

L A W S
OF
NORTH-CAROLINA.

At a GENERAL ASSEMBLY, begun and held at Fayetteville, on the second Day of November, in the Year of our Lord One Thousand Seven Hundred and Eighty-Nine, and in the Fourteenth Year of the Independence of the said State; being the first Session of the said Assembly.

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SAMUEL JOHNSTON, Esq. Governor.

C H A P. I.

An Act directing the Manner of electing Representatives to represent this State in Congress.

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 until an actual census be made, this state shall be divided and laid off into five divisions: the first to be called Roanoke division; the second Edenton and Newbern division; the third Cape Fear division; the fourth Yadkin division; and the fifth the Western division: each of which shall be formed by annexing two of the Superior Court districts together, in the following manner: that is, the districts of Hillsborough and Halifax, shall form the Roanoke division; the districts of Newbern and Edenton shall form the Edenton and Newbern division; the districts of Wilmington and Fayetteville shall form the Cape-Fear division; the districts of Salisbury and Morgan shall form the Yadkin division; and the districts of Wallington and Mero shall form the Western division; each of which divisions shall be entitled to elect and send one Representative to the Legislature of the United States; and the person elected in each division, shall be a resident or inhabitant of that division for which he is elected, during the space or term of one year before, and at the time of election.

State laid off into five divisions.

Each to elect one representative.

II. *And be it further enacted by the authority aforesaid,* That the elections shall be held in each county within the said divisions of Roanoke, Edenton and Newbern, Cape-Fear, and Yadkin, on the first Thursday and Friday in February next ensuing, at the places appointed by law for the annual elections of Members of the General Assembly, and the same are to be conducted in like manner with the said annual elections, saving that the inspectors of the election, and clerks of the poll, shall be qualified to act with justice and impartiality, by any one Justice of the Peace then present; and each and every freeman entitled to vote for a Member of the Commons House of Assembly, shall and may vote for a Representative; and in counties where separate places of elections have been established by law, the elections directed by this act shall be conducted by the returning officer, in the same manner as elections for Members of Assembly heretofore, such officer making return of the poll agreeably to this act.

Time, places and manner of holding elections.

III. *And be it further enacted by the authority aforesaid,* That immediately after the close of the election in each county, the Sheriff or other returning officer, shall, in the presence of the inspectors of the election, make out two correct statements of the number of votes given to each candidate in his county, which two statements shall be certified by the said Sheriff or returning officer and a majority of the inspectors, one of which statements shall be by the inspectors filed in the Clerk's office of the county, and the Sheriff or other returning officer, by himself or deputy, shall attend with the other on the day and at the place herein after mentioned, and at the same time and place, the poll for the different counties shall, by the said Sheriffs or their deputies, or other returning officers, as the case may be, in the presence of three Justices of the Peace, which are to be summoned and to attend for that purpose, be examined and compared, and a certificate, under the hands and seals of the said returning officers, shall be given to the candidates in each division for whom the

Sheriffs to make out statements of the poll, &c.

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greatest number of votes shall have been given : but if two or more candidates shall have an equal number of votes, the said returning officers shall decide which of them shall be the Representative ; and if the said returning officers do not decide by their votes who shall be the Representative, then they shall decide the same by drawing in the like manner as the Grand Jury are drawn for in the Superior Courts.

Representative to be commissioned by the Governor.

IV. *And be it further enacted by the authority aforesaid,* That each and every person who shall be duly elected a Representative under this act, shall upon obtaining a certificate of his election according to the directions above mentioned, obtain from his Excellency the Governor, a commission certifying his appointment as Representative aforesaid, which commission the Governor is hereby empowered and required to grant on his producing such certificate.

Time & place of meeting of the sheriffs, &c.

V. *And be it further enacted,* That the Sheriffs or returning officers for Roanoke division, shall meet on the third Monday in February next, at Williamsborough, in Granville county ; those for Edenton and Newbern division shall meet at Mackey's ferry on the same day ; those for Cape-Fear division shall meet at Elizabeth-Town on the same day ; and those of the Yadkin division shall meet at the house of Colonel David Caldwell, in Iredell county, on the said third Monday in February. *Provided,* That if any accident shall happen to either of the returning officers, which may prevent their meeting on the day aforesaid, the returns of such officers shall be received on the day following ; and the Sheriff or Coroner or his deputy failing to attend at the time and place before ascertained, shall forfeit and pay the sum of five hundred pounds, to be paid into the treasury of this state upon due proof thereof in any court of law within this state, to be recovered upon an action of debt, by the Treasurer of this state for the time being.

Time, places & manner, &c. of election, &c. in the western division.

VI. *And whereas from the great distance between the districts of Mero and Washington, it will be difficult and dangerous for the Sheriffs or other returning officers of the Western division to meet conveniently to examine and compare their respective number of polls, Be it therefore enacted,* That the election for said division shall be held on the second Monday and Tuesday in March, and the returning officers of the district of Washington, shall meet on the first Monday after said election, at the town of Jonesborough, and in the presence of three Justices of the Peace, to be summoned for that purpose, compare and examine the return of the polls from the several counties of said district, and make out a true statement thereof, which shall be certified under the hands and seals of the returning officers, and countersigned by a majority of the said Justices, and shall then be delivered to the Clerk of the Superior Court of the said district : And the returning officers of the district of Mero, shall, on the Monday following the election, meet in the town of Nashville, and on such meeting shall, in the presence of three Justices of the county of Davidson, to be summoned for that purpose, examine and compare the statements of the polls of the different counties of said district, and make out two statements thereof, and certify the same under their hands, which shall also be countersigned by a majority of said Justices : one statement shall be lodged with the Clerk of the Superior Court of the said district, the other shall be delivered to the returning officer of the said county of Davidson, whose duty it shall be to transmit or carry the same safely, within twenty days after the receipt thereof, to the Clerk of the Superior Court in Washington district, who for that purpose shall attend at the house of James White, in Hawkins county ; which Clerk shall, as soon as he receives the said return, compare and examine the same, together with the statement of the poll from the district of Washington, in the presence of three Justices of the Peace, and the person entrusted with said return from Mero, in like manner as Sheriffs are enjoined, and shall give a certificate under his hand and seal, to the candidate having the greatest number of votes ; and in case two or more candidates shall have an equal number, the said Clerks shall decide which of them shall be the Representative, provided that the said Clerk shall not be entitled to vote for a Representative in the county wherein he resides, at the election of such Representative.

Allowance to officers of Mero.

VII. *And be it further enacted,* That the Sheriffs and other returning officers, and the person entrusted with the return from Mero, shall be allowed the sum of twenty shillings for every thirty miles travelling to and from the places appointed for the returning officers to meet, and the place where the returns of the Western division is to be made, and twenty shillings for each day which they shall necessarily attend at such meetings, comparing the polls.

Election in Stokes county.

VIII. *And whereas the dividing line between the counties of Surry and Stokes will be extended previous to the first election of Representatives ; And whereas there will be no Sheriff for the county of Stokes to hold the election : Be it therefore enacted,* That John Bostick is hereby authorized and empowered to hold the election for a Representative in the county of Stokes, in the same manner as the Sheriffs of other counties are authorized to hold said election, he, the said John Bostick, first taking an oath in the presence of three Justices of the Peace for the said county, that he will conduct the said election without favour, affection, or partiality ; which three Justices shall certify the same under their hands and seals.

Penalty on persons committing frauds.

IX *And be it further enacted,* That if any person shall be found guilty of having committed any fraud in executing the duties enjoined on him by this act, he shall, on conviction, forfeit and pay the sum of one hundred pounds, and suffer six months imprisonment, without bail or mainprize.

C H A P . II.

An Act directing the Mode of choosing Senators to represent this State in the Congress of the United States.

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I. **B**E 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 Legislature of this state shall, at their annual meeting whenever a Senator or Senators are to be chosen, at such time during their sessions as they shall appoint, by joint ballot of both Houses of the General Assembly, elect such Senator or Senators as may be necessary, under the inspection of two members from each House; and it shall be necessary to have a majority of votes of both Houses to elect any person for that purpose.

Manner, &c. of choosing Senators.

II. And be it further enacted by the authority aforesaid, That the person or persons so elected Senator or Senators, shall obtain a certificate of his or their election, signed by the Speakers of the two Houses, and shall be commissioned by the Governor for the time being, with the great seal of the state annexed to the commission.

How commissioned.

C H A P . III.

An Act for the Purpose of ceding to the United States of America, certain Western Lands therein described.

I. **W**H E R E A S the United States in Congress assembled, have repeatedly and earnestly recommended to the respective states in the union claiming or owning vacant western territory, to make cessions of part of the same, as a further means, as well of hastening the extinguishment of the debts as of establishing the harmony of the United States; and the inhabitants of the said western territory being also desirous that such cession should be made, in order to obtain a more ample protection than they have heretofore received: Now this state being ever desirous of doing ample justice to the public creditors, as well as the establishing the harmony of the United States, and complying with the reasonable desires of her citizens:

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 Senators of this state in the Congress of the United States, or one of the Senators and any two of the Representatives of this state in the Congress of the United States, are hereby authorized, empowered, and required to execute a deed or deeds on the part and behalf of this state, conveying to the United States of America, all right, title, and claim which this state has to the sovereignty and territory of the Lands situate within the chartered limits of this state, west of a line beginning on the extreme height of the Stone Mountain, at the place where the Virginia line intersects it, running thence along the extreme height of the said mountain, to the place where Watauga River breaks through it, thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same, thence along the ridge of said mountain between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain, from thence along the extreme height of said mountain, to where Nolichucky River runs through the same, thence to the top of the Bald Mountain, thence along the extreme height of the said mountain, to the Painted Rock on French Broad River, thence along the highest ridge of the said mountain, to the place where it is called the Great Iron or Smoaky Mountain, thence along the extreme height of the said mountain, to the place where it is called Unicoy, or Unaka Mountain, between the Indian towns of Cowee and Old Chota, thence along the main ridge of the said mountain, to the southern boundary of this state, upon the following express conditions, and subject thereto: That is to say,

Persons empowered to execute deeds ceding to Congress western lands.

Boundaries thereof.

First. That neither the lands nor inhabitants westward of the said mountain shall be estimated, after the cession made by virtue of this act shall be accepted, in the ascertaining the proportion of this state with the United States in the common expence occasioned by the late war.

Conditions of the cession.

Secondly. That the lands laid off, or directed to be laid off, by any act or acts of the General Assembly of this state, for the officers and soldiers thereof, their heirs and assigns respectively, shall be and enure to the use and benefit of the said officers, their heirs and assigns respectively; and if the bounds of the said lands already prescribed for the officers and soldiers of the continental line of this state, shall not contain a sufficient quantity of lands fit for cultivation, to make good the several provisions intended by law, that such officer or soldier, or his assignee, who shall fall short of his allotment or proportion after all the lands fit for cultivation within the said bounds are appropriated, be permitted to take his quota, or such part thereof as may be deficient, in any other part of the said territory intended to be ceded by virtue of this act, not already appropriated. And where entries have been made agreeable to law, and titles under them not perfected by grant or otherwise, then and in that case, the Governor for the time being, shall, and he is hereby required to perfect, from time to time, such titles, in such manner as if this act had never been passed; and that all entries made by, or grants made to all and every person and persons whatsoever, agreeable to law, and within the limits hereby intended to be ceded to the United States, shall have the same force and effect as if such cession had not been made, and that all and every right of occupancy and pre-emptions, and every other right reserved by any act or acts, to persons settled on and occupying lands within the limits of the lands hereby intended

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tended to be ceded as aforesaid, shall continue to be in full force in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States. And further, it shall be understood that if any person or persons shall have, by virtue of the act, entitled "An act for opening the land-office, for the redemption of specie and other certificates, and discharging the arrears due to the army," passed in the year one thousand seven hundred and eighty-three, made his or their entry in the office usually called John Armstrong's office, and located the same to any spot or piece of ground on which any other person or persons shall have previously located any entry or entries, that then and in that case, the person or persons having made such entry or entries, or their assignee or assignees, shall have leave and be at full liberty to remove the location of such entry or entries to any lands on which no entry has been specially located, or any vacant lands included within the limits of the lands hereby intended to be ceded. *Provided*, That nothing hererein contained, shall extend or be construed to extend to the making good any entry or entries, or any grant or grants heretofore declared void by any act or acts of the General Assembly of this state.

Thirdly, That all the lands intended to be ceded by virtue of this act, to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund for the use and benefit of the United States of America, North-Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose and for no other use or purpose whatever.

Fourthly, That the territory so ceded, shall be laid out and formed into a state or states, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the western territory of the United States; that is to say, Whenever the Congress of the United States shall cause to be officially transmitted to the executive authority of this state, an authenticated copy of the act to be passed by the Congress of the United States, accepting of the cession of territory made by virtue of this act, under the express conditions hereby specified, the said Congress shall at the same time assume the government of the said ceded territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio, shall protect the inhabitants against enemies, and shall never bar or deprive them or any of them of privileges which the people west of the Ohio enjoy. *Provided always*, That no regulations made or to be made by Congress, shall tend to emancipate slaves.

Fifthly, That the inhabitants of the said ceded territory shall be liable to pay such sums of money as may, from taking their census, be their just proportion of the debt of the United States, and the arrears of the requisitions of Congress on this state.

Sixthly, That all persons indebted to this state, residing in the territory intended to be ceded by virtue of this act, shall be held and deemed liable to pay such debt or debts, in the same manner, and under the same penalty or penalties, as if this act had never been passed.

Seventhly, That if the Congress of the United States do not accept the cession hereby intended to be made, in due form, and give official notice thereof to the executive of this state, within eighteen months from the passing of this act, then this act shall be of no force or effect whatsoever.

Eighthly, That the laws in force and use in the state of North-Carolina at the time of passing this act, shall be and continue in full force within the territory hereby ceded, until the same shall be repealed, or otherwise altered by the legislative authority of the said territory.

Ninthly, That the lands of non-resident proprietors, within the said ceded territory, shall not be taxed higher than lands of residents.

Tenthly, That this act shall not prevent the people now residing south of French Broad, between the rivers Tenessee and Pidgeon, from entering their pre-emptions on that tract, should an office be opened for that purpose under an act of the present General Assembly.

III. And be it further enacted by the authority aforesaid, That the sovereignty and jurisdiction of this state, in and over the territory aforesaid, and all and every the inhabitants thereof, shall be and remain the same, in all respects, until the Congress of the United States shall accept the cession to be made by virtue of this act, as if this act had never passed.

C H A P. IV.

An Act to repeal Part of an Act, entitled An Act to explain an Act directing the Duty of Naval Officers and all Masters of Vessels coming into the Ports or Inlets of this State, and to amend the Navigation Law for Cape Fear River.

WHEREAS a compliance with the first section of the said act, has been found productive of extreme confusion and inconvenience in the entering of vessels, by obliging the masters of vessels to swear to the contents of the particular packages, which oath, from the nature of the shipping business, they cannot safely take, without opening and examining the same, to the material injury of the owners and consignees of the said merchandise: 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 from and after the passing this act, that part of the said first section of the aforesaid law, which requires the master or owner of any vessel entering

Jurisdiction, &c. of this State to remain till Congress accept.

tering at the naval office, to deliver in on oath an inventory of the contents of each package, be repealed, and the same is hereby repealed and made void.

III. *And be it enacted by the authority aforesaid,* That from and after the passing of this act so much of the before-recited act as is contained in the third section of the same, which requires before forfeiture or condemnation of any vessel, for a false entry or breaking bulk, landing or smuggling any part of the cargo before entry, a proof that the owner of such vessel was privy to the said fraud, be hereby repealed and made void.

IV. And whereas it is found by experience, that the present number of Commissioners of pilotage for the bars and river of Cape Fear, are insufficient to conduct the business thereof, it being found difficult to convene a majority to act on sudden emergencies: For remedy whereof,

V. *Be it enacted by the authority aforesaid,* That from and after the passing of this act, Benjamin Smith, Auliy Macnaughton, Henry Toomer and George Hooper, shall be added to the number already in such appointment, and hereby are to be considered Commissioners of pilotage for the bar and river of Cape-Fear.

VI. And whereas Benjamin Smith, the present possessor of the Cape-Island, under the will of the late Hon. William Dry, Esq. deceased, hath promised the Commissioners for building a light-house, that he the said Smith will execute a deed to them for ten acres of land for the purpose of erecting a light-house on, without consideration or reward therefore: And whereas it appears that the said Commissioners have actually commenced the buildings of the said light-house within the limits of the said ten acres so promised by the said Smith, in full confidence that the said Smith will execute a deed for the said ten acres as by him promised: And whereas it would be unjust that the said Smith should be subjected to injuries from the gift of the said ten acres of land to the public: Therefore,

VII. *Be it enacted,* That no person shall be allowed to carry on or keep on the said island, or any part thereof, any cattle, hogs or stock of any kind, poultry and a cow and calf to be kept by the keeper of the light-house excepted, or hunt on the same without the special licence of the said Smith, or those claiming under the said William Dry, first had and obtained in writing; and if any person or persons shall be found going about the said island with gun or other hunting instruments, whereby stock may be destroyed, without the permission aforesaid, such offender may be arrested by any constable, and upon due proof of the offence being made before a Justice of the Peace of New-Hanover or Brunswick county, he shall forfeit and pay the sum of five pounds for the first offence, one half to go to the informer, the other half to the possessor of the said Cape-Island; and for every repetition of such offence, ten pounds, to be applied in like manner.

C H A P. V.

An Act providing Means for the Payment of the Domestic Debt, for appropriating certain Monies therein mentioned; and to amend an Act passed the last Session of the General Assembly, entitled An Act for levying a Tax for the Support of Government, and for the Redemption of the old Paper Currency, Continental Money, Specie and other Certificates.

I. **B**E 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 year one thousand seven hundred and ninety, and for every succeeding year until the said domestic debt shall be extinguished, a tax of two shillings on every hundred acres of land, and a tax of six shillings on every hundred pounds value of town lots with their improvements, and a tax of six shillings on every poll within this state, shall be levied and paid in specie certificates of every kind, including the interest due thereon (such as have been issued by the board of commissioners of army accounts since the first day of January, one thousand seven hundred and eighty-six, excepted) in currency certificates as rated by the act for the sale of confiscated property, continental and state dollar bills at the rate of eight hundred for one. *Provided nevertheless,* the payer of such tax is hereby authorized and allowed to pay four shillings of the currency of the state, in lieu of twenty shillings specie certificates: And the money so collected in lieu of the certificates aforesaid, shall be, and the same is hereby appropriated to the sole purpose of the redemption of the certificates and the reduction of the domestic debt.

II. *And be it further enacted by the authority aforesaid,* That all the certificates, of every description, issued under the authority of this state (except as herein before excepted) shall, on or before the first day of January, one thousand seven hundred and ninety-one, be brought to the Treasurer's office, and being compared with the checks or counterparts, and found to be genuine, shall be exchanged for the other certificates which the Treasurer is hereby required and authorized to issue to the holders or owners of such certificate or certificates, in the following manner, *that is to say,* all currency certificates shall be reduced to specie agreeably to the rate established by an act directing the sale of confiscated property, passed at Hillsborough, in April one thousand seven hundred and eighty-two; and the holders or owners of the certificate or certificates so presented to be exchanged, shall receive three indents or certificates, one for the amount of the interest due on the certificate or certificates so presented, which certificate shall expressly state that it was granted for interest due as aforesaid, and shall not bear interest; one other indent or certificate for the one third part of the principal of

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Third section of a former act repealed.

Commissioners of pilotage of Cape-Fear.

Regulations for Cape-Island.

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Certificates to be exchanged at the Treasurer's office, &c.

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the certificates so presented, which shall also not bear interest, and shall by the tenor thereof be negotiable at the Treasury in a manner herein after directed; and a third part or certificate for the balance of such principal, which shall bear interest from the date thereof; and all such certificates shall bear date the first day of January, one thousand seven hundred and ninety, and the interest due as aforesaid shall be calculated up to that time. *Provided nevertheless.* That the holder of any certificate presented to the Treasurer to be exchanged as aforesaid, shall have it in his option to receive the whole amount of the principal of his certificate so presented, in one certificate of the denomination of the third certificate herein before mentioned.

Funds appropriated for redeeming certificates.

III. *And be it further enacted by the authority aforesaid,* That such part of the monies as may have arisen and have been collected, or may arise and be collected, from the following funds and subjects of taxation, *that is to say,* the tax on lands for the years one thousand seven hundred and eighty-seven and one thousand seven hundred and eighty-eight, the money arising from the tonnage, imposts and other duties arising from goods imported into this state in the years one thousand seven hundred and eighty-seven, one thousand seven hundred and eighty-eight and one thousand seven hundred and eighty-nine, and which may not have been applied to the purpose for which they were appropriated by law, and all such monies as may be collected from tonnage duties or any other imposts or duties previous to the collection of duties in this state by the United States, shall be and the same are hereby appropriated as a fund for the purchase of the certificates issued as by this act directed, for the third part of the principal of the certificate debt due by this state; and the holder of such certificate or certificates so issued, shall be entitled to draw cash from the public treasury for the same, *that is to say,* at the rate of four shillings for every twenty shillings of such certificates.

Treasurer hereafter to be allowed.

IV. *And be it further enacted,* That the Treasurer for his trouble in issuing the certificates aforesaid, shall be allowed a sum of money proportionate to his services, to be determined on by the next General Assembly; and also shall be allowed such sums of money as he shall have expended in purchasing stationery, and employing the clerks necessary for the carrying on of this business.

To judge of their authenticity.

V. *And be it further enacted,* That where there are no checks, the Treasurer be directed and authorized to judge of such certificates from the books and accounts of the commissioners of specific supplies and the best information he can collect, and exchange or reject them accordingly.

Tax reduced.

VI. *Be it further enacted by the authority aforesaid,* That the tax to be levied by virtue of the said act, entitled "An act for levying a tax for the support of government, and for the redemption of the old paper currency, continental money, specie and other certificates, and for sinking the state currency," passed at Fayetteville in the year one thousand seven hundred and eighty-eight, of three shillings on every hundred acres of land within this state, and a tax of nine shillings on each hundred pounds value of town lots with their improvements, and a tax of nine shillings on every poll in this state, to be paid in state currency or in gold and silver, shall be and the same is hereby reduced to one shilling on every hundred acres of land, and three shillings on each hundred pounds value of town lots with their improvements, and three shillings on every poll in this state, and shall be levied and paid agreeably to the directions contained in the first section of said act. *Provided,* That all the lands west of the Appalachian Mountains shall pay a tax of eight pence on every hundred acres of land to be levied and paid in like manner.

Tax may be paid as in currency for 20s. certifi.

VII. *And be it further enacted by the authority aforesaid,* That the tax which is to be levied by virtue of the second section of the aforesaid act may be paid in money in lieu of certificates, at the rate of four shillings in current money for each twenty shillings of specie certificates, except as in this Act before excepted.

And whereas the monies raised by the sinking fund tax for the year one thousand seven hundred and eighty-eight, hath been burned, and there still remains in the treasury a sum equal to the whole amount of the said tax for the year one thousand seven hundred and eighty-nine, in bills unfit for circulation:

Sinking fund not to be collected for 1789.

VIII. *Be it enacted by the authority aforesaid,* That the sinking fund tax for the year one thousand seven hundred and eighty-nine, directed to be collected by an act, entitled "An act for emitting one hundred thousand pounds paper currency for the purposes therein expressed," shall not be collected for the said year one thousand seven hundred and eighty nine.

C H A P. VI.

An Act for procuring Testimony concerning the Accounts of this State against the United States.

WHEREAS it is represented by the agents of this state, that many officers, and whole regiments of privates, who served in the continental line of this state, are not to be found on the musters in the war or pay office of the United States, and that no account has been taken of numerous waggons and teams with which the armies of the United States have been supplied by this state:

Comptroller to collect vouchers, &c.

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 Comptroller shall forthwith collect such musters as may be among the papers of the late Governors of this state, or such military officers as may be supposed to have muster or pay-rolls in possession, or any return of waggons furnished

ed by the militia classes in one thousand seven hundred and eighty-two; and that he shall also apply to the several field officers of the continental line who served to the end of the war, and obtain their oath or affirmation, as to their knowledge of the services of officers or privates whose claims to pay are not supported by the musters.

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II *And be it further enacted*, That the Colonel or commanding officer of the militia of every county in this state, shall enquire what waggons, or whether any, have been furnished in one thousand seven hundred and eighty-two by the militia classes in the several counties; and what bounties have been paid by the classes in the several counties to procure soldiers in the years one thousand seven hundred and eighty-one and one thousand seven hundred and eighty-two, and shall, under the penalty of fifty pounds, before the first day of April next, make return on the oath of one or more persons who appear to have the best information on that subject of the waggons and teams, and computed value of the same, that were furnished by the classes as aforesaid, or whether any were furnished, and what bounties have been paid, to the Brigadier-General of the district, who shall forward the same to the Governor or Comptroller on or before the first of May next, under the penalty of one hundred pounds; and the Governor of the state for the time being shall forthwith transmit the same to the agents of this state appointed to settle the accounts of this state with the United States.

C H A P. VII.

An Act to repeal Part of an Act, entitled An Act once more to extend an Act, entitled an Act to pardon and consign to Oblivion the Offences and Misconduct of certain Persons in the Counties of Washington, Sullivan, Green and Hawkins.

I. **B**E it enacted by the General Assembly of the state of North-Carolina, and by the authority of the same, That all and every part of the last providing clause in the above mentioned act be and the same is hereby repealed and made void.

C H A P. VIII.

An Act to prevent the Exportation of raw Hides, Pieces of Hides of neat Cattle, and Calf-Skins, and also of Beaver, Raccoon and Fox Furs.

WHEREAS the exportation of the hides, skins and furs above mentioned, is found detrimental to our own manufactures, which demand the attention of the Legislature:

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 master or owner of a vessel, at the time of his clearance out before the Naval-officer, shall take the following oath, viz. "I A. B. master or owner (as the case may be) of the _____ do swear that there are not on board of my vessel, any raw hides, pieces of hides of neat cattle, calf skins, nor any beaver, racoon or fox furs, for the purpose of exporting them out of this state, either as cargo or adventure of my own or any other persons whomsoever; and that I will not knowingly or willingly suffer any person or persons to export any of the said kind of skins and furs out of this state in the vessel of which I am commander or owner."

Oath to be taken by masters, &c. of vessels.

II. *Be it further enacted by the authority aforesaid*, That if any captain or owner shall, after the passing this act, suffer or willingly permit any of the above mentioned articles to be brought on board his vessel, it shall be deemed evidence of his intention of exporting the same, and shall forfeit five hundred pounds, to be recovered by action of debt in any court having jurisdiction, one half to the person suing and the other half to the state; and if the Judge or Judges before whom the same shall be tried, shall certify there was a reasonable cause of action, the plaintiff or complainant shall not be subject to cost.

500l. penalty on attempting, &c. to export hides, &c. by water.

III *And be it further enacted*, That if any person shall by land convey any such hides, skins or furs out of this state into any other state for the purpose of selling the same, such person on conviction shall suffer the same pains and penalties as are before prescribed for exporting such hides, skins or furs by water, to be recovered in like manner and applied to the same uses. *Provided nevertheless*, That this act shall not extend to or be in force in any county west of the Appalachian Mountain: *And provided also*, That this act shall not be in force until the first day of January next.

And by land.

Proviso.

C H A P. IX.

An Act for granting to the Inhabitants of Tyrrel County a Privilege of holding separate Elections for Members of Assembly.

WHEREAS it is represented to this Assembly by petitions from a number of the Inhabitants of the county of Tyrrel, that the great extent of said county (it being one hundred miles in length) renders it very difficult, troublesome and expensive for them to travel to the court-house to give their suffrage for members to represent them in General Assembly, many of them having to go by water the distance of sixty miles, and others who travel by land have very broad waters to ferry over, are often prevented by bad weather and contrary winds, by reason of which they are deprived of their suffrage, and by consequence of a representation in fact in this Assembly: For remedy whereof,

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 from and after the passing of this act, it shall and may be lawful for the Sheriff of the said county of Tyrrel, or any of his proper deputies, and he or any of them is hereby authorized and required, to open an election on the day preceding the

the

1789.

Distinct elections
in Tyrrel.

the time appointed by law, at the Old-Fort Landing Plantation, at the house of Robert McCallister on Alligator River, and at the Glebe-House near Kendrick's Creek, for the ease and conveniency of the voters in the most distant parts of the said county, under the same rules as are prescribed for holding the general election; and the ballots so taken shall be sealed up by the Inspectors of the poll in the presence of the Sheriff, or his deputy who held the election, and by them be transmitted to the court-house under the care of the said Sheriff or his deputy; which ballots so taken shall and they are hereby declared to be part of the election of the said county, any thing to the contrary notwithstanding. *Provided*, That nothing herein contained shall deprive any person entitled to vote for members in said county and who has not already given his vote at either of the places above-mentioned, from giving his suffrage at the court-house on the days of the general election for the body of the county.

C H A P. X.

An Act to empower the Wardens of the Poor for the County of Currituck to lay a Tax to enable them to settle the Arrears due from said County to Persons who have supported the Poor

WHEREAS the tax heretofore by law laid hath not been sufficient to support the poor in the county aforesaid:

Poor tax.

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 a tax not exceeding two shillings and eight pence shall be laid on each taxable person, and also a tax not exceeding ten pence on every hundred acres of land; which said tax the Wardens of the Poor are hereby empowered to receive and account for agreeable to law in such case heretofore made and provided.

Its duration.

II. *And be it enacted by the authority aforesaid,* That this act shall be and continue in force for and during the term of two years and no longer.

C H A P. XI.

An Act for levying a Tax in the District of Salisbury for finishing the Court-house, and repairing the Gaol for the said District.

WHEREAS the taxes heretofore levied for the above purpose on collection has proved deficient, and there remains a great deal yet to be done with respect to finishing the said buildings:

Tax for court-
house, &c. in Sa-
libury.

I. *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 one shilling on every poll, a tax of one shilling on every hundred pounds of assessable property, and a tax of four pence on every hundred acres of land in the county of Rowan, and a tax of half the said sum on the same subject of taxation shall be levied and paid in the counties of Anson, Mecklenburg, Iredell, Surry, Guilford, Rockingham and Montgomery, for the purpose of finishing the said building and repairing the said gaol, to be collected for the year one thousand seven hundred and ninety; and that these taxes shall be collected by the same persons in each county as other taxes are, and the Collectors are hereby declared subject to the same rules, regulations, restrictions and penalties that Collectors of public monies are.

To whom to be
p. ii.

II. *And be it further enacted by the authority aforesaid,* That the former Commissioners or a majority of them, are hereby authorized to receive the said monies so collected, and the said Commissioners are by this law empowered to sue for and recover the said taxes from the said Collectors in the same manner as the Treasurer of the state has heretofore been authorized.

C H A P. XII.

An Act for altering the Name of James Roufom to that of James Long.

WHEREAS it is the earnest request of James Long, of Tyrrel county, that his natural son, heretofore called James Roufom, should hereafter be called and known by the name of James Long:

Name of James
Roufom altered
to James Long.

I. *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, the name of James Roufom shall be altered to the name of James Long, and that he shall thenceforth be called and known by the said name; and that by the said name of James Long, he shall and may sue and be sued, plead and be impleaded, in any court of law or equity, and obtain and possess lands and all other species of property by will, devise, donation, grant, purchase or otherwise; and he may by his name aforesaid sell and dispose of lands or other property; and finally in all things the said James Long shall be capable in law or equity of negotiating and transacting all manner of business in as full and ample manner as if he had been called and known by no other name from the time of his nativity, any law, usage or custom to the contrary notwithstanding.

C H A P.

C H A P. XIII.

An Act to annex the County of Anson to Fayetteville District, and to regulate the Appointment of Jurors to Fayetteville Court.

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WHEREAS it is represented to this General Assembly, that it will tend greatly to the convenience of the good people of Anson County to be annexed to the district of Fayetteville: Therefore,

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 from and after the passing of this act, the county of Anson shall be annexed to and form a part of the district of Fayetteville, in the same manner as Fayette district, if the said county of Anson had originally been part of said district.

And whereas the annexing the county of Anson to the district of Fayetteville, will make it necessary that an alteration of the number of jurors to be furnished by the different counties within said district, should be made:

II. *Be it therefore further enacted,* That the jurors for the superior court of Fayetteville, shall be furnished by the counties within the district in the proportion and number, to wit, Jurors. Cumberland eleven, Richmond five, Anson five, Sampson five, Robinston five, Moore five.

C H A P. XIV.

An Act for dividing the County of Surry into two distinct Counties, and for other Purposes.

WHEREAS the large extent and inconvenient situation of the county of Surry, render the attendance of the inhabitants of the extreme parts, at courts, elections and general musters, difficult and expensive; For remedy whereof, and to gratify the wishes of the good people of the said 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 from and after the passing of this act, the county of Surry shall be divided into two distinct counties, by a line beginning on the line dividing this state from the state of Virginia, at a point equidistant from the nearest parts of the counties of Rockingham and Wilkes, and running from thence until it intersects the Rowan county line, so as to leave an equal number of acres in each county.

II. *And be it further enacted,* That all that part of the said county lying west of said line, shall be erected into a distinct county by the name of Surry county; and all that part lying east of said line, shall be erected into another distinct county by the name of Stokes county.

III. *And be it further enacted,* That David Humphries, Constant Ladd and Joseph Cloud, are hereby appointed Commissioners, and are empowered and required to run the said dividing line agreeable to the directions of this act, which said dividing line when run by the said Commissioners or a majority of them, shall be by them fairly described in writing, and returned to the courts of each of the said counties, and shall there be duly entered of record, and hereafter be deemed and taken as the dividing line between said counties, and the expence of running the said line shall be defrayed by a tax to be drawn in equal parts from both of said counties.

IV. *And for the due administration of justice, Be it enacted,* That the Justices of the Peace shall be nominated and commissioned, and the courts held in the respective counties of Surry and Stokes, in the same manner, and with the same powers and jurisdictions as Justices of the Peace and county courts in the other counties in this state; and the courts of and for the county of Surry, shall be constantly held on the second Mondays in February, May, August and November; in each and every year; and the courts for the county of Stokes, shall be constantly held on the third Mondays in February, May, August and November, in each and every year: And the first court for the county of Surry shall be held at the house of Richard Horn, on the second Monday in February next; and the first court for the county of Stokes shall be held at the house of Gray Bynum, on the third Monday in February next; and the Justices for each of the said counties of Surry and Stokes, are hereby authorized to adjourn to such places in their respective counties as they shall think most convenient to hold all subsequent courts, until court-houses shall be built in each respective county.

V. *And be it further enacted,* That the court-houses, prisons and stocks in the said counties, shall respectively be as nearly central as possible, regard being had to springs and situation.

VI. *And be it further enacted,* That William Terral, Lewis Edward Lovell, Micajah Ogleby, Henry Spier and Charles Smith, be appointed Commissioners for the county of Surry; and Charles McAnnelly, Gray Bynum, Seth Coffin, Christian Lash, James Gaines, Jacob Bloom and Samuel Waggoner, be appointed Commissioners for the county of Stokes; which said Commissioners shall in their respective counties fix on the places, and contract with proper workmen for erecting the said county buildings.

VII. *And be it further enacted,* That the present Clerk of the county court of Surry, shall be Clerk of the court of that county in which his present dwelling-house shall happen to be; and that all causes, pleas, suits and actions, and every species of controversy whatever, in the county court of Surry now depending and undetermined, shall be transferred to the dockets of that county in which the said Clerk shall happen to reside, in the same order and arrangement in which the same now stands on the dockets and records of the county court of Surry; and that all the public records of the county of Surry, shall be lodged and deposited in the same county.

C

And

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Present clerk of
Surry may issue
certain writs, &c.

And whereas it may happen that writs and other process have heretofore issued from the county court of Surry, and that the same may not be executed before the division of said county:

VIII. *Be it therefore further enacted*, That it shall and may be lawful for the present Clerk of Surry county, to continue to issue *alias* and *pluries* writs, and judicial attachments on the same, returnable to the court of the county of which he is Clerk, in the same manner as if the said county had remained undivided: And the Sheriff of the county of Surry, and the Sheriff of the county of Stokes, are hereby authorized to execute and return the same agreeable to the command of said process.

Taxes, &c. due.

IX. *And be it further enacted*, That the Sheriff and Collectors of the county of Surry, shall have full power and authority to collect agreeable to law, all such taxes and arrears of taxes, and other dues, as may be due and owing from the inhabitants of said county at the time of dividing the same, in the same manner as if the said county had remained entire and undivided.

Jurors.

X. *And be it further enacted*. That the Justices of the county courts of Surry and Stokes, shall each appoint four freeholders to serve as jurors at the superior courts for the district of Salisbury; and the said counties shall compose part of said district.

Tax for public
buildings.

XI. *And be it further enacted*, That a tax of two shillings on every poll, a tax of eight pence on every hundred acres of land, and a tax of two shillings on every hundred pounds value of town property, shall be paid in the said counties of Surry and Stokes, for two years, to defray the expence of the public buildings in the same, and running the dividing line between them; which taxes shall be collected and accounted for in the same manner and under the same regulations and restrictions as other county taxes are collected and accounted for.

To whom pay-
able.

XII. *And be it further enacted*, That the monies arising from the said taxes shall be paid in the respective counties to the Commissioners thereof, who before receiving any part of the same, shall give bond with approved security to the Justices of their said counties, in the sum of one thousand pounds, conditioned for the faithful application of the same agreeable to the directions of this act.

Account of ap-
propriation to be
returned, &c.

XIII. *And be it further enacted*. That the Commissioners for the said counties shall, whenever called on for that purpose by the said county courts, render true and faithful accounts of all the monies they shall have received, with the manner in which they shall have applied the same; and if after completing the county buildings there should remain a surplus in the hands of the Commissioners, the county courts of Surry and Stokes shall appropriate the same towards defraying the contingencies of their respective counties.

Militia officers
continued.

XIV. *And be it further enacted*, That the officers of the militia in the county of Surry, shall continue to command in the counties in which they shall happen to reside, until the end of the next General Assembly.

C H A P. XV.

An Act directing the Sale of the County Buildings in Surry, and to alter the Times of holding several County Courts in this State.

WHEREAS the county buildings in Surry are become useless since the division of said county:

Commissioners to
dispose of public
buildings.

I. *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 George Houzer and John Halbert shall be Commissioners, who shall have full power and authority to sell and dispose of the courthouse, prison and stocks which belonged to the county of Surry before it was divided; and the said Commissioners are hereby authorized to sell the same on twelve months credit, the purchaser giving bond and approved security.

Monies arising to
whom payable.

II. *And be it further enacted*, That the monies arising from the said sale, shall be paid in equal sums to the Commissioners for erecting the county buildings in the counties of Surry and Stokes.

And whereas the times of holding several of the county courts of pleas and quarter-sessions in this state, are found to be inconvenient and to interfere with the adjacent courts: Therefore,

Courts of several
counties when to
be held, &c.

III. *Be it enacted*, That from and after the passing of this act, the county courts of pleas and quarter-sessions in the following counties shall constantly be held on the following days, that is to say, for the county of Sumner, on the first Mondays in April, July, October and January in each year; for the county of Davidson, on the second Mondays in the same months; for the county of Tennessee, on the third Mondays in the same months; to which times respectively, all matters and things depending in the said courts shall stand continued from the second court that shall happen in the said several counties after the passing of this act.

And whereas the court of pleas and quarter-sessions for the county of Stokes, is appointed to be on the same day with that of Guilford, which will be injurious to suitors and others: For remedy whereof,

Court of Stokes
county.

IV. *Be it enacted*, That the county court of pleas and quarter-sessions for the county of Stokes, shall constantly be held on the first Mondays in March, June, September and December, and the first court in said county shall be held on the first Monday in March next.

Part of an act
repealed.

V. *And be it further enacted*, That so much of an act of this present General Assembly, entitled "An Act for dividing the county of Surry," which relates to the times of holding courts in the county of Stokes, is hereby repealed.

C H A P. XVI.

An Act the better to regulate the Inspection of Tobacco in this State.

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WHEREAS the laws now in force to regulate the inspection of tobacco are found not to answer the intended purpose:

I. *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 the Inspectors of tobacco at the several warehouses of this state, shall and they are hereby required to examine, by breaking in at one or more places, all tobacco which shall be brought to their respective warehouses for inspection, and shall class and mark them as follows, to wit, All tobacco that shall be thick, well cured and in good condition, shall be deemed of the first class, and branded with the letter A at least four inches long, on each head and on the side of the hoghead: All tobacco which shall not answer the description of the first class, but shall be found well cured and in good condition, shall be deemed of the second class, and branded with the letter B, in the same manner as is directed with letter A: And all tobacco which shall be found found and in good condition, but of an inferior quality to A and B, shall be deemed of the third class, and branded as above described with the letter C. And where any hoghead of tobacco shall be offered for inspection, a considerable part of which shall be of one class and the remainder of another, it shall be the duty of the Inspectors to place such hogheads in the class to which the inferior tobacco of said hoghead entitles it to belong, unless the person offering such tobacco will agree to have the same picked and sorted agreeable to the inspection law now in use in this state.

Inspectors duty.

II. *And be it further enacted by the authority aforesaid,* That the several Inspectors of tobacco shall and they are hereby required when they shall have inspected and branded any hoghead of tobacco agreeable to the directions of this act, to give the person claiming such hogheads a note for the same, certifying the quality, mark, number and weight thereof.

Inspector to give a note.

III. *And be it further enacted by the authority aforesaid,* That when any tobacco shall be delivered out of the warehouse, the Inspectors shall and they are hereby required, to give a separate manifest of each hoghead of tobacco by them so delivered, in which shall be inserted the mark, number, weight and quality of said tobacco.

And manifest.

IV. *And be it further enacted by the authority aforesaid,* That when any captain or master of a vessel shall clear out at the naval-office, he shall lodge with the Naval-Officer, a general manifest of his cargo, and shall also deliver to him the Inspector's manifest of each and every hoghead of tobacco he may have on board his vessel.

Captains of vessels duty.

V. *And be it further enacted by the authority aforesaid,* That the Naval-Officer shall and he is hereby required to certify, in the body of the clearance of each vessel he may clear out with tobacco on board the mark and quality of each hoghead of tobacco so cleared out; and if he shall fail or neglect so to do, he shall forfeit and pay the sum of fifty pounds, to the use of any person suing for the same.

Naval-Officers duty.

VI. *And be it further enacted by the authority aforesaid,* That if any person shall appear before the Collector or Naval-Officer, and make oath that there is on board any vessel bound to sea, any tobacco which has not been inspected and marked as is by this act required, it shall and may be lawful for the Collector or Naval-Officer to summon and take with him two or more freeholders, and search the vessel so informed of, and if any such tobacco shall be found on board, they may and are hereby required to seize and take possession of the same, and cause such proceedings to be had thereon as is directed by law on other goods when seized; and if it shall appear that the tobacco so seized has not been inspected and branded as aforesaid, the same shall be condemned and sold to the use of the informer, first deducting the necessary expences for search and condemnation, to be taxed by the court before whom the matter is cognizable.

Information how to be proceeded, &c.

VII. *And be it further enacted by the authority aforesaid,* That if any person shall alter or cause to be altered the brand of any hoghead of tobacco inspected and marked so as aforesaid, as to make it appear to be of any other class than the one of which the Inspectors have marked it, or shall brand or cause to be branded any hoghead which the Inspectors had not examined and branded, so as to induce a belief that such hoghead had been lawfully inspected, such person shall forfeit and pay the sum of fifty pounds, to be recovered before any county court by any person suing for the same to his own proper use. *Provided nevertheless,* That this act shall not be in force or have effect until the first day of May next.

Penalty on altering brand, &c.

When in force.

C H A P. XVII.

An Act to amend an Act, entitled "An Act to prevent the Exportation of unmercantable Commodities."

I. **B**E it enacted by the General Assembly of the state of North-Carolina, and it is hereby enacted by the authority of the same, That an inspection be and hereby is established on Neuse river, at Harris's landing or ferry, heretofore Bryan's, under the same rules, regulations and restrictions as directed by the above recited act; and the county court of Craven are hereby directed and empowered to appoint an Inspector for the said landing, at the same time and in the same manner as other Inspectors for the said county are appointed, who shall have the same advantages, and be subject to the same pains and penalties as other Inspectors; and commodities

Inspection established, &c.

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commodities by him inspected and passed shall be merchantable and proper for shipping in like manner with those inspected by other Inspectors above the town of Newbern.

C H A P. XVIII.

An Act for the Promotion of Learning in the County of Currituck, and to amend the Wilmington Academy Laws.

WHEREAS the good education of youth has the most direct tendency to promote the virtue, encrease the wealth and extend the fame of any people; and as it is the indispensable duty of every Legislature to consult the happiness of a rising generation, and endeavour to fit them for an honourable discharge of the social duties of life: And whereas it is represented to this General Assembly that the citizens of Currituck and the adjacent counties, are desirous of making an early and liberal provision for the instruction of youth by laying the foundation of a public seminary in that county:

Trustees of Currituck academy incorporated.

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 Isaac Gregory, Dempcy Connor, John Swann, Peter Dauge, Dempcy Burges, Enoch Sawyer, John Humphreys, William Ferebee, Willoughby Dauge, Asahel Simmons, Joseph Ferebee, Timothy Etheridge, and Thomas Pool Williams, Esquires, shall be and they are hereby declared to be a body politic and corporate, to be known and distinguished by the title of the Trustees of Currituck seminary of learning; and by the name of the Trustees of Currituck seminary of learning shall have perpetual succession and a common seal; and the said Trustees and their successors, by the name aforesaid, or a majority of them, shall be able and capable in law to take, demand, receive and possess all monies by subscription or otherwise, goods and chattels that shall be given them for the use of the said seminary of learning, and the same apply according to the will of the donors; and by gift, purchase or devise, to take, have, receive, possess, enjoy and retain to them and their successors forever, any lands, rents, tenements or hereditaments of what kind, nature or quality soever the same may be, in special trust and confidence that the same or the profits thereof shall be applied to and for the uses and purposes of establishing and endowing the said seminary of learning in the county of Currituck, building or purchasing suitable and convenient houses, purchasing a library and philosophical apparatus, and supporting and paying the salaries of the Provost and such number of professors and tutors as to them shall seem necessary.

Their power.

II. *And be it further enacted by the authority aforesaid,* That the said Trustees and their successors, or a majority of them, by the name aforesaid, shall be able and capable in law to bargain, sell, grant, demise, alien or dispose of and convey any such lands, rents, tenements or hereditaments as aforesaid, when the will of the grantee doth not forbid the same; and further, that the said Trustees and their successors forever, or a majority of them, shall be able and capable in law by the name aforesaid, to sue and implead, be sued and impleaded, answer and be answered in all courts of record whatsoever, by the stile of the President and Trustees of the seminary of learning of Currituck.

Officers, &c.

III. *And be it further enacted by the authority aforesaid,* That the said Trustees or a majority of them, shall and they are hereby authorized to choose a President, Treasurer and Secretary out of their own body; they may also choose a Rector, Professors and Tutors for the seminary of learning, and the same may remove at pleasure; and they shall have authority to make bye-laws for the government and regulation of the seminary of learning, and the same to alter and amend. *Provided nevertheless,* That such laws shall not be repugnant to the laws of this state, their morals, studies and academical exercises as to them shall seem meet; and to give certificates to such students as shall leave the said seminary, certifying their literary merit and progress of useful knowledge; and further, that on death, resignation, refusal to act or misconduct of either Professors or Tutors, the Secretary, Treasurer or Steward, others shall be elected in their room and stead, a majority of the Trustees agreeing thereto.

Treasurer to give bond, &c.

IV. *And be it further enacted by the authority aforesaid,* That the Treasurer of the said board of Trustees, shall enter into bond with sufficient security to the Trustees aforesaid, in the sum of two thousand pounds, conditioned for the faithful discharge of the trust in him reposed; and that all monies and chattels belonging to the said corporation that shall be in his hand at the expiration of his office, shall then be immediately paid and delivered into the hands of the succeeding Treasurer; and every Treasurer shall receive all monies and donations of whatsoever kind that may belong or accrue to the said seminary of learning during his office, and at the expiration thereof shall account with the Trustees for the same, and the same pay and deliver over to the succeeding Treasurer; and on his neglect or refusal to pay and deliver as aforesaid, the same method of recovering may be had against him as is or may be provided for the recovery of monies from Sheriffs, or other persons chargeable with public monies.

Vacancy of Trustees how filled.

V. *And be it further enacted,* That if any Trustee shall neglect attending at the stated meeting of the Board for the space of two years, or if any of them shall die, or otherwise resign his office, the remaining Trustees, or a majority of them, shall at their next meeting choose another Trustee in the room of the person thus neglecting his duty or resigning his office.

VI. *And be it further enacted by the authority aforesaid,* That no lands, tenements or hereditaments,

ditaments, which may be vested in the Trustees of the seminary of learning of Currituck, for the sole use and behoof of the seminary, shall be subject to any tax for the space of ninety-nine years. *Provided*, That nothing contained in this act, shall be understood as establishing this as one of those seminaries of learning mentioned by the constitution of this state.

Whereas in the third section of an act passed last session, entitled "An act for the promotion of learning in the district of Wilmington," it was intended that the number of Trustees might be augmented so as not to exceed thirty nor to be under twenty, but by an omission in the engrosser of the bill or otherwise, although a certain number is intended to be referred to, that number does not appear in the act: For remedy whereof,

VII. *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 said Trustees at any future meeting may, and they are hereby empowered, if they shall judge the same necessary, to elect by ballot a sufficient number of persons to be Trustees so as to make the whole number thirty; and such Trustees so chosen, shall have the same powers and authority as the Trustees named in any of the before mentioned acts.

And whereas it is enacted by the said act passed last Assembly, that the first meeting of the Trustees should be on the first day of January after passing the said act. and the said act having passed into a law on the sixth day of December, immediately preceding the said first day of January, and the same not having been published, nor any authentic copy thereof received by the said Trustees until long after the said first day of January, the first meeting of the said Trustees did not happen until some months afterwards, to prevent the legality of the acts of the said Trustees at their first meeting being called in question:

VIII. *Be it therefore enacted by the authority aforesaid*, That the said first meeting of the Trustees of the said academy, held after the said first day of January last past, shall be held, deemed and taken to be good and effectual in law in the same manner as if the same had been held on the said first day of January last; and that all the acts and doings of the said Trustees shall have the same force and effect, as well within court as without, to all intents, constructions and purposes, as if the said meeting had been held on the day mentioned in the said act; any thing in the said act, or in any law or usage to the contrary thereof in any wise notwithstanding.

C H A P. XIX.

An Act to ratify the Amendments to the Constitution of the United States.

WHEREAS the Senate and House of Representatives of the United States of America in Congress assembled on the fourth day of March, did resolve, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several states as amendments to the Constitution of the United States, all or any of which articles when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution:

ART. I. After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives nor more than one Representative for every fifty thousand persons.

ART. II. No law varying the compensation for the service of the Senators and Representatives, shall take effect until an election of Representatives shall have intervened.

ART. III. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

ART. IV. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ART. V. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ART. VI. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

ART. VII. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

ART. VIII. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district where the crime shall have been committed, which district shall have been previously ascertained by law; and to be inform-

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ed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

ART. IX. In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of common law.

ART. X. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. XI. The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ART. XII. The powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively or to the people.

Ratification of
the amendments.

I. *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 amendments agreeable to the fifth article of the original Constitution, be held and ratified on the part of this state, as articles in addition to and amendments of the Constitution of the United States of America.

C H A P. XX.

An Act to establish a University in this State.

WHEREAS in all well regulated governments it is the indispensable duty of every Legislature to consult the happiness of a rising generation, and endeavour to fit them for an honourable discharge of the social duties of life, by paying the strictest attention to their education: And whereas an university supported by permanent funds and well endowed, would have the most direct tendency to answer the above purpose:

Trustees nomi-
nated and declar-
ed a body politic.

I. *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 Samuel Johnston, James Iredell, Charles Johnson, Hugh Williamson, Stephen Cabarrus, Richard Dobbs Spaight, William Bount, Benjamin Williams, John Sitgreaves, Frederick Harget, Robert W. Snead, Archibald Maclaine, Honourable Samuel Ashe, Robert Dixon, Benjamin Smith, Honourable Samuel Spencer, John Hay, James Hogg, Henry William Harrington, William Barry Grove, Reverend Samuel McCorkle, Adlai Osborne, John Stokes, John Hamilton, Joseph Graham, Honourable John Williams, Thomas Person, Alfred Moore, Alexander Mebane, Joel Lane, Willie Jones, Benjamin Hawkins, John Haywood, senior, John Macon, William Richardson Davie, Joseph Dixon, William Lenoir, Joseph McDowall, James Holland, and William Porter, Esquires, shall be and they are hereby declared to be a body politic and corporate, to be known and distinguished by the name of The Trustees of the University of North-Carolina; and by that name shall have perpetual succession and a common seal; and that they the Trustees and their successors by the name aforesaid, or a majority of them, shall be able and capable in law to take, demand, receive and possess all monies, goods and chattels that shall be given them for the use of the said university, and the same apply according to the will of the donors, and by gift, purchase, or devise to take, have, receive, possess, enjoy and retain to them and their successors forever, any lands, rents, tenements and hereditaments, of what kind, nature or quality soever the same may be, in special trust and confidence that the same or the profits thereof shall be applied to and for the use and purposes of establishing and endowing the said university.

Their power, &c.

II. *And be it enacted by the authority aforesaid,* That the said Trustees and their successors, or a majority of them, by the name aforesaid, shall be able and capable in law to bargain, sell, grant, demise, alien or dispose of, and convey and assure to the purchasers, any such lands, rents, tenements and hereditaments aforesaid, when the condition of the grant to them, or the will of the deviser, does not forbid it. And further that they the said Trustees and their successors forever, or a majority of them, shall be able and capable in law by the name aforesaid, to sue and implead, be sued and impleaded, answer and be answered, in all courts of record whatsoever; and they shall have power to open and receive subscriptions; and in general they shall and may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue.

Meetings of the
Trustees, &c.

III. *And be it further enacted by the authority aforesaid,* That the said Trustees, in order to carry the present act into effect, shall meet at Fayetteville on the third Monday in the session of the next General Assembly, at which time they shall choose a President and Secretary; and shall then fix the time of their next annual meeting; and at every annual meeting of the Trustees, the members present, with the President and Treasurer, shall be a quorum to do any business, or a majority of the members, without either of those officers, shall be a quorum; but at their first meeting as above directed there shall be at least fifteen of the above Trustees present in order to proceed to business; and the Trustees at their annual meeting may appoint special meetings within the year; or in case unforeseen accidents shall render a meeting necessary, the Secretary, by order of the President and any two of the Trustees signified to him in writing, shall by particular notice to each Trustee, as well as by an advertisement in the State Gazette, convene the Trustees at the time proposed by the President; and the members thus convened shall be a quorum to do any business except the appointment of a President or professors in the university, or the disposal or appropriation

of monies; but in case of the death or resignation of the President or any professor, the Trustees thus convened may supply the place until the next annual meeting of the Board of Trustees and no longer; and the meeting at which the seat of the said university shall be fixed, shall be advertised in the Gazette of this state at least six months, and notice in manner aforesaid to each of the Trustees of the object of the said meeting.

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IV. *And be it further enacted by the authority aforesaid,* That the Trustees shall elect and commissionate some person to be Treasurer for the said university during the term of two years; which Treasurer shall enter into bond with sufficient securities to the Governor for the time being, in the sum of five thousand pounds, conditioned for the faithful discharge of his office and the trust reposed in him; and that all monies and chattels belonging to the said corporation that shall be in his hands at the expiration of his office shall then be immediately paid and delivered into the hands of the succeeding Treasurer: And every Treasurer shall receive all monies, donations, gifts, bequests and charities whatsoever that may belong or accrue to the said university during his office, and at the expiration thereof shall account with the Trustees for the same, and the same pay and deliver over to the succeeding Treasurer; and on his neglect or refusal to pay and deliver as aforesaid, the same method of recovery may be had against him, as is or may be provided for the recovery of monies from Sheriffs or other persons chargeable with public monies: And the Treasurer of the university shall cause annually to be published in the State Gazette, for the satisfaction of the subscribers and benefactors, a list of all monies and other things by him received for the said university, either by subscription, legacy, donation or otherwise, under the penalty of one hundred pounds, to be recovered at the suit of the Attorney General, in the name of the Governor for the time being, in any court of record having cognizance thereof; and the monies arising from such penalties shall be appropriated to the use of the said university.

Appointment & duty of a treasurer, &c.

V. *Be it further enacted by the authority aforesaid,* That all monies received by the Treasurer of the said university, shall be annually paid by him to the Treasurer of the state, who is hereby authorized and ordered to give a receipt to the said Treasurer of the university in behalf of the said Trustees, for all such sums by him received; and the said Treasurer shall pay annually unto the Treasurer of the said university, six per cent. interest on all such sums received by him in the manner aforesaid; which amount of interest paid by the state Treasurer as aforesaid, shall be allowed to him in the settlement of his accounts: And the said Trustees shall on no event or pretence whatsoever, appropriate or make use of the principal of the monies by them received on subscription, but such principal shall be and remain as a permanent fund for the use and support of the said university forever.

Monies to be paid to the state treasurer, &c.

VI. *And be it further enacted by the authority aforesaid,* That on the death, refusal to act, resignation or removal out of the state, of any of the Trustees for the time being, it shall be lawful for the remaining Trustees, or any fifteen of them, and they are hereby authorized and required to elect and appoint one or more Trustees in the place of such Trustee or Trustees dead, refusing to act, resigned or removed; which Trustee or Trustees so appointed, shall be vested with the same powers, trust and authorities as the Trustees are by virtue of this act. *Provided nevertheless,* That the Trustee or Trustees so appointed, shall reside in the superior court district where the person or persons reside in whose room he or they shall be so elected.

Vacancy of trustees how filled, &c.

VII. *And be it further enacted by the authority aforesaid,* That when the Trustees shall deem the funds of the said university adequate to the purchase of a necessary quantity of land and erecting the proper buildings, they shall direct a meeting of the said Trustees for the purpose of fixing on and purchasing a healthy and convenient situation, which shall not be situated within five miles of the permanent seat of government, or any of the places of holding the courts of law or equity; which meeting shall be advertised at least six months in some gazette in this state, and at such superior courts as may happen within that time.

Trustees to fix on the place, &c.

VIII. *Be it further enacted by the authority aforesaid,* That the Trustees shall have the power of appointing a President of the university, and such professors and tutors as to them shall appear necessary and proper, whom they may remove for misbehaviour, inability or neglect of duty; and they shall have the power to make all such laws and regulations for the government of the university and preservation of order and good morals therein, as are usually made in such seminaries, and as to them may appear necessary: *provided the same* are not contrary to the unalienable liberty of a citizen, or to the laws of the state. And the faculty of the university, that is to say, the President and professors, by and with the consent of the Trustees, shall have the power of conferring all such degrees or marks of literary distinction, as are usually conferred in colleges or universities.

To appoint or remove the president, &c.

IX. *And be it further enacted by the authority aforesaid,* That every person who within the term of five years shall subscribe ten pounds towards this university, to be paid within five years, at five equal annual payments, shall be entitled to have one student educated at the university free from any expence of tuition.

Benefit granted to subscribers.

X. *And be it further enacted,* That the public hall of the library and four of the colleges shall be called severally by the names of one or another of the six persons who shall within four years contribute the largest sums towards the funds of this university, the highest subscriber or donor having choice in the order of their respective donations. And a book shall be kept in the library of the university, in which shall be fairly entered the names and places

To the six largest subscribers.

of

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of residence of every benefactor to this seminary, in order that posterity may be informed to whom they are indebted for the measure of learning and good morals that may prevail in the state.

C H A P. XXI.

An Act for raising a Fund for erecting the Buildings and for the Support of the University of North-Carolina.

WHEREAS the General Assembly by their act, entitled "An act to establish a university in this state," passed on the eleventh day of December instant, have declared that a university shall be established and erected in this state, which shall be called and known by the name of The University of North-Carolina: And whereas adequate funds will be found to be the means which will most effectually ensure to the state the advantages to be hoped and expected from such an institution:

I. *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 gift of all monies due and owing to the public of North-Carolina, either for arrearages under the former or present government, up to the first day of January, one thousand seven hundred and eighty-three, inclusive, (monies or certificates due for confiscated property purchased excepted) shall be and is hereby declared to be fully and absolutely made, for the purpose of erecting the necessary buildings, employing professors and tutors, and carrying into complete effect the act before recited: And the Treasurer is hereby directed and required to commence suits, and to prosecute all persons owing as above mentioned, and the monies recovered in consequence thereof to pay into the hands of the Trustees named in said act, or their successors; to be applied to the purposes aforesaid. *Provided,* That nothing herein contained shall be construed to prevent the Treasurer or Comptroller from settling with and collecting from the executors of Robert Lanier, deceased, late Treasurer of Salisbury district, such sums in cash or certificates as may on a final settlement of his accounts be found to be due to the public; nor shall it extend to prevent their collecting from the Sheriffs of that district, their arrearages of taxes which became due under the present government, and which ought to have been paid into the office of the said Lanier as Treasurer aforesaid; *provided* they make such collection within the space of two years, after which time the arrearages of that district also shall be considered as being included in this gift.

II. *And be it enacted,* That all the property that has heretofore or shall hereafter escheat to the state; shall be and hereby is veiled in the said Trustees, for the use and benefit of the said university.

III. *And be it further enacted by the authority aforesaid,* That the lands and other property belonging to the university aforesaid, shall be, and the same is hereby exempt from all kind of public taxation.

C H A P. XXII.

An Act to alter the Time of electing the Members of the General Assembly in this State.

WHEREAS it has been made appear to this General Assembly, that in large counties it is sometimes impossible for the Sheriff and Inspectors to get the tickets counted out until Sunday morning, which often occasions the breach of the Sabbath day: For remedy whereof,

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 from and after the passing of this act, the annual election for the purpose of electing members of the General Assembly, shall be held in each and every year on the second Thursday and Friday of August; *provided,* That where there are two or more elections in any county, such elections shall be held in the same week that the other elections are, and one day earlier in the week than what they have heretofore been by law: The Sheriff and returning officers in each county in this state shall conduct themselves accordingly; any law, usage or custom to the contrary notwithstanding.

C H A P. XXIII.

An Act to amend an Act, entitled "An Act concerning proving of Wills and granting Letters of Administration, and to prevent Frauds in the Management of Intestates Estates."

WHEREAS by the act, entitled "An act concerning proving of wills and granting letters of administration, and to prevent frauds in the management of intestates estates," the method of proceeding hath not been defined with sufficient precision, whereby great irregularities have crept into practice, and complaints have been made of precipitate and injurious decisions: For remedy whereof,

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 all wills shall be proved and administrations granted in the court of the county where the testator or intestate had his usual residence at the time of his death, or in case he or she had fixed places of residence in more than one county, in either or any of the said counties; and in case of a written will, with the witnesses thereto, the same shall be proved by at least one of the subscribing witnesses if living, but if contested, shall be proved by all the living witnesses, if to be found, and by such other persons as may

be

Funds appropriated for building &c. the university &c.

Further funds provided.

Exempt from taxes.

Time of holding annual election.

Place and manner of proving wills, &c.

be produced to support such will; and where the validity of any last will or testament, whether written or nuncupative, shall be contested, the same shall be invariably tried by a jury, on an issue made up under the direction of the court for that purpose; any usage or law to the contrary notwithstanding.

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And whereas creditors have been greatly delayed in recovering their just debts, and executors and administrators put to great difficulty in the settlement of estates:

Executors, &c. to deliver estates, &c. after two years, &c. the executors, &c. giving bond, &c.

II. *Be it enacted by the authority aforesaid.* That from and after the passing of this act, no executor or administrator shall hereafter take, hold, or retain in his hands, more of the deceased's estate than amounts to his necessary charges and disbursements, and such debts as he shall legally pay within two years after administration granted; but that all such estates remaining, shall immediately after the expiration of two years, be divided, delivered and paid over to such person or persons to whom the same may be due by law or the will of the deceased, such person or persons, or some other for them, giving bond with two or more able sureties, that if any debt or debts truly owing by the deceased shall be afterwards sued for and recovered, or otherwise duly made appear, that then and in every such case he or they shall respectively refund and pay each his or her rateable part of that debt or debts, out of the part or share so as aforesaid allotted to him or her; and such bond, so taken shall be made payable to the chairman of the county court for the time being, and his successors; which said bond shall be and enure to the sole use and advantage of the creditors, and such creditor or creditors shall and may have a *scire facias* in manner herein after directed, against the obligors in the said bond, as if the said bond had been drawn and delivered to such creditor or creditors.

III. *And be it further enacted by the authority aforesaid.* That the bonds so taken by executors or administrators from legatees, or persons entitled to a distributive share of the estate on an intestate, shall by such executor or administrator be brought into court at the next succeeding court after such bonds are so taken, and a record shall be made thereof, and the bonds then lodged in the office of the said court with the records of the court: And in all suits where the executors or administrators of any deceased person shall plead fully administered, no assets or not sufficient assets to satisfy the plaintiffs demand, and such plea shall be found in favour of the defendant, the plaintiff may proceed to ascertain his demand and sign judgment, and on motion a writ or writs of *scire facias* shall and may issue, summoning such persons who have entered into bond as aforesaid to shew cause why execution should not issue against them for the amount of such judgment; and if there shall be judgment against the defendant or defendants to the *scire facias*, or any of them, execution shall and may issue thereon against the proper goods and chattels, lands and tenements of such defendant or defendants.

Bond to be recorded, &c.

Suits where executors, &c. have fully administered, &c.

IV. *And be it further enacted by the authority aforesaid.* That the creditors of any person or persons deceased, if he or they reside within this state shall within two years, and if they reside without the limits of this state shall within three years, from the qualification of the executors or administrators, exhibit and make demand of their respective accounts, debts and claims of every kind whatever to such executors or administrators; and if any creditor or creditors shall hereafter fail to demand and bring suit for the recovery of his, her or their debt as above specified, within the aforesaid time limited, he, she or they shall forever be debarred from the recovery of his, her or their debt in any court of law or equity, or before any Justice of the Peace, within this state. *Provided,* That nothing in this act shall extend to debar infants, persons non compos or femes covert, to bring their several actions after the expiration of the term above mentioned, provided such actions be brought within one year after the coming to lawful age, sound mind or discovery of such persons. *Provided also,* That if any creditor who after making demand of his debt or claim, shall delay to bring suit at the special request of the executors or administrators, that then and in that case the said debt or demand shall not be barred during the time of the indulgence.

Limitation of suits against deceased persons, &c.

And in order that all creditors may be duly apprised of the death of any person indebted to them:

V. *Be it enacted.* That every executor or administrator shall within two months after being qualified as executor or administrator, advertise at the court-house of the county where the deceased usually dwelt at the time of his death, and other public places in said county, and at the district court-house at the next district superior court of law and equity held for the district in which such county may be, for all persons to bring their accounts and demands of every kind and denomination to the said executor or administrator agreeable to the directions of this act.

Executors, &c. to advertise.

VI. *And be it further enacted.* That all laws and parts of laws that come within the purview and meaning of this act are hereby declared void and of no effect.

Laws void.

C H A P. XXIV.

An Act to amend and enlarge an Act passed at Tarborough, in the Year One Thousand Seven Hundred and Eighty-seven, entitled "An Act authorizing and empowering the County Court of Pleas and Quarter Sessions to divide and appropriate the real Estate of Intestates."

WHEREAS the before mentioned act has provided an easy, equitable and speedy mode for dividing the real estates of intestates; and whereas it would tend greatly to the

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Division of estates
held by tenants
in common.

ease and convenience of all tenants in common to be included within the provisions of said act: Therefore,

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 it shall and may be lawful, where real estates now are or hereafter may be held by two or more persons as tenants in common, they shall and may have the same liberty and privilege of having their said estates divided, as is provided by the said act for dividing the estates of intestates: and the divisions when made shall be good and effectual in law to bind the parties, their heirs and assigns.

C H A P. XXV.

An Act to establish the Title of certain Lands therein mentioned.

WHEREAS it hath been made appear to this Assembly, that Mary M'Phaul, widow of Niel M'Phaul, late of Bladen county, petitioned the Justices of Bladen county court, at the sessions held in said county in May one thousand seven hundred eighty-six, for a subsistence for herself and children out of the estate of her late husband the said Niel, pursuant to an act of the General Assembly, the prayer of which petition was granted, but by inattention of the Clerk of said court the order was not fully inserted in the records, wherefore the Commissioner of confiscated property paid no attention to the said order, but proceeded to sell and did make sale of two tracts of land, the only estate remaining of the said Niel, which sale was contrary to the intention of the Legislature and the order aforesaid: Wherefore,

Sale by commissi-
oner declared
void, &c.

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 sale made by the Commissioner of confiscated property for Wilmington district, of a certain tract of land situate on the Mill prong of the Raft swamp in Bladen county, now in Robinsion county, containing one hundred acres; and also the sale of one other tract of land, situate on a branch of the said Raft swamp, containing sixty acres, late the estate of Niel M'Phaul, of Bladen county, deceased, is and are hereby declared null and void and of no effect, any law to the contrary notwithstanding.

Lands continued
to M'Phaul's
sons, &c.

II. *And be it further enacted by the authority aforesaid, and it is hereby enacted,* That the said two tracts of land is and shall continue the estate of the heirs, being the sons of the said Neil M'Phaul, as fully and effectually as if such sales had not been made by the Commissioner aforesaid, subject nevertheless to the dower of Mary M'Phaul, widow of the said Niel, in the same manner as widows are entitled unto dower under the general law of this state.

Grants made by
county courts to
be valid.

III. *And be it further enacted by the authority aforesaid.* That all lands and other property heretofore granted by any county court in this state, agreeably to an act of the General Assembly in that case made and provided, to any widow or orphans of such persons whose estate become confiscated, shall be vested in the grantees in fee simple, as fully and absolutely as if the same had never been subject to confiscation in manner and form agreeable to the act of descents.

C H A P. XXVI.

An Act to enable Thomas Callender, acting Executor of the last Will of Parker Quince, late of New-Hanover County, deceased, and the other Persons therein named, to make Sale of certain Lands and Tenements, Part of the residuary Estate of the said Parker Quince.

WHEREAS Thomas Callender, acting executor of the last will and testament of Parker Quince, late of New-Hanover county, Esq. deceased, Susanna Quince, Richard Quince, junior, and William Seranzo Quince, a minor by the said Susanna Quince his mother and guardian, residuary legatees of the said Parker Quince, have presented their petition to this present General Assembly with the will of the said Parker Quince annexed, setting forth among other things, that the residuary estate of the said Parker Quince consisted principally of negro slaves and unimproved lands, the latter of which is wholly unproductive and even attended with a yearly expence: That the said executor hath already disposed of thirty-three of the said slaves towards the payment of the debts, and that there is yet due from the estate, including interest, the sum of nine thousand pounds or thereabouts, for the payment of which, and a debt of fifteen hundred pounds with above six years interest now in suit, only twenty-seven slaves of the residuary estate are remaining, and several of them old and superannuated, so that the said executor will not only be obliged to sell and dispose of the remainder of the residuary estate in his hands, but some part of the slaves specifically bequeathed by the said will, while the lands must remain many years a burthen upon the legatees to their great injury, and contrary to the intention of the testator; and praying that the petitioners may by an act of the General Assembly, be enabled and empowered to sell and convey the real estate of the testator not specifically devised for the payment of debts, so as to save to the legatees the personal and productive estate intended for them by the testator: And whereas it appears to this General Assembly that the prayer of the said petition is reasonable, and that it will be greatly beneficial to the residuary legatees of the said Parker Quince that such of the real estate as is not specifically devised by his said will should be sold for payment of his debts:

I. *Be it therefore enacted by the General Assembly of the state of North-Carolina, and it is hereby enacted*

enacted by the authority of the same, That it shall and may be lawful for the said Thomas Callender, or other the executor or executors of the said Parker Quince, Susanna Quince, Richard Quince, junior, and William Seranzo Quince, notwithstanding his minority, and the survivor and survivors of them, the acting executor or executors of the said Parker Quince being one or more, and they and every of them are hereby empowered to sell and dispose of all and singular the real estate of the said Parker Quince not specifically devised by his said will, and to make conveyances for the same to the purchasers thereof, thereby conveying to each purchaser and his heirs respectively, by virtue of the power given by this act, all the estates, rights, title, interest, claim and demand whatsoever therein and thereto, of which the said Parker Quince died seized and possessed; and the monies arising by such sales shall be received by the said Thomas Callender, or other the executor or executors of the said Parker Quince, and by him or them only, and shall be affets in his or their hands for the payment of the debts of the said Parker Quince, and by him or them.

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Powers granted
executors of Par-
ker Quince, &c.

C H A P. XXVII.

An Act to incorporate a Society of Persons by the Name of Centre Benevolent Society.

WHEREAS it has been represented and made appear to this General Assembly, that a number of persons in Rowan and Mecklenburg, and other counties, have voluntarily associated together under the name of Centre Benevolent Society, and come under a certain system of laws and regulations for the improvement of useful knowledge, for the encouragement of literature, to alleviate the distresses of the unfortunate, and to supply the wants of the poor and indigent: And whereas it hath been made appear that the aforesaid persons, members of the society aforesaid, are desirous that their society might be incorporated by the name of Centre Benevolent Society, in order that said society might more fully and completely come up to the objects of their institution: Therefore, ever willing to give all due encouragement to institutions which evidently point to the happiness of society and the general welfare of mankind,

I. *Be it enacted by the General Assembly of North Carolina, and by the same authority it is hereby enacted,* That there shall be and remain in the before mentioned society, sufficient power and authority to elect at their discretion such persons as they may deem worthy members of the said society, which persons so elected shall have and enjoy the privileges of the same; which society shall be called by the name of The Centre Benevolent Society, and shall have power to manage the property and inheritance of the same agreeable to their own judgment and pleasure; and shall moreover have perpetual succession in law, fact and name, as herein prescribed; and shall by the name of the incorporation have full power and lawful authority to sue and be sued, to implead and be impleaded, to answer and to be answered unto, in any court or courts of law and equity in this State, before any Judge or Judges, Justice or Justices, on all manner of suits and pleas whatever, and of what nature or kind soever such suits, pleas, or actions may be, in as full and effectual a manner as any person or persons, bodies politic or corporate, may or can do.

Centre Benevo-
lent Society in-
corporated.

II. *And be it enacted,* That the said corporation to be erected, and their successors in office, or the majority of them, by the aforesaid name of the corporation, be enabled to appoint the times and places of their meeting, the number necessary to constitute a quorum; and the said quorum, in the name of the said corporation, shall have full power and authority to frame such regulations for conducting their concerns and interests, as they may think necessary and convenient for accomplishing the end of their institution as the use in other corporations, provided the same be consistent with the constitution and laws of the land.

Powers granted.

C H A P. XXVIII.

An Act to alter the Names of Nancy, John and Keziah Lytle, Children of Sarah Nichols, formerly Sarah Lytle, of the Town of Hillsborough.

WHEREAS John Nichols, of the town of Hillsborough, and Sarah his wife, have by their petition requested that the names of Nancy, John and Keziah Lytle, children of the said Sarah, should be altered, and that they should henceforward be known by the names of Nancy, John and Keziah Nichols:

I. *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 henceforward and forever hereafter the said Nancy Lytle, John Lytle and Keziah Lytle, shall be known and distinguished by the names of Nancy Nichols, John Nichols and Keziah Nichols; and by those names shall have right to inherit and claim any estate either real or personal, which may be devised to them or either of them by the said petitioners John and Sarah, or either of them, in as full and ample manner as if they the said Nancy, John and Keziah Lytle had been born in wedlock, and had from the time of their births been considered as the legitimate children of the said John Nichols, and Sarah his wife; and shall forever hereafter be placed in the same situation, and shall be considered to all intents and purposes in the same point of view, as though they were legally descended from the said John Nichols, and Sarah his wife, and had been born in wedlock as aforesaid.

Names of N. J.
and K. Lytle al-
tered to N. J. and
K. Nichols, &c.

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C H A P. XXIX.

An Act directing the Sale of the Salt Licks and Springs, with the adjoining Land within the District of Mero.

WHEREAS by an act of the General Assembly passed at Hillsborough in the year one thousand seven hundred and eighty-two, entitled "An act for the relief of the officers and soldiers, and for other purposes," all the salt licks or springs, together with six hundred and forty acres of the adjoining lands, being within the reserve of the lands for the military claims of that state, are expressly reserved for the common use and benefit of the inhabitants of that country: And whereas the selling of the said salt licks and springs would have a direct tendency to promote the manufacturing of salt in that country, to the great advantage and benefit of the inhabitants thereof:

I. *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 Robert Ewing, Joel Rice, David Wilson, Edward Douglass and Robert Nelson, be and are hereby appointed Commissioners for selling the salt licks or springs together with the lands thereto belonging within the district of Mero; each of the Commissioners thus appointed shall, before they enter on the duties to be prescribed by this act, take in open court the following oath in the court of the county wherein they may respectively reside, viz. "I A. B. do swear, that I will to the best of my knowledge and abilities discharge the duties of a Commissioner for the sale of the salt licks and springs within the district of Mero, agreeable to act of Assembly in that case made and provided. So help me God" They shall also enter into bond with sufficient security unto the chairmen of their respective courts and his successors in office, in the penal sum of two thousand pounds, for the faithful discharge of the duties enjoined them by this act, and the court shall determine on the sufficiency of such security; and any Commissioner by this act appointed acting as such, without previously taking the oath and entering into bond as by this act directed, shall forfeit and pay the sum of one hundred pounds, to be recovered by any person suing for the same, in any court of record within this state having cognizance thereof, one half to the use of the district of Mero, and the other half to the person suing for and recovering the same. And the said county courts shall be and are hereby empowered, to make said Commissioners such compensation for their services as to them shall seem just, to be paid out of the price of the said licks or springs.

And whereas several of the said salt licks or springs are entirely unfit for the purpose of manufacturing salt:

II. *Be it therefore enacted,* That the courts of pleas and quarter sessions for the counties of Davidson, Sumner and Tennessee, shall at April term of their respective courts for the year one thousand seven hundred and ninety, make out a list to be signed by the chairman of each respective court and the Clerk thereof, of all the salt licks or springs within their respective counties which said court shall deem fit for the purpose of manufacturing salt, including all such salt licks and springs as were set apart by Commissioners heretofore appointed for that purpose as public property, viz. Heaton's Lick, Denton's Lick, the French Lick, Neely's Lick, Kasper's Lick, Maddison's Lick, Drake's Lick, Stoner's Lick, and Bledsoe's Lick; which list shall be entered on the record of said courts, and copies thereof delivered to the Commissioners by this act appointed; and all other salt licks or springs, with the adjoining lands, not deemed by the court fit for the manufacturing of salt, be and they are hereby declared vacant land, and liable to be located and entered in the same manner as all other vacant land in the said district of Mero. *Provided always,* That if any former entry, or the lines of any former entry, shall interfere with or take in any part of the said unfit licks or springs, or the land adjoining them, the said entries are hereby declared good and valid in law; any law, usage or custom to the contrary notwithstanding.

III. *And be it further enacted,* That the said Commissioners, or a majority of them, shall cause to be surveyed, where such surveys have not already been made, all the said salt licks or springs with six hundred and forty acres of the adjoining lands, agreeable to the list made out by the several courts, by the surveyors of the several counties wherein the said salt licks or springs may be situate; which surveys shall be made agreeable to an act of the General Assembly directing the mode the military claims are to be laid off, and the surveyors shall deliver to the Commissioners by this act appointed two fair plats of each survey, describing the several courses and distances thereof; for which services the said surveyors shall be allowed the same fees as other surveyors within this state.

IV. *And be it further enacted,* That the Commissioners by this act appointed, or a majority of them shall advertise in the most public manner for at least three months, the day and terms of sale of each of the said salt licks or springs; which sale shall be made at the court-house of the county where such salt lick or springs may be situate; and the said Commissioners shall have the power to postpone the sale of all or any of the said licks or springs to any day or time; provided that all sales be completed within twelve months from the passing of this act, unless some of the surveys be rendered impracticable by the hostilities of the Indians; and each salt lick or spring, together with the adjoining lands, shall be sold separately at public vendue to the highest bidder, at two years credit: *Provided nevertheless,* That it shall be the duty of the Commissioners to reserve two of the said reserved salt licks, with the adjoining lands, for the use of the academy of Davidson county, and execute a deed to the

Commissioners appointed for selling the licks, &c. to take in open court, &c.

Allowed for their services.

List of public salt licks to be made out, &c.

Surveys to be made, &c.

Advertise time, place & terms of sale, &c.

Trustees

Trustees thereof for the same; the purchaser or purchasers entering into bond with two sufficient securities unto the Commissioners, for the use and benefit of the district of Mero, for the payment of the purchase money; which money when collected by the said Commissioners shall be paid into the hands of the county Treasurer where such sales shall have been made, to be appropriated to the common use and benefit of the district of Mero as may by law hereafter be directed; and the said Commissioners shall transmit to the Secretary of State two plats of each survey, with the name of the purchaser and the price by him given for such salt licks or spring: And the Secretary of State is hereby directed to make out to such purchaser or purchasers, a grant in the name of the state, for each salt-lick or spring thus sold, to be signed by the Governor for the time being, in the same manner as all other grants from the state. *Provided always,* That such purchaser or purchasers shall not so inclose the said licks or springs as to prevent stock from having the benefit thereof.

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Monies arising from the sale to whom paid, &c.

Grants to be issued to purchasers, &c.

And whereas the Commissioners appointed by act of Assembly to encourage the making of salt in the county of Davidson, have leased out by virtue of the said act, the three salt-licks known by the name of the French lick, Neely's lick and Kasper's lick, with the lands thereunto belonging, for the term specified in the said act, lessees having covenanted and agreed to and with the said Commissioners, to manufacture annually a certain quantity of salt at each of the aforesaid salt-licks; which salt when made, was to be sold by the said lessees for their use and benefit: And whereas the passing of this act would be highly injurious to the lessees aforesaid, unless some provision be made for them, having due regard to the above recited lease:

V. *Be it therefore enacted by the authority aforesaid,* That the said lessees, their heirs or assigns, be and are hereby exonerated from manufacturing one half of the quantity of salt they were to make annually in consideration of the lease aforesaid; and the quantity they may fall short in manufacturing in any year, they shall make up the succeeding year. *Provided always,* That the said lessees shall make up the whole quantity of salt prescribed by this act, before the expiration of the lease aforesaid.

Provision made for lessees of the salt-licks.

VI. *And be it further enacted,* That all acts of Assembly, and every part or parcel thereof, that may come within the purview of this act, are hereby repealed and made null and void, to all intents and purposes as if the same had never been made.

Acts repealed.

C H A P. XXX.

An Act for erecting a Town on the Lands of Fergus Sloan, in Iredell County, and to amend an Act for the Division of Rowan County.

WHEREAS it hath been represented to this General Assembly, that the lands of Fergus Sloan, agreed and fixed on by the Commissioners appointed by the above recited act for the division of Rowan county, for the fixing on a place, and building a courthouse, prison and stocks in the said county of Iredell, is a pleasant and healthy situation, and the said Fergus Sloan having signified his consent to have fifty acres of land, fixed on by the Commissioners as aforesaid, laid off for a town: and at the request and desire of the inhabitants of the county of Iredell aforesaid, by the name of Stateville.

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 said fifty acres shall be laid off in half acres lots, and streets accordingly; and the same are hereby constituted and established a town by the name of Stateville.

Town of Stateville.

II. *And be it further enacted by the authority aforesaid,* That George Davidson, Jeremiah Nelson, Joseph Sharp, John Nesbit and Christopher Hulston, be and every one of them be constituted Commissioners and Trustees, for designing, building and carrying on the said town; and they shall find and seized of an indefeasible estate in fee simple in the said fifty acres of land aforesaid, to and for the uses, intents and purposes hereby declared: and the said Commissioners, or any three of them, shall have full power and authority to meet as often as they shall think proper, to lay off said town as they shall think most convenient; and the said Commissioners shall make and execute deeds in fee simple to the respective purchaser or purchasers, for such price or prices as they or a majority can agree upon, relation being had to the respective properties of the several lots.

Commissioners appointed to lay it out, &c.

III. *And be it enacted,* That the respective purchasers of said lots, shall pay and satisfy the said Commissioners for whatever sum or sums they may severally incur by purchasing lots from the said Commissioners; and in case of neglect or refusal of any purchaser to pay the sum or sums that may be incurred as aforesaid, that then in that case the Commissioners, or a majority of them, may commence a suit or suits in their own names, and therein recover judgment with costs of suit; and the said Commissioners as soon as they shall receive the money by sales as aforesaid, shall pay to Fergus Sloan the sum of twelve shillings per acre, for the said fifty acres, in full satisfaction for the said land, and the residue, if any, shall be applied in defraying the expence in laying off said town.

Purchase money to whom paid, & how appropriated

IV. *And be it enacted,* That in case of the death, refusal to act, or removal out of the county, of any of the Commissioners, the survivor or survivors of them are hereby empowered from time to time, by instrument of writing under their hands, to appoint some other person, being a freeholder in said county of Iredell, in the place of him so dying, refusing to act, or removing as aforesaid; which Commissioner or Trustee shall have the same power and authorities as if he had been appointed by this act.

Vacancy of commissioners how filled.

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And whereas a clause was annexed to the above recited act for the division of Rowan county, authorizing the Justices of the Peace for said county of Rowan, who in the aforesaid division might fall within Iredell county, to exercise all the powers and authorities to which they were severally and otherwise entitled as Justices for Rowan: And whereas said clause by accident or other casualty never appeared to said act: And whereas the Justices of Rowan county falling into Iredell county as aforesaid, proceeded to exercise the powers and authorities supposed to be contained in the clause as aforementioned, from the fourth Monday in December, one thousand seven hundred and eighty-eight, until the fourth Monday in June, one thousand seven hundred and eighty-nine, destitute of the authority supposed to be contained in the clause aforesaid, whereby trouble and inconveniency may arise to those who have had business done with or by the aforesaid Justices during that period: For remedy whereof,

Proceedings of
Justices in Iredell
declared valid.

V. *Be it enacted*, That all the proceedings of the aforesaid Justices, during the above period including two courts in said county of Iredell, shall be deemed to have the same force and validity as if the aforesaid Justices had been invested with all the necessary powers and authorities as Justices of the Peace, any law or custom to the contrary notwithstanding.

C H A P. XXXI.

An Act for laying off a Town on the Lands of John Marriner, in Tyrrel County.

WHEREAS it hath been represented to this General Assembly, that a town in the county of Tyrrel, on the Lands of John Marriner, on the southwest side of Scuppernong river, at a place known by the name of the Back-Landing, would be of very considerable advantage to the inhabitants of said county; and the said John Marriner having petitioned this General Assembly for the same:

Commissioners
appointed to purchase
ground and
lay off, &c. the
town of Newport

I. *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 Benjamin Spruill, Woolsey Hathaway, John Wynn, James Wood, Charles Spruill, John Ansley, Hezekiah Spruill, Nathan Batiman and Robert Davidson, be and they are hereby appointed Commissioners, to contract with the said John Marriner for eighty acres of land for the said town and the terms on which he will dispose of the same in lots of one half acre each; and the ground so agreed for lay off into streets not less than fifty, and not more than one hundred feet in width; which lots and streets the said Commissioners are required to lay down in a regular plan, numbering the lots therein laid down; which said town shall be distinguished by the name of Newport.

Lots to be drawn
for, price there-
of, &c.

II. *And be it further enacted by the authority aforesaid*, That the Commissioners above mentioned, as soon as there shall be a sufficient quantity of lots subscribed for, all the numbers of the lots of the said town shall be placed in a box, and the names of the subscribers in another, and when a name being drawn out, a number at the same time, his shall be the lot the number of which was drawn with his name; and the remaining numbers undrawn and not subscribed for, shall be vested in the said John Marriner, notwithstanding he shall have executed a deed for the same to the Commissioners aforesaid; provided, That the subscribers for the said lots shall not be obliged to pay to the proprietor or Commissioners more than fifty shillings for each lot; and that this act shall not have effect, until the said John Marriner shall execute a sufficient conveyance to the Commissioners aforesaid, of the lands agreed for as aforesaid for laying out the said town.

Deeds granted.

III. *And be it further enacted by the authority aforesaid*, That the said Commissioners, or a majority of them, are hereby empowered to grant deeds to the subscribers for the said lots.

Vacancy of com-
missioners how
supplied.

IV. *And be it further enacted by the authority aforesaid*, That if any of the Commissioners appointed shall refuse to act, die, or remove out of the county, the surviving Commissioners shall be and they are hereby empowered to elect another Commissioner or Commissioners, in the room of him or them so refusing, dying or removing.

C H A P. XXXII.

An Act to empower certain Persons therein named to receive, sue for and recover all such Bequests, Donations, Benefactions and other Things, as have heretofore been bequeathed, given or made by any Person or Persons whatsoever, for the Use of the Congregation or Society of the Episcopal Communion of Newbern.

WHEREAS there have been donations and bequests made, and monies received by subscriptions for erecting an episcopal church or house of worship, and for the support and maintenance of a minister, but for want of legal authority to call the possessors to account for such donations, bequests, monies and subscriptions, are in danger of being lost: For prevention whereof,

Churchwardens
appointed to take
donations, &c.

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 John Fonveill, Richard Dobbs Spaight, Richard Nixon, Isaac Guion, Thomas Thomlinson, John Daves, Thomas Haslin, David Witherpoon and William Good, Esquires, shall and they are hereby declared to be Churchwardens, for receiving and taking into their possession all and singular the donations, bequests, benefactions and monies or subscriptions, which heretofore have been given, bequeathed and made and received, and all and singular the donations, bequests, benefactions and monies or subscriptions which have heretofore been given, or may hereafter be given, bequeathed, made or raised,

raised, and all and singular the lands and hereditaments which have been purchased, made or given for the use and benefit of the congregation or society of the episcopal church of Newbern.

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II. *And be it further enacted by the authority aforesaid,* That the said Churchwardens, or a majority of them, shall be and they are hereby empowered to commence and prosecute any suit or suits, either in law or equity, against any person or persons who may refuse to account for or deliver up to them or the said Churchwardens any donations, bequests, benefactions, monies or lands and hereditaments in his, her or their hands and possessions, and which had been given, bequeathed, raised, subscribed or purchased for the purpose aforesaid, and to proceed to judgment and execution thereon; and when such donations, bequests, benefactions, monies, lands and tenements shall be recovered and received, the same to apply to such uses as the said congregation or society shall direct.

To commence suits for donations, &c. and apply the same, &c.

III. *Provided always, and be it further enacted by the authority aforesaid,* That the congregation or society aforesaid are hereby authorized and empowered to convene at the church in Newbern, on the first Monday after Easter, and on the same day in every succeeding year, and elect seven persons to act as Churchwardens, and shall remain and continue in office for three years after such election.

Election of churchwardens.

C H A P. XXXIII.

An Act to invest an indefeasible Right of Inheritance in Charles, Alley and Prudence Oggs, the surviving natural Children of John Oggs, of the County of Pasquotank, of such Property as was bequeathed to them and their deceased Brother Jesse Oggs.

WHEREAS it hath been made appear to this General Assembly, that John Oggs late of the county of Pasquotank, hath departed this life, leaving behind him four natural children, Charles, Alley, Prudence and Jesse, by his negro slave Hester, to whom he bequeathed all his real and personal estate by virtue of a certain last will and testament: And whereas by the policy of the law the said children, being bastards, are debarred from the rights of inheritance, and being recommended to this General Assembly as persons of good fame: And whereas Jesse one of the children is dead:

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 above mentioned Charles, Alley and Prudence Oggs, are hereby invested in an indefeasible right of inheritance of all and singular the lands and tenements, goods and chattels which were bequeathed to them by their father John Oggs, in virtue of his last will and testament; and that they hold and take the said property to them and their heirs and assigns forever, agreeably to the directions of the said will, and the intentions of the said John Oggs therein expressed.

Children of John Oggs invested in the property bequeathed them.

And whereas the within mentioned Hester, and her children Charles, Alley and Prudence Oggs, are recommended to this General Assembly by several very respectable inhabitants of the counties of Camden and Pasquotank, as worthy of being manumitted and set free agreeably to the intention of their father John Oggs:

II. *Be it therefore enacted,* That the said negro woman Hester, and her children Charles, Alley and Prudence Oggs, are hereby manumitted and set free to all intents and purposes, and to possess all the rights and privileges as if they had been born free.

Hester and her children set free.

C H A P. XXXIV.

An Act to repeal Part of the Twentieth Clause of an Act, passed at Hillsborough in the Year One Thousand Seven Hundred and Eighty-four, entitled "An Act to prevent the Exportation of unmerchantable Commodities."

WHEREAS it hath been made appear to this General Assembly that the said clause, so far as it respects the inspection of flax-seed, is attended with an unnecessary expence to the shipper thereof: For remedy whereof,

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 from and after the passing of this act, the said clause or act so far as it respects the inspection of flax-seed, is repealed and made void.

Clause of an act repealed.

C H A P. XXXV.

An Act to emancipate certain Negroes therein mentioned.

WHEREAS it hath been represented to this General Assembly, that Robert Shaw, in his life-time, did receive a valuable consideration for the further services of a certain negro woman named Amelia, and has certified the same and declared her to be free: And by petition of Thomas Lock, it appears to be his desire that a certain negro woman by the name of Betty, belonging to him, should be set free; also a petition of Monsieur Chapone, desiring to have set free a mulatto slave belonging to him, by the name of Lucy, of three and half years old: And whereas it appears by the petition of Ephraim Knight, of Halifax county, that he is desirous to emancipate two young mulatto men, called Richard and Alexander, the property of said Ephraim: And it hath also been represented to this Assembly by John Alderson, of Hyde county, that it is his desire to set free a mulatto boy belonging to him, called Sam: And whereas it hath been made appear to this Assembly by the petition of Thomas Newman, of Fayetteville, that he hath a mulatto boy belonging to him, which he is desirous to emancipate, and known by the name of Thomas:

I. Be

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Certain negroes
emancipated, &c.

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 said negro women called Amelia and Betty, and the mulatto girl Lucy, and the said mulatto men Richard and Alexander, and the said mulatto boy called Sam, and the negro boy named Thomas Clisch, shall be, and each of them are hereby emancipated and declared free; and the said Richard and Alexander shall take and use the surname of Day, and the mulatto boy Sam shall be known and called by the name of Samuel John-son; and the said slaves so liberated, and each of them, are hereby declared to be able and capable in law to possess and enjoy every right, privilege and immunity, in as full and ample manner as they could or might have done if they had been born free.

C H A P. XXXVI.

An Act to add Part of Bladen County to Cumberland.

WHEREAS it hath been represented and made appear to this General Assembly, that the upper part of Bladen county is contiguous to the county court of Cumberland and superior court of Fayetteville district, and very remote from the court-house of the said county of Bladen and the district court thereof, to the great injury and inconvenience of the inhabitants of the upper part of the said county of Bladen: For remedy whereof,

Part of Bladen
added to Cum-
berland.

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 all that part of Bladen county lying to the north west of a line beginning directly opposite to the mouth of Willis's creek, on the north-east side of Cape Fear river, thence a direct course to John Pharis's on South river, so as to include said Pharis's in Cumberland county, thence the same direction until it strikes the Sampson line; then beginning at the said first station opposite to said Willis's creek and running south seventy-five west to Robeson county line, be and is hereby annexed to the county of Cumberland, and from and after the passing of this act shall be and remain a part thereof.

Persons to run
the line, &c.

*II. And be it further enacted by the authority aforesaid, That Thomas Owen, Robert Rowan, Joseph Timms, James Morhead, Peter Robinson, Samuel Cain, Esquires, and James Jackson shall be and are hereby appointed to run the said dividing line between the counties of Bladen and Cumberland, agreeable to the directions of this act; and that they or a majority shall make return thereof to the courts of the said counties respectively, who shall cause the same to be recorded; and the said line so run, shall and is hereby declared to be the dividing line between the said counties of Bladen and Cumberland; and any expence incurred by running the same shall be defrayed by the county of Cumberland: *Provided*, Nothing herein contained shall prevent or restrain the Sheriff or Collectors of the county of Bladen, as it now stands, to collect or distrain for any tax now due from the inhabitants hereby annexed to the county of Cumberland.*

Suits now de-
pending.

III. And be it further enacted, That all suits and other matters of controversy now depending in the county court of Bladen, shall be prosecuted to a final end and determination, as fully and in the same manner as if this act had never been passed.

C H A P. XXXVII.

An Act to vest in Jeremiah and Robert Field an indefeasible Right to such Property as was granted to them by their Father William Field, in the Year One Thousand Seven Hundred and Seventy-six.

WHEREAS it has been made appear to this General Assembly, that William Field and Lydia his wife, in the year one thousand seven hundred and seventy-six, made a deed of gift unto their children Jeremiah and Robert Field of a certain tract of land, lying in Rowan and Surry counties, containing six hundred and forty acres, to wit, one tract of land on Abbot's creek, beginning at a hickory standing on the line of a survey late the property of William Buse, and running north along his line in all one hundred and two chains to a stake in the line of another survey of the said Buse, then west along said line, crossing said creek and a fork of the same, sixty-two and three-fourth chains to a black-oak and white-oak saplings, then south one hundred and two chains to a black-oak sapling, then east crossing said creek sixty-two and three-fourth chains to the beginning, containing six hundred and forty acres: And whereas the said property was held as confiscated to the state by the Commissioners of confiscated property for the district of Salisbury; yet as the same was conveyed previous to any confiscation law of this state, *bona fide*, by the said William Field and Lydia his wife, to their children Jeremiah and Robert,

J. & R. Field in-
vested with cer-
tain property.

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 said Jeremiah and Robert Field are hereby invested with an indefeasible title and interest in the property above described, to them, their heirs and assigns forever; any law heretofore to the contrary notwithstanding.

C H A P. XXXVIII.

An Act to pardon John Bradley, of the Town of Wilmington.

WHEREAS John Bradley, of the town of Wilmington, in the county of New-Hanover, some time in the year of our Lord one thousand seven hundred and eighty seven, obtained a pardon from the Governor of this state, in consequence of application to him made, and of the recommendation of the General Assembly in behalf of the said John Bradley,

Bradley, then accused for the killing of Samuel Swann; which pardon, on being duly pleaded to an indictment for the said supposed offence, in the superior court of law for Wilmington district, was not allowed by a majority of the Judges of the said court; and the said John Bradley in his petition to this General Assembly having set forth such circumstances as upon due enquiry and full consideration of the same, it appears the said John Bradley ought to be pardoned:

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I. *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 John Bradley is fully, freely and absolutely pardoned, acquitted and discharged of and from any prosecution for murder, manslaughter or other species of homicide of whatever nature in law or construction thereof, done or committed by the said John Bradley in the killing of the said Samuel Swann, with which he now is or hereafter may be charged in any of the courts of this state.

John Bradley
pardoned.

C H A P. XXXIX.

An Act to amend an Act, entitled "An Act directing the Mode of Proceeding against the real Estate of deceased Debtors, where the personal Estate is insufficient for the Payment of the Debts."

WHEREAS no mode of proceeding is directed by the said act for the administrator to recover against the heirs any debts that may be due and owing to him from the intestate, when the personal estate is insufficient to discharge such debt:

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 in all cases where administration shall be granted to any person on account of his being a creditor of the intestate, and there shall not be personal assets sufficient to satisfy the debts or demand of such administrator, it shall and may be lawful for such administrator to prefer a petition against the heir or heirs of such intestate for the recovery of such debt or demand, to the court of the county wherein such administration was granted, or to the court of equity of the said district in which said county may be, in the manner and under the regulations prescribed by an act, entitled "An act for the better care of orphans, and security and management of their estates," passed in the year one thousand seven hundred and sixty-two, therein specially setting forth the nature of said debt or demand, and the amount thereof, and praying that the heir or heirs of such intestates may be made defendant or defendants thereto; and such petition being filed in the Clerk's office, the same proceedings shall be had thereon, and the defendant or defendants shall be bound and subject to the same rules as in case of petition under said act, and if a decree shall be made against such heir or heirs, or any of them, execution shall and may issue against the real estate of the deceased debtors in the possession of such heir against whom a decree shall be given as aforesaid.

Administrators,
when creditors of
intestates, how to
recover, &c.

Whereas it is not just that by the practice or contrivance of any debtors, their creditors should be defrauded of their just debts: And whereas it is reasonable that the devisee or devisees of such debtors should be liable to suit for the debts of the testator, in like manner as heirs at law for the debts of their ancestor: Wherefore,

II. *Be it enacted by the authority aforesaid,* That all devises of lands, tenements and hereditaments, or of any rent, profit, term or charge out of the same, shall be deemed and taken only as against such creditor or creditors, his, heir, and their heirs, successors, executors, administrators and assigns, and every of them, as null and void; and every such creditor shall and may have and maintain his, her or their action or actions against such devisee or devisees, in all case and in like manner as such action or actions might or could be brought or maintained against the heir or heirs at law of such deceased debtor, jointly with the heir or heirs at law, or severally by virtue of this act.

Devises of lands,
&c. against cre-
ditors, void, &c.

III. *And be it further enacted by the authority aforesaid,* That in all cases where any heir at law shall be liable to pay the debt of his or her ancestor in regard of any lands, tenements or hereditaments, descending to him or her, or where any devisee shall be liable to pay the debt of a testator in regard of any lands devised to him or her, and shall sell, alien or make over the same before action brought or process sued out against him or her, that such heir at law or devisees shall be answerable for such debt or debts to the value of the said land so by him or her sold, aliened or made over; in which cases all creditors shall be preferred as in action against executors or administrators, and execution shall be taken out upon any judgment or decree obtained against such heir or devisee to the value of the said lands as if the same were his or her own proper debt, saving that the lands, tenements and hereditaments *bona fide* aliened before the action brought, shall not be liable to such execution.

Heir at law, &c.
when liable for
debts of ancestor,
&c. & shall have
sold lands, &c.
how to be pro-
ceeded against.

IV. *Provided always, and be it further enacted by the authority aforesaid,* That when any such heir or devisee shall be a minor and have a guardian, the leading process shall be served on such guardian; and where the minor shall have no guardian, then and in that case the court shall appoint a guardian to defend the suit for said minor.

V. *And be it further enacted,* That when any guardian shall have notice of any debt or demand against the estate of his or her ward, he or she may apply to the county court wherein such guardianship was granted, for an order to sell so much of the personal or real estate of such ward as may be sufficient to discharge such debt or demand; and such order of

Debts of minors
how to be pro-
ceeded on, &c.

1789.

the court shall particularly specify what property may be so sold, and such property shall be sold on the same credit and under the same regulations as property sold by executors or administrators, is or may be by law; and the proceeds of such sales shall be considered as assets in the hands of the guardian for the benefit of the creditors, in like manner as assets in the hands of an administrator or executor, after *feri facias* as by the act directed; and the same proceedings may be had against such guardian with respect to the assets aforesaid, as might be had or taken against an executor or administrator in similar cases. *Provided nevertheless*, That no execution shall be levied on the goods or chattels, lands or tenements of any minor in the hands of his guardian, until twelve months after judgment obtained on the *feri facias* aforesaid; nor shall execution issue liable as aforesaid, at any time but on motion in open court.

Part of an article
pealed.

IV. *And be it further enacted*, That so much of the said recited act as requires that the pleas of executors or administrators shall be on oath, is hereby repealed and made void.

C H A P. XL.

An Act for raising a Revenue for the Payment of the Civil List, and contingent Charges of Government for the Year One Thousand Seven Hundred and Ninety.

Taxes for 1790.

I. **B**E 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 year one thousand seven hundred and ninety, a tax of one shilling on every hundred acres of land within this state, and a tax of three shillings on each hundred pounds value of town property with their improvements, and a tax of three shillings on every poll in this state, shall be levied and paid in state currency. *Provided*, That all the lands west of the Apalachian mountains shall pay a tax of eight pence on every hundred acres of land.

How collected,
&c.

II. *And be it further enacted by the authority aforesaid*, That the above mentioned taxes shall be collected, paid and accounted for as directed by an act, entitled "An act for ascertaining what property in this state shall be deemed taxable property, the method of assessing the same and collecting the public taxes;" and a 2^d act, entitled "An act for the more regular collecting, payment of and accounting for the public taxes."

Sinking fund.

III. *And be it further enacted by the authority aforesaid*, That the sinking tax directed to be collected by an act passed in 1785, for emitting one hundred thousand pounds paper currency, shall be collected in money, and accounted for in the same manner as other taxes.

C H A P. XLI.

An Act for the more easy Redemption of Mortgages.

WH E R E A S mortgagees frequently bring actions of ejectment for the recovery of lands and estates to them mortgaged, and bring actions on bonds given by mortgagors to pay the money secured by such mortgages, and for performing the covenants therein contained, and likewise commence suit in the courts of equity to foreclose their mortgagors from redeeming their estates, and the courts of law where such ejections are brought have not power to compel such mortgagees to accept the principal monies and interest due on such mortgages and costs, or to stay such mortgages from proceeding to judgment and execution in such actions, but such mortgagors must have recourse to a court of equity for that purpose:

How mortgagors
may discharge
mortgages, &c.

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 from and after the passing of this act, where any action shall be brought on any bond for the payment of the money secured by such mortgage, or performance of the covenants therein contained, or where any action of ejectment shall be brought in any of the superior courts of law or courts of pleas and quarter sessions in this state, by any mortgagee or mortgagees, his, her or their heirs, executors, administrators or assigns, for the recovery of the possession of any mortgaged lands, tenements or hereditaments, and no suit shall be then depending in any of the courts of equity in this state, or touching the foreclosing or redeeming of such mortgaged lands, tenements or hereditaments, and who shall appear and become defendant or defendants in such action, shall at any time pending such action pay unto such mortgagee or mortgagees, or in case of his, her or their refusal, shall bring into court where such action shall be depending all the principal monies and interest due on such mortgage, and also all such costs as have been expended in any suit or suits at law or equity upon such mortgage, such money for principal, interests and costs to be ascertained and computed by the court where such action is or shall be depending, or by the proper officer by such court to be appointed for that purpose. the monies so paid to such mortgagee or mortgagees, or brought into such court, shall be deemed and taken to be in full satisfaction and discharge of such mortgage; and the court shall and may discharge every such mortgagor or defendant of and from the same accordingly, and shall and may, by rule or rules of the same court, compel such mortgagee or mortgagees, at the cost and charges of such mortgagor or mortgagors, to assign, surrender or reconvey such mortgaged lands, tenements and hereditaments, and such estate and interest as such mortgagee or mortgagees have or hath herein; and deliver up all deeds, evidences and writings in his, her or their custody, relating to the title of such mortgaged lands, tenements, and hereditaments, unto such mortgagor or mortgagors who shall have paid or brought such monies into

Into the court, his, her or their heirs, executors or administrators, or to such other person or persons as he, she or they shall for that purpose nominate or appoint.

II. *Provided always*, That this act, or any thing herein contained, shall not extend to any case where the person or persons against whom the redemption is or shall be prayed shall, by writing under his, her or their hands, or the hand of his, her or their attorney, agent or solicitor, to be delivered before the money shall be brought into such court at law to the attorney or solicitor for the other side, insist either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums than what appear on the face of the mortgage, or shall be admitted on the other side; nor to any case where the right of redemption to the mortgaged lands and premises in question in any case or suit, shall be controverted or questioned by or between different defendants in the same cause or suit; nor shall be any prejudice to any subsequent mortgagee or mortgagees or subsequent incumbrancer; any thing in this act contained to the contrary thereof in any wise notwithstanding.

C H A P. XLII.

An Act to establish the Lines of a certain Tract of Land granted unto Charles Gerrard.

WHEREAS it appears to the satisfaction of this General Assembly, that James Sanders, deputy-surveyor of the military lands of this state, did return a plat of survey of a tract of land for Charles Gerrard, Esquire, for two thousand five hundred and sixty acres, situate in the county of Davidson, for which plat a grant hath issued to the said Charles Gerrard, notwithstanding the said survey was not made to the cardinal points agreeable to law, by which means the said Charles Gerrard may be in a future day disturbed in his title of the said land: And whereas the entry of the said Charles Gerrard is one of the oldest date in the said county of Davidson, and that it is not just he should suffer on account of any mistake or error in the deputy surveyor:

I. *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 boundary lines of a military grant of this state numbered number thirty two, signed by his Excellency Richard Caswell, Esquire, then Governor of this state, the fourteenth day of March one thousand seven hundred and eighty-six, given and granted unto Charles Gerrard, a Lieutenant in the North-Carolina line, two thousand five hundred and sixty acres of land lying in the county of Davidson, on the south side of Cumberland river, including the mouth of Yellow creek, "Beginning at a white-oak on the river bank, thirty-four poles above the mouth of Yellow creek, then down the river to a hackberry and boxelder, thence south thirty-five degrees east four hundred and sixty poles across the creek to an elm, thence north fifty-five east eight hundred and eighty-six poles to a white-oak, thence north thirty-five west three hundred and eighty-two poles to the beginning" be and are hereby declared to be the established boundary lines of the said Charles Gerrard's aforesaid tract of two thousand five hundred and sixty acres; any law, usage or custom to the contrary notwithstanding. *Provided*, That nothing in this act contained shall be construed to injure the right of any individual to the said land.

Boundaries of C. Gerrard's land established, &c.

C H A P. XLIII.

An Act to annex Part of Burke County to the County of Wilkes.

WHEREAS it is represented to this General Assembly, that a part of Burke county, known by the name of Little river settlement, is of much greater distance from the court-house in said county than from the court-house in Wilkes, the inhabitants are under unnecessary inconveniences: For remedy whereof,

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 after the passing of this act, all that part of Burke county that lies north of the following line, be and the same is hereby annexed to the county of Wilkes: and that the said county line be established as follows, to-wit, Beginning on Ireuell county line at the Whetstone hill on the Spring road, and running up said road to the lower Little river, thence up said river to Holmes's creek, thence up said creek to Lambert's fork, thence up said fork to the head thereof, then a north course to the top of the Brushy mountain, being Wilkes line.

Part of Burke added to Wilkes county, &c.

II. *Provided nevertheless*, That the Sheriff or Collectors of public taxes in Burke county, shall have the same power and authority to collect all taxes heretofore levied on the inhabitants aforesaid, as if this act had never been passed; any law to the contrary notwithstanding.

Taxes due to Burke, &c.

C H A P. XLIV.

An Act to authorize James Billingsby to execute a Deed or Deeds of Conveyance, agreeable to a Power of Attorney and the last Will and Testament of William Rea, late of Guilford County, deceased.

WHEREAS William Rea, late of Guilford county, deceased, did in his lifetime execute a power of attorney, bearing date the third day of February one thousand seven hundred and eighty-nine, unto James Billingsby, empowering him to execute a deed or deeds of conveyance to every person or persons to whom he the said William Rea sold lands on the waters of Cumberland river, or in Guilford county, in this state; which power of attorney he the said William Rea recognized by his last will and testament:

I. *Be*

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Power granted to
J. Billingsby.

I. *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 Billingsby is hereby authorized and empowered to execute a deed or deeds of conveyance, agreeably to the power of attorney aforesaid and the last will and testament of the said William Rea, deceased; which deed or deeds so executed as aforesaid, shall be as good and valid in law as if the said William Rea, deceased, had in his lifetime executed the same; any law, usage or custom to the contrary notwithstanding.

C H A P. XLV.

An Act to repeal Part of an Act passed at Newbern, entitled "An Act to divide the District of Morgan."

WHEREAS the number of jurors in the district of Morgan appointed to attend the superior courts, are more than necessary and the appointment not so equitable and convenient as it might be:

Jurors for Morgan district.

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 from and after the passing of this act, the county of Wilkes shall send eight jurors, the county of Rutherford eight, the county of Lincoln eight, and the county of Burke sixteen; which shall be the number and appointment of the different counties aforesaid.

Part of an act repealed.

II. *Be it further enacted by the authority aforesaid,* That from and after the passing of this act, so much of the before recited act as relates to the appointment of jurors for the district aforesaid, shall be and is hereby repealed and made void.

C H A P. XLVI.

An Act to establish a public Inspection of Tobacco in Clarksville, in the County of Tennessee.

WHEREAS the establishing a public inspection of tobacco in Clarksville, in the county of Tennessee, will encourage commerce, promote industry and be advantageous to the tobacco planters and others in the county aforesaid:

Tobacco warehouse to be built in Clarksville.

I. *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 county court of Tennessee shall and are hereby empowered and directed, to cause to be built and erected a warehouse and other conveniences in the said town, fit and necessary for the reception, inspection and safe-keeping of tobacco in the said town; and the same when so built and erected, shall and is hereby declared to be a public warehouse for the reception of tobacco.

Inspectors to be appointed.

II. *And be it enacted by the authority aforesaid,* That the said court shall annually appoint two discreet and careful men, well qualified and acquainted with the nature and qualities of tobacco, to be Inspectors thereof; who shall take the same oath, be subject to the same rules, regulations and restrictions, to which Inspectors of tobacco are subject by an act of the General Assembly, passed at Newbern in the year one thousand seven hundred and seventy seven, entitled "An act to amend the staple of tobacco and prevent frauds;" which said law, so far as is not provided for by this act, shall govern the inspection hereby established.

Their pay, &c.

III. *And be it further enacted by the authority aforesaid,* That the Inspectors so appointed, shall have and receive of the owners of tobacco the sum of eight shillings for each and every hoghead of tobacco they shall inspect, cooper and put in good order, and the sum of two shillings for each and every hundred weight of transhipped tobacco by them inspected, in full for their trouble, finding nails, prizing and every thing necessary thereunto.

And power.

IV. *And be it further enacted by the authority aforesaid,* That the Inspectors, or either of them, when so appointed by the court and qualified as by this act directed, is hereby invested with full power and authority to inspect any tobacco that may be brought to the said warehouse, and on passing the same, grant a certificate or note thereof to the owner or owners as the case may be.

C H A P. XLVII.

An Act to erect a public Provision Store on the Frontier of the County of Hawkins, for the Accommodation of the Cumberland Guard.

WHEREAS it appears highly necessary that a public provision store should be erected for the accommodation of said guard, when called upon to escort and conduct families and other emigrants through the wilderness to the Cumberland settlements:

A provision store to be erected.

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 from and after the passing of this act, it shall and may be lawful to erect a public provision store at the house of John Adair, in the county of Hawkins, in order to receive corn, flour, beef, pork, &c. for the sole use of the Cumberland guard when in actual service.

J. Adair commissioner, &c.

II. *And be it enacted by the authority aforesaid,* That John Adair be appointed Commissioner to purchase provisions for the use of the above troops, who shall enter into bond with approved security, payable to the Justices of the county court of Hawkins, for the faithful and just execution of the trust in him reposed.

III. *And*

III. *And be it further enacted*, That it shall and may be lawful for such Commissioner to give certificates for provisions purchased for the above purpose; which certificates shall be received by the different Sheriffs in the district of Washington, in part payment of the public tax in the counties in said district: which certificates shall also be received in the same manner by the public Treasurer of this state from the Sheriffs in said district; any law to the contrary notwithstanding.

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Certificates payable for taxes.

C H A P. XLVIII.

An Act to amend and enlarge an Act passed at Hillsborough, in April, One Thousand Seven Hundred and Eighty-four, entitled "An Act to enable Mary Dowd to sue for and recover to her own Use, and the Use of her Children by her Husband Conner Dowd, all Debts due and owing to the said Conner, and all other Things in Action which the said Conner Dowd might lawfully sue for and recover, were he a Citizen of this State and entitled to the Benefits of its Laws."

WHEREAS doubts may arise whether Mary Dowd was legally authorized by the before recited act to sell and convey any part of the real estate of her husband Conner Dowd: And whereas it is represented to this General Assembly, that it will not be possible for her to discharge all the debts of the said Conner without selling part of his real estate:

I. *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 Mary Dowd shall and may be fully authorized and empowered to sell and convey so much of the real estate of the said Conner Dowd, as shall be sufficient to discharge all his debts; and on such sale to make and execute a deed or deeds of bargain and sale for the same to the purchaser or purchasers, in as full and ample manner as if she was a feme sole and unmarried, and actually was seized of an indefeasible estate in fee simple in and to the said real estate; which said deed or deeds of bargain and sale by the said Mary Dowd so to be made, shall convey a clear and indefeasible estate in fee simple to the purchaser or purchasers of such real estate, which shall be good and effectual in law to bar the right of the said Conner Dowd, his heirs, devisees and assigns, as well as the right of the said Mary Dowd, her heirs, devisees and assigns. *Provided*, That this act shall not be construed as to affect the right or claim of any person or persons other than those herein particularly barred, any law or usage to the contrary notwithstanding: *Provided also*, This act shall not be construed as to operate upon any real estate, save only that which shall be in the county of Chatham.

Mary Dowd empowered to sell real estate of C. Dowd, &c.

C H A P. XLIX.

An Act to confirm unto Benjamin Williams an indefeasible Title to a certain Piece of Land in Brunswick County; and for making conformable to the Plan the Courses of a Tract of Land containing Five Thousand Acres in Hawkins County, situate on the North Side of Clinch River and on both Sides of Emery River, granted to James Glasgow; and the Courses of a Tract of Land in Jones County, lying on Crooked Run, containing Six Hundred and Forty Acres, granted to Abraham Buffet.

WHEREAS it has been sufficiently proved to this General Assembly, that Benjamin Williams, of Brunswick county, hath an equitable right to a certain piece or parcel of land in the said county, formerly the property of William Simpson, on Mill creek, beginning at a stake in a bottom above the Bolplace, thence along said Simpson's own and Hafe's line including the Bolplace, thence along his own and Hafe's line to Roger Davis's line to a lightwood stake in a meadow, then across to the first station, including one hundred acres of land, being part of a tract of land patented by William Simpson, and by him conveyed to the before mentioned Benjamin Williams for a valuable consideration, on the fifteenth of September, one thousand seven hundred and seventy-five:

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 piece or parcel of land herein before described, with the appurtenances, be and the same is hereby confirmed to and vested in the said Benjamin Williams, his heirs and assigns forever.

Lands confirmed to B. Williams.

And whereas it appears from the plan of the survey of a piece of land granted unto James Glasgow, Esquire, that the surveyor through mistake hath inserted in the certificate one course more than is laid down in the plan, whereby part of the land entered and intended to be granted is left out of the grant.

II. *Be it therefore enacted by the authority aforesaid*, That from and after the passing of this act the courses of the aforesaid tract of land shall be as follows, to wit, Beginning at two elms and a sycamore on the bank of the river, running thence north sixteen degrees east six hundred and ninety-four poles to a stake William Blount's corner, thence along William Blount's line north sixty-eight degrees west five hundred and sixty poles, thence south one hundred and fifty-six poles along said Glasgow's line of his one thousand acres survey to a stake, thence another of his lines of said survey west four hundred and ninety poles to a black oak, thence south to Clinch-River, thence up the meanders thereof as laid down in the plan to the beginning; and that all the land contained in the above lines, be vested in the said James Glasgow, his heirs and assigns forever.

Lands vested in J. Glasgow.

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III. *And be it further enacted*, That the Secretary be directed to alter the grant and record, and make them conformable to the above courses.

And whereas it also appears from the plan of a tract of land in Jones county, on Crooked run, granted to Abraham Buffet, that the surveyor hath in the certificate annexed to the plan of survey in the first course inserted a direct contrary course, whereby the land is thrown immediately off the actual survey :

IV. *Be it therefore enacted by the authority aforesaid*. That hereafter the courses of said land shall be as follows, to wit, Beginning at a black-oak, running north sixty-seven degrees east three hundred and twenty poles, then south twenty-three degrees east three hundred and twenty poles, then south sixty-seven degrees west three hundred and twenty poles, and from thence to the first station.

V. *And be it further enacted by the authority aforesaid*, That all persons who have purchased lands within the aforesaid courses from the aforesaid Abraham Buffet, and those claiming from or under him, are hereby vested with an absolute right in fee simple to the lands purchased as aforesaid.

VI. *Provided*, That this act shall not be construed or plead so as to affect any right derived otherwise than claiming by or under the said William Simpson, the said James Glasgow, and the said Abraham Buffet.

Courses of A. Buffet's land.

Purchaser, &c. valid.

Other rights not affected.

C H A P. L.

An Act to enable William Beaty, Administrator of the Estate of James White, late of Bladen County, deceased, to sell the Lands and Tenements therein mentioned.

WHEREAS it is represented to this Assembly, that James White, late of Bladen county, was, at the time of his decease, greatly indebted, and that if the personal estate were applied to the payment of his debts, his widow and children would be destitute of support; wherefore,

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 it shall be lawful for the said William Beaty, Administrator as aforesaid, to sell and convey one lot of land, with the appurtenances, number one hundred and thirteen, in Elizabeth-Town; three hundred and twenty acres of land on the east side of Lyons's swamp; and a tract of land on Black River known by the names of Shaw's Old Field, all which lands are situate in Bladen county aforesaid. And the said Administrator is hereby empowered to make conveyances of the said lands to the purchasers, which shall be as effectual and valid in law, as if the same had been made by the said James White, in his lifetime.

II. *And be it also enacted*. That the said William Beaty shall advertise in the Fayetteville Gazette, the time and place to be appointed for the sale of the lands aforesaid, two months before such sale; and the same shall be sold on six months credit, the purchaser giving bond with sufficient security to the said Beaty, for payment of the purchase money.

III. *And be it further enacted*. That the said William Beaty shall apply the money arising from the sale of the lands aforesaid, to the payment of the debts of the said deceased; and the lands, aforementioned, and the money which shall arise from the sale of the same, shall not be liable to dower of the widow of the said-deceased, any law to the contrary notwithstanding.

W. Beaty empowered to sell certain lands, &c. of J. White.

Notice & condition of sale, &c.

Application of the money, &c.

C H A P. LI.

An Act to vest certain Lands therein mentioned in the Monthly Meeting of the People called Quakers, of New-Garden, in Guilford County.

WHEREAS it appears to this General Assembly, that a certain Richard Williams, on the nineteenth of October, one thousand seven hundred and fifty seven, did convey a certain tract of land situated in New-Garden, in Guilford county, to Henry Ballenger and Thomas Hunt, and their successors, in trust for the use and benefit of the Monthly Meeting of the people called Quakers, in New-Garden in said county; and the said Henry Ballenger and Thomas Hunt being dead, and their being no successors or means of appointing such provided in the said deed or otherwise: For remedy whereof,

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 said tract and parcel of land conveyed by deed, bearing date as aforesaid, by the said Richard Williams to the said Henry Ballenger and Thomas Hunt, containing fifty-three acres, and situate in New-Garden, in the county of Guilford, and bounded as follows, to wit, Beginning at a hickory saplin, running thence west eighty pole to a white-oak post, thence south sixty-four pole to a chestnut post, thence east twenty pole to a white-oak post, thence south fifty-six pole to a white oak post, thence east sixty poles to a blackjack saplin, thence north one hundred and twenty pole to the first station, he and the same is hereby vested in fee in the said Monthly Meeting of the people called Quakers, of New-Garden, in the county of Guilford, for the uses and purposes expressed in the said deed from the said Richard Williams to the said Henry Ballenger and Thomas Hunt: And the said Monthly Meeting of the people called Quakers are hereby declared to be a body politic and corporate, and may and shall act as such in all matters respecting the said land and premises; and for that purpose may sue and be sued, plead and be impleaded, in any court of law or equity in this state.

Lands vested in the Monthly Meeting of Quakers of New-Garden, who are declared a body politic, &c.

C H A P.

C H A P. LII.

An Act for erecting and establishing a Town at Hawkins Court-house.

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WHEREAS Joseph Rogers and James Hogan have signified to this General Assembly, that they are desirous a town should be established at Hawkins Court-house, on the lands belonging to them at that place; and it is represented further, that there are a number of lots already laid off and improved, that the situation is healthy and convenient, being on the great road from the eastward that leads to Kentucky and Cumberland settlements, and that many of the inhabitants of Hawkins county have solicited the proprietors of the said land to have thirty acres thereof laid out into lots and established as a town.

I. *Be it therefore enacted by the General Assembly of the state of North-Carolina, and it is enacted by the authority of the same,* That Thomas King, Thomas Hutchins, Joseph McCulloch, Thomas Jackson, and Elijah Chiffon, be, and they are appointed Commissioners and Trustees for designing, building, and carrying on a town at Hawkins Court house, by the name of Roger ville; and they, or a majority of them, are hereby empowered and required to lay off thirty acres of land, including the public building at the said Court-house, in half acre lots, with convenient streets and alleys; that they cause a plan of the said town to be made, and each lot to be particularly numbered, and that they, or a majority of them, cause the said thirty acres of land so laid off, to be conveyed to them jointly, as Trustees for the said town.

Commissioners for laying off, &c. town of Roger-ville.

II. *And be it further enacted,* That the said Trustees aforesaid, shall reserve two or more lots, where the public buildings now stand, to be and remain public lots for the use of the county of Hawkins.

Lots reserved.

III. *And be it enacted,* That the Trustees aforesaid, or a majority of them, shall make good and lawful titles in fee simple, of all other lots in the said town of Roger ville, except the public lots herein reserved, to the respective purchasers of the same, describing each lot by the number thereof, and the street on which it lies.

Titles to be made to purchasers.

IV. *And be it further enacted,* That in case of the death, refusal to act, or removal out of the county or state, of any of the Trustees named in this act, the survivors of them are hereby empowered and required to appoint, from time to time, by instrument of writing, from under their hands and seals, some other person or persons in place of him or them so dying, removing, or refusing to act, which said instrument shall be recorded in the court of the county of Hawkins, and the Trustee or Trustees so appointed, shall have the same power and authority as if him or they had been expressly named and appointed in this act.

Vacancy of trustees how filled.

C H A P. LIII.

An Act for cutting a Canal from Juniper Bay to Mattamuskeet Lake, in Hyde County.

WHEREAS it is represented to this General Assembly that the cutting a canal from Juniper bay to the said lake would drain a vast quantity of land, and would be productive of other salutary effects; and the people living near said lake being desirous that a legislative sanction might be obtained for the opening said canal:

I. *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 Michael Peters, John Ebone, James Watson, Andrew Saunders, Seth Hovey, Benjamin Russell, John Alderson, William Harris, junior, and John Jordan, be and they are hereby declared Commissioners, for the purpose of taking and receiving voluntary subscriptions, and for suing for and recovering all subscriptions so made; and they or a majority of them shall and may contract with any person or persons, at their discretion, to cut and open the aforesaid canal the most direct and advantageous way from Juniper bay to the lake aforesaid. *Provided,* That it shall not be lawful for the said Commissioners to cut, or cause the said canal to be cut through any persons land without their consent.

Commissioners appointed. &c.

C H A P. LIV.

An Act for establishing two Places for holding General Musters in the Counties of Wilkes, Burke and Rutherford, and the Place of holding Courts Martial; and for altering the Manner of holding Elections of Members to represent said Counties in the General Assembly.

WHEREAS it is very inconvenient for the inhabitants of the county of Wilkes who live on the west side of the Apalachian mountain to attend general musters and elections at the court-house in said county: For remedy whereof,

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 after the passing of this act, when the commanding officer of the militia in the county of Wilkes shall order a general muster of his regiment, it shall be in the following manner, to wit, That all the militia in said county living west of the Apalachian mountain, shall be ordered to meet at the plantation next above Col. Charles Gordon's, on Naked creek of New-river, where it shall be the duty of the Lieutenant-Colonel of said regiment to attend and discipline the militia aforesaid according to law, except a majority of the field officers in said county appoint some other of the field officers to attend said muster in the stead of the Lieutenant-Colonel; in which case it shall be the duty of the field officer or field officers so appointed by the majority as aforesaid to attend said muster, and discipline

General musters in the county of Wilkes, &c.

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Regimental court martial where held, &c.

discipline the militia as aforesaid; which muster shall be the day preceding the day of the general muster of the inhabitants of the said county living on the east side of the Appalachian mountain; which muster last mentioned shall be held at the court-house as the law directs.

II. *And be it further enacted by the authority aforesaid,* That a regimental court-martial shall be held as the law directs at the court-house in Wilkes county, on the next day after each general muster hereby directed to be held at the said court-house; which court-martial shall have as full and ample power and authority over the whole regiment, as if this act for dividing said muster had never been passed; any law or custom to the contrary notwithstanding.

Annual election, &c.

III. *And be it enacted by the authority aforesaid,* That after the passing of this act, the annual election for said county be held in the following manner, to wit, The election shall begin at the plantation on Naked creek above mentioned, on the second Thursday in August in every year, at ten o'clock in the morning, and shall continue until sunset of the same day in manner as by law directed, then the Sheriff and Inspectors shall seal up the ballot boxes, and shall proceed with the boxes and several lists of voters by them taken to Wilkes court-house; and on Saturday next after the said Thursday, the polls shall be there opened and the seals taken off the ballot boxes at eight o'clock in the morning, and the Sheriff and Inspectors shall then proceed to conduct the remainder of said election in a fair and open manner as heretofore by law directed.

Special election.

IV. *And be it enacted by the authority aforesaid,* That in case of a special writ of election issuing by order of any future General Assembly, to elect a member or members to represent said county in the General Assembly, such election shall be held in the manner by this act directed, that is to say, Said election shall be begun and held the first day at the plantation on Naked creek aforesaid, and on the third and last day at the court-house in said county, having an intervening day for the purpose of conveying the ballot boxes from the plantation on Naked creek aforesaid to Wilkes court-house as before directed by this act; any law to the contrary notwithstanding.

Sheriff to advertise elections.

V. *And be it enacted by the authority aforesaid,* That the Sheriff of said county is hereby directed and required to advertise all elections hereafter to be held at the several places directed by this act for holding said elections, agreeable to the law in that case made and provided.

Elections in part of Rutherford.

VI. *And be it further enacted by the authority aforesaid,* That all the inhabitants on the west side of the Appalachian mountain, that is within the county of Rutherford, shall have full power and authority to hold all future elections on the second Wednesday and Friday of August, at the plantation where William Burney formerly lived, on Cain creek; elections and general musters to be under the same regulations for the county of Rutherford, as is provided by this act for the western inhabitants of the county of Wilkes; any law, usage or custom to the contrary notwithstanding.

Elections, &c. in part of Burke.

VII. *And be it further enacted by the authority aforesaid,* That Captain Smith's company and the Ivey and Cain river company, being inhabitants of Burke, shall hold their annual general musters at Beebe's mill, and they shall hold their election for members of Assembly at the said mill under the direction of the Sheriff of Burke, or one of his deputies; which said election shall be held on the Wednesday preceding the second Thursday in August until sun-down, at which time the Sheriff attending the same shall count out the tickets in presence of three freeholders who inspected the poll, and shall make out the list of the candidates balloted for, and set down the number of votes for each candidate in words at full length, which list shall be signed by the Inspectors of the poll; then the said Sheriff shall proceed to the court-house of Burke, and on the third Friday of August deliver in the list aforesaid to the Sheriff, in presence of the Inspectors who superintended at the court-house, and also a list of the voters; and no person residing in the companies aforesaid shall be allowed to vote at any other place for members, but at said Beebe's mill.

C H A P. LV.

An Act to empower the County Court of Pitt to lay a Tax annually for the Purpose of building a Court-house, Prison, and Stocks, and for keeping the same in Repair.

Court of Pitt authorized to lay a tax, &c.

I. **B**E 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 county court of Pitt is hereby authorized and empowered to lay a tax annually for the purpose of building a court house, prison, and stocks, and for keeping the same in repair, not exceeding the sum of eight pence on every hundred acres of land in said county, and a poll tax not exceeding two shillings like money on every taxable person, and a tax of two shillings on every hundred pounds value of town property in said county, which said tax shall be collected and accounted for in the same manner, at the same time, and by the same persons who are appointed to collect the public taxes in said county, and be paid into the hands of the Commissioners hereafter named for building the court-house, prison, and stocks; and that in case of refusal or neglect to pay the said money into the hands of the Commissioners hereafter named, the person so neglecting or refusing, shall be liable to the same penalties, and the same mode of recovery shall or may be had against him or them, as by law shall or may be had against Sheriffs who neglect or refuse to account for and pay public taxes.

II. *And be it enacted by the authority aforesaid.* That James Armstrong, Shadrick Al'en, John Moye, Arthur Forbes, Samuel Simpson, Benjamin Bell, and William Blount, be, and hereby

hereby are appointed Commissioners to receive, ask for, sue and recover the said tax from the Sheriff of the said county, and to appropriate the same to the building a court-house, prison, and stocks, and to dispose of the old court-house and prison for the most obtainable, as soon as may be after the new ones are completed; and it shall be a part of the duty of the said Commissioners to lay a state of their accounts half yearly before the court of Pitt, and finally, after the buildings are completed, to settle with the court, deducting an adequate commission for their trouble. And in case of the death, removal, or refusal to act, of either of the before named Commissioners, then it shall be lawful for the said county court of Pitt to appoint other Commissioners in their stead, who shall have equal powers with those named in this act, and be subject to the same duties pains and penalties.

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Commissioners appointed, &c.

C H A P. LVII.

An Act to amend an Act, entitled "An Act for directing the Method of appointing Jurors in all Causes, civil and criminal," passed at Halifax, in the Year One Thousand Seven Hundred and Seventy-nine.

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 number of freeholders to be hereafter nominated by the county courts of Craven, Carteret, Dobbs and Jones, to serve as jurors at the superior courts of law and equity for the district of Newbern, shall be proportioned as follows, to wit, Craven nine, Carteret three, Dobbs six, and Jones four; a list of which jurors so nominated shall be delivered by the Clerk to the Sheriff, who shall and is hereby required to summon the persons nominated to serve as jurors at the district court aforesaid, and shall be under the same rules, regulations and restrictions, as are directed by the before recited act.

Jurors for certain counties in Newbern district.

II. *And be it further enacted by the authority aforesaid,* That all acts and parts of acts, so far as relate to the appointing of jurors in the counties above mentioned to serve at the district court aforesaid, be and the same are hereby repealed and made null and void.

Repealing clause.

C H A P. LVIII.

An Act directing the Manner of issuing Process in sundry Cases arising in the Courts of Law and Courts of Equity, to direct the Manner of proceeding on assigned or indorsed Bills, Bonds and Notes under Seal, to direct how joint Obligations shall survive; and to repeal an Act for calling forth the Militia to assist in executing civil Process, and to prevent Abatements and Discontinuances in certain Cases.

WHEREAS the present mode of issuing writs and other process, for the appearance to the superior courts, where there are two or more defendants who reside in different counties is frequently productive of great delay and expence: To prevent which in future,

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 from and after the passing of this act, it shall and may be lawful in all cases where there are two or more defendants, for the plaintiff in any suit in the superior courts of law, or courts of equity, to issue writs or subpoenas as the case may be, directed to the Sheriff or Coroner of each of the counties where the defendants are most likely to be found, noting on each process that they are issued in the same suit, and when the same are returned they shall be docketed in the same manner as if only one had issued. And in case any defendant or defendants should not be served with such process, the same proceedings shall be had as in cases of other similar process which has not been executed.

Manner of issuing writs, &c. where there are two defendants, in the superior court.

II. *And be it further enacted,* That when two or more persons are joined in one action in any of the county courts of pleas and quarter-sessions in this state, and one of them shall be personally served with a process in the county from whence the writ issued, and the other or others shall reside in some other county or counties in this state, then and in that case it shall and may be lawful for process to issue to the county or counties where the other defendant or defendants reside, returnable to the court of the county from whence the same issued, any law to the contrary notwithstanding.

In the county court.

And whereas by an act of the General Assembly passed at Fayetteville, in the year one thousand seven hundred and eighty-six, entitled "An act to make the securities therein named negociable," indorsee and assignees of bills, bonds and notes with seal, are directed to bring actions on the case on the same; which is inconsistent with the nature of such securities, and frequently proves injurious to indorsee and assignees of such bills, bonds and notes: For remedy whereof,

III. *Be it enacted,* That from and after the passing of this act, the indorsee or assignee of any bill, bond or note under seal, may have and maintain an action of debt on the same, in his or her own name as indorsee or assignee, provided the original obligee could have maintained an action of debt on the same bill, bond or note with seal; any law, custom or usage to the contrary notwithstanding.

Assignee of note, &c. may maintain suit, &c.

And whereas an act of the General Assembly, passed at Newbern in the year one thousand seven hundred and eighty-four, entitled "An Act for the more ready and effectual execution of process issuing from the several courts of law and equity, in cases where the Sheriff or Coroner may be resisted, and the power of the county should be found insufficient for the purpose therefore," is found to be no longer necessary:

IV. Be

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Repealing cl. se.

IV. *Be it enacted*, That the before recited act, and every part thereof, be and the same is hereby repealed and made void, to all intents and purposes as if the same had never been made or enacted.

And whereas it is a rule of common law, that in case of the death of a joint obligor, the debt can never survive against his heirs, executors or administrators, which rule frequently is injurious and oppressive to the surviving obligor or obligors: To remedy which,

Debt shall survive against heirs of joint obligors.

V. *Be it enacted*, That from and after the passing of this act, in case of the death of one or more joint obligor or obligors, the joint debt or contract shall and may survive against the heirs, executors and administrators of the deceased obligor or obligors, as well as against the survivor or survivors; and when all the obligors shall die, the debt or contract shall survive against the heirs, executors and administrators of all the said joint obligors; and in all cases of joint obligations or assumptions of copartners or others, entered into after the passing of this act, suits may be brought and prosecuted on the same, in the same manner as if such obligations or assumptions were joint and several; any law, custom or usage to the contrary notwithstanding.

Defendant to be held to bail in the court of equity.

And whereas by the law now in force in this state, defendants to suits in equity cannot be held to bail without a special order from one of the Judges for that purpose: which order can seldom be obtained, except in term time, without great delay and trouble: Therefore,

VI. *Be it further enacted*, That in all cases where the plaintiff or complainant in equity, shall specially state his debt or damages, and make oath or affirmation to the same, before the Clerk and Master in equity, it shall and may be lawful for the said Clerk and Master in equity, to require the defendant or defendants to be held to bail, in the same manner as if the same had been by order of one of the Judges of the superior courts of law and courts of equity.

No abatement of suit in certain cases.

VII. *And be it further enacted*, That where a term of the superior court of law or the court of equity, or a session of the court of pleas and quarter-sessions, shall intervene between the death of any plaintiff or defendant and qualification of the executors or administrator of such deceased plaintiff or defendant, the intervention of such term or session shall not work any abatement or discontinuance of such suit, any law or usage to the contrary notwithstanding.

C H A P. LVIII.

An Act to erect a Light-House on Ocracock Island.

WHEREAS the erecting a light house on Ocracock Island would tend greatly to the safety of vessels bound over Ocracock Bar, and very much encourage foreigners as well as citizens of the United States to tradewith this state:

Commissioners for erecting a light-house.

I. *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 Nathaniel Allen, James Gorham, Abner Neale, John Wallace, David Wallace, Adam Gaskins and John Stewart, be and they are hereby appointed Commissioners, for erecting a light house on Ocracock Island, of such dimensions and materials as they shall deem the most proper; a majority of whom shall be a quorum.

Constituted a body politic, &c.

II. *And be it further enacted by the authority aforesaid*, That the said Commissioners shall be and they are hereby constituted a body corporate and politic, with full power and authority to sue and be sued, plead and impleaded, and to do and perform every act that may be requisite and necessary for carrying the above purpose into effect, by the name and style of the Commissioners for erecting a light-house on Ocracock Island; and in case of the death, resignation, removal or inability of any of the aforesaid Commissioners, a majority of them may and they are hereby empowered to elect and appoint others in his or their room and stead.

Appointment of a Treasurer, &c.

III. *And be it further enacted by the authority aforesaid*, That the said Commissioners shall at their first meeting appoint a Treasurer, whose duty it shall be to enter in a book belonging to the said Commissioners, and keep a fair account therein of all the monies received and paid for the purpose aforesaid; who shall, previous to entering into office, give bond with approved security, payable to the Governor and his successors, in the sum of one thousand pounds, conditioned that he shall faithfully account for all monies which he may receive for the purpose aforesaid.

To fix on & purchase the ground.

IV. *And be it further enacted by the authority aforesaid*, That the said Commissioners are hereby directed and empowered to fix on the most proper spot of ground upon the island of Ocracock, for erecting the light-house aforesaid; and to purchase or obtain by deed of gift the same from the proprietor or proprietors thereof, if he or they will consent thereto: which spot of ground shall not exceed one acre.

Duty upon vessels.

V. *And be it further enacted*, That a duty of three pence per ton shall be paid to the Collectors of the ports of Currituck, Roanoke, Bath, Beaufort, on all vessels of twenty tons and upwards belonging to this or any of the United States, and a duty of six pence per ton upon all foreign vessels which shall come over Ocracock bar, upon their entry with the Collectors of any of the ports aforesaid, under the same penalties as are by law established for securing the imposts upon goods imported.

Collectors to account therefor.

VI. *And be it further enacted*, That the Collectors of the aforesaid ports respectively, shall make out an account upon oath of the duties that they shall have received every six months after

after the passing of this act, and pay the duties so received agreeable to the account rendered (deducting therefrom two and a half per cent. in compensation for their service) into the hands of the Treasurer of the Commissioners aforesaid, under the penalty of one hundred pounds for each neglect; which sum so received shall be applied by the Commissioners aforesaid towards defraying the expences of the said light-house; a copy of which accounts the Collector shall annually transmit to the Comptroller.

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VII. *And be it further enacted*, That the said Commissioners be and they are hereby required to transmit annually to the Comptroller, an account on oath of all the monies received and paid by them for the purpose aforesaid; and if any time hereafter a surplus shall arise from the duties hereby imposed, over and above what will be sufficient to erect, repair and support the light-house aforesaid, such surplus shall be subject to the appropriation of the General Assembly.

Commissioners to account yearly, &c.

C H A P. LIX.

An Act to amend an Act passed at Newbern, in November, One Thousand Seven Hundred and Eighty-four, entitled "An Act to explain, amend and supply the Deficiencies of an Act passed at Hillsborough, entitled an Act to regulate the Descent of real Estates, to do away entails, to make Provision for Widows, and to prevent Frauds in the Execution of last Wills and Testaments; and for directing how Deeds of Gift and Bills of Sales of Slaves shall be executed, authenticated and perpetuated."

WHEREAS in the seventh section of the above recited act it is required that all bills of sale for negroes, and deeds of gift of any estate of whatever nature, shall within nine months after the making thereof be proved in due form and recorded; and all bills of sale and deeds of gift not authenticated and perpetuated in manner by the said act directed, shall be void and of no force whatever. And whereas it appears to this General Assembly, that by unavoidable accidents many counties in this state did not receive the laws in time for a number of the good citizens of this state to avail themselves of the benefit of the said act, whereby many are likely to sustain great damage: For remedy of which,

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 all bills of sale taken and deeds of gift made, and not already recorded in manner required by the before mentioned act, shall have a further time of twelve months allowed for probate and registration; and shall when thus authenticated and proved, be held and deemed as valid in law, to all intents and purposes, as if they had been proved and registered within the time required by the aforesaid recited act; any law, usage or custom to the contrary notwithstanding.

Further time allowed for probate, &c. of bills of sale, &c.

II. *And be it further enacted by the authority aforesaid*, That hereafter all bills of sale of negroes, and deeds of gifts of any estate of whatever nature, shall within twelve months after the making thereof be proved in due form and recorded; also all bills of sale and deeds of gift, not authenticated in manner by this act directed, shall be void and of no force whatsoever; any law to the contrary notwithstanding.

Hereafter to be proven &c. within 12 months.

C H A P. LX.

An Act directing the Mode of raising a Fund in the several Ports of this State for the Support of sick Seamen, and the Manner of appropriating the same.

WHEREAS sailors and mariners who come by water into this state, frequently suffer for the want of proper means in sickness, and the funds raised by the parish taxes, and the Wardens of the poor, are in many cases insufficient:

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 all Captains of vessels on their arrival into any of the ports of entry in which the said towns are situated in this state, shall give an exact account upon oath to the Collector of the customs of the number of mariners which he may have on board his vessel, with their names and stations on board; and before the Collector for any of the ports aforesaid shall admit the Captain or other person to make entry of any vessel, the said Captain or other person for him shall pay the sum of one shilling for himself, and the sum of one shilling for each of his mates, and the sum of one shilling for each of the crew (apprentices not receiving pay excepted) which money the said Collector is hereby ordered to collect and pay to the Commissioners of the town and parish wherein such entry hath been made, under the penalty of twenty-five pounds for each and every offence, to be recovered at the instance of the Commissioners aforesaid in any court of record; and the said Collector is hereby ordered to keep an exact account and register of the said entries and hospital money so paid him, for which he shall be allowed two and a half per cent. for his troubles; and he shall settle the same with the Commissioners of said town whenever demanded by them; which money so received shall be called Hospital Money, and shall be appropriated by the Commissioners aforesaid at their discretion, to the use of sailors and mariners in times of sickness only. *Provided*, That no crew coming into any of the said ports with the small pox, or other contagious disorder, shall be entitled thereto.

Fund for support of sick seamen.

II. *And be it further enacted by the authority aforesaid*, That when vessels shall arrive from long voyages, the Captain shall pay as aforesaid, and for the use aforesaid, the sum of one shilling

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shilling per month, and the sum of eight pence for each of his mates per month, and the sum of four pence per month for each of his crew, excepting apprentices above mentioned not receiving pay, for each month it may have been since he left the port of his departure. *Provided*, That if any master, mate or seaman aforesaid, shall shew a receipt for hospital money paid by him in any port of the United States one month previous to the entry of the vessel in any of the said ports, he shall be exempted from the payment of the said hospital money.

And whereas it is represented to this General Assembly, that the navigation of Cape-Fear river is much impeded, and many inconveniences arise in port Brunswick for want of a harbour master in that port:

Harbour-master
for Port Brun-
swick appointed.

III. *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 Robert Scott be appointed to that office during good behaviour; and that his official duties and fees of office be regulated by a majority of the Commissioners of the aforesaid river on the first day of February in every year.

C H A P. LXI.

An Act to encourage the Manufacture of Pot-Ash.

WHEREAS it is the duty of the legislature by all convenient means to promote industry and useful manufactures, whereby public and private debts may be discharged, and the quantity of circulating specie in the state may be increased; and as no attention has hitherto been given to making pot-ash in this state, by which the value of many thousand pounds might be saved every year, that is now lost by inattention:

Bounty on pot-
ash.

I. *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 bounty of twenty pounds shall be paid to any person in each and every district in this state, who before the last day of March, one thousand seven hundred and ninety-one, shall make the largest quantity of pot-ash, provided the quantity thus made is not less than one thousand pounds weight; which bounty shall be paid by the Treasurer of this state to the claimant, after he shall have produced a certificate from some Naval-officer in this state, that such quantity of pot-ash of his proper manufacture has been shipped for exportation by him or his assigns, and after he shall have made oath that all the pot-ash for which he claims such bounty is or was his property, and was made by himself or for his account at a work or works belonging to himself in the district wherein he usually resides; which bounty shall be paid by the Treasurer at the expiration of six months after the time above mentioned, and not sooner, in order that the several claimants in each district may have time to present their claims.

II. *And be it further enacted*, That a bounty of twelve pounds shall be paid to the person in each district who shall make the second largest quantity of pot-ash, provided such quantity is not less than six hundred pounds weight; the claim to be made and the bounty discharged in the same manner as the other claims and bounties.

C H A P. LXII.

An Act directing the Collectors of Imposts and other Duties to collect the same for the Use of this State, until the Congress of the United States shall make Provision for that Purpose; and to repeal an Act passed at Hillsborough, in April, One Thousand Seven Hundred and Eighty-four.

Collection, &c.
of tonnage and
impost duty.

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 all Collectors in the several ports in this state, and all other persons whose duty it has been to collect tonnage duties, or any other imposts or duties on goods imported into this state, shall be and they are hereby authorized and required to continue to demand and receive the same as by law directed, for the use of the state, until such time as the Congress of the United States shall have made the necessary laws, and officers shall be appointed, to collect duties for the benefit of the United States of America.

Repealing clause.

II. *And be it enacted by the authority aforesaid*, That the act passed at Hillsborough in April, one thousand seven hundred and eighty-four, for imposing a duty or tax in aid of the public revenue upon the different articles therein mentioned, sold at auction or public vendue, and for regulating auctioneers or vendue-masters, be and the same is hereby repealed and made void to all intents and purposes as if the same had never been made.

C H A P. LXIII.

An Act for the Relief of such Persons who may be wounded by the Indians within the District of Mero, and for other Purposes.

WHEREAS it hath been represented to the General Assembly, that several persons within the district of Mero being wounded by the Indians, had it not in their power to employ physicians, surgeons, nurses, or to provide themselves with the necessary medicines and attendance, by which means their lives have been much endangered: And whereas it is probable that several persons under the said circumstances have died for want of proper care: For remedy thereof,

I. *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, the county

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courts of Davidson, Sumner, and Tennessee shall be and they are hereby empowered and authorized, whenever it may appear to their satisfaction that the person wounded by the Indians is not able to defray the expences of his treatment and cure, to pass the accounts of physicians, surgeons and nurser, and those for the necessary medicines; provisions and attendance, the same being properly attested and proven on oath; which accounts thus passed by the said courts shall be received in payment of all public taxes by the Collectors, Sheriff or other officers in said district; any law or custom to the contrary notwithstanding.

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Persons wounded by Indians how provided for, &c.

And whereas it is good policy to keep up a friendly intercourse with the Indian tribes in amity with the good people of this state:

II. *Be it therefore enacted by the authority aforesaid.* That all accounts of provisions furnished to Indians within the district of Mero by any of the inhabitants thereof, being duly proven and upon oath, and the same being exhibited in the court of the county wherein such persons may reside, the said court shall be and is hereby empowered to pass all such accounts, and to fix the price of such provisions furnished to the Indians; which accounts thus passed by the court as aforesaid, shall be received in payment of any of the public taxes in said district; any law or custom to the contrary notwithstanding.

Provision furnished Indians.

III. *Be it further enacted,* That on account of the scarcity of physicians and surgeons within the district of Mero, that all practising physicians and surgeons within the said district shall be exempt from all militia duty, except in the case of actual invasion or insurrection.

Physicians exempt from militia duty.

IV. *Be it further enacted,* That all acts of Assembly, or parts of acts, which come within the purview of this act, are hereby repealed and made null and void, to all intents and purposes, as if the same had never been made.

Repealing clause.

C H A P. LXIV.

An Act directing Returns to be made of the taxable Property in the Middle District of Anson County, for the Year 1788.

WHEREAS it is represented to this General Assembly, that either from neglect or accident the people in a district in Anson county, known by the name of the Middle district, failed to give an account of their taxable property for the year one thousand seven hundred and eighty eight: Therefore,

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 county court of Anson shall at their first court after the passing of this act appoint one of their Justices to take in a list of their taxable property which was in said district in the aforesaid year, to the end that taxes may be paid for the same, in the same manner as if the said neglect had never happened.

List of taxables in a part of Anson to be taken.

II. *And be it further enacted,* That the Clerk of Anson county court shall transmit to the Comptroller's office an attested certificate of said list, in order to charge the Sheriff for the collection of the said taxes.

And sent to the Comptroller.

C H A P. LXV.

An Act to repeal Part of an Act, entitled, "An Act for appointing an Agent, and holding a Treaty with the Cherokee Indians, and for other Purposes."

I. **B**E it enacted by the General Assembly of the state of North-Carolina, and it is hereby enacted by the authority of the same, That so much of the before recited act as relates to the appointment of an Indian Agent, his duty and pay, be and the same is hereby repealed and made void.

Part of an act repealed.

C H A P. LXVI.

An Act to amend the several Acts of the General Assembly for establishing a Court of Law and Equity in the County of Davidson, and erecting the District of Mero, and to make Provision for the Judge of Mero District.

WHEREAS the Judge of the superior court of law and court of equity for the district of Mero, hath doubted whether his powers are sufficient to make a final decree in equity: To prevent which in future,

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 Judge of the superior court of law and court of equity for the district of Mero, shall in matters and things cognizable in the said court, have as full and ample powers, to all intents and purposes, as any two Judges have or ought to have in the superior courts of law and courts of equity in any other part of the state: *Provided nevertheless,* The said powers shall not extend to granting licences to attorneys.

Powers of Judge of Mero, &c.

And whereas the salary at present allowed to the Judge of Mero district, is very inadequate to the fatigue and trouble of attending to his duty, and will not be a sufficient compensation to induce a person of learning and integrity to continue in that office: Therefore,

II. *Be it enacted,* That the Judge of the superior court of law and court of equity for the district of Mero, shall have and receive the sum of one hundred pounds for each and every court he shall hereafter attend, instead of the salary heretofore established by law.

To have 100l. for each court.

III. *Be it further enacted,* That the Collectors of the district of Mero shall pay the Judge the said sum out of their funds.

Collectors to pay the same.

C H A P. LXVII.

An Act to repeal the sixty-fifth Section of an Act passed at Newbern, in the Year One Thousand Seven Hundred and Seventy-seven, entitled "An Act for establishing Courts of Law, and for regulating the Proceedings therein."

WHEREAS doubts have arisen whether the sixty fifth section of the act above recited be in force, or whether the same be repealed by subsequent acts, so that the Clerks of the several county courts are in doubts how to act with respect to the duties enjoined them by the said clause: And whereas the same has been found by experience to be of no real utility, and to impose unnecessary expence on the estates of deceased persons.

I. *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 sixty fifth section of the said act, entitled "An act for establishing courts of law, and regulating the proceedings therein," shall be and the same is hereby repealed and made void.*

Section of a law repealed.

C H A P. LXVIII.

An Act to empower the Wardens of the Poor for the Counties of Franklin, Orange and Surry, to build a House or Houses for the Reception of the Poor; and for amending Wilmington Town Law.

WHEREAS the poor should always be an object of legislative attention:

I. *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 Wardens of the poor for the county of Franklin are hereby authorized and empowered to lay off and set apart so much of the lands referred in the town of Lewisburgh for the court-house, prison and stocks, as shall be necessary to erect a house or houses thereon, for the purpose of receiving and maintaining the poor of said county.*

Lands to be set off for use of poor in Lewisburgh.

II. *And be it further enacted by the authority aforesaid, That the Wardens of the poor for the county of Franklin are hereby authorized to call on the Commissioners or other person or persons, who may have in their hands the monies arising from the sale of the glebe in Franklin county, for the dividend or surplussage which may be due to said county of Franklin; and the said Commissioners or other person or persons having the said monies in their hands, are hereby directed and required to pay the said surplussage or dividend of said monies into the hands of the Wardens of the Poor for the said county of Franklin.*

Money from sale of glebe to be paid the wardens.

III. *And be it further enacted by the authority aforesaid, That the said Wardens of the poor for the county of Franklin are hereby authorized, directed and required to apply said monies towards building and erecting a house or houses on the lands above mentioned, which house or houses when built, with the lands so appropriated, shall be and remain to the use of the county aforesaid, under the directions of the Wardens of the poor for said county, and to their successors forever.*

How to be applied.

IV. *And be it further enacted by the authority aforesaid, That if the said glebe monies shall be found insufficient for the purpose aforesaid, that then and in that case the Wardens of the poor for the said county of Franklin, are hereby authorized to lay a tax not exceeding the sum of one shilling specie on every poll, also a sum not exceeding four pence on every hundred acres of land, and a sum not exceeding one shilling on every hundred pounds value of town lots in said county of Franklin; which tax shall be collected by the same person appointed to collect the public taxes, and paid into the hands of the county Wardens to be by them applied to the purpose aforesaid.*

Tax in Franklin.

V. *And be it further enacted by the authority aforesaid, That the court of the county of Franklin are hereby authorized and required to appoint two proper persons, inhabitants of the town of Lewisburgh, to value the lots in said town until the owners of said lots may become freeholders, any law to the contrary notwithstanding.*

Lots in Lewisburgh to be valued.

VI. *And be it further enacted by the authority aforesaid, That the Wardens of the poor for the county of Surry are hereby authorized and empowered to lay a tax, not exceeding one shilling on each poll, also a tax not exceeding four pence on every hundred acres of land, and a tax of one shilling on every hundred pounds value of town lots within said county of Surry; which tax shall be collected for the year one thousand seven hundred and ninety by the Collectors for collecting public taxes, in the same manner and under the same rules and restrictions as are appointed for collecting public taxes; which taxes when so collected, shall be by said Collectors paid into the hands of the Wardens of the county of Surry for the sole purpose of building a house or houses at some convenient place for the reception of the poor; which house or houses when built, shall be and remain for the use of the county aforesaid under the directions of the Wardens of the poor for said county, and their successors forever.*

Tax in Surry.

VII. *And be it further enacted by the authority aforesaid, That persons being incapable to support themselves or of self preservation, shall be under the care of the said Wardens, who are empowered to dispose of them in said houses. Provided always, That if any such poor who came under the care of the Wardens are able to work, the said Wardens shall keep them employed on some suitable business for the benefit of such poor.*

Persons to be taken care of.

VIII. *And be it further enacted by the authority aforesaid, That the overplus, if any remain after completing said buildings, shall by said Wardens be applied towards lessening the poor tax for said county.*

Overplus of tax.

IX. *And*

IX. And be it further enacted, That all the powers herein given to the county of Franklin, shall be extended to the county of Orange, with respect to any building, poor or lunatics in the said county of Orange.

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X. And for the better government and regulation of the town of Wilmington, Be it enacted, That in future each and every of the Commissioners of the said town, and their successors respectively, during their continuance in office, shall be fully vested with the same powers and authorities for executing all laws and ordinances for the government of the said town, which the said Commissioners now possess for those purposes when convened together.

Commissioners of
Wilmington.

C H A P. LXX.

An Act allowing a longer Time for surveying Lands entered in the Office kept by John Armstrong, Military Warrants and Pre-emption Rights.

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 a further time of three years shall be allowed for surveying all lands entered in the office of the said John Armstrong, all military warrants issued by the Secretary of the state, and all pre-emption rights in the district of Mero, any law, usage or custom to the contrary.

Further time for
surveying lands
allowed.

C H A P. LXX.

An Act to revive and continue in Force, so far as respects the Counties of Johnston, Bladen, Robeson and Guilford, an Act passed in the Year One Thousand Seven Hundred and Eighty-seven, entitled "An Act to empower the several County Courts therein mentioned to lay a Tax, not exceeding three Years, for the Purpose of erecting or repairing the Court-house, Prison and Stocks when necessary, and for defraying the contingent Charges of the 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 above recited act, so far as it respects the counties of Johnston, Bladen, Guilford and Robeson, shall continue and be in force for and during the term of two years after the ratification of this act.

Part of an act
continued.

C H A P. LXXI.

An Act to prescribe the Mode of paying the Militia Officers and Soldiers for their Services on an Expedition carried on against the Chicamoga Indians by Brigadier-General Joseph Martin, in the Year One Thousand Seven Hundred and Eighty-eight.

WHEREAS the militia of Washington district were called out on actual service by order and under command of Brigadier-General Joseph Martin, against the Chicamoga Indians, who at that time were plundering and killing the inhabitants of said district:

I. 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 commanding officer of the said expedition shall, any time after passing of this act, exhibit into the Comptroller's office of this state, attested pay-rolls on oath for the service of the said militia, stating therein the true number and names of the officers and soldiers in each company, proportioning the officers to the number of soldiers so called out; also a roll with the names of the field and staff officers who served on the said expedition, reporting in each roll the exact time of service of the said militia respectively, on the exhibiting whereof, the Comptroller is hereby directed and required to examine the same, and pursuant thereto make out and issue according to law unto and in the name of each officer and soldier respectively, who were ordered out as aforesaid, certificates of such service; which certificates shall be received by the several Sheriffs of the said district, and by the Treasurer of this state from the said Sheriffs, in payment of the public money tax that is or may become due within the said district of Washington, and no other until all such certificates be paid. Provided, That those who have no such certificates shall pay their taxes as otherwise provided by law.

Pay-rolls to be
exhibited, & cer-
tificates to be giv-
ven, &c.

And for the intent and purpose that the above specified certificates shall and may be received for taxes as above mentioned, due or which may become due in the district of Washington:

II. Be it enacted by the authority aforesaid, That the Collectors of public money tax in the said district in their respective counties, are hereby required to delay the collection of the taxes due in said district for the term of three months after passing of this act.

Collection of tax
delayed.

III. And be it further enacted by the authority aforesaid, That so much of an act passed at Fayetteville, in the year one thousand seven hundred and eighty-eight, as relates to raising men for the purpose of fixing a garrison on the north side of Tennessee river, be and the same is hereby repealed and made void; and the men raised by virtue thereof, shall be and they are hereby discharged from service.

Part of an act re-
pealed.

IV. And be it enacted by the authority aforesaid, That the Comptroller shall liquidate and adjust, on exhibiting the same to him, the Commissary's accounts of the said expedition, and issue certificates for the same; which shall be received and paid as above mentioned, such accounts being supported by proper vouchers and the oath of the said Commissary.

Commissary's
accounts.

Read three times and ratified in General Assembly, the 22d day of December, 1789, except Chap. I. which was ratified the 15th of November, 1789.

CHARLES JOHNSON, Speaker of the Senate.
STEPHEN CABARRUS, Speaker of the House of Commons,
HOUSE

Copy To.
J. GLASGOW, Secretary.

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HOUSE of COMMONS, Wednesday, December 16, 1789.

WHEREAS the Court Law, passed in the year 1777, is with great difficulty procured in many parts of this state, by reason of which many errors may accrue: Therefore, Resolved, That the Printers of this state shall and are hereby directed to print and publish the said Court Law with the acts of this session of Assembly.

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

1. WHEREAS it is necessary to a due and regular administration of justice, that courts be established in this state:

State divided into districts, & 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; 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 preeminences, 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 preeminency, 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.

Judges may act separately.

Except in demurrers, &c.

Clerks to be appointed.

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.

To hold their offices during good behaviour.

Their oath.

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 behaviour 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 _____ nor have I sold, nor offered to sell, nor will I sell, or offer to sell, my interest in 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 _____ without prejudice, favour, affection, or partiality, to the best for my skill and ability. SO HELP ME GOD.

Governor to issue a proclamation, notifying their qualification.

Pen. on them for misbehaviour.

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 misbehaviour in office, and shall forever afterwards be incapable of holding any office, civil or military, within this state.

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

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.**

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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.

Pen. for acting before qualifying

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, Edgecomb, 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.

Courts when held

VII. *And be it further enacted by the authority aforesaid,* That all persons who have heretofore obtained licenses 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, 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.

Admission of Attornies.

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 intent to practise, how admitted.

I A. B. do swear, that I will truly and honestly demean myself in the practise of an Attorney, according to the best of my knowledge and ability. **SO HELP ME GOD.** And upon such qualification had, and oath taken, such Attornies, as well as those who have heretofore obtained licenses, may act as Attornies during their good behaviour.

Their oath.

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

Actions in what districts to be brought.

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Of what value suits may be commenced in the superior courts.

Proviso, for the plaintiff to prove his debts.

Not to extend to suits on bonds, &c.

Pen. on plaintiff 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.

Proviso, for criminal process.

Sheriff's duty when process is sued to him.

Indorsement of bail bonds returned.

to the court of either district, at the option of the plaintiff; and where the plaintiff shall reside beyond sea, 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.

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, bass 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.

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 subpoenas 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 of _____ county, do hereby assign the within obligation and condition to C. 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

ness whereof, I have hereunto set my hand and seal, the day of in the year 1777.
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.

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.

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 till 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 wife, notwithstanding.

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.

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.

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.

XXIII. *And for the better ascertaining what process 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 process; 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 entitled, 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 enquiry the next succeeding term; and the goods so attached, if not replevied 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 *fi. fa.*; and if the judgment shall not be satisfied by the goods attached, the plaintiff may have execution for the residue.

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 process shall be returnable on an action of debt, it shall be lawful for him to execute his enquiry 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.

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 process of law cannot be served on such debtor, and if such

Proceedings where he returns the body in custody.

All bail taken special, and when liable to recovery

Bail may surrender the principal.

Scire facias made known, the bail to plead, and be tried the 1st term.

Provido where the principal is in gaol, & proceedings thereupon.

Proceedings where the Sheriff returns the plaintiff not to be found.

Judgment final at the first court, enquiry may be executed as to the value of the currency.

Where attachment may be issued.

plaintiff,

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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 empowered 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 process 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 attachments.

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, 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.

Attachment may issue against the estate of persons in other governments.

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.

Proceedings on attachments.

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 be 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

* This being an error in the copy from which the bill is taken, the Printers think themselves not authorized to correct it.

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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, 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.

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 process 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.

Attachment may be granted against the lands of persons out of the state, and proceedings thereon:

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 enquiry 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 the suit has been executed on the person of the defendant when within the state.

Estate repleviable

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.

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 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, repleviable 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 _____ 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 year of American independence.

Form of the attachment.

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,

KNOW 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 year of our Lord one thousand seven hundred and _____

Form of the bond

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The condition.

THE condition of the above obligation is such, that whereas the above bounden hath the day of the date hereof prayed an attachment, 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.

No attachment to be abated for want of form.

Proceedings on suits on attachments of estates of persons out of the state.

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.

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.

Rules of court.

XXXIV. *And be it enacted by the authority aforesaid*, That the following rules and methods shall be observed in the said courts, to wit,

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 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 enquiry 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 intestate 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.

Statutes of jeofails enforced.

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 jeofails, 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.

Rules for witnesses.

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,

In

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 subpoena, 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 subpoena 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 subpoena 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 subpoena issued, the sum of fifty pounds; and shall be further liable to the action of such party for the full damages which may be sustained for want of such witness's testimony, who shall recover the same by *scire facias*, with costs.

To attend till discharged.

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 entitled 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 subpoena, 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.

Provido, where the suit is settled.

Pen. for false swearing.

Provido, for incapacity to attend.

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 infirmity, 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.

Where depositions may be taken

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 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.

Provido, for the adverse party to have notice.

XLI. *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 empowered 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.

Persons leaving the state, their depositions may be taken.

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.

Pen. for refusal to give evidence.

Provido, for Quakers.

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

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Witnesses to attend till discharged.

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.

Witnesses privileged.

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.

Their allowance for attendance.

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 halfpenny per mile, together with the necessary ferrriages, 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.

Clerks to take probate of evidence tickets.

XLVI. *And be it enacted by the authority aforesaid,* That the Clerks of the said courts are hereby empowered and directed to take probate of all evidence tickets upon oath, and certify the same.

Writs of error granted.

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.

Causes transported to the superior court dockets.

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.

Suits for quitrents excepted.

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.

Action given in the late superior courts, suit may be brought for the same in the present courts.

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.

Process began in the late courts, may be taken cognizance of 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.

Forfeited recognizance.

LII. *And be it further enacted by the authority aforesaid,* That where in any of the late superior

perior 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 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.

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Recognizances in the late courts, how levied.

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 empowered 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, empowering 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.

Commission of oyer & terminer may be issued.

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.

Time not allowed in plea of limitation.

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 continued till the next county courts.

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,

Justices to take the oaths of the state, and

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 of _____ 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 amerancements 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 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. SO HELP ME GOD.

This oath.

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.

Courts when held.

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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 January, 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 Tyrrel, 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 Camden, 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 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 intestate's 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 probate 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

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, upon application to them made, compel 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 until such will shall be produced, and due submission made to the court for the contempt; and the court shall and is hereby empowered, in case of such persons removal, to issue such summons and process for commitment, into any county in this state.

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 entitled 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 final determination had, such court shall proceed to grant the letters to the persons entitled to the same, he or the giving bond, with sufficient security, for the faithful discharge of the trust.

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 Clerk's 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.

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 preceding 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 entitled to for such services, which fees the Clerk of the court of pleas where the business shall be transacted is hereby empowered 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.

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 behaviour therein.

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 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.

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 behaviour, 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 behalf of the state.

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All debts of \$1. 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 balance 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 of 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.

Justice that tries the cause, to summon witnesses, but not to sit on the appeal.

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 Justice 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.

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 therein 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.

Attachment granted by a Justice.

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.

Process how issued and returned.

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 subpoenas 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.

Proviso in criminal cases.

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.

Proceedings where process issues to the Sheriff in civil cases.

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

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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.

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 empowered 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.

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.

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.

LXXX. *And for the regular prosecution and determination of suits, entering up judgments, and preservation of the records in the said county court 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 pro*.

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.

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 over-ruling such plea, including the costs of court.

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

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Execution to issue to any county after judgment.

Proceedings where non est in-ventus is returned.

Proceedings on attachment the same as in the superior courts.

Rules of court.

Dilatory pleas prevented.

Appeals granted.

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Writs of error granted.

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.

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.

Appeals how prosecuted.

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 rehearing 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.

Writs of error 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.

Proviso, where there shall not be more than ten days between the last day of the term and the sitting of the superior court.

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.

On appeals, Clerks to make up a record of proceedings for the appellant.

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 entitled 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.

Proviso, where the Judges think there is sufficient matter in the transcript.

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.

Proceedings where Clerks receive transcripts of records on appeals.

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 summonses 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, complaints,

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.

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Actions transposed to the present Court dockets.

XCI. *And be it further enacted by the authority aforesaid,* That all writs and other process, 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 process, 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.

Process in the late courts to be cognisable in the present courts.

XCII. *And be it further enacted by the authority aforesaid,* That all suits, process, 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 americiaments, incurred in the name and for 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, process, 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.

All suits, process, &c. commenced under the late government, to be in the name of the state; and all bonds, penalties, &c. then to the use of the state; and the penalties to churchwardens, to be to the counties.

XCI. *And be it further enacted by the authority aforesaid,* That all fines, americiaments, forfeitures, and recoveries on penal statutes, heretofore recovered and paid to any officer, shall be accounted for and paid in manner as by this act is directed; and on neglect or refusal, may be sued for and recovered by the persons respectively to whom fines, americiaments, forfeitures, and recoveries on penal statutes, not heretofore recovered, are by this act payable; and all fines, americiaments, 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, americiaments, 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, americiaments, 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 forever afterwards be incapable of holding any office of trust or profit in this state.

Fines, &c. paid to any officer, to be accounted for, and all fines hereafter recovered, how paid and accounted for.

1777.

Criminals allowed council, & may challenge jurors.

Clerks where to keep their offices and to give attendance.

In case of death, deputy to hold.

Fees due on suits in the late courts, how, and to whom paid.

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.

XCIV. *And be it enacted by the authority aforesaid,* That every person accused of any crime or misdemeanor whatsoever, shall be entitled 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.

XCIV. *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 entitled to the fees and perquisites of the office until such appointment; any law, usage or custom, to the contrary notwithstanding.

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 are 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 from whom such fees are due and payable.

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 non-suit, dismissal or discontinuance, the defendant shall be entitled 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.

C H A P.

An Act for restraining the taking of excessive Usury.

1741.

I. FORASMUCH as the settling of interest at a reasonable rate, will greatly tend to the advancement of trade, and improvement of lands, by good husbandry, with many other considerable advantages to this province: And whereas divers persons of late, have taken great and excessive sums, for the loan of money, goods, and merchandizes, to the great discouragement of industry, in the husbandry, trade, and commerce of this province:

II. We pray that it may be enacted, And be it enacted by his Excellency Gabriel Johnston, Esq. Governor, by and with the advice and consent of his Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same, That no person or persons whatsoever, from and after the first day of May, which shall be in the year of our Lord one thousand seven hundred and forty-one, upon any contract to be made after the said first day of May, shall, directly or indirectly, take, for loan of any monies, wares, merchandizes, or commodities whatsoever, above the value of six pounds, by way of discount or interest, for the forbearance of one hundred pounds, for one year, and so after that rate for a greater or lesser sum, or for a longer or shorter time; and that all bonds, contracts, and assurances whatsoever, made after the time aforesaid, for the payment of any principal or money to be lent, or covenanted to be performed, upon or for any usury, whereupon or whereby there shall be received or taken above the rate of six pounds in the hundred, as aforesaid, shall be utterly void: And that all and every person or persons whatsoever, which, after the time aforesaid, upon any contract to be made, after the said first day of May, shall take, accept, and receive, by way or means of any corrupt bargain, loan, exchange, gift, or interest, of any monies, wares, merchandizes, or other thing or things whatsoever, or by any deceitful ways or means, or by any discount, covin, device, or deceitful conveyance, for the forbearing or giving day of payment, for one whole year, or for their money or other thing, above the sum of six pounds for the forbearing of one hundred pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time, shall forfeit and lose, for every such offence, the double value of the monies, wares, merchandizes, and other things so lent, bargained, exchanged, or shifted; the one moiety of all which forfeitures to be to our Sovereign Lord the King, his heirs and successors, for and towards the support of this government, and the contingent charges thereof, and the other moiety to him or them that will sue for the same, by action of debt, bill, plaint, or information, in any court of record within this province; wherein no effusion, protection, or wager of law, shall be allowed or admitted of.

No person to take more than 6 per cent. for interest.

Persons taking more, to forfeit double the value.

In the HOUSE of COMMONS, December 17, 1789.
The Sub-Committee of Finance on public revenue, No. 4, appointed to examine into the state of the treasury, monies collected in 1789, with the application, report:

That having examined into the state of the treasury, there appears to have been in the hands of the Treasurer, on the first day of November, 1788, agreeably to his accounts then rendered the sum of

That he has collected and received from 1st Nov. 1788, to 1st Nov. 1789, for account of arrears-ages up to 1st Jan. 1788, the sum of	£. 3,307 3 6
That he has collected and received from 1st Nov. 1788, to 1st Nov. 1789, for account of taxes for the year 1788, including sundry balances due from Sheriffs, Clerks, and Registers for the year 1787, the sum of	12,681 15 5
	56,713 17 4

Amounting in the whole to £. 77,702 16 3

And that he has paid out of the sum received for arrears, including his commiss. of 1.14 13 3 allowed him for collecting 1.145 12 20 due before the 1st Jan. 1784,

And out of the collection of taxes for the year 1788, including his and Clerk's salary,	3766 1 0
	25,522 5 0

Amounting in the whole to £. 29,388 6 0

And which being deducted from the foregoing sum of money on hand, and received up to the 1st of the said month of November last, leaves a balance in his hands due and owing to the state, of 1.48,314 10 3 in money.

That he has collected and received in certificates for account of arrears, viz. of certificates payable previous to 1st Jan. 1788, from 1st Nov. 17 8 to 1st Nov. 1789, £. 25,909 5 1

That he has collected and received of the taxes for 1788, including the returns from Entry-takers, and including sundry balances due from Sheriffs and Entry takers for the year 1787, in certificates, counting state and continental dollars and the balance in certificates on hand, the 1st Nov. 1788, the sum of

28,701 9 0

Amounting in the whole to £. 124,610 14 2

That he has paid out to sundries, who on final settlement of their accounts with the public appeared to have balances in their favour, and which is included in the foregoing debit certificates, to amount of

71 5 2

To the Comptroller, punched agreeably to resolve of Assembly, the sum of

112,527 1 11

That the Commissions at Hillsborough, in the month of April last, burned state dollar bills, to amount of

247 8

And that his commissions for collecting of arrears-ages, pursuant to act of Assembly passed in Dec. 1767, which allows him 10 per cent. amounts in certificates to

Making in the whole	242 10 8
	£. 11,1458 0 3

Which being deducted from foregoing amount of debts, leaves a balance in his hands due and owing to the state, of 1.122 13 11 in certificates, in which it is to be observed is included a number of state and continental dollar bills.

The committee have calculated the civil list on the following estimate, viz.

Governor's salary	£. 750
Treasurer's do.	500
Comptroller's do.	500
Secretary of state	300
Private Secretary	100
Council, Clerk and Door-keeper,	130
Clerk to the Treasurer	150
Members of Assembly, Clerks, Door-keepers, &c.	10,000
Judges of the Superior Courts	2,500
Attorney-General	640
Agents for settling with the United States	1,600

£. 16,970

The incidental charges of the Comptroller's and Treasury office are not stated in the above estimate, nor any particular sum for the usual contingencies of government, but making an allowance for at least a particular collection of arrears, your committee are of opinion that a tax of one shilling per hundred acres upon lands, and three shillings on each poll, with the established taxes in aid of the public revenue, will be adequate to the expences of the year 1790.

Your committee beg leave to add, that it is with particular satisfaction, they observed the judicious plan adopted by the Treasurer for the conduct of the business of his office, and the accurate and elegant manner in which the books and accounts of the treasury are kept.—All which is submitted.

MAX. CHAMBERS, Chairman.

The House taking this report into consideration concurred therewith.

S. CABARRUS, S. H. C.

By order, J. HUNT, C. H. C.

In SENATE, December 17, 1789.

Read and concurred with.

C. JOHNSON, S. S.

By order, S. HAYWOOD, C. S.

A Copy from the Journal of the House of Commons,
J. HUNT, C. H. C.

C O N T E N T S.

<p>An Act directing the manner of electing Representatives to represent this State in Congress.</p> <p>Directing the mode of choosing Senators to represent this State in the Congress of the United States.</p> <p>For the purpose of ceding to the United States of America certain western lands therein described.</p> <p>To repeal part of an act, entitled An act to explain an act directing the duty of Naval-officers, &c.</p> <p>Providing means for the payment of the domestic debt, for appropriating certain monies therein mentioned; and to amend an act passed last session, entitled An act for levying a tax for the support of government, &c.</p> <p>For procuring testimony concerning the accounts of this State against the United States.</p> <p>To repeal part of an act, entitled An act once more to extend an act, entitled An act to pardon, &c. the offences and misconduct of certain persons in the counties of Washington, Sullivan, Green and Hawkins.</p> <p>To prevent the exportation of raw-hides, pieces of hides of neat cattle, and calf-skins, and beaver, racoon and fox furs.</p> <p>For granting to the inhabitants of Tyrrel county a privilege of holding separate elections for members of Assembly.</p> <p>To empower the wardens of the poor for Curruick to lay a tax to enable them to settle the arrears due from said county, &c.</p> <p>For levying a tax in the district of Salisbury for finishing the court house, and repairing the goal for the said district.</p> <p>For altering the name of James Koutum to James Long.</p> <p>To annex the county of Anson to Fayetteville district, and to regulate the appointment of jurors to Fayetteville court.</p> <p>For dividing Surry county into two distinct counties, &c.</p> <p>Directing the sale of the county buildings in Surry, and to alter the time of holding several county courts in this State.</p> <p>The better to regulate the inspection of tobacco in this State.</p> <p>To amend an act, entitled An act to prevent the exportation of unmerchandise commodities.</p> <p>For the promotion of learning in the county of Curruick, and to amend the Wilmington academy law.</p> <p>To ratify the amendments to the constitution of the U. States.</p> <p>To establish a university in this State.</p> <p>For raising a fund for erecting the buildings, and for the support of the university of North Carolina.</p> <p>To alter the time of electing the members of Assembly.</p> <p>To amend an act, entitled An act concerning proving of wills and granting letters of administration, and to prevent frauds in the management of intestate estates.</p> <p>To amend and enlarge an act, entitled An act authorizing and empowering the county courts of pleas and quarter sessions to divide and appropriate the real estate of intestates.</p> <p>To establish the title of certain lands therein mentioned.</p> <p>To enable Thomas Callender, and the other persons therein named, to make sale of certain lands and tenements, part of the residuary estate of Parker Quince.</p> <p>To incorporate a society of persons by the name of Centre Benevolent Society.</p> <p>To alter the names of Nancy, John and Keziah Lytle.</p> <p>Directing the sale of the salt licks and springs, with the adjoining land within the district of Mero.</p> <p>For erecting a town on the lands of Fergus Sloan, in Iredell county, and to amend an act for the division of Rowan county.</p> <p>For laying off a town on the lands of John Mazziner, in Tyrrel county.</p> <p>To empower certain persons therein named to receive, sue for and recover all such bequests, &c. as have heretofore been bequeathed, &c. for the use of the congregation or society of the episcopal communion of Newbern.</p> <p>To invest an indefeasible right of inheritance in Charles, Alley and Prudence Oggs, of such property as was bequeathed to them and their deceased brother Jesse Oggs.</p> <p>To repeal part of the 20th clause of an act, entitled An act to prevent the exportations of unmerchandise commodities.</p> <p>To emancipate certain negroes therein mentioned.</p> <p>To add part of Bladen county to Cumberland.</p> <p>To vest in J. and R. Field an indefeasible right to such property as was granted to them by their father W. Field, in 1775.</p> <p>To pardon J. Bradlev, of the town of Wilmington.</p> <p>To amend an act, entitled An act directing the mode of proceeding against the real estate of deceased debtors, where the personal estate is insufficient for the payment of the debts.</p> <p>For raising a revenue for the payment of the civil list, and contingent charges of government for the year 1790.</p> <p>For the more easy redemption of mortgages.</p> <p>To establish the lines of a certain tract of land granted unto Charles Gerrard.</p> <p>To annex part of Burke county to the county of Wilkes.</p>	<p>To authorize J. Billingsley to execute deeds of conveyance, agreeable to a power of attorney and the last will and testament of William Kes, late of Guilford county, dec.</p> <p>To repeal part of an act passed at Newbern, entitled An act to divide the district of Morgan.</p> <p>To establish a public inspection of tobacco at Clarksville.</p> <p>To erect a public provision store on the frontier of the county of Hawkins, for the accommodation of the Cumberland guards.</p> <p>To amend an act passed at Hillsborough, in April, 1774, entitled An act to enable Mary Dowd to sue for and recover to her own use and the use of her children by her husband Conner Dowd, all debts due and owing to the said Conner, and all other things in action which the said Conner Dowd might lawfully sue for and recover, were he a citizen, &c.</p> <p>To confirm unto B. Williams an indefeasible title to land in Brunswick county; and for making conformable to the plan the courses of a tract of land of 5000 acres in Hawkins county granted to J. Glasgow; and the courses of a tract of land in Jones county, of 600 acres, granted to A. Buffit.</p> <p>To enable W. Beatty, administrator of J. White, &c. to sell the lands and tenements herein mentioned.</p> <p>To vest certain lands in the Monthly Meeting of the people called Quakers, of New-Garden, in Guilford county.</p> <p>For erecting and establishing a town at Hawkins court-house.</p> <p>For cutting a canal from Juniper B-y to Matamoras lake.</p> <p>For establishing two places for holding general musters in the counties of Wilkes, Burke and Rutherford, and the place of holding courts-martial; and for altering the manner of holding elections of members to represent said counties in Assembly.</p> <p>To empower the county court of Pitt to lay a tax annually for the purpose of building a court house, prison and stocks; and for keeping the same in repair.</p> <p>To amend an act, entitled An act directing the method of appointing jurors in all causes, civil and criminal, passed at Halifax, in the year 1779.</p> <p>Directing the manner of issuing process in sundry cases arising in the courts of law and courts of equity, to direct the manner of proceeding on assigned or endorsed bills, bonds and notes under seal, to direct how joint obligations shall survive; and to repeal an act for calling forth the militia to assist in executing civil process, and to prevent abatements and discontinuances in certain cases.</p> <p>To erect a light house on Occochee Island.</p> <p>To amend an act passed at Newbern, in Nov. 1784, entitled An act to explain, amend and supply the deficiencies of an act passed at Hillsborough, entitled An act to regulate the descent of real estates, to do away entails, to make provision for widows, and to prevent frauds in the execution of last wills and testaments; and for directing how debts of gift and bills of sales of slaves shall be executed, authenticated and perpetuated.</p> <p>Directing the mode of raising a fund in the several ports of this State for the support of sick seamen, &c.</p> <p>To encourage the manufacture of pot ash.</p> <p>Directing the Collectors of impost and other duties to collect the same for the State, until Congress shall make provision for that purpose; and to repeal an act passed in 1784.</p> <p>For relief of such persons as may be wounded by the Indians.</p> <p>Directing returns to be made of the taxable property in the Middle district of Anson county, for the year 1788.</p> <p>To repeal part of an act, entitled An act for appointing an Agent, and holding a treaty with the Cherokees, &c.</p> <p>To amend the several acts of Assembly for establishing a court of law and equity in the county of Davidson, and erecting the district of Mero, and to make provision for the Judge of Mero.</p> <p>To repeal the 6th section of an act, entitled An act for establishing courts of law, &c.</p> <p>To empower the wardens of the poor for the counties of Franklin, Orange and Surry, to build a house or houses for the reception of the poor; and for amending Wilmington town law.</p> <p>Allowing a longer time for surveying lands entered in the office kept by J. Armstrong, military warrants, &c.</p> <p>To revive and continue in force, so far as respects the counties of Johnston, Bladen, Robeson and Guilford, an act, entitled An act to empower the several county courts therein mentioned to lay a tax, not exceeding three years, for the purpose of erecting or repairing the court-house, prison and stocks when necessary, and for defraying the contingent charges of the county.</p> <p>To prescribe the mode of paying the militia officers and soldiers for their services on an expedition carried on against the Miamoga Indians by Brig. Gen. J. Munn, in 1768.</p> <p>For establishing courts of law, and for regulating the proceedings therein, passed in 1777.</p> <p>To restrain the taking of excessive usury, passed in 1741.</p>
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