Constitutional Convention of North-Carolina.

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Courts their Names and Number

The Courts of Justice in this State shall be

1st The Court for the trial of Impeachments.
2d The Supreme Court.
3d The Superior Courts.
4th The Probate Courts.
5th The Courts of Justices of the Peace.

The Court for the Trial of Impeachments

The Court for the trial of Impeachments shall be the upper house of the General Assembly. A majority of the members shall be necessary for a quorum, and the judgment shall not extend beyond removal from, and disqualification to hold office, but the party shall be liable to indictment and punishment according to law.

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The Supreme Court.

Composition.

The Supreme Court shall be composed of one Chief Justice and two Associate Justices.

Jurisdiction.

The Supreme Court shall have exclusive jurisdiction to review upon appeal every actual determination made by any of the Superior Courts of the State, but no ~~matter~~ issue of fact shall be tried before this Court, and its decision shall be remitted to the Court below to be enforced. And the said Court shall have power to issue such remedial writs as may be necessary to give it a general superintendance and control of inferior the Courts.

Terms.

There shall be two terms of the Supreme Court in each year, beginning on the first Monday of June and the first Monday of January, and to continue as long as the public ~~good~~ interest may require.

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The Superior Courts

Circuits Districts.

The State shall be divided into ten judicial Districts, six of nine and four of eight counties each.

Judges

There shall be one Judge of the Superior Court for each judicial District, resident therein.

Jurisdiction.

The Superior Courts shall have appellate jurisdiction in all actions in which the decisions of the Probate Courts, are not final; and original jurisdiction in all actions not otherwise provided for.

Terms.

There shall be two terms of the Superior Court held in each County annually.

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Probate Courts.

The Judge of Probate in each County shall perform the usual duties of Surrogate, as may be prescribed by law, and in addition thereto shall hold two terms in each year for the trial of civil and Criminal actions, arising in the county.

Jurisdiction

The Probate Court shall have jurisdiction, ~~as~~ either original or appellate, in all civil actions, where the matter in controversy shall not exceed One Thousand Dollars, and no appeal shall be granted when the matter in controversy shall not exceed Five Hundred Dollars in value.

The criminal jurisdiction of the Probate Court shall extend to all misdemeanors.

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The Probate Court shall be always open for the transaction of the business of Surrogate, the trial of issues of law, and ~~the transaction~~ other proceedings for which no notice is required to be given the opposing Party

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Courts of Justices of the Peace.

There shall be two Justices of the Peace in each who shall have jurisdiction within the same in all civil actions excepting those involving the title of real estate, where the matter in controversy shall not exceed One Hundred Dollars, and in case a jury is summoned, ~~the decision shall be final in~~ there shall be no appeal when the matter in controversy does not exceed twenty five Dollars in value.

Criminal Jurisdiction.

The courts of Justices of the Peace shall have Criminal Jurisdiction — in all finable offences, subject to appeal to the Probate Court of the County

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Special Courts

The Legislature may provide for Special Courts for the trial of misdemeanors, in cities and towns where the same may be necessary.

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Judicial Officers - election and tenure of office.

All Judicial officers shall be elective; The Justices of the Supreme Court shall be elected by the ~~people~~ qualified voters of the State, the Judges of the Superior Courts by the voters of the judicial district in which he resides; a Judge of Probate by the qualified voters of a county; the Justices of the Peace by the voters of the town in which they reside; the Judges of the Special Courts by the voters of the Cities or villages in which ~~they~~ such Courts are situate.

Tenure of Office.

~~At the first election~~ The term of Office of the Justices of the Supreme Court shall be twelve years, except that at the first election ~~the~~ one of the associate Justices shall be chosen for

four years and the other for eight. The term of office of the Superior Court Judges shall be eight years; of the ~~Probate~~ Judges four years and of the Justices of the Peace two years.

Officers of the Courts.

1st Attorney General
2nd " Prosecuting Attorney
3rd " Clerks of Supreme Court.
4th " Sheriff
5th " Clerks
6th " Constable

Attorney General.

The Attorney General shall be the legal adviser of the Executive & shall represent the State before the Supreme Court, whenever the same shall be a party, and have a general supervision of ~~the~~ Criminal prosecutions throughout the State. He shall be elected by the qualified

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voters of the State, and his term of office shall be four years.

Clerk of Supreme Court.

The clerk of the Supreme Court shall be appointed by the Court and his term of office shall be four years.

Prosecuting Attorney.

The Prosecuting Attorney of each County shall represent the State in all criminal actions arising therein except in appeals before the Supreme Court, in which he shall appear only at the direction of the Attorney General.

County Clerk

The County Clerk of each County shall be the clerk of the Probate and Superior Courts holden in ~~his County~~ therein.

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Exceptions.

Objection being made in writing to any ruling or order in any action in any of the ~~inferior~~ Courts except the Supreme Court, upon matter of law or legal inference, the party objecting shall be entitled to a Bill of Exceptions, and a decision of the issue of law by the Courts above, but no issue of fact, shall be tried upon a bill of exceptions.

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Actions.

The distinction between actions at law and suits in equity, and the forms of all such action 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 or prevention 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 thereof, shall be termed a criminal action.

Code Commission.

This Convention shall appoint three Commissioners, whose duty it shall be ~~to revise reform simplify and abridge~~ and the ~~Laws~~

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1st To prepare a complete and scientific analysis and arrangement of the whole body of the law Common and Statutory heretofore existing in North Carolina so far as applicable under this Constitution, avoiding repetitions and rejecting Contradiction, with such specified amendments as may be deemed proper.

2- To revise, modify, reform and abridge the rules of Practice, pleading, forms and proceedings of this state in all actions.

3d To report to the Legislature from time to time ~~only~~ the results of their labors subject to modification, adoption or ~~rejection~~ recommitted by the same

The Members of this Commission shall receive ~~a~~ p three dollars per day while actually engaged in the work assigned them and such clerk hire printing and ~~office and~~ Stationery and office room as the public interests may require.

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Probate Courts.

Judges and their duties.

The Judge of Probate, in each County shall ~~hold~~ discharge the usual duties of Surrogate, and additional

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Juries.

All issues of fact shall be decided by a jury and all issues of law by the Court, Provided That the jury may be waived by the parties in civil actions and in trials of Misdemeanors by the Justices of the Peace Juries of Courts of Justices of the Peace shall be composed of six.

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— Crimes —

All crimes which may be punishable with death or imprisonment in the State Prison shall be ~~known~~ Felonies, and all other Crimes shall be Misdemeanors.

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The duty of a State towards its citizens

1st To prevent pauperism

2d To guarantee the means of livelihood

3d To provide for educating that the people may discharge the duties of citizens intelligently

To secure these ends the right of eminent domain may be used in giving a homestead, retrospection and recoverable for the property thus protected is left in the hands of the debtor, simply as a trustee for the State, & the income derived therefrom being simply supposed to go entirely to the support of the otherwise impoverished family of the debtor. In exercising the rights in this manner the State only resumes the tenure which had been for a time alienated for the purpose of devoting the profits of the exempted property to its own use, viz: the support of its needy citizens — instead of taxing the property of the State — including the creditors — to accomplish that end —

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The Chairman of the Committee on Printing is requested to order the within proposed to the Committee on the Judiciary Department to be printed. 152 copies.

29 July 1848

Mill. B. Richman
Chairman of Committee
on Judiciary Dept

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