereto, or their Agents, of the several and respective Shares of the Prize or Prizes that they may be intitled to, within Twenty Days after the Sale thereof, by the Marshal as aforesaid, and that Five Days previous Notice of such intended Payment be given by them in the Public Gazette of this State, if there be any Gazette, and if not, then by affixing up such Notice in Writing at the most public Place where such Court shall be held.

Marshals to give Bond.

XII. AND be it further Enacted, by the Authority aforesaid, That the present Marshals of the Courts of Admiralty, immediately after the passing of this Act, and all future Marshals previous to his or their entering upon the Execution of their respective Offices, shall give Bond, with Two Sureties, in the penal Sum of Two Thousand Pounds, to the Governor for the Time being, for the due and faithful Execution of his Office, and also for the Payment of Proceeds of all Prizes that may come into his Hands, within Twenty Days after the Sale of such Prizes respectively; which Bond shall be lodged in the Secretary's Office of this State, to be put in Suit on the Application of any Person aggrieved by the said Marshal in the Execution of his Office: And upon the Condemnation of any Prize of greater Value than the above mentioned Penalty, the Judge of the Court of Admiralty, before the Sale of such Prize, shall cause the Marshal of such Court to enter into Bond, with sufficient Security, in such Sum as will be sufficient to secure the Payment of the Produce of the Sales of such Prize; and if the Marshal shall be unable or unwilling to give such Security, he may be suspended, and another appointed, from Time to Time, until the Sitting of the General Assembly.

Pen. on Marshal not giving Notice.

XIII. AND be it also Enacted, That if the Marshal of the Court shall refuse and neglect to publish such Notice as is herein before directed to be given, they, and every of them, for every such Offence, shall forfeit and pay the Sum of Ten Pounds; to be recovered by any Person who shall sue for the same, in any Court of Record in this State, wherein no Effoin, Protection or Privilege, shall be allowed.

Rules of distributing Prize-money.

XIV. AND be it further Enacted, by the Authority aforesaid, That in all Distributions of Prize Money, the Rules, Regulations, Provisions, and Restrictions, made at any Time, and in Force, by Resolutions of the Continental Congress, shall be observed, except in such Cases where the Owners and Crews of private Ships of War shall by particular Contract otherwise provide.

Jurisdiction of the Court.

XV. AND whereas in some Cases properly maritime, the Jurisdiction of the Court of Admiralty may hereafter be called in Question, be it therefore Enacted, by the Authority aforesaid, That all Suits for Freight, Mariners Wages, Breach of Charter Parties for Voyages to be made, so as the Penalty be not demanded, and Suits for building, repairing, saving, or the necessary Victualing for a Ship, against the Ship or Vessel, and not against any Party by Name, but such as may choose to make himself a Party, and all Disputes concerning Salvage, and all Matters and Transactions that are in their Nature maritime, shall be tried and determined in the Court of Admiralty:

C H A P. XVII.

An Act, for confiscating the Property of all such Persons as are inimical to the United States, and of such Persons as shall not, within a certain Time therein mentioned appear and submit to the State whether they shall be received as Citizens thereof, and of such Persons as shall so appear and shall not be admitted as Citizens, and for other Purposes therein mentioned.

T. enable.

I. WHEREAS divers Persons who have heretofore owned and possessed Lands, Tenements and Hereditaments, and also moveable Property in this State, have withdrawn themselves from the same, and attached themselves to the Enemies of the United States of America; and also divers Persons who have withdrawn to Places beyond the Bounds of any of the United States, in order to avoid bearing their proper and equal Part in Defence of the Freedom and Independence of the same; and also divers Persons who having been beyond the Bounds of the United States at the Beginning of the present War, have failed to return and unite their Effects for the common Defence of American Liberty; and it is expedient and just that every Person for whom Property is protected in any State should be and appear within the same, or join in Defence thereof whenever the same is threatened or invaded; and it is also just that a reasonable Time be given for such as have it in their Power to alledge favourable or mitigating Circumstances to induce this State, ever attentive to the Rights of natural Justice, and ever ready and willing to receive to Grace and Favour all who are sincerely attached to Liberty, to receive them as Citizens, and restore them to the Possessions which once belonged to them. BE

II. BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That all the Lands, Tenements, Hereditaments, and moveable Property within this State, and all and every Right, Title and Interest therein, of which any Person was seized or possessed, or to which any Person had Title on the Fourth Day of July in the Year One Thousand Seven Hundred and Seventy Six, who on the said Day was absent from this State, and every Part of the United States, and who still is absent from the same, or who hath at any Time during the present War attached himself to, or aided or abetted the Enemies of the United States, or who has withdrawn himself from this or any of the United States after the Day aforesaid, and still resides beyond the Limits of the United States, shall and are hereby declared to be confiscated to the Use of this State; unless such Person shall, at the next General Assembly which shall be held after the First Day of October, in the Year One Thousand Seven Hundred and Seventy Eight, appear, and be by the said Assembly admitted to the Privilege of a Citizen of this State, and restored to the Possessions and Property which to him once belonged within the same.

A. D. 1777.
Property con-
fiscated.

III. PROVIDED, That this Act shall not extend to such Persons as are, or have been actually employed in the Service of the United States, or any of them, and have not deserted to the Enemy, or traitorously violated their Trust, as are imprisoned, of unsound Mind, or under the Age of Twenty One Years.

Persons ex-
cepted.

IV. AND provided also, That nothing herein contained shall be construed to give Permission to such Persons as have removed themselves, or have been removed under the compulsive Authority of any Law of this State, or who have removed themselves to avoid taking the Oath of Allegiance to this State, to return thereto, or to avoid any Sales of Lands, Tenements, Hereditaments, or moveable Property, by such Persons bona fide made before their Departure, or pursuant to an Act of Assembly, passed at the last Session of this Assembly, intituled, *An Act for declaring what Crimes and Practices against the State shall be Treason, and what shall be Misprision of Treason, and providing Punishments adequate to Crimes of both Classes, and for preventing the Danger which may arise from Persons disaffected to the State.*

Those remov-
ed not to re-
turn.

C H A P. XVIII.

An Act to regulate the Pilotage of Cape Fear and Occacock Bars, and the Rivers leading from the same to Brunswick, Wilmington, Newbern, Bath, and Edenton.

I. WHEREAS the Pilotage of the Bars and Rivers in this State is at present under no Regulation by Law, and many Abuses may be committed, and the same much neglected, greatly to the Prejudice of Navigation and Trade;

Preamble.

II. BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That from and after the passing of this Act, the Pilots of the different Bars, Rivers and Creeks, of this State, shall be, and they are hereby allowed the Pilotage hereafter mentioned, and no more, to wit, Coming over Cape Fear Bar, and up to Brunswick, for each Vessel drawing Six Feet Water, Twelve Shillings per Foot; from Six to Ten Feet, Fourteen Shillings per Foot; from Ten to Twelve Feet, Sixteen Shillings per Foot; from Twelve to Thirteen Feet, Eighteen Shillings per Foot; from Thirteen to Fourteen Feet, Twenty Shillings per Foot; for Fifteen Feet, Twenty Five Shillings per Foot; for Sixteen Feet, Thirty Shillings per Foot; and for each Ship or Vessel drawing Seventeen Feet Water, Thirty Five Shillings per Foot: And for piloting a Ship or other Vessel from Brunswick to Great Island, the Quarter Part of said Rates, according to the Draught of Water of such Vessel respectively; and from Great Island over the Flats, up to Wilmington, the One Quarter Part of the Rates aforesaid; and for every Vessel outward bound, they are hereby allowed the respective Rates or Pilotage aforesaid, excepting the Bar Pilotage, which shall be One Half only: And for piloting any Ship or Vessel in, over Occacock Bar to Beacen Island Road, or any other Road or Harbour where Vessels usually anchor at, drawing Nine Feet or under, Twelve Shillings per Foot; and from Nine to Eleven Feet, sixteen Shillings per Foot; and from Eleven Feet and upwards, Twenty Shillings per Foot; and for the piloting each Vessel outward bound, over the said Bar of Occacock, the one Half of the said Rates, Respect being had to the particular Draught of Water such Vessel shall draw:

Rates of Pilot-
age.

And

A. D. 1777.

And the Pilotage from the Lower Road to *Newbern*, shall be Twelve Shillings per Foot, and from *Newbern* to the Lower Road the same; and the Pilotage from the Lower Road to *Edenton* Twenty Shillings per Foot, and from *Edenton* to the Lower Road the same; and the Pilotage from the Lower Road to *Bath Town* shall be Ten shillings per Foot, and from *Bath Town* to the Lower Road the same; and the Swash Pilotage for Vessels not taking a River Pilot, shall be Sixteen shillings for each Vessel.

Commissioners appointed.

III. AND be it Enacted, by the Authority aforesaid, That *Richard Quince, William Lord, William Wilkinson, Francis Brice, William Purviance, and John Dubois*, be, and they are hereby appointed Commissioners of the Navigation and Pilotage of *Cape Fear River*; and that *Richard Ellis, John Tillman, Christopher Neale, David Barron, and John Green*, be, and they are hereby appointed Commissioners of the Navigation and Pilotage of *Newbern*; and that *Nathan Keais, Thomas Respiss, Sen. Thomas Bonner, James Adams, and John Cooper*, be, and they are hereby appointed Commissioners of Navigation and Pilotage for *Bath Town*; and that *Joseph Hewes, John Campbell, Robert Hardy, Robert Smith, and William Savage*, be, and they are hereby appointed Commissioners of Navigation and Pilotage for *Edenton*; and they, or a Majority of them, for the respective Ports for which they are appointed as aforesaid, are hereby authorized and impowered, from Time to Time, to examine such and so many Persons as shall offer themselves as Pilots for the respective Bars and Ports aforesaid, touching his or their Abilities.

To appoint Pilots.

IV. AND be it Enacted, by the Authority aforesaid, That the said Commissioners for the respective Ports aforesaid, or the Majority of them, on their approving any Person to be Pilot, shall give to such Person a Certificate under their Hands, to the Governor or Commandant in Chief for the Time being, in order for his Approbation, and to obtain a Branch under his Hand and Seal, to act as a Pilot for the Port and Bar for which the said Commissioners so certifying are appointed.

Who are to give Bond.

V. AND be it further Enacted, by the Authority aforesaid, That every such Person shall, before he obtains a Branch to be a Pilot, give Bond, with Two sufficient Securities, to the Commissioners hereby appointed, and their Successors, for the Port in which he shall obtain a Branch, in the Sum of Five Hundred Pounds, with a Condition for his due and faithful Performance of his Duty as a Pilot; which Bond shall be in Trust for such Person or Persons as shall appear to be injured by such Pilots Negligence or Non-performance of the Condition of said Bond, and shall be assigned to any Person or Persons so injured petitioning for the same, who shall and may maintain an Action thereon.

Pen. for not giving out on signal.

VI. AND be it Enacted, by the Authority aforesaid, That when any Branch Pilot shall see, or be informed of any Vessel on the Coast, having a Signal out for a Pilot (if not judged to be an Enemy) and shall neglect or refuse to go to her Assistance, on proper Proof being thereof made, such Pilot or Pilots shall forfeit and pay the sum of One Hundred Pounds; to be recovered by Action of Debt, in any Court of Record in said State, one Half to the Informer, and the other to the Owner or Owners of said Vessel.

Quarantine.

VII. AND be it Enacted, by the Authority aforesaid, That when any Ship or Vessel, bound to any of the Ports of this State, shall have the Smallpox, or any other infectious Distemper on Board, the Master and Pilot of such Ship or Vessel shall give immediate Information thereof to the Commissioners of Navigation of the Port they are bound to; and the said Commissioners, or any Three of them, are hereby impowered and directed to order and command the said Master of such Ship or Vessel to perform Quarantine with his said Ship or Vessel, at such Place, and Number of Days, as they shall think necessary; and if the said Pilot or Master shall neglect or refuse to give such Information, they shall forfeit and pay for every such Neglect the Sum of Five Hundred Pounds; to be recovered in any Court of Record in this State, one Half to the informer, and the other to the Commissioners, to be by them applied as hereafter appointed.

If it may be removed.

VIII. AND be it Enacted, by the Authority aforesaid, That upon the Misbehaviour of any Pilot in his Office, the Commissioners aforesaid, or a Majority of them, in the Port where such Pilot belongs, shall, and they are hereby authorized and impowered, to remove such Pilot or Pilots so misbehaving from his or their Office.

No Pilot to act without a Branch.

IX. AND be it further Enacted, by the Authority aforesaid, That if any Person shall take the Charge of any Ship or Vessel as Pilot after the First Day of February next, over the Bars, or through the Rivers and Creeks aforesaid, other than such as shall be licensed to act as a Pilot aforesaid, every Person so offending, and being thereof convicted in any Court of Record having Cognizance thereof, shall for every Offence forfeit and pay the Sum of Fifty Pounds; to be recovered by the Commissioners, and by them applied as herein after directed, or suffer Three Months Imprisonment.

Commissioners kept up.

X. AND be it further Enacted, by the Authority aforesaid, That in case of Death, Refusal to act, Departure out of the State, or other Disability, of any of the said Commissioners, it shall and may be lawful for the remaining Commissioners, or the Majority of them, in such Port where such Circumstance may happen, to elect one or more, from Time to Time, in the Room and Stead of the Commissioner or Commissioners disqualified or disabled as aforesaid, so as to keep up the said mentioned Number for each respective Port; which Commissioners so elected shall be, and are hereby invested with all the Power and Authority of any Commissioners herein before named.

Pilots to have their Fees on board Vessels, tho' not employed.

XI. AND for the further Encouragement of such Pilots who shall be active in their Office, and board Vessels at Sea; Be it therefore Enacted, by the Authority aforesaid, That when any Pilot shall offer his service to any Master of a Vessel bound in over the said Bars of *Onawick and Cape Fear*, he shall be intitled (although the Master of such Vessel shall refuse to employ him) to the same Pilotage which he would have been intitled to if he had taken Charge of the said Vessel, and the Master shall be obliged to pay the same; and in case of Refusal, such Pilot or Pilots reporting the same to the Naval Officer of the Port he arrives at, such Naval Officer is hereby required not to clear out such Vessel until such Pilotage is fully discharged and paid: And if any Ship or Vessel coming into said Harbours or Inlets, taking a Pilot on Board, shall be by contrary Winds or otherwise drove off the Coast, the Master or Owner

Owner of such Ship or Vessel shall allow and pay the said Pilot Five Shillings for each and every Day he shall be on Board such Vessel, over and above his Pilotage.

A. D. 1777.

XII. AND whereas the erecting Beacons, Buoys and Stakes, as soon as possible, in the different Harbours near the Bars, and from thence up the Rivers and Creeks branching out of the same, where Vessels usually come to and anchor in, will greatly facilitate the Navigation thereof; *Be it therefore Enacted*, That a Tax shall be paid on every Vessel of Fifty Tons or under, coming in over Occoock Bar, the Sum of Sixteen Shillings; from Fifty to One Hundred Tons and upwards, Forty Shillings; and that the Commissioners of the respective Ports aforesaid agree, without Delay, with some proper Person or Persons for executing the same, and keeping them in proper Order, on the best Terms they can; and that they shall, and are hereby impowered to draw on the Naval Officer of their respective Ports annually (who shall and is hereby impowered to receive the above Tax) for such Sum or Sums of Money out of the same (if so much is in his Hands) as will defray the said Expence: And should the said Tax and Penalties heretofore mentioned be found more than is necessary for defraying the said Expence, the said Commissioners, or a Majority of them, shall have Power to draw for the same, and apply it towards improving the Navigation thereof.

Tax laid for erecting Beacons.

XIII. AND *be it further Enacted, by the Authority aforesaid*, That Two Fifths of the Expence attending the setting up the said Beacons, Buoys and Stakes, of the Royal Shoal, and those necessary between that and Occoock Bar, and the staking out of the Swath, be paid for by the Commissioners for Port Roanoke, One Fifth by the Commissioners for the Port of Bath, and the remaining Two Fifths by the Commissioners of Newbern, out of the aforesaid Tax and Forfeitures.

How paid by the several Ports.

XIV. AND *be it further Enacted, by the Authority aforesaid*, That the Commissioners appointed by this Act for the Town of Newbern be impowered to employ proper Persons to stake out the Channel from Harcourt's Island to Harbour Island, the Expence of which shall be paid as the staking of other Channels is by this Act directed to be paid.

Harbour and Channel staked.

XV. AND *be it Enacted, by the Authority aforesaid*, That no Commander, or other Person, belonging to any Vessel trading to this State, shall cast or throw overboard any Stone or other Ballast whatsoever into any Channel within said Ports, or wilfully pull down, destroy or remove, any Beacon, Stake, or other Marks, erected or placed in and by Virtue of this Act; and that he or they so offending, shall for every such Offence forfeit and pay the Sum of One Hundred Pounds, to be recovered in any Court of Record in this State, one Half to the Informer, and the other to the Commissioners, to be by them applied as before directed.

Pen. for throwing over Board, or destroying Beacons.

XVI. AND *be it Enacted, by the Authority aforesaid*, That the Collector of the Tax aforesaid shall be intitled to Five per Cent. for his Trouble in receiving and paying the same, and that he shall account with the Commissioners annually, upon Oath, if required, for all Sums of Money he may receive in and by Virtue of this Act.

Collector's Commissions.

XVII. AND *be it Enacted, by the Authority aforesaid*, That all Acts, Clause or Clauses of Acts, relative to Pilotage or Navigation, heretofore in Force in this State, be, and they are hereby repealed.

Repeal Clause.

XVIII. AND *be it Enacted, by the Authority aforesaid*, That this Act, and every Clause therein contained, shall continue and remain in full Force and Virtue for and during the Continuance of the present War, and from thence until the End of the next Session of the General Assembly.

Continuance of the Act.

C H A P. XIX.

An Act to enable the Governor to send an Aid from the Militia to oppose the Enemies of the United States, if the same shall be requested by Congress.

I. WHEREAS opposing the Enemies of the United States, by vigorous and powerful Efforts, will greatly tend to bring the present War to a speedy and happy Conclusion, and this State is at all Times willing and desirous of assisting, to the utmost of its Power, in the common Defence;

Preamble.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same*, That it shall and may be lawful for the Governor, or Commander in Chief for the Time being, upon the Request of Congress for that Purpose made, to detach from the Militia of this State an Aid, not exceeding Five Thousand Men, in Manner following, that is to say, Every Regiment shall be required to furnish its Proportion of the said Aid, according to the Number it contains, and that the commanding Officer of every Regiment shall be, and he is hereby impowered, to offer a Bounty of Fifty Dollars to every Person who shall engage as a Volunter in the said Service, and the Deficiency, if any, shall be supplied by Drafts, agreeable to the Militia Law, and every Person drafted for the said Service shall be intitled to a Bounty of Twenty Five Dollars; and every such commanding Officer shall return as soon as may be, to the Governor or Commander in Chief for the Time being, a Roll of such Persons as shall be detached from his Regiment, distinguishing them into Voluntiers and drafted Men; and every Volunter and drafted Militia Man shall be intitled to receive the Bounty to them respectively given by this Act, as soon as they shall enter into the Service, or be drafted; and the Governor, or Commander in Chief for the Time being, is hereby authorized to draw on the Treasury for such Sums of Money as may be necessary to defray the same.

Aid to march, and Bounty given.

III. AND *be it Enacted, by the Authority aforesaid*, That the said Aid shall march to such Parts or Places within the United States as the Congress shall direct, and be and continue in Service during the present Campaign, not exceeding Twelve Months; and such Aid shall be under the same Rules and Discipline as the continental Troops, after they shall have joined the Army which they may be ordered to reinforce, and shall receive the same Pay allowed the Militia in this State. *Provided always*, That for

Continuance in Service, Pay, and how tried for Offences.

A. D. 1777.

Governor to march.

And have the Rank of Major General.

None to be drafted who have served before.

Commanding Officer a Major General.

any Offence, every Officer and Soldier of the said Reinforcement shall be tried by the Courts Martial composed of their own Officers, and none other.

IV. *AND be it also Enacted, by the Authority aforesaid,* That the Governor may march to conduct and command the said Militia, if it shall be adjudged by him, with the Advice of the Council of State, consistent with the Safety of this State, and of Use to the Public Service.

V. *AND be it further Enacted, by the Authority aforesaid,* That in case the Governor of this State for the Time being shall by Virtue of this Act march without the Limits of this State, he shall have the Rank of a Major General of Militia from the passing of this Act, and shall draw Pay from the Day when by Virtue of this Act he shall pass the Limits of this State, during the Time he shall be on such Service; and he is hereby impowered to call as many Officers into Service as he shall think the Service absolutely requires, having Respect to the Regiments to which such Officers belong, and complying with the Rules prescribed by the Militia Law; and make every Provision for the March of such Troops, and Transportation of Stores, Baggage, Provision and Forage, as may tend to expedite the Progress of the Army, and consist with as much Economy as the Nature of the Operations will admit of.

VI. *PROVIDED,* That no Person shall be subject to be drafted for completing the said aforesaid, who has been already drafted, and in actual Service, in any Division, Battalion, Company or Detachment, for more than Two Months at any one Time since the Commencement of the present War; and all others shall, if a Draft be necessary, be subject to an equal Draught.

VII. *AND be it also Enacted, by the Authority aforesaid,* That in Case the Governor shall not find it expedient to march with the said Aid, he shall appoint the commanding Officer thereof a Major General, and such Major General shall have the Pay and other Appointment to such Rank belonging in the continental Army.

C H A P. XX.

An Act for establishing the Salaries of the Justices of the Superior Courts, and of the Attorney General. Repealed

Preamble.

I. **W**HEREAS it is necessary, in order to obtain a due Administration of Justice, that the Justices of the Superior Courts, and the Attorney General, should be Men of Eminence in the Profession of the Law, which cannot otherwise be effected, than by providing for them suitable to the Dignity of their respective Stations;

Justices Salaries.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That each of the said Justices shall be paid the Sum of One Hundred Pounds for each and every Superior Court he shall so attend, to be paid out of the Treasury by quarterly Payments.

Proviso, for Sickness.

III. *PROVIDED always,* That if any of the said Justices should be prevented by Sickness, or any unavoidable Accident, from attending at any of the said Courts, and the same be made appear on Oath, such Justice shall be paid Fifty Pounds for each and every such Court, and no more.

Attorney General's Salary.

IV. *AND be it Enacted, by the Authority aforesaid,* That the Attorney General shall be paid the Sum of Fifty Pounds for each and every Superior Court he shall attend, together with the Fees by Law established.

Deputy may be appointed.

V. *PROVIDED,* That if it should so happen that the Attorney General should not attend at any Superior Court, that then it shall and may be lawful for the Court to appoint a Deputy to act in his Stead, who is hereby intitled to the same Fees as the Attorney General is intitled to, and also the Sum of Twenty Five Pounds for every Court he shall so act in.

C H A P. XXI.

An Act for establishing a Loan Office in this State

Preamble.

I. **W**HEREAS the Congress of Delegates for the United States of America have recommended it to the different States of the Union that Loan Offices should be established in each of them, for the purposes of borrowing Money to support the present War against Great Britain;

Loan Office.

II. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That a Loan Office be established in the Town of Newbern, to receive all such Monies as may be lent in this State, pursuant to the Resolutions of the said Congress; and that such Office be under the Directions of the Congress of the United States, or their Board of Treasury, agreeable to the Rules and Regulations which are or may be established for such Purposes.

Treasurer appointed.

III. *AND be it further Enacted, by the Authority aforesaid,* That the General Assembly shall, by joint Ballot of both Houses, appoint a Person to execute the several Duties to the Loan Office appertaining, who shall be called the Treasurer of the Loan Office for the State of North Carolina; and the said Treasurer, before entering on the Execution of his Office, shall give Bond, with sufficient Sureties, to be approved by the Governor and Council, in the Sum of Three Hundred Thousand Dollars, payable to the Governor and his Successors, conditioned for the due and faithful accounting for all such Certificates as he may receive from the continental Treasury, and the Payment of all such Monies as shall be received on such Certificates, in such Manner as shall be directed by Congress; and also duly and faithfully, to the utmost of his Power, to issue all Loan Office Certificates which shall come to his Hands; and likewise well and faithfully to discharge all the other Duties of the said Office, in such

Such Manner as the said Congress have directed, or may direct: And such Treasurer shall, and is hereby declared to be intitled to all the Commissions, Fees, Perquisites and Profits, allowed by the Congress for such Services; and shall be exempt from serving in the Militia, or doing any Duty as a Militia Man, during his Continuance in the said Office.

A. D. 1777.

IV. AND for the Ease and Convenience of Persons who may incline to lend Monies to the United States on the said Certificates, and to the End that the Loan Office may more speedily, and with less Expence to Individuals, be supplied with Money for the said Purposes; *Be it Enacted, by the Authority aforesaid,* That the said Treasurer shall be, and he is hereby impowered to appoint a Deputy in each of the Towns of *Salisbury, Hillsborough, Halifax, Edenton, and Wilmington,* for whose Conduct the said Treasurer shall be answerable; and the said Treasurer shall account for all Certificates that shall be to them delivered, and for all Monies to be by them received, in the same Manner as for Certificates delivered, or Monies paid to himself, in Virtue of this Act.

To appoint Deputies.

C H A P. XXII.

An Act declaring what Fences are sufficient, and to provide a Remedy for Abuses.

I. **W**HEREAS the Peace and Harmony of every Neighbourhood much depends on good and sufficient Fences;

Preamble.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That every Planter shall make a sufficient Fence about his cleared Ground under Cultivation, at least Five Feet high, unless where some navigable Stream or deep Water Course shall be, that may be deemed sufficient instead of a Fence aforesaid.

Lawful Fences

III. *AND be it further Enacted, by the Authority aforesaid,* That upon Complaint made by any Person to any Justice of the Peace of the County of any Trespas or Damages done by Horses, Cattle or Hogs, it shall and may be lawful for such Justice, and he is hereby authorized and required, to cause to be summoned Two Freeholders, indifferently chosen, who (together with himself) shall view and examine, on Oath, whether the Complainant's Fence be sufficient or not, and what Damage he hath sustained by Means of the Trespas, and certify the same under their Hands and Seals; and if it shall appear that the said Fence be sufficient, then the Owner of such Horses, Cattle or Hogs, shall make full Satisfaction for the Trespas or Damages to the Party injured, to be recovered before any Jurisdiction having Cognizance thereof; but if it shall appear that the said Fence be insufficient, then the Owner of such Horses, Cattle or Hogs, shall not be liable to make Satisfaction for such Injury or Damages as aforesaid.

Method where Trespas are committed.

IV. *AND be it further Enacted, by the Authority aforesaid,* That if any Person whose Fence shall be adjudged insufficient, shall with Guns, Dogs, or otherwise, unreasonably chase, worry, maim or kill, any Horses, Cattle or Hogs, or cause the same to be done, such Person so offending shall make full Satisfaction for all such Damages to the Party injured, to be recovered as aforesaid.

Owners of unlawful Fences to pay Damages.

C H A P. XXIII.

An Act to encourage the building of Public Mills, and directing the Duty of Millers.

BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That every Water Grist Mill already built, or which shall hereafter be built, that hath or shall at any Time grind for Toll, shall be held and deemed, and is hereby declared to be a Public Mill.

Public Mills.

II. *AND be it further Enacted, by the Authority aforesaid,* That any Person willing to build such Mill, who hath Land only on one Side of a Run, shall exhibit his Petition to the County Court, and therein shew who is the Proprietor on the opposite Side of the Run, whereupon a Summons shall issue to such Proprietor to appear at the next Court, and answer the Allegations of such Petition; and the Court also at the same Time shall order Four honest Freeholders to lay off, view and value, on Oath, an Acre of the Land of such Proprietor, and also an Acre of the Land of the Petitioner opposite thereto, and to report their Opinion and Proceedings thereon to the next Court, and thereupon the Court shall order the said Report to be recorded; and if it take not away Houses, Orchards, Gardens, or other immediate Conveniences, shall and may, and are hereby impowered and authorized, to grant Leave to the Petitioner,

Manner of building Mills

Petitioner,

A. D. 1777.

Petitioner, or such Proprietor, to erect such Mill at the Place proposed, as in their Discretion shall seem reasonable, and to order the Costs of such Petition to be paid by the Person to whom such Leave shall be granted.

Valuation paid down.

III. *PROVIDED* always, That the Person to whom such Leave is granted shall pay down in Court, for the Acre of Land he shall obtain thereby, the Valuation Money, and procure a Record to be made thereof, which shall be a good and effectual Seizen in Law to create to such Person, his Heirs and Assigns, a Fee Simple in such Acre of Land.

No Mill within two Miles of another.

IV. *AND* provided also, That where any Grist Mill has been heretofore erected by Order of Court, it shall not be lawful for any Court, on the Petition of any Person whatever, to grant any Part of the Tract whereon such Mill stands, for the Purpose of building another Mill within Two Miles above or below the Mill already erected.

Not to overflow another, or create a Nuisance.

V. *PROVIDED* nevertheless, That it shall not be lawful for any Court to grant Leave to any Person to erect a Mill so as to overflow any other Mill, or create a Nuisance to the Neighbourhood, any Thing herein contained to the contrary notwithstanding.

When to be built.

VI. *PROVIDED* also, That the Person so being seized, shall within one Year begin to build a Water Mill, and finish the same within Three Years, and shall thereafter keep up the same for the Use and Ease of all such as shall be Customers to it, otherwise the said Land shall return to the Person from whom it was taken, or to such other Person as shall have his Right, unless the Time for finishing the same, for Reasons shewn to and approved of by the Court, be enlarged.

Proviso, for Feme Covert, &c.

VII. *PROVIDED* likewise, That if any Water Mill belonging to any Person within the Age of Twenty One Years, Feme Covert, *Non Compos Mentis*, or imprisoned, be let fall, burnt, or otherwise destroyed, that then such Person or Persons, and their Heir or Heirs, shall have Three Years to rebuild and repair such Mill, after his or their full-Age, Discoveriture, coming of sound Mind, or Enlargement out of Prison.

Right of Appeal.

VIII. *AND* be it further Enacted, by the Authority aforesaid, That if any Person shall think himself aggrieved by the Order or Determination of the County Court, he may appeal therefrom to the next Superior Court for the District in which the said Land doth lie, giving Bond and Security as usual; which Court shall, and is hereby authorized and impowered to take Cognizance of the same, and to confirm such Order, or reverse the same, and to give such Judgment therein as the County Court ought to have rendered.

Title confirmed to Mills built by Order of Court.

IX. *AND* be it further Enacted, by the Authority aforesaid, That every Person who hath built any Mill in Consequence of any Order of Court, and hath actually paid the Money according to the Valuation of any Acre of Land as by this Act directed, to be laid off and valued, shall be, and is hereby declared to stand seized thereof, to him, his Heirs and Assigns, in absolute Property, in the same Manner, and under the same Restrictions, Limitations and Conditions, as if the same had been originally granted by Virtue of the Powers and Authorities of this Act.

Toll, and to grind in Turn.

X. *AND* be it further Enacted, by the Authority aforesaid, That all Millers shall grind according to Turn, and shall well and sufficiently grind the Grain brought to their Mills, if Water will permit, and shall take no more Toll for grinding than one Sixth Part of the Indian Corn, and one Eighth Part of the Wheat, in the Districts of Edenton, Newbern, Wilmington, and Halifax, and the Eighth of the Corn and Wheat in the Districts of Hillsborough and Salisbury, and one Fourteenth Part for chopping Grain of any Grind; and every Miller, or Keeper of a Mill, making Default herein, viz. not grinding according to Turn, nor well and sufficiently grinding the Grain, if Water will permit as aforesaid, or exacting or taking more Toll than herein is set down and allowed, shall for every such Offence forfeit and pay Twenty Four Shillings Proclamation Money to the Party injured, to be recovered before any Justice of the County wherein such Offence is committed, with Costs. *Provided* nevertheless, That it shall be in the Power of any such Owner to grind, or cause to be ground, his own Grain, at any Time he thinks fit, any Thing in this Act to the contrary notwithstanding.

Proviso, for their own Grain.

Mill Measures, and Pen. for Neglect.

XI. *AND* be it further Enacted, by the Authority aforesaid, That all Millers shall keep in their Mills the following Measures, viz. a Half Bushel and Peck at full Measure, and also proper Toll Dishes for each Measure; and every Owner, by himself, Servant or Slave, keeping any Mill, and shall be lawfully convicted of keeping false Toll Dishes, contrary to the Intent and Meaning of this Act, shall forfeit and pay to the Party injured Five Pounds, to be recovered before any Justice of the County as aforesaid; and in case such Miller is a free Person, and keeps such Mill for a Share or for Hire, and is guilty of any of the above Offences, it shall be lawful for the Owner to stop so much of his Share or Hire, as will be sufficient to reimburse himself for such Fine or Fines as he shall become answerable for, with all the Charges that shall become due thereon.

C H A P. XXIV.

An Act to encourage the destroying Vermin in the several Counties of this State.

Preamble.

I. **W**HEREAS the Counties of this State are much infested with Wolves, and other Vermin, to the great Prejudice of the Inhabitants thereof;

Premium for killing Vermin

II. *BE* it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That every Person who shall kill any of the Vermin herein after mentioned within Ten Miles of any settled Plantation, shall be intitled to a Claim on the County where such Vermin shall be killed to the several Rewards as follows: For every grown Wolf, Twenty Shillings; every young one, Ten Shillings; for every Wild Cat, Five Shillings; and for every Panther, Twenty Shillings; to be paid as herein after directed.

III. *AND*

III. *AND* be it further Enacted, by the Authority aforesaid, That any Person who shall have a Claim for killing any of the aforesaid Vermin, are hereby directed to produce the Scalp of the aforesaid Vermin, with both Ears, before a Magistrate, who is to administer an Oath to such Person claiming the same, that it was taken and killed within the Bounds of such County where the Claim shall be made; and if any Slave or Indian that shall kill any Vermin, of which the Head or Scalp shall be produced as aforesaid, the Master or Owner of such Slave or Indian, or he that makes Claim for such Scalp or Scalps in Behalf of any Slave or Indian, shall make Oath before such Magistrate, that he verily believes the same was taken and killed within the Counties wherein the same was claimed; which Oath being administered, the Magistrate is hereby directed to give a Certificate for the same, and immediately cause such Scalp to be destroyed.

A. D. 1773.
Claims for
Scalps how
proved.

IV. *AND* be it further Enacted, by the Authority aforesaid, That any Person having a Certificate from any such Justice of the Peace shall, upon producing the same to the Person who shall be appointed to collect and account for the Taxes of the County where such Certificate was obtained, be intitled to receive the Reward by this Act given for such Scalp or Scalps, or to have the same discounted in the Settlement of his County Tax; and every such Certificate shall be deemed a sufficient Voucher for the Collector of the County Tax, on his Settlement for the same.

How paid.

V. *AND* be it further Enacted, by the Authority aforesaid, That this Act shall be and continue in Force for and during the Term of Three Years, and from thence to the End of the next Session of Assembly, and no longer.

Continuance
of the Act.

C H A P. XXV.

An Act to prevent burning the Woods.

I. **W**HEREAS the frequent burning of the Woods is found to be destructive to Cattle and Hogs, extremely prejudicial to the Soil, and oftentimes of fatal Consequences to Planters and Farmers, by destroying their Fences and other Improvements: For Prevention of which Evils,

Preamble.

II. *BE* it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That it shall not be lawful for any Person whatsoever to set Fire to any Woods except it be his own Property, and in that Case it shall not be lawful for him to set Fire to his own Woods, without first giving Notice to all Persons owning Lands adjacent to such Wood Lands intended to be fired at least Two Days before the Time of setting such Woods on fire, and also taking effectual Care to extinguish such Fire before it shall reach any vacant or patented Lands, contiguous to or adjacent such Lands to be fired.

Woods not to
be burnt.

III. *AND* be it further Enacted, by the Authority aforesaid, That every Person offending against this Act shall forfeit and pay the Sum of Ten Pounds, to be recovered by Action of Debt, Bill, Plaint or Information, to the Use of the Person who shall sue or prosecute for the same; and shall also be further liable to the Party injured by such unlawful firing of the Woods, for all Damages that may accrue therefrom.

Pen. for off
fending.

IV. *AND* be it further Enacted, by the Authority aforesaid, That if any Slave, free Negro or Mulatto, or vagrant Person, unable to pay the Fine aforesaid, shall be convicted of setting Fire to any Woods, contrary to the true Meaning of this Act, such Person, on Conviction thereof, shall have and receive on his bare Back Thirty Nine Lashes, well laid on, at the Public Whipping-Post,

Pen. on Ne-
groes, &c.

C H A P. XXVI.

An Act for levying a Tax for the Year One Thousand Seven Hundred and Seventy Eight.

I. **W**HEREAS it is necessary, for the Support of the just and necessary War in which the United States are engaged against the Crown of Great Britain, in Defence of the Liberty and Independence of the said States, and the Rights of Mankind, that the Treasury be as soon as possible supplied with Money sufficient to defray the Quota of the Expence of the said War, which this State ought of Right to sustain; and it is expedient to support the Credit of the Money emitted for the Purposes of the said War by the Congress of the United States, and by the Congress of this State; and nothing can answer such Purposes so effectually, and with such Convenience and Advantage to this State, as a general Tax, in Proportion to the Ability of each individual Citizen throughout the same:

Preamble.

II. *BE* it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That for the Year One Thousand Seven Hundred and Seventy Eight a Tax of Two Pence shall be paid for every Pound Value of taxable Property within this State, and a proportionable Poll Tax on all such Freemen as are subject to the Payment of a Poll Tax, pursuant to an Act passed this present Session of Assembly, intituled, *An Act to amend an Act for levying a Tax by general Assessment, and other Purposes*, and that all such Taxes be levied and accounted for pursuant to the Directions of the said Act.

Tax laid.

III. *AND* be it also Enacted, by the Authority aforesaid, That in the several Counties within this State, where the One Haltpenny Tax laid by a certain Act passed the last Session of this Assembly, intituled, *An Act for levying a Tax by general Assessment, and other Purposes*, has not been levied, nor any Assessment made pursuant to the said Act, the Tax for the Year One Thousand Seven Hundred and Seventy Eight shall be Two Pence Haltpenny, and the Poll Tax Twenty Shillings and Eight Pence, to be levied and accounted for in like Manner as other Taxes by this Act imposed.

Tax where no
Assessment.

A. D. 1777.

Taxgatherers
to collect the
Tax.

IV. AND be it also Enacted, by the Authority aforesaid, That every Taxgatherer and County Treasurer appointed under the said Act of Assembly, intituled, *An Act for levying a Tax by general Assessment, and other Purposes*, shall proceed to collect the Tax laid by such Act, and to pay and account for the same as required by the said Act, any Law to the contrary notwithstanding.

C H A P. XXVII.

An Act for appointing Commissioners to lay off and mark a Road from the Court House in the County of Washington, through the Mountains, into the County of Burke.

Preamble.

I. WHEREAS the Inhabitants of *Washington* County would derive great Advantages from a Public Road leading directly through the Mountains into the County of *Burke*, for Horses, Carts, and Waggon, to pass to the Sea Ports in this State and *South Carolina*.

Road to be
laid off.

II. BE it therefore Enacted by the General Assembly of the State of *North Carolina*, and it is hereby Enacted by the Authority of the same, That *Charles McDowell*, *John McDowell*, *Samuel Bright*, *Ezekiel Smith*, and *Jacob Womack*, be, and they are hereby appointed Commissioners, and they, or a Majority of them, are impowered and authorized to lay off and mark a Road by the nearest and best Way from the House of *Charles Robinson*, where the Court hath been held in the County of *Washington*, to the House of *Edward Smith*, where the Court hath been held in the County of *Burke*; and the said Commissioners, or such Majority of them as shall lay off and cause the said Road to be marked, shall, and they are hereby required to return a proper Survey thereof, certified under their Hands and Seals, to the respective Courts of the said Counties of *Washington* and *Burke*.

Overseers.

III. AND be it further Enacted, by the Authority aforesaid, That after the said Road shall be laid off and marked, and a Survey thereof returned as aforesaid, the Courts of the Counties of *Burke* and *Washington* respectively shall have full Power and Authority within their respective Counties to appoint Overseers, and make Order for such Number of the Inhabitants as they shall think proper, to clear out, work upon, and keep the said Road in Repair.

Commissioners
Allowance.

IV. AND be it further Enacted, by the Authority aforesaid, That the said Commissioners, for their Service in laying off and causing the said Road to be marked, shall be allowed the Sum of Eight Shillings per Day, and the Chain Carriers and Markers shall be allowed per Day agreeable to Contract with the Commissioners for the same; and when a stated Account of the said Services, properly authenticated, shall be laid before the Courts of the said Counties respectively, and approved, the Allowances shall be paid out of the contingent County Tax of the said Counties respectively where the Services were done.

C H A P. XXVIII.

An Act to facilitate the Navigation of Port Currituck.

Preamble.

I. WHEREAS the erecting of Stakes and Beacons from *Albemarle* through the Sound to *Currituck* Inlet, will tend much to the Interest and Advantage of sundry Merchants, Masters and Owners of Vessels, belonging to this State, in negotiating and carrying on their Business, Trade and Commerce, to and from the State of *Virginia*;

Commissioners
for clearing
the Navigation

II. BE it therefore Enacted by the General Assembly of the State of *North Carolina*, and it is hereby Enacted by the Authority of the same, That *John Humphries* and *Thomas Taylor* be, and are hereby constituted and appointed Commissioners, and authorized and impowered to agree and contract with such Person or Persons as are willing and fit to be employed, for clearing away and removing any Obstructions found in the Channel from *Albemarle* through the Sound to *Currituck* Inlet, and for staking out the said Channel, and erecting Beacons, for the better Discovery thereof by such Masters of Vessels and Mariners as shall sail along the same, in such Manner as the said Commissioners shall conceive will best promote the Navigation of the said Port, provided that the Sum they shall engage to pay the Person or Persons so doing the Services aforesaid, do not exceed the Sum of One Hundred Pounds.

Tax laid.

III. AND for reimbursing the said Commissioners the Sum they may expend for the Purposes aforesaid, and for keeping up the said Stakes, Beacons, and other Marks, necessary for indicating and pointing out the said Channel for the future; Be it further Enacted, by the Authority aforesaid, That the Master of every Vessel sailing to the said Port shall pay to the Naval Officer of the said Port the Sum of Two Dollars, before his Vessel shall be cleared out, to be paid to, and applied by the said Commissioners for the Purposes aforesaid.

Pen. for de-
stroying Bea-
cons.

IV. AND be it further Enacted, by the Authority aforesaid, That if any Person or Persons shall wilfully pull down, remove or destroy, any Beacon, Stake, or other Mark, erected or placed in Virtue of this Act, he or they shall for every such Offence forfeit and pay the Sum of Five Pounds, to be recovered before any Jurisdiction having Cognizance thereof; one Half to the Naval Officer of the said Port, to be paid and applied for the Purposes and in Manner aforesaid, and the other Half to him or them that will sue for the same.

C H A P. XXIX. —

A. D. 1777.

An Act to impower the Courts for the Counties of Tryon and Guilford to lay a Tax by Assessment, for finishing the Court-Houses, Prison and Stocks, in the said Counties; and also to impower the several Counties in the District of Wilmington to levy Taxes for building a District Gaol, and Gaoler's House, in the Town of Wilmington, and other Purposes.

WHEREAS by two Acts of the last Session of Assembly, Commissioners were appointed in the Counties of Tryon and Guilford for building Court-Houses, Prisons and Stocks, in the said Counties, and the said Commissioners respectively are thereby impowered to enforce the Collection of the Taxes heretofore laid for the said Purposes, and the Justices of the Courts of the respective Counties are directed to lay such other Taxes as may be sufficient to complete the said Buildings; and whereas the Mode of Taxation heretofore in Use is inconsistent with that adopted by the present General Assembly: For Remedy whereof,

II. BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That in the said Counties of Tryon and Guilford, a Tax not exceeding One Farthing in the Pound in the County of Tryon, and Eight Pence in the Hundred Pound in Guilford County (and a Tax not exceeding Eight Pence in the County of Guilford, and Eighteen Pence in the County of Tryon, on all the taxable Persons within the said Counties respectively, who have not Property to the Amount of One Hundred Pounds) on all the taxable Property therein, shall be levied by the Justices of the said Counties respectively, for the Purposes of building and finishing the Court-Houses, Prisons and Stocks, in the same Counties; which Tax shall be collected and paid to the Commissioners of the respective Counties for the Purposes aforesaid, for and during the Space of Two Years in Tryon County, and One Year in Guilford County.

III. AND whereas in the County of Guilford divers Persons of the People called Quakers have been fined for not attending Militia Duty, and many of their Horses and other Effects have been sold for the Payment of the said Fines, whereby considerable Sums of Money remain in the Sheriff's Hands after satisfying the same, which the said People called Quakers, from conscientious Scruples, refuse to receive; **Be it therefore Enacted, by the Authority aforesaid,** That all the surplus Money in the Hands of the Sheriff of Guilford aforesaid, arising by the Sale of any of the Effects of the People called Quakers for the Payment of Militia Fines, shall be paid by the said Sheriff into the Hands of Charles Bruce and Robert Lindsey, Esquires, to the Use of the proper Owners; and if the Sheriff shall neglect or refuse to pay such surplus Money as aforesaid, according to the Directions of this Act, the aforesaid Commissioners shall and may maintain an Action for the same in any Court having Cognizance thereof, and on the Trial of any such Action the *Onus Probandi*, with Respect to the surplus Monies in the Hands of such Sheriff, shall lie upon the Defendant.

IV. AND be it Enacted, by the Authority aforesaid, That so much of the said Two Acts passed last Session of Assembly, as tend to lay a Poll Tax on the Inhabitants of Tryon and Guilford Counties, for the Purposes of building the Court-Houses, Prison and Stocks, in the said Counties, are hereby repealed and made void.

V. AND whereas the Public Gaol for the District of Wilmington has been consumed by Fire, and it being necessary that a new Gaol should be erected for the Purposes both of the County of New Hanover and of the said District; **Be it further Enacted, by the Authority aforesaid,** That William Wilkinson, John Dubois, Henry Toomer, Richard Payer, and Andrew Ronaldson, be, and they are hereby appointed Trustees for designing, contracting, building and finishing, a good and sufficient Gaol and Gaoler's House, of such Dimensions and Materials, on the Lot of Ground in the Town of Wilmington where the Gaol which was last built, as a temporary Substitute for the District Gaol which was burnt down, as to them or the Majority of them, or their Survivors, shall seem most proper and convenient; which Gaol and Gaoler's House when so erected, shall be and remain the Public Gaol and Gaoler's House of the several Counties within the District of Wilmington aforesaid.

VI. AND be it further Enacted, by the Authority aforesaid, That the Sum of Two Thousand One Hundred Pounds shall be collected from the several Counties in the District of Wilmington, in the following Proportions, *to wit*, From the County of New Hanover Six Hundred Pounds, and from the Counties of Duplin, Cumberland, Bladen, Onslow, and Brunswick, Three Hundred Pounds each; which said Taxes shall be by the Taxgatherers of the respective Counties in the District aforesaid for the Time being collected, in the same Manner, and under the same Penalties for Non-payment thereof, as is directed by Law for the collecting other Public Taxes; and the Money arising therefrom shall be accounted for and paid by the said Taxgatherers to the Trustees, or a Majority of them, or their Survivors as aforesaid, and by them applied towards discharging the Contracts they shall enter into for the Buildings aforesaid.

VII. AND be it further Enacted, by the Authority aforesaid, That if any Taxgatherer or Taxgatherers, who shall be chargeable with any of the Taxes by this Act assessed, shall neglect to account for, and pay to the Trustees aforesaid, or the Majority of them, or their Survivors, such Sums as he shall be chargeable with in Virtue of this Act, after deducting the usual Commissions for collecting, and such Insolvents as shall be allowed agreeable to Law, the said Trustees, or the Majority of them, or their Survivors, shall have the same Method of Proceeding against such Taxgatherer or Taxgatherers, as is by Law directed against Taxgatherers for not accounting for other Public Monies by them received.

VIII. AND be it further Enacted, by the Authority aforesaid, That the Justices of the Courts of the respective Counties in the said District shall summon every Sheriff or other Person to appear before them,

Preamble.

Tax laid for building Crts. Houses, &c.

Surplus Money of Quakers to be paid to Commissioners

Repeal Clause.

Commissioners for building Wilmington Gaol.

Tax laid for it.

Pen. for not paying it.

A. D. 1777.

Sheriffs to account for Tax

them, and account for and pay all Sums of Money which such Sheriff or other Person shall have heretofore collected by Virtue of any Act of Assembly formerly in Force in this State, imposing a Tax upon the Inhabitants of the said District for the Purpose of erecting a Gaol in *Wilmington*, to be used as a District Gaol, where such Tax is collected has not been heretofore accounted for and paid as by Law directed; and such Arrears shall be paid to the said Trustees, or a Majority of them, to be applied as other Taxes are by this Act directed to be applied: And such Sheriff or Sheriffs, or other Persons, who shall be so summoned, and fail to attend, or attending shall refuse to account for and pay the Sums which they shall have so collected and not have accounted for, shall be subject to the same Pains, Penalties, Fines and Forfeitures, as Sheriffs are liable to for failing to account for other Public Monies by them received.

Trustees to proceed.

IX. AND be it further Enacted, by the Authority aforesaid, That the Trustees, or the Majority of them, or their Survivors, shall immediately proceed to the Discharge of the Trust by this Act reposed in them, and shall cause the said Building to be finished within Two Years from the passing of this Act, and shall immediately thereafter lay an Account of their proceedings herein, upon Oath, of all Monies they shall receive and pay on Account of the said Building, before the Court of each of the Counties herein named for their Approbation; and the Surplusage of the said Tax, if any, shall be by them paid to the Justices of the said several Counties, in Proportion to the Tax collected in the said Counties respectively, to be applied towards the contingent Charges of the said Counties.

Offenders to be committed to Goal.

X. AND be it further Enacted, by the Authority aforesaid, That after such Gaol shall be erected, when any Person or Persons shall be apprehended for any Offence committed within the District aforesaid, it shall and may be lawful for the Magistrate or Magistrates before whom such Offender shall be examined, if he or they think it necessary, to commit such Offender to the aforesaid Gaol; and the Sheriff of the County for the Time being where such Offender shall be apprehended, is hereby authorized and required to convey such Offender to the said Gaol, and deliver him or her to the Sheriff or Keeper thereof, and take a Receipt of such Sheriff or Keeper, which shall be his Discharge for such Prisoner.

Goal Keeper to be employed.

XI. AND be it further Enacted, by the Authority aforesaid, That after the said Gaol and Gaoler's House shall be built as aforesaid, the Sheriff of the County of *New Hanover* for the Time being, is hereby directed and required to employ some Person of Integrity to be Keeper of the said Gaol, who during the Time any Person committed for a capital Offence shall be in the said Gaol, shall constantly reside in the said Gaoler's House, and take all lawful Ways and Means from preventing the Escape of such Offender.

C H A P. XXX.

An Act for dividing Edgcomb County, and other Purposes therein mentioned.

Preamble.

I. WHEREAS the large Extent of the County of *Edgcomb* renders it grievous and troublesome to many of the Inhabitants thereof to attend the Courts and General Elections, and other Public Meetings appointed therein;

Edgcomb divided, and Nash erected.

II. BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That from and after the present Session of Assembly, the said County of *Edgcomb* be divided by a Line, beginning at the cool Springs, at *John Powell's* on *Fishing Creek*, thence running to the Falls of *Tar River*, from thence to the *Widow Rose's* on *Contentney*; and that all that Part of the late County of *Edgcomb* which lies to the East of the said dividing Line, shall continue and remain a distinct County, by the Name of *Edgcomb*; and that all that other Part of the said County of *Edgcomb* which lies West of the said dividing Line, shall thenceforth be erected into a new and distinct County, by the Name of *Nash* County.

Court when held.

III. AND for the due Administration of Justice, Be it Enacted, by the Authority aforesaid, That a Court for the said County of *Nash* shall be held constantly by the Justices thereof on the First Monday in *April*, *July*, *October*, and *January*; and the Justices for the said County of *Nash* are hereby authorized and empowered to hold the first Court in the same at the House of *Micajah Thomas*, on the First Monday in *April* next, and all subsequent Courts for the said County on the Days above appointed for holding Courts therein, at any Place to which the said Justices shall from Court to Court adjourn themselves, until a Court-House shall be built for the said County of *Nash*, and then all Causes, Matters and Things, depending in said Court, and all Manner of Process returnable to the same, shall be adjourned to such Court-House; and all Courts held in and for the said County of *Nash* shall be held by Commission to the Justices, in the same Manner, and under the same Rules and Restrictions, and shall have and exercise the same Power and Jurisdiction, as are or shall be prescribed for other Courts held for the several Counties in this State.

Sheriff to collect Taxes as before the Division.

IV. AND be it further Enacted, by the Authority aforesaid, That nothing herein contained shall be construed to debar the late Sheriffs and Collectors of the said County of *Edgcomb*, as the same stood undivided, to make Distress for any Levies, Fees, or other Dues, now actually due and owing from the Inhabitants of said County as it formerly stood undivided, in the same Manner as by Law the said Sheriff or Collectors could or might have done, if the said County had remained undivided; and the said Levies, Fees, and other Dues, shall be collected and accounted for in the same Manner as if this Act had never been made, any Thing herein contained to the contrary notwithstanding.

Nash Part of Halifax Dist.

V. AND be it further Enacted, by the Authority aforesaid, That after the passing of this Act the said County of *Nash* shall be, continue and remain, Part of the District of the Superior Court of Law and Justice usually held for the District of *Halifax*; and the County Treasurer of the said County of *Nash* shall

shall from Time to Time account for and pay to the Public Treasurer of the Northern District of this State for the Time being, all Public Levies by him collected, or wherewith he shall stand chargeable, in the same Manner, and under the like Pains and Penalties, as other County Treasurers.

A. D. 1777.

VI. AND be it further Enacted, by the Authority aforesaid, That *Joseph Clinch, Arthur Arrington, Henry Horn, Jun. Daniel Ross, and Isaac Horn*, be appointed Commissioners, and they are hereby empowered and required to run the said dividing Lines between the Counties of *Edgcomb* and *Nash*, agreeable to the Directions of this Act; which said Lines when run by the Commissioners, or a Majority of them, shall be by them entered on Record in the Court of each of the said Counties, and shall thereafter be deemed and taken to be the dividing Lines between the said Counties of *Edgcomb* and *Nash*.

Dividing Lines to be run.

VII. AND be it further Enacted, by the Authority aforesaid, That *Duncan Lanson, Nuthan Boddie, Matthew Drake, Edward Clinch, and Arthur Arrington*, Esquires, the Survivor or Survivors of them, be, and they are hereby empowered and directed to agree and contract with Workmen for erecting and building a Court-House, Prison and Stocks, for the Use of the said County of *Nash*, at such Place as they, or a Majority of them, or their Survivors, shall agree upon.

Commissioners for building the Court-House, &c.

VIII. AND for reimbursing the said Commissioners the Money they shall expend in erecting the said Buildings, and running the dividing Line between the said Counties; Be it Enacted, by the Authority aforesaid, That a Tax of one Farthing in the Pound shall be, and is hereby assessed on the taxable Property in the said County of *Nash* for Two Years, to commence from the passing of this Act; and that all Persons who shall refuse or neglect to pay the said Tax at the Time limited for Payment of Public Taxes, shall be liable to the same Penalties and Distress as for Non-payment of Public Taxes: And the Collectors of the said County are hereby required and directed to account for and pay the Monies by them so collected to the Commissioners aforesaid, after deducting Six per Cent. for their Trouble in collecting the same; and in case of Failure or Neglect in any of the said Collectors, such Collector so failing or neglecting shall be liable to the same Penalties and Recoveries, as by Law may be had against Collectors of Public Taxes in like Cases.

Tax laid for the Buildings.

IX. AND be it further Enacted, by the Authority aforesaid, That all Manner of Suits, Causes and Pleas, whether civil or criminal, now commenced and depending in the County Court of *Edgcomb*, shall continue, and may be prosecuted to a final End and Determination, any Thing in this Act to the contrary notwithstanding.

Suits to be finished.

C H A P. XXXI.

An Act for erecting the District of Washington into a County, by the Name of Washington County.

I. BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That the late District of *Washington*, and all that Part of this State comprehended within the following Lines, shall be erected into a new and distinct County, by the Name of *Washington County*, viz. Beginning at the most North Westerly Part of the County of *Wilkes*, on the *Virginia* Line; thence running with the Line of *Wilkes* County, to a Point Thirty Six Miles South of the *Virginia* Line; thence due West, to the Ridge of the great Iron Mountain which heretofore divided the Hunting Grounds of the *Ovabill Cherokees*, from those of the *Middle Settlements and Valley*; thence running a South Westerly Course, along the said Ridge, to the *Unacoy* Mountain, where the trading Path crosses the same from the *Valley* to the *Ovabills*; thence South with the Line of this State, adjoining the State of *South Carolina*; thence due West, to the great River *Mississippi*; thence up the said River the Courses thereof, to a Point due West from the Beginning; thence due East with the Line of this State, to the Beginning: And it is hereby declared, that all that Part of this State comprehended within the Lines aforesaid shall from henceforth be and remain the County of *Washington*, and shall be, and is hereby declared to be Part of the District of *Salisbury*.

Washington erected.

II. AND be it further Enacted, by the Authority aforesaid, and it is hereby Declared, That all that Part of this State lying West of *Rowan* County, and South of the County of *Washington*, shall be, and is hereby declared to be Part of the County of *Burke*.

Part of Salisbury District.

Part of Burke.

III. AND for the due Administration of Justice, Be it Enacted, by the Authority aforesaid, That Justices of the Peace shall be nominated and commissioned, and Courts held in the said County of *Washington*, in the same Manner, and with the same Powers and Jurisdiction, as Justices and Courts in the other Counties in this State; and that the Courts of the said County of *Washington* shall be held on the Fourth Mondays in *February, May, August, and November*.

Courts held.

IV. AND be it Enacted, by the Authority aforesaid, That the said Justices to be appointed for the County of *Washington*, are hereby directed to meet on the Fourth Monday in *February* next, at the House of *Charles Robertson*, and take the Oaths appointed for their Qualification; and the said Justices, or any Three of them, after being so qualified, shall hold a Court at the Place and Times herein before appointed, and every of them, at all Times during their Continuance in Office, as well within their Courts as without, shall have and exercise the same Power and Authority, and be subject to the same Forfeitures and Penalties, as other Justices of the Peace within the several Counties in this State are liable to.

Justices to qualify.

V. AND be it further Enacted, by the Authority aforesaid, That *John Carter, Andrew Greer, William Cobb, Jacob W. Mack, George Russell, John Sevier, and James Stuart*, Esquires, or a Majority of them, be, and they are hereby appointed Commissioners to lay off and appoint the Place where the Court-House, Prison and Stocks, for the Use of the said County of *Washington*, shall be built, and there to erect, or cause the same to be erected.

Commissioners for the Buildings.

T

VI. AND

A. D. 1777.

Tax laid for
the Buildings.

VI. AND for defraying the Expence of the said Buildings, *Be it Enacted, by the Authority aforesaid,* That a Tax of Two Shillings and Six Pence per Hundred Pounds be laid on all the taxable Property which is liable to be assessed in the said County of *Washington*, and also a Poll Tax of Two Shillings and Six Pence on every Freeman in the said County who shall not possess an Estate of One Hundred Pounds Value of taxable Property (Soldiers in the continental Service or the Service of this State excepted) and that the same shall be assessed and collected by the same Persons, and in the same Manner, as the Public State Tax in the said County; and that the Tax to be assessed by Virtue of this Act, when assessed and collected, shall be paid into the Hands of the Commissioners herein named for erecting the Public Buildings; and on Non-payment of the Tax to be collected in Virtue of this Act from the several Collectors thereof, the said Collectors shall be liable to the same Penalties as for other Public Taxes, and the said Commissioners shall be intitled to the same Mode of Recovery against the said Collectors, as the Public Treasurers are intitled to have against them on Non-Payment of the Public Taxes.

Surplus appro-
priated.

VII. *AND be it further Enacted, by the Authority aforesaid,* That if the Tax to be assessed by Virtue of this Act should be more than sufficient to complete the said Public Buildings, the Overplus remaining in the Hands of the said Commissioners shall be applied to the defraying the contingent Charges of the County.

Sheriff to ac-
count for the
Tax.

VIII. *AND be it Enacted, by the Authority aforesaid,* That the Sheriff of the said County of *Washington* is hereby impowered and directed to account for and pay the Money by him collected for the Purpose of building the aforesaid Court-House, Prison and Stocks, to the Commissioners aforesaid, after deducting his Commissions for collecting the same.

Workmen to
be employed,
and Courts
where held.

IX. *AND be it further Enacted, by the Authority aforesaid,* That the Commissioners herein before appointed, or a Majority of them, are hereby impowered and directed to employ Workmen to build the Court-House, Prison and Stocks, in the said County of *Washington*; and the Court of the said County shall and may be held at the House of *Charles Ketchum*, in the said County, until the Court-House shall be built, and immediately after the same is built shall stand adjourned to the Court-House.

Privileges of
the County.

X. *AND be it further Enacted, by the Authority aforesaid,* That the County of *Washington* shall be intitled to the same Privileges and Immunities as other Counties in this State.

C H A P. XXXII.

An Act for erecting Part of the County of Surry, and Part of the District of Washington, into a separate and distinct County, by the Name of Wilkes.

Preamble.

I. **W**HEREAS the large Extent of the County of *Surry*, and the *District of Washington*, renders it grievous and burthensome to many of the Inhabitants thereof to attend the Courts, General Musters, and other Public Meetings therein;

Wilkes erected

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That from and after the Fifteenth Day of *February* next after the Passing of this Act, the said County of *Surry* and *District of Washington* be divided by the following Lines: Beginning at a Point Twenty Six Miles due *West* of *Surry* Court House, thence *North* to the *Virginia* Line, thence *West* along the said Line to the Ridge that divides the Waters of *Holston* and *New Rivers*, thence along the said Ridge to *Burke* County Line, thence *Eastwardly* along the Line that divides the Counties of *Surry* and *Burke* to *Rowan* County Line, thence along *Rowan* County Line to a Point due *South* of the Beginning, thence *North* to the Beginning, be erected into a distinct County, by the Name of *Wilkes*.

Court when
held.

III. *AND for the due Administration of Justice, Be it Enacted by the Authority aforesaid,* That from and after the Fifteenth Day of *February* next, an Inferior Court of Pleas and Quarter Sessions shall be held for the said County of *Wilkes* at the House of *Mr. John Brown*, on the First *Mondays* in *March*, *June*, *September*, and *December*, by Commission to the Justices, in the same Manner as other Inferior Courts of Pleas and Quarter Sessions are held within this State; and the said Inferior Court shall take Cognizance of all Matters, Suits and Things, and is hereby vested with the same Powers, Jurisdictions and Authorities, as any other Inferior Court shall or can have within this State.

Justices to
qualify.

IV. *AND be it further Enacted, by the Authority aforesaid,* That the Justices to be appointed for the County of *Wilkes*, are hereby directed to meet on the First *Monday* in *March* next, at the House of *John Brown* aforesaid, and take the Oaths appointed for their Qualification; and the Justices of the said County of *Wilkes*, or any Three of them, after being so qualified, shall hold an Inferior Court of Pleas and Quarter Sessions at the Times herein before mentioned; and the said Justices of the Peace, and every of them, at all Times during their Continuance in Office, as well within their Inferior Courts of Pleas and Quarter Sessions as without, shall have and exercise the same Powers and Authorities, and be subject to the same Forfeitures and Penalties, as other Justices of the Peace of the several Counties within this State are liable.

Commissioners
appointed.

V. *AND be it further Enacted, by the Authority aforesaid,* That *Charles Gordon*, *Benjamin Cleveland*, *Joseph Herndon*, and *Elisha Isaacs*, be, and they are hereby appointed Commissioners for the said County of *Wilkes*, who are hereby invested with full Power and Authority to contract and agree with Workmen to build a Court House, Prison and Stocks in the said County.

Tax laid.

VI. *AND be it further Enacted, by the Authority aforesaid,* That a Tax not exceeding One Shilling shall be levied on each Hundred Pounds Value of all the assessable Property of the said County of *Wilkes*, for the Term of Two Years, for the Purpose of Public Buildings, as in this Act before directed; which said Tax shall be collected at such Times, and accounted for in the same Manner, and

and under the same Regulations as other County Taxes are or shall be collected and accounted for in this State.

VII. *AND* be it further Enacted, by the Authority aforesaid, That nothing herein contained shall be construed to debar the Sheriff or Collectors of Taxes in the said County of *Surry*, as it now stands undivided, to make Distrels for any Levies, Fees, or other Dues that shall be due from the Inhabitants of the said County on the said Fifteenth Day of *February*, in the same Manner as by Law the said Sheriffs or Collectors could or might have done if the said County had remained undivided; and the said Levies, Fees and other Dues, shall be accounted for in the same Manner as if this Act had never been made, any Thing herein contained to the contrary notwithstanding.

VIII. *AND* be it further Enacted, by the Authority aforesaid, That after the said Fifteenth Day of *February*, the said County of *Wilkes* shall be, continue, and remain Part of the District of the Superior Court of Justice usually held for the District of *Salisbury*; and the Treasurer of the said County of *Wilkes* shall, from Time to Time, account for and pay to the Public Treasurer of this State for the Time being, all such Public Taxes by him collected, or wherewith he shall stand chargeable, in the same Manner, and under the like Pains and Penalties as other County Treasurers.

IX. *AND* be it further Enacted, by the Authority aforesaid, That *Henry Speer*, *Joseph Herndon*, and *Robert Lanier*, be appointed Commissioners, and they, or a Majority of them, are hereby impowered and required to run the dividing Line between the Counties of *Surry* and *Wilkes*, agreeable to the Directions of this Act; which said Lines when run by the Commissioners aforesaid, shall be by them entered on Record in the Court of each of the said Counties of *Surry* and *Wilkes*.

A. D. 1772
Sheriff to collect Taxes as before the Division.

Wilkes Part of Salisbury District.

Line to be run.

C H A P. XXXIII.

An Act for adding Part of the County of Duplin to Johnston.

I. **W**HEREAS the upper Part of *Duplin* County is very extensive in Length, which renders it burthensome to the Inhabitants of *Johnston* and *Cumberland* Counties, by Reason of the said County of *Duplin* running up Twenty Miles between *Johnston* and *Cumberland* Counties, not more than Three Miles wide, which obstructs the making of Roads and keeping them in Repair, much to the Injury of the Inhabitants of the aforesaid Counties, and Damage of Travellers:

II. *BE* it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That all that Part of *Duplin* County above *Dismal* Creek be added to the County of *Johnston*, and that it be divided by said Creek, beginning at the Mouth of the Creek, *Cumberland* Line, thence running up the Meanders of the said Creek an East Course to *Johnston* County Line; and that from and after the passing of this Act, that all that Part of *Duplin* County above said Creek be annexed to, and made Part of the County of *Johnston*, and the Inhabitants thereof shall be subject and liable to the same Rules, Orders, Taxes, and Privileges, as any other the Inhabitants of the County of *Johnston*.

Preamble.

Part of Duplin added to Johnston.

C H A P. XXXIV.

An Act for erecting a Prison in the Town of Edenton, for the Use of the District of Edenton.

I. **W**HEREAS it is necessary that a new Prison should be built for the Use of the District of *Edenton*;

II. *BE* it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That *Joseph Hayes*, *William Bennett*, and *Charles Bonfield*, Esqrs. be, and they are hereby nominated and appointed Trustees and Directors for building and erecting a good and sufficient Prison for the Use of the District aforesaid, and for that Purpose to contract and agree with proper Persons for compleating and finishing the said Prison, in such Manner as they shall think necessary and convenient.

III. *AND* be it further Enacted, by the Authority aforesaid, That an Assessment of One Shilling be levied on each Hundred Pounds Value within the County of *Chowan*, and of Six Pence on each Hundred Pounds Value within the Counties of *Currituck*, *Pasquotank*, *Perquimons*, *Bertie*, *Tyrrell*, *Hertford*, and *Cambden*, for Two Years, to be collected for the present and succeeding Year by the Sheriffs or Collectors of the said Counties respectively, and accounted for and paid to the said Trustees and Directors, at the same Time, in the same Manner, and under the like Penalties and Restrictions, as by Law is directed for collecting, accounting for, and paying Public Taxes.

IV. *AND* be it further Enacted, by the Authority aforesaid, That before the said Trustees and Directors shall enter upon their said Trust, or take into their Hands any of the Monies aforesaid, they shall enter into Bond, in the Sum of Three Thousand Pounds, payable to the Justices of the County Court of *Chowan*, and their Successors, with Condition for the faithful Discharge of the Trusts in them reposed by this Act.

V. *AND* be it further Enacted, by the Authority aforesaid, That if the Taxes arising by Virtue of this Act shall be more than sufficient to compleat the Buildings herein directed, the Surplus thereof shall by the Trustees herein named be paid to the Court of each County, in Proportion to the Taxes collected from each of the said Counties, and paid by the Sheriffs to the Trustees.

Preamble.

Trustees for building the Prison.

Tax laid.

Trustees to give Bond.

Surplus of the Tax appropriated.

C H A P. XXXV.

A. D. 1777.

An Act to ratify and confirm an Act, intituled, An Act for the Regulation of the Town of Wilmington; also to revive an Act, intituled, An Act for the Regulation of the Town of Wilmington.

Preamble.

I. **W**HEREAS an Act, passed at a General Assembly began and held at Newbern on the Twelfth Day of December, in the Year of our Lord One Thousand Seven Hundred and Fifty Four, and from thence continued, by several Prorogations, to the Thirtieth Day of September, in the Year of our Lord One Thousand Seven Hundred and Fifty Six, intituled, *An Act for the Regulation of the Town of Wilmington*, has been found highly beneficial and convenient to the Inhabitants of the said Town, and the Neighbourhood thereof; and whereas by the Separation of this State from Great Britain, and all Dependence thereupon, such Act must cease and be void, unless ratified and confirmed by the General Assembly of this our independent State;

Act continued.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That the said Act, and every Clause and Part thereof, perfectly consistent with the Constitution of Laws of this State, and so far as it stands unrepealed by any subsequent Law passed in this State during its Dependence on Great Britain, be, and hereby is declared to be in full Force and Virtue.

Act revived.

III. *AND* whereas an Act passed at an Assembly held at Newbern on the Nineteenth Day of November, in the Twelfth Year of the Reign of the King of Great Britain, and during the Dependence of this State thereupon, intituled, *An Act to amend an Act for the Regulation of the Town*, has been also found very beneficial in its Operation, and the same has expired, and it being necessary that the said last mentioned Act should be revived; *Be it further Enacted, by the Authority aforesaid,* That the said last mentioned Act, and every Clause and Article thereof, so far as it perfectly consists with the Constitution of this State, and the Laws thereof, be and continue in Force for and during the Term of Three Years from and after the passing thereof, and from thence to the End of the next Session of Assembly, and no longer.

C H A P. XXXVI.

An Act for levying a Tax for defraying the Contingencies of the several Counties in this State, and other Purposes.

Preamble.

I. **W**HEREAS it is necessary to make Provision for discharging the Contracts and Agreements heretofore made by the Inferior Courts in the several Counties in this State, and for other good and necessary Purposes,

Tax laid.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same,* That for the future an annual Tax, not exceeding One Shilling for every Hundred Pound only of all taxable Property in this State, be levied for the Purposes aforesaid, which Value shall be assessed and the Tax collected by the Assessors and Collectors of the Public Taxes respectively, at the same Time, and in the same Manner, and under the Rules, Restrictions, Forfeitures and Allowances, as made and directed for assessing Property and collecting Public Taxes in an Act of the General Assembly, intituled, *An Act for levying a Tax by general Assessment, and other Purposes*; and the said Collectors in each District of every County in this State are hereby empowered and required to collect the aforesaid Tax, or so much thereof as the County Court shall order, and pay the same on or before the First Day of April annually into the Hands of the Trustee of the respective County, whose Receipt shall be a sufficient Discharge to such Collector.

Justices to order what Sums to be collected.

III. *AND be it further Enacted, by the Authority aforesaid,* That the Justices of the several County Courts in this State shall, during the Sitting of their respective Courts to be held next after the First Day of July, in the Year of our Lord One Thousand Seven Hundred and Seventy Eight, and so at such Courts yearly, and every Year, proceed to consider what Sums of Money will be necessary and sufficient for the Purposes mentioned in this Act, and for the other Contingencies of their respective Counties; and in case they should determine that the Tax by this Act imposed will be greater than the Inhabitants of such County can conveniently pay, or will raise more Money than will be wanted for the aforesaid Purposes, the Court may order that the Collectors do collect only so much thereof as they may think necessary and expedient, and the Public Collectors are hereby empowered and required to collect the same accordingly, and no more, of the Tax by this Act laid on taxable Property, any Thing herein before contained to the contrary notwithstanding: And the said Court shall, and they are hereby required, in each respective County, during the Term aforesaid, to appoint one good and proper Person to act as a Trustee for One Year for the Purposes herein mentioned, which Appointments shall be entered on the Records of the said Court; and the Person so appointed, after giving Bond and sufficient Security for the faithful Discharge of his Duty, agreeable to the Directions of this Act, and the Orders of the Court, is hereby directed, and shall have full Power and Authority to sue for, recover and receive, from the late Sheriff of the County, and from all other Persons, all Monies which may be in their Hands due and payable to, and for the Use of such County, and shall also receive from the Collectors all such Sums of Money as they shall be liable for in Virtue of this Act; which Monies the Trustee respectively shall apply as the County Court may direct, and to no other Use or Purpose whatsoever.

To appoint a Trustee.

IV. *AND*

IV. AND be it further Enacted, by the Authority aforesaid, That in case of the Death, Disqualification, Neglect, or Refusal to act, of any of the Trustees by this Act to be appointed, the Court of the County where such Death, Disqualification, Neglect or Refusal, shall happen, may proceed to appoint one other good and proper Person to fill up such Vacancy until the next annual Appointment, under the Rules and Regulations before described; and such Trustee, during his Continuance in that Appointment, shall have the same Powers and Authorities which by this Act are given to other County Trustees; and the County Courts in this State are hereby respectively invested with full Power to direct the Application of all Monies arising by Virtue of this Act to and for the Purposes herein mentioned, and to any other good and necessary Purpose for the Use of the County, and may allow the County Trustee a reasonable Salary out of the same for his Services.

V. AND be it also Enacted, by the Authority aforesaid, That every Freeman in this State (other than Soldiers in the continental Service) who does not possess the Value of One Hundred Pounds in taxable Property, shall pay annually a Tax of One Shilling in Lieu of Attachment on Property, which Sum shall be collected and accounted for as other Taxes mentioned in this Act; and in case any Justice of the Peace, or Trustee of any County in this State, shall neglect or refuse to do and perform the several and respective Duties by this Act required, or any of them, or if the Clerk of any County shall neglect or refuse to furnish the several Collectors in due Time with attested Copies of such Orders as the Court of his County may make respecting the Collection of the aforesaid Tax, the Person so offending, refusing or neglecting, shall forfeit and pay for every Neglect or Refusal the Sum of Five Pounds good and lawful Money of this State, to be recovered by Action of Debt, in the Name of the Governor or Commander in Chief for the Time being, to and for the Use of the County where the Offence was committed.

S. D. 1777.
Succession of
Trustees kept
up.

Tax in Lieu
of Attachment.

Pen. on Per-
sons neglect-
ing their Duty.

C H A P. XXXVII.

An Act for securing Lots in Elizabeth Town, in Bladen County.

WHEREAS from the Impossibility of procuring Nails and other necessary Materials for building, as well as from many other unavoidable Hindrances, occasioned by the present Contest with Great Britain, it has been put entirely out of the Power of the Inhabitants of the Town of Elizabeth, in Bladen County, to consent their Buildings on their respective Lots within the Time limited by Law;

BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That every Lot in the said Town, on which a House shall be built of the Dimensions mentioned in an Act of Assembly, intituled, *An Act for establishing a Town on the Land of Isaac Jones, on Cape Fear River, in Bladen County*, or other Improvements made thereon, which shall be deemed by the Directors or Commissioners of said Town equal thereto, within the Space of Three Years after the passing of this Act, shall and is hereby declared to be vested in the Grantee thereof, his Heirs and Assigns, in Fee Simple, any Thing in the said Act contained to the contrary notwithstanding.

Preamble.

Time of liv-
ing Lots.

C H A P. XXXVIII.

An Act for adding Part of Brunswick County to Bladen, and Part of Bladen to Brunswick County.

WHEREAS that Part of Brunswick County on the Western Side of Waggamaw Lake, lying between the dividing Line of Brunswick and Bladen Counties, and the Swamp called the Devil's Elbow, renders it extremely inconvenient for the few Persons who reside thereon to attend Courts and Public Duties in Brunswick County, being obliged to go a considerable Distance into Bladen County, and to make a large Circuit before they can get into their own County on any direct Road; and whereas the Lands on the Northern Side of the said Swamp is of easy Access on the Bladen Side, and proves an Asylum for Vagabonds and Persons of evil Fame, who do not pay Taxes in any County, and are out of the Reach of any Process that can issue from Bladen, to the great Prejudice of the neighbouring Inhabitants; and whereas those Parts of Bladen County on the Eastern Side of the North-west River, as high up the said River as Brunswick County reaches on the Western Side, make Part of the Plantations of the Inhabitants of Brunswick County who live on the said River, and will make it very convenient and expensive for them to give in their Lands and other Estates in Bladen County, and subject them to many other Inconveniences: For Remedy whereof,

BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That all that Part of Brunswick County on the Western Side of Waggamaw Lake, lying between Brunswick and Bladen Line, and the Southern Side of the Swamp known by the Name of the Devil's Elbow, beginning at the Outlet from the said Lake, and running round the outermost Edge of the said Swamp called the Devil's Elbow, until it intersects the said Line a South West Course to the Province Line, shall be, and is hereby added to, and made Part of Bladen County; and that all the Parts of Bladen County lying on the Eastern Side of the North-west River, beginning at the upper Corner of the Plantation of John Granger, Sen. Esq; on the same Side of the River, and running thence a North East Course to Black River, including all the Lands from the said Line downwards to the Hanover Line, be, and are hereby added to, and made Part of Brunswick County.

Preamble.

Part of Bladen
added to
Brunswick.

A. D. 1777.

Collectors to collect Taxes.

Commissioners to run the Lines.

III. PROVIDED always, That this Act shall not extend, or be construed to extend to prevent the late Sheriffs, or any Collectors of Public or County Taxes in the Counties of Bladen and Brunswick, or any of them, from making Distress for any Taxes, Fees, or other Dues, now payable, in the same Manner as if this Act had never been made.

IV. AND be it Enacted, by the Authority aforesaid, That John Turner, Duncan Morrison, Edward Wingate, and John Drew, Esquires, be appointed Commissioners, and they are hereby empowered and required to run the dividing Line from the White Marsh Swamp to the Province Line; and that Thomas Brown, George Lucas, Thomas Neil, and John Davis, be appointed Commissioners, and they are hereby empowered and required to run the dividing Line from the Eastern Side of the Northwest River, agreeable to the Directions of this Act; which said Lines when run by the Commissioners, or a Majority of them, shall be by them entered on Record in the Court of each of the said Counties, and shall hereafter be deemed and taken to be the dividing Lines between the said Counties of Brunswick and Bladen.

C H A P. XXXIX.

An Act for building a Court-House in the Town of Salisbury, for the District of Salisbury.

Preamble.

Commissioners for building the Court-House.

Tax laid.

Commissioners to account.

To give Bond.

Surplus appropriated.

I. WHEREAS the Court-House in the Town of Salisbury, in the County of Rowan, is greatly decayed, and in so ruinous a Condition that Courts cannot be held therein:

II. BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That Maxwell Chambers, Anthony Newman, David Low, Herakib Alexander, James Johnston, Charles McDowell, Robert Lauer, Robert Lindsay, John Sevier, and Charles Gardin, Esquires, be, and are hereby appointed Commissioners, and they, or any Four of them, shall and may, and they are hereby required, within Eighteen Months after the passing of this Act, to agree and contract with Workmen for building and erecting a new Court-House in the Town of Salisbury, on the Lot of Ground whereon the Court-House now stands.

III. AND be it further Enacted, by the Authority aforesaid, That Eight Pence per Hundred Pound be levied on the taxable Property in the County of Rowan, and Eight Pence on all taxable Persons in said County who are not possessed of Property of One Hundred Pound Value, and Four Pence per Hundred Pound be levied on the taxable Property in the Counties of Anson, Mecklenburg, Tryon, Burke, Guilford, Surry, Washington, and Wilkes, and Four Pence on all taxable Persons within the last mentioned Counties who are not possessed of Property of One Hundred Pounds Value, for Two Years, that is to say, the Year One Thousand Seven Hundred and Seventy Eight, and the Year One Thousand Seven Hundred and Seventy Nine, to be levied, collected and accounted for, in the same Manner, and at the same Times, as the Taxes directed to be collected by an Act for levying a Tax by general Assessment, and other Purposes; which said Tax so collected, shall be paid to the Commissioners, or a Majority of them, and by them shall be applied to defray and pay for building said Court-House.

IV. AND be it further Enacted, by the Authority aforesaid, That the said Commissioners, or a Majority of them, after the aforesaid Building shall be erected, built and finished, shall render an Account of the Monies by them received in Virtue of this Act, together with that of their Disbursements, to the County Court of Rowan.

V. AND be it further Enacted, by the Authority aforesaid, That the Collectors and County Treasurers of the respective Counties in the said District of Salisbury for the Time being, shall before he or they collect or receive any Part of the Tax herein laid, enter into Bond, with Two sufficient Securities, to the said Commissioners, for the faithful Collection and Payment of the aforesaid Tax.

VI. AND be it further Enacted, by the Authority aforesaid, That in case the Money arising by this Act should be more than sufficient to complete the Buildings aforesaid, then the Surplus shall be refunded to the County Courts of the different Counties, in proportion to their several Quotas.

C H A P. XL.

An Act for laying a Tax to defray the Expence of the Public Buildings in the County of Burke, and other Purposes therein mentioned.

Preamble.

Tax laid.

I. WHEREAS the Poll Tax heretofore laid on the Inhabitants of Burke County by Act of Assembly, for the Purpose of defraying the Expence of the Public Buildings in the said County, hath not been collected; and whereas a Tax on Property is deemed more equitable, and would be much easier and more speedily collected by the Collectors of the Public Taxes for the State;

II. BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That a Tax of Two Shillings per Hundred Pounds be laid on all the taxable Property which is liable to be assessed in the said County of Burke, and that the same shall be assessed and collected by the same Persons, and in the same Manner, as the Public State Tax in the said County; and that the Tax to be assessed by Virtue of this Act, when assessed and collected, shall be paid into the Hands of the Commissioners herein after named for fixing the Court-House, and erecting the Public Building in the said County of Burke: And on Non-payment of the Tax to be collected by Virtue of this Act from the several Collectors thereof, the said Collectors shall be liable to the same Penalties as for other Public Taxes; and the said Commissioners shall be intitled to the same Mode of Recovery

Recovery against the said Collectors, as the Public Treasurers are intitled to have against them on Non-payment of the Public Taxes.

III. AND be it further Enacted, by the Authority aforesaid, That if the Tax to be assessed by Virtue of this Act should be more than sufficient to compleat the said Public Buildings, the Overplus remaining in the Hands of the Commissioners shall be applied to the defraying the contingent Charges of the County.

IV. AND whereas the Commissioners heretofore appointed for fixing a Place for the Court-House, and erecting the Public Buildings thereon in the County of *Burke*, for the Use of the same, have neglected that Duty; Be it therefore Enacted by the Authority aforesaid, That *Christopher Beckman, Charles McDowell, George Catby, Hugh Brevard, George Wilhomb, James Davidson, John Connolly, Andrew Woods, and William Sharp*, Esquires, of *Rowan* County, be, and they are hereby appointed Commissioners for fixing a Place for the Court-House, and building a Court-House, Prison and Stocks, in the County of *Burke*, for the Use of the same; and they, or a Majority of them, are hereby invested with full Power to fix the Place, and compleat the said Buildings.

V. AND be it further Enacted, by the Authority aforesaid, That so much of an Act of the last Session of this Assembly, intituled, *An Act for dividing Rowan County, and other Purposes therein mentioned*, as comes within the Purview of this Act, shall be, and is hereby repealed.

A. D. 1777.

Surplus appropriated.

Commissioners for fixing the Court-House.

Repeal. Clause.

C H A P. XLI.

An Act to amend an Act, passed the last Session of this Assembly, intituled, An Act for establishing a new County between *Hillsborough* and the *Virginia* Line, by erecting the Northern Part of *Orange* County into a distinct County, by the Name of *Caswell*.

I. WHEREAS so much of the said Act as respects the levying of a Tax for defraying the Expenses of the Public Buildings in the said County of *Caswell*, is found to lay the Burthen of the same unequally: For Remedy whereof,

II. BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That a Sum, not exceeding Two Shillings per Hundred Pounds Value of taxable Property, be levied on the Inhabitants of the said County of *Caswell* by Assessment, in like Manner as all other Taxes are levied within this State, and a Tax, not exceeding Two Shillings, on each Person of said County who by the Assessment Act is liable to a Poll Tax; which Taxes shall be collected for the Years One Thousand Seven Hundred and Seventy Eight and One Thousand Seven Hundred and Seventy Nine, and that the same be collected and accounted for as other Taxes, and paid to the Commissioners named in the aforesaid Act, in like Manner as the Poll Tax directed to be levied by the said Act was to have been paid; and so much of the said Act as respects the levying a Poll Tax be, and is hereby repealed.

Preamble.

Tax laid.

C H A P. XLII.

An Act for adding Part of *Anson* County to *Bladen*.

I. WHEREAS the Inhabitants of the lower End of *Anson* County labour under great Inconveniencies in attending the Courts and other Public Meetings of the said County at the Court-House thereof, and being more convenient for those Purposes to the County of *Bladen*, are desirous to be annexed thereto;

II. BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That *James Pickett, Charles Medlock, Abraham Barns, and Richard Smith*, Esquires, be, and they are hereby appointed Commissioners, and they, or a Majority of them, be required and directed, within Three Months after the passing of this Act, to run and mark, or cause the same to be done, a Line from *Drowning Creek* Bank, beginning where *Overstreet's* Bridge formerly was, thence running the shortest Course to the dividing Line between this State and the State of *South Carolina*; and all that Part bounded to the lower End by the Line above directed to be marked, and along the said South Line to where it crosses *Drowning Creek*, shall be, and is hereby annexed to, and made Part of the County of *Bladen*, and the Inhabitants thereof shall be subject and liable to the same Rules, Orders, Taxes, and Privileges, as any other of the Inhabitants of the said County of *Bladen*.

Preamble.

Part of Anson added to Bladen.

C H A P. LXIII.

An Act for empowering Commissioners to build a Prison and Stocks in the County of *Duplin*, and other Purposes therein mentioned.

I. WHEREAS the Commissioners heretofore by Act of Assembly appointed for building a Prison and Stocks in the County of *Duplin*, have failed to discharge the Trust reposed in them;

Preamble.

II. BE

A. D. 1777.

Commissioners
for the Build-
ings.

II. *BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That James Kenan, Robert Dickson, and Thomas Hicks, be, and are hereby appointed Commissioners for the Purpose aforesaid, and they, or a Majority of them, are hereby authorized and impowered to agree and contract with Workmen for building a Prison and Stocks for the Use of the said County, on the Lot whereon the Court-House now stands; and if any of the Commissioners appointed by this Act should die, remove out of the County, or refuse to act, the remaining Commissioners shall appoint another Commissioner or Commissioners, in the Room and Stead of such Commissioner or Commissioners so dying, removing, or refusing to act; and the Commissioners so appointed, shall have the same Powers as the Commissioners appointed by this Act.*

Sheriffs, &c.
to account.

III. *AND be it further Enacted, by the Authority aforesaid, That the said Commissioners herein named, or a Majority of them, shall have full Power and Authority to demand, sue for, recover and receive, of and from the late Sheriffs and Commissioners of said County, or any other Person in whose Hands the same may be, all and every Sum or Sums which have been laid as a Tax or Taxes on the Inhabitants of said County for the Purpose aforesaid, for which the Sheriff or other Persons, or any of them, are liable; and in case of Failure or Neglect in paying the said Monies to the Commissioners herein named by the said Sheriffs or other Persons, or any of them, he or they so failing or neglecting shall be liable to the same Penalties, and the same Mode of Recovery may be had against him or them, as by Law should or might have been had against Sheriffs who neglected or refused to account for and pay Public Taxes.*

Tax laid.

IV. *AND whereas the Tax heretofore laid for the Purposes aforesaid will be insufficient to answer the Purposes intended thereby, It is therefore further Enacted, That the Court of the said County are hereby impowered to levy by Assessment a Sum, not exceeding Two Hundred Pounds, on all the taxable Property therein, to be assessed, collected and accounted for, in the same Manner as Public Taxes.*

C H A P. XLIV.

An Act to ratify an Act, intituled, An Act for the better Regulation of the Town of Newbern, and for securing the Titles of Persons who hold Lots in the said Town; also to ratify an Act, intituled, An Act for the better Regulation of the Town of Newbern, and for securing the Titles of Persons who hold Lots in the said Town; also to ratify an Act, intituled, An Act for amending an Act, intituled, An Act for the better Regulation of the Town of Newbern, and for securing the Titles of Persons who hold Lots in the said Town.

Preamble.

I. *WHEREAS it is necessary, for the better Regulation of the Town of Newbern, that the above recited Acts should be continued and enforced;*

Acts enforced.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That the said Acts, so far as they are conformable to the present Constitution, are and shall be in Force for and until the End of the next Session of the General Assembly, and no longer.*

C H A P. XLV.

An Act for the Regulation of the Town of Edenton.

Preamble.

I. *WHEREAS the Regulation of the Town of Edenton would be highly beneficial and convenient to the Inhabitants thereof;*

Commissioners
appointed.

II. *BE it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That from and after the passing of this Act, Joseph Hewes, Robert Smith, William Bennet, Charles Bondfield, and Samuel Dickenson, Esquires, be, and they are hereby appointed Commissioners of the said Town; and they, or a Majority of them, are hereby invested with the same Powers, and made subject to the same Rules and Regulations, as Commissioners heretofore appointed.*

To lay a Tax.

III. *AND be it further Enacted, by the Authority aforesaid, That from and after the passing of this Act, the Commissioners of the said Town, or a Majority of them, shall, and they are hereby required, within Sixty Days after the First Day of January in every Year, to lay such Tax as they may judge necessary, not exceeding Eight Shillings; which Tax shall be collected by Warrant under the Hands and Seals of the Commissioners, or a Majority of them, directed to any Person they shall appoint to collect the same, returnable at such Time as shall be therein mentioned; which said Collector, appointed as aforesaid, is hereby impowered to collect and make Distress for the same, in like Manner as the Sheriffs or other Collectors of Public, County, or Parish Taxes, are impowered by Law; and the Money arising therefrom, after deducting Six per Cent. Commissions, shall by him be paid into the Hands of the Commissioners, or a Majority of them, to be by them applied and laid out in clearing and repairing the Public Streets, Lanes and Alleys, and in any other Public Work they may judge necessary for the Benefit of the said Town.*

Who to pay it.

IV. *AND be it further Enacted, by the Authority aforesaid, That all Persons residing Three Months in the said Town next before the First Day of January in every Year, shall afterwards be subject to pay Taxes in the said Town.*

V. AND

AND be it further Enacted, by the Authority aforesaid, That no Inhabitant of the said Town on any Pretence whatever keep any Hog or Hogs, Shoat, Pig, or Geese, running at large within the bounds of the said Town, on Penalty of forfeiting such Hog or Hogs, Shoat, Pig, or Geese, and the Sum of Twenty Shillings Proclamation Money to the Party aggrieved; and further, that and may be lawful for any Person whatever, after the First Day of January next, to shoot, or otherwise destroy such Hog or Hogs, Shoat, Pig, or Geese, so running at Large within the said

A.D. 1777
Hogs, &c not to run at large.

AND whereas the Streets of the said Town are so much out of Repair that it has become inconvenient, and even dangerous, to Waggon and other Carriages to pass the same; Be it therefore by the Authority aforesaid, That the Commissioners by this Act appointed be, and they are empowered to summon the Male Inhabitants of the said Town to work upon the Streets thereof every Month; for one Day, and no more; and if any Male Inhabitant of the said Town, of the Age of Sixteen Years, black or white, shall fail to obey such Summons, if he be a White, pay a Fine of Ten Shillings, and if a Black, the Master of such Black shall for such Neglect for- pay the Fine of Ten Shillings; the said Fines to be collected by Warrant of Distress, sub- by said Commissioners, or a Majority thereof, and directed to the Sheriff, Constable, or other Officer of the County of *Curran*, and so collected, shall be applied to the Repair of such

Inhabitant's to work on the Streets.

C H A P. LXVI.

Act for the Ease and Convenience of the Militia on the West Side of Newport, in Carteret County.

WHEREAS the Court House in Carteret County is situate between Forty and Fifty Miles from the West End of said County, and having Newport River to cross, being Three Miles over, renders it very inconvenient and disadvantageous to the Inhabitants of that Part of said County at General Musters, and other Public Business: For Remedy whereof,

Preamble.

BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That from and after the passing of this Act, it shall and may be lawful for the commanding Officer of said County, whenever he orders a General Muster, to issue Orders to the Officers of the Militia between the West Side of Newport River and the Head of White Oak River, to attend at the House of Mr. Thomas Britton, with their Companies, and shall order one or more of the Officers under his Command to meet said Companies at the Place aforesaid, there to train and exercise said Companies, under the same Regulations and Restrictions as at a General Muster.

Militia where to muster.

AND be it Enacted, by the Authority aforesaid, That the Field Officer attending such Musters shall and is hereby declared to have full Power to hold a Court Martial immediately after such Muster at the Place aforesaid, and shall hear and determine all Appeals from the private Musters, and other Matters and Things that any Militia Court Martial in this State have a Right to determine, agreeable to the Militia Act in Force in this State, and shall make a true Return of all the Proceedings of said Court Martial to the next General Muster.

Court Martial to be held.

AND be it further Enacted, by the Authority aforesaid, That the commanding Officer shall order such Muster to be held at least Ten Days before the General Muster.

Muster when held.

C H A P. XLVII.

Act for establishing Fairs in the Town of Wilmington, in New Hanover County.

BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That a Fair shall and may be held in the Town of Wilmington, in the County aforesaid, on the Fifteenth Days of June and December, and that two Fairs shall and may be held in the said Town on the Fifteenth Days of June and December in every Year, each Fair to continue for Three Days, for the Sale of every Kind of Horses and black Cattle, Sheep and Hogs, and all Kinds of Provision, Tobacco, and every other natural Production of the Country; and for the Sale of all and every Sort of Goods, Wares and Merchandize; whether foreign or manufactured in this State; and that on the said Fair Days, and on three Days next before, and three Days next after each of the said Fairs, all Persons coming to, being at, or going from the same, together with their Horses, Cattle, or other Effects, intended for Sale, or purchased at the said Fairs, shall be exempt from all Arrests, Attachments and Executions whatsoever, except for capital Offences, Breaches of the Peace, or for Quarrels or Controversies that may arise during the said Time, in which Proceedings may be immediately issued, and Proceedings thereupon had, in the same Manner as if such Arrest had never been made.

Fair to be held.

AND for the Trial of Complaints and Informations in the Cases above mentioned, and also for the Trial of Controversies and disputed Bargains arising at the said Fairs; Be it Enacted, by the Authority aforesaid, That the County Court of New Hanover shall and may appoint Three Judges (and in case of Death or Refusal to act of the said Judges, or either of them, may appoint *de novo*) either of whom may on Application issue Citations and Subpoenas; and the said Judges, or any Two of them, shall and may hear and determine *instanter* in all such Cases, provided the Demand or disputed Difference in a Bargain does not exceed the Value of Ten Pounds, and shall and may issue Executions, and may appoint an Officer or Officers to execute the same.

Trial of Complaints.

A. D. 1777. **III. PROVIDED** always, That if the Days on which the Fairs are directed to be
 happen on a *Sunday*, then the Fair shall be held on the succeeding Day.
 Provide, if on
 Sunday.

C H A P. XLVIII.

*An Act for the better Regulation and Ease of the Militia in the lower End
 County.*

Preamble.

I. WHEREAS the Distance and Difficulty renders it absolutely necessary for the better
 on and Ease of the Militia in the lower Part of the Inhabitants of *Hyde County*
Armasfect;

Muster where
held.

II. BE it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted
 Authority of the same, That from and after the passing of this Act, it may be lawful for the
 or commanding Officer of the Militia of *Hyde County*, to cause one or more of the Field Officers
 the *Hyde Militia* to take a Review of that Part of the Militia on *Armasfect* as often as the
 General Musters, and the said Officers shall hold Court Martials on the Days the Law directs
 Court Martials to be held after each General Muster; and it may be lawful for the said Court
 to exercise the same Powers and Authorities as other Court Martials held for that Purpose,
 otherwise, and transmit the Proceedings of the said Courts to the Colonel, or commanding
 the aforesaid County, as often as required.

Duty at pri-
vate Musters.

III. AND be it Enacted, by the Authority aforesaid, That nothing herein contained shall
 construed to debar the Militia of that Part of *Hyde County* from doing their Duty at private
 the Militia Law of this State requires.

C H A P. XLIX.

An Act for altering the Name of John Gilliard to that of John Ister.

Preamble.

I. WHEREAS *John Gilliard*, of *Craven County*, in this State, the Son of *Priscilla*
 now the Wife of *William Gilbert*, has from the Time of his Nativity hitherto been
 and known by the Name of *John Gilliard*; and whereas, for special and urgent Reasons, the
Gilliard and *Frederick Ister*, of *Craven County* aforesaid, have earnestly petitioned and prayed
 by that the Name of the said *John Gilliard* may be altered to the Name of *John Ister*, by an
 Assembly for that Purpose;

Name chang-
ed.

II. BE it therefore Enacted by the General Assembly of the State of North Carolina, and it
 Enacted by the Authority of the same, That from and after the Ratification of this Act, the Name
 said *John Gilliard* shall be altered to the Name of *John Ister*, and that the said *John Gilliard*
 thenceforth be called and known by the Name of *John Ister*; and that by the Name of *John*
 shall be, and is hereby enabled to take, receive, have, possess and enjoy, any and every
 Quest, Legacy, Estate, Right, Title, Interest and Property, of, in, and to any Lands, Ten-
 Hereditaments, Goods, Monies, Sum or Sums of Money, Credits or Chattels whatever, which
 or may be given, granted, assigned, conveyed, or made payable to him, by the said Name of
Ister, in and by Virtue of any last Will or Testament, Deed, Bill of Sale, Conveyance, Bond,
 gation, Bill, Promisory Note, or other Writing or Assumption, of or from any Person or Persons
 forever; and that by the said Name of *John Ister* he shall and may sue and recover, and be sued
 pleaded, in any Action or Suit, as well at Law as in Equity, or otherwise, and may therein
 answer or defend, in full and ample Manner, to all Intents and Purposes; and that by the name
 of *John Ister* he shall and may, from the said Ratification of this Act, in all Things whatever,
 subject to the same Restrictions, and intitled to the same Privileges, Benefits and Emoluments,
 had from the Time of his Nativity, hitherto been called and known by the said Name of *John*
 and by no other Name.

Read Three Times, and ratified in General
 Assembly, the Twenty Fourth Day of
December, 1777.

SIGNED BY

SAMUEL ASHE, S.

ABNER NASH, S.