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THE CONSTITUTION AND THE LAWS—THE GUARDIANS OF OUR LIBERTY

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No. 2332.

THE STAY LAW.

An act to change Jurisdiction of the Courts and the Rules of Pleading therein.

Section 1. 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 first day of July, A. D. 1866, the several Superior Courts of law shall have exclusive original jurisdiction to hear, try and determine all causes of civil nature not cognizable before a justice of the peace, and arising out of contracts entered into before the first day of May, in the year 1865, except when the proceedings shall be by attachment: Provided that nothing herein contained shall prevent a Court of Pleas and Quarter Sessions from empannelling a jury to try controversies respecting wills upon issues *de sivoit vel non*. Provided further, That all writs of debts, assumpsit, covenant and account issued to Spring Term, 1866, shall be returned to Fall Term, 1766: Provided further, That in all suits, *ex contractu*, the defendant or defendants shall be allowed six months from the return term to plead or demur.

Sec. 2. Be it further enacted, That in all cases committed to the exclusive jurisdiction of the Superior Courts of law, by section first of this act, where suits have already been brought and are now pending in any of the said courts, it shall be the duty of the court to give the defendant further time for trial, until the Spring Term of 1867, when the same shall stand for trial as other suits; in all other cases, suits may be brought and prosecuted to judgment according to the regular course of the court.

Sec. 3. Be it further enacted, That in all cases as aforesaid, pending in the Superior Courts, in which judgments have been heretofore taken, or may be hereafter taken in the Superior Courts, and upon which executions have issued or may issue, it shall be the duty of the sheriff or other officer in whose hands such executions have been or may be placed for collection, to endorse a levy upon the property of the defendant or defendants sufficient to satisfy the same, and return such execution without making a sale; and upon said return, it shall be the duty of the clerk, 60 days before the next term of the court to issue a *venditioni exponas* or *feri facias*, at the election of the plaintiff, returnable to the next term of the court for the costs, and one-fifth of the sum recovered; and all alias executions upon judgments heretofore taken, shall be returnable in like manner, and shall issue for the like proportion of the judgments. Provided, Nothing contained in this section shall be held to revive dormant judgments.

Sec. 4. Be it further enacted, That upon the return of execution as aforesaid, it shall be the duty of the clerk, sixty days before that term of the court which is held twelve months from the term to which such execution was returned, to issue another *venditioni exponas* or *feri facias*, at the election of the plaintiff, returnable to said term for one-fourth of the remainder of the sum recovered, and interest thereon; and upon said return, it shall be the duty of the clerk sixty days before that term of the court which is held twelve months after said return, to issue execution as aforesaid for one-half of the remainder of the sum recovered, and interest thereon; and upon said return, it shall be the duty of the clerk, sixty days before that term of the court which is held twelve months after said return, to issue execution as aforesaid for the remainder of the sum recovered and interest thereon: Provided, That if the defendant shall pay into office, or file before the clerk, a receipt from the plaintiff therefor, any one of said instalments, before the time fixed for issuing execution as aforesaid, in such case execution shall be stayed for said instalment: And, provided further, That the judgment shall constitute a lien on the land of the defendant until said judgment is satisfied, or the lien discharged by the act or laches of the plaintiff.

Sec. 5. Be it further enacted, That so

much of the 17th section, chapter 105, of the Revised Code, as subjects a sheriff to a penalty of one hundred dollars for not executing and returning process, be, and the same is hereby repealed, except as provided in this act, as to all penalties which may be alleged to have been incurred by a compliance with the provisions of this act.

Sec. 6. Be it further enacted, That it shall be the duty of all constables and other officers to levy any execution which may be in their hands, issued upon judgments heretofore rendered by magistrates, and to return the same together with said levies to the justices of the peace who issued the same, or to some other magistrate in said county, whose duty it shall be, upon the application of the plaintiff, to issue a *venditioni exponas*, returnable not sooner than twelve months from the date thereof, and for the like proportion of the sum recovered, as herein before prescribed on execution issued from the Superior Courts, and so from twelve months to twelve months until the judgment is satisfied: Provided, however, That when there is no personal property, or not sufficient to satisfy the plaintiff's demand, it shall be the duty of such officer to levy the execution on the defendant's land, and when there is no personal property, or the same shall have been exhausted by sales as herein directed, to return the same to the next Superior Court of the county, where the same proceedings shall be had as in cases of original jurisdiction in enforcing payment by execution.

Sec. 7. Be it further enacted, That hereafter all civil warrants issued by justices of the peace, where the proceeding is not by attachment, shall be made returnable for trial twelve months after the date of issuing such warrant, and not before; and no justice of the peace shall have power or jurisdiction to try any such warrants before the expiration of twelve months from issuing the same: Provided, That the defendant is a resident of the State; and all executions issued by a justice of the peace, shall be made returnable twelve months from the issuing of the same; and upon trial of such warrant either party may appeal from the judgment to the next succeeding term of the Superior Court by giving security as is now provided by law, in cases of an appeal from justices' judgment; and upon judgment there had, according to the course of the court; and upon all judgments given by a magistrate and an appeal therefrom, execution shall issue and be returnable in like manner and time, and for the like proportion of the sum recovered as herein before provided, where suit is brought in the Superior Court: Provided, however, That all proceedings before any justice or justices for any forcible entry or detainer, or against any other person holding over against a landlord, or in any other case founded in tort, where jurisdiction has heretofore been given, or may hereafter be given to one or more justices to existing law, shall not be subject to the provisions, but all such cases may be prosecuted by judgment and execution in the manner prescribed by law prior to the 11th September, 1861, or as provided in any act or acts touching such wrongs and conferring such jurisdiction.

Sec. 8. Be it further enacted, That if any sheriff, clerk or other officer, violate any of the provisions of this act, he shall forfeit the sum of two hundred dollars, to be recovered by any person suing for the same in the name of the State, and shall also be subject to indictment for misdemeanor.

Sec. 9. Be it further enacted, That none of the provisions of this act shall apply to the collection of the State or county revenue, or repeal any of the existing modes or remedies provided by law for the collection of the same.

Sec. 10. Be it further enacted, That the tax levied upon justices' judgments, returnable to the Superior Court, shall be the same as is now taxed in the several County Courts.

Sec. 11. Be it further enacted, That the time of four years be extended to executors

and administrators, wherein to settle the estates of their testators or intestates, and a further time in which to plead, at the discretion of the courts.

Sec. 12. Be it further enacted, That the provisions of this act, extending the time of pleading and the return of executions, shall not apply to cases arising under chapter 7, Revised Code, entitled *attachment*; but proceedings may be instituted and prosecuted to judgment and execution in all respects as is provided in the said chapter, or any act or acts since passed, concerning attachments.

Sec. 13. Be it further enacted, That any action or suit heretofore brought under any existing law, returnable to the next fall term of any Superior Court of law or equity, shall be deemed to have been properly brought to said courts as if instituted after the next spring term of said courts, and shall be proceeded with according to the provisions of this act.

Sec. 14. Be it further enacted, That an act, entitled "An act to change the jurisdiction of the courts and the rules of pleading," ratified the 17th day of September, 1861, and also an act entitled "An act to restore the courts and for other purposes," ratified the 14th December, 1863, be and the same are hereby repealed; and, except as herein otherwise provided, full jurisdiction, civil and criminal, as conferred in the County Courts, and the said Superior Courts of Law and Equity, in the Revised Code shall be and the same is hereby restored: Provided, That no one of the provisions of this act, save the first section thereof, shall apply to suits upon the official bonds of sheriffs, coroners, constables, clerks of the County and Superior Courts, and clerks and masters in Equity, nor debts contracted since the first day of May, 1865; but the remedy in such cases shall remain as it existed in the year 1860.

Sec. 15. Be it further enacted, That in all suits brought by any bank of the State, or by any assignee or endorsee of said bank, or any officer of said bank, that it shall and may be lawful for the defendant or defendants, to set off, by plea or on trial, any note issued by said bank or its branches, whether the same has been presented for payment or not, any law or usage to the contrary notwithstanding, but said plea of set off, or set off on trial, shall not avail to carry costs against the plaintiff, unless there has been a tender of such payment before suit has been brought: Provided, That this act shall not apply to any debt reduced by the scale of depreciation of Confederate currency. [Ratified on the 10th day of March, 1866.]

SCALE OF DEPRECIATION.

A bill to be entitled An act to establish a Scale of Depreciation of the Confederate Currency.

Whereas, By an ordinance of the Convention, entitled "An ordinance declaring what laws and ordinances are in force, and for other purposes," ratified on the 18th day of October, A. D. 1865, it is made the duty of the General Assembly to provide a scale of depreciation of the Confederate currency from the time of its first issue to the end of the war; and it is further therein declared that "all executory contracts, solvable in money, whether under seal or not, made after the depreciation of said currency before the 1st day of May, 1865, and yet unfulfilled, (except official bonds and penal bonds payable to the State,) shall be deemed to have been made with the understanding that they were solvable in money of the said currency," subject nevertheless to evidence of a different intent of the parties to the contract; therefore,

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 following scale of depreciation be and the same is hereby adopted and established as the measure of value of one gold dollar in Confederate currency, for each month, and the fractional parts of the month of December, 1864, from the 1st

day of November, 1861, to the 1st day of May, 1865, to wit:

Scale of Depreciation of Confederate Currency, the Gold Dollar being the unit and measure of value, from Nov. 1, 1861, to May 1, 1865.

Months.	1861.	1862.	1863.	1864.	1865.
January,		\$1 20 00	\$21 00	\$50 00	
February,		1 30 00	31 00	50 00	
March,		1 50 00	40 00	50 00	
April,		1 50 00	50 00	100 00	
May,		1 50 00	50 00	19 00	
June,		1 50 00	50 00	18 00	
July,		1 50 00	50 00	21 00	
August,		1 50 14 00	23 00		
September,		2 00 14 00	25 00		
October,		2 00 14 00	26 00		
November,	\$1 10	2 50 15 00	30 00		
December,	1 10	2 50 20 00			
Dec. 1st to 10th inclusive,				25 00	
Dec. 11 to 20th inclusive,				50 00	
Dec. 21 to 31st inclusive,				40 00	

And whereas, many grave and difficult disputes may arise between executors, administrators, guardians and trustees, and their legatees, distributees, wards and cestuysque and trusts, arising from the depreciation of Confederate currency, State treasury notes and bank notes, incident to and growing out of the late war; and that law suits and expensive litigation may be obviated,

Be it therefore enacted, That in all such cases, the parties are hereby empowered to form a full and perfect statement of the case on both sides, which case shall be submitted to the determination of one of the Judges of the Superior Courts, chosen by the parties, who is hereby authorized to consider and determine the same according to equity and good conscience; Provided, however, That no part of this section shall be construed to estop or hinder any person from proceeding in the usual course of law, if he shall deem the same necessary.

A true copy. J. A. ENGELHARD, Clerk of Senate.

AN ACT,

To Establish the Rate of Interest and Repeal Chapter 114 of the Revised Code, entitled "Usury."

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 legal rate of interest upon all sums of money where interest is allowed, shall be six per cent. per annum for such time as interest may accrue, and no more: Provided however, That any person may for the loan of money, but upon no other account, take interest at a rate so great as eight per cent., if both the consideration and the rate of interest shall be set forth in an obligation signed by the party to be charged or his agent: And if any person shall agree to take a greater rate of interest than six per cent. per annum, when no rate is named in the obligation, or a greater rate than eight per cent. when the rate is named, the interest shall not be recovered at Law or in Equity; and in all trials at Law or in Equity, when the plea of Usury shall be relied upon, the defendant may examine the plaintiff upon oath, either by deposition or in open Court, according to the course of the Courts.

Be it further enacted, That Chapter 114 of the Revised Code, entitled "Usury," is hereby repealed, and this act shall be in force from its ratification.

Ratified the twelfth day of March, 1866.

A mere accident has just led to important discoveries in the ruins of the old manor house of Ceastro, which stands in the gorge of Uces, between France and Aragon. The recent high winds threw down part of the wall of the Southern Tower, and exposed to view the period of Gothic domination. Excavations were immediately commenced, and have brought to light a great quantity of jewelry, of all kinds, as diadems, bracelets, rings, and pins. The diadems bear some resemblance to the crown preserved in the Cluny Museum, and enable us to form an accurate opinion as to the art of Visigoths.