

# An Act to Encourage the Settlement of this Country (1707)

*The Colonial Records of North Carolina* (Raleigh: P.M. Hale, 1886), I, 674–675.

## As you read...

### GET OUT OF JAIL FREE!

This law, passed by the North Carolina Assembly (its legislature) in 1707, offered immigrants five years' immunity from prosecution for crimes they committed or debts they contracted before arriving in North Carolina. The Albemarle Assembly had passed a similar law in 1669, soon after the colony was established, but this law extended the policy to the entire colony. Clearly, North Carolinians were desperate to attract more settlers. Imagine someone in present-day debates on immigration suggesting an open-door policy for convicted criminals!

### READING LEGISLATION

This law is hard to read, and not only because it uses some legal terminology. The entire law (more than 600 words) has only two sentences and almost no punctuation. It suggests that the men writing North Carolina's laws, though they were some of the wealthiest men in the colony, were not highly educated by today's standards. When you read it, take it one phrase or clause at a time — you might even add punctuation to it as you go, to make it more readable.

If you break down the law one small piece at a time, you can see not only what the law was intended to do but how it was written. First, there is a preamble — an introduction that explains why the law is necessary. Next, there is a brief statement of the law's purpose. Last are several exceptions to the law — specific cases or groups of people that would be excluded from it. Interestingly, nothing in the law requires the colony's government to *do* anything — which isn't surprising, given how little government the colony actually had at this time!

The comments on specific passages of the law will help you make sense of it and provide some historical context for it.



Figure 1. During Queen Anne's War (1702–1713), French and Spanish ships harassed the coast of North Carolina, and in 1706 they attacked Charleston.

The men who wrote this law wanted more colonists in part to defend against that kind of attack. They may have had this fellow in mind, a Lt. Lewis of Massachusetts who defended his colony against not only the French and Indians but also, according to his statue, "the prowling wolf."

Whereas it hath pleased Almighty God so to bless and prosper the English plantations on the maine Land of America<sup>1</sup> that all the Sea Coast from the most Easterne parts of New England to the Southermost part of Carrolina with all the Ports and Harbours thereon are possess by English under the dominion of our most gracious Soverreign Lady Ann by the Grace of God of England Scotland France and Ireland Queen Defender of the faith save only one Tract of land lying in this Government<sup>2</sup> which lying waste<sup>3</sup> the Communication of her Majties Subjects by land is not only interrupted<sup>4</sup> but the Enemy in time of Warr and Pyrates in time of Peace have hitherto made use of the Harbours therein to careen and fitt their vessells as also to Wood and Water to the great annoyance of her Majties Subjects trading along the Coast<sup>5</sup> and the Place being inhabited (as has been lately discovered) only by some fugitive Indians under no manner of Government and living chiefly by Rapine who do murder or hold in Slavery all persons that either by Shipwrack or passing in small vessells so unhappily fall under their Power And whereas the Inhabitants of this Government by reason of their fewness are subject to the dayly Insults of the Heathen owing their Lives and safety's to the courtesy of the Heathen rather than their own strength<sup>6</sup>, therefore for the more speedy peopling the said Tract of Land and for the uniteing her Majts<sup>7</sup> Empire in America and preventing the Enemy from Harbouring in those parts for the subdueing the Inhabitants and security of her Majties Subjects trading along the sea coast as also of the Inhabitants settled in this Government we pray that it may be enacted and it is hereby enacted by his Excell: the Palatine<sup>8</sup> & the rest of the true and absolute Lords Proprs by and with the consent & advice of this present grand assembly and the authority thereof. And it is hereby enacted that no person or persons whatsoever who from and after ratification of this act shall transport themselves into this Government and shall continue to be an Inhabitant or Inhabitants here to plant & inhabit shall be arrested sued or impleaded in any Court or imprison'd for any debt<sup>9</sup> whither the same be by Bill Bond<sup>10</sup> or other reckoning or acct whatsoever contracted before their arrival here till and after five years after their arrival Provided allways that this act nor anything therein contained shall in no wise be constructed to protect any person or persons Indebted to our Sovereigne Lady the Queen her Heires and successors or to the public account of the place or Government where they have lived or as Guardians & Trustees for Orphans Estates<sup>11</sup> nor any person or persons who shall transport him or themselves from our neighbouring Government her Majties Dominions and Colony of Virginia nor any persons indebted to any of her Majties Subjects living within the aforesaid Collony of Virginia<sup>12</sup> who upon pretence of coming from any other place shall plead the benefitt of the said act nor any persons indebted for any wares, goods and merchandizes the effects whereof they shall bring into or otherwise receive within this Government nor any person indebted for any debts contracted upon any account whatsoever within six months before their arrival here<sup>13</sup> Provided also and it is hereby Enacted by the authority aforesaid that what person or person so ever shall at any time hereafter transport him or themselves into this Government and having once had the benefitt of this act shall depart hence and againe afterwards transported him or themselves into this Government shall have or receive no benefitt or advantage<sup>14</sup> by such his or their transportation anything herein contained to ye contrary notwithstanding

---

## On the web

### More from LEARN NC

Visit us on the web at [www.learnnc.org](http://www.learnnc.org) to learn more about topics related to this article, including Lords Proprietors, North Carolina, colonization, and legislation.

### Notes

1. That is, on the American continent, as opposed to the islands of the Caribbean.
2. The preamble (opening passage) to this act points out, first, that England controls the east coast of North America from “the most Easterne parts of New England” (now southern Maine) to “the Southermost part of Carrolina,” and second, that the only unoccupied piece of land on the coast is in North Carolina. You might guess that North Carolina’s leaders found this embarrassing.
3. We think of “laying waste” to a country as a violent act, but “lying waste” simply means that the country is a wasteland. (The Indians who lived there might have been surprised to learn that their home was a “wasteland.”)
4. Communication among the colonies was difficult in 1707. Mail could be sent by ships from one port to another, and then carried up river; or it could be carried by horseback along the few roads that existed or, in many places, simply through the woods. Travel by horseback was slow — the trip from North Carolina to Philadelphia took more than a week! Of course, riders would need to stop every so often, and since North Carolina had only a few white settlements, there were few places a traveller could safely spend the night. As a result, the General Assembly is saying, the sparse settlement of North Carolina affected colonists all along the seaboard.
5. North Carolina has so many inlets, harbors, and barrier islands along its coast that enemy ships and pirates could easily hide there. During Queen Anne’s War (1702–1713), French and Spanish ships harrassed the coast of North Carolina, and in 1706 they attacked Charleston. That attack was fresh in Carolinians’ minds when they passed this law a year later.
6. North Carolinians feared that they would be helpless if the Indians of the coastal plain attacked them. The Tuscarora War, a few years later, would prove them right.
7. Majesty’s. There are several different abbreviations for “majesty” in this document.
8. According to the Fundamental Constitutions, the eldest of the eight Lords Proprietors served as *Palatine* or chief proprietor.

More generally, a *palatinate* was a region or country ruled by someone (called a *palatine*) who lacked the status of a king but had more or less the powers of one. The Palatinate was a region of present-day Germany ruled in this way, and many of the original settlers of New Bern came from there. They, too, were called Palatines. And if that isn’t confusing enough, the English in colonial America frequently referred to *all* German immigrants as Palatines, even though many were from Switzerland or other parts of western Germany.

9. Here we get to the point of the law: Any person who moved to North Carolina would have his or her legal slate wiped clean. For five years after arriving in Carolina, migrants could not be sued or prosecuted for any crime committed or debt contracted before they moved there. This was a great offer not only to criminals but to people who owned money — in the 1700s, people who could not pay their debts could be sent to prison.

It's hard to imagine such a law being passed today, but the colonies came to accept criminals as a good source of cheap labor. In 1718, the British Parliament allowed courts to offer convicted criminals the option of "transportation to the colonies" — that is, they could avoid execution by being shipped to America. (Under England's "Bloody Code," any crimes were then punishable by hanging, including not only arson, murder, and rape, but also burglary, robbery, animal theft, and the malicious maiming of cattle!) As many as 50,000 convicted felons came to America under this law — as much as a quarter of all immigrants in the eighteenth century!

You might think that opening the door to criminals would be dangerous for a young colony, but in fact, criminals who were transported to America rarely got into trouble here. Most were extremely poor and had committed crimes only out of desperation. Given the chance for a fresh start, they often flourished.

See A. Roger Ekirch, *Bound for America: The Transportation of British Convicts to the Colonies, 1718–1775* (Oxford: Clarendon Press, 1987), and *Last Mile Tours: The Execution of Capital Punishment in Eighteenth Century England* (see <http://www.learnnc.org>[http://www.umich.edu/~ece/student\\_projects/bonifield/home.html](http://www.umich.edu/~ece/student_projects/bonifield/home.html)), a student project from the University of Michigan.  
Roger Ekirch

10. This is either an alternate spelling or a misprint of "bail bond," a contract signed by an accused person to guarantee his or her presence at trial. With a bail bond, the accused is set free until the trial date, but would have to pay a certain sum of money, specified by a judge, if he or she does not appear at trial.
11. Of course, there are exceptions. No one indebted to the Queen can avoid his debts by coming to Carolina — obviously, the Queen would never permit that! People owing money to other governments are also excluded, to avoid international conflicts.

Interestingly, people who owed money "as Guardians & Trustees for Orphans Estates" were excluded from the law. Poor health and rampant disease made orphans more common in the eighteenth century than they are today. Parents who had money wrote their wills to create a trust for their children — to put their estate (inheritance) into a special fund, managed under careful rules — so that if the parents should die, the children would be taken care of. But the trustees who were assigned to manage those funds might manage them irresponsibly or even steal from them. At least one member of North Carolina's assembly apparently was concerned that trustees for orphans' estates would clean out the orphans' accounts and take off for America.

12. The law also excluded Virginians and people who owed money to Virginians. This was a serious problem: Since the mid-1600s, indentured servants had been running away from their masters in Virginia into the relative wilderness of North Carolina. For that reason, Virginians had long been frustrated by the loose government of the Albemarle region. North Carolina wanted good relations with its northern neighbor, and so it didn't offer settlers protection from Virginia's laws and courts.
13. The law excluded people who went into debt to buy goods that they imported into North Carolina and people who went into debt less than six months before arriving. Otherwise, people might borrow money in Europe and immediately sail for America, using North Carolina's generous law as a means of committing a crime rather than as a second chance.
14. Finally, migrants could only benefit from this law once, and they had to stay in North Carolina permanently to continue to benefit from it.

## Image credits

More information about these images and higher-resolution files are linked from the original web version of this document.

### **Figure 1 (page 2)**

Photo by John Stephen Dwyer. This image is believed to be in the public domain. Users are advised to make their own copyright assessment.