

THE STATE GAZETTE

OF

NORTH-CAROLINA.

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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.

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 devisees 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.

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 devisees 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.

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 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.

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.

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.

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 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.

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 also an act, entitled "An act for the more regular collecting, payment of and accounting for the public taxes."

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.