STAR, AND NORTH CAROLINA STATE GAZETTE.

NO. 6 RALEIGH, N. C. THURSDAY, FEBRUARY 3, 1831 VOL. XXIII

LAWS OF NORTH CAROLINA,
Passed in 1830–31.

(BY AUTHORITY.)

An act for the relief of the University of North Carolina.

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 President and Directors of the Literary Fund be, and they are hereby authorised and required to loan to the Trustees of the University of North Carolina twenty-five thousand dollars, for the term of five years, in three instalments: one of nine thousand dollars, payable after the passage of this act; one of eight thousand, payable in three months thereafter; and one of eight thousand, payable in six months thereafter: *Provided*, the said Trustees shall cause to be executed by the President of their Board a bond, under their corporate seal, for the said sum, bearing interest from date, and payable within the period aforesaid.

II. *And be it further enacted*, That the sum loaned as aforesaid shall, and the same is hereby declared to be a lien upon all the estate, both personal and real, of which the said trustees are possessed or in any wise entitled, or which shall hereafter accrue to them, until the whole of the principal and interest of the sum loaned as aforesaid shall be fully satisfied by the said Trustees to the said President and Directors.

III. *And be it further enacted*, That the President and Directors be, and they are hereby authorised and required to direct the Public Treasurer to pay over to the said Trustees the sum aforesaid out of the Literary Fund, whenever the said Trustees shall signify in writing their assent to the terms expressed in the second section of this act, and shall cause to be executed the bond as herein before directed.

IV *Be it further enacted*, That the Public Treasurer shall not pay to the Trustees of the University the aforesaid sum of twenty-five thousand dollars, or any part thereof, until the said Trustees signify in writing by the President, under their corporate seal, their assent, that the Legislature may at any subsequent session modify or alter the charter of said institution, so as to assume to the State the management of said institution, and the possession and disposition of all its property, real and personal.

V. *Be it further enacted*, That said Trustees are hereby required to apply the money borrowed by them under the provisions of this act, or such portion thereof as is necessary, to the discharge of all debts for which they may have heretofore given any mortgage or other lien upon their property, either real or personal, or any part thereof.

VI. *And be it further enacted*, That this act shall take effect and be in force from and after the passage thereof.

An act to amend an act, passed in the year one thousand eight hundred and twenty-nine, entitled "An act to vest the right of electing Sheriffs in the several counties within this State, in the free white men thereof."

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 before recited act be so amended as to require the sheriffs elect as aforesaid to prepare and tender to the court such bonds as are now, or may hereafter be required by law, on or before the second day of the court, at or before four o'clock in the afternoon of the said second day of the court; and in case a majority of the justices of the peace of such county shall not be present, then and in that case the sheriff elect as aforesaid shall give bond at or before two o'clock of the third day of the court, under the same rules and regulations as are now prescribed by law; and in case any sheriff elect as aforesaid shall refuse or neglect to comply with the provisions of this act, the court (a majority of the justices of the peace being present) shall proceed to elect a sheriff under the same rules and regulations as are prescribed in the above recited act.

II. *Be it further enacted by the authority aforesaid*, That hereafter no person shall be eligible to the office of sheriff in any county in this State, who has been or hereafter shall be sheriff of such county, and has failed to settle with, and fully pay up to every officer the taxes which by law were due from him; nor shall any court permit any such former sheriff to give bond for, or re-enter upon the duties of said office, until he has produced before said court the receipt in full of every officer aforesaid for such taxes.

III. *Be it further enacted by the authority aforesaid*, That no person shall be eligible to the office of sheriff, who shall not have possessed the freehold mentioned in the before recited act for the space of six months next before and immediately preceding the day of his election, and shall continue to hold said freehold during his term of office.

IV. *Be it further enacted by the authority aforesaid*, That the return of votes given for sheriff, which by the before recited act is required to be made to the clerk of the County Court separate and apart from the votes given for members of Assembly, shall be made by the receiving officers to such clerk within the time fixed by law for making the returns of election for members of Assembly.

V. *And be it further enacted*, That it shall be the duty of clerks to attend on such day and place to receive said returns of the votes for sheriff.

VI. *And be it further enacted*, That no person who shall have been convicted of felony or the crimen falsi, shall be capable of voting for a sheriff.

An act to explain and amend the act of one thousand eight hundred and twenty-two, relative to insolvent debtors.

Whereas doubts have arisen as to the manner in which a person may be discharged, against whom a jury have found fraud or concealment, and who is adjudged, under the act of one thousand eight hundred and twenty-two, to be imprisoned until a full and fair disclosure is made:

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 where any debtor, upon the finding of a jury that there is fraud or concealment, now is, or hereafter may be adjudged to be imprisoned until a full and fair disclosure be made, such debtor, upon making a full and fair disclosure in writing of all the money, property or effects, and upon giving the necessary notice, shall be discharged according to the provisions of the act of one thousand eight hundred and twenty-two, by taking the following oath: I, A. B. do solemnly swear that the disclosure now by me made and subscribed doth contain a full and true account and discovery of all the estate, goods and effects unto me in any way belonging, and of all debts unto me owing, or to any person in trust for me, and of all securities or contracts, whereby any money become payable, or any benefit accrue to me, or to any person in trust for me; and that I, or any person in trust for me, have [illegible] land, money or other estate in possession, reversion or [illegible]er, not hereby fully disclosed; and that I have not, directly or indirectly, sold, assigned or otherwise disposed of in trust [illegible]ealed any land, money or other estate, not herein fully disclosed, whereby to secure the same, or to expect or receive any advantage thereof: So help me God.

Be it further enacted, That the money, debts and other property contained in such disclosure, shall be vested and disposed in the same manner as is now provided by law for the money, and other property contained in the schedules filed by insolvent debtors.

Be it further enacted, That no debtor shall be entitled to the benefit of this act, provided the creditor shall give bond and security to the jailor for the jail fees of such debtor, in case the debtor shall not be able to pay the same.

IV. *Be it further enacted*, That should the creditor, at whose instance the debtor was arrested, think that a full and fair disclosure is not made by said debtor in writing, it shall and may be lawful for the creditor to have an issue made up under the direction of the court, and tried in the same manner as in cases where there is a suggestion of fraud or concealment of property, money or effects; and in the event of the jury finding against the debtor, his imprisonment shall be continued, as is provided by the act to which this is an amendment.

An act directing the manner in which jurors may be summoned in certain cases.

Whereas doubts exist whether the judges of the Superior Courts of Law have the authority to issue, during the time of any of said courts, special writs of venire facias, to some day of said term, for the purpose of compelling the attendance of a sufficient number of jurors on the trial of any person charged with a capital offence; and whereas it is highly expedient and necessary that they should possess such authority:

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 whenever any judge of the Superior Courts shall deem it necessary to a fair and impartial trial of any person or persons charged with a capital offence, he is hereby authorised and empowered to issue to the sheriff of the county in which such court may be, a special writ of venire facias, commanding him to summon such number of the freeholders of said county which he, the judge, may deem sufficient, (such number being designated in said writ,) to appear on some specified day of said term, as jurors of said court; and it shall be the duty of the sheriff to proceed forthwith to execute said writ, and return it to the clerk of said court on the day to which the same shall be returnable, with the names of the jurors he shall have summoned.

II. *Be it further enacted*, That if any sheriff shall neglect or fail duly to execute and return such writ of venire facias, he shall be fined by the court not exceeding one hundred dollars; and all jurors so summoned, shall attend from day to day, until discharged by the court, under the same rules, regulations and penalties as are now prescribed by law for other jurors; any law, usage or custom to the contrary notwithstanding.

An act to repeal part of the second section of an act, passed in the year one thousand eight hundred and six, chapter seven hundred and eight, entitled an act to revise the militia laws of this State.

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 so much of the above recited act as exempts Quakers, Moravians, Dunkards and Menonists, religiously scrupulous of bearing arms, from militia duty, shall be, and the same is hereby repealed from and after the first day of August next.

II. *Be it further enacted*, That every inhabitant of this State of any religious denomination, subject to militia duty, but who from scruples of conscience shall be averse to bearing arms, and shall refuse personal military service, shall be exempt therefrom, except in time of insurrection or invasion, on paying annually the sum of two dollars and fifty cents for such exemption.

III. *Be it further enacted*, That any person claiming the benefit of the aforesaid exemption, shall, at the usual time of taking the lists of taxable property, make known his intention to the magistrate receiving the same, whose duty it shall be to report the name of every such person in the list returned by him to court, and to give such person a certificate of that fact, and of his consequent exemption from military duty.

IV. *Be it further enacted*, That the sheriffs shall collect the said sum of two dollars and fifty cents of every person reported as aforesaid, and account for the same to the Public Treasurer in like manner with other public taxes.

V. *Be it further enacted*, That all sums of money received under the provisions of this act shall form a part of the Literary Fund, and be applied by the Public Treasurer accordingly.

VI. *Be it further enacted*, That all persons claiming exemption from military duty under this act, shall be enrolled and kept on the muster roll, and returned with the return of militia to the Adjutant General.

An act to repeal the second section of an act, entitled "an act to limit the term of office of certain officers therein named," passed in the year one thousand eight hundred and twenty-two, and also to amend said act.

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 second section of an act, passed in the year one thousand eight hundred and twenty-two, entitled "an act to limit the term of office of certain officers therein named," be, and the same is hereby repealed and made void, except so far as respects the clerks of the Superior Courts of Law in this State.

II. *And be it further enacted*, That each and every officer mentioned in the first section of the aforesaid act, (except clerks of the Superior Courts,) passed in the year one thousand eight hundred and twenty-two, who was in office at the passage of said act, and who has continued in office until this time, may be removed from office by the courts to which they belong, or by which they were respectively appointed: *Provided*, that no Court of Pleas and Quarter Sessions in this State shall remove any officer belonging to said court, or who was appointed by such court, unless a majority of the acting justices of the peace in and for said county shall concur in the removal of such officer.

III. *And be it further enacted*, That no clerk of the Supreme Court, clerk or master in equity, or clerk of the Court of Pleas and Quarter Sessions, county solicitor, register, surveyor or entry-taker shall be removed from office until he shall have had three months' notice in writing of his intended removal; which notice shall be signed by one of the judges, if the officer to be removed be an officer of the Supreme Court or Court of Equity; and if the officer intended to be removed, be an officer of any Court of Pleas and Quarter Sessions in this State, or shall have been appointed by any Court of Pleas and Quarter Sessions, five justices at least of the Court of Pleas and Quarter Sessions to which the officer belongs, or by which he was appointed, shall sign the notice to be served on the officer intended to be removed.

IV. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby declared null and void.

An act to amend the several laws now in force in this State regulating quarantine.

Whereas it has been highly necessary and essential to the welfare and safety of the good people of this State that merchant vessels, or ships coming by sea, from other States or countries, with free persons of colour, acting as mariners or stewards, or in any other employment or capacity, on board such vessel or vessels, should perform quarantine, and that means be adopted to prevent such persons of colour from coming into this State, or from communicating with the coloured people of this State:

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 ships or vessels coming into any port of this State by sea from any port or place in any other State or country, having on board any free negro or free person of colour, not being an inhabitant or inhabitants of this State, employed as a steward, cook, mariner, or in any other capacity, or as a passenger, shall be subject to quarantine for the space of thirty days; nor shall it be lawful for any negro or person of colour residing in this State to go on board such ship or vessel while riding quarantine, or to have communication with any such coloured person on board of such vessel for any purpose whatever while she is so riding quarantine.

II. *And be it further enacted*, That whenever any ship or vessel shall arrive at any port in this State, having on board any free negro or person of colour as aforesaid, it shall be the duty of the pilot conducting said ship or vessel, and of the captain, commander or chief officer on board such ship or vessel to stop and moor her at the usual quarantine ground of such port; and if any captain, commander or chief officer of any such ship or vessel as aforesaid shall refuse or neglect to stop and moor his ship or vessel as aforesaid, he shall forfeit and pay the sum of five hundred dollars, to be recovered by and in the name of any persons suing for the same, and shall be liable to indictment, and on conviction shall be fined and imprisoned at the discretion of the court before whom he may be tried.

III. *And be it further enacted*, That if any free negro or person of colour on board any ship or vessel coming into any port in this State from any other State or country shall before the expiration of thirty days from the arrival of the vessel on board which he or she may be, shall go on shore, or if any slave or free negro or person of colour residing in this State shall have any communication by words or writing with such free person of colour while on board such ship or vessel, the captain, commander or chief officer of such ship or vessel shall forfeit and pay the sum of five hundred dollars, to be recovered by and in the name of any person suing for the same.

IV. *And be it further enacted*, That if any free negro or person of colour so coming in such ship or vessel, shall come on shore or have any communication with any person of colour residing in this State while the said ship or vessel shall be riding quarantine as aforesaid, such negro or person of colour shall be immediately apprehended and committed to the common jail of the county where he, she or they may be apprehended; and the magistrate or intendant of police of any city or town within this State or any judge or justice of any Superior or inferior Court of this State is hereby authorised to issue a warrant or warrants to any sheriff or constable within this State for the apprehension of such free negro or person of colour, and to commit him, her or them to any common jail within this State as aforesaid, there to remain until the said ship or vessel shall be actually departing from the waters of this State, or shall be hauled off from the wharf and ready to proceed to sea, or until he, she or they shall be otherwise discharged by law.

V. *And be it further enacted*, That if any negro or person of colour shall communicate with any free negro or person of colour so coming into this State, while the said ship or vessel is riding quarantine as aforesaid, such negro or person of colour so offending shall be forthwith arrested by a warrant to be issued by the authorities, and in manner herein before provided and directed; and if a slave, on conviction thereof before any intendant, judge or justice as aforesaid, before whom the said warrant shall be made returnable, shall be sentenced to be whipped not exceeding thirty nine lashes; and if a free negro or person of colour, shall be indicted in any court having cognizance thereof, and on conviction shall be punished by thirty-nine lashes on his or her bare back.

VI. *And be it further enacted*, That when said vessel is ready to sail, the captain of the said vessel shall be bound to carry away the said free negro or person of colour, and to pay the expenses of his detention; and in case such captain shall refuse or neglect to pay the said expenses, and carry away the said free negro or person of colour, he shall be liable to indictment, and on conviction shall be fined five hundred dollars.

VII. *And be it further enacted*, That every free negro or person of colour coming into this State as aforesaid, and who shall not depart the State, in case the captain refusing or neglecting to carry him away within ten days after the vessel in which he came has departed, shall be liable to indictment, and on conviction before any court having cognizance thereof shall be whipped not exceeding thirty-nine lashes, and be further liable to the penalties now by law in force against free persons of colour coming into this State.

VIII. *And be it further enacted*, That all free negroes or persons of colour, and all other persons, shall be exempt from the operations of this act, where such free negroes or persons of colour have arrived within the limits of this State by shipwreck or stress of weather or other unavoidable accident; but such free negroes or persons of colour and other persons nevertheless shall be subject to all the penalties of this act, and all others imposed on free persons of colour coming into this State, if the requisites of the same be not complied with within one month after such shipwreck, stress of weather or other unavoidable accident.

IX. *And be it further enacted*, That this act shall not be construed to extend to any free American Indian.

X. *And be it further enacted*, That the foregoing sections of this act shall not be in force until the first day of June next.

XI. *And be it further enacted*, That no part of this act shall be construed to extend to any national vessels of war, or to any free negro or person of colour employed on board thereof.

XII. *And be it further enacted*, That the city councils or corporate authorities of the cities or towns of this State respectively be, and they are hereby authorised and empowered by ordinance or otherwise to ordain and make such other provisions and regulations as may be necessary for carrying into full effect the provisions and true intent and object of the foregoing sections of this act: *Provided*, that the same be not contrary to the Constitution or laws of this State.

An act to establish a Superior Court of Law and Court of Equity in the county of Macon, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the county of Macon be, and the same is hereby added to the sixth Judicial Circuit, and that there shall be a Superior Court of Law and Court of Equity held in the court house of said county on the second Monday after the fourth Monday in September next, and on the second Monday after the fourth Mondays of March and September annually thereafter, with the same powers and jurisdiction of all the other Superior Courts of Law and Equity in this State.

II. *Be it further enacted*, That a clerk and clerk and master in equity of the said courts shall be appointed by the Judge holding the same at the first term thereof. The said clerk and clerk and master in equity shall take the same oaths and give the like bonds as are now prescribed by law in like cases; and the County Court of said county of Macon shall appoint thirty jurors to attend the court hereby established, in the same manner that jurors are appointed to attend the other Superior Courts of this State.

III. *Be it further enacted*, That all civil causes in the Superior Courts of Law and Equity for Haywood county now pending, the plaintiffs in which causes reside in Macon county, and also all actions of ejectment trespass quare clausum frigit for or concerning lands lying in Macon county, shall be transferred to the Superior Courts of Law and Equity of Macon county.

IV. *Be it further enacted*, That the Superior Courts of the several counties herein after mentioned shall, after the next Spring circuit, be opened and held on the days following in each and every year, to wit: in the county of Buncombe, on the third Monday after the fourth Mondays of March and September; in the county of Rutherford, on the fourth Monday after the fourth Mondays of March and September; in the county of Lincoln, on the fifth Monday after the fourth Mondays of March and September; in the county of Iredell, on the sixth Monday after the fourth Mondays of March and September; in the county of Mecklenburg, on the seventh Monday after the fourth Mondays of March and September; in the county of Cabarrus, on the eighth Monday after the fourth Mondays of March and September; and all process and proceedings of every kind, depending in and issued from any of the said Superior Courts at the time when the alteration of the terms thereof above prescribed shall take effect, shall stand continued and be returnable accordingly; any law to the contrary notwithstanding.

V. *Be it further enacted*, That nothing in this act contained shall be so construed as to prevent the trial of any cause in the Superior Court of Haywood at the next term thereof.

VI. *And be it further enacted*, That all acts and clauses of acts coming within the meaning and purview of this act, be, and the same are hereby repealed.

An act to amend an act, passed in the year one thousand eight hundred and twenty-six, entitled "an act to prohibit trading with slaves, except in the manner therein prescribed."

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 word "and," immediately following the words white oak heading, in the first section of said act, shall be construed "or."

CONGRESS.

HOUSE OF REPRESENTATIVES.

Thursday, Jan. 20, 1831.

Mr. Hall, of North Carolina, from the Committee on public Expenditures, in obedience to instructions, reported a bill to establish a uniform rule for computing the mileage of members of Congress and delegates from Territories.

The bill having been read a first and second time,

Mr. Chilton submitted an amendment which went to reduce the per diem allowance of members of both Houses of Congress to 6 dollars per day, and 6 dollars for every 20 miles travelled, going and returning from their duties.

Mr. Chilton did not intend to say one word on this amendment, unless called on by some member of the House for explanation. He was desirous that each member of the amendment should stand on its own individual merits; and for that purpose he would move a division of the question. The proposition to limit the charge for mileage to six dollars for every twenty miles, he had no doubt would meet the approbation of all.

Mr. Speight rose to express his regret that the honorable gentleman from Kentucky had thought it his duty to offer the amendment. He trusted he had too much respect for the rules of the House to impute improper motives to any gentleman. But one thing was certain, if the amendment was agreed to, it would finally kill the bill. He was bound to believe that the honorable gentleman was actuated by no other motives but those of patriotism and love of country. But it did seem strange indeed that the gentleman, with all his ardor for retrenchment and reform, should not see the impropriety of tacking this amendment to the bill. The subject of the gentleman's amendment was sufficiently tested at the last session, and he voted for it, and would again most willingly if brought forward in a separate and distinct proposition. He must now vote against it, because he well knew if it was agreed to, it would kill the whole bill. Sir, there had been much said here in relation to the abuse of the law as it now exists in relation to mileage; and after all, gentlemen had been able to lay their hand on but one single case; and for this the House had been agitated for near two weeks with retrenchment and reform; and now when his honorable colleague has brought forward a bill, the only one which can correct the evil if it exist, the gentleman from Kentucky, the introducer of the subject, offers an amendment which he should know would kill the bill. It was not necessary for gentlemen to raise such hue and cry about the per diem and mileage of members. The people do not complain of it. He would venture that gentlemen might go forth into the country, and they would find that the compensation of members of Congress did not enter into the list of their grievances; and the noise and confusion which some gentlemen make here about retrenchment and reform, and especially the mileage of members, was like the old adage,

"Ocean into tempest tost,
To wait a feather or to drown a fly."

He repeated that his honorable colleague had devised the present remedy. He had marched up to the point, and now the friends of *reform* were challenged to come forward and join. Sir, what does the bill propose? It is made the duty of the Secretary of the Senate and Sergeant at Arms of the House of Representatives, with the aid of the Postmaster General, to ascertain the number of miles in a direct line from the Capitol to each member's house, and pay him accordingly. This, sir, is the only effectual remedy you can choose. If your present law is subject to the abuse which the gentleman complains of, there is no law but such as the present that will have any effect. He entreated the gentleman to withdraw his amendment, and let us pass the present bill, and if he will bring forward a separate and distinct proposition embracing his amendment, he would support it, and his colleague will vote for it. He could not resume his seat without repeating his extreme regret, that the gentleman had offered the amendment, and must take this occasion to say, although in favor of it from principle, he should, if it was pressed, vote against it for the reason he had stated.

Mr. Chilton begged leave to state to the gentleman from North Carolina, (Mr. Speight,) that it was not with the intention of killing the bill that he had made the proposition to amend.

Mr. Speight here denied having charged him with that intention; he had stated that, in his opinion, such would be the effect of his amendment.

Mr. Chilton continued—he thought that the amendment should be adopted; that it was calculated to subserve the public interest. It was true, when he first introduced this measure of retrenchment, he was not as well acquainted with matters and things as he now is; but he was still of

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