

ACTS

Passed by the General Assembly of North-Carolina, at their late session.

An Act to amend an act, entitled "An act to amend an act passed in the year 1804, entitled 'An act appointing Commissioners to extend the boundary line of this State and the State of South-Carolina' passed at Raleigh in the year 1803.

WHEREAS by the above mentioned act, power and authority is given to the Governor to enter into any compact he may deem most advisable for the interest of the State, with the legislative or executive powers of the states of South-Carolina and Georgia, relative to the extension and establishment of the boundary line between this State and the said States of South Carolina and Georgia, in which said act there is a proviso, That nothing therein contained should effect any part or clause of the act passed in the year one thousand eight hundred and three: And whereas doubts are entertained whether the provisionary clause in the act passed in the year one thousand eight hundred and three, is not by the proviso in the act of one thousand eight hundred and four made to have relation to the State of Georgia as well as to the State of South-Carolina: And whereas such provisionary clause can answer no valuable purpose, so far as it respects the State of Georgia, and may be an impediment to an amicable and speedy adjustment and settlement of boundary between the two States:

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 the proviso in the act passed in the year one thousand eight hundred and four, entitled "An act to amend an act, entitled 'An act appointing Commissioners to extend the boundary line of this State and the State of South Carolina,' passed at Raleigh in the year one thousand eight hundred and three, shall not be construed to extend or have any relation to the State of Georgia, any thing therein contained to the contrary notwithstanding.

An Act to repeal an act passed last session of the General Assembly, entitled "An act for incorporating and establishing a Bank, by the name and title of 'The State Bank 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 act passed at the last session of the General Assembly, entitled "An act for incorporating and establishing a Bank, by the name and title of 'The State Bank of North-Carolina,'" be and the same is hereby repealed and made void.

II. And be it further enacted, That all the monies subscribed and paid into the hands of any of the commissioners appointed by the aforesaid act, shall immediately after the passing of this act be refunded and paid back to the person or persons who have so subscribed and paid the same; any law to the contrary notwithstanding.

An Act to exclude from the benefit of Clergy, persons robbing houses in the day time, and to extend the benefit of Clergy to women convicted of such felonies.

WHEREAS doubts are entertained whether any person convicted of robbing a house in the day-time, although no person be therein, is entitled to the benefit of Clergy, to remove such doubts, and to provide an adequate punishment for such offences,

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 if any person or persons shall break any dwelling house, shop, warehouse or other out-house thereto belonging, or therewith used, in the day time, and feloniously take away any money, goods or chattels, of the value of twenty shillings or upwards, therein being, although no person shall be within such dwelling house, shop, warehouse or other out-house, or shall comfort, aid, abet, assist, counsel, hire or command any person or persons to commit such offence, and being thereof lawfully convicted, or being indicted shall stand mute, or peremptorily challenge more than thirty-five jurors, shall suffer death without benefit of clergy. And whereas doubts are entertained, whether, by the laws in use and force in this State, the benefit of clergy can be allowed and extended to women convicted of certain felonies; for the removal whereof,

II. Be it further enacted by the authority aforesaid, That in every case where a man being convicted of any felony, may demand the benefit of his clergy; if a woman be convicted of the same or like offence, upon her prayer, to have the benefit of this act, judgment of death shall not be given against her, but she shall suffer the same punishment as a man should suffer who has the benefit of his clergy allowed him in the like case.

III. And be it further enacted, That all acts and parts of acts coming within the meaning and purview of this act, and contrary to the true intent and meaning of this act, are hereby repealed and made void.

IV. And be it further enacted, That this act shall commence and be in force from and after the passing thereof.

An Act to ascertain and fix the salary of the Governor's private Secretary.

WHEREAS the present salary of the Governor's private Secretary, including his fees as allowed by law, are found to be inadequate to the services by him performed,

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 private secretary of the Governor shall be allowed, the sum of one hundred and fifty pounds, and the following fees; and no others whatever, viz. For a judge's commission, forty shillings; for an attorney general's ditto, twenty shillings; a solicitor's ditto, twenty shillings; senators in congress ditto, twenty shillings; representatives ditto, twenty shillings; not a public's ditto, twenty shillings; for any commission for a place of profit, twenty shillings; a testimonial, ten shillings; suspension of a grant, seven shillings and six pence; for affixing the seal to a grant, two shillings and six pence.

And whereas an act passed in the year one thousand seven hundred and eighty-four, chapter ninth, directs that the letter books of the Governor should be carefully preserved in the offices of the clerks of the General Assembly; which law from experience has been found to be inconvenient: for remedy whereof,

II. Be it further enacted by the authority aforesaid, That the clerks of the General Assembly shall, at the close of each and every session of the Legislature, deliver to the private secretary of the Governor the letter book, for the purpose of being deposited in the office of the Executive. And further, that the clerks of the General Assembly do deliver to the Governor's private secretary, all the letter books of the former Governors which are now remaining in their office since the fourth of July, one thousand seven hundred and seventy-six, to be likewise deposited in the executive office. Provided always, that it shall be the special duty of the Governor for the time being to have the said books, or any of them, produced before the General Assembly, whenever thereto requested.

III. And be it further enacted, That all laws, and parts and clauses of laws, heretofore made, that come within the purview of this act, shall be and the same are hereby repealed.

An Act to secure creditors against fraudulent and secret conveyances of property by insolvent debtors.

WHEREAS many frauds are committed by persons making conveyances upon some secret trust, and by persons concealing the property of insolvent debtors, so as to enable them to avoid or delay the payment of their just debts: 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 upon any judgment rendered, or which shall be hereafter rendered in any court of record in this State, if the plaintiff by himself, his agent or attorney in fact, will make an affidavit stating that the defendant has no visible property to satisfy the same, or on which an execution can be levied, and that he or she has good reason to believe that the defendant has fraudulently conveyed his or her property to avoid or delay the payment of his or her just debts, or that some other person or persons is or are in possession of property belonging to said defendant, and conceals the same, the court in which the said judgment hath been or shall be rendered, shall and may at any time while the said judgment is in force, order a scire facias, or scire faciases, as the case may be, to be issued against and served on the person or persons claiming any estate, real and personal, under any such conveyance; or any person or persons charged in the affidavit with concealing any money, goods or other estate, for the use of the defendant, or for the purpose of enabling him or her to avoid or delay the payment of his or her just debts, in which he, she or they shall be commanded to appear at the next succeeding term, and declare upon oath, and in writing, whether he or she holds, or is in possession of, or claims title to any money, goods or other estate, real or personal, under any conveyance made by the defendant upon any secret trust; and whether he or she holds or is in possession of any money, goods or other estate, or was at the time of rendering said judgment, or at any time since, in possession of any money, goods or other estate, under any secret delivery, to hold the same for the use of the defendant, or any other person, to enable him or her to avoid the payment of his or her just debts; and if the scire facias shall be returned, served by delivering a copy to the party against whom it issues, or by leaving a copy at his or her dwelling, and the party shall appear, the court shall proceed to require a declaration from him or her on oath, as aforesaid; and if the party so called into court shall acknowledge that he or she does hold or claim property of the defendant in manner aforesaid, the court shall and may order the same to be delivered up or made subject to the judgment of the plaintiff; or in case the same or any part thereof shall be money, or in case any part of the property shall have been used, wasted or destroyed by the party, the court may give judgment for the plaintiff against such party, for the amount and value of the money then held, or which has been used, as also for the value of any other property (to be ascertained by a jury) used, wasted or destroyed, and acknowledged as aforesaid to have been received in manner aforesaid, for the use of the defendant, or any other person as aforesaid; but in case any person called into court in manner aforesaid, shall deny that he or she holds or is in possession of, or claims title to any property, real or personal, conveyed or delivered for the purpose of enabling the defendant to avoid or delay the payment of his or her just debts, or that he has held any such property, and used or wasted the same, the plaintiff may, if he or she thinks proper, require an issue to be made up, and the facts tried by a jury, as in other cases, and judgment shall be given accordingly with costs; and in case any verdict and judgment shall be given in favour of any person called on under any scire facias, or in case he or she shall be discharged by his or her declaration on oath, without the trial of any issue, he or she shall be entitled to the same costs as if he or she had been originally sued in said action.

II. Be it further enacted, That in case any scire facias shall be returned served, in manner herein directed, and the party against whom the same issued shall fail to appear, the plaintiff may enter against him or her a judgment by default; but before executing any writ of enquiry, or entering up any final judgment, a second scire facias shall issue to the party requiring him or her to appear and shew cause why final judgment should not be entered up for the amount of the plaintiff's demand, or the amount which the plaintiff shall in his affidavit state to have been in the hands or possession of such party, for which amount, upon the service of said scire facias in manner herein directed, the plaintiff may enter up judgment against said party, with costs as aforesaid.

III. And be it further enacted, That when any judgment shall be given by any justice of the peace out of court, the plaintiff may make an affidavit, in manner herein directed in courts of record, upon which he shall be entitled to carry up to the next succeeding court of pleas and quarter sessions, to be held for the county in which said judgment is given, with the said affidavit, the warrant, judgment, and all papers relating thereto; and upon which the said court, upon motion made by the plaintiff, shall and may order a scire facias in manner herein directed, which shall be proceeded on in the same manner as if the suit had been originally instituted in said court.

IV. And be it further enacted, That all acts and parts of acts coming within the meaning and purview of this act, are hereby repealed.

An Act to encourage Owners of Ferries to build Bridges for the convenience of Travellers.

WHEREAS passing rivers and large water courses by bridges instead of ferry-boats, would tend much to dispatch, safety and convenience: For encouraging, therefore, owners of ferries to erect bridges in lieu 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 in all cases where the proprietor of any ferry shall prefer building a good and substantial bridge over any water course, instead of keeping ferry, he shall be at liberty to do so, under the same rights and in the same manner by which the ferry is claimed and held, and under the same rules, regulations and restrictions of other toll-bridges heretofore established by law: Provided nevertheless, that no more toll shall be demanded for passing any bridge erected in consequence of this act than is granted by law for the ferriage, unless by agreement with the county court, who are hereby authorized to grant and advance as far as twenty-five per cent. and not more: And provided further, that in all such bridges the proprietor shall erect a draw where any water course is frequently and commonly used by sea vessels or masted boats of considerable burthen.

An Act for the relief of Executors and Administrators in certain cases.

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 provisions of an act passed at Fayetteville in the year one thousand seven hundred and eighty-nine, 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," shall, and the same is hereby declared to extend to executors and administrators generally, under the same rules, regulations and restrictions as are by the said act required, any law, usage or custom to the contrary notwithstanding.