

Laws of N. Carolina: passed in 1829-30.

(BY AUTHORITY.)

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 sheriffs of each county in this State shall hereafter be elected by the free white men of the county entitled to vote for members of the House of Commons.

I. Be it further enacted, That the first election of sheriffs, after this act, shall take place at the usual time and places in each county for the election of members of the General Assembly in the year one thousand eight hundred and thirty, under the same rules and regulations as prescribed by law for conducting said elections, except that the returns shall be made to the clerk of the County Court; and the election of sheriff shall be held at the inspection of such persons as the County Court shall appoint at its session next before the election; and the person having the greatest number of votes shall be declared elected to the County Court at its term next after the election; and if more persons shall have the greatest number of votes, and equal number, the County Court, a majority of the acting justices being present, shall proceed to choose from the persons having the greatest and equal number of votes the person to be sheriff.

III. And be it further enacted, That in case of the failure of persons appointed to hold said election, or either of them, shall be competent for a justice of the peace and two freeholders to supply the vacancy.

IV. Be it further enacted, That the election of sheriff shall take place in each county every two years, subject to the same rules and regulations as prescribed in the preceding section of this act, and the County Courts, or a majority of the acting justices of the county being present, shall be a competent tribunal to decide all contested elections under this act.

V. Be it further enacted, That the person declared to be elected in manner aforesaid shall, in open court, at the same session at which he is so declared, enter into the bonds which now are, or hereafter may be required by law, and take the oaths prescribed by law for the qualification of sheriffs; and all such bonds shall be received by the court, no person declared to be chosen under this act shall be deemed to be sheriff, until he has taken the oaths and entered into the bonds which now are, or hereafter may be required by law, and if the sheriff elect shall fail or refuse to enter into the bonds which now are, or may be hereafter required by law, on or before the second day of the term, the court, a majority of the acting justices of the county being present, shall forthwith proceed to elect a sheriff, who shall enter into the several bonds required by law, and shall continue in office until the next regular election, and it shall be the duty of said County Court to require said sheriff to renew his bonds annually, and to produce the receipts from the Public Treasurer, county trustee and wardens of the poor, at the time being, in full of all moneys by him collected, or which ought to have been by him collected, for the use of the State and county, and for which he shall have become accountable, a majority of the acting justices being present at the renewal thereof, and a failure in the sheriff elect to renew his bonds, or to exhibit the aforesaid receipts, shall create a vacancy.

VI. And be it further enacted, That such person only, and no other, who is of the age of twenty-one years, and who has resided in the county in which he is chosen for one year immediately preceding his election, and shall be possessed of a freehold of at least one hundred acres of land in fee simple, shall be eligible to the office of sheriff.

VII. And be it further enacted, That the sheriff now in office in each county shall be and continue in office until the qualification of the first person elected in his county under this act, upon renewing his bonds for his additional term of service.

VIII. And be it further enacted, That if any sheriff elected under this act, shall be convicted in the Superior or County Courts of a misdemeanor in office, the court may, at their discretion, as a part of his punishment, remove him from office; and in any vacancy created by any means in the office of sheriff, it shall be the duty of the coroner of the county to execute all process directed to the sheriff until the first session of the County Court next succeeding such vacancy; and it shall be the duty of said County Court, at said session, a majority of justices being present, to elect a sheriff to supply the vacancy for the residue of the term of two years, who shall possess the same qualifications and enter into the same bonds, and be subject to the same removal, as the sheriffs regularly elected under this act; and should the court fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until said vacancy shall be filled.

IX. Be it further enacted, That any coroner required by this act to discharge the duties of sheriff, shall, before he enters on his duties as sheriff, at the County Court clerk's office, five or more justices being present, take the same oath and enter into the same bonds that now are, or may hereafter be required of sheriffs regularly elected; and the oldest or first appointed coroner in each county shall be considered the coroner to discharge the duties of sheriff, and the proceeding shall be entered on record by the clerk.

X. Be it further enacted, That a majority of the acting justices in the several counties are hereby required to meet at the County Court which shall first be held after the election of sheriff, whose duty it shall be to receive from the sheriff elect the several bonds prescribed by law; and no person shall be considered as entitled to enter upon the discharge of the duties of said office until the several bonds required by law shall have been received by a majority of the said justices.

XI. Be it further enacted, That all laws and clauses of laws coming within the purview and meaning of this act, be, and the same are hereby repealed; Provided always, that nothing herein contained shall be so construed as to repeal the law, or any part of the law, which renders the magistrates liable for neglecting to take sufficient bonds and securities of a sheriff or coroner.

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 when any judgment shall hereafter be obtained before a justice of the peace, upon any debt contracted by bill, bond, note or contract, for the payment of which any person shall have become liable as security, and the principal debtor shall desire to obtain a stay of execution thereof, but the security is unwilling that such stay shall be had, it shall be lawful for such original security to cause his dissent thereto to be entered by the justice granting the judgment; which shall absolve him from all liability to the security who may stay the same.

II. And be it further enacted, That it shall be the duty of the constable or other officer, who may have the collection of said debt, to make the same out of the property of the principal debtor, and that of the security for the stay of execution, before he resort to the property of the said original security.

III. And be it further enacted, That all laws coming within the purview and meaning of the provisions of this act, be, and the same are hereby repealed.

For every writ of habeas corpus or reference of any cause, 50

Do. every judgment, 75

Do. do. subpoena, provided the party insert no more than four witnesses in the same, 80

Do. every execution or order of sale, 40

For every scire facias, provided nothing herein contained shall be construed to repeal any part of the act of 1828 allowing half fees in cases of scire facias, 50

For every copy of record, 10 cents for each copy sheet of ninety words, not exceeding five copy sheets, and 5 cents for each copy sheet after five.

For every order or rule foreign to the cause, with copy of the same if required, 20 cts.

For entering the probate of a will on the minute docket, and qualifying the executor or administrators with the will annexed, 25 cts.

For recording will, for each copy sheet, 10 cts.

For copy of a will, do. do., 10 cts.

For receiving probate, and entering the same on the minutes of the court, of each inventory, account of sales and account current and schedule of executors, administrators and guardians, 25 cts.

For recording each do. in books for that purpose, by the copy sheet, 10 cts.

For every marriage license, 75 cts.

For every search of record out of court, 10 cts.

For proving or entering acknowledgment of any conveyance of land and other estate, 20 cts.

For every commission to examine a feme covert, 25 cts.

For every commission to take testimony, 25 cts.

For every guardian or other bond taken in court, 60 cts.

For every indenture for binding apprentices, 60 cts.

For every special verdict or demurrer or motion in arrest of judgment, 30 cts.

For every writ of error or appeal, with a transcript of record, \$1 00

For every certificate of witnesses attendance or jurors, 10 cts.

For recording mark or brand, 10 cts.

For affixing the seal of office to every instrument of writing requiring the same, 25 cts.

For every certificate, 20 cents: Provided, that this shall not authorize the clerk of the Court of Pleas and Quarter Sessions of Craven county to charge any fee for a certificate given according to the provisions of the act to regulate the finances of Craven county, passed, A. D. 1828.

For issuing warrants on entry of land by order of court, 40 cts.

For enrolling divisions of estates, for each lot, 20 cts.

For taking and recording every prosecution bond, 50 cts.

For every certificate of tavern license and bond with copy of rates, \$1 00

For taking an account, such sum as the court may allow, not exceeding fifty dollars.

For every subpoena founded on a petition, \$1 00

For every petition by the copy sheet, 10 cts.

For every writ other than leading process or subpoena ad testificandum, \$1 00

For certificate of amount of account of sales or account current of administrator, executor or guardian, if under \$200, 25 cts.

If above \$200, 40 cts.

For every order of court authorizing the sheriff to issue a license to retailers, 80 cts.

For correcting an error in a patent, 40 cts.

III. Be it further enacted, That any clerk who shall fail or neglect to record in a well bound book or books, to be kept for that purpose, all last wills, testaments and inventories and accounts of sales of administrators, executors and guardians, and accounts current of executors, administrators and guardian, within three months from the time of their probate, shall incur a penalty of one hundred dollars, to be recovered by any person suing for the same; and shall be further liable for all damages which may be sustained by any person in consequence of such failure or neglect.

III. Be it further enacted, That the clerks of the Superior Courts shall or like services receive the same fees as are by this act allowed clerks of the County Courts, and no other.

IV. Be it further enacted, That whenever a court shall make an order of sale of lands levied on by a constable in pursuance of an execution issued by a justice, no attorney's fee shall be taxed, nor any other fees for clerks or sheriffs, than those prescribed by this act.

V. Be it further enacted, That no clerk of any County or Superior Court shall be entitled to charge any fee for any capias or respondendum issued during term time, unless such capias be executed.

VI. Be it further enacted, That in all State cases where there shall be a nolle prosequi entered, or the defendants shall be acquitted or convicted, and unable to pay the costs, and the court shall not order the prosecutor to pay the costs, the counties shall pay the clerks and sheriffs half their lawful fees only, except in capital or clergyable felonies or prosecutions for forgery, perjury and conspiracy.

VII. Be it further enacted, That in all civil suits and indictments hereafter tried or disposed of either in the County or Superior Courts, the party or parties cast or convicted shall pay a tax fee of one dollar; which several sums the respective clerks shall pay over to the county trustees within three months after the same shall be by them received: Provided nevertheless, the plaintiffs in civil suits shall not be required to pay a tax fee on writs as heretofore: and provided further, that the provisions of this section shall not extend to the county of Nash.

VIII. Be it further enacted, That the sheriffs shall receive the following fees, and no others:

For every arrest, 75 cts.

For every bail or replevin bond, 25 c.

For service of a copy of a declaration in ejectment, 60 c.

For service of subpoens, with copy of petition, 60 c.

For serving copy of declaration, 10 c.

For service of every scire facias, 60 c.

For service of notice to arbitrators, referees or commissioners to take an account, 30 c.

For every attachment levied, 75 c.

And if further trouble by moving of goods, to be taxed by the court.

For every replevy bond upon such attachment, 25 c.

For every subpoena served, on each person named therein, 30 c.

For putting in stock or pillory, 50 c.

For every commitment, 50 c.

For every release, 50 c.

For summoning commissioners to divide real estate, and for qualifying them, to be paid in equal portions by the claimants, 50 c. each.

The fees for keeping each criminal in jail per day, to be allowed by each County Court as now directed by law.

For every notice of taking depositions, 30 c.

For summoning, empanneling and attending on every jury, in every cause in court, and calling the same, 10 c.

Where a special venire shall issue by order of court, for summoning each juror, and attending the same, 20 c.

For serving and attending on any person on a habeas corpus, per day, \$1 50

For selling the estate of an intestate, to be allowed by the court not exceeding two and a half per cent.

For executing a warrant of distress, or an execution against the goods or body, two and a half per cent.

For every writ of possession, \$1 00

For every levy by virtue of an execution, 75 c.

For the execution and decent burial of any criminal, 10 00

For services of equity process and incidental thereto, the same fees as for the like services at law.

For maintaining any slave or any criminal seized by virtue of any legal process, such sum as may be fixed by the County Court in each county in the State.

For apprehending any criminal, \$1 00

For conveying any criminal to the jail where such criminal ought to be conveyed, 10 cents per mile, and 5 cents for each person composing the guard, provided the number shall not exceed four persons; and if more than four shall be absolutely necessary, two cents per mile for said guard. For each day such sheriff shall maintain said prisoner, fifty cents; the expense shall be paid by the respective counties, when such prisoner shall not be liable or able to pay the same.

Provided, that nothing herein contained shall affect the provisions of an act, passed at the present session of the Legislature, providing compensation for jurors of the original panel in the counties of Beaufort and the other counties therein mentioned.

IX. Be it further enacted, That no sheriff of any county in this State shall charge a commission on any moneys collected on a judgment rendered by a justice of the peace, nor any other fees than those allowed by law to constables for similar services.

X. Be it further enacted, That the sheriffs of the respective counties within this State shall hereafter collect and receive all fines, amercements, forfeited recognizances and forfeitures on penal statutes, imposed, adjudged or decided by any of the courts in this State; and all sums of money by them so collected and received shall pay over to the respective county trustees or wardens entitled to receive the same, within three months after such moneys shall be so collected and received. To be applied to the discharge of county claims and contingent expenses as now by law directed.

XI. Be it further enacted, That the said sheriffs shall return a transcript at the time of settlement with the trustees, which shall contain the names of all persons from whom fines, forfeitures and amercements shall have been received.

XII. Be it further enacted, That the clerks of the several courts within this State shall annually, on or before the first day of January, in each and every year, make a full and complete return to the respective county trustees of all tax fees, fines, forfeitures and amercements, which shall have been imposed, adjudged or decreed in the preceding year, as well as the names of the persons who shall have paid fees as of all those who have been fined, amerced or adjudged to have forfeited their recognizances.

XIII. And be it further enacted, That the sheriff shall receive sixty cents for summoning each guardian to renew his bond or settle his accounts; which sum shall be paid by said guardians.

XIV. Be it further enacted, That all laws coming within the meaning and purview of this act, be, and the same are hereby repealed.

XV. And be it further enacted, That it shall be the duty of the clerks of the County and Superior Courts to keep a copy of this act posted up in their respective offices, and in the court house, in some conspicuous place during the sitting of each court, under a penalty of fifty dollars, to be recovered before any justice of the peace, by any person suing for the same.

Provided nevertheless, that the provisions of this act shall not affect any private act, passed for any county in this State, in relation to the fees of clerks and sheriffs.

XVI. And be it further enacted, That nothing herein contained shall be so construed as to prevent the several County Courts of this State from making just and reasonable allowances to their sheriffs and clerks, for performing what has been heretofore called extra service, as now authorized by law.

An act concerning the Commissioners of Public Works.

Whereas it is highly important that all expenditures for internal improvements should be known and accounted for:

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 the duty of all public agents, superintendents and commissioners, entrusted with the superintendence and direction of public works, and the disbursement of moneys appropriated thereto, to report annually, on or before the third Monday of November in each and every year, to the President and Directors of the Board for Internal Improvements the state and condition of the works committed to their superintendence or direction; and render a full and detailed statement and account of all sums of money disbursed by them.

II. Be it further enacted, That it shall be the duty of the several navigation, canal and turnpike companies, or bodies politic and corporate in this State, in which the State is or may be hereafter interested as a stockholder, and the said companies or bodies politic and corporate are hereby directed to make to the Board of Internal Improvements aforesaid, on or before the third Monday of November in each and every year, a true and faithful report, setting forth the amount of capital stock subscribed, the amount of stock subscribed by individuals, the amount subscribed by the State of North Carolina, the aggregate of the requisitions made on the stockholders, the amount of their subscriptions paid by individual stockholders, the amount paid by the State of North Carolina, the amount due from individuals on said subscriptions, and the amount due from the State; the amounts due from insolvent subscribers and stockholders, the amount expended in works by direction of the company, the amount due to the company otherwise than on account of stock, the amount of debts due by the company, the amount of cash remaining on hand, the amount of dividends declared, the time when such dividends were declared, and the portions thereof which remain unclaimed, and a general statement shewing the state and condition of the company.

III. And be it further enacted, That if any agent, superintendent or commissioner as aforesaid, or any navigation, canal or turnpike company or body politic and corporate as aforesaid, shall neglect or refuse to comply with the requisitions of this act, he, it or they shall forfeit and pay the sum of five hundred dollars, to be sued for by the Governor in his name to the use of the State, and recoverable in any court of record in this State.

An act amendatory of the law respecting the crime of Bigamy.

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 an act, passed in the year one thousand eight hundred and nine, entitled an act to amend the first section of an act, passed at Fayetteville, in the year one thousand seven hundred and ninety, entitled an act to restrain all married persons from marrying again whilst their former wives or former husbands are living, be, and the same is hereby repealed; and the act thereby amended is declared to be fully and entirely in force.

II. And be it further enacted, That whenever any person, who may be convicted under the aforesaid act, passed in the year one thousand seven hundred and ninety, entitled an act to restrain all married persons from marrying again whilst their former wives or former husbands are living, shall be entitled to the benefit of clergy, for the first offence, it shall and may be lawful for the court, before whom such person may be convicted, to sentence the offender to be fined and imprisoned, and to receive one or more public whippings, and to be branded on the left cheek with the letter B. Provided nevertheless, if any female shall be convicted of the crime of Bigamy, it shall be discretionary with the court to inflict all or any of the aforesaid punishments, branding excepted.

An act to amend the tenth section of an act, passed in one thousand eight hundred and nineteen, entitled an act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians.

Whereas, by the tenth section of the act aforesaid, purchasers cannot obtain grants for said lands, on any evidence of the payment of the purchase money save that of the Treasurer's receipts; and whereas many of the purchasers have lost, or by

accident have had some of their receipts destroyed: For remedy whereof.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the certificate of the Public Treasurer, certifying that full payment has been made for any particular tract of land sold by the commissioners appointed to sell the lands aforesaid, describing the same by district and section, shall be taken by the Secretary of State as evidence of payment; on which he is authorized to issue grants as by law he is now authorized to issue on the production of the Treasurer's receipts.

REPORT OF THE POSTMASTER GENERAL, Post Office Department, 24th November, 1892.

To the President of the United States.

That I have the honor to submit the following report of the state of this Department:

The General Post Office was established July 26, 1773. There was then but one class of post, extending from Edinboro, in New England, to Savannah, in Georgia, and the Postmaster General was authorized to establish such extra posts as he should think proper.

In October, 1783, the Postmaster General was required, by Act of Congress, to cause the post to be carried once a week to all the Post Offices and by the same Act he was authorized to make provision for the transmission of newspapers by mail.

When the Federal Government was organized under the present Constitution, in 1789, the Post Office establishment was revised and reorganized. Three sections, and in the close of 1793, only seventy-five Post Offices in the United States. At the extent of Post Roads in the United States, in 1790, amounted to 1873 miles. Now, the number of Post Offices is eight thousand and four, and the Post Roads amount to 115,000 miles.

The first line of mail coaches in the United States, was established in pursuance of an Act of Congress, passed September 7, 1783, extending from Portsmouth, in New Hampshire, to Savannah, in Georgia. The transportation of the mail in coaches amounts, at this time, to 6,307,818 miles in one year, and from the first day of January, it will be increased to 6,735,000 miles. The whole yearly transportation of the mail in coaches, mules, and on horseback, amounts to about 18,700,000 miles.

The whole amount of postage, (the only source of revenue to the Department), from 1789 to July 1, 1892, was, \$26,441,498

The whole expenses of the Department, during the same period, were as follows:

Compensation to Postmasters \$7,823,922

Incidental Expenses, 385,962

Transportation of the Mail 16,232,514

24,442,398

Leaving an aggregate amount of revenue of \$1,602,091

The Revenue of the Department is accounted for, as follows:

Amount of the several payments into the Treasury from 1789 to 1892, \$1,103,000

Amount of the losses in the transmission of moneys during the same period, 47,343

Balance, as exhibited, on the books of the Department, on the 1st of July, 1892, 451,800

\$1,602,091

From this statement it appears that the Department has always been sustained by its own resources, and that no money has, at any time, been drawn from the Treasury for the transportation of the mails; but that it has contributed to the revenue of the Government.

The sums paid into the Treasury by the different Postmaster Generals are as follows:

By Timothy Pickens, from December, 1773, to March, 1779, 47,400

By Joseph Habersham, from June, 1775 to September, 1801, 983,810

By Gideon Gaenger, from December, 1801, to December, 1813, 901,570

By Return J. Meigs, from March, 1813, to June, 1825, 887,800

By John McLane, from July, 1825, to December, 1829, 16,400

Making together the foregoing sum of 3,106,080

The balance of \$441,600 dollars, exhibited by the books of this Department, on the 1st of July, 1892, covers all the balances due from Postmasters and others, of every description; which have been accumulating, for forty years, including those of the most doubtful and many of a desperate character. The Report of the late Postmaster General exhibited a balance of \$38,100 dollars 10 cents, as the amount of moneys due, at the expiration of the Department, on the 1st of July, 1829. The amount exhibited by the books of the Department on that day, is \$165,394 dollars, from which it appears that the sum of \$227,294 dollars, of old balances, was estimated to be either desperate, or of so uncertain a character, that no reliance could be had upon any part of it; and it is believed, from examination, that this estimate did not essentially vary from what will prove to have been the actual amount of losses from 1780 to 1829.

To the above amount of 283,200

Must be added this sum, due for postage prior to July 1, 1829, which is since found to be desperate, 68,935

Counterfeit money found on hand 2,654

Notes of broken banks 1,672

4,326

Making together the total amount of losses by bad debts and bad money, 310,830

Which sum, deducted from the above mentioned balance of 241,600

Leaves the actual balance, on the 1st of July, 1892, 80,770

The fractions in this statement being omitted.

The amount of moneys on hand, and due from Postmasters including judgments obtained on old accounts, was reported by the late Postmaster General to be, on the 1st of July, 1892, 370,033 87

He also reported an excess of expenditures beyond the amount of receipts for the year ending the 1st of July, 1892, of 37,983 97

Leaving a balance of moneys on hand, and due from Postmasters, including judgments obtained on old accounts, on the 1st of July, 1892, of 408,017 84

The amount of postage from July 1, 1892, to July 1, 1893, is found to be 1,707,418 40

The expenditures of the Department for the same period, are as follows:

Compensation to Postmasters 659,537 39

Transportation of the Mail 1,123,646 21

Incidental expenses 60,940 98

1,744,124 58

Shewing, in the amount of expenditures from July 1, 1892, to July 1, 1893, an excess beyond the amount of receipts, admitting that every cent of postage of the last year shall be collected, of 75,716 45

Add amount of bad debts, as before mentioned 310,830 50

And amount of bad money 4,326 38

80,547 38

101,294 76

Leaving the true balance of moneys on hand at the disposal of the Department, on the 1st of July, 1893, provided no further losses shall be sustained in the collection, viz:

Cash in deposit 136,466 86

Balance due from Postmasters 80,827 90