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DECISIONS

SUPREME COURT OF N. CAROLINA

July Term, 1812.

From Brunswick. Joseph Bell and others vs. Benj. Blaney. New trial refused. From Chatham. Willis Cowper vs. the Dismal Swamp Company. The shares were not subject to seizure and sale. Bill dismissed. From Craven. John S. West & wife vs. Devises of Lemuel Hatch. Judgment for the complainants. From Cumberland. John Patterson vs. Joel Williams. New trial refused. Matthews & M'Inish vs. Wm. Moore and Claiborne Harris. Judgment entered irregularly. Motion to set it aside allowed. Same vs. Perry & Steele. Judgment same. From Edgecombe. Rich'd Hines, guardian, &c. vs. Louis Spruill, Executor of Benj. Spruill. New trial refused. The State vs. Bartlett, a Negro Slave. Writ of Certiorari the proper remedy. A new trial granted. Commissioners of the Bridge at Tarboro' vs. John Whitaker. An appeal lies from the County to the Superior Court. Judgment for the Plaintiffs. From Franklin. John F. Denson vs. John Huckaby. Judgment for the Plaintiff. H. H. vs. Denson. Judgment for the Defendant. Wm. Andrews vs. Britain Harris. Bill dismissed. From Gates. Joseph Riddick vs. Noah Trotman. Judgment for the Defendant. From Granville. Jones & others vs. Jones & others. The lands are not to be bro't into hotch pot upon a petition for the distribution of the personal estate. From Guilford. Den on demise of John Hamilton vs. John Adams. Judgment for the Defendant. From Halifax. Den on demise of Woolton & wife vs. Willis Shelton. Judgment for the Defendant. State vs. Wyatt Ballard. Reasons for arrest of judgment overruled. Judgment for the State. From Hertford. Abraham Bodwyne vs. Wm. E. Cheatham. Judgment for the Plaintiff. From Johnston. William Filgo vs. Wm. Penny. New trial granted. Simon Price vs. Reding Sauls and Thomas Lockhart. Defendant entitled to plead. From Iredell. James Porter vs. Matthew Knox's heirs. Suit abated. Robert Johnston vs. Jas. Gay. Judgment for the Plaintiff. From Mecklenburg. The State vs. Wm. Flinn. The facts must be sent up instead of the abstract questions. From Martin. Den on demise of Henry Hunter vs. Frederick Bryan. Deeds received in evidence. Nonsuit set aside, and new trial granted. From Moore. John Seawell vs. Wm. Shamberger. New trial granted. From New Hanover. Thomas C. Reston vs. Executor of Tho's Clayton. Plaintiff is entitled to a child's part with the other born children. Samuel Ashe, by his next friend, &c. vs. Geo. Moore, Mary Hooper and others. The acts of Consecration operate and the demurrer overruled. From Northampton. Turner Bynum vs. Henry Hunter. New trial refused. From Pasquotank. Andrew Bates vs. Wm. Etheridge & Willis Etheridge. Judgment for Defendants. Den on D-mise of William B. Sheppard vs. Isaiah Reif. Judgment for Defendant. From Perquimans. Francis Newby vs. Wm. Blount. New trial refused. From Pitt. Jonathan Fellows vs. John Rice. Judgment for the Plaintiff. From Robeson. State vs. Benjamin Johnston. Reasons in arrest of Judgment overruled. From Rockingham. Matthew Deatheridge vs. Henry Farmer, New Trial refused. Curtis vs. Tucker. Judgment for the Defendant. From Rowan. Benjamin Tores vs. the Justices of Rowan County. The Justice who took the list of taxable property had no authority to add the billiard table to the schedule of taxable property rendered by the Plaintiff; that therefore the certiorari ought to be sustained. From Stokes. Edmond Bagley vs. John Gardwell. Motion to dismiss the suit overruled. Den on demise of Geo. Cloud vs. Matthew Deatheridge. Judgment for Defendant. From Wake. Nath'l Jones, sen. vs. Joseph Dillard and others. Motion to dismiss the bill overruled. To be retained for a hearing. Joseph Gales vs. Buchanan and Pollok. The injunction made perpetual, with costs, as to so much of the interest as is charged from the dates of the Notes until the same became due. The decision on this suit ought to be generally noticed, as it declares the illegality of attempting to draw interest by way of forfeiture. In this case Notes were given payable six or twelve months after date; but if not punctually paid when due, to bear interest from the date. The plaintiff was a security in the case, and after having paid the Notes with interest from the time they became due, was sued for the interest from the dates, by way of forfeiture for a failure of punctuality in the principals. The Supreme Court has declared that such interest is not in equity recoverable. This decision will put an end to this kind of Notes.

(By Authority.)

LAW OF THE UNITED STATES.

An ACT for the more perfect organization of the Army of the United States. Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the infantry of the Army of the United States shall consist of twenty-five regiments; and that a regiment shall consist of one colonel, one lieutenant-colonel, one major, one adjutant, one pay-master, one quarter-master, one surgeon, two surgeon's mates, one sergeant-major, one quarter-master's sergeant, two principal musicians and ten companies. Sec. 2. And be it further enacted, That each company shall consist of one captain, one first lieutenant, one second lieutenant, one ensign, four sergeants, six corporals, two musicians and ninety privates. Sec. 3. And be it further enacted, That to the regiment of cavalry, authorized by the act passed January eleventh, one thousand eight hundred and twelve, entitled, "An act to raise an additional military force," there shall be added one riding master; and to the regiment of light dragoons, authorized by the act passed April twelfth, one thousand eight hundred and eight, entitled "An act to raise, for a limited time, an additional military force," one surgeon's mate. Sec. 4. And be it further enacted, That each troop of cavalry or light dragoons shall consist of one captain, one first lieutenant, one second lieutenant, one cornet, four sergeants, six corporals, two musicians, one master of the sword, one saddler, one farrier, one black smith and sixty four privates, and pay and emolument of a master of the sword, shall be the same as those of master, and the pay and emolument of a riding black smith, shall be the same as those of a farrier. Sec. 5. And be it further enacted, That the military establishment authorized by law previous to the twelfth day of April, one thousand eight hundred and eight, and the additional military force raised by virtue of the act of the twelfth April, one thousand eight hundred and eight, be, and the same are hereby incorporated, and that from and after the passing of this act, the promotions shall be made through the lines of artillery, light artillery, dragoons, riflemen and infantry respectively, according to established rule. HENRY CLAY, Speaker of the House of Representatives. WM. H. CRAWFORD, President of the Senate pro tempore. June 26, 1812. APPROVED. JAMES MADISON.

An Act Concerning Letters of Marque, Prizes, and Prize Goods. BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall be, and he is hereby authorized and empowered to revoke & annul at pleasure all letters of Marque and reprisal which he shall or may at any time grant, pursuant to an act entitled "An Act declaring war between the United Kingdom of G. Britain and Ireland & the dependencies thereof and the United States of America and their territories." Sec. 2. And be it further enacted, That all persons applying for letters of Marque and reprisal, pursuant to the act aforesaid, shall state in writing the name and

a suitable description of the tonnage and force of the vessel, and the name and place of residence of each owner concerned therein, and the intended number of the crew; which statement shall be signed by the person or persons making such application, and filed with the Secretary of State, or shall be delivered to any other officer or person who shall be employed to deliver out such commissions, to be by him transmitted to the Secretary of State. Sec. 3. And be it further enacted, That before any commission of letters of Marque and reprisal shall be issued as aforesaid the owner or owners of the ship or vessel for which the same shall be requested and the commander thereof, for the time being, shall give bond to the U. States, with at least two responsible sureties, not interested in such vessel, in the penal sum of five thousand dollars; or if such vessel be provided with more than one hundred and fifty men, then in the penal sum of ten thousand dollars; with condition that the owners, officers and crew, who shall be employed on board such commissioned vessel shall and will observe the treaties and laws of the United States; and the instructions which shall be given them according to law for the regulation of their conduct; and will satisfy all damages and injuries which shall be done or committed contrary to the tenor thereof by such vessel, during her commission, & to deliver up the same when revoked by the President of the U. States. Sec. 4. And be it further enacted, That all captures and prizes of vessels and property shall be forfeited and shall accrue to the owners, officers and crews of the vessels by whom such captures and prizes shall be made; and on due condemnation had, shall be distributed according to any written agreement which shall be made between them; and if there be no such agreement, then one moiety to the owners, and the other moiety to the officers and crew, to be distributed between the officers and crew, as nearly as may be, according to the rules prescribed for the distribution of prize money, by the act entitled "An Act for the better government of the navy of the United States," passed the twenty-third day of April, one thousand eight hundred. Sec. 5. And be it further enacted, That all vessels goods and effects, the property of any citizen of the United States, or of persons resident within and under the protection of the United States, or of persons permanently resident within and under the protection of any foreign prince, government or state, in amity with the United States which shall have been captured by the enemy and which shall be re-captured by vessels commissioned as aforesaid, shall be restored to the lawful owners, upon payment by them respectively of a just and reasonable salvage, to be determined by the mutual agreement of the parties concerned or by the decree of any court having competent jurisdiction according to the nature of each case agreeably to the provisions heretofore established by law. And such salvage shall be distributed among the owners officers and crews of the vessels commissioned as aforesaid, and making such re-captures according to any written agreement which shall be between them; and in case of no such agreement, then in the same manner and upon the principles herein before provided in case of capture. Sec. 6. And be it further enacted, That before breaking bulk of any vessel which shall be captured as aforesaid, or other disposal or conversion thereof, or of any articles which shall be found on board the same, such captured vessel, goods or effects shall be brought into some port of the United States, or into some port of a nation in amity with the U. States and shall be proceeded against, before a competent tribunal, and after condemnation and forfeiture thereof, shall belong to the owners and captors thereof, and be distributed as aforesaid. And in the case of all captured vessels, goods and effects which shall be brought within the jurisdiction of the United States, the district courts of the United States shall have exclusive original cognizance thereof, as in civil causes of admiralty and maritime jurisdiction; and the said courts, or the courts, being courts of the United States, into which such cases shall be removed, and in which they shall be finally decided, shall and may decree restitution, in whole or in part when the capture shall have been made without just cause. And if made without probable cause, or otherwise unreasonably, may order and decree damages

and costs to the party injured, and for which the owners and commanders of the vessels making such captures, and also the vessels shall be liable. Sec. 7. And be it further enacted, That all prisoners found on board any captured vessel, or on board any re-captured vessel, shall be reported to the collector of the port in the United States in which they shall first arrive, and shall be delivered into the custody of the marshal of the district or some civil or military officer of the United States, or of any state in or near such port, who shall take charge of their safe keeping and support, at the expense of the United States. Sec. 8. And be it further enacted That the President of the United States shall be, & he is hereby authorized to establish and order suitable instructions for the better governing and directing the conduct of the vessels, so commissioned, their officers and crews, copies of which shall be delivered, by the collector of the customs, to the commanders when they shall give bond as aforesaid. Sec. 9. And be it further enacted That a bounty shall be paid by the United States of twenty dollars for each person on board any armed ship or vessel, belonging to the enemy, at the commencement of an engagement, which shall be burnt, sunk or destroyed, by any vessel commissioned as aforesaid, which shall be of equal or inferior force, the same to be divided as in other cases of prize money. Sec. 10. And be it further enacted, That the commanding officer of every vessel having a commission or letters of marque and reprisal, during the present hostilities between the United States and Great Britain, shall keep a regular journal, containing a true and exact account of his daily transactions and proceedings with such vessel and the crew thereof; the ports and places he shall put into or cast anchor in; the time of his stay there and the cause thereof; the prizes he shall take; the nature and probable value of such prizes, the times and places, when and where taken, and how and in what manner he shall dispose of the same; the ships or vessels he shall fall in with, the times and places, when and where he shall meet with them, and his observations and remarks thereon; also of whatever else shall occur to him or any of his officers or mariners, or be discovered and found out by examination or conference with any mariners or passengers of or in any other ships and vessels or by any other ways or means whatsoever touching or concerning the fleets, vessels and forces of the enemy, their posts and places of station and destination, strength, numbers, intents and designs. And such commanding officer shall, immediately on his arrival in any port of the United States or the territories thereof, from or during the continuance of any voyage or cruise, produce his commission for such vessel, and deliver up such journal so kept as aforesaid signed with his proper name and hand writing, to the collector or other chief officer of the customs at or nearest to such port; the truth of which journal shall be verified by the oath of the commanding officer for the time being; and such collector or other chief officer of the customs shall immediately on the arrival of such vessel, order the proper officer of the customs to go on board and take an account of the officers and men, the number and nature of the guns, and whatever else shall occur to him, on examination material to be known; and no such vessel shall be permitted to sail out of port again, after such arrival until such journal shall have been delivered up, and a certificate obtained under the hand of such collector or other chief officer of the customs, that she is manned and armed according to her commission, and upon delivery of such certificate, any former certificate of a like nature, which shall have been obtained by the commander of such vessel, shall be delivered up. Sec. 11. And be it further enacted, That captains and commanders of vessels having letters of marque and reprisal, in case of falling in with any of the vessels of war or revenue of the United States, shall produce to the commanding officer of such vessels their journals, commissions and certificates, as aforesaid; and the commanding officers of such ships of war or revenue, shall make, respectively, a memorandum in such journal of the day on which it was so produced to him, and shall subscribe his name to it; and in case such vessel, having letters of marque as aforesaid, shall put into any foreign port where there is an American consul or other public agent of the United States, the commander shall produce his journal,

and examine the guns, and if the same shall not correspond with the commission and certificate respectively, such commander and certificates aforesaid, to such consul or agent, who may go on board and number the officers and crew consul or agent shall forthwith communicate the same to the Secretary of the Navy. Sec. 12. And be it further enacted, That the commanders of vessels having letters of marque and reprisal as aforesaid, neglecting to keep a journal as aforesaid, or wilfully making fraudulent entries therein, or obliterating any material transactions therein, where the interest of the United States is in any manner concerned, or refusing to produce such journal, commission or certificate, pursuant to the preceding section of this act, then and in such cases, the commissions or letters of marque and reprisal of such vessels, shall be liable to be revoked; and such commanders, respectively, shall forfeit for every such offence the sum of one thousand dollars, one moiety thereof to the use of the United States and the other to the informer. Sec. 13. And be it further enacted, That the owners or commanders of vessels having letters of marque and reprisal as aforesaid, who shall violate any of the acts of Congress for the collection of the revenue of the United States and for the prevention of smuggling, shall forfeit the commission or letters of marque and reprisal, and they and the vessels owned or commanded by them, shall be liable to all the penalties and forfeitures attaching to merchant vessels in like cases. Sec. 14. And be it further enacted, That so much of any act or acts as prohibits the importation of goods, wares and merchandize, of the growth, produce and manufacture of the dominions, colonies and dependencies of the United Kingdom of Great Britain and Ireland, or of goods, wares and merchandize imported from the dominions, colonies, and dependencies of the United Kingdom of Great Britain and Ireland, be, and the same is hereby repealed, so far as the same may prohibit the importation or introduction into the United States and their territories of such goods, wares and merchandize as may be captured from the enemy and made good and lawful prize of war, either by vessels having letters of marque and reprisal or by the vessels of war and revenue of the United States. And all such goods, wares and merchandize, when imported or brought into the United States or their territories, shall pay the same duties, to be secured and collected in the same manner and under the same regulations, as the like goods, wares and merchandize, if imported in vessels of the United States from any foreign port or place, in the ordinary course of trade, are now or may at the time be liable to pay. Sec. 15. And be it further enacted, That all offences committed by any officer or seaman on board any such vessel, having letters of marque and reprisal, during the present hostilities against Great Britain, shall be tried and punished in such manner as the like offences are or may be tried and punished when committed by any person belonging to the public ships of war of the United States; Provided always, That all offenders who shall be accused of such crimes as are cognizable by a court-martial, shall be confined on board the vessel in which such offence is alleged to have been committed, until her arrival at some port in the United States or their territories; or until she shall meet with one or more of the public armed vessels of the United States abroad, the officers whereof shall be sufficient to make a court-martial for the trial of the accused; and upon application made, by the commander of such vessel, on board of which the offence is alleged to have been committed, to the Secretary of the Navy, or to the commander or senior officer of the ship or ships of war of the United States abroad as aforesaid, the Secretary of the Navy, or such commander or officer, is hereby authorized to order a court-martial of the officers of the navy of the United States, for the trial of the accused, who shall be tried by the said court. Sec. 16. And be it further enacted, That an act, entitled "An Act laying an embargo on all the ships and vessels in the ports and harbors of the United States for a limited time," passed the fourth day of April, one thousand eight hundred and twelve; and an act entitled "An act to prohibit the exportation of speci-