

AN ACT CONCERNING NEGROES AND PERSONS OF COLOR OR OF MIXED BLOOD.

Chap. 40.

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 negroes and their issue, even where one ancestor in each succeeding generation to the fourth inclusive, is white, shall be deemed persons of color.

Persons of color.

SEC. 2. *Be it further enacted,* That all persons of color, who are now inhabitants of this State, shall be entitled to the same privileges and subject to the same burthen and disabilities as by the laws of the State were conferred on, or were attached to, free persons of color, prior to the ordinance of emancipation, except as the same may be changed by law.

Privileges, burthen, disabilities, etc., of persons of color.

SEC. 3. *Be it further enacted,* That persons of color shall be entitled to all the privileges of white persons in the mode of prosecuting, defending, continuing, removing and transferring their suits at law and in equity; and, likewise, to the same mode of trial by jury, and all the privileges appertaining thereto. An in all proceedings in equity by or against them, their answer shall have the same force and effect in all respects as the answer of white persons.

In suits at law, to what privileges entitled.

SEC. 4. *Be it further enacted,* That in all cases of apprenticeship of persons of color, under chapter five of the Revised Code, the master shall be bound to discharge the same duties to them as to white apprentices, and the words "as are white" in section three, line three, are hereby repealed, and the word "apprentice" shall be read after the word "such." in said line, and the words "if a white person" in the second line of section six are hereby repealed. *Provide, always,* That in binding out of apprentices of color, the former master of such apprentices, when they shall be regarded as suitable persons by the court, shall be entitled to have such apprentices bound to them in preference to other persons.

Duty of master of colored apprentices

SEC. 5. *Be it further enacted,* That in all cases where men and women, both or one of whom were lately slaves and now emancipated, no cohabit together in the relation of husband and wife, the parties shall be deemed to have been lawfully married as man and wife at the time of the commencement of such cohabitation, although they may not have been married in due form of law. And all persons whose cohabitation is hereby ratified into a state of marriage, shall go before the clerk of the court of pleas and quarter sessions of the county in which they reside, at his office, or before some justice of the peace, and acknowledge the fact of such cohabitation, and the time of its commencement; and the clerk shall enter the same in a book kept for that purpose; and if the acknowledgement be made before a justice of the peace, such justice shall report the same in writing to the clerk of the court of pleas and quarter sessions, and the clerk shall enter the same as though the acknowledgment had been made before him; and such entry shall be

Proviso.

Marriage of former slaves, legitimized.

Cohabitation to be acknowledged before county court clerks or magistrates.

deemed *prima facie* evidence of the allegations therein contained. For making such entry and giving a certificate of the same, the clerk shall be entitled to a fee of twenty-five cents, to be paid by the party for whom services are rendered.

SEC. 6. *Be it further enacted*, That if any of such persons shall fail to go before the clerk of the county court, or some justice of the peace of the county in which they reside, and have their marriage recorded before the first of September, one thousand eight hundred and sixty-six, they shall be deemed guilty of a misdemeanor, and punished at the discretion of the court, and their failure for each month thereafter, shall constitute a separate and distinct offense.

Penalty for failure.

SEC. 7. *Be it further enacted*, That all contracts between any persons whatever, whereof one or more of them shall be a person of color, for the sale or purchase of any horse, mule, ass, jennet, neat cattle, hog, sheep or goat, whatever may be the value of such articles, and all contracts between such persons for any other article or articles of property whatever of the value of ten dollars or more; and all contracts executed or executory between such persons for the payment of money of the value of ten dollars or more, shall be void as to all persons whatever, unless the same be put in writing and signed by the venders or debtors, and witnessed by a white person who can read and write.

Certain contracts void, how made legal.

SEC. 8. *Be it further enacted*, That marriage between white persons and persons of color shall be void; and every person authorized to solemnize the rites of matrimony, who shall knowingly solemnize the same between such persons; and every clerk for a court who shall knowingly issue license for their marriage, shall be deemed guilty of a misdemeanor, and moreover, shall pay a penalty of five hundred dollars to any person suing for the same.

Marriage between whites and blacks void.

SEC. 9. *Be it further enacted*, That persons of color, not otherwise incompetent, shall be capable of bearing evidence in all controversies at law and in equity, where the rights of persons or property of persons of color, shall be put in issue, and would be concluded by the judgment or decree of court; and also in pleas of the State, where the violence, fraud or injury alleged shall be charged to have been done by or to persons of color. In all other civil and criminal cases such evidence shall be deemed inadmissible, unless by consent of the parties of record : *Provided, further*, That no person shall be deemed incompetent to bear testimony in such cases, because of being a party to the record or in interest.

Evidence of certain persons in certain cases allowed.

Proviso.

SEC. 10. *Be it further enacted*, That whenever a person of color shall be examined as a witness, the court shall warn the witness to declare the truth.

Colored witness to be warned by the court.

SEC. 11. *Be it further enacted*, That whenever a person of color, convicted by due course of law, of an assault with an intent to commit rape upon the body of a white female, shall suffer death.

Attempt to commit rape, how punished.

SEC. 12. *Be it further enacted*, That any person of color, convicted by

Criminal laws to affect alike white and colored

due course of law, of an assault with an intent to commit rape upon the body of a white female shall suffer death. persons.

SEC. 13. *Be it further enacted*, That the criminal laws of the State, embracing and affecting a white person, are hereby extended to persons of color, except where it is otherwise provided in this act, and whenever they shall be convicted of any act made criminal, if committed by a white person, they shall be punished in like manner, except in such cases when other and different punishment may be prescribed or allowed by this act. Two courts of wardens to be appointed.

SEC. 13 *Be it further enacted*, That at the time now provided for the election of wardens of the poor, the justices of the court of pleas and quarter sessions of each county, under the rules and regulations now prescribed, may, in their discretion, elect two distinct and independent court of wardens ; one of whom shall act as the wardens of the white poor, and the other as the wardens of the colored poor. Punishment.

SEC. 14 *Be it further enacted*, That the persons constituting each court shall be qualified as now provided ; and the wardens severally, and each court shall have all the powers and authorities now conferred on them, and they and the officers of each court, and all other person whatever, shall be subject to all the duties, liabilities and penalties imposed on them by chapter eighty-six, of the Revised Code. Powers and authority of wardens of the power.

SEC. 15. *Be it further enacted*, That the following laws and parts of laws are hereby repealed : First. Certain laws contained in the Revised Code, viz: The entire chapter one hundred and seven, entitled “slaves and free negroes,” except sections fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight and sixty-six, and these sections shall be so amended as to read, “persons of color” instead of free negroes in all cases where the latter words occur. Section two of chapter fourteen, entitled “boats and canoes.” Sections ten, eleven, twelve, thirteen, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, eighty-nine, ninety, ninety-one, ninety-two, ninety-three, of chapter thirty-four, entitled “crimes and punishments.” Sections seventeen, nineteen and twenty-one of chapter thirty-seven, entitled “deeds and conveyances.” Section four of chapter forty-eight, entitled “fences.” Section twenty-eight, chapters fifty-nine, entitled, “insolvent debtors.” Section thirty-nine of chapter eighty-four, entitle “pilots.” Sections fifteen, sixteen, seventeen, eighteen, nineteen and twenty, of chapter eighty-six. Secondly. Certain acts passed since the enactment of the Revised Code, to wit: an act ratified on the sixteenth day of February, eighteen hundred and fifty-nine, chapter thirty, entitled “an act for the hiring out of free negroes in certain cases,” an act ratified on the same day, chapter thirty—one , entitled “an act to prevent the sale of spirituous liquors to free persons of color, and act ratified on the thirty-first day of January, eighteen hundred and sixty-one, chapter thirty-seven, entitled “an act to prohibit emancipation of slaves by will ;” an act ratified on the twenty –third day of February, eighteen hundred and Certain laws repealed.

Removal.

sixty-one, chapter twenty-three, entitled “an act to amend the sixteenth and seventeenth sections of chapter thirty-four, Revised Code; an act ratified on the same day, chapter thirty-four, entitled “an act to amend chapter one hundred and seven, section sixty-six of the Revised Code, relating to free negroes having arms ;” an act ratified on the same day, chapter thirty-five, entitled “an act to change the rules of evidence in indictment for trading with slave;” an act ratified on the same day, chapter thirty-six, entitled “an act to prevent free negroes from hiring or having the control of slaves;” an act ratified on the twenty-first day of September, eighteen hundred and sixty-one, chapter twenty-six, entitled “an act to amend section fifteen, of the one hundred and seventh chapter, of the Revised Code ;” an act ratified on the twentieth day of December, eighteen hundred and sixty-two, chapter sixteen, entitled “an act to authorize the Governor to employ slave labor in erecting fortifications and other works.”

SEC. 16. *Be it further enacted*, That all other acts and parts of acts passed before the present session of the General Assembly, besides those enumerated in the foregoing section, the subjects whereof are revised and re-enacted in this act, or which are repugnant to the provisions herein contained, are hereby declared to be repealed, and of no force and effect from and after the ratification of this act, with the exceptions and limitations hereafter mentioned.

Conflicting acts repealed.

SEC. 17. *Be it further enacted*, That the repeal of the acts mentioned in the preceding sections shall not affect any act done, or any right accruing, or accrued, or established, or any suit or proceeding had or commenced in any case before the ratification of this act.

Provisions, rights and acts not affected by repeal.

SEC. 18. *Be it further enacted*, That no offence committed under any of the acts hereby repealed, and before the time when they ceased to be laws of the State, shall be effected by such repeal, except that when any punishment shall have been mitigated by the provisions of this act, such provisions, shall be extended and applied to any judgments to be pronounced after the repeal or cessation to have effect : *Provided, however*, That in case of the conviction of any person of color for any such offence, he shall be punished therefore in like manner only as if he were a white man.

Certain previous offenses committed not affected by repeal.

Proviso.

SEC. 19. *Be it further enacted*, That no suit or prosecution pending at the time of the repeal, for any offence committed, or for the recovery of any penalty or forfeiture incurred under any of the acts repealed, shall be effected by such repeal. [*Ratified this 10th day of March, 1866.*]

Pending suits not affected by repeal.

AN ACT TO PUNISH VAGRANCY.

Chap. 42.

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,*

Vagrancy defined and punished.

That if any person who may be able to labor has no apparent means of subsistence, and neglects to apply himself to some honest occupation for the support of himself and his family, if he have one ; or, if any person shall be found spending his time in dissipation, or gaming, or sauntering about without employment, or endeavoring to maintain himself or his family, by any undue or unlawful means, such person shall be deemed a vagrant, and guilty of a misdemeanor. And it shall be the duty of any justice of the peace of the county wherein such person shall be found, upon due proof of such offence, to issue a warrant for the arrest of the offender, to be brought before him or some other justice of the peace, whose duty it shall be, if on examination, such person shall be found a vagrant, to recognize him with good security for his appearance at the first court to beheld for said county, whether it be a court of pleas and quarter sessions, or a superior court, answer such offence. And if he fails to give such recognizance, he shall be imprisoned until the session of said court : *Provided, however,* That if such offender shall, at the said court, enter into a recognizance, in such sum as the court shall prescribe, conditioned for his good behavior and industrious, peaceable department for one year, he may be discharged on payment of the costs and charges which shall have accrued ; but if he shall fail to enter in such recognizance, and pay such costs and charges, he shall be prosecuted as a vagrant, and upon conviction, the court may fine or imprison him, or both, or sentence him to the workhouse for such time as the court may think fit.

Duty of magistrates.

Proviso.

SEC. 2. *Be it further enacted,* That this act shall take effect from an after its ratification. [*Ratified the 2nd day of March, A.D. 1866.*]

AN ACT TO PUNISH PERSONS PURSUING AND INJURING HORSES AND OTHER LIFE STOCK, WITH INTENT TO STEAL THEM.

Chap. 57.

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 if any person shall pursue, kill or wound any horse, mule, ass, jenny, cattle, hog, sheep, or goat, the property of another with the intent unlawfully and feloniously to convert the same to his own use, he shall be deemed guilty of a misdemeanor, and on conviction, shall be punishable, in all respects, as if convicted of larceny, though such animal may not have come into the actual possession of the person so offending. And all persons commanding, counseling, advising, aiding or abetting and of such unlawful acts, shall be punished in like manner, and may be prosecuted alone, or with the principal actor. [*Ratified the 2nd day of March, A.D. 1866.*]

Persons injuring live stock guilty of a misdemeanor.

AN ACT TO PREVENT ENTICING SERVANTS FROM FULFILLING THEIR
CONTRACTS OR HARBORING THEM.

Chap. 58.

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 if, after the ratification of this act, any person shall entice, persuade and procure any servant by indenture, or any servant who shall have contracted in writing, to serve his employer, to unlawfully leave the service of his master or employer ; or, if any person shall knowingly and unlawfully leave the service of such master or employer ; then, in either case, such person and servant may be sued, singly or jointly, by the master, and on recovery, he shall have judgment for the actual double value of the damages assessed. [*Ratified the 2nd day of March, A.D., 1866.*]

Persons enticing servants from employer, may be sued.

Rebels and conspirators against the government to suffer death.

AN ACT TO SECURE AGRICULTURAL LABORERS THEIR PAY IN KIND.

Chap. 59.

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 whenever servants and laborers in agriculture shall, by their contracts in writing, already or hereafter made, be entitled for wages, to a part of the crops cultivated by them, such part shall not be subject to sale under executions, against their employers, or the owners of the land cultivated.

Laborers part of crops secured against sale under executions

SEC. 2. *And be it further enacted,* That this act shall be in force from and after its ratification. [*Ratified the 2nd day of March, A.D. 1866.*]

AN ACT TO PREVENT WILFUL TRESPASSES ON LANDS AND STEALING
ANY KIND OF PROPERTY THEREFROM.

Chap. 60.

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 no person, after being forbidden to do so, shall enter on the premises of another without a license therefor ; and if any person after being thus forbidden, shall so enter, he shall be deemed guilty of a misdemeanor. And if any person, not being the present owner or *bona fide* claimant of such premises, shall willfully and unlawfully enter thereon, the same being the property of the owner of the premises, or under his control, keeping or care, such person shall, if the act be done with felonious intent, be deemed guilty of larceny, and punished for that offence. And if not with such intent, shall be deemed guilty of a misdemeanor : *Provided, however,* That any person who may make a

Persons forbidden not to enter on land.

Penalty.

Proviso.

written affidavit before a justice of the peace of county, that any of his cattle or other live stock, (which shall be specially described and set forth in such affidavit) has strayed away, and he has good reason to believe that it is on the premises of another or other persons, then such justice may, in his discretion, allow such person to enter on said premises with one or more servants, without firearms, in the day time (Sunday excepted,) between the hours of sunrise and have been made for his estray for such limited time as to said justice shall appear reasonable ; but the only effect of such license shall be to protect the persons entering, form indictment therefore, and then only, provided the license shall have been made *bona fide*, without any damage except as was necessary to conduct the search. [*Ratified the 2nd day of February, A.D., 1866.*]

MARRIAGE LICENSE.

CHAPTER LXIX

AN ACT TO AMEND CHAPTER 68, REVISED CODE, PRESCRIBING THE DUTIES OF CLERKS IN ISSUING MARRIAGE LICENSE.

... SEC. 3. *Be it further* enacted, That upon the return of the license and certificate of marriage, as required by section four (4) in said chapter, it shall be the duty of the Clerk to copy such evidence of marriage in books to be kept by him for the purpose, stating, in parallel columns, the time and place of such marriage, the names of the parties and the parents of each, and by whom married, keeping such registry of white and colored persons in separate books ; for which service he shall receive a fee of forty centers, in addition to other fees allowed by law.

Duty of Clerk on return of license, &c.

SEC. 4. *Be it further* enacted, That this act shall take effect from and after its passage. [*Ratified the 26th day of February, A.D., 1867.*]
