AN ACT

IN RELATION TO THE POWERS AND DUTIES OF CLERKS OF SUPERIOR COURTS.

The General Assembly of North Carolina do enact:

SECTION 1. That as this act will be incorporated in the general act respecting the practice and proceedure of the courts, required to be reported to the General Assembly at its present session, by the commissioners appointed for that purpose, it will be printed in that general act and not elsewhere among the acts of this General Assembly, unless otherwise hereafter directed.

Sec. 2. The Secretary of State is required to have the third section of this act, and that portion relating to the Superior Court Clerks, printed at least weekly in four papers published in this State, and the sum necessary for that purpose, is hereby appropriated from any monies in the Treasury not otherwise appropriated.

Sec. 3. The terms of the several Superior Courts of this State shall begin in each year at the times hereinafter stated, and shall continue to be held for two weeks (Sundays and legal holidays excepted,) unless the business shall be sooner disposed of.

FIRST JUDICIAL DISTRICT.

Currituck county first monday in March and October.

Hertford, third monday in March and October.

Gates, fourth monday after the first Monday in March and October.

Chowan, sixth monday after the first Monday in March and October.

Perquimans, eighth monday after the first monday in March and October.

Pasquotank, tenth monday after the first monday in March and October.

Camden, twelfth monday after the first monday in March and October.

Currituck, fourteenth monday after the first monday in March and October.

SECOND JUDICIAL DISTRICT.

Tyrell county the first monday in September and February.

Washington, third monday in September and February.

Martin, second Monday after the third Monday in September and February.

Hyde, fourth Monday after the third Monday in September and February.

Beaufort, sixth Monday after the third monday in September and February.

Pitt, eighth Monday after the third Monday in September and February.

Edgecombe, tenth Monday after the third monday in September and February.

THIRD JUDICIAL DISTICT.

Wayne county the first Monday in September and February.

Jones, third Monday in September and February.

Onslow, first monday after the fourth Monday in September and February.

Craven, third monday after the fourth Monday in September and February.

Lenoir, fifth monday after the fourth Monday in September and February.

Greene, seventh monday after the fourth monday in September and February.

Carteret, ninth monday after the fourth Monday in September and February.

Wilson, eleventh monday after the fourth monday in September and February.

FOURTH JUDICIAL DISTRICT.

Robeson county on the fourth monday in August and February.

Bladen, second monday after the fourth monday in August and February.

Columbus, fourth monday after the fourth monday in August and February.

Brunswick, sixth monday after the fourth monday in August and February.

New Hanover, eighth monday after the fourth monday in August and February.

Sampson, tenth monday after the fourth monday in August and February.

Duplin, twelfth monday after the fourth monday in August and February.

FIFTH JUDICIAL DISTRICT.

Harnett county the second Monday in August and February.

Moore, second monday after the second monday in August and February.

Montgomery, fourth monday after the second monday in August and February.

Stanly, sixth monday after the second monday in August and February.

Union, eighth mon ay after the second monday in August and February.

Anson, tenth monday after the second monday in August and February.

Richmond, twelfth Monday after the second monday in August and February.

Cumberland, fourteenth Monday after the second Monday in August and February.

SIXTH JUDICIAL DISTRICT.

Granville county second Monday in August and February.

Warren, second Monday after the second monday in August and February.

Franklin, fourth Monday after the second monday in August and February.

Johnston, sixth Monday after the second Monday in Agust and February.

Wake, eighth Monday after the second Monday in August and February.

Nash, tenth monday after the second Monday in August and February.

Halifax, twelfth Monday after the second monday in August and February.

Northampton, fourteenth Monday after the second Monday in August and February.

SEVENTH JUDICIAL DISTICT.

Guilford county, the first Monday in March and September.

Rockingham, the second Monday after the first Monday in March and September.

Caswell, fourth monday after the first Monday in March and September.

Person, sixth monday after the first Monday in March and September.

Orange, eighth monday after the first Monday in March and September.

Chatham, tenth monday after the first Monday in march and September.

Randolph, twelfth Monday after the first Monday in March and September.

Alamance, fourteenth Monday after the first Monday in March and September.

EIGHTH JUDICIAL DISTRICT.

Davie county, the first Monday in April and September.

Rowan, third Monday in April and September.

Davidson, second Monday after the third Monday in April and September.

Forsythe, fourth Monday after the third Monday in April and September.

Stokes, sixth Monday after the third Monday in April and September.

Surry, eighth Monday after the third Monday in April and September.

Yadkin, tenth Monday after the third Monday in April and September.

NINTH JUDICIAL DISTRICT.

Polk county, the first Monday in March and September.

Rutherford, third Monday in March and September.

Cleveland, second Monday after the third Monday in March and September.

Lincoln, fourth Monday after third Monday in March and September.

Gaston, sixth Monday after third Monday in March and September.

Mecklenburg, eighth Monday after third Monday in March and September.

Cabarrus, tenth Monday after third Monday in March and September.

TENTH JUDICIAL DISTRICT.

Catawba county, first Monday in March and September.

Alexander, third Monday in March and September.

Iredell, second Monday after third Monday in March and September.

Wilkes, fourth Monday after third Monday in march and September.

Caldwell, sixth Monday after third Monday in march and September.

Burk, eighth Monday after third Monday in March and September.

McDowell, tenth Monday after third Monday in March and September.

ELEVENTH JUDICIAL DISTRICT.

Alleghany county, the first Monday in April and September.

Ash, third Monday in April and September.

Wautauga, second Monday after third Monday in April and September.

Mitchell, fourth Monday after third Monday in April and September.

Yancey, sixth Monday after third Monday in April and September.

madison, eighth Monday after third Monday in April and September.

Buncombe, tenth Monday after third Monday in April aud September.

TWELFTH JUDICIAL DISTICT.

Clay county, the first Monday in April and September.

Cherokee, third Monday in April and September.

Macon, second Monday after third Monday in April and September.

Jackson, fourth Monday after third Monday in April and September.

Haywood, sixth Monday after third Monday in April and September.

Transylvania, eighth Monday after third Monday in April and September.

Henderson, tenth Monday after third Monday in April and September.

OF THE QUALIFICATIONS AND GENERAL DUTIES OF CLERKS OF THE SUPERIOR COURTS.

Sec. 1. At the first meeting of the county commissioners of each county after the election or appointment of any Clerk of a Superior Court, it shall be the duty of the clerk to deliver to such commissioners a bond, with sufficient sureties, to be approved by them, as is now required by the law, payable to the State of North Carolina, and with a condition to be void if he shall account for any [and] pay over according to law all monies and effects which have or may come into his hands by virtue or color of his office, and shall diligently preserve and take care of all books, records, papers and property which have come or may come into his possession, by virtue or color of his office, and shall in all things faithfully perform the duties of his office, as they are or hereafter may be prescribed by law.

BONDS HOW APPROVED, &C.

Sec. 2. The approval of said bonds by the commissioners, or a majority of them, shall be recorded by their clerk, any commissioner dissenting may cause his dissent to be entered on record. Any commissioner approving a bond which he knows or believes to be insufficient, shall personally be liable as if he was a surety thereto. The said bond acknowledged by the parties thereto, or proved by a subscribing witness, before the clerk of said commissioners, as their presiding officer, registered in the office of the register of the county, in a seperate book to be kept by him for the registration of official bonds, and the original with the approval thereof endorsed deposited with the register for safe keeping. The like remedies shall be had upon said bonds as are or may be given by law on official bonds.

QUALIFICATION OF CLERKS.

Sec. 3. Every clerk of the Superior Court, before entering on the duties of his office, shall take and subscribe before some officer authorized by law to administer an oath, the oaths prescribed by law, and file the same with the Register of Deeds for the county.

FAILURE TO GIVE BOND.

Sec. 4. In case any clerk shall fail to give bond and qualify as above directed, the chairman of the county commissioners of his county shall immediately inform the Judge of the judicial district thereof, who shall thereupon declare the office vacant, and fill the same, and the appointee shall give bond and qualify as above directed.

OFFICES—WHERE TO BE KEPT.

Sec. 5. He shall have an office in the court house, or other place provided by the county commissioners, in the county town of his county. He shall give due attendance, in person or by deputy, at his office, daily, (Sundays and legal holidays excepted,) from 9 o'clock A. m., to three o'clock, P. M., and longer when necessary for the dispatch of business.

TO RECEIVE OFFICIAL PAPERS, &c.

Sec. 6. Immediately after he shall have given bond and qualified as aforosaid, he shall receive from the late Clerk of the County and Superior Courts, and Clerk and Master of the Court of Equity of the county all records, books, papers, money and property of their respective offices, and give receipts for the same; and if any such late clerk, or clerks and master, shall refuse or fail within a reasonable time after demand to deliver such records, books, papers, money and property they shall be respectively liable on their official bonds for the value thereof, and be held guilty of a misdemeanor.

TO KEEP RECORDS, &c.

Sec. 7. He shall keep in bound volumes a complete and faithful record of all his official acts, and give copies thereof to all persons desiring them, on payment of the legal fees.

BOOKS TO BE KEPT BY THE CLERKS.

Sec. 8. The clerk shall keep the foliowing books:

1. A docket of all writs of summons, or other original process issued by him, or returned to his office. This docket shall contain a brief note of every proceeding whatever in each action, up to the final judgment inclusivr.

2. An Execution Docket, in which the substanse of the judgement shall be recorded, and every proceeding subsequent thereto, noted, with an alphabetical index.

3. A Docket of all issues of fact joined upon the pleadings and other matters, triable before a jury, and of all other matters for hearing before the judges, at a regular term of the Court, a copy of which shall be furnished to the judge at the commencement of each term.

4. An alphabetical index according to the names of the plaintiffs, of all final judgments in civil action, rendered in the court, with the dates and numbers thereof.

5. A Docket of all criminal actions, containing a note of every proceeding in each.

BY WHOM THE BOOKS ARE TO BE FURNISHED.

Sec. 9. The books specified in the above section shall be supplied to the clerks of the several counties by the Secretary of State, at the expense of the State, and the Secretary shall, as soon as possible, transmit an account thereof to the chairman of the County Commissioners, in order that the price may be levied in the county taxes, and also the Auditor of public accounts, who shall add the same to the taxes of the respective counties, and receive and account for it as for other taxes. The commissioners of any county failing to cause such sum to be levied with the other county taxes, shall be guilty of a misdemeanor.

PAPERS IN EACH ACTION TO BE KEPT SEPARATE.

Sec. 10. The clerk shall keep the papers in each action in a separate roll or bundle, and at its termination attach together, properly label, and file them in order of the date of the final judgment.

SOLICITORS TO EXAMINE RECORDS, &C.

Sec. 11. At every regular term of a Superior Court, the Solicitor for the Judicial District shall inspect the office of the clerk and report to the court in writing. If any clerk, after being furnished with the necessary books, shall fail to keep them up as required by law, he shall be guilty of a misdemeanor, and the Solicitor shall cause him to be prosecuted for the same. If the Solicitor shall fail or neglect to perform the duty hereby imposed on him, he shall be [liable] to a penalty of five hundred dollars to any person who shall sue for the same.

EXISTING SUITS.

The following sections, numbered 1, 2, 3, 4, 5, relate exclusively to actions which have been commenced, and in which no final judgment has been rendered prior to the ratification of this act, as a part of the Code of Practice and Procedure.

CLERKS TO DOCKET EXISTING SUITS.

Sec. 1. The clerks of the Superior Courts at the request of a party thereto, within six months from the ratification of a general act respecting the practice and procedure of the Superior Courts of this State, and on the payment of a fee of one dollar, shall enter on a separate docket, all suits, which, at the ratification aforesaid, shall have been commenced, or in which final judgment has not been rendered in the late County Courts, Superior Courts of law, and Courts of Equity, of their respective counties.

HOW SUCH SUITS PROCEEDED WITH.

Sec. 3. And every suit not so transferred within the time aforesaid, shall be abated and the Clerk of the Superior Court shall tax costs against the parties liable, and collect the same by the proper process.

Sec. 2. The said suits shall be proceeded in, and tried under the existing laws and rules applicable thereto. After final judgments shall be rendered therein, the Clerk shall enter such judgments on the execution docket required to be kept by him, and the subsequent proceedings shall be as provided for action hereafter to be commenced.

EXISTING JUDGMENTS NOT DORMANT.

Sec. 4. Existing judgments and decrees not dormant may in like manner be entered on the execution docket, and the subsequent proceedings shall be as is prescribed for actions hereafter to be commenced, as far as shall be compatible with the previous proceedings, and no lien acquired before the ratification aforesaid shall be lost by any change of process, occasioned by this act.

DORMANT JUDGMENTS.

Sec. 5. Judgments or decrees which are dormant at the ratification aforesaid, may be revived or enforced in the manner herein provided.

ACTION COMMENCED AFTER THE RATIFICATION TO SECOND OLD DEBTS, &C.

Sec. 6. In all actions hereafter commenced, founded on such contracts as are provided for in an ordinance of the Convention of this State, entitled "An Ordinance respecting the jurisdiction of the Courts of this State," ratified on the 14th day of March, 1868, the summons shall be made returnable to the term of the Superior Court therein designated, and the subsequent proceedings shall be in accordance with the provisions of said act.

EXECUTIONS LEVIED ON PERSONAL PROPERTY

Sec. 7. The late Sheriff of any County having in his hands any *fiere facias* execution, which has been levied on personal property of the defendants, which is unsold shall proceed to sell the same as now required by law, he shall pay over the proceeds after deducting his fees, and shall also make return of the writ, to the Clerk of the Superior Court, of the county to any Court of which the writ is returnable, the proceeds to be paid by the Clerk to the parties entitled thereto.

EXECUTION SATISFIED.

Sec. 8. The said sheriffs shall in like manner return all executions in their hands which are satisfied, whether by a sale of property or otherwise, and shall pay over any proceeds thereof.

EXECUTIONS NOT LEVIED AT ALL, OR LEVIED ON REAL PROPERTY.

Sec. 9 As soon as the successors of the said late Sheriffs shall have qualified and given bonds as required by law, the said late Sheriffs shall deliver to such successors, all writs of executions in their hands which have not been satisfied, and have not been levied at all, or which have been levied on property which has been sold, and a residue remains unsatisfied, or have been levied on real property which in whole or in part remains unsold, with a return stating any receipt of money by them, and their action under the writ. The new Sheriffs shall proceed to act under such writs as if the same had been addressed and issued to them, and shall make return thereof to the next term of the Superior Court of the county, (or) to any Court of which the writ is returnable.

Any Sheriff failing to make due returns of such writs delivered to him, shall forfeit and pay one hundred dollars to any person grieved thereby, to be recovered on motion to the Court before which the writ is required to be returned. All proceeds of executions in part only satisfied, while in the hands of any late Sheriff, shall be paid by him to the clerk of the Superior court of the county, to any court of which the writ is returnable for the use of the parties entitled thereto under the penalties now provided by law in case of failure.

EXECUTIONS TO BE DOCKETED.

SEC. 10. The clerk of any Superior Court to which any execution shall be returned as is above prescribed shall at the request of any person interested therein, and on the payment of one dollar, enter such executions, on his execution docket, and the like process may be thereafter had thereon as is provided in similar cases on judgements recovered after the ratification of this act.

PENALTY ON SHERIFFS FOR FAILING TO RETURN.

SEC 11. Any late Sheriff or other officer having executions in his hands, and failing to make due return thereof and to proceed as herein prescribed shall in each case forfeit and pay to any any person grieved, one hundred dollars be recovered on motion of the court.

JUDGMENT NOT DORMANT, WHEN—

SEC. 12. No judgment shall be held to have become dormant by reason of any stay of execution thereon in obedience to any general or special orders issued by the General lately commanding the military District of which the State of North Carolina formed a part, and the time during which execution was so stayed, shall not be counted in determining any question respecting a judgment being dormant.

ORDINANCE OF 14TH OF MARCH 1868, NOT AFFECTED.

SEC. 13. Nothing in this act contained shall affect or impair any right given by an ordinance of the Convention of this State, entitled "an Ordinance respecting the jurisdiction of the Courts of this State," ratified the 14th day of March 1868, in the cases to which it is applicable.

Ratified the 14th day of August, A. D., 1868.

(Signed,) JOS. W. HOLDEN,
Speaker House of Representatives.
(Signed,) TOD R. CALDWELL,
President of the Senate.

STATE OF NORTH CAROLINA,
OFFICE SECRETARY OF STATE,
Raleigh, August 22d, 1868.

I, Henry J. Menninger, Secretary of State, hereby certify that the foregoing is a true copy of the original act on file in this office.

HIJ. MENNINGER,
Secretary of State.

Aug. 29- 4w

Important Article in the New Constitution.

ARTICLE IV.

JUDICIAL DEPARTMENT.

Section 1. The distinction between actions at law and suits in equity, and the forms of all such actions and suits shall be abolished and there shall be in this State but one form of action, for the enforcement or protection of private rights or the redress of private wrongs which shall be denominated a civil action, and every action prosecuted by the people of the State as a party, against a person charged with a public offence, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished and the fact at issue tried by order of court before a jury.

Sec. 2. Three commissioners shall be appointed by this convention, to report to the General Assembly at its first session after this constitution shall be adopted by the people, rules of practice and procedure in accordance with the provisions of the foregoing section, and the convention shall provide for the commissioners a reasonable compensation.

Sec. 3. The same commissioners shall also report to the General Assembly as soon as practicable, a code of law of North Carolina. The Governor shall have power to fill the vacancies occurring in this commission.

Sec. 4. The judicial power of the State shall be vested in a court for the trial of impeachments a Supreme court, Superior courts, court of justices of the Peace and special courts.

Sec. 5. The court for the trial of impeachments shall be the senate; a majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec 6 The House of Representatives solely, shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the Senators present. When the Governor is impeached the Chief Justice shall preside.

Sec. 7. Treason against the State shall consist only in levying war against it or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same over act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 8. The Supreme court shall consist of a Chief Justice and four Associate Justices.

Sec. 9. There shall be two terms of the Supreme court held at the seat of government of the State in each years, commencing on the first Monday in January, and first Monday in June, and continuing as long as the public interest may require.

Sec. 10. The Supreme court shall have jurisdiction to review, upon appeal, any decision of the courts below, upon any matters of law or legal interference: but no issue of fact shall be tried before this court; and the court shall have power to issue any remedial writs necessary, to give it a general supervision and control of the inferior courts.

Sec. 11. The Supreme Court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the General Assembly for its action.

Sec. 12. The State shall be divided into twelve judicial districts for each of which a judge shall be chosen, who shall hold a superior court in each county in said district, at least twice in each year, to continue for two weeks unless the business shall be sooner disposed of.

Sec. 13. Until altered by law the following shall be the judicial districts.

First District—Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Hertford, Bertie.

Second District—Tyrell, Hyde, Washington, Beaufort, Martin, Pitt, Edgecombe.

Third District—Craven, Carteret, Jones, Onslow, Greene, Lenoir, Wayne, Wilson.

Fourth District—Brunswick, New Hanover, Duplin, Columbus, Bladen, Sampson, Robeson.

Fifth District—Cumberland, Harnett, Moore, Richmond, Anson, Montgomery, Stanly, Union.

Sixth District—Northampton, Warren, Halifax, Wake, Nash, Franklin, Johnston, Granville.

Seventh District—Person, Orange, Chatham, Randolph, Guilford, Alamance, Caswell, Rockingham.

Eighth District—Stokes, Forsythe, Davidson, Rowan, Davie, Yadkin, Surry.

Ninth District—Catawba, Cabarras, Mecklenburg, Lincoln, Gaston, Cleveland, Rutherford, Polk.

Tenth District—Iredell, Burke, Caldwell, Wilkes, Alexander, McDowel.

Eleventh District—Alleghany, Ashe, Wataugа, Mitchell, Yancey, Madison, Buncombe.

Twelfth District—Henderson, Transylvania, Haywood, Macon, Jackson, Clay, Cherokee.

Sec. 14. Every judge of a Superior Court shall reside in his district while holding his office. The judges may exchange districts with each other with the consent of the Governor, and the Governor for good reasons which he shall report to the Legislature at its current or next session, may require any judge to hold one or more specified terms of said courts in lieu of the judge in whose district they are.

Sec. 15. The Superior Courts shall have exclusive original jurisdiction of all civil actions, whereof exclusive original jurisdiction is not given to some other Courts, and of all criminal actions in which the punishment may exceed a fine of fifty dollars or imprisonment for one month.

Sec. 16. The superior courts shall have appellate jurisdiction of all issues of law or fact, determined by a Probate Judge or a Justice of the Peace, where the matter in controversy exceeds twenty-five dollars, and of matters of law in all cases.

Sec. 17. The clerks of the superior courts shall have jurisdiction of the probate of deeds, the granting of letters testamentary and of administration, the appointment of guardians, the apprenticine of orphans to audit the accounts of executors, administrators and guardians, and of such other matters as shall be prescribed by law. All issues of facts joined before them shall be transferred to the superior courts for trial, and appeals shall lie to the superior courts from their judgments in all matters of law.

Sec. 18. In all issues of fact, joined in any court, the parties may waive the right to have the same determined by jury, in which case the finding of the Judge upon the fact, shall have the force and effect of a jury.

Sec. 19. The General Assembly shall provide for the establishment of Special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

Sec. 20. The Clerk of the Supreme Court shall be appointed by the court and shall hold his office for eight years.

Sec. 21. A Clerk of the Superior Court, for each county, shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law, for the election of members of the General Assembly.

Sec. 22. Clerks of the Superion Courts shall hold their offices for four years.

Sec. 23. The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article; but the salaries of the Judges shall not be diminished during their continuance in office.

Sec. 24. The laws of North Carolina, not repugnant to this Constitution, or to the Constitution and laws of the United States, shall be in force until lawfully altered.

Sec. 25. Actions at law and suits in equity, pending when this Constitution shall go into effect, shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change, and all such actions and suits, commenced before, and pending at, the adoption by the General Assembly, of the rules of practice and procedure herein provided for, shall be heard and determined, according to the practice now in use, unless otherwise provided for by said rules.

Sec 26. The justices of the Supreme Court shall be elected by the qualified voters of the State, as is provided for the election of members of the General Assembly. They shall hold their offices for eight years. The judges of the Superior Courts shall be elected in like manner, and shall hold their offices for eight years; but the Judges of the Superior Courts elected at the first election under this constitution, shall, after their election, under the superintendence of the justices of the Supreme Court, be divided by lot into two equal classes, one of which shall hold office for four years, the other for eight years.

Sec. 27. The General Assembly may provide by law that the judges of the Superior Courts, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

Sec. 28. The Superior Courts shall be, at all times, open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

Sec. 29. A solicitor shall be elected for each judicial district by the qualified voters thereof, as is prescribed for members of the General Assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the Superior Courts, and advise the officers of justice in his district.

Sec. 30. In each county a Sheriff and Coroner, shall be elected by the qualified voters thereof, as is prescribed for members of the General Assembly, and shall hold their offices for two years. In each township there shall be a Constable elected in like manner by the voters thereof, who shall hold his office for two years. When there is no coroner in the county, the Clerk of the Superior Court for the county may appoint one for special cases. In case of a vacancy existing for any cause, in any of the offices created by this section, the Commissioners for the county may appoint to such office for the unexpired term.

Sec. 31. All vacancies occurring in the offices provided for by this Article of the Constitution, shall be filled by the appointment of the Governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election.

Sec. 32. The officers elected at the first election held under this Constitution, shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the General Assembly. But their terms shall begin upon the approval of this Constitution by the Congress of the United States.

Sec. 33. The several justices of the peace shall have exclusive original jurisdiction under such regulations as the General Assembly shall prescribe, of all civil actions founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy, and of all criminal matters arising within their counties where the punishments cannot exceed a fine of fifty dollars, or imprisonment for one month. When an issue of fact shall be joined before a justice, on demand of either party thereto, he should cause a jury of six men to be summoned, who shall try the same. The party against whom judgment shall be rendered in any civil action, may appeal to the Superior Court from the same, and if the judgment shall exceed twenty-five dollars, there may be a new trial of the whole matter in the appellate court; but if the judgment shall be for twenty-five dollars or less, then the case shall be heard in the appellate court, only upon matters of law. In all cases of a criminal nature, the party against whom judgment is given may appeal to the Superior Court, where the matter shall be heard new. In all cases brought before a justice, he shall make a record of the proceedings, and like the same, with the Clerk of the Superior Court of his county.

Sec. 34. When the office of Justice of the Peace shall become vacant, otherwise than by the expiration of the time, and in case of the failure by the voters of any district to elect, the clerk of the superior court for the county, shall appoint to fill the vacancy for the unexpired term.

Sec. 35 In case the office of clerk of a superior court for a county shall become vacant, otherwise than by the expiration of the term, and in case of a failure by the people to elect, the Judge of the Superior Court for the county shall appoint to fill the vacancy, until an election can be regularly held.

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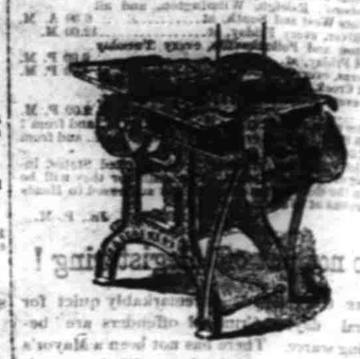

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July 13—32-tf