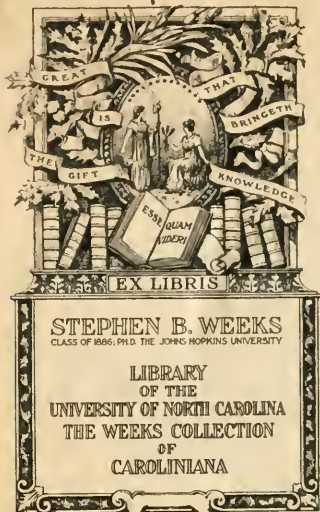


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ACTS

PASSED BY THE

GENERAL ASSEMBLY

OF THE

STATE OF NORTH CAROLINA;

AT THE

SESSION OF 1833-34.



RALEIGH:

PRINTED BY LAWRENCE & LEMAY,

Printers to the State.

1834.



LAWS OF NORTH CAROLINA,

Enacted by a General Assembly, begun and held at Raleigh on the eighteenth day of November, in the year of our Lord one thousand eight hundred and thirty three, and in the fifty eighth year of the Independence of the said State.

DAVID L. SWAIN, ESQUIRE, GOVERNOR.

CHAPTER I.

An act to recharter the Bank of Cape Fear.

Whereas, by the provisions of an act, passed in the year of our Lord one thousand eight hundred and four, entitled "an act for establishing a Bank in the town of Wilmington," the subscribers to the stock of said Bank were incorporated under the name and style of the "President, Directors and Company of the Bank of Cape Fear;" and whereas, by a subsequent act, passed in the year of our Lord one thousand eight hundred and fourteen, entitled "an act concerning the Banks of Cape Fear and Newbern," the capital of said Bank was increased, and its existence as a corporation extended to the first of January, in the year of our Lord one thousand eight hundred and thirty five; and whereas it is expedient now to continue the corporate privileges of the said Bank for a further term:

Preamble.

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 stockholders in the said Bank, their successors and assigns, shall be, and continue a body corporate, in law and in fact, under the name and style of the "President, Directors and Company of the Bank of Cape Fear," with a capital stock of eight thousand shares, of one hundred dollars each, until the first day of January, one thousand eight hundred and fifty-five; and by the name and style aforesaid, shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain, to themselves, their successors and assigns, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding in the whole, including the amount of capital stock aforesaid, two millions four hundred thousand dollars, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, to implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such bye laws, ordinances and regulations, as shall seem necessary for the government of the said corporation, not being contrary to the constitution of this State or of the United States, or of the said corporation; for the making whereof general meetings of the stockholders may be called by the directors, as hereinafter specified; and generally to do and execute all such acts, matters and things, as to them shall and may appear necessary, subject, nevertheless, to the rules, regulations and restrictions hereinafter declared and prescribed.

Corporation continu'd with a capital of 8,000 shares, until January 1, 1855.

II *Be it further enacted,* That at all meetings of the stockholders of the said Bank, and at all elections for directors, the Governor for the time being, or such other person or persons as

How the State shall be represented in

meetings of he or the Legislature may from time to time appoint, shall act on
stockholders, behalf of the State, and shall have the same number of votes to
&c. which the greatest number of stockholders may be entitled, pos-
sessing an equal number of shares with those owned by the
State at the time of such election; and the number of votes to
which each stockholder shall be entitled, except the State, shall
be according to the number of shares he shall hold, in the pro-
portions following: that is to say, for one share, and not more
than two shares, one vote; for every two shares above two, and
not exceeding ten, one vote; for every four shares above ten, and
not above thirty, one vote; for every six shares above thirty, and
not exceeding sixty, one vote; for every eight shares above sixty,
and not exceeding one hundred, one vote; and for every ten
shares above one hundred, one vote; but no person, copartner-
ship, or body politic, shall be entitled to a greater number than
sixty votes, nor shall any share or shares confer a right of suf-
frage, which shall not have been holden three calendar months
previous to such meeting; nor shall any stockholder be entitled
to vote in elections, or any general meeting, by proxy, un-
less he be actually a resident within the State.

III. *Be it further enacted*, That any number of stockholders,
not less than thirty, who together shall be proprietors of one
hundred shares or upwards, shall have power, at any time, to
demand a general meeting of the stockholders, for purposes re-
lating to the said corporation; and upon such demand, the presi-
dent of the Bank shall call such meeting, giving at least four
weeks' notice in a public gazette published in the city of Ra-
leigh, and specifying in such notice the object or objects of such
meeting.

IV. *Be it further enacted*, That for the well ordering the af-
No. of direc- fairs of the said corporation, there shall be eleven directors, be-
toms, and how ing citizens of this State, of whom at least seven shall be resi-
to be elected. dents of Wilmington, or within fifteen miles thereof, elected
yearly by the stockholders, at a general meeting to be held an-
nually at Wilmington, on the first Monday in January: *Provided*,
that in case it should at any time happen that an election of di-
rectors should not be made upon the day when, pursuant to this
act, it ought to have been made, the said corporation shall not for
that cause be dissolved, but it shall be lawful, on any other day,
within ten days thereafter, to make an election for directors, in
such manner as shall be regulated by the law and ordinances of
the said corporation; and that in case of the death, resignation
or absence from the State of any director, his place shall be
filled by a new appointment, for the remainder of the year, by
a majority of the directors.

V. *Be it further enacted*, That the president of the Bank, be-
Election of president. ing a director, shall be chosen by a majority of the directors,
with a salary to be fixed by the stockholders in general meeting;
President and directors may establish branches, &c. and the president and directors of the principal Bank for the
time being shall have power to establish branches or agencies of
the said Bank at such place or places, within this State, as they
may think proper, and commit the management of such branches

or agencies, and the making discounts thereat, to such persons as they may select: *Provided*, that at each branch or agency so established there shall be appointed not less than three directors, and that no branch or agency now existing, or which may hereafter be established, shall be removed, unless directed by the stockholders in general meeting: *And provided also*, that the president and directors shall establish a branch or agency of said Bank in the city of Raleigh when thereto required by the General Assembly.

Proviso.

Further proviso.

VI. *Be it further enacted*, That the president and directors for the time being shall have power to appoint such officers, clerks and servants at the principal Bank and at their several branches and agencies, as they shall deem proper, and shall regulate their respective duties and compensation, and shall exercise such other powers and authorities as shall be described, fixed and determined by the bye laws, regulations and ordinances of the corporation.

The appointment of officers and their salaries.

VII. *Be it further enacted*, That every cashier of the said Bank, branch or agency, before entering on the duties of his office, shall give bond and security in a sum not less than twenty five thousand dollars; and every clerk and other officer shall give bond and security for such sum as the directors may require.

Cashier, &c. to give bond.

VIII. *Be it further enacted*, That the total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed the sum of one million six hundred thousand dollars over and above the sum then actually deposited in the said Bank for safe keeping, unless the contracting of any greater debt shall have been previously authorised by a law of this State; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities, and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court of record in this State, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution; any condition, covenant or agreement to the contrary notwithstanding; nor shall this be construed to exempt the said corporations, or the lands, tenements, goods or chattels of the same, from being also liable and chargeable with the said excess; but such of the said directors as may have been absent when the said excess was contracted, or may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable by forthwith giving notice of the fact, and of their absence or dissent, before or with some notary public, and to the stockholders at a general meeting which they shall have power to call for that purpose.

Limit of debt due from the Bank.

In case of excess, directors may be personally liable.

Exception.

IX. *Be it further enacted*, That the president and directors of the said Bank shall at all times, from and after the passing of this act, and during the continuance of the same, be bound

Bank bound to make loans to the State.

1881

Proviso

and obliged to make a loan or loans to the State of North Carolina, if required and authorised by law, of any sum or sums of money, not exceeding in the whole, at any one time, one tenth part of the actual capital stock of said Bank, and at a rate of interest not exceeding six per cent. per year, to be paid half yearly: *Provided*, that it shall be the duty of the Public Treasurer to make application in writing for such loan or loans at least three months previous to the time when they may be required.

Statement to
be furnished
Public Treas-
urer, &c.

X. *Be it further enacted*, That it shall be the duty of the Treasurer of the State to require from time to time, not exceeding once in six months, which shall be furnished by the president of the said corporation, a statement of the amount of the capital stock of the said corporation, the debts due to the same, the moneys deposited, the notes in circulation, and the cash on hand; and shall have a right to inspect such general accounts on the books of the said corporation as shall relate to the said statements: *Provided*, that this shall not be construed to be a right to inspect the accounts of private individuals, except the directors, with the said Bank.

Proviso.

Tax upon the
stock.

XI. *Be it further enacted*, That a tax of twenty-five cents on each share of stock owned by individuals in the said Bank shall be annually paid into the Treasury of the State, by the president or cashier of said Bank, on or before the first day of October in each year; and the said Bank shall not be liable to any further tax.

Fundamental
articles.

Stock trans-
ferable.

XII. *Be it further enacted*, That the following rules, restrictions, limitations and provisions shall form and be the fundamental articles of the Constitution of the said corporation: The stock of the said corporation shall be transferable and alienable as heretofore, or according to such rules and regulations as shall hereafter be established by the president and directors for that purpose. Bills, bonds and notes subscribed

Bills, bonds,
&c. to be bind-
ing, and shall
draw interest
from the time
presented un-
til paid.

by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, with or without the seal of the said corporation, shall be binding and obligatory upon the same; and if any person or persons holding any note or notes of the said Bank, shall present the same for payment at the principal Bank or either of its branches where such notes are payable, and the payment shall be refused, the said note or notes shall draw interest from the time of such demand, at the rate of six per cent. per annum, and six per cent. per annum for damages, and the said Bank shall pay the same; any law to the contrary notwithstanding: but is shall not be lawful for the

No note und'r
\$5 to be issu'd

Dividends to
be made half
yearly.

Restriction to
holding prop-
erty.

said Bank to issue any note for a smaller sum than three dollars. Half yearly dividends shall be made of such part of the profits of the Bank as shall appear advisable to the stockholders or to the president and directors for the time being. The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as the cor-

poration now holds, or such as shall be requisite for its accommodation in relation to the convenient transacting of its business, and such as are now or shall be bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales under judgments which shall have been obtained for such debts; nor shall this corporation directly or indirectly deal or trade in any thing except bills of exchange, bonds and notes, gold or silver bullion, mint certificates, public debt of the United States, stock of the Bank of the United States, or such other Bank as may be hereafter established by a law of the United States: *Provided*, that investments in such stock shall not at any one time exceed one half of the capital stock of the Bank hereby created, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods the produce of its lands; neither shall this corporation take more than at the rate of half per centum for thirty days, for or on account of its loans or discount. No less a number than five directors shall constitute a quorum for the transaction of business at the principal Bank, of whom the president shall always be one, unless in case of sickness or necessary absence, when he shall appoint, by a written instrument, a director to fill his place; and no director shall receive any emolument.

In what the Bank shall trade.

Proviso.

Rate of pr. ct. on loans.

No. of directors requisite to form a quorum.

XIII. *Be it further enacted*, That it shall not be lawful for the said president and directors to discount any bond or promissory note, unless the same be made payable and negotiable at the said Bank, or some of its branches or agencies.

No note to be discount'd unless made payable, &c. at the Bank, or branches.

XIV. *Be it further enacted*, That if any director or officer of said Bank shall steal, purloin, embezzle, or in any way act fraudulently with the funds of the said Bank, it shall be deemed felony, and upon conviction thereof shall be punished by fine and imprisonment, putting in the pillory, and whipping on the bare back not exceeding thirty lashes; all or either of them at the discretion of the court.

Fraud of any director or officer deemed felony, &c.

XV. *Be it further enacted*, That the cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question, when asked for by any director. This book shall be evidence in courts of justice; and on entering on the discharge of his duties, the cashier shall take the following oath or affirmation before some justice of the peace, by whom it shall be returned to the office of the clerk of the County Court: "I, A. B. do solemnly swear (or affirm as the case may be) to keep a just and true record, without alteration or erasures, of the transactions of the board of directors of the Bank of Cape Fear, in a book to be kept by me for that purpose."

Cashier shall keep a book to contain the proceedings of the board of directors, which shall be evidence in courts.

And whereas a part of the capital stock hath heretofore been purchased in by the president and directors and company of the said Bank, and merged, pursuant to an act, passed in the year

Preamble.

one thousand eight hundred and twenty-nine, entitled "an act to enable the Banks of Newbern and Cape Fear to wind up gradually, and to fix a uniform rate of collection," so that the amount of the active capital stock of the said Bank is at this time only four thousand nine hundred and seventy three shares, of one hundred dollars each; and whereas commercial necessity renders it desirable that the capital stock of the said Bank of Cape Fear should consist of eight thousand shares, of one hundred dollars each, the same being its former capital:

Stockholders shall be convened, & may open books to renew shares heretofore merged.

XVI. *Be it further enacted*, That the president and directors shall convene, by public notice, the stockholders of the Bank, at some time between the passage of this act and the first day of July next, for the purpose of ascertaining whether they wish to renew the shares of stock heretofore merged or purchased up by the Bank, or whether they prefer the capital to remain at what it now is; and in case the stockholders determine to renew the shares heretofore merged, that is, to increase their capital to its original amount of eight thousand shares, of one hundred dollars each, then it shall be the duty of the president and directors forthwith to appoint a day or days, within four months thereafter, for opening of books to receive subscriptions for the shares heretofore merged; and they shall open books for that purpose at the city of Raleigh and in the towns of Wilmington, Fayetteville, Newbern, Edenton, Hillsboro', Salem, Salisbury, Charlotte, Elizabeth City, Halifax, Tarborough, Warrenton, Milton, Lincolnton, Morganton, Washington, Wadesboro', Murfreesboro' and Windsor, under the direction of two or more commissioners appointed for that purpose, and the same keep open for subscriptions for thirty days; and if a greater number of shares shall be subscribed for than is provided to be sold by this act, the president and directors of the principal Bank shall reduce the subscription to the proper number of shares, by striking off the requisite number from the largest subscriptions; but if the whole number of shares provided by this act be not subscribed within the said thirty days, then it shall be lawful for the said president and directors, by and with the consent of the stockholders, at any subsequent time, to re-open books of subscription, at the same places, for the residue.

If the whole amount be not subscribed, books may be re-opened.

Repeals part of former act, & prescribes how shares shall be paid.

Proviso.

XVII. *Be it further enacted*, That the fourth section of the act of one thousand eight hundred and fourteen be, and the same is hereby repealed; and that the shares subscribed as aforesaid shall be paid in as follows, that is: One fifth at the time of subscribing; one fifth at the end of three months thereafter; another fifth at the end of six months after the first payment; one fifth at the end of nine months after the first payment; and the remaining fifth at the end of twelve months after the first payment: *Provided*, that no part of the subscription shall be paid in the notes of the aforesaid Bank, but shall be paid in specie or in funds equivalent to specie:

Provided, that no dividend on the profits shall be declared on Further pro-
the additional stock hereby authorised to be taken until the ^{viso.}
whole amount of said stock shall be realised to the Bank in
gold or silver or its equivalent.

XVIII. *Be it further enacted*, That the said Bank shall not ^{Limits the is-}
issue more than twice the amount of the capital stock at the ^{issues of the}
time actually paid in specie or its equivalent. ^{Bank.}

XIX. *Be it further enacted*, That the seventh section of the ^{Part of former}
before mentioned act of one thousand eight hundred and four- ^{acts repealed.}
teen, imposing a tax of one per cent. upon all the stockholders in
said Bank, and every section of the act, passed in the year of
our Lord one thousand eight hundred and twenty nine, entitled
"an act to enable the Banks of Newbern and Cape Fear to wind
up gradually, and fix a uniform rate of collection," and every
other act or parts of acts coming within the meaning and pur-
view of this act, or the before recited acts of one thousand eight
hundred and fourteen and one thousand eight hundred and four,
so far as regards the Bank of Cape Fear, be, and the same are
hereby repealed: *Provided*, that nothing in this act shall be so ^{Proviso.}
construed as to affect in any manner the right of the State in
regard to the tax heretofore due.

XX. *Be it further enacted*, That the president of said Bank ^{Notice of the}
shall give notice to the Governor of this State of the acceptance ^{acceptance of}
of this extension of charter by the stockholders thereof, within ^{this act to be}
six months after the passage of this act; otherwise this act shall ^{given to the}
be null and void. ^{Governor.}

XXI. *Be it further enacted*, That it shall be the duty of the ^{Annual state-}
president of the Bank, in the first week in December of each ^{ments to be}
and every year, to transmit to the Legislature a full and correct ^{communicated}
statement of the condition of the Bank, shewing the amount of ^{to the Legis-}
capital; notes in circulation, and from what places issued; debts ^{lature.}
due to other Banks, and to what Banks; and all other particu-
lars necessary to shew the true condition of the debit side of the
account; also specie on hand; debts due from other Banks, and
what Banks; the amount of notes or bonds discounted, and
of bills of exchange, shewing in one item the amount due from
directors, and in another the amount due from stockholders, but
in no case using names of persons; real estate; and all other par-
ticulars necessary to shew the true condition of the credit side
of the said account.

XXII. *Be it further enacted*, That if any president, cashier,
clerk or other officer of the Bank, or any of its branches or agen-
cies, shall knowingly and willingly make, cause to be made, or
connive at making any false return, statement or exhibit of the
condition of the Bank, its branches or agencies, either to the
Public Treasurer, to the General Assembly, to the board of di-
rectors of the principal Bank, or any of its branches or agencies,
or to the stockholders, or to any person or persons authorised
by the Legislature, or by the stockholders, to receive the same,
such person or persons so offending, their aiders and abettors in
such false return or deception, shall be deemed guilty of a mis- ^{Penalty for}
^{making false}
^{returns.}

demeanor, and on conviction in any of the Superior Courts of Law in this State, shall be punished by a fine at the discretion of the court, and by imprisonment not longer than one year.

Of loans upon
the pledge of
stock.

XXIII. *Be it further enacted*, That all loans or discounts which shall hereafter be made upon the pledge of the scrip of the stock of any stockholder in said Bank, the renewal payments upon such loan or loans shall be the same as shall be required by the rules of the Bank upon discounts or loans upon personal security.

CHAPTER II.

An act to establish the Merchants' Bank of the town of Newbern, and the Albemarle Bank in the town of Edenton.

Capital stock
of the Bank of
Newbern.

Banks to be o-
pen'd in New-
bern for sub-
scriptions.

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 a Bank shall be established in the town of Newbern, the capital stock of which shall not exceed two hundred and fifty thousand dollars, divided into shares of one hundred dollars each; and that books shall be opened in the said town, on the second Monday in February, in the year of our Lord one thousand eight hundred and thirty four, and remain open for the space of ninety days, under the superintendence of John Washington, sen. Asa Jones, John R. Donnell, John Snead, Samuel Simpson, James W. Bryan, Bennet Flanner, James C. Stevenson and Matthew Outen, or a majority of them, for the purpose of receiving subscriptions to the said Bank.

How shares
shall be paid.

II. *Be it further enacted*, That one fourth of each share shall be paid, in gold or silver coin, foreign or domestic, to the commissioners above named, at the time of subscribing; that another fourth shall be paid, in gold or silver coin, to the directors, chosen in the manner hereinafter described, within sixty days after the Bank shall have commenced business; and the remainder shall be paid as aforesaid within six months after the commencement of its operations; and if any subscriber shall fail to pay the last instalment, his stock shall be forfeited to the Bank, and may be sold for its benefit: *Provided*, that no dividend shall be declared until the whole amount of stock subscribed shall be realised in gold, silver or their equivalent.

Proviso.

Incorporating
subscribers.

III. *Be it further enacted*, That when one thousand shares are subscribed, and the sum of twenty five thousand dollars is actually paid to the commissioners, the subscribers to the said Bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of the "President and Directors of the Merchants' Bank of Newbern," and shall so continue until the first day of January, one thousand eight hundred and fifty nine, (1859,) and by the name and style aforesaid, they shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain, to themselves and successors, lands, tenements, rents, hereditaments, goods, chattels and effects, and the same to sell, grant, demise, alien or dispose of; to sue and be sued,

implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such bye laws, ordinances and regulations, as shall seem necessary and convenient for the government of said corporation; and for the making whereof, general meetings of the stockholders may be called in the manner hereinafter specified; and generally to do and execute all acts, matters and things, which a corporation and body politic in law may or can lawfully do or execute, subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared.

IV. *Be it further enacted*, That as soon as one thousand shares shall be taken in the stock of said Bank, and the required instalment paid to the commissioners who keep the books, notice thereof shall be given in the gazettes published at Newbern, and a meeting of subscribers, to be held ten days at least after the date of the notice, shall be called. If at this meeting those, or their agents, who have a majority of votes, according to the rule hereafter described, be present, (if not, another meeting must be called,) they shall proceed to the election of seven directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual and proper means to put the Bank in operation. The said directors shall remain in office until the first Monday in December, one thousand eight hundred and thirty four, (1854,) or until their successors shall be appointed; and on the first Monday in December in each year, or at any time thereafter, meetings of the stockholders shall be held in the town of Newbern for the purpose of electing directors, inquiring into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

V. *Be it further enacted*, That the following rules, restrictions, and provisions shall form and be the fundamental articles of the constitution of the said corporation: A meeting of stockholders cannot be held, unless those who have a majority of votes be present, and every act requires the sanction of a majority of the votes which may be present; every stockholder holding one share, and not more than two, shall be entitled to one vote; for every two shares above two, and not exceeding ten, one vote; for every three shares above ten, and not exceeding one hundred, one vote; and for every four shares above one hundred, one vote. After the first meeting, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of voting. Stockholders actually resident in the State, and none others, may vote at elections and general meetings by proxy, (the proxy himself being a stockholder.)

None but a stockholder, who is a citizen of the State, and who holds twenty five shares of the stock in his own right, shall be eligible as a director; and the directors when appointed shall choose one of their number (which shall always be seven) to be

Subscribers to meet and appoint directors.

Annual meetings of stockholders.

Fundamental articles.

A majority of stockholders required at all meetings.

Stockholders how to vote.

Qualifications of directors.

Directors to choose a president.

No. of directors to constitute a board.

president of said Bank; and shall manage the institution as shall seem best to them, unless otherwise directed by the stockholders; but compensation to the president or directors shall be granted at the pleasure of the stockholders. Not less than five directors, of whom the president shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the president, when he may, by writing, nominate any other director to supply his place.

How to call a general meeting of stockholders.

A number of stockholders, not less than ten, who together shall be the owners of one hundred shares or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving at least twenty days' notice in a public gazette, and specifying the object or objects of such meeting.

Cashier and other officers to be elected, who shall give bond.

The directors shall annually elect a cashier and such other officers as may be necessary to perform the business of the Bank. These officers shall be required to give bonds, with two or more securities, in sums not less than ten thousand dollars, with a condition for good behaviour and faithful discharge of duty.

Cashier shall keep a book to contain the proceedings of the board of directors, which shall be evidence in courts.

The cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question, when asked for by a director. This book shall be evidence in courts of justice; and on entering on the discharge of his duties, the cashier shall take the following oath or affirmation before some justice of the peace, by whom it shall be returned to the office of the clerk of the County Court, viz. "I, A. B. do solemnly swear (or affirm, as the case may be) to keep a just and true record, without alterations or erasure, of the transactions of the board of directors of the Merchants' Bank of Newbern, in a book to be kept by me for that purpose."

Directors restricted with regard to loans

No director shall be directly or indirectly concerned in any loan or loans, to be made of the Bank, to a greater amount than the value of his stock; and in all cases, in addition to the usual personal security, the stock of directors shall be considered as a pledge for the repayment of the money which they may borrow.

Restriction in holding property.

The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments, as shall be requisite for the convenient transaction of its business, or shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

In what the Bank shall trade.

The said corporation shall neither directly nor indirectly trade in any thing except bills of exchange, promissory notes and bonds, expressing on the face of them to be negotiable and payable at said Bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or of goods which shall be the produce of its lands, mint certificates, the public debt of the United States, stock of the present Bank of the United States, or such other Bank as may be hereafter es-

established by a law of the United States, provided the investment in such stock shall not exceed one half of the capital stock of this Bank. Neither shall the said corporation take more than at the rate of six per centum per annum for or upon its loans and discounts; which interest shall be taken in advance at the time of discount. The total amount of the debts which the said corporation shall at any time owe, shall not exceed twice the amount of the stock actually paid in, over and above the sum then actually deposited in the Bank for safe keeping. If this or any other enactment herein contained be violated, the directors assenting to such violation shall be deemed to have committed felony, and shall be fined and imprisoned at the discretion of the court.

Rate of pr. et.
on loans.

Limit of debt
due from the
Bank.

Penalty,

If a director shall cease to own the requisite number of shares, or shall die, or resign, the remaining directors shall elect another in his stead, until the succeeding meeting of the stockholders.

How to fill
vacancies.

The stock of said corporation shall be assignable and transferable, according to the rules which shall be instituted in that behalf by the laws and ordinances of the same.

Stock trans-
ferable.

The officer at the head of the treasury department of the State shall be furnished, once in six months, with a statement of the amount of the capital stock of said corporation, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the Bank as shall relate to the said statement: *Provided*, that this shall not be construed to a right of inspecting the accounts of any private individual with the Bank, except of the directors.

Statement to
be furnished
Public Treas-
urer, &c.

Proviso.

The bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsements thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively; and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names. And bills or notes, which may be issued by order of said corporation, signed by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in the like manner and with the like force and effect, as upon any private person or persons, that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable by delivery only.

How bills or
notes shall be
assignable.

VI. *Be it further enacted*, That no note shall be issued by the said Bank under the denomination of three dollars. And if the directors or cashier shall not pay specie, foreign or domestic, on demand, for their notes, the said corporation may be sued, and

No note und'r
\$3 to be issu'd
Penalty for
refusing to pay
specie, &c.

in addition to interest at the rate allowed by law, computed from the time of refusal, the holder shall be entitled to six per cent. as damages, on the whole amount, and the jury, in case of suit, shall give a verdict for the same. And the holder of the notes of the said Bank, if not paid on demand, may bring an action of assumpsit against one or all of the directors, who may have consented to issue more than twice the capital stock paid in, provided that the Bank be not able to pay the amount.

Subscription books may be kept open.

VII. *Be it further enacted*, That the directors shall be allowed to keep open the subscription books until the whole stock shall be taken.

Fraud of any director or officer deemed felony, &c.

VIII. *Be it further enacted*, That if any director or officer of said Bank steal, purloin, embezzle, or in any way act fraudulently with the funds of said Bank, it shall be deemed felony, and he or they shall be punished by one or more whippings, not exceeding thirty lashes on his or their bare back or backs.

Penalty for counterfeiting or forgery.

IX. *Be it further enacted*, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note, in imitation of, or purporting to be a bill or note, issued by order of the president and directors of the Merchants' Bank of Newbern, or any order or check on said Bank or corporation, or any cashier thereof; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note, issued by order of the said corporation, or any order or check on said Bank, or any cashier thereof; or shall pass or receive with intent to pass, utter or publish, as true, any false, forged or counterfeited bill or note purporting to be a bill or note issued by order of the said corporation, or any false, forged or counterfeited order or check upon the said Bank, or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass or receive with intent to pass, or attempt to pass, utter or publish, as true, any falsely altered bill or note issued by order of said Bank, or any falsely altered order or check on said Bank, or any cashier thereof, knowing the same to be falsely altered, with intention to defraud the said corporation, or any other body politic, or person or persons, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars.

Capital stock of the Albemarle Bank of Edenton. Books of subscription to be opened in Edenton.

X. *And be it further enacted*, That a Bank shall be established in the town of Edenton, the capital stock of which shall not exceed two hundred thousand dollars, divided into shares of one hundred dollars each; that books shall be opened in the said town on the second Monday of February, in the year of our Lord one thousand eight hundred and thirty four, (1834.) and remain open for the space of ninety days, under the superintendence of T. J. Charlton, James Gorham, Jos. N. Hoskins, Jos. B. Skinner, Jas. Coffield, James C. Johnson and John Cox, or a majority of them, for the purpose of receiving subscriptions to the said Bank.

XI. *Be it further enacted*, That one fourth of each share shall be paid in gold or silver coin, either domestic or foreign, to the commissioners above named, at the time of subscribing; that another fourth shall be paid in gold or silver coin, either foreign or domestic, to the directors, chosen in the manner hereinafter described, within sixty days after the Bank shall have commenced business; and the remainder shall be paid as aforesaid within six months after the commencement of its operations; and if any subscriber shall fail to pay the last instalment, his stock shall be forfeited to the Bank, and may be sold for its benefit: *Provided*, that no dividends shall be declared until the whole amount of stock subscribed shall be realised in gold, silver or their equivalent.

How shares shall be paid.

Proviso.

XII. *Be it further enacted*, That when seven hundred and fifty shares are subscribed, and the sum of eighteen thousand seven hundred and fifty dollars is actually paid to the commissioners, the subscribers to the said Bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic in law and in fact, by the name and style of the "President and Directors of the Albemarle Bank of Edenton;" and shall so continue until the first day of January, one thousand eight hundred and fifty nine, (1859,) and by the name and style aforesaid, they shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to themselves and successors, lands, tenements, rents, hereditaments, goods, chattels and effects, and the same to sell, grant, demise, alien or dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of record or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such bye laws, ordinances and regulations, as shall seem necessary and convenient for the government of said corporation; and for the making whereof general meetings of the stockholders may be called in the manner hereinafter specified, and generally to do and execute all acts, matters and things, which a corporation and body politic in law may or can lawfully do or execute, subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared.

Incorporating subscribers.

XIII. *Be it further enacted*, That as soon as seven hundred and fifty shares shall be taken in the stock of said Bank, and the required instalment paid to the commissioners who keep the books, notice thereof shall be given in the gazette published at Edenton, and a meeting of subscribers, to be held ten days at least after the date of the notice, shall be called. If at this meeting those or their agents, who have a majority of votes according to the rule hereafter described, be present, (if not, another meeting must be called,) they shall proceed to the election of five directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual and proper means to put the Bank in operation. The said directors

Subscribers to meet and appoint directors

Annual meetings of stockholders.

shall remain in office until the first Monday in December, one thousand eight hundred and thirty four, (1834,) or until their successors shall be appointed; and on the first Monday of December in each year, or at any time thereafter, meetings of the stockholders shall be held in the town of Edenton, for the purpose of electing directors, inquiring into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

Fundamental articles.
A majority of stockholders required at all meetings.
Stockholders how to vote.

XIV. *Be it further enacted*, That the following rules, restrictions and provisions shall form the fundamental articles of the constitution of said corporation: A meeting of stockholders cannot be held unless those who have a majority of votes be present, and every act requires the sanction of a majority of the votes which may be present; every stockholder holding one share, and not more than two, shall be entitled to one vote; for every two shares above two, and not exceeding ten, one vote; for every three shares above ten, and not exceeding one hundred, one vote; for every four shares above one hundred, one vote. After the first meeting, no share or shares shall confer a right of voting which shall not have been holden three calendar months previous to the date of voting. All stockholders residing without the limits of the State may vote by proxy, and in no other way, at elections and general meetings, provided his, her or their proxies are residents of the State of North Carolina, and each possess in their own right at least ten shares of the stock. None but a stockholder

Qualifications of directors.

Directors to choose a president.

No. of directors to constitute a board.

How to call a general meeting of stockholders.

Cashier and other officers to be elected, who shall give bond.

Cashier shall keep a book to contain the proceedings of the board of directors,

who is a citizen of the State, and who holds ten shares of the stock in his own right, shall be eligible as a director; and the directors, when appointed, shall choose one of their number (which shall always be five) to be president of said Bank, and shall manage the institution as shall seem best to them, unless otherwise directed by the stockholders; but compensation to the president and directors shall be granted at the pleasure of the stockholders. Not less than three directors, of whom the president shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the president, when he may, by writing, nominate any other director to supply his place. A number of stockholders, not less than ten, who together shall be the owners of one hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twenty days' notice in a public gazette, and specifying the object or objects of such meeting. The directors shall annually elect a cashier and such other officers as may be necessary to perform the business of the Bank. These officers shall be required to give bonds with two or more sureties, in sums not less than ten thousand dollars, with a condition for good behaviour and faithful discharge of duty. The cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question when asked for by a director. This shall be evidence

in courts of justice; and on entering on the discharge of his duties, the cashier shall take the following oath or affirmation before some justice of the peace, by whom it shall be returned to the office of the clerk of the county court, viz. I, A. B. do solemnly swear (or affirm) to keep a just and true record, without alterations or erasure, of the transactions of the board of directors of the Albemarle Bank of Edenton, in a book to be kept by me for that purpose. The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be requisite for the convenient transaction of its business, or shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts. The said corporation shall neither directly nor indirectly trade in any thing except bills of exchange, promissory notes and bonds, expressing on the face of them to be negotiable and payable at the said Bank, gold or silver bullion, mint certificates, the public debt of the United States, stock of the present Bank of the United States, or such other Bank as may be hereafter established by a law of the United States, provided the investment of such stock shall not exceed one half of the capital stock of the Bank, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum for or upon its loans and discounts; which interest shall be taken in advance at the time of discounts. The total amount of the debts which the said corporation shall at any time owe, shall not exceed twice the amount of the stock actually paid in, over and above the sum then actually deposited in the Bank for safe keeping. If this or any other enactment herein contained be violated, the directors assenting to such violation shall be deemed to have committed a misdemeanor, and shall be punished by fine and imprisonment at the discretion of the court. At least three directors shall reside in the town of Edenton, one of whom shall be the president. If a director shall cease to own the requisite number of shares, or shall die, or resign, or remove from the State, the remaining directors shall elect another in his stead, until the succeeding meeting of the stockholders. The stock of said corporation shall be assignable and transferable according to the rules which shall be instituted in that behalf by the laws and ordinances of the same. The officer at the head of the Treasury Department of the State shall be furnished once in six months with a statement of the amount of the capital stock of said corporation, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the Bank as shall relate to the said statement: *Provided*, that this shall not be construed to a right of inspection of the account of any private individual with the Bank,

which shall be evidence in courts.

Restriction in holding property.

In what the Bank shall trade.

Rate of pr. of. on loans.

Limit of debt due from the Bank.

Penalty,

Three directors to reside in Edenton. How to fill vacancies.

Stock transferable.

Statement to be furnished Public Treasurer, &c.

Proviso.

How bills or
notes shall be
assignable.

except a director. The bills obligatory and of credit under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names; and bills or notes which may be issued by order of said corporation, signed by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in like manner and with the like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons, viz. those which shall be payable to any person, his, her or their order, shall be assignable by endorsement, in like manner and with like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable by delivery only.

No note under
\$3 to be issued
Penalty for
refusing to pay
specie, &c.

XV. *Be it further enacted*, That no notes shall be issued by the said Bank under the denomination of three dollars. And if the directors or cashier shall not pay specie, either foreign or domestic, on demand, for their notes, the said corporation may be sued, and in addition to interest at the rate allowed by law, computed from the time of refusal, the holder shall be entitled to six per centum, as damages, on the whole amount; and the jury, in case of suit, shall give a verdict for the same. And the holder of the notes of the said Bank, if not paid on demand, may bring an action of assumpsit against one or all of the said directors, who may have consented to issue more than twice the capital stock paid in, provided that the Bank be not able to pay the amount.

Subscription
books may be
kept open.

XVI. *Be it further enacted*, That the directors shall be allowed to keep open the subscription books until the whole stock be taken.

Fraud of any
director or of-
ficer deemed
larceny, &c.

XVII. *Be it further enacted*, That if any director or officer of said Bank steal, purloin, embezzle, or in any way act fraudulently with the funds of said Bank, it shall be deemed larceny, and punished by the infliction of thirty lashes upon his bare back.

Penalty for
counterfeiting
or forgery.

XVIII. *Be it further enacted*, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of, or purporting to be, a bill or note issued by order of the president and directors of the Albemarle Bank of Edenton, or any order or check on said Bank or corporation, or any cashier thereof; or shall falsely alter, or cause or procure to be falsely altered, or

willingly aid or assist in falsely altering, any bill or note issued by order of the said corporation, or any order or check, on said Bank or any cashier thereof; or shall pass, or receive with intent to pass, utter or publish, as true, any false, forged or counterfeited bill or note, purporting to be a bill or note issued by order of the said corporation, or any false, forged or counterfeited order or check upon the said Bank, or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass, or receive with intent to pass, utter or publish, or attempt to pass, utter or publish, as true, any falsely altered bill or note issued by order of said Bank, or any falsely altered order or check, on said Bank or any cashier thereof, knowing the same to be falsely altered, with intention to defraud the said corporation, or any other body politic, or person or persons, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars.

XIX. *Be it further enacted*, That the presidents or cashiers of the said Banks shall annually pay into the Treasury of the State twenty five cents on each share of said capital stock, which may have been subscribed for and paid in; and the first payment of said tax shall be made twelve months after the said Bank shall have commenced operations. Tax upon the stock.

XX. *Be it further enacted*, That the directors of each of the said Banks may declare, semi annually, dividends of the profits thereof; and if, at any time, more than the real profits be divided the directors assenting thereto shall be responsible in their private capacities to creditors who have claims against the said institution. Dividends to be made half yearly.

XXI. *Be it further enacted*, That the president or presidents of these, or either of these Banks, shall, in the first week in December, in each and every year, transmit to the General Assembly a full statement of the condition of the Bank, exhibiting the amount of capital; notes in circulation; debt due to other Banks, and to what Banks; deposits, and all other particulars necessary to explain the debit side of the account; also specie on hand; notes of other Banks; other funds specifically enumerated; debts due from other Banks, and what Banks; bills of exchange; debt on bonds discounted, specifying, in one item, the amount due from stockholders, and in another the amount due from directors, not however using any person's name in either case; and the amount of real estate. Annual statements to be communicated to the Legislature.

XXII. *Be it further enacted*, That if any president, director, cashier, clerk or other officer of either of the aforesaid Banks, shall knowingly and wittingly make or cause to be made, or connive at making any false return, statement or exhibit of the condition of the Bank, either to the Treasurer of the State, to the Legislature, to the board of directors or to the stockholders, or to any other person or persons that may be authorised by the Legislature, or by the stockholders, to receive the same, such president, director, cashier, clerk, or other officer, and all persons aid- Penalty for making false returns.

ing or abetting in such deception or false return, shall be liable to be indicted as for a misdemeanor, in any of the Superior Courts of this State, and on conviction, shall be fined at the discretion of the court, and imprisoned not exceeding one year.

CHAPTER III.

An act to establish a Bank in the State 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,

Capital of the Bank. That a Bank shall be established in the State of North Carolina, the capital stock whereof shall not exceed one million five hundred thousand dollars, divided into shares of one hundred dollars each.

Incorporating subscribers. II. *Be it further enacted,* That the Bank so established shall be known and styled the "Bank of the State of North Carolina," and the subscribers to the said Bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of the "Bank of the State of North Carolina," and shall so continue until the first day of January, one thousand eight hundred and sixty; and by the name and style aforesaid, they shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to themselves, their successors and assigns, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding in the whole four and a half millions of dollars, including the capital stock aforesaid; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatever; and also to make, have and use a common seal, and the same to break, alter and renew at pleasure; and also to ordain, establish and put in execution such bye laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation, not being contrary to the laws of this State or of the United States; and for the making whereof general meetings of the stockholders may be called by the directors in the manner hereinafter specified; and generally to do and execute all acts, matters and things which a body politic or corporation in law may or can lawfully do or execute, subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared.

Amount for which the state and individuals may subscribe. Commissioners to open books. III. *Be it further enacted,* That the State shall be entitled to subscribe for two fifths of the capital, say six hundred thousand dollars, and individuals and corporations to the other three fifths, say nine hundred thousand dollars; and books for receiving subscriptions in said Bank shall be opened in Raleigh on the first day of February, one thousand eight hundred and thirty-four, by the Governor, the Treasurer, Gavin Hogg, William Boylan, Duncan Cameron, Charles L. Hinton and Alfred Jones; at Fayetteville, on the same day, by Edward L.

Winslow, Duncan M'Rae and Joseph Baker; at Wilmington, on the same day, by Edward B. Dudley, P. R. Dickerson and R. H. Cowan; at Newbern, on the same day, by Asa Jones, John R. Donnel, John Washington, Robert Primrose and Amos Wade; at Washington, on the same day, by James Ellison, Eli Hoyt and Nathaniel J. Oliver; at Edenton, on the same day, by Josiah Collins, sen'r, R. H. Booth, M. Haughton and John Popelston; at Hertford, on the same day, by Henry Skinner, John Wood and Miles Elliott; at Elizabeth City, on the same day, by Miles White, Hezekiah Lockwood. Isaiah Fearing, John M'Morine and Horatio N. Williams; at Halifax, on the same day, by Andrew Joiner, Mark H. Pettaway and Thomas Burgess; at Tarborough, on the same day, by Spencer D. Cotten, Eli Porter and Theophilus Parker; at Warrenton, on the same day, by Peter R. Davis, Thomas White and Zachariah Herndon; at Louisburg, on the same day, by William Perry, W. P. Williams and H. J. G. Ruffin; at Oxford, under the superintendence of Rhodes N. Herndon, Thomas J. Hicks and James Cooper; at Hillsborough, on the same day, by James Webb, John U. Kirkland and James Philips; at Milton, on the same day, by Samuel Watkins, John Wilson and John T. Garland; at Salisbury, on the same day, by Thomas L. Cowan, William H. Horah and Samuel Reeves; at Salem, on the same day, by Charles F. Bagge, F. H. Shuman and E. Shober; at Charlotte, on the same day, by John Erwin, Joshua D. Boyd and Joseph McConnaughey; at Ashville, on the same day, by Samuel Chunn, James M. Smith and Samuel W. Davidson; at Lincolnton, on the same day, by Vardy M'Bee, John Hoke and Andrew Hoyt; at Windsor, on the same day, by Joseph B. Roulhac, Lorenzo S. Webb and James L. Bryan; at Beaufort, on the same day, by Benjamin Le Craft, Joseph F. Jones and Nathan Fuller; at Morganton, on the same day, by Thomas Walton, Robert C. Pearson and Adolphus L. Erwin; at Greensborough, on the same day, by Robert Modderwell, Jesse H. Lindsay and James T. Moorehead; at Leaksville, on the same day, by William Barnett, William A. Carrigan and John Larrison; at Jefferson, on the same day, by George Bower, Jr. Rich'd Gentry and Alexander B. M'Millian; and at the same time, at such other places, under the superintendence of such commissioners, as may be designated by the commissioners appointed to receive subscriptions at Raleigh. A majority of said commissioners, at such of the above named places, shall be competent to perform the duties of their appointment; and if the whole number of shares, other than those reserved for the State, shall not be subscribed within the term of sixty days, they may keep the books open for ten months, for the purpose of receiving subscriptions, and no longer.

IV. *And be it further enacted*, That if it shall happen, when the books shall be opened as aforesaid, that a greater sum than nine hundred thousand dollars shall be subscribed by individuals or bodies corporate, it shall be lawful for the commissioners

How subscrip
tions may be
reduc'd in case
of excess.

at Raleigh to reduce such subscriptions, according to a scale by them to be established for that purpose, to the aforesaid sum of nine hundred thousand dollars: *Provided*, that no subscriptions of two shares or under shall be scaled until all larger subscriptions shall first be reduced to an equality with them.

Proviso.

How State subscription shall be paid.

V. *Be it further enacted*, That payment for shares subscribed for in behalf of the State, whenever the payment of such subscriptions shall be ordered by the Legislature, shall be made by the Public Treasurer out of such funds, being in gold or silver coins of the United States, or Spanish milled dollars, or their equivalent, to the commissioners in the city of Raleigh, and on the same times as are hereinafter prescribed for payments to be made by individual or other subscribers: *Provided*, that if the State shall not have the means of paying the regular instalments on the whole number of six thousand shares, it shall be lawful for the Public Treasurer to subscribe and pay for such a number of shares as the funds in the Treasury will warrant, or as the Legislature may from time to time direct; and if the whole number of six thousand shares shall not have been subscribed and paid for on or before the first day of January, one thousand eight hundred and thirty-seven, the State shall no longer have the privilege of taking them; and the State shall at all times receive dividends of profits, when made by the Bank, upon such shares as she may have paid for.

Proviso

How Individual subscriptions shall be paid.

VI. *Be it further enacted*, That payment for shares subscribed for by individuals or corporations, shall be made in gold or silver coins of the United States, or Spanish milled dollars, or their equivalent, to the commissioners appointed to receive subscriptions at the city of Raleigh, to wit: twenty-five dollars on each share at the time appointed for the first general meeting of the stockholders; twenty-five dollars ninety days thereafter; twenty-five dollars one hundred and twenty days after the time appointed for paying the second instalment; and the remaining twenty-five dollars one hundred and twenty days after the time for paying the third instalment: *Provided*, that, after a sufficient number of shares have been subscribed and paid in for the Bank to go into operation, as hereinafter provided, the remaining payments may be made by the subscribers at such branches or agencies as may be established by the said Bank, most convenient to them, and take the receipts of the cashiers or agents of such branches or agencies, at which the payment may be made: *Provided always*, that it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same; and each and every subscriber, so paying in advance, shall have a discount at the rate of six per cent. per annum on such advance, computing the same from the time when payment is made to the time when it is required to be made.

Proviso.

Further proviso.

No. of directors of the principal Bank

VII. *Be it further enacted*, That the Bank to be established in the city of Raleigh, shall be managed by ten directors, of whom the State may appoint four, if she take the whole amount

of stock to which she is entitled to subscribe by this act, in the and how ap-
 said Bank, all of whom, except the Public Treasurer, must be pointed.
 stockholders; and individual and other stockholders may elect
 six directors, being stockholders, provided they shall have taken
 the whole amount of stock which they are hereby authorised to
 take: *Provided*, that if the Bank shall go into operation with
 seven hundred and fifty thousand dollars, as is hereinafter pro-
 vided, or any less amount than the whole capital, then the State
 and individuals and other stockholders shall appoint the ten di-
 rectors for the principal Bank. in proportion to the number of
 shares held by them respectively: *And provided also*, that if the
 State and individuals and other subscribers shall hold the same
 number of shares, then each shall appoint five directors: *And*
provided further, that the State and individuals and other stock-
 holders shall have the appointment of the ten directors appor-
 tioned among them in proportion to the amount of stock taken
 by each: *Provided*, that the Public Treasurer shall be ex officio
 a director on the part of the State, whether he be a stockholder
 or not.

Pub. Treas to
 be ex officio a
 director.

VIII. *Be it further enacted*, That the president of the Bank, Of the election
 being a director, shall be chosen by a majority of the directors, of a president
 with a salary to be fixed by the stockholders in general meeting. and his salary.

IX. *Be it further enacted*, That branches or agencies of said How branches
 Bank shall be established at such times and at such places as and agencies
 the stockholders in general meeting may designate, with capi- shall be estab-
 tals, at such branches or agencies, as the directors of the prin- lished, and di-
 cipal Bank may assign, which shall be removable at their plea- rectors ap-
 sure, after one year's notice of such intended removal; and that pointed.
 the president and directors of the principal Bank, for the time
 being, shall have power to appoint five directors for each branch
 Bank, and such officers, clerks and servants, under themselves,
 as well as at the several branches, as shall be necessary for ex-
 ecuting the business of the said corporation, and to allow them
 such compensation for their services, respectively, as shall be rea-
 sonable; and shall be capable of exercising such other powers and
 authorities, for the well government and ordering the affairs of
 the said corporation, as shall be described, fixed and determined
 by the bye laws, rules, regulations and ordinances of the same.

X. *Be it further enacted*, That the branch Banks shall be How branches
 managed by five directors, being stockholders, appointed an- and agencies
 nually by the directors of the principal Bank, and governed by shall be man-
 general rules that may be prescribed by the said directors of the aged.
 principal Bank; and the agency shall be managed by an agent,
 under the exclusive control and direction of the directors of
 the principal Bank.

XI. *Be it further enacted*, That the Bank may go into opera- When bank
 tion whenever seven hundred and fifty thousand dollars shall may go into
 have been paid in; and that no dividend on the profits of the operation.
 Bank shall be declared by the president and directors until
 the whole amount of the capital stock subscribed shall be real-
 ised to the Bank, in gold or silver, or its equivalent.

Semi-annual
dividends.

XII. *Be it further enacted*, That dividends of the profits of the Bank shall be made semi-annually.

Annual state-
ments to be
made to the
pub. treasur'r,
to be commu-
nicated to the
legislature.

XIII. *Be it further enacted*, That it shall be the duty of the president of the principal Bank, in the first week in December of each and every year, to transmit to the Public Treasurer a full and correct statement of the condition of the Bank, shewing the amount of capital; notes in circulation, and from what places issued; debts due to other Banks, and what Banks; and also all other particu-

Tax on stock.

lars necessary to shew the true condition of the debit side of the account; also specie on hand; debts due from other Banks, and what Banks; the amount of notes or bonds discounted, and of bills of exchange, shewing in one item the amount due from directors, and in another the amount due from stockholders, but in no case using names of persons; real estate; and all other particulars necessary to shew the true condition of the credit side of the said account; which statements the Public Treasurer shall lay before the General Assembly in his official reports, and the dividends which shall accrue from time to time upon the stock of the Bank; and each share owned by individuals, shall be subject to an annual tax of twenty five cents, and no more, which tax shall be reserved out of the profits as they accrue, by the cashier of the principal Bank, and placed to the credit of the State, on or before the first day of October in every year.

Penalty for
making false
returns.

XIV. *Be it further enacted*, That if any president, clerk or other officer of the Bank, of any of its branches or agencies, shall knowingly and willingly make, cause to be made, or connive at making any false return, statement or exhibit of the condition of the Bank, its branches or agencies, either to the Public Treasurer, to the General Assembly, to the board of directors to the principal Bank, or any of its branches or agencies, or to the stockholders, or to any person or persons authorised by the Legislature, or by the stockholders, to receive the same, such person or persons so offending, their aiders and abettors in such false return or deception, shall be deemed guilty of a misdemeanor, and on conviction in any of the Superior Courts of Law in this State, shall be punished by a fine at the discretion of the court, and by imprisonment not longer than one year.

Committee
may inspect
books, &c.

Proviso.

XV. *Be it further enacted*, That it shall be at all times lawful for any committee appointed by the Legislature for that purpose, to inspect the books, and examine into the proceedings of the said corporation, and make report thereon: *Provided*, that said committee shall not be authorised to examine into the private accounts of individuals, except of the directors of the principal Bank and its branches.

Stockholders
entitled to vote
at g'l meet'gs.

XVI. *Be it further enacted*, That all stockholders, being citizens of the United States, shall be entitled to vote, either in person or by proxy, at all general meetings of the stockholders.

Stockholders
how to vote.

XVII. *Be it further enacted*, That the vote to which each stockholder shall be entitled, except the State, shall be according to the number of shares he may hold, in the proportion of

lowing, that is to say: for one share, and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding fifty, one vote; for every six shares over thirty, and not exceeding sixty, one vote; for every eight shares over sixty, and not exceeding one hundred, one vote; for every ten shares over one hundred, and not exceeding two hundred, one vote; and for every twenty shares over two hundred, one vote. The Treasurer, or whoever the Governor of the State may appoint to represent the State at the general meetings of the stockholders, shall have the same number of votes to which the greatest number of stockholders holding an equal number of shares with those owned by the State would be entitled; and after the first election, no share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election.

XVIII. None but a stockholder, being a citizen of the State, shall be eligible as a director. Eligibility of directors.

XIX. None shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting, or by the board of directors of the principal Bank. Emoluments how allowed.

XX. A majority of the directors at the principal Bank, or a majority of the directors at the branches, shall constitute a board for the transaction of business, of whom their respective presidents shall always be one, except in cases of sickness or necessary absence; in which case his place may be supplied by any other director whom he, by writing under his hand, may nominate for the purpose. Board for the transaction of business.

XXI. A number of stockholders, not less than fifty, who together shall be proprietors of three hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least eight weeks' previous notice in the public gazettes of the place where the principal Bank is kept, specifying in such notice the object or objects of such meeting. How to call a general meeting of stockholders.

XXII. *Be it further enacted.* That every cashier or agent, before he enters on the duties of his office, shall be required to give bond and security, in the sum of not less than twenty five thousand dollars, conditioned for his good behaviour and faithful discharge of the duties of his office. Cash'r or ag't to give bond.

XXIII. *Be it further enacted,* That if the cashier or any other officer, agent or servant of said corporation, shall embezzle, and, without authority from the president and directors of said Bank, appropriate any of the funds of said corporation to his own use, with intent to cheat or defraud the president, directors and company of said Bank, or shall make false entries upon the books of said Bank with intent to defraud said corporation or any other person whatsoever, said officer, agent or servant shall be held and deemed guilty of felony, and, upon conviction thereof, by due course of law, shall be punished by fine and imprisonment not exceeding five years, putting in Penalty for embezzlem't or fraud.

the pillory, public whipping not exceeding thirty lashes on his bare back, all or any of them, at the discretion of the court.

Restriction in holding property. XXIV. *Be it further enacted,* That the lands, tenements and hereditaments which it may be lawful for said corporation to acquire, shall be only such as shall be requisite for its immediate accommodation for the transaction of its business, and such as have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of ordinary banking business, or purchased at sales upon judgments or decrees rendered in favor of said Bank.

How bills, &c shall be assignable. XXV. *Be it further enacted,* That the bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees, to bring and maintain an action thereupon in his, her or their own name or names. And bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the cashier of the principal Bank, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory on the same, in the like manner, and with the like force and effect as upon any private person or persons, if issued by him, her or them in his, her or their natural or private capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons, that is to say: those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are; and those which are payable to bearer shall be negotiable and payable by delivery only.

In what the corporation shall deal. XXVI. *Be it further enacted,* That the said corporation shall not deal except in gold or silver coin or bullion; bills of exchange; mint certificates; promissory notes, expressing on the face of them to be negotiable and payable at the said Bank or some of its branches; in the public debt of the United States; in stock in the present Bank of the United States, or such other Bank as may be hereafter established by a law of the United States: *Provided,* that investment in such stock shall not exceed, at any one time, one half of the capital stock of the Bank hereby created.

Interest on loans. XXVII. *Be it further enacted,* That the said corporation shall not take more than six per cent. per annum upon its loans or discounts, which may be received in advance at the time of discount.

Process in case of violation of charter. XXVIII. *Be it further enacted,* That whenever the Legislature may be of opinion that the charter of the corporation heretofore granted shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General, with such assistant

counsel as the Governor or Legislature may think proper to engage, to issue a writ of scire facias, returnable before the Judges of the Supreme Court of the State, calling upon said corporation to shew cause why the charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law as in cases of other corporations.

XXIX. *Be it further enacted,* That if any person or persons holding any note or notes of said Bank, shall present the same for payment at the principal Bank, or either of its branches or agencies, where such note or notes are payable, and the payment shall be refused, the said note or notes shall draw interest, at the rate of twelve per cent per annum, from the time of said demand, and the said Bank shall pay the same; any law to the contrary notwithstanding.

Penalty for refusing to redeem notes.

XXX. *Be it further enacted,* That if any person shall falsely make, forge or counterfeit, cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note, in imitation, or purporting to be a bill or note issued by order of the president and directors of the Bank of the State of North Carolina, or any order or check on said Bank or corporation, or any cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any bill or note issued by order of the president and directors of the Bank of the State of North Carolina, or any order or check on the said Bank or corporation, or any cashier thereof; or shall pass, or receive with intent to pass, utter or publish, or attempt to pass, utter or publish, as true, any false, forged or counterfeit bill or note, issued by order of the president and directors of the Bank of the State of North Carolina, or any false, forged or counterfeit check upon the said Bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, or receive with intent to pass, utter or publish, or attempt to pass, utter or publish, as true, any falsely altered bill or note, issued by order of the president and directors of the Bank of the State of North Carolina, or any falsely altered order or check on the said Bank or corporation, or any cashier thereof, knowing the same to be falsely altered, with intention to defraud the said corporation or any other body politic or person, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be punished by fine and imprisonment not exceeding three years, putting in the pillory, public whipping not exceeding thirty lashes on his or her bare back; all or any of them at the discretion of the court, due regard being had to the circumstances of the offence.

Penalty for forgery or counterfeiting

XXXI. *Be it further enacted,* That no note shall be issued by the Bank of the State of North Carolina for a less sum than three dollars.

No note under \$3 to be issued

XXXII. *And be it further enacted,* That this Bank shall at no time have in circulation more than twice the amount of its capital.

Limiting the circulation.

Cashier shall keep a book to contain the proceedings of the board of directors, which shall be evidence in courts.

XXXIII. *Be it further enacted*, That the cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question, when asked for by any director. This book shall be evidence in courts of justice; and on entering on the discharge of his duties, the cashier shall take the following oath before some justice of the peace, by whom it shall be returned to the office of the clerk of the County Court: "I, A. B. do solemnly swear to keep a just and true record, without alterations or erasures, of the transactions of the board of directors of the Bank of the State of North Carolina, in a book to be kept by me for that purpose."

CHAPTER IV.

An act supplemental to the act to establish a Bank in the State of North Carolina.

By whom directors for the State shall be appointed.

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 until otherwise provided by law, the Governor, Secretary of State, and Comptroller of public accounts, shall have authority, and it shall be their duty to appoint such directors as the State may be authorised to appoint, to represent the public stock in the Bank of the State of North Carolina.

Duty of Pub. Treasurer to subscribe for stock.

II. *Be it further enacted*, That in addition to the stock that may be subscribed for in said institution by the president and directors of the Literary Fund, it shall be the duty of the Public Treasurer to subscribe, from time to time, for such further amount of stock as the condition of the public treasury may, in his opinion, justify.

Pub. Treas'r authorised to borrow.

III. *Be it further enacted*, That the Public Treasurer shall have authority, if in his opinion such a measure shall be expedient, to borrow, in behalf of the State, from the Banks of Newbern and Cape Fear such sums of money, or any part thereof, as the State may be entitled to borrow under the provisions of the amended charter of those institutions granted in the year eighteen hundred and fourteen.

When the Bank may go into operation

IV. *And be it further enacted*, That it shall be lawful for the Bank of the State of North Carolina to go into operation whenever one half of the amount of individual stock, authorised by the act to which this is a supplement, shall be subscribed for and paid in gold and silver or the equivalent thereof.

CHAPTER V.

An act directing the manner in which Constables shall be appointed in this State.

No. of constables restrict'd

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 hereafter there shall not be a greater number of Constables in the several Counties in this State than one in each Captain's district, except the districts including the several county towns in this State; which districts shall be entitled to two constables, to be elected as other constables are hereinafter directed to be elected.

II. *Be it further enacted*, That at any time within one month preceding the first County Court held in the several counties in this State, after the first day of January next, and annually thereafter, the inhabitants of each Captain's district within the several counties in this State, at the usual place of holding the company musters within said district, shall elect, within the bounds of said company, some fit and suitable person to act in the capacity of a Constable for the succeeding year, who shall be returned and recommended to the Courts of Pleas and Quarter Sessions of said Counties as hereinafter directed; and upon such return being made, under the certificate of the judges appointed to hold said election, the said Courts shall proceed to qualify such person so returned to act as Constable for one year thereafter, he or they first giving bond with good and sufficient security as by law required: *Provided*, that no person shall be entitled to vote for any constable of any such town, except he shall live within the corporate bounds of said town; and no person living within the corporate bounds of any such town shall be entitled to vote for constable for the district in which such town is situated.

Time of election, and by whom elected

To be returned to, and, after giving bond, qualified by c. court

Proviso.

III. *Be it further enacted*, That the captains of companies within the several counties in this State, and, in their absence, any justice of the peace within the district, shall, within the time prescribed by the provisions of the second section of this act, and annually thereafter, appoint two discreet and suitable persons to hold said elections, who are required to give at least ten days' notice of such election in two or more public places in such district; and every free white person, having resided for six months next preceding the election within the bounds of said company or district, who is qualified and entitled to vote for members of the House of Commons in the State Legislature, shall be entitled to vote within the district in which he shall reside in all such elections; and the persons receiving the greatest number of votes shall be considered duly elected, and shall be returned, under the certificate of said judges, to the first Court of Pleas and Quarter Sessions which shall happen in said county after said election.

Judges of election by whom app'd.

Notice of election to be given.

Qualification of voters.

IV. *Be it further enacted*, That should any person, elected as Constable under the provisions of this act, die, or from any other cause fail to qualify and to give the necessary security, or should any of said companies fail in any manner whatever to hold said elections, then it shall be proper for the Court which shall next happen as aforesaid, seven Justices of the Peace being present, to supply any vacancy occasioned by such failure; and in case there should be a tie in any election as aforesaid, then the Court shall in like manner determine; and also determine in all cases of contested elections; any law, usage or custom to the contrary notwithstanding.

Court shall fill vacancies, and decide in case of tie or contested election.

V. *And be it further enacted*, That this act shall be in force from and after the ratification thereof: *Provided*, nevertheless, that nothing contained in this act shall be so construed as to pre-

When to take effect. Proviso.

vent justices of the peace from deputising officers to execute process as already provided by law.

Penalty for voting illegally, VI. *And be it further enacted*, That any person voting at any such election, who shall not by law be qualified to vote, he shall be liable to the same penalty as persons voting at elections for members of the General Assembly of this State, who are not qualified according to law.

CHAPTER VI.

An act supplemental to an act directing how persons injured by erection of public mills shall in future proceed to recover damages, passed in the year one thousand eight hundred and nine.

Notice, how to be served. *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 instead of serving notice on the owner or owners of such public mills, as prescribed in the first section of said act, it shall and may be sufficient for the petitioner to cause written notice to be served on the tenant or tenants in possession of the mill or mills, ten days previous to the court in which such petitioner may file his or her petition, informing said tenant or tenants of his or her intention to file a petition in court, to recover damages for injuries done by such mill or mills to his or her lands; and a copy of such notice, returned by the sheriff or his deputy, executed, shall be evidence of such service.

Tenant may file affidavit in court, setting forth th' name of the real owner, and court shall notify such owner to appear and plead, &c. II. *Be it further enacted*, That at the court to which any such notice may be returned, the tenant or tenants of such mill or mills upon whom notice may have been served as aforesaid, may file in court an affidavit setting forth the names of the real owners or owner of the mill or mills, whereof he or they are tenants; and upon filing such affidavit, the court shall order a copy of the petition to be served on such owner or owners, if he, she or they reside in this State, and if not in this State, the court shall order publication to be made for six weeks in some newspaper in this State, notifying such owner or owners to appear and plead, answer or demur, or judgment will be entered against him, her or them at the next court.

If tenant fail to file affidavit, court shall order writ to issue as directed in act of 1809. Sheriff to give notice previous to entering with his jury on the premises. III. *Be it further enacted*, That if such tenant or tenants as aforesaid shall fail to file such affidavit setting forth the name or names of the owner or owners, then the court shall hear the petition of the petitioner or petitioners, and order a writ to issue to the sheriff, as directed in the said act of one thousand eight hundred and nine; and the sheriff shall give notice in writing five days previous to his going with the jury on the premises, to the tenant or tenants in possession of the mill or mills as aforesaid; a copy of such notice returned by the sheriff, or his deputy, executed, shall be evidence thereof.

Owner may appear at next court and be made defndt. IV. *Be it further enacted*, That if the person or persons set forth as owner or owners of such mill in the affidavit of such tenant or tenants as aforesaid, shall appear at the next court and apply to be made parties to the petition, it shall and may be lawful for the court to cause him, her or them to be made defendants, upon his, her or their entering into bond, in such

sum as the court may require, payable to the petitioner or petitioners, conditioned as other bonds given by defendants in civil actions, and then the petition shall stand against the tenant or tenants so noticed as aforesaid and the owner or owners so made parties defendants as aforesaid; and in that case it shall be lawful for the sheriff to give written notice, five days previous to his going with the jury on the premises, to the tenant or tenants in possession of said mill or mills, and no notice to the owner or owners shall be necessary.

V. *Be it further enacted*, That if any tenant or tenants of any mill or mills, notified as aforesaid, shall fail or refuse to declare on affidavit the names of the owner or owners of any such mill or mills, such tenant or tenants shall be taken and deemed the owner or owners of such mill or mills, and the court shall order a writ to issue to the sheriff, authorising him to cause a jury to inquire into and assess to the petitioner such damages as the jury may think him, her or them entitled to, according to the mode pointed out by the said act of one thousand eight hundred and nine; and in case of judgment for the petitioner or petitioners, he, she or they shall recover all costs, and it shall and may be lawful for the petitioner to take out execution and sell the said mill or mills and appurtenances, and the property of the tenant or tenants, and the property of the owner or owners thereof, or a sufficiency to pay all costs and the judgment.

VI. *Be it further enacted*, That in all cases where the jury shall assess the yearly damage as high as the sum of ten pounds, nothing contained in this act shall be so construed as to prevent the person thus injured from suing as at the common law, according to the fifth section of the act aforesaid: *Provided*, that if the damage assessed do amount to five dollars, the petitioner or petitioners shall not recover more costs than damage.

VII. *Be it further enacted*, That this act shall go into operation from and after the tenth day January, one thousand eight hundred and thirty four.

CHAPTER VII.

An act to authorise the clerks of the courts of record of this State, and those holding the office of clerk and master in equity, to act as notaries public.

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 passage of this act, it shall be lawful for each of the clerks of the courts of record in this state, and for the clerks and masters in equity, now in office, or who may hereafter be elected or appointed to hold these offices, to act as notaries public in their several counties, by virtue of their said office of clerk or clerk and master.

II. *Be it further enacted*, That they shall certify their acts as notaries public, whenever the same are to be used out of their county, under the seal of the court of which they may be clerk or clerk and master.

III. *Be it further enacted*, That their fees as notaries shall be the same as are now fixed by law for the service of a notary

Sheriff to give notice, &c.

Tenant refusing to declare on affidavit the name of the owner, deemed owner of mill, & court shall order writ to issue accordingly.

Petitioner may take out execution.

Yearly damages, assessment of

Proviso.

When to take effect.

Clerks to act as notaries.

To certify their acts as notaries.

Fees.

public; and for services where the law fixes no fee, they shall not demand a larger fee than twenty cents for every ninety words.

Not to interfere with the appointment of notaries as heretofore.

IV. *Be it further enacted*, That nothing in this act shall have the effect of preventing the appointment of notaries public, in the manner now provided for by law; and that all notaries so appointed, or hereafter to be so appointed, shall still possess the authority to act as such, according to the provisions of the law now authorising their appointment.

CHAPTER VIII.

An act to amend an act, passed in the year of our Lord one thousand seven hundred and eighty two, entitled "an act for giving an equity jurisdiction to the Superior Courts," so far as relates to the liability of sheriffs as bail.

Preamble.

Whereas doubts have been entertained whether, by the third section of the above recited act, the sheriff or other officer is liable, as special bail, for failing or neglecting to take bond with two sufficient securities from the defendant in double the sum for which the defendant shall be held in arrest: For remedy whereof.

Sheriff or other officer commanded to take the body of any person, &c. shall be liable as special bail for taking an insufficient bond, as well as for neglecting to take bond, &c.

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 passage of this act, when any writ shall issue from any court of Equity in this State, whereby any sheriff or other officer shall be commanded to take the body of any person or persons, to answer to any suit in any of the said courts, such sheriff or other officer shall not only be liable as special bail for taking an insufficient bond, on exception taken and entered the same term to which such process shall be returnable, the sheriff or other officer having due notice thereof, but such sheriff or other officer shall also be liable as special bail for failing or neglecting to take from such person or persons, arrested by virtue of such writ, a bond with two sufficient securities in double the sum for which such person or persons shall be arrested; and proceedings shall be had against him, under the same rules, regulations and restrictions, as in such cases in actions at law; any law, usage or custom to the contrary notwithstanding.

CHAPTER IX.

An act declaratory of the law in relation to the rights and duties of sheriffs and inspectors in holding elections.

Inspectors to be judges of the qualification of voters. In case of an equal division of opinion the sheriff to decide.

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 hereafter in all elections holden in this State, under the direction of the sheriffs and inspectors, as now appointed by law, the inspectors shall have the sole and exclusive right to judge of the qualification of the voters, except where there is an equal division of opinion between them, in which case the sheriff shall decide; any law, usage or custom to the contrary notwithstanding.

CHAPTER X.

An act to extend the time for registering grants and mesne conveyances, powers of attorney, bills of sale and deeds of gift.

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 all grants of land in this State, all deeds of mesne conveyance, powers of attorney, under which any lands, tenements or hereditaments have been or may be conveyed, and all other powers of attorney which are required to be proven and registered by any act of Assembly, all bills of sale, deeds of gift already proved, all deeds of conveyance which are required to be proven, or which may hereafter be proven, shall and may, within two years after the passage of this act, be admitted to registration, under the same rules, regulations and restrictions as heretofore appointed by law; and said grants, deeds and instruments before described, shall be as good and valid as if they had been proven and registered within the time heretofore allowed by law; any law to the contrary notwithstanding: *Provided*, that nothing herein contained shall be construed to extend to mortgages or to deeds of conveyance in trust.

Time extended to 2 years.

Proviso.

CHAPTER XI.

An act to repeal an act, passed in the year one thousand eight hundred and eighteen, entitled "an act fixing the sum hereafter to be paid to the State for vacant lands."

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 an act, passed in the year one thousand eight hundred and eighteen, entitled "an act fixing the sum hereafter to be paid to the State for vacant land," be, and the same is hereby repealed; and that in future five cents on the acre shall be paid to the Treasurer for every acre of land hereafter entered in this State; any law to the contrary notwithstanding: *Provided*, that no person shall enter more than one hundred acres within any one year at the price of five cents per acre.

Repeals former act, and requires five cents per acre on land hereafter entered.

Proviso.

II. *And be it further enacted*, That if any person shall enter more than one hundred acres of land in the same survey, or in any one year, he or she shall pay into the Treasury the sum of ten cents on the acre for each and every acre which he or she shall or may enter: *Provided always*, that this act shall not be construed as to authorise the entry of any vacant land in this State not now permitted by law to be entered.

Requires ten cents per acre for all over one hundred.

Proviso.

CHAPTER XII.

An act to give further time for paying in entry money.

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 it shall be lawful for all persons who have made entries in the year one thousand eight hundred and thirty one, and have had the same surveyed, and who have sent on or may send on their plat and certificate to the Secretary, and failed to pay in the entry money, to have until the first day of March next

Extends the time to 1st of March.

Provide. for paying in the same: *Provided*, that nothing in this act contained shall be so construed as to interfere with any other person who has made entries before the passage of this act.

When to take effect. II. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER XIII.

An act directing the sale of the lands remaining unsold, acquired by treaty from the Cherokee Indians.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,

Governor authorised to direct the sale, and to appoint a commissioner for that purpose. That the Governor be, and he is hereby authorised to direct the sale of so much of the lands lately acquired by treaty from the Cherokee Indians as have been surveyed and remain unsold, at such time and place as he may deem proper, under the direction of a commissioner to be by him appointed for that purpose, after having advertised the same at least three months in the public newspapers of this city, the Western Carolinian of Salisbury, and such other papers as he may think proper; which sale shall be kept open one week, and no longer.

Circumstances under which commissioner shall postpone sale or bid off land for the State. II. *Be it further enacted*, That if, during the sale, any section of land noticed to be of the first quality, shall not command in the market one dollar and fifty cents per acre, and in like manner, lands of the second quality not commanding seventy-five cents per acre, and lands of a third quality not commanding twenty-five cents per acre, the commissioner shall postpone the sale of such lands; and when the commissioner discovers that any section of land is likely to bring less than its value, either for want of competition or from combination among the bidders, he shall bid off the same for the State.

Parts of former acts continued in force. III. *Be it further enacted*, That the provisions of the second section of an act, passed in the year one thousand eight hundred and twenty-one, entitled "an act concerning the lands lately acquired by treaty from the Cherokee Indians;" and the provisions of the seventh, twelfth, thirteenth, sixteenth and eighteenth sections of an act, passed in the year one thousand eight hundred and nineteen, entitled "an act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians," be, and the same are hereby continued in force.

Lots in Franklin may be surveyed & sold. IV. *Be it further enacted*, That the Governor be, and he is hereby authorised to cause twelve additional lots to be surveyed in the town of Franklin, out of the four hundred acres reserved to the State, which may, together with those already surveyed, be exposed to sale under like rules and regulations as is prescribed in the before recited acts: *Provide* *dalways*, that the said commissioner be authorised, if in his opinion the interest of the State require it, to purchase in the same for the State.

Lands of doubtful title not to be sold. V. *Be it further enacted*, That nothing in this act shall be so construed as to authorise the sale of any lands, the title of the State to which may be regarded as doubtful.

VI. *Be it further enacted*, That in case the said lands should be sold, that nothing in this act shall be so construed as to prevent persons who may have crops growing on the said lands, from gathering the same. Crops may be gathered.

CHAPTER XIV.

An act to amend the nineteenth section of an act, passed in one thousand seven hundred and eighty three, entitled "an act for opening the land office for the redemption of specie and other certificates, and discharging the arrears due to the army."

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 any person shall suspend the issuing of a grant to another, the Secretary shall not issue a grant for the land in dispute to the person at whose instance such suspension was obtained, or to any other person, until a decision of the case is made according to the act aforesaid; the evidence of such decision shall be the certificate of the clerk of the court in which such trial shall be had.

CHAPTER XV.

An act to enforce the penalty incurred by entry-takers failing to make annual returns of entries made in their respective offices as required by law.

Whereas, by an act of the General Assembly of this State, passed in eighteen hundred and twenty-one, chapter thirty, it is made the duty of the entry-takers of the several counties in this State to make annual returns of the entries made with them to the office of Secretary of State, under a penalty of two hundred dollars; but it is not made the duty of any person to enforce said penalty: For remedy whereof, Preamble.

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 it shall hereafter be the duty of the Secretary of State, and he is hereby required to furnish the Attorney General, at every fall term of the Superior Court of Wake county, with a certificate of failure in every case where any entry-taker has failed, or shall hereafter fail to make return agreeable to law; and it shall be the duty of the Attorney General to move for judgment against such entry-taker and his securities; and it shall be lawful for the court, in every such case, to cause judgment to be entered accordingly. Secretary of State to furnish Attorney Gen. with certificate of failure, who shall move for judgment.

II. *And be it further enacted*, That it shall hereafter be the duty of the entry-takers to make their returns to the Secretary on or before the first day of December in each and every year. Entry-takers when to make returns.

III. *And be it further enacted*, That it shall be the duty of the entry-takers who have neglected to make the returns required by law for twelve months past, to make returns of all entries made with them since their last return up to the first day of October last, on or before the first day of October next, under the penalty of two hundred dollars, to be recovered at the ensuing spring term of Wake Superior Court, on the certificate of the Secretary of State that such return has not been made. Delinquents to make returns by 1st of Oct. und'r the penalty of 200. dollars.

CHAPTER XVI.

An act to amend an act, passed at the last session, entitled an act to repeal an act, passed in the year one thousand eight hundred and thirty, entitled "an act to repeal part of the second section of an act, passed in the year one thousand eight hundred and six, entitled an act to revive the militia laws of this State."

Preamble.

Whereas, by the provisions of an act of the General Assembly, passed at the last session thereof, the oath or affirmation of those who from religious scruples are averse to bearing arms is required to be taken before the company court martial; and it being found that many good citizens have on that account declined taking the benefit intended by the law:

Oath of persons scrupulous of bearing arms, may be taken before a justice.

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 it shall and may be lawful for the oath or affirmation, required by the before recited act to be taken before the company court martial, may hereafter be taken before any justice of the peace; and the certificate of said justice shall be received and have the same effect as the certificate of the company court martial in the before recited act; any law to the contrary notwithstanding.

CHAPTER XVII.

An act concerning official and other public bonds.

Bonds to be made payable to the State.

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 fourth day of July, one thousand eight hundred and thirty four, all official and other public bonds, which are now required by law to be taken and made payable to the Governor for the time being and his successors in office, or to the chairman of the county court and his successors in office, or to the justices of the county, shall be taken and made payable to the State of North Carolina, with the like securities and conditions, and under the same rules, regulations and restrictions as are now required by law; and that any person or persons or body politic injured may and shall, at his, her, their or its costs and charges, commence and prosecute a suit on said bonds in the name of the said State against the obligor or obligors in said bonds and their securities, and against the heirs, executors and administrators of each and every one of them and of each and every one of their securities, and shall and may recover all damages which he, she, they or it may have sustained by reason of the breach of the condition of said bonds or any of them.

Persons injured may prosecute in the name of the State.

Repealing clause.

II. And be it further enacted, That all laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER XVIII.

An act to prevent the conveying of slaves out of this State and to prevent injuries being done to live stock upon rail roads.

Preamble.

Whereas from attempts made there is reason to apprehend facilities may be given to slaves, by rail road conveyance, to

leave the State, and their owners be thereby deprived of their services for a time or altogether: 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 from and after the passage of this act, if any agent or manager of any rail road engine or car, or any other person, shall convey or conceal on or about any rail road engine or car any negro or mulatto slave or slaves, the property of any citizen or citizens of this State, without the consent, in writing, of the owner or manager of such slave or slaves previously obtained; or shall take and receive on any such rail road engine or car any such slave or slaves, or permit or suffer the same to be done, with the intent and for the purpose of carrying such slave or slaves out of this State; or shall wickedly and willingly conceal or permit to be concealed in or about any rail road engine or car, any negro or mulatto slave or slaves, who shall or may hereafter abscond from his or their master or mistress, being citizens of this State, with the intent and for the purpose of enabling such slave or slaves to effect his, her or their escape out of this State, every such agent or manager or other person or persons so taking, receiving or concealing such slave or slaves, or causing or permitting the same to be done, with the intent as aforesaid, shall be deemed to be guilty of felony, and shall suffer death without benefit of clergy.

Penalty for conveying slaves out of the State.

II. *Be it further enacted,* That if any negro or mulatto slave or slaves shall be found concealed on or about any rail road engine or car in this State, without the consent or knowledge of the master or mistress or other person having the management of such slave or slaves, after the engine or car shall have left any depot or point, the agent or manager of such rail road engine or car shall forfeit and pay to the owner or owners of such slaves the sum of five hundred dollars, to be recovered by action of debt in any of the courts of this State having jurisdiction of the same.

Penalty for concealing slaves in rail road cars.

And whereas the killing of cattle and other live stock by rail road engines and cars, from the negligence of the managers thereof, has become a grievance to the citizens of this State: For remedy of the same,

Preamble.

III. *Be it further enacted,* That hereafter when any cattle or other live stock shall be killed or otherwise injured by the engines or cars running upon any rail road in this State, it shall and may be lawful for the owner or owners of such live stock to sue out a warrant from any justice of the peace, and have the same served on the president or any director, stockholder or acting agent for such rail road company, and upon return thereof it shall be the duty of such justice to cause two freeholders to be summoned, who, after being duly sworn, which oath said justice may administer, they shall hear evidence, and upon proof of such injury so complained of they shall assess the amount of damages which the owner or owners of such live stock have sustained, and the justice shall enter up judgment for the same against the said rail road company and issue execu-

Company liable for stock killed on rail road.

Proviso. tion thereon as in other cases: *Provided, however,* That such judgment shall be subject to the right of appeal by either party.

CHAPTER XIX.

An act more effectually to prohibit the trading with slaves.

Articles prohibited.

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 or persons shall hereafter buy of, traffick with or receive from any slave or slaves, any mutton, cloth, cotton or woollen yarn, wearing apparel, gold or silver bullion, under the same rules, regulations, restrictions, prohibitions and penalties as are contained in the act of one thousand eight hundred and twenty six, entitled an act to prohibit the trading with slaves except in the manner herein prescribed.

Provisions of act of 1826 applicable to articles mentioned in this act.

II. *Be it further enacted,* That the provisions of the before recited act shall be extended and made applicable to the articles mentioned in this act, in the same manner and to the same extent as if the said articles had been contained in the said recited act of one thousand eight hundred and twenty six.

CHAPTER XX.

An act to amend the law in relation to the crime of larceny.

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 hereafter when any person shall be convicted of the crime of grand larceny, he, she or they shall be infamous and deprived of his, her or their free law, in the same manner as persons now are who are convicted of petit larceny.

CHAPTER XXI.

An act for revising and digesting the public statute laws of this State.

Commissioner's to be appointed by the Governor.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,

Extent of the work which they are required to perform.

That three commissioners be appointed by the Governor of the State to collate, digest and revise all the public statute laws of this State, commencing with the earliest English statutes now in force and including those which may be enacted during the present session of this General Assembly; that in the performance of this duty they shall carefully collect and reduce into one act the different acts and parts of acts which, from similarity of subject, ought in their judgment to be so arranged and consolidated, distributing the same under such titles, divisions and sections as they shall think proper, omitting all such acts and parts of acts before passed as shall have either expired by their own limitation, become obsolete or been repealed; that in every other respect they shall complete the said revision in such manner as to them shall seem most useful and proper to render the said acts more plain and easy to be understood; and that, from time to time, they shall lay before the Legislature the acts so arranged and revised by them, to be re-enacted if the Legislature shall so determine: *Provided,* that no change shall be made

Acts to be laid before the legislature.

Proviso.

by the said commissioners in the phraseology or distribution of the sections of any statute which has been the subject of judicial decision, by which the construction thereof established by such decision shall or can be affected, and in all such cases marginal references shall be made to the decision fixing the construction.

II. *And be it further enacted,* That when the said acts shall be so presented to the Legislature for re-enactment, the said commissioners shall also suggest to the Legislature such contradictions, omissions or imperfections as may appear in the acts so to be revised, and the mode in which the same may be reconciled, supplied or reformed; may also designate such acts or parts of acts, if any, as in their judgment ought to be repealed, with reasons for advising such repeal; and may also recommend the passage of such new acts or parts of acts as such repeal may in their judgment render necessary.

What com'rs shall suggest to the legislature

III. *And be it further enacted,* That after the laws so revised as aforesaid shall have been submitted to and approved of by the Legislature, the said commissioners shall prepare the same for the press, with such marginal notes and references as shall appear best calculated for the public information. They shall also prepare for publication with the said laws the constitution of the United States, the constitution of this State, the articles of confederation and perpetual union proposed by the Congress of the United States on the seventeenth day of November, one thousand seven hundred and seventy seven, the second charter granted by Charles the second to the proprietors of Carolina, the great deed of grant from the lords proprietors, the grant from George the second to John Lord Granville, and the other matters not herein before mentioned, embraced in the last revisal. And the said commissioners shall make an index of the matters contained in the said work, and also a separate index of the public acts in force and omitted, together with a reference to the years when they were severally passed. And when the work shall be so prepared for the press and approved by the Legislature, they shall secure the copy right thereof for the benefit of the State.

Commis'rs to prepare revisal for the press.

What they shall prepare for publication with the same

They shall make an index

Copy right to be secured to the State.

IV. *And be it further enacted,* That the said commissioners shall be allowed the term of two years to complete the duties assigned to them in and by this act; and that in the execution of those duties they shall have free access to any public records or papers of this State, and be permitted to examine the same without fee or reward.

Time allowed comm'rs for completing their duties.

V. *And be it further enacted,* That the said commissioners shall be, and they are hereby allowed the sum of three thousand dollars for the services hereby required of them, and the Legislature shall by law make provision for further payment if they shall be deemed entitled thereto.

Compensat'n.

VI. *And be it further enacted,* That the persons appointed under the provisions of this act, shall, before entering on the discharge of their duties, take the following oath, to be administered by the Governor for the time being: I do solemnly and

Comm'rs to take an oath.

sincerely swear that I will faithfully and truly digest, revise and consolidate the laws and statutes of this State, and laws of England applicable to this State, in the manner and form required by law, to the best of my knowledge and ability; so help me God.

CHAPTER XXII.

An act to repeal in part an act laying duties on sales at auction of merchandize, passed in the year 1818.

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 hereafter auctioneers appointed by virtue of said act, shall not be required, in making their returns as specified in said act, to make out or return a detailed account of all articles or parcels by them sold; but it shall be deemed sufficient for auctioneers to return the gross amount of sales by them made for each particular person or company at any one time, the date of each sale, the names of the owner or owners of the merchandize so sold, and the amount of tax due thereon; which shall be authenticated agreeable to the provisions of said act.

Returns how
to be made.

II. Be it further enacted, That so much of the second section of said act, passed in the year 1818, as comes within the meaning and purview of this act, be, and the same is hereby repealed; and all clerks of courts are hereby required to frame the bonds, which auctioneers are by said act of 1818 required to enter into, agreeable to the provisions of this act.

Part of former
act repealed.

CHAPTER XXIII.

An act making appropriations for carrying on and completing the Capitol in the city of Raleigh.

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 commissioners appointed by an act, passed in the year of our Lord one thousand eight hundred and thirty-two, entitled "an act making an appropriation and appointing commissioners for the rebuilding of the Capitol in the city of Raleigh," or a majority of them, shall have power, and are hereby authorised from time to time, to draw by warrants from the Public Treasury such sums as may be necessary to carry on and complete the Capitol now being erected upon Union Square, in the city of Raleigh; and the said warrants shall be a sufficient authority to the Public Treasurer for the payment of the sums from time to time so drawn: *Provided, however,* That the amount hereby authorised to be drawn by the said commissioners from the Public Treasury, shall not exceed the sum of seventy-five thousand dollars.

Commission-
ers to draw on
Pub. Treas'r.

Proviso.

CHAPTER XXIV.

An act to repeal an act, passed at the last General Assembly, entitled "an act to create one additional wreck district in the county of Hyde, and for other purposes."

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 an act, passed at the last session of the General Assembly,

Repealing
clause.

entitled "an act to create one additional wreck district in the county of Hyde, and for other purposes," be, and the same is hereby repealed.

11. *Be it further enacted* That the first wreck district shall extend from New inlet to the Bald beach near Kenekeet; the second district from said Bald beach to the south side of the cape Point; and the third district from the cape Point to the Carteret county line, as heretofore has been. Extent of districts.

Read three times and ratified in General }
Assembly this the 8th day of Jan. 1854. }

WM. J. ALEXANDER, S. H. C.
W. D. MOSELEY, S. S.

A true copy.

WM. MILL, *Secretary.*



PRIVATE ACTS.

CHAPTER XXV.

An act to alter the times of holding the County Courts of Chowan county.

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 terms of the Courts of Pleas and Quarter Sessions heretofore held for the county of Chowan on the third Monday of March, the third Monday of June, the third Monday of September, and the third Monday of December, shall hereafter be held on the first Monday of February, the first Monday of May, the first Monday of August, and the first Monday of November in each and every year, and continue for the term, not longer than one week, Sunday excepted, as now prescribed by law.

II. *Be it further enacted,* That the justices of the peace, at the court immediately preceding the time of holding the court provided for in this act, shall be authorised and required to draw a jury to attend such court in like manner as is now prescribed by law; and the clerk of said court shall issue lists to the sheriff, who shall summon said jurors in the manner now prescribed by law.

III. *Be it further enacted,* That all original and mesne process may be made returnable to the term of the court provided to be held by this act.

CHAPTER XXVI.

An act directing the Judges of the Superior Court of Hyde county not to take up State cases before the third day of court.

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 passage of this act, it shall not be lawful for the Judges of the Superior Court of Law for the county of Hyde to take up any case on the State docket for trial on any day before the third day of court, except by consent of parties; any law or custom to the contrary notwithstanding.

CHAPTER XXVII.

An act to regulate the times of holding the Superior Courts in the Sixth Judicial Circuit.

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 Superior Courts of the counties herein named, composing the sixth judicial circuit, shall be held at the following times, viz. Cabarrus, on the second Monday in February, and the Monday preceding the last Monday in August in each and every year; Mecklenburg, the third and fourth Mondays in February, and the last Monday in August in every year; Surry, the first Monday in March and September; Wilkes, the second Monday in March and September; Ashe, the third Monday in March and September; Burke, the fourth Monday in March and September; Yancy, the first Monday after the fourth in March and September; Macon, the second Monday after the fourth in March and September; Haywood, the third Monday after the fourth in March and September; Buncombe, the fourth Monday after the fourth in March and September; Rutherford, the fifth Monday after the fourth in March, and the fifth and sixth Mondays after the fourth in September; Lincoln, the sixth Monday after the fourth in March, and the seventh Monday after the fourth in September; Iredell, the seventh Monday after the fourth in March, and the eighth Monday after the fourth in September.

II. *Be it further enacted*, That this act shall go into operation from and after the first day of August next; and that all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed; and that all process pending in or returnable to the courts as directed to be held by this act, when the same goes into operation, shall be returnable to the same as directed by this act to be held, and shall be as valid as returned to courts as formerly established by law.

CHAPTER XXVIII.

An act for the better administration of justice in Carteret county.

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 passage of this act, the Superior Court for the county of Carteret shall have exclusive jurisdiction over all cases where the intervention of a jury shall or may be necessary.

II. *Be it further enacted*, That it shall be the duty of the sheriff of said county to make return of all writs that may be in his hands returnable to the County Courts, after the passage of this act, to the Superior Court next thereafter, in the same manner as if the same were returnable to the said Superior Courts.

III. *Be it further enacted*, That all suits now standing on the docket of the County Court shall remain to be tried in the said court, at the next succeeding term after the passage of this act; and the remaining suits untried it shall be the duty of the clerk of the said County Court to transfer to the clerk of the Superior Court, together with the papers thereunto belonging, where the same shall be tried or otherwise disposed of.

IV. *Be it further enacted*, That it shall be the duty of the justices of the peace holding said County Courts to draw jurors to attend the Superior Courts, and direct their venire facias to issue to the sheriff of said county, at the same time and under the same rules and regulations that are now prescribed by law.

V. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER XXIX.

An act to regulate the proceedings in the Court of Pleas and Quarter Sessions of Craven county.

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 hereafter it shall be fully competent for the Court of Pleas and Quarter Sessions in and for the county of Craven, fifteen of the acting justices being present, to receive the returns in the sheriff's election; to proceed to choose from the persons having the greatest and equal number of votes, the person to act as sheriff; to receive and take the bonds of the person elected sheriff by the people or chosen by the court; to receive and take from the sheriff his annual renewal bonds; and also, in case of the refusal or failure of the person elected or chosen sheriff to give or renew his bonds, to elect a sheriff, taking the bonds required by law from sheriffs.

II. *Be it further enacted*, That hereafter the Court of Pleas and Quarter Sessions in and for the county of Craven, shall not draw any persons to be returned as jurors to attend the August terms, or more than fifteen persons to attend the February term of said court, as petit jurors, in each and every

year; and at the said terms no grand jury shall be formed, made or organized: *Provided*, nothing herein contained shall prevent the said court from ordering the sheriff of said county to return a tales jury to try any cause or issue at said terms.

III. *Be it further enacted*, That hereafter it shall not be lawful for the Court of Pleas and Quarter Sessions in and for the county of Craven to grant any order for a license to retail spirituous liquors, except at the May term of said court in each and every year, and at no other term of said court, under the same rules and regulations as are now established by law.

CHAPTER XXX.

An act supplemental to an act, passed in the year one thousand eight hundred and thirty two, entitled an act to regulate the Courts of Pleas and Quarter Sessions of Duplin county.

Whereas the act passed last year to elect five justices of the peace to hold the County Courts, contains no provision to fill vacancies: Therefore,

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 justices of the peace for the county of Duplin, a majority being present, shall have power to fill any vacancy that may occur in said special court by resignation or otherwise, at any time of said County Court; and the justices when elected shall be constituted members of said special court.

CHAPTER XXXI.

An act to alter the times of holding the Courts of Pleas and Quarter Sessions in Duplin county.

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 fourth Monday in May next, the Court of Pleas and Quarter Sessions of Duplin county shall commence on the third Monday in July, October, January and April, in each and every year; any law to the contrary notwithstanding.

II. *And be it further enacted*, That the appointment of all county officers which have been heretofore made on the fourth Monday in May, shall hereafter take place on the third Monday of April, one thousand eight hundred and thirty five, and annually thereafter; any law to the contrary notwithstanding.

CHAPTER XXXII.

An act for the better regulation of the County Courts of Mecklenburg, Lincoln, Rutherford and Haywood counties.

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 justices of the peace appointed to hold the Courts of Pleas and Quarter Sessions for the county of Mecklenburg, shall hold the terms of said court, which are now required by law to be held on the fourth Monday of February and fourth in August, on the third Monday in February and last Monday in August, in each and every year, and continue from day to day until the business thereof shall be completed; neither shall it be lawful for the justices of the peace holding said court to direct a jury to be summoned to attend any other Court of Pleas and Quarter Sessions for said county than the May and November terms of said court; which terms shall be held at the same time and under the same rules and regulations as are now prescribed by law: *Provided*, nothing herein contained shall authorise the justices to hold said court longer than one week.

II. *Be it further enacted*, That the Court of Pleas and Quarter Sessions held for the county of Lincoln, on the fifth Monday after the fourth in March and September, shall hereafter be held on the sixth Monday after the fourth in March and seventh Monday after the fourth in September; and that the Courts of Pleas and Quarter Sessions held for the county of Rutherford on the fourth Monday after the fourth in March and September, shall hereafter be holden on the fifth Monday after the fourth in March and September, in each and every year; and that the provisions of the first section of this act shall extend to the terms of the courts hereby altered to be held in the counties of Lincoln and Rutherford.

III. *And be it further enacted*, That this act shall be enforced from and after the first day of August next.

IV. *Be it further enacted*, That the County Courts of Haywood county, which are now holden by law on the second Mondays in March and September, shall hereafter be holden on the third Monday in March and September, in each and every year; any law, usage or custom to the contrary notwithstanding.

CHAPTER XXXIII.

An act to repeal in part an act, passed last session of the General Assembly, chapter one hundred and thirty two, entitled "an act to regulate the Courts of Pleas and Quarter Sessions of the counties of Washington and Hyde."

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 so much of the before recited act as relates to the county of Hyde, be, and the same is hereby repealed.

CHAPTER XXXIV.

An act better to promote the administration of justice in the county of Macon.

Whereas that portion of the county of Macon lying west of the Nantahaly river, is so far from the seat of justice and inconvenient for the officers of said county to execute process: 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 from and after the passage of this act, the sheriff and all other lawful officers of said county shall be allowed, in addition to the fees already allowed by law, the further sum of three cents per mile from their most usual place of residence to the most usual place of residence of the defendant or defendants, for executing all judicial process to them directed, either by a justice of the peace for said county or any other court of record in this State, in that part of said county lying west of the Nantahaly river.

II. *Be it further enacted by the authority aforesaid*, That the additional fees allowed by virtue of this act shall be taxed and collected as other costs are now provided by law: *And be it further provided*, that nothing in this act contained shall be construed to allow the collecting officer of the taxes of that part of said county any more fees than he is already allowed by law; any law to the contrary notwithstanding.

CHAPTER XXXV.

An act to alter the time of holding the Superior Courts of Law and Equity for the counties of Carteret and Craven.

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 hereafter the Superior Court of Law and Equity for the county of Carteret shall be open-

ed and held on the third Monday after the fourth Monday in March and September in each and every year; and the Superior Court of Law and Equity for the county of Craven shall be opened and held on the fourth Monday after the fourth Monday in March and September in each and every year.

II. *Be it further enacted*, That all proceedings and process of every kind depending in or returnable to the said Superior Courts shall stand continued and be returnable to the several terms hereby required to be holden respectively; any law to the contrary notwithstanding.

III. *Be it further enacted*, That the second section of an act, passed in the year of our Lord one thousand eight hundred and thirty, entitled "an act to alter the time of holding the Superior Courts of Law and Equity for the counties of Carteret, Onslow, Lenoir and Craven, and to lengthen the term of Craven Superior Court," be, and the same is hereby repealed; and all laws and clauses of laws inconsistent and contrary to the intent and meaning of this act, be, and the same are hereby repealed.

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

CHAPTER XXXVI.

An act to extend and continue in force certain acts of the General Assembly for regulating the times of holding the Superior Courts of Law and Equity for the counties of Moore, Montgomery and Anson.

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 provisions of the act, passed in the year one thousand eight hundred and thirty, chapter forty seven, entitled "an act to regulate the times of holding the Superior Courts of Law and Equity for the counties of Moore, Montgomery and Anson;" also the provisions of an act, passed at the session of one thousand eight hundred and thirty-one, chapter ninety, entitled "an act supplemental to an act, passed in the year one thousand eight hundred and thirty, entitled 'an act to regulate the time of holding the Superior Courts of Law and Equity for the counties of Moore, Montgomery and Anson,'" be, and the same are hereby extended for the space of three years from and after the ratification of this act; any thing contained in the said acts to the contrary notwithstanding.

CHAPTER XXXVII.

An act to alter the time of holding two of the Courts of Pleas and Quarter Sessions of the county of Macon.

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 Court of Pleas and Quarter Sessions held for the county of Macon, on the Monday before the last Monday of June and December, shall hereafter be held on the third Monday of February and August, in each and every year; any law, usage or custom to the contrary notwithstanding.

CHAPTER XXXVIII.

An act to repeal an act, passed in the year eighteen hundred and thirty two, entitled an act to establish an extra term of the Court of Pleas and Quarter Sessions for the county of Buncombe.

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 an act, passed in the year eighteen hundred and thirty two, entitled an act to establish an extra term of the Court of Pleas and Quarter Sessions for the county of Buncombe, to be held on the fourth Monday of August in each and every year, be, and the same is hereby repealed.

CHAPTER XXXIX.

An act to make compensation to the jurors of the Superior Court of Haywood county.

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 passage of this act, all jurors of the original venire who shall be summoned to attend the Superior Court of Haywood county, and shall actually serve as jurors aforesaid, shall be entitled to receive for each and every day's attendance, the sum of seventy-five cents; and every juror of the original venire shall receive further at the rate of fifty cents for every thirty miles travelling to and from court; which compensation to the jurors aforesaid, for attendance and travelling, shall be paid by the county trustee of said county out of the funds set apart for county purposes, on the certificate of the clerk of the court in which said juror of the original venire shall have served; which certificate shall be granted by the clerk of the court aforesaid, under the rules and regulations now prescribed by law.

II. *Be it further enacted,* That the sheriff of said county shall receive such certificates in payment of all county taxes.

III. *Be it further enacted,* That all laws and clauses of laws coming within the purview of this act, be, and the same are hereby repealed.

CHAPTER XL.

An act regulating the times of holding one of the terms of the Courts of Pleas and Quarter Sessions for the county of Macon.

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 hereafter the Court of Pleas and Quarter Sessions, held for the county of Macon on the third Monday in August, shall be held on the last Monday in July, in each and every year; any law to the contrary notwithstanding.

CHAPTER XLI.

An act for the better administration of justice in the county of Haywood.

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 passage of this act, the Superior Court for the county of Haywood shall have exclusive jurisdiction over all cases where the intervention of a jury shall or may be necessary.

II. *Be it further enacted,* That it shall be the duty of the sheriff of said county to make return of all writs that shall be in his hands returnable to the County Court, after the passage of this act, to the Superior Court next thereafter, in the same manner as if the same were returnable to the said Superior Court.

III. *Be it further enacted,* That all suits now standing on the docket of the County Court shall remain to be tried in the said court, at the next succeeding term after the passage of this act; and the remaining suits untried it shall be the duty of the clerk of the said County Court to transfer to the clerk of the Superior Court, together with the papers thereunto belonging, where the same shall be tried or otherwise disposed of.

IV. *Be it further enacted,* That it shall be the duty of the justices of the peace holding said County Court, to draw jurors to attend the Superior Courts, and direct their venire facias to issue to the sheriff of said county, at the same time and under the same rules and regulations that are now prescribed by law.

V. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER XLII.

An act to alter the time of holding two of the County Courts for Buncombe county.

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 County Courts for the county of Buncombe, heretofore held on the third Monday after the fourth Mondays in March and September, shall hereafter be held on the fourth Monday after the fourth Mondays in March and September; any law to the contrary notwithstanding.

CHAPTER XLIII.

An act to incorporate the trustees of the Episcopal School 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 Levi Silliman Ives, George W. Freeman, Jarvis Buxton, William M. Green, Joseph H. Saunders, Duncan Cameron, Thomas Ruffin, Joseph B. Skinoer, Frederick J. Hill, George E. Spruill, Thomas P. Devereux, Edward L. Winslow and George E. Badger, and their successors, be, and they are hereby created a corporation and body politic, by the name and style of "the Trustees of the Episcopal School of North Carolina," and by that name shall be capable of taking by purchase, devise or donation real and personal estate, and of holding and conveying the same; and have such other powers and enjoy such other rights as are usually incident to corporate bodies and are not inconsistent with the laws and constitution of the State.

II. *Be it further enacted*, That the trustees above named shall allot themselves as equally as may be into three classes, the appointment of those of the first class to be vacated at the expiration of the first year; of the second class, at the expiration of the second year; and of the third class, at the expiration of the third year, from and after the first day of June last, so that one third may be chosen every year by the said trustees and their successors: *Provided*, that nothing herein contained shall prevent the said trustees and their successors from appointing any individual of their board president of the same: *And provided further*, that the said board established for any one year, may fill vacancies from any cause in the same, until the next annual meeting of the trustees and their successors, to be held at such time and place as by an ordinance of their body they may designate; when they may declare in what manner trustees and other officers of the institution shall be appointed.

III. *Be it further enacted*, That any real estate over and above five hundred acres, which may be needed for the erection of convenient buildings on the same for the objects of this institution, shall be subject to taxation as now or hereafter may be directed by law.

IV. *Be it further enacted*, That the corporation hereby created may continue for twenty years and no longer.

CHAPTER XLIV.

An act to alter the name of Tick Creek Academy, in the county of Chatham.

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 name of

Tick Creek Academy, in Chatham county, incorporated by an act of the General Assembly, passed in the year 1831, be, and the same is hereby changed to the name of Caldwell Academy, and by that name shall hereafter be known; and is hereby invested with all the rights, privileges and immunities granted to Tick Creek Academy by virtue of the aforesaid act, passed in the year 1831. entitled an act to incorporate Tick Creek Academy, in the county of Chatham.

CHAPTER XLV.

An act to incorporate the trustees of New Garden Boarding School, in the county of Guilford.

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 Joshua Stanly, John Beard, Thomas Hodgen, John Russel, Elisha Coffin, Henry Macy, Zacharias Coffin, Thomas T. Hunt, Jeremiah Pickett, Nixon Henley, Peter Dicks and Phineas Nixon, Jr. shall be, and they are hereby declared to be a body politic and corporate, to be known and distinguished by the name and style of the Trustees of the New Garden Boarding School; and by that name shall have perpetual succession and a common seal; and that they, the said trustees, by the name aforesaid, or a majority of them, shall be able and capable in law to take, demand, receive and possess all moneys, goods and chattels and choses in action, that shall be given them for the use of the said Boarding School, and the same apply according to the will of the donors; and by gift, purchase and devise to take, have, hold, possess, enjoy and retain to them and their successors forever, any lands, rents, tenements and hereditaments of what kind, nature or quality soever, in special trust and confidence that the same and the profits thereof shall be applied to and for the use and purpose of said Boarding School.

II. *And be it further enacted,* That the said trustees or their successors, or a majority of them, by the name aforesaid, shall be able and capable in law to bargain and sell, grant, demise, alien, convey and assure to the purchaser or purchasers any such lands, rents, tenements and hereditaments aforesaid, when the condition of the grant to them or the will of the testator or deviser does not forbid it; and further, that they, the said trustees, or a majority of them, and their successors forever, shall be able and capable in law to sue and be sued, plead and be impleaded in all courts whatsoever, either in law or equity, of record or otherwise; and in general they shall and may do all such other acts and things as are usually done by bodies corporate, for the purpose of effecting the objects of this act.

III. *Be it further enacted,* That on the death, resignation, refusal to act or removal out of the State of any of the trustees for the time being, the remaining trustees, or a majority of them, are hereby authorised and required to appoint other trustees in the place of every one that shall so die, resign, refuse to act or remove; which trustees so appointed shall be vested with the same power, trust and authority as the one in whose stead he or they shall be so appointed would have had in case he or they had lived and continued to act.

IV. *And be it further enacted,* That the said trustees and their successors, or a majority of them, may, from time to time, make such bye laws and regulations for their own government and that of the Boarding School, and the preservation of order and good morals therein, as are usually made in such seminaries and as to them may appear expedient: *Provided the same are not inconsistent with the constitution and laws of the State.*

V. *Be it further enacted*, That this act shall be in force for twenty five years from and after the passage thereof.

CHAPTER XLVI.

An act to incorporate the Northampton Female Seminary.

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 Richard H. Weaver, William B. Lockhart, Etheldred J. Peoples, Isaac Hall, Samuel B. Spruill, Shirley Tisdale and Willie Langford, be, and they are hereby constituted a body corporate and politic by the name and style of the Trustees of the Northampton Female Seminary; and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

II. *And be it further enacted by the authority aforesaid*, That any three of the said trustees may constitute a quorum for the transaction of business; and that on the death, refusal to act, resignation or removal out of the State of any of the trustees, the remaining trustees shall have power to fill the vacancy thereby occasioned.

CHAPTER XLVII.

An act to incorporate Silvester Academy, in the county of Moore, and to appoint the trustees 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 William Shaw, esquire, Daniel Currie, Alexander Graham, William Cole, Malcom B. Currie, Elias Harrington, Malcom Shaw, Peter M'Nabb and James Cole, be, and they are hereby incorporated by the name and style of the "Trustees of Silvester Academy;" and by that name shall be able and capable in law to sue and be sued, plead and be impleaded; acquire by purchase, gift or otherwise, to them and their successors, estate real and personal for the use of the academy; and enjoy all other powers, privileges and immunities incident to bodies corporate of the like nature.

II. *Be it further enacted*, That in case of any vacancy occurring by death, resignation, or otherwise, of said trustees, the remainder, or a majority of them, may appoint successors to the same, who shall have the same powers and authorities as the trustees constituted by the provisions of this act.

CHAPTER XLVIII.

An act to incorporate Morven Academy, in the county of Anson.

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 Vincent Parsons, Francis Wilson, James C. Bennett, John C. M'Kenzie, Samuel Bell, Dudley D. Daniel and Farquar A. M'Rae, be, and they are hereby constituted and appointed a body politic and corporate by the name and style of "The Trustees of Morven Academy;" and by that name shall be capable in law to sue and be sued, plead and be impleaded; acquire, by gift, purchase or otherwise, real and personal estate sufficient to carry on the necessary business of the said Academy; and enjoy, in every other respect, all rights and privileges and immunities incident to bodies corporate of the like nature.

II. *Be it further enacted*, That in case of a vacancy occurring by death, removal or otherwise, of said trustees, the remainder, or a majority of them, may appoint successors to the same, who may have the same powers and authority as those constituted and appointed by the provisions of this act.

CHAPTER XLIX.

An act to incorporate the trustees of New Hanover Academy, in the county of New Hanover.

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 William C. Henry, Bryan Newkirk, James M'Caleb and Duncan A. Campbell, be, and they are hereby constituted a body politic and corporate, by the name and style of "The Trustees of New Hanover Academy;" and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

II. *Be it further enacted*, That on the death, refusal to act, or removal out of the county, of any one of the trustees, the remaining trustees shall have power to fill the vacancies thereby occasioned.

CHAPTER L.

An act to establish Franklin Academy, in the county of Surry, and incorporate the trustees 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 Matthew M. Hughes, William P. Dobson, Jesse A. Waugh, William G. Haynes and Francis K. Armstrong, be, and they are hereby constituted a body corporate and politic, by the name and style of "The Trustees of Franklin Academy," in the county of Surry; and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

II. *Be it further enacted by the authority aforesaid*, That any three of the said trustees may constitute a quorum for the transaction of business; and that on the death, refusal to act, resignation or removal of any of the trustees out of the county or State, the remaining trustees shall have power to fill the vacancy thereby occasioned.

III. *Be it further enacted*, That this act shall be in force from and after its passage.

IV. *Be it further enacted*, That the provisions of this act shall cease to have effect from and after the term of twenty years from and after the passage thereof.

CHAPTER LI.

An act to establish Clemmons ville Academy, in the county of Davidson, and appoint the trustees 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 Benton Clemmons, John Clemmons, Wilson Wammack, John Johnston and Thomas Hanes, of Davidson county, be, and they are hereby constituted a body politic and corporate, by the name and style of "The Trustees of Clemmons ville Academy;" and by that name may sue and be sued, plead and be implead-

ed; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

II. *Be it further enacted*, That any three of said trustees may constitute a quorum for the transaction of business; and that on the death, refusal to act, or removal out of the State, of any of the trustees, the remaining trustees shall have power to fill the vacancy or vacancies occasioned thereby.

CHAPTER LII.

An act to incorporate Pine Grove Academy, in the upper part of Robeson county.

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 Archibald MacEachern, Patrick MacEachin and Duncan MacMillan, be, and they are hereby incorporated, by the name and style of "The Trustees of Pine Grove Academy;" and by that name shall be able and capable in law to sue and be sued, plead and be impleaded; acquire, by purchase, gift or otherwise, to them and their successors, estate, real and personal, for the use of the academy; and enjoy all other powers, privileges and immunities incident to bodies corporate of the like nature.

II. *Be it further enacted*, That in case of a vacancy occurring by death, resignation or otherwise, of said trustees, the remainder of them may appoint successors to the same, who shall have the same powers and authorities as the trustees constituted by the provisions of this act.

CHAPTER LIII.

An act to establish an Academy on the lands of Dennis O'Bryan, in the county of Warren, and for other purposes.

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 there shall be an academy established upon the lands of Dennis O'Bryan, in the county of Warren, in a house which he has erected for that purpose, to be known by the name of the "Princeton Academy."

II. *And be it further enacted*, That Joseph W. Hawkins, John D. Hawkins, Micajah T. Hawkins, William Hayes, John Vandyck, and Dennis O'Bryan, be, and they are hereby appointed trustees of said academy hereby established; and the said trustees, or a majority of them, shall have power to make such rules and regulations for the well ordering and good government of said academy as they, or a majority, may deem expedient; to appoint other trustees, or fill vacancies when the same may happen; and to do whatsoever matter or thing which trustees of other academies in this State are allowed to do for the encouragement thereof.

III. *And be it further enacted*, That all teachers of said academy, during the time they shall attend the same, shall be exempt from military duty of all kinds, except in case of rebellion or invasion.

CHAPTER LIV.

An act to incorporate Rocky River Academy, in Cabarrus county.

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 Daniel Lindley, Alphonso Alexander, Robert Kirkpatrick, Dionisius Alexander, William M'Clain, Cyrus A. Alexander, Lard H. Harris, John M. Wil-

son, James White, David Bradshaw and John Phifer, be, and they are hereby constituted a body politic and corporate, by the name and style of the Trustees of the Rocky River Academy, in the county of Cabarrus; and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

II. *Be it further enacted*, That on the death, refusal to act, or removal out of the State, of any of the trustees, the remaining trustees shall have power to fill the vacancies thereby occasioned.

CHAPTER LV.

An act to incorporate the Trustees of Griffin's Free School.

Whereas Moses Griffin, late of the town of Newbern, by his will devised all the residue of his estate to Edward Graham, William Gaston, John Devereux, Francis Hawks and John Oliver upon trust, that they should, out of the rents and profits of his estate, both real and personal, purchase two acres of land in some convenient and healthy place near the town of Newbern; and as soon as the funds arising from the issues and profits of his said estate should be deemed by the said trustees sufficient, that they should erect a brick house one and a half story high upon the said two acres of land, which said house the said testator directed to be thirty feet long and twenty feet wide, and to have a large room suitably furnished for a school room laid off on the first floor, the remainder of said house to be furnished in a plain manner fit for the accommodation of indigent scholars; which house should be called Griffin's Free School. And whereas also the said testator directed further that as soon after the erection of the said house, as the funds arising from the issues and profits of his estate, both real and personal should admit of, a schoolmaster should be employed for the purpose of teaching and educating therein as many orphan children or the children of such poor and indigent persons as were unable to accomplish it by their own means, and who in the judgment of the said trustees were best entitled to the benefit of said donation, as the funds might be found equal to; with a further direction to the said trustees that the said poor and indigent children should be boarded, clothed and apprenticed from the rents and profits of his estate, whenever the funds therefrom arising should be sufficient; with a permission by the said testator that the schoolmaster who might be employed by his said trustees should receive from the parents and guardians of twenty five scholars, other than indigent ones, such tuition as he might make terms for. And whereas the said Edward Graham and Francis Hawks have died since their said testator, and it is desirable that the said trustees should have a perpetual succession: Therefore,

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 William Gaston, John Devereux, John Oliver, George S. Attmore, George Wilson, James C. Cole, John N. Roberts, John T. Lance and John M. Bryan, be, and they are hereby constituted a body corporate and politic, by the name of the Trustees of Griffin's Free School; and shall have a perpetual succession and a common seal; and be in law capable of suing and being sued, impleading or being impleaded, in all courts either of law or equity; and may

take and receive from the said surviving trustees, or the personal representatives of those who are dead, conveyances and assignments for all the land, funds, stock or choses in action which they hold from the said testator; and further may take and receive, either by gift or will, any personal estate, lands or choses in action which may be given to them for the use of the said school.

II. *And be it further enacted*, That upon the death or removal of any of the said trustees, or upon any of them refusing to act in the said trust, the vacancy thus created shall be filled by the remaining trustees.

III. *And be it further enacted*, That five of the said trustees shall be a quorum for the transaction of all business.

IV. *And be it further enacted*, That the said trustees may elect a secretary and treasurer, who shall give bond, satisfactory to the trustees, for the faithful discharge of his duties as secretary and treasurer, and who shall receive such compensation as may be settled by the said trustees.

And whereas it is represented that a suit in equity is now pending for the purpose of ascertaining the amount of the assets of the said Moses Griffin, which may be in the hands of John Devereux or John Oliver, survivors of his executors who proved the said will, or which may have come to the hands of Edward Graham or Francis Hawke:

V. *Be it therefore enacted*, That when the accounts in the said suit have been taken and a final decree passed therein, it shall and may be lawful for the said surviving trustees, or the executors or administrators of those who are dead, to pay any balance in their hands to the secretary and treasurer of the corporation hereby created; and the receipt of such secretary and treasurer shall be a final discharge to the said trustees or said executors or administrators for the amount thus paid: *Provided always, and it is hereby declared*, that the said will of the said Moses Griffin, as above recited, shall be held and deemed to be the fundamental law of the said corporation: *And provided further*, that this act shall not be in force unless the surviving executors and trustees of the said Moses Griffin shall, within twelve calendar months after the passage thereof, file in the office of the Secretary of State their assent in writing to the same.

CHAPTER LVI.

An act to incorporate Pleasant Hill Academy, in the county of Stokes.

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 Abraham Conrad, Isaac Lash, Harman Butner, Solomon Transue, William A. Lash, Peter Transue, John B. Miller, Abraham Lash, Sandy Flint and Samuel B. Stower, be, and they are hereby incorporated by the name and style of the "Trustees of Pleasant Hill Academy;" and by that name shall be capable in law to sue and be sued, plead and be impleaded; acquire by purchase, gift or otherwise, to them and their successors, estate real and personal for the use of the academy; and enjoy all other powers, privileges and immunities incident to bodies corporate of the like nature.

II. *Be it further enacted*, That in case of vacancy occurring by death, resignation or otherwise of said trustees, the remainder or a majority of them may appoint successors to the same, who shall have the same powers and authorities as the trustees constituted by the provisions of this act.

CHAPTER LVII.

An act to establish Arcadia Academy, in the county of Person, and to incorporate the trustees 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 Benjamin Sumner of Person, John L. Bailey of Pasquotank, Spencer O'Bryan of Granville, Samuel T. Sawyer of Edenton, Porteus Moore of Person, James L. Wortham of Granville, Thomas McGehee of Person, William A. Graham of Hillsborough, David Outlaw of Bertie, Thomas T. Hunt of Granville, Josiah Collins, Jr. of Washington, be, and they are hereby constituted a body politic and corporate, by the name and style of the "Trustees of Arcadia Academy;" and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such powers and privileges as are usually exercised and enjoyed by trustees of any incorporated academy in this State.

II. And be it further enacted, That any three of the said trustees may constitute a quorum for the transaction of business; and that on the death, refusal to act or removal out of the State of any of the trustees, the remaining trustees or a quorum of them shall have power to fill the vacancy thereby occasioned.

III. Be it further enacted, That the provisions of this act shall cease to have effect from and after twenty years from and after the passage of this act.

CHAPTER LVIII.

An act to incorporate the Greensborough Academy and Manual Labor School.

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 John M. Morehead, John M. Dick, William Lindsay, William Parsley, Eli W. Caruthers, of the county of Guilford; Samuel Parsley, James Mebane, of the county of Orange; Samuel L. Graham, Alexander Wilson, Nehemiah H. Harding, Abraham W. Venable, Stephen K. Sneed, Charles L. Read, of the county of Granville; William M'Pheeters, of the city of Raleigh; Daniel A. Penick and George Williamson, of the county of Caswell, be, and they are hereby constituted a body corporate and politic, by the name and style of "The Trustees of the Greensborough Academy and Manual Labor School;" and by that name shall have succession and a common seal, and be able and capable in law to sue and be sued, plead and be impleaded in all courts either in law or equity; and shall take, demand, receive and possess all moneys, goods and chattels, and choses in action, which may be given to them for the use of said academy and manual labor school; and the same apply according to the will of the donors, when expressed, and, without such declaration, according to their own judgment; and by purchase or devise to take, hold and possess, to them and their successors, any lands, rents, tenements and hereditaments of what kind, nature or quality whatsoever, in special trust and confidence; the same, with the profits thereof, to apply to the use and purpose of endowing and supporting the said academy; and may purchase and hold, for the purpose aforesaid, all such chattels and personal property as to them shall seem requisite.

II. Be it further enacted, That the said trustees, by the name aforesaid, shall be able and capable in law to grant, bargain, sell, assure to the purchaser any or all such lands, rents, tenements or hereditaments as aforesaid, when not restrained by the terms of the grant or devise to them.

III. *Be it further enacted*, That in case of the death, resignation or refusal to act, or removal from the State, of any of the trustees for the time being, the remaining or surviving trustees shall elect such persons to fill such vacancy as they shall think qualified.

IV. *Be it further enacted*, That the said trustees shall hold their first meeting in the town of Hillsborough, in the county of Orange, on Thursday, the sixteenth day of January next, (one thousand eight hundred and thirty-four,) or at such time and place as they may appoint; and shall have power from time to time to appoint their own president, secretary and treasurer, and such professors, tutors and officers in and over the said academy as to them shall appear proper; and may remove the same for misbehaviour, inability or neglect of duty. They shall have power to make all necessary bye-laws and regulations, not inconsistent with the laws and Constitution of this State, for the government of the same.

V. *Be it further enacted*, That the said trustees may and shall locate said academy in the town of Greensborough, in the county of Guilford, or at any other place the trustees may think most advisable and proper, provided it be in either of the following counties, viz. Orange, Caswell, Granville, Wake or Guilford; and shall cause to be erected all such buildings and improvements for the accommodation of the same as they shall deem most advisable and proper, and for the benefit of all such persons as wish to assist themselves by their own industry in procuring their education. The said trustees shall be empowered to establish and keep up a manual labour department in the said academy; which department as a component part of the institution shall be conducted on such plan and on such mode as the board of trustees shall from time to time adopt; and five trustees shall be a quorum to do all manner of business.

VI. *Be it further enacted*, That all the real estate belonging to the said corporation shall be subject to taxation as other real estate.

VII. *Be it further enacted*, That the corporation hereby created may continue twenty years and no longer.

CHAPTER LIX.

An act to establish a Literary and Manual Labour Institution in the county of Wake.

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 William P. Biddle, John Armstrong, William Sanders, of the county of Craven, Isaac Beeson of Guilford, James Watkins of Anson, Thomas Boyd of Mecklenburg, John Portevant of Brunswick, Thomas Stradley of Buncombe, Hugh Quin of Lincoln, Alfred Dockery of Richmond, William Crenshaw, George W. Thompson, Allen S. Wynn, William Roles, Alfred Birt, John Purify, of Wake, Simon J. Jeffers, Thomas Crocker, Allen Bowden, of Franklin, James King of Person, John Culpepper, sen. of Montgomery, John McDaniel, Charles McCallister, of Cumberland, Aaron J. Spivy, Joseph B. Outlaw, Torner Carter, of Bertie, Henry Austin of Edgecomb, Daniel Boon, David Thompson, of Johnston, Paul Phifer of Rowan, Alexander Mosely of Lenoir, George W. Thompson of Pasquotank, Joseph Halsey of Tyrrell, Charles W. Skinner of Perquimons, William Hooper of Orange, Amos J. Battle of Nash, Josiah Wiseman of Davidson, Stephen Graham, George W. Hufham, of Duplin, and David S. Williams of Sampson, be. and they are hereby constituted a body corporate and politic,

for the purpose of educating youth, and for no other purpose whatever, by the name and style of "the Trustees of the Wake Forest Institute;" and by that name shall have a perpetual succession and a common seal; and be able and capable in law to sue and be sued, plead and be impleaded, in all courts either in law or equity; and shall take, demand, receive and possess all moneys, goods and chattels which may be given; and all donations made shall be applied, according to the wish of the donor, to the purposes herein declared; and by purchase or otherwise to take, hold and possess, to them and their successors forever, any lands sufficient for the purposes of said institution, rents and tenements, in special trust and confidence, and to apply the same, together with the profits arising therefrom, to the use and purpose of endowing and supporting said institution; and may purchase and hold, for the purposes aforesaid, such chattels and personal property as they may deem necessary: *Provided* the amount of real and personal estate held by this institution shall not at any one time exceed fifty thousand dollars.

II. *And be it further enacted*, That in case of the death, resignation, refusal to act or removal from the State of any of the said trustees for the time being, then the surviving trustees, a majority being present, shall fill said vacancies.

III. *And be it further enacted*, That the said trustees shall have power to appoint their own president, secretary and treasurer, and such professors, tutors and all officers in and over the said institution, as they shall deem qualified to discharge the duties of their several offices, and may remove the same for misbehaviour, inability or neglect of duty; they shall have power to make all necessary bye laws and regulations, not inconsistent with the constitution and laws of the State, for the government of the said institution; and the said trustees shall hold meetings from time to time, as often as necessity may require; and that nine trustees shall constitute a quorum to transact all manner of business in relation to said institution.

IV. *Be it further enacted*, That all the real estate belonging to the said corporation shall be subject to taxation as other real estate.

V. *Be it further enacted*, That the provisions of said act shall continue in force twenty years and no longer.

CHAPTER LX.

An act to incorporate Sandy Ridge Academy, in the county of Chowan.

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 Richard T. Brownrigg, William Sparkman, Exum Simpson, Allen Small, Charles E. Johnson, Josiah Small, Cullen Bunch, Thomas J. Brownrigg, Stephen Skinner, John H. Brownrigg and Everard Garrett, be, and they are hereby constituted a body politic and corporate, by the name and style of "the Trustees of the Sandy Ridge Academy;" and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; and in general shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

II. *Be it further enacted*, That on the death, refusal to act or removal out of the State of any of the trustees, the remaining trustees shall have power to fill the vacancies thereby occasioned.

CHAPTER LXI.

An act to re-appoint Trustees for Green Hill Academy, in Haywood county.

Whereas the trustees of Green Hill Academy, in Haywood county, have deceased, removed or refused to act:

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 William Welch, Nelson G. Howell, Joseph Cathey, Eannister Turner and William Johnson, be, and they are hereby appointed trustees of Green Hill Academy, in Haywood county, in lieu of the trustees appointed by the act of Assembly, passed in the year one thousand eight hundred and nine, entitled "an act to incorporate the trustees of Green Hill Academy, in Haywood county."

II. *Be it further enacted, That the above trustees shall be entitled to all the rights, privileges and powers, that the trustees who were appointed by the above recited act were; any law to the contrary notwithstanding.*

CHAPTER LXII.

An act to incorporate the Rocky River Gold Mining Company.

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 a gold mining company shall be established in the State aforesaid, by the name and style of the "Rocky River Gold Mining Company," with a capital of one hundred thousand dollars, in shares of one hundred dollars each; and that James Martin, Jr., David Storke and all those who now are, or who shall hereafter become their associates, are hereby authorised to open books at Concord, Salisbury and such other places as they may direct, for the purpose of receiving subscribers for shares in said company, having advertised such intention in some newspaper in this State and such other papers as they may deem necessary, for twenty days; and to keep said books open for ten days, with power to re-open the same in like manner if the amount of capital shall not be subscribed.

II. *Be it further enacted, That the commissioners under whom the books are to be opened for subscription shall meet at the expiration of ten days after opening books as above provided, and compare their books; and if it be found that the sum of twenty thousand dollars has been subscribed, the aforesaid commissioners shall forthwith advertise in some newspaper and request a general meeting of the stockholders at such time and place as they shall appoint; and if stockholders representing a majority of the stock subscribed shall attend said meeting, either in person or by proxy, the said stockholders may proceed to appoint five directors, one of whom shall be the president of the company; and the said directors shall be appointed for one year and until their successors are appointed.*

III. *Be it further enacted, That it shall be the duty of the directors, within ten days after their appointment as aforesaid, to meet and appoint one of their body president, and to execute such bonds as may be required of them by the stockholders for the faithful performance of their respective duties while in office.*

IV. *Be it further enacted, That when the sum of twenty thousand dollars shall be subscribed in manner aforesaid, the subscribers, their successors and assigns, shall be, and they are hereby incorporated into a company, by the name and style of "the Rocky River Gold Mining Company;" and by that name may sue and be sued, plead and be impleaded before any court*

or justice of the peace, and shall so continue for the term of twenty five years from the ratification of this act; and shall be capable in law to have, purchase, receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of whatever kind, nature or quality, and the same to sell, grant, demise, alien or dispose of; and shall possess all the rights and privileges of a corporation or body politic in law; and also make, have and use a common seal, and the same to break, alter or renew at their pleasure; and may make and ordain all such bye laws and regulations, not inconsistent with the laws and constitution of this State, as shall be necessary for the well ordering and conducting the affairs of said company.

V. *Be it further enacted*, That if the whole of the capital stock shall not have been subscribed, and the sum of twenty thousand dollars shall have been subscribed and the company organized as aforesaid, in that case it shall be lawful for the stockholders to re open books of subscription and receive the same for the balance of the stock.

VI. *Be it further enacted*, That if more than the capital stock shall have been subscribed for within ten days, then it shall be the duty of the commissioners to reduce the subscriptions in fair and equal proportions, reserving to each subscriber at least one share; and if the subscribers shall re open their books and more than the capital stock shall be subscribed, then the stockholders shall reduce the subscriptions to the capital stock in the manner above stated.

VII. *Be it further enacted*, That the stockholders of said company shall meet once in each and every year, at some convenient place in the county of Cabarrus, either in person or by proxy; and at such general meeting, if a majority of the stock subscribed shall be represented, the said stockholders may proceed to elect their officers, fix their salaries, take bonds from the officers for the faithful performance of their duty, make all necessary bye laws rules and regulations for the government of said corporation, and shall have power to do all other acts necessary to be done to carry into effect the objects of this act; and the stockholders in general meeting shall be entitled to vote for each share he may hold as high as three shares, and one vote for every three shares as high as thirty shares, and one vote for every five shares above thirty shares, by him or her held at the time of said general meeting.

VIII. *Be it further enacted*, That the stockholders in said company who together own or represent one third of the stock subscribed, may on any emergency call a meeting; and shall have power to remove any officer of the company from office for misconduct or other sufficient cause; and to make such rules and regulations as may be necessary for the government of the company, until the next annual meeting of the stockholders.

IX. *Be it further enacted*, That the said company shall apply their capital to mining only, and its powers and privileges are granted and to be exercised for the purpose of mining only, and for no other purpose.

X. *Be it further enacted*, That the full amount of every subscription shall be paid in at the time of subscribing, or shall be secured by bond or note of the subscriber, signed by himself and two good securities, neither of whom shall be a corporator.

XI. *Be it further enacted*, That no subscription shall be for less than one share; and in case any subscriber shall fail to pay in the amount of his sub-

scription or to give bond with two securities as aforesaid, as by this act provided, then the subscriber, and any and every director conniving or assenting to such failure, shall be liable to any creditor of the company for the full amount of such subscription, to be recovered from such subscriber and director or directors, their executors, administrators, jointly and severally, by an action on the case.

XII. *Be it further enacted*, That the corporation may make contracts or become bound by any instrument, or security, or agreement, or writing, signed by the president or by any person duly authorised by him, or by the president and directors; but the legal estate in lands, tenements and hereditaments aliened by the corporation, shall pass to the purchaser only by and under the corporation seal.

XIII. *Be it further enacted*, That any legal process against the corporation may be served on the president, and in case he be not in the State or evades the service, the service of the same on any director, or in case there be no director in the State, the service on any stockholder shall be sufficient.

XIV. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of all their proceedings in books procured for that purpose, and shall be bound to produce said records in any court or justice in any county in the State, when required so to do by the court.

XV. *Be it further enacted*, That it shall be the duty of the said corporation whenever thereunto required, after their organization, by the Court of Pleas and Quarter Sessions for the county of Cabarrus, to present to the same a full and fair statement of the amount of stock subscribed, the amount paid in cash, the amount for which the president and directors hold the bonds of the subscribers or stockholders, and also the amount of debts due to the corporation, and the name and place of residence of the several stockholders.

XVI. *Be it further enacted*, That the president and directors shall prescribe the manner in which stock shall be conveyed or transferred from one stockholder to another, or to any other person; and that the stock shall be personal property and go by succession to executors and administrators.

XVII. *Be it further enacted*, That all the property of said corporation of whatever kind or nature, whether lands, negroes, machinery, stock, goods, bonds or other effects, shall be liable to the satisfaction of the debts of the corporation, and shall be subject to be levied on by execution, attachment or other legal process, and sold.

XVIII. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER LXIII.

An act to incorporate the Washington Gold Mining Company, in the county of Mecklenburg.

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 a gold mining company shall be established in this State by the name and style of the Washington Gold Mining Company, with a capital of one hundred and twenty five thousand dollars, in shares of one hundred dollars each, and that John Irwin, Joseph H. Wilson, Jesse B. Quenby and A. B. Quenby, or a majority of them, be, and they are hereby authorised to open books in the town of Charlotte, in the county of Mecklenburg, and at such other places as they may direct, for the purpose of receiving subscriptions for shares in said company, having previously given twenty days' notice in some newspaper of the times and

places of opening said books; and they may keep said books open for ninety days, with power to re-open the same in like manner if the capital stock shall not in the first instance be all subscribed.

II. *Be it further enacted*, That at the expiration of ninety days for keeping the books open, the commissioners or a majority of them shall meet together and compare their books, and if it shall be found that thirty five thousand dollars of the capital stock shall have been subscribed, they shall, by advertisement in some newspaper, call a general meeting of the stockholders at such time and place as they may appoint; and if a number of stockholders representing a majority of all the stock subscribed shall attend, either in person or by proxy, they may proceed to appoint five directors, one of whom shall be president of the company; and the said directors shall be appointed for one year and until their successors be elected.

III. *Be it further enacted*, That it shall be the duty of the directors, within ten days after their appointment, to meet and choose one of their body as president, and execute such bonds as may be required of them by the stockholders for the faithful performance of their respective duties while in office.

IV. *Be it further enacted*, That when the sum of thirty five thousand dollars shall have been subscribed in manner aforesaid, the subscribers, their successors or assigns shall be, and they are hereby declared to be incorporated into a company, by the name and style of "the Washington Gold Mining Company;" and by that name may sue and be sued, plead and be impleaded before any court or justice of the peace; and shall so continue for the period of forty years from and after the ratification of this act; and shall be able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of whatsoever kind, nature or quality, and the same to sell, grant, demise, claim or dispose of; and shall possess and exercise all the rights and privileges of a corporation or body politic law; and also make, have and use a common seal; and make all such bye laws, rules and regulations, not inconsistent with the constitution and laws of the State, as may be necessary for the well ordering and management of the affairs of the company.

V. *Be it further enacted*, That if the whole of the capital stock shall not have been subscribed within the first ninety days, or when the books are re-opened by the commissioners, and the sum of thirty five thousand dollars shall have been subscribed, and the company organized as before provided for, then it shall be lawful for the stockholders to re-open the books and receive subscriptions for the balance of the stock.

VI. *Be it further enacted*, That if more than the whole amount of the capital stock shall have been subscribed at the opening of the books, then it shall be the duty of the commissioners to reduce the same in fair and equal proportions, reserving to each subscriber at least one share; and if the stockholders should re-open the books and more than the capital stock should be subscribed, then the directors shall reduce the subscriptions to the sum prescribed as the capital stock in manner as above directed.

VII. *Be it further enacted*, That the stockholders shall have annual meetings either in person or by proxy; and at such meetings, a majority of the stock being represented, they shall elect their directors and officers and do all other things authorised by this act; and in all general meetings each stockholder shall be entitled to give as many votes as he may hold shares;

and the shares or stock of said company shall be deemed, taken and considered as personal property or estate, and as such shall go to administrators or executors and be assets in their hands.

VIII. *Be it further enacted*, That the stockholders, or so many of them as may hold or represent one third of the stock, may at any time call a general meeting of the company; and at such meeting, a majority of the stock being represented, may remove all officers and directors of the company and appoint others in their stead, and generally do and perform whatever may be done and performed at the annual meeting of the company.

IX. *Be it further enacted*, That the said corporation shall not apply its capital to any other than the purposes of mining; and all banking operations are strictly prohibited under the penalty of forfeiting this charter.

X. *Be it further enacted*, That the full amount of every subscription shall be paid in at the time of subscribing, or shall be received by bond or note of the subscriber signed by himself and two good securities, neither of whom shall be a corporator; and if a security shall afterwards become a corporator the president and directors shall require other security in his place, and in case such requisition shall not be complied with the president and directors shall forthwith collect the amount due on said bond or note, which shall bear interest from the date; but any bond or note so taken may be made payable in such sums or instalments and such times as the president and directors may by resolution require.

XI. *Be it further enacted*, That no subscription shall be for less than one share; and in case any subscriber shall fail to pay in the amount of his subscription, or to give his bond or note with two securities, as by this act required, such subscriber, and any and every director conniving at or assenting to such failure, shall be liable to any creditor of the company for the full amount of such subscription, to be recovered from either or all of them, their executors, administrators or assigns, on the case.

XII. *Be it further enacted*, That the corporation may make contracts or become bound by instrument, security or agreement in writing, signed by the president or by any person duly authorised by him, or by the president and directors; but the legal estate in the lands, tenements, hereditaments, aliened by the corporation, shall pass to the purchaser only by deed under their corporate seal.

XIII. *Be it further enacted*, That any legal process against the corporation may be served on the president; and in case he be not in the State, or avoids service, then the service of the same on any director; and in case there be no director in the State, then service on any stockholder shall be sufficient.

XIV. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of all its proceedings in a book procured for that purpose, and shall produce said records in either the Superior or County Courts of Mecklenburg, when required so to do by either court; and it shall be the duty of said corporation to preserve all bonds and notes given for stock, and give credit for such payments as may from time to time be made on them, until they are paid off and discharged.

XV. *Be it further enacted*, That all the property of the corporation, of whatsoever kind or nature, whether lands, negroes, machinery, stock, bonds or other effects, shall be liable to the satisfaction of the debts of the said corporation, and shall be subject to be levied on by execution, attachment or other legal process, and be sold.

XVI. *Be it further enacted*, That this act shall be in full force from and after the ratification thereof.

CHAPTER LXIV.

An act to incorporate the Franklin Gold Mining Company.

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 a gold mining company shall be established in the county of Mecklenburg, State of North Carolina, by the name and style of the "Franklin Gold Mining Company," with a capital of one hundred and twenty five thousand dollars, in shares of twenty five dollars each; and that William Davidson, David J. Caldwell, James H. Blake, and all those who now are or shall hereafter become their associates, are hereby authorised to open books at Charlotte and such other places as they may direct, for the purpose of receiving subscriptions for shares in the said company, having advertised such intention in the Farmers' and Miners' Journal and such other papers as they may deem necessary for twenty days, and keep said books open for ten days, with power to re-open the same in like manner, if the amount of capital shall not be subscribed.

II. *Be it further enacted*, That the commissioners under whom the books are opened for subscription, shall meet at the expiration of ten days after opening books as above provided, and compare their books, and if it shall be found that the sum of twenty thousand dollars shall have been subscribed, the aforesaid commissioners shall forthwith advertise and request a general meeting of the stockholders at such place and place as they shall appoint; and if stockholders representing a majority of all the stock subscribed shall attend said meeting, either in person or by proxy, the said stockholders may proceed to appoint five directors, one of whom shall be president of the company; and the said directors shall be appointed for the term of one year, and until their successors are appointed.

III. *Be it further enacted*, That it shall be the duty of the directors within ten days after their appointment as aforesaid, to meet and appoint one of their own body president, and to execute such bonds as may be required of them by the stockholders for the faithful performance of their respective duties while in office.

IV. *Be it further enacted*, That when the sum of twenty thousand dollars shall be subscribed in manner aforesaid, the subscribers, their successors and assigns, shall be, and are hereby declared to be incorporated into a company, by the name and style of the Franklin Gold Mining Company; and by that name may sue and be sued, plead and be impleaded, before any court or justices of the peace, and shall so continue for the term of thirty years from the ratification of this act; and shall be capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of whatsoever kind, nature and quality; and the same to sell, grant, alien or dispose of; and shall possess all the rights and privileges of a corporation or body politic in law; and also may make, have and use a common seal, and the same break, alter and renew at their pleasure; and may make all such bye laws, rules and regulations, not inconsistent with the constitution and laws of the State, as shall be necessary for the well ordering and conducting the affairs of the company.

V. *Be it further enacted*, That if the whole of the capital stock shall not be subscribed within the first twenty days, and the sum of twenty thousand dollars shall have been subscribed, and the company organized as before provided, in that case it shall be lawful for the stockholders to re-open the books and receive subscriptions for the balance of their capital stock.

VI. *Be it further enacted*, That the stockholders of said company shall meet once in each and every year, at some convenient place in the county of Mecklenburg, either in person or by proxy; and at such general meeting, if a majority of the stock subscribed shall be represented, the said stockholders may proceed to elect their officers, fix their salaries, take bonds from the officers for the faithful performance of their duties in office, make all necessary bye laws, rules and regulations for the well government of said corporation, and shall have full power to do all other acts necessary to be done to carry into effect the object of this act; and the stockholders in general meeting shall be entitled to vote according to the following scale, to wit: each stockholder shall be entitled to one vote for each share he may hold as high as three shares, and one vote for every three shares as high as thirty shares, and one vote for every ten shares above thirty shares by him or her held at the time of such general meeting.

VII. *Be it further enacted*, That stockholders in said company who together own or represent one third of the stock subscribed, may on any emergency call a meeting; and shall have power at such meeting to remove any officer of the company from office, for misconduct or other sufficient cause; and to make such rules and regulations as may be necessary for the government of the company until the next annual meeting of the stockholders.

VIII. *Be it further enacted*, That the said company are to apply their capital to mining only, and all its powers and privileges are granted and to be exercised for the purpose of mining; and the said corporation is hereby declared incapable in law to carry on any operation of banking, or to divert its funds to any other purpose than that of mining.

IX. *Be it further enacted*, That the full amount of every subscription shall be paid in at the time of subscribing, or shall be secured by bond or note of the subscriber, signed by himself and two good securities, neither of whom shall be a corporator; the money secured by said bond or note shall bear interest from the date, but shall be paid into the treasury of the corporation in such sums and at such times as the president and directors shall by resolution ordain and require.

X. *Be it further enacted*, That no subscription shall be for less than one share; and in case any subscriber shall fail to pay the amount of his subscription, or to give his or her bond with two securities as aforesaid, by this act provided, that the said subscriber, and any or every director conniving at or assenting to such failure, shall be liable to any creditor of the said company for the full amount of such subscription, to be recovered from such subscriber and director or directors, their executors or administrators, jointly and severally, by an action on the case.

XI. *Be it further enacted*, That the corporation may make contracts or become bound by any instrument, or security, or agreement, in writing, signed by the president or by any person duly authorised by him, or by the president and directors; but the legal estate in lands, tenements and hereditaments, aliened by the corporation, shall pass to the purchaser only by deed under the corporation seal.

XII. *Be it further enacted*, That any legal process against the corporation may be served on the president; and in case he be not in the State or evades service, service of the same on any director, and in case there be no director in the State, the service on any stockholder shall be sufficient.

XIII. *Be it further enacted*, That it shall be the duty of the said corporation to keep a full and fair record of all their proceedings in books procured for that purpose, and shall be bound to produce said records in any court of justice when required so to do by the court; it shall be further the duty of the said corporation to preserve all bonds or notes given for stock in the said company and to enter such payments as shall be made from time to time on such bonds, until they are fully discharged.

XIV. *Be it further enacted*, That the president and directors shall prescribe the manner in which stock shall be conveyed or transferred from one stockholder to another or to any other person; and that the stock shall be held and deemed as personal property and go in succession to executors and administrators.

XV. *Be it further enacted*, That all the property of the aforesaid corporation, of whatever kind or nature, whether land, negroes, machinery, stock, goods, bonds or other effects, shall be liable to the satisfaction of the debts of the corporation, and shall be subject to be levied on by execution, attachment or other legal process, and be sold.

XVI. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER LXV.

An act to incorporate Hookerton Library, in the county of Greene.

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 members of a society lately established in the county of Greene, for the purpose of promoting learning and science, be, and they are hereby incorporated into a body politic and corporate, by the name and style of "the Hookerton Library Society;" and by that name may sue and be sued, plead and be impleaded; have succession and a common estate in such books, pamphlets and papers, or other property necessary for the use of the Library, as they may acquire, either by purchase, donation or otherwise.

II. *And be it further enacted*, That the members of said society and their successors shall have full power and authority to make all such rules, regulations and bye laws for the management and safe keeping of the books and other property of said society, as they may from time to time think expedient, not inconsistent with the constitution and laws of this State or of the United States.

CHAPTER LXVI.

An act to incorporate the Farmers' Library Association, in the county of Chatham.

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 individuals who are at present associated or may hereafter associate themselves, in the county of Chatham, with a view of establishing a public library association, be, and the same are hereby incorporated into a body politic and corporate, by the name and style of the Farmers' Library Association; and as such shall have perpetual succession; may sue and be sued; be capable of acquiring and holding real and personal estate; have power to make and ordain

bye laws and regulations, not inconsistent with the constitution and laws of this State, for their own government, and elect their own officers; and generally do, receive and perform all such matters and things as rightfully belong to or are incident to bodies corporate or politic within this State; any law or usage to the contrary notwithstanding.

CHAPTER LXVII.

An act to incorporate Skewarky Lodge, number ninety, in the town of Williamston.

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 master, wardens and members which at present are, or those which may hereafter become attached to Skewarky Lodge, number ninety, in the town of Williamston, be, and they are hereby constituted and declared to be a body corporate and politic, by the name of "Skewarky Lodge;" and by that name shall have perpetual succession and a common seal; may sue and be sued; plead and be impleaded; acquire and hold, sell and transfer property, real or personal; and pass such rules, regulations and bye laws for their own government, as may not be inconsistent with the constitution and laws of this State.

II. *And be it further enacted,* That this act shall be in force from and after the passage thereof.

CHAPTER LXVIII.

An act to incorporate the Ladies' Working Society of St. James' Church, in the town of Wilmington.

Whereas the ladies of the Working Society of St. James' Church, in the town of Wilmington, have by their industry procured the means of purchasing a lot of land in the town aforesaid, for the purpose of establishing a charity school; and whereas said intent cannot be carried into full and complete effect without a charter of incorporation:

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 Sarah E. London, Ann London, Elizabeth Lord, Mary L. Orme, Catharine Derosset, Catharine Harris, Susan Wright, Catharine Price, Frances London, Catharine Roberson and their associates and successors, agreeably to the bye laws of said society, which they are hereby authorised and empowered to make and pass for the government thereof, be, and they are hereby incorporated as a body politic by the name and style of "the Ladies' Working Society of St. James' Church;" and by that name shall sue and be sued, plead and be impleaded; possess and enjoy all the privileges and immunities of bodies politic in law; to purchase, hold, alienate and transfer lands and tenements, goods and chattels; and to do all other acts and things necessary to carry into effect the true intent and meaning of this charter of incorporation.

II. *And be it further enacted,* That this act shall be in force, from and after the ratification thereof.

III. *Be it further enacted,* That the provisions of this act shall cease to have effect from and after the term of twenty years from and after the passage thereof.

CHAPTER LXIX.

An act to incorporate the Richmond Manufacturing Company.

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 a manufacturing company shall be established in the county of Richmond, by the

name and style of "The Richmond Manufacturing Company," with a capital of fifty thousand dollars, in shares of one hundred dollars each; and that Walter F. Leak, William L. Cole and Francis T. Leak, be, and they are hereby authorised to open books in the town of Rockingham, and at such other places as they may direct, for the purpose of receiving subscriptions for shares in said company, having previously given public notice in some newspaper in said State, of the time and places of opening said books; and they shall keep said books open for the period of sixty days, with power to re-open the same in like manner, if the capital stock shall not in the first instance be taken.

II. *And be it further enacted*, That at the expiration of sixty days, the commissioners shall meet and compare their books; and if it shall be found that fifteen thousand dollars of the capital stock shall have been subscribed, they shall, by public notice in some newspaper as aforesaid, cause a general meeting of the stockholders at such time and place as they may appoint; and if a majority of the stock be represented at said meeting, either by the stockholders in person or by proxy, they may proceed to appoint three directors, one of whom shall be president of the company; and the said directors shall be appointed for one year, and until their successors are appointed.

III. *Be it further enacted*, That it shall be the duty of the directors, within ten days after their appointment, to meet and choose one of their body president, and to execute such bonds as may be required of them by the stockholders for the faithful performance of their official duties.

IV. *And be it further enacted*, That when fifteen thousand dollars shall have been subscribed as before provided, the subscribers, their successors or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "The Richmond Manufacturing Company;" and by that name may sue and be sued, plead and be impleaded before any court or justice of the peace; and shall so continue for the term of twenty five years from and after the ratification of this act; and shall be able and capable in law to purchase, receive and possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of whatever kind, nature or quality; and the same to sell, grant, demise, alien or dispose of; and shall possess and exercise all rights and privileges of a corporation or body politic in law; and also may make, have and use a common seal; and may make all such bye laws, rules and regulations, not inconsistent with the Constitution and laws of the State, as may be necessary for the well ordering and management of the affairs of the company.

V. *And be it further enacted*, That if the whole of the capital stock shall not have been subscribed within the first sixty days, or when the books are re-opened under the commissioners, then it shall be lawful for the stockholders to open the books and to receive subscriptions for the balance of the stock.

VI. *And be it further enacted*, That if more than the whole amount of the capital stock shall have been subscribed at the opening of the books, then it shall be the duty of the commissioners to reduce the same in fair and equal proportions, reserving to each subscriber at least one share. And if the stockholders should open the books, and more than the capital stock be subscribed, then the directors shall reduce the subscriptions to the sum prescribed as the capital stock in manner as above directed.

VII. *And be it further enacted,* That the stockholders shall have annual meetings in the town of Rockingham, either in person or by proxy; and at such meetings, a majority of the stock being represented, they shall elect their directors and officers, and do all other acts as authorised by this act; and in all general meetings, each stockholder shall be entitled to give as many votes as he may hold shares; and the shares or stock of said company shall be deemed, taken and considered as personal property or estate; and as such shall go to administrators or executors, and be assets in their hands.

VIII. *And be it further enacted,* That the stockholders, or so many of them as may hold or represent one third of the stock, may at any time call a general meeting of the company; and at such meetings, a majority of the whole stock being represented, may remove all officers or directors of the company, and appoint others in their stead; and generally do and perform whatever may be done and performed at the annual meetings of the company.

IX. *Be it further enacted,* That the funds of the company shall not be applied to any other purposes than manufacturing cotton and wool.

X. *And be it further enacted,* That the full amount of every subscription shall be paid in at the time of subscribing, or shall be secured by the bond or note of the subscriber, signed by himself and two good securities, neither of whom shall be a corporator; and if any security shall afterwards become a corporator, the president and directors shall require another security in his place; and in case such a requisition be not complied with, the president and directors shall forthwith collect the money due on said bond or note, which shall bear interest from the date; but any bond or note so taken may be made payable in such sums or instalments and at such times as the president and directors may by resolution require.

XI. *And be it further enacted,* That no subscription shall be for less than one share; and in case any subscriber shall fail to pay in the amount of his subscription or to give his bond or note with two securities, as by this act required, such subscriber, and any or every director conniving or assenting to such failure, shall be liable to any creditor of the company for the full amount of such subscription, to be recovered from either or all of them, their executors, administrators or assigns, by an action on the case.

XII. *And be it further enacted,* That the corporation may make contracts or become bound by instrument, or security, or agreement, in writing, signed by the president or by any person duly authorised by him, or by the president or directors; but the legal estate in the lands, tenements and hereditaments, aliened by the corporation, shall pass to the purchaser only by deed under their corporate seal.

XIII. *And be it further enacted,* That any legal process against the corporation may be served on the president; and in case he be not in the State or avoids service, then service of the same on any director, and in case there be no director in the State, then service on any stockholder shall be sufficient.

XIV. *And be it further enacted,* That it shall be the duty of said corporation to keep a full and fair record of all their proceedings in books procured for that purpose, and shall produce said records in any court of justice when required so to do by the court; and it shall be the duty of the corporation to preserve all bonds and notes given for stock, and to give credit for such payments as may from time to time be made on them, until they are fully paid off and discharged.

XV. *And be it further enacted*, That it shall be the duty of the said corporation, at the first County Court to be held for the county of Richmond after the organization of said company, and annually thereafter, to present to said court a full and fair statement of the amount which has been paid in, in cash, and the amount for which the president and directors hold the bonds of subscribers or stockholders, and also the amount of other debts due to the corporation, and the names and places of residence of the stockholders.

XVI. *And be it further enacted*, That all the property of the corporation, of whatever kind or nature, whether lands, negroes, machinery, stock, goods, bonds or other effects, shall be liable to the satisfaction of the debts of said corporation, and shall be subject to be levied on by execution, attachment or other legal process.

XVII. *Be it further enacted*, That the lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transaction of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

CHAPTER LXX.

An act to incorporate the Lumber River and Cape Fear Rail Road Company.

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 it shall and may be lawful to open books at the several places in the counties of Bladen and Robeson, as hereinafter directed, viz. in Lumberton, under the direction of Jacob Blount, Ramsamund W. Fuller, Richard C. Rhodes, Thomas A. Norman, James Storm, Richard C. Bunting and Edmund McQueen, or any three of them; at Randalville Post Office, under the direction of John Gilchrist, Daniel Patterson, Randal Currie, Col. John McPhaul and Neill Brown; at the Red Banks, under the direction of William McNeill, Archibald Batter, Duncan Brown, Samuel Watson and Neill McNeill, sen'r; at Leesville, under the direction of John W. Powell, Benjamin Lee, Alexander Townsend, Irvin Grimsly and Jesse Pitman; at Elizabethtown, under the direction of John Owen, Robert Lyon, Willis Council, Thomas Robeson and George Barksdale, or any three of them; and at such places, and under the direction of such persons, as any three of the commissioners herein before named shall appoint, to superintend the receiving subscriptions to an amount not exceeding forty thousand dollars, in shares of fifty dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by rail road from Lumberton, in Robeson county, to the nearest and most convenient point on the margin of the Cape Fear river in Bladen county; said road to be constructed and laid out in such manner and form as a majority of the stockholders shall deem most expedient. That books shall be opened at each place at such time as the commissioners or deputy commissioners shall respectively appoint, between the first day of February and the first day of August next, and the said books shall be kept open at each place at least three months; and if it shall appear that more than the whole amount authorised by this act shall have been subscribed, then it shall be the duty of the commissioners, or a majority of them, appointed to receive subscriptions, to reduce the number of shares subscribed for amongst the subscri-

bers, in fair and equal proportion to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to eight hundred shares; but if the whole number of shares shall not be subscribed for within one year from the time books shall have been opened to receive subscriptions, then the books may be closed or continued open, as a majority of the commissioners named to receive subscriptions at Lumberton may judge most beneficial, until the whole number of shares shall be subscribed for; and the time and place of receiving subscriptions as aforesaid shall be advertised in one or more of the newspapers published in the town of Fayetteville. When four hundred shares shall be subscribed in manner aforesaid, the subscribers, their heirs, executors, administrators and assigns, shall be, and are hereby declared to be incorporated into a company, by the name and style of "the Lumber River and Cape Fear Rail Road Company;" and in that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and may make all such bye laws, rules and regulations, not inconsistent with the laws or constitution of this State or of the United States, as shall be necessary for the well ordering and governing the said corporation.

II. *Be it further enacted*, That upon every share subscribed there shall be paid at the time of subscribing, by the person subscribing, the sum of one dollar to the commissioners authorised to receive the subscriptions, and the residue thereof shall be paid in such instalments and at such times as the president and directors of the said company may require; the said commissioners and all persons holding money paid on subscriptions of stock, shall forthwith, after the election of president and directors and treasurer for said company, pay over to the treasurer so elected, all the moneys in their hands belonging to the company, and upon failure thereof the treasurer, president and directors may recover the amount due from them or any one or more of them, by motion, on ten days' previous notice in writing, in the Superior Courts or in the Courts of Pleas and Quarter Sessions or before a justice of the peace of the county in which such commissioners may reside.

III. *Be it further enacted*, That when four hundred shares or more of the capital stock shall have been subscribed, public notice of that event shall be given by any three or more of said commissioners appointed to receive subscriptions in Lumberton, who shall have power at the same time to call a general meeting of the subscribers, at such convenient time and place as they shall name, giving notice thereof in some newspaper having in their opinion the greatest circulation amongst the subscribers. To constitute any such general meeting, a number of persons holding a majority of all the shares subscribed shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

IV. *Be it further enacted*, That the subscribers at such general meeting, and annually thereafter, or at any time to be agreed to by a majority of the subscribers in general meeting, shall by ballot elect a president and five directors, a treasurer and clerk, and other officers necessary for the transaction of the business of the said company; and the clerk so elected shall be sworn to the faithful discharge of his duty as clerk to said company; and the treasurer shall give bond and security to the corporation by this act

created, to the satisfaction of the president and directors, in a sum not less than ten thousand dollars, for the faithful discharge of his trust, and shall also take an oath of office.

V. *Be it further enacted*, That in counting the votes of the subscribers in all general meetings held by said company, each subscriber shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in said company or incorporation; and any proprietor, by writing under his or her hand and seal executed before two subscribing witnesses and acknowledged or proven before a justice of the peace, may depute any member of the corporation to act as proxy for him or her at any general meeting or meetings, and the presence and acts of such proxy shall be as effectual to all intents and purposes as the presence or acts of his or her principal could or might be. The president and directors, treasurer and clerk, elected as aforesaid, shall continue in office, unless sooner removed, until the next annual meeting after their election; but any of the said officers may at any time be removed by the consent of the majority of the stockholders, and the vacancy thereby occasioned may be filled by a majority of the votes given at any general meeting. The president, with any three or more of the directors, or in the absence of the president, any three of the directors, who shall appoint one of their own body president pro tempore, shall constitute a board for the transaction of business; in the case of vacancy in the office of president, treasurer or any of the directors, or any of the officers created by this act, such vacancy happening from death, resignation, removal or disability, such vacancy may be supplied by a majority of the remaining officers until the next annual meeting of the stockholders; and such officers so elected shall be subject to the same rules and penalties as those officers elected by the subscribers in general meeting.

VI. *Be it further enacted*, That the president and directors are hereby invested with full power to make such an allowance to the treasurer and clerk, and other officers appointed under the provisions of this act, as they may deem a reasonable compensation for their services. The president and directors of said company are hereby authorised and required to employ a surveyor, whose duty it shall be survey, mark and lay out said rail road route, beginning in Lumberton on the margin of Lumber river, and thence to the nearest or most convenient point on the river Cape Fear in Bladen county; said route to be determined and agreed on by a majority of the stockholders; and when such survey shall be made it shall be the duty of the directors to commence the building of the said road at the Cape Fear river, and proceed with said work along said route towards Lumberton until the same shall be completed; and the said directors or their successors in office are hereby vested with all such powers and authorities, for the effectual prosecution of the said undertaking hereby intended to be effected, and for the management of the affairs of the corporation, not heretofore granted, as may be necessary and proper to carry into effect the object of this grant; to purchase and hold lands, materials and other necessary things in the name of the corporation for the use of said road; to make such equal assessment from time to time on all the shares in said corporation as they may deem expedient and necessary in the progress and execution of the work, and direct the same to be paid to the treasurer of the corporation, and to require the treasurer to give notice of such assessment; and in case any sub-

subscriber or stockholder shall neglect to pay his assessment for the space of thirty days after due notice by the treasurer as aforesaid, the directors may order the treasurer to sell such share or shares at auction at some public place, after giving at least ten days public notice of such sale, and the day and place at which said sale shall take place; and the person being the highest bidder for such share or shares is hereby declared to be the proper owner thereof, and the same shall be transferred accordingly; and such delinquent subscriber or stockholder shall be holden accountable to the corporation for the balance, if his share or shares shall sell for less than the amount due thereon with interest and cost of sale, and shall be entitled to the overplus, if the same shall sell for more than the assessment, interest and cost of sale as aforesaid: *Provided*, that no assessment shall be made or laid on any share exceeding the whole amount of such share or shares.

VII. *Be it further enacted*, That the corporation shall be liable to pay all damages that may arise to any person or persons by taking their land for said rail road; and when said lands cannot be obtained by voluntary agreement, the damages to be estimated and recovered in manner and form as follows: that in case of disagreement by the parties, either may apply to the next succeeding County or Superior Court of the county in which said land lies for a jury of twelve freeholders, who shall go upon the lands and value the same or make an assessment of such damages, as the case may be, as by them may be considered just and equitable, and who shall make such valuation or assessment upon oath, which oath shall be administered to them by the sheriff; and the court, at the time such application is made, shall order and require the sheriff forthwith to summon a jury of twelve freeholders, unconnected with either party, who shall, on a day appointed by the order requiring the sheriff to summon said jury, within fifteen days from the end of the term of said court, view the lands through which said road is to run; and in estimating the value or damage, as the case may be, of said lands, they shall have regard to the additional value which may be conferred upon them by the construction of the said rail road: *Provided, however*, that the party applying for the intervention of such jury shall give the adverse party at least ten days' notice of his, her or their intention to make such application; and the said corporation shall within thirty days after such assessment or valuation pay to the owner the full amount of the same; and the sheriff shall require from the jury a written statement of their valuation or assessment, signed by the whole of them; which statement of their valuation or assessment is hereby required and directed, together with his other proceedings had upon the same, to be returned to the next term of said court; and that the clerk thereof is hereby required to record the said proceedings at full length upon the minutes of said court: *Provided nevertheless*, that nothing herein contained shall prevent the party dissatisfied from the right of appealing as in other cases of like nature.

VIII. *Be it further enacted*, That lands or other property or estates of any married woman, infant or person non compos mentis, which shall be necessary for constructing said road, the husband of such married woman, and the guardian of such infant or person non compos mentis, may release all damages in relation to such lands or estate to be taken and appropriated as aforesaid, as they might do if the same were holden by them in their own right respectively.

IX. *Be it further enacted*, That it shall be the duty of the said corpora-

tion, and they are hereby authorised to lay out said road at least fifty feet wide through the whole length thereof; and for the purpose of cutting embankments and obtaining stone and gravel, may take as much more land as may be necessary for the proper construction and security of said road: *Provided however*, that all damages that may be occasioned to any person or persons or corporation by the taking of such lands or materials for the purposes aforesaid, shall be paid for by said corporation as aforesaid.

X. *Be it further enacted*, That if said rail road shall cross any public or private way, the said corporation shall construct said rail road or make such provision for crossing said public or private way as shall not obstruct the easy passage of said way or ways.

XI. *Be it further enacted*, That a toll be, and is hereby granted and established for the sole benefit of said corporation on all passengers and property of any description which may be conveyed or transported upon said rail road, at such rates per mile and by the ton or hundred as may be agreed upon and established from time to time by the directory aforesaid; the transportation of property and persons, the construction of the wheels, the form of cars and carriages, and the weight of loads, and all other matters and things relating to the use of said road, shall be in conformity to such rules and regulations as said directors shall from time to time prescribe and direct; and shall be entitled to receive and demand toll not exceeding the following rates, viz. four cents per ton per mile for toll on property, goods or merchandize, the freight of which is usually charged by the ton; and not exceeding eight cents a mile per ton of two thousand pounds for transportation; and not exceeding five cents a mile for each passenger, until the nett profits arising from the charges for transportation shall amount to a sum equal to the capital stock expended, with six per centum interest thereon from the time the money was advanced by the stockholders of said corporation until received back in nett profits; but when the nett profits received as aforesaid shall have amounted to a sum equal to the capital stock expended, with six per centum interest thereon as aforesaid, then the charges for transportation shall be so regulated by said corporation as shall not exceed upon the whole capital stock expended, after deducting all charges and expenses whatever for keeping said road in repair and for other purposes for the use of said road, six per centum interest upon the whole capital stock expended by said corporation as aforesaid.

XII. *Be it further enacted*, That the said directors may put said road or any part thereof in operation as soon as the same may be complete; and may erect a toll gate or gates and establish warehouses, and such other buildings as they may deem necessary for the use of said road; and appoint toll keepers and other agents to attend to the regulations required by said corporation from time to time; and the directors of the said company, or a majority of them, shall annually declare and make such dividends from the nett profits from the toll herein granted as they may deem advisable, to be divided amongst the proprietors of the stock of said company in proportion to their respective shares.

XIII. *Be it further enacted*, That if any toll gatherer at any toll gate to be erected by the authority of this act shall ask, demand and receive any other or greater tolls than are hereby allowed, he shall forfeit and pay to the party aggrieved thereby twenty dollars for every such offence, recoverable with cost by warrant before any justice of the peace; and if such toll gatherer,

being at the time of incurring such a penalty in the service of the company, shall be unable to pay the judgment recovered against him, the said company shall be liable to pay the same.

XIV. *Be it further enacted*, That if the said president and directors, or a majority of them, cannot agree with the proprietors for the purchase and sale of any such quantity of ground, not exceeding one acre at any one place, as may be necessary for a toll house or a house to cover any stationary engine, or for any other necessary purpose, it shall and may be lawful for the president and directors to file a petition in the Court of Pleas and Quarter Sessions of the county in which the land lies against the proprietor of the land, setting forth the circumstances; and upon its being made to appear to the satisfaction of such court that the said president and directors have caused the proprietor of such land to be notified ten days before court, the said court shall order the sheriff to summon a jury of good and lawful men, who after having taken an oath, which oath the sheriff or his deputy is hereby authorised to administer, that they will assess the damages which such proprietor will sustain by the reason of the condemnation of such land, shall assess the amount the petitioners ought to pay to such proprietor; and the said jury in assessing such damages shall take into the estimate the benefit resulting to the said proprietor from conducting such rail road through or near the lands of said owner or proprietor, but only in extinguishment of damages; and upon payment of the value found by the jury upon any such proceedings to the proprietor of the ground so condemned by the jury, or upon the payment thereof into court when for good cause shown the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned in fee simple. If any person or persons shall wilfully by any means whatever injure, impair, obstruct the passage or destroy any part of the rail road constructed by authority of this act, or any of the necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the laws which may be in force in this State at the time for the protection of the public works or property of the State.

XV. *Be it further enacted*, That the president and directors aforesaid shall prescribe the form of the certificate or evidence of stock in said corporation, which shall be signed by the president and countersigned by the treasurer thereof, and shall prescribe the manner of transferring the said certificate of stock.

XVI. *Be it further enacted*, That it shall be lawful for the said directors to receive donations; and by the consent of a majority of the stockholders may borrow money and secure the payment of the same by a pledge of the property of the corporation; and make and issue evidence for such loans and other assurances for the payment thereof.

XVII. *And be it further enacted*, If the said company shall fail to complete the work aforesaid within twenty years after the first day of February next, all the rights and privileges hereby granted to the said corporation shall cease and determine.

CHAPTER LXXI.

An act to incorporate the Whitesville, Waccamaw and Cape Fear Canal and Rail Road Company.

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 it shall be law-

ful to open books in the town of Whitesville, in the county of Columbus, under the direction of Colonel J. Powell, Armand Bryant and Richard L. Byrne; in the county of Bladen, under the direction of Samuel B. Andrews, W. H. Beatty and Governor John Owen; in the town of Wilmington, under the direction of Aaron Lazarus, Robert W. Brown, Edward B. Dudley, Elijah Dickinson, P. K. Dickerson and John Williams; and at such other places, and under the direction of such other persons as the commissioners above named for the town of Whitesville may appoint, for the purpose of receiving subscriptions not exceeding one hundred thousand dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by a canal or rail road from the town of Whitesville to the North West branch of the Cape Fear river, as may be practicable; which route shall be determined on by the company hereby incorporated; that the said books shall be opened in each place at such time as the commissioners or deputy commissioners shall respectively appoint between the first day of March and the first day of August next, and shall be kept open at each place at least ninety days; and if it shall appear that the whole number of shares shall not be subscribed for within one year from the time of opening said books, then the books may be closed or continued open as a majority of the commissioners to receive subscriptions at Whitesville may judge proper, until the whole number of shares shall be subscribed for. The time and place for receiving subscriptions as aforesaid, shall be advertised in one or more of the newspapers published in Wilmington and Fayetteville.

II. *Be it further enacted*, That when five hundred shares shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "The Whitesville, Waccamaw and Cape Fear Canal and Rail Road Company;" and by that name may sue and be sued, plead and be impleaded; and shall have, possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and make all such bye-laws, rules and regulations as may be necessary for the well ordering and conducting the affairs of said company, not inconsistent with the Constitution and laws of this State or of the United States.

III. *Be it further enacted* That upon any subscription of stock, there shall be paid, at the time of subscribing, to the person or persons appointed by this act, or by virtue of this act, to take subscriptions, the sum of two dollars on each and every share subscribed; and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company.

IV. *Be it further enacted*, That when five hundred shares or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners appointed to receive subscriptions at Wilmington, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time as they shall name in the said notice. To constitute any such meeting, a number of persons holding a majority of all the shares subscribed shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

V. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of the stock, at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president or any of the directors may at any time be removed, and the vacancies thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any three or more of the directors, or in the absence of the president, any three of the directors, who shall appoint one of their own body president pro tempore, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the board or by the proprietors in general meeting.

VI. *Be it further enacted*, That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining of a canal or rail road, to be located as aforesaid, and to begin at such point, and be prosecuted in such direction as the stockholders shall direct; and may cause to be constructed and made all works whatsoever which may be necessary and expedient in order to the completion of the said canal or rail road.

VII. *Be it further enacted*, That the president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the said canal or rail road, and performing all other works respecting the same which they shall judge necessary and proper; to call, on any emergency, a general meeting of proprietors of the stock, giving one month's notice thereof in some newspaper published at the seat of government; to appoint a treasurer, clerk and such other officers, and transact all the business of the company during the intervals between the general meetings of the same.

VIII. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale, in manner aforesaid; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the sale shall not produce the sum required to be advanced, with the incidental charges attending the same, then the president and directors may recover the balance of the original proprietor or his assignee or executor or administrator, or either of them, by motion on ten days' notice before the Court of Pleas and Quarter Sessions of the county of which he is an inhabitant, or by warrant before a justice of such county; and any purchaser of the stock of the company, under the sale of the president and directors, shall be subject to the same rules and regulations as the original proprietor.

IX. *Be it further enacted*, That if the president and directors cannot agree with the owners of land through which it may be necessary to make said canal or rail road, shall be opened through the same, then it shall be lawful

for the said president and directors to file their petition in the Court of Pleas and Quarter Sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law for laying off public roads; and upon the filing of said petition, the same proceedings shall be had as in cases of public roads; and when the jury shall have assessed the damages to be paid to the owners of the land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the Court of Pleas and Quarter Sessions wherein the land lies, the sum or sums so assessed, to enter upon the land laid off, and construct their canal or rail road thereon, to make all necessary excavations and embankments, and other structures necessary to the construction and preservation of said canal or rail road, and to hold the said land to their own use and benefit during their corporate existence; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation, as though they owned the fee simple therein: *Provided*, that nothing in this act contained shall be construed to give power to said company to lay off said canal or rail road through the yard, garden, burial ground, attached or appurtenant to the dwelling house of any plantation through which it may be deemed necessary to lay off said canal or rail road, without the consent of the owner thereof.

X. *Be it further enacted*, That whenever any wood, gravel, stone or earth, may be wanted for the construction or repairing of said canal or rail road, and the president and directors cannot agree with the owners of the lands adjacent, as to the terms on which they can procure the same, then it shall be lawful for the president and directors, by themselves, officers or agents, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, gravel or earth so needed as aforesaid: *Provided*, that they shall not, without the consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone, constituting any part of a fence or building; and when any gravel, stone, wood or earth shall be so taken as is provided for in this act, it shall and may be lawful for the owner to file his petition in the Court of Pleas and Quarter Sessions in the county wherein the land lies, from which said earth, stone, gravel or wood may have been taken, first giving ten days' notice to said president and directors, their officer or agent, of the filing of such petition, praying to have a jury summoned to go upon the land and assess the damages he, she or they may have sustained thereby; upon which it shall be the duty of the court to order a jury as in laying off public roads; which jury shall go upon the land, and, after being duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damages the owners of said land shall have sustained; and, after assessing the same, shall return their proceedings to said court; and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the president and directors; but if the said court shall disapprove thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess said damages, and return their proceedings to said court; and, upon approval thereof by said court, said damages and costs shall be paid by the said president and directors; and if said president and directors shall not pay the damages so assessed and all cost, execution may issue against them therefor as other corporations: *Provided always*, that either

party not satisfied with the sentence or decree of the County Court, may appeal therefrom to the Superior Court of Law of said county.

XI. *Be it further enacted*, That it shall be lawful for said company to purchase lands from the proprietors at any point on said canal or rail road, not exceeding ten acres in any one tract, to be used by them for all necessary purposes of said canal or rail road, or to be disposed of by them when it shall be deemed proper.

XII. *Be it further enacted*, That whenever, in the construction of said canal or rail road, it shall be necessary to cross any established road or way, it shall be the duty of the said president and directors of said company, so to construct said canal or rail road across such road or way, as not to impede the passage or transportation of persons or property along the same; or where it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual such wagon ways across said canal or rail road from one part of his land to the other.

XIII. *Be it further enacted*, That the said president and directors, or a majority of them, shall have power to purchase with the funds of the said company, and place on the canal or rail road, boats, flats and teams, wagons, carriages, vehicles of any description whatever, which they may deem necessary and proper for the purpose of transportation.

XIV. *Be it further enacted*, That all machines, boats, flats and teams, carriages, vehicles, and all other personal property purchased by said company, or works constructed under this act or by authority thereof, and all profits which shall accrue from the same, shall be vested in the respective shareholders of the company forever, in proportion to their respective shares; and the said shares shall be deemed personal estate; and the property of said company and the shares therein shall be exempt from any public tax or charge whatsoever.

XV. *And be it further enacted*, That so soon as twelve miles of said canal or rail road shall be completed, and as often thereafter as any other section of like length shall be completed, the said president and directors shall transport all produce or other commodities that shall be deposited convenient to said canal or rail road, and which they shall be required to transport to the river, (if that portion shall be first completed,) in the order that the company shall be required to transport the same, so that equal and impartial justice shall be done to all the owners of produce or other commodities in the transportation thereof by the company, provided the owner of produce or other commodities required to be transported by said company on said canal or rail road shall pay or tender to said company, at their toll gate or gates the toll due on such produce or commodities under this act; and it shall be lawful for the president and directors of said company, and they are hereby authorised to erect on such section or sections a toll gate or gates; and they shall be entitled to demand and receive a sum not exceeding the following rates, viz. on masts, spars, logs hewed or square timber in rafts, fifty cents per thousand superficial feet; sawed lumber, fifty cents per thousand feet; staves in boats or rafts, fifty cents per thousand; shingles, twenty-five cents per thousand; naval stores, ten cents per barrel; corn, wheat, potatoes, twelve and a half cents per barrel; and all other articles in proportion: Boats of the size of ten thousand shingles to pay fifty cents for passing and repassing; from ten thousand to fifteen thousand, seventy-five cents; from fifteen thousand to twenty thousand, one

dollars; from twenty thousand to twenty-five thousand, one dollar and fifty cents; from twenty-five thousand to thirty thousand, two dollars and fifty cents; and all above thirty thousand, four dollars.

XVI. *Be it further enacted*, That a toll be, and is hereby granted and established for the sole benefit of said corporations, on all passengers and property of any description which may be conveyed or transported upon said canal or rail road, at such rates per mile and by the ton or hundred as may be agreed upon and established from time to time by the directory aforesaid. The transportation of property and persons, the construction of the wheels, the form of cars and carriages and weight of loads, and all other matters and things relating to the use of said canal or rail road, shall be in conformity to such rules and regulations as said directory shall from time to time prescribe and direct; and shall be entitled to receive and demand toll not exceeding the following rates, viz. four cents per ton per mile for toll on property, goods or merchandize, the freight of which is usually charged by the ton; and not exceeding eight cents a mile per ton of two thousand pounds for transportation; and not exceeding six cents a mile for each passenger, until the nett profits arising from the charges for transportation shall amount to a sum equal to the capital stock expended, with six per centum interest thereon from the time the money was advanced by the stockholders of said corporation until received back in nett profits; but when the nett profits received as aforesaid shall have amounted to a sum equal to the capital stock expended, with six per centum interest thereon as aforesaid, then the charges for transportation shall be so regulated by said corporation as shall not exceed upon the whole capital stock expended, after deducting all charges and expenses whatever for keeping said canal or rail road in repair and for other purposes for the use of said canal or rail road, six per centum interest upon the whole capital stock expended by said corporation as aforesaid; the toll to be collected where the president and directors may hereafter appoint, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per cent. per annum interest thereon from the time the money was advanced by the stockholders until received back in the nett profits. But when the nett profits received as aforesaid, from the tolls aforesaid, shall have amounted to a sum equal to the capital stock expended as aforesaid, with six per cent. per annum interest thereon as aforesaid, then the tolls which the said president and directors shall be entitled to demand and receive for the transportation of produce or other commodities on the said canal or rail road, shall be fixed and regulated from time to time by the Governor or such persons as may be appointed by the Legislature for that purpose, so as to make them sufficient, in his or their estimation, to yield a nett profit equal to ten per cent. per annum on the capital stock expended in making and completing said canal or rail road, over and above what may be necessary for the repairs of said canal or rail road. The president and directors of said company shall, at or shortly before each session of the Legislature, report to the Governor, or such person or persons as the Legislature may hereafter appoint for that purpose, shewing the whole amount of capital stock expended in the construction of said canal or rail road, the amount of tolls received during each year, the expense and charges incurred during each year, and the nett annual profit or loss on the capital expended.

XVII. *Be it further enacted*, That should the said canal or rail road pass through any vacant lands, the said company shall be entitled to, and they are hereby vested with the right to the land used for said purpose, and to three hundred feet on each side of said canal, or sixty-five feet on said rail road, for the use of said company.

The company are hereby authorised to erect a mill or mills on the Cape Fear or elsewhere, as may be most advisable, for sawing lumber or for any other purpose; or they may sell the surplus water for the purpose of erecting a mill or mills to any person or persons.

XVIII. *Be it further enacted*, That an annual meeting of the proprietors of the stock of said company shall be held at such time and place in each year as the stockholders at their first general meeting may appoint; to constitute which, or any general meeting called by the president and directors according to the provisions of this act, the presence of proprietors holding a majority of all the shares, shall be necessary, either in person or by proxy properly authorised; and if a sufficient number do not attend on that day, or any day appointed for a general meeting as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had. In counting all votes of the said company, each member shall be allowed one vote for each share as far as ten shares, and one vote for every five shares above ten by him held at the time in the stock of said company. The president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the subscribers.

XIX. *Be it further enacted*, That so soon as the said canal or rail road shall be completed as far as the company may deem it expedient to extend the same, the president and directors of the said company, or a majority of them, shall semi-annually declare and make such dividend from the net profits from the tolls herein granted as they may deem advisable, to be divided among the proprietors of the stock of said company in proportion to their respective shares.

XX. *Be it further enacted*, That after the said canal or rail road shall be completed and put into operation, if the said president and directors shall, by reason of the said canal or rail road being out of repair, or from any other cause, fail or neglect to transport any produce or other commodities which shall be deposited convenient to said canal or rail road, and which the said president and directors shall be required to transport as aforesaid, the tolls for transportation being tendered, the company shall be liable to the party injured for such failure or neglect.

XXI. *Be it further enacted*, That if the said president and directors shall not begin the said work within two years after the passage of this act, or shall not complete it as far as the Waccamaw Lake within six years thereafter, then the interest of the said company in the said canal or rail road and the tolls and lands aforesaid shall be forfeited and cease.

XXII. *Be it further enacted*, That the president and directors shall cause to be written or printed certificates for the shares of the stock in the said company; and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for every share subscribed by him, which certificate shall be transferable by him; subject, however, to all payments due thereon; and such assignee, having first caused the transfer or assignment to be entered in a book to be kept by the company for that purpose, shall thenceforth become a member of said com-

pany, and shall be liable to pay all sums due, or which shall become due, upon the stock assigned to him: *Provided, however,* that such assignment shall in no wise exempt the assignor or his representatives from their liability to the said company for the payment of all such sums, if the assignee or his representatives shall be unable, or shall fail to pay the same.

XXIII. *Be it further enacted,* That if the said president and directors, or a majority of them, cannot agree with proprietors for the purchase of any such quantity of ground, not exceeding one acre at any one place, as may be necessary for a toll house, stables, or a house to cover any engine, or for any necessary purpose, it shall and may be lawful for the president and directors to file a petition in the Court of Pleas and Quarter Sessions of the county in which the land lies, against the proprietor of the land, setting forth the circumstances; and it being made to appear to the satisfaction of such court that the president and directors have caused the proprietor of such land to be notified ten days before court, the said court shall order the sheriff to summon a jury of good and lawful men, who, after having taken an oath (which oath the sheriff or his deputy is hereby authorised to administer) that they will assess the damages which such proprietor will sustain by reason of the condemnation of such land, shall assess the amount which the petitioners ought to pay to such proprietor; and the said jury, in assessing such damages, shall not take into estimate the benefit resulting to said proprietor from conducting said canal or rail road through or near the lands of said owner or proprietor, but only in extinguishment of damages; and upon payment of the value found by the jury upon any such proceeding to the proprietor of the ground so condemned by the jury, or upon the payment thereof into court, when for good cause shewn the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned in fee simple.

XXIV. *Be it further enacted,* That if any person or persons shall wilfully, by any means whatsoever, injure, impair or destroy any part of the canal or rail road to be constructed by authority of this act, or any of the necessary works, buildings, machines, boats, flats, carriages, vehicles or teams, such person or persons shall be punished according to the laws which may be in force in this State at the time for the protection of the public works or property of the State.

XXV. *Be it further enacted,* That the corporation shall exercise the corporate powers hereby granted for ninety years, and no longer, without a renewal of the charter.

XXVI. *And be it further enacted,* That such compensation shall be made, from time to time, to any of the officers, servants or agents of the company, as the proprietors in general meeting shall prescribe or may authorise the president and directors to allow.

CHAPTER LXXII.

An act to incorporate the Cape Fear, Yadkin and Pedee Rail Road Company.

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 Hugh Campbell, Jr., Hiram Robinson, John Kelly, William Nott, John H. Hall, Louis D. Henry, Robert Strange, Benjamin Robinson, Lewis Brown, John W. Sandford, Joshua W. Cochran, Thomas N. Cameron, Edward L. Winslow,

Joseph Baker, Edward W. Wilkins, John Huske, Duncan McRae, Joseph Avey, Jeremiah Kyle, James Seawell, Charles P. Mallett, Oliver P. Starke, Thomas Hybart, Dillon Jordan, Jr., Wm. B. Wright, Peter McKeller, Lauchlin Bethune, Josiah Evans, Charles McAllister, John B. Kelly, John Morrison, Edmund Deberry, John Martin, Duncan McRae, Jr., Hardy Morgan, Paul Barringer, Abram F. Alexander, Joseph Young, Thomas L. Cowan, Robert McNamara, Maxwell Chambers, Alexander Gray, William Hogan, Benjamin Elliott, Gideon Seawell, Alexander Little, John A. McRae, Samuel F. Patterson, Edmund Jones, James Wellborn, Jones Fuller, James Kyle, John M. Strong, William Hawley, Williamson Whitehead, John D. Eccles, their associates, successors and assigns, be, and they are hereby made a body politic and corporate, under the name of "the Cape Fear, Yadkin and Pedee Rail Road Company;" and by that name shall be, and are hereby made capable in law to sue and be sued to final judgment and execution, plead and be impleaded, defend and be defended, in any court of record of this State or in any other place whatsoever; to make, have and use a common seal, and the same to break, renew or alter at pleasure; and in said name shall have succession, and shall be, and are hereby vested with all the powers, privileges and immunities which are, or may be necessary to carry into effect the purposes and objects of this act, as hereinafter set forth; and the said corporation are hereby authorised and empowered to create, construct and finally complete a rail road, beginning at the river Cape Fear, in Fayetteville, and thence to the summit of the Narrows of the Yadkin river, in a line leading in a direction to the town of Wilkesborough; also a lateral rail road connecting said road from Fayetteville to the Yadkin with the Pedee, at the mouth of Rocky river, and thence to penetrate Mecklenburg and Lincoln counties; also one other lateral rail way embracing Asheborough, in Randolph county; in such manner and form as said corporation shall deem most expedient; and for that purpose the said corporation are authorised to lay out said roads at least sixty five feet wide, through the whole length thereof; and for the purpose of cuttings, embankments and obtaining stone and gravel, may take as much more land as may be necessary for the proper construction and security of said roads: *Provided however*, that all damages that may be occasioned to any person or persons, or corporation, by the taking of such lands or materials for the purposes aforesaid, shall be paid for by said corporation in manner hereafter provided.

II. *Be it further enacted*, That the capital stock of said corporation shall consist of ten thousand shares, of fifty dollars each. The immediate government and direction of the affairs of said corporation shall be vested in seven directors, who shall be elected by the stockholders of said corporation, in manner hereafter provided, who shall hold their offices for one year, and until others shall be duly elected and qualified to take their places as directors; and the said directors, a majority of whom shall form a quorum for the transaction of business, shall elect one of their own number to be president of the board, who shall also be president of the corporation; and said directors shall have authority to choose a clerk, who shall be sworn to the faithful discharge of his duty; and a treasurer, who shall give bond to the corporation, with security to the satisfaction of the directors, in a sum not less than twenty thousand dollars, for the faithful discharge of his trust, and shall also take and subscribe an oath of office.

III. *Be it further enacted*, That the president and directors for the time being are hereby authorised and empowered, by themselves or their agents, to exercise all the powers herein granted to the corporation, for the purpose of locating, constructing and completing said rail roads, and all such other powers and authority for the effectual prosecution of the undertaking hereby intended to be effected, and for the management of the affairs of the corporation not heretofore granted, as may be necessary and proper to carry into effect the object of this grant; to purchase and hold lands, materials and other necessary things, in the name of the corporation, for the use of said roads; to make such equal assessments from time to time, on all the shares in said corporation, as they may deem expedient and necessary in the progress and execution of the work, and direct the same to be paid to the treasurer of the corporation, and to require the treasurer to give notice of such assessments; and in case any subscriber or stockholder shall neglect to pay his assessment for the space of thirty days after due notice by the treasurer as aforesaid, the directors may order the treasurer to sell such share or shares at auction, at some public place, after giving at least ten days' public notice of such sale, and the day and place at which said sale shall take place; and the person being the highest bidder for such share or shares, is hereby declared to be the proper owner thereof, and the same shall be transferred accordingly; and such delinquent subscriber or stockholder shall be holden accountable to the corporation for the balance, if his share or shares shall sell for less than the assessment due thereon, with interest and costs of sale, and shall be entitled to the overplus, if the same shall sell for more than the assessment, interest and costs of sale as aforesaid: *Provided*, that no assessment shall be made or laid on any share exceeding the whole amount of such share or shares.

IV. *Be it further enacted*, That the said corporation shall have power and authority to make, ordain and establish all such bye laws, rules and regulations and ordinances, as they shall deem expedient and necessary to accomplish the designs and purposes, and to carry into effect the provisions of this act, and for the well ordering, regulating and securing the interest and affairs of this corporation: *Provided*, always, the same shall not in any wise be repugnant to the laws and constitution of this State.

V. *Be it further enacted*, That a toll be, and is hereby granted and established for the sole benefit of said corporation on all passengers and property of any description, which may be conveyed or transported upon said rail roads, at such rates per mile, and by the ton or hundred, as may be agreed upon and established from time to time by the directory aforesaid. The transportation of property and persons, the construction of the wheels, the form of cars and carriages, and weight of loads, and all other matters and things relating to the use of said roads, shall be in conformity to such rules and regulations as said directory shall from time to time prescribe and direct; and shall be entitled to receive and demand toll not exceeding the following rates, viz. four cents per ton per mile for toll on property, goods or merchandize, the freight of which is usually charged by the ton of two thousand pounds, for transportation, and not exceeding six cents a mile for each passenger, until the nett profits arising from the charges for transportation shall amount to a sum equal to the capital stock expended, with six per centum interest thereon from the time the money was advanced by the stockholders of said corporation until received back in nett profits.

But when the nett profits received as aforesaid shall have amounted to a sum equal to the capital stock expended, with six per centum interest thereon as aforesaid, then the charges for transportation shall be so regulated by said corporation, as shall not exceed upon the whole capital stock expended, after deducting all charges and expenses whatever for keeping said roads in repair and for other purposes for the use of said roads, seven per centum interest upon the whole capital stock expended by said corporation as aforesaid.

VI. *Be it further enacted.* That the directors aforesaid for the time being are hereby authorised to erect toll gates and to establish warehouses and such other buildings, as they may deem necessary for the use of said road or roads, and appoint toll keepers and other agents to attend to the regulations required by said corporation from time to time, as the work of said roads shall be completed; and they shall from year to year make report to the Legislature, under oath, of their acts and doings, of their receipts and expenditures, under the provisions of this act; and their books shall at all times be open to the inspection of any committee of the Legislature appointed for that purpose; and if said corporation shall neglect or refuse to make such report at the General Assembly in each and every year, for every such neglect or refusal said corporation shall be liable to pay, to the use of the State, a sum not exceeding ten thousand dollars, to be recovered upon an action of debt in the name of the Governor of the State for the time being, in any court of record of this State.

VII. *Be it further enacted,* That said corporation shall be holden to pay all damages that may arise to any person or persons, corporation or corporations, by taking their lands for said rail roads; and when said lands cannot be obtained by voluntary agreement, the damages to be established and recovered in manner and form as follows: that in case of disagreement by the parties, either may apply to the next succeeding County or Superior Court of the county in which such land lies, for a jury of twelve freeholders, who shall go upon the lands and value the same, or make an assessment of such damages, as the case may be, as by them shall be considered just and equitable, and who shall make such valuation or assessment upon oath, which oath shall be administered to them by the sheriff; and the court at the time such application is made, shall order and require the sheriff forthwith to summon a jury of twelve freeholders, unconnected with either party, who shall, on a day appointed by the order requiring the sheriff so to summon said jury, within fifteen days from the end of the term of said court, view the lands through which said road is to run; and in estimating the value or damages, as the case may be, of said lands, they shall have regard to the additional value which maybe conferred upon them by the construction of said road: *Provided however,* that the party for the intervention of such jury shall give the adverse party at least five days' notice of his, her or their intention to make such application; and the said corporation shall, within thirty days from such assessment or valuation, pay to the owner the full amount of the same. And the sheriff shall require from the jury a written statement of their valuation or assessment, signed by the whole of them; which statement of their valuation or assessment is hereby required and directed, together with his other proceedings had upon the same, to return to the next term of said court; and that the clerk thereof is hereby required to record the said proceedings at full length.

upon the minutes of said court: *Provided nevertheless*, that nothing herein contained shall prevent the party dissatisfied from the right of appealing as in other cases of like nature.

VIII. *Be it further enacted*, That lands or other property or estates of any married woman, infant or person non compos mentis, which shall be necessary for constructing said roads, the husband of such married woman and the guardian of such infant or person non compos mentis may release all damages in relation to such lands or estates, to be taken and appropriated as aforesaid, as they might do if the same were holden by them in their own right respectively.

IX. *Be it further enacted*, That if any person or persons shall wilfully, maliciously or wantonly obstruct the passage of any carriage on said roads, or in any way spoil, injure or destroy the same, any part thereof, or any implement or fixture belonging thereto for the use of said roads, he, she or they, or any person or persons assisting, aiding or abetting in such trespass, shall forfeit and pay to said corporation for such offence treble such damages as shall be proven before any justice of the peace or court of record of this State having jurisdiction of the same, to be recovered by an action of debt, to the use of the corporation; and such offender or offenders shall be further liable to indictment within the county where such trespass shall have been committed contrary to the before recited provisions, and upon conviction thereof be fined or imprisoned at the discretion of the court.

X. *Be it further enacted*, That the stockholders of said corporation shall, on the first Monday in November, in each and every year, hold, in the town of Fayetteville, an annual or general meeting, but which may be altered to any other day by said stockholders, a majority thereof agreeing to the same, and at which annual or general meeting the stockholders shall, by ballot, elect seven directors aforesaid; and that said directors so elected, shall appoint their president and other officers, as is herein before directed. Each proprietor or stockholder, for his, her or their share owned in said corporation, shall be entitled to one vote for every share as far as five, and for every five shares over five, and not exceeding twenty, three votes; for every ten shares over twenty, and not exceeding fifty, two votes; for every ten shares over fifty, and not exceeding one hundred, one vote; for every twenty shares over one hundred, and not exceeding two hundred, three votes; and for every ten shares over two hundred, one vote: *Provided*, that no one proprietor or stockholder shall be entitled in his own right to more than two-fifths of the whole number of shares: *And provided also*, that nothing herein contained shall be construed to prevent any stockholder in said corporation from voting in general meeting by proxy.

XI. *Be it further enacted*, That if said rail road, or any of its lateral roads, shall cross any public or private way, the said corporation shall so construct said rail roads, or make such provisions for crossing said public or private way, as shall not obstruct the easy passage of such way or ways.

XII. *Be it further enacted*, That the State of North Carolina shall be entitled to, and have preference to subscribe for two-fifths of the capital stock herein before authorised to be created and owned by said corporation, and in like manner shall be entitled to two-fifths of the increased amount of capital stock hereinafter authorised by this act; and that the interest which the State shall or may own in said corporation, shall, at the general

meetings of said stockholders, be represented by an authorised agent, appointed in such manner as the Legislature shall from time to time direct; and such agent shall be entitled in the general meetings aforesaid to two-fifths of the whole number of votes, and no more.

XIII. *Be it further enacted*, That the persons incorporated by this act, or a majority of them, are hereby authorised and directed to call the first meeting of said corporation, and to give notice thereof in the newspapers published in Fayetteville, Salisbury, Greensborough, Raleigh and Wilmington, of the time, place and purpose of such meetings, at least ten days before the time mentioned in such notice; and which meeting the persons incorporated as aforesaid (a majority thereof being present) shall elect seven directors; which directors shall organize a board, as is herein before directed, for the purpose of opening books of subscription for the reception of subscribers to the capital stock of said corporation, and for such other purposes as may and shall be necessary for the regular organization of the affairs of the corporation, and of giving full and efficient effect to this act: *Provided, however*, that the directors elected at said first meeting shall not be in office as directors for a longer period than the annual general meeting to be held, and required by this act, on the first Monday of November next; at which time a new election shall take place by the stockholders, as is herein before directed by this act.

XIV. *Be it further enacted*, That in addition to the capital stock herein before authorised by this act, the said corporation, for the purpose of extending said rail road and its lateral branches, are hereby authorised to increase and add to the capital stock aforesaid, a sum not exceeding five hundred thousand dollars, in shares of fifty dollars each; and the stockholders of said corporation, in general meeting, shall have power to direct books of subscription to be opened for receiving subscriptions to such increase of its capital stock, at such time, place or places, as the directors of said corporation shall or may deem proper; or, if deemed most advisable, such directors may sell such increased shares of the capital stock as may be required to extend said road or roads, as hereinafter directed, or acquire said capital, or any part thereof, by loan, and may pledge the scrip of the stock of the corporation as collateral security for such loan, or any other loan which the directors may deem necessary to make, to effect the objects of this act.

XV. *Be it further enacted*, That said corporation is hereby authorised to extend said rail road, and any of its lateral ways, to such point or points in the counties of Mecklenburg and Lincoln, as shall and may be found advisable; also any point or points within the direction of Salisbury, Statesville and Wilkesborough, and by any other lateral roads, so as to embrace and penetrate Randolph, Guilford, and Rockingham and Stokes counties.

XVI. *Be it further enacted*, That the president and directors aforesaid shall prescribe the form of the certificate or evidence of stock in said corporation; which shall be signed by the president and countersigned by the treasurer thereof, and shall prescribe the manner of transferring said certificate of stock, and of making the same assignable.

XVII. *Be it further enacted*, That said directors may put said road, or any part thereof, in operation as soon as the same may be completed, and semi-annually shall declare dividends out of any nett profits, or any portion thereof, as may be deemed advisable, and the same pay over to each stockholder in proportion to his, her or their share or shares.

XVIII. *Be it further enacted*, That where it shall become necessary to erect bridges for the use of said road or roads across any river, said directory shall have authority so to construct such bridge or bridges as shall admit of being used by travellers and for neighborhood use, and may ask, demand and receive tolls for crossing the same: *Provided*, that the rate of toll shall not exceed the prices charged by the ferries on such rivers, nor shall toll be charged for persons and passengers on the rail road car.

XIX. *Be it further enacted*, That it shall be lawful for said directory to receive donations, borrow money, and secure the payment of the same by a pledge of the property of the corporation, and make and issue evidences for such loans, and other assurances for the payment thereof.

XX. *Be it further enacted*, That the stockholders in said corporation shall from time to time, at their general meetings, regulate and fix the salaries of the directory and other officers of the corporation; but that the directory shall fix the compensation to be paid to the agent or superintendents of the corporation.

XXI. *Be it further enacted*, That the directory shall have power to call a general meeting of the stockholders; and that any number of stockholders, owning one thousand shares in said corporation, shall also have power to call a general meeting; which meeting the directory shall convene within forty days immediately after such request of the stockholders as aforesaid, giving thereof not less than thirty days notice in the public newspapers printed in Fayetteville, and in such other newspapers as the directory may deem advisable.

XXII. *Be it further enacted*, That unless the said company shall complete twenty miles of said road within four years from the passage of this act, and unless they shall complete the said road as the Narrows of the Yadkin within ten years from this date, then this act shall be void and of no effect: *Provided*, that such forfeiture shall not take away the right of the company to any part of said road which may have been completed at the end of either of the periods aforesaid.

XXIII. *Be it further enacted*, That it shall be lawful for the General Assembly, at any time hereafter, to authorise the construction of any other road to intersect or be connected with this road, which may lead to any market within the limits of this State.

CHAPTER LXXIII.

An act to authorise the construction of a rail road from the Cape Fear river at Campbellton to some point in the town of Fayetteville.

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 Doyle O. Hanlon and his associates be, and they are hereby authorised and empowered to construct a rail road, beginning at the Cape Fear river at Campbellton, and extending to some point in the town of Fayetteville, to be hereafter fixed by them; and that they shall have power to demand and receive tolls at such rate as shall not exceed twelve per cent. per annum, until the nett profits equal the capital expended, with six per cent. interest thereon; after which the tolls shall be fixed at such rates as shall yield a nett profit of six per cent. per annum on the capital expended in making and completing the said rail road, over and above what may be necessary for the repairs and renewal of the same, and the annual allowance for a superintendent and agents.

II. *Be it further enacted*, That where said rail road shall cross any street established by law, it shall be so constructed as not to impede the passage or transportation of persons or property along the same.

III. *Be it further enacted*, That whenever the State of North Carolina, or any company of individuals legally authorised, shall construct a rail road from the town of Fayetteville westwardly, they shall be, and are hereby authorised and empowered to connect the same with the rail road herein authorised to be built; and whenever twenty miles of the same shall be completed and put in operation, then the State or company aforesaid shall be, and are hereby authorised to take the same, upon paying to the said Doyle O. Hanilon and his associates all costs and interest thereon, and ten per centum upon the said costs and interest.

IV. *Be it further enacted*, That if the said Doyle O. Hanilon and his associates shall not begin and complete the said rail road within two years from the passage of this act, then the act shall be void: *Provided always*, that this act shall not go into effect until the permission of the commissioners for the town of Fayetteville shall be first had and obtained, granting the privilege of constructing said rail road through the town aforesaid: *And provided also*, that the Cape Fear, Yadkin and Pedee Rail Road Company shall have preference in constructing through the town of Fayetteville the rail road contemplated by the charter of said company, if they complete the same through the town within the year one thousand eight hundred and thirty-four.

V. *Be it further enacted*, That this act shall be in force from and after the passage thereof.

CHAPTER LXXIV.

An act to incorporate the Greenville and Roanoke Rail Road Company.

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 it shall be lawful to open books in the town of Warrenton, in the county of Warren, under the direction of James Somerville, Daniel Turner, Henry Fitts and William Eaton, sen'r, or any three of them; at Milton, in the county of Caswell, under the direction of Samuel Watkins, John T. Garland, Stephen Dodson, Geo. Johnson and John Ragland; at Leaksville, in the county of Rockingham, under the direction of Edward T. Broadnax, James Barrett; at Wilkins' Ferry, in the county of Northampton, under the direction of Jesse A. Faulcon, Wood J. Hamlin, John T. Weaver, James Vincent and William W. Wilkins, or any three of them; and at such places, and under the direction of such persons as any three of the commissioners herein before named to superintend the receiving of subscriptions at Wilkins' Ferry, shall direct, for the purpose of receiving subscriptions to an amount not exceeding one hundred and fifty thousand dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by a rail road from some point on the Petersburg Rail Road to the south of Hicks' Ford, in Greenville county, Virginia, to some point on Roanoke river at or near Wilkins' Ferry, in the county of Northampton, North Carolina. That the said books shall be opened at each place at such time as the commissioners or deputy commissioners shall respectively appoint, between the first day of January and first day of July next, and shall be kept open at each place at least sixty days; and if it shall appear that the whole amount au-

thorised by this act shall be subscribed, then it shall be the duty of the commissioners, or a majority of them, appointed to receive subscriptions at Wilkins' Ferry, to reduce the number of shares subscribed for, among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to one thousand five hundred shares; but if the whole number of shares shall not be subscribed for within one year from the time books shall be opened to receive subscriptions, then the books may be closed or continued open as a majority of the commissioners named to receive subscriptions at Wilkins' Ferry may judge most beneficial, until the whole number of shares shall be subscribed for; and the time and place of receiving subscriptions as aforesaid, shall be advertised in one or more of the newspapers published in the city of Raleigh.

When five hundred shares shall be subscribed in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "the Greenville and Roanoke Rail Road Company;" and by that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or a body politic in law; and may make all such bye-laws, rules and regulations not inconsistent with the laws or constitution of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of the company.

Upon any subscription of stock as aforesaid, there shall be paid, at the time of subscribing, to the person or persons appointed by this act, or by virtue of this act, to take subscriptions, the sum of one dollar on every share subscribed; and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company. The said commissioners and deputy commissioners shall forthwith, after the election of a president and directors of the company, pay over to the said president and directors all moneys received by them; and on failure thereof, the said president and directors may recover the amount due from them or from any one or more of them, by motion, on ten days' previous notice, in the Superior courts, or in the Courts of Pleas and Quarter Sessions, or before a justice of the peace of the county in which such commissioner, his executors or administrators may reside.

II. *Be it further enacted*, That when five hundred shares or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners appointed to receive subscriptions at Wilkins' Ferry, who shall have power at the same time to call a general meeting of the subscribers, at such convenient time and place as they shall name in said notice. To constitute any such meeting, a number of persons holding a majority of all the shares subscribed shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

III. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of the stock, at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said

president or any of the directors may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any three or more of the directors, or in the absence of the president, any three of the directors, who shall appoint one of their own body president pro tempore, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the board or by the proprietors in general meeting.

IV. *Be it further enacted*, That the president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining of a rail road, to be located as aforesaid, and to begin at or near Wilkins' Ferry, and be prosecuted in such direction to some point on the Virginia State line in a direction to the Petersburg rail road, in Greenville county, in the State of Virginia, as the stockholders shall direct; and may cause to be made and constructed all works whatsoever which may be necessary and expedient in order to the completion of the said rail road, in conjunction with any other company which may be formed by a portion of the citizens of Virginia, for the purpose of connecting the same with said Petersburg rail road; and which company so formed shall constitute a joint stock company, under the aforesaid name of the Greenville and Roanoke Rail Road Company.

V. *Be it further enacted*, That the president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the said rail road, and performing all other works respecting the same which they shall judge necessary and proper; to call, on any emergency, a general meeting of the proprietors of the stock, giving one month's notice thereof in some newspaper published at the seat of government; to appoint a treasurer, clerk and such other officers, and transact all the business of the company during the intervals between the general meetings of the same.

VI. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale, in manner aforesaid; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the sale shall not produce the sum required to be advanced, with the incidental charges attending the same, then the president and directors may recover the balance of the original proprietor or his assignee or executor or administrator, or either of them, by motion on ten days' notice before the Court of Pleas and Quarter Sessions of the county of which he is an inhabitant, or by warrant before a justice of the peace of such county; and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietor.

VII. *Be it further enacted*, That if the president and directors cannot.

agree with the owners of land through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall be lawful for the said president and directors to file their petition in the Court of Pleas and Quarter Sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law in laying off public roads; and upon the filing of said petition, the same proceedings shall be had as in cases of public roads; and where the jury shall have assessed the damages to be paid to the owners of land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying to the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the Court of Pleas and Quarter Sessions of the county wherein the land lies, the sum or sums so assessed, to enter upon the land laid off, and construct their rail road thereon, to make all necessary excavations and embankments, and all other structures necessary to the construction and preservation of said road, and to hold the said land to their own use and benefit during their corporate existence; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation, as though they owned the fee simple therein: *Provided*, that nothing in this act contained shall be so construed as to give power to said company to lay off said road through the yard, garden or burial ground, attached or appurtenant to the dwelling house or any plantation through which it may be deemed necessary to lay off said road, without the consent of the owner thereof.

VIII. *Be it further enacted*, That whenever any wood, gravel, stone or earth may be wanted for the construction or repairing of said road, and the president and directors cannot agree with the owners of the lands adjacent, as to the terms on which they can procure the same, then it shall be lawful for the president and directors, by themselves or officers or agents, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, gravel or earth so needed as aforesaid: *Provided*, that they shall not, without the consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone, constituting any part of a fence or building; and where any gravel, stone, wood or earth shall be so taken as is provided for in this act, it shall and may be lawful for the owner to file his petition in the Court of Pleas and Quarter Sessions of the county wherein the land lies, from which said earth, stone, gravel or wood may have been taken, first giving ten days' notice to said president and directors, their officer or agent, of the filing of such petition, praying to have a jury summoned to go upon the land and assess the damages he, she or they may have sustained thereby; upon which it shall be the duty of the court to order a jury as in laying off public roads; which jury shall go upon the land, and, after being duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damages the owners of said land shall have sustained; and, after assessing the same, shall return their proceedings to the said court; and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the president and directors; but if the said court shall not approve thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess said damages, and return their proceedings to said court; and, upon approval thereof by said court, said damages and costs shall be paid by said president and directors; and if said president and direc-

tors shall not pay the damages so assessed and all cost, execution may issue against them therefor as against other corporations: *Provided always*, that either party not satisfied with the sentence or decree of the County Court, may appeal therefrom to the Superior Court of Law for said county.

IX. *And be it further enacted*, That it shall be lawful for said company to purchase lands from the proprietors at any point on said road, not exceeding ten acres in any one tract, to be used by them for all necessary purposes of said road, or to be disposed of by them when it shall be deemed proper.

X. *And be it further enacted*, That whenever, in the construction of said rail road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the said president and directors of said company so to construct the said rail road across such established road or way, as not to impede the passage or transportation of persons or property along the same; or where it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual proper wagon ways across said road or roads from one part of his land to the other.

XI. *Be it further enacted*, That the said president and directors, or a majority of them, shall have power to purchase with the funds of said company, and place on the said rail road, constructed by them under this act, all machines, wagons, vehicles, carriages and teams, of any description whatsoever, which they may deem necessary and proper for the purposes of transportation.

XII. *And be it further enacted*, That all machines, wagons, vehicles, carriages and all other personal property purchased by said company, or works constructed under the authority of this act, and all profits that shall accrue from the same, shall be vested in the respective shareholders of the company forever, in proportion to their respective shares; and the said shares shall be deemed personal estate.

XIII. *And be it further enacted*, That so soon as ten miles of said road shall be completed, and as often thereafter as any other section of like length shall be completed, the said president and directors shall transport all produce or other commodities that shall be deposited convenient to said rail road, which they shall be required to transport, to any point to which the said rail road may have been completed, in the order in which the company shall be required to transport the same, after it shall have been deposited convenient to said road, so that equal and impartial justice shall be done to all the owners of produce or other commodities in the transportation thereof by the company, provided the owner of produce or other commodities required to be transported by said company on said rail road shall pay or tender to said company, at their toll gate or gates, the toll due upon such produce or commodities under this act; and it shall be lawful for the president and directors of the said company, and they are hereby authorised to erect on such section or sections a toll gate or gates, and they shall be entitled to demand and receive a sum not exceeding the following rates, viz. on goods, produce, merchandize or property transported, not exceeding four cents a ton per mile for toll, and eight cents a ton per mile for transportation; and for the transportation of passengers, not exceeding six cents per mile for each passenger, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per centum per annum interest thereon from the time the money was advanced by the

stockholders until received back in the nett profits; but when the nett profits received as aforesaid from the tolls aforesaid shall have amounted to a sum equal to the capital stock expended as aforesaid, with six per centum per annum interest thereon as aforesaid, then the tolls which the said president and directors shall be entitled to demand and receive for the transportation of produce or other commodities on the said rail road, shall be fixed and regulated from time to time by the Governor or such other person or persons as may be appointed by the Legislature for that purpose, so as to make them sufficient, in his or their estimation, to yield a nett profit equal to ten per centum per annum on the capital stock expended in making and completing the said rail road, over and above what may be necessary for the repairs and the renewal of the same. The president and directors of the said company shall, at or shortly before each session of the Legislature, report to the Governor, or such other person or persons as the Legislature may hereafter appoint for that purpose, shewing the whole amount of capital stock expended in the construction of said road, the amount of tolls received during each year, the expense and charges incurred during each year, and the nett annual profit or loss on the capital expended. And it shall not be lawful for any other company or person or persons whatever to travel upon or use the road of said company, or to transport persons or property of any description along said road, without the license or permission of the president and directors of said company. And nothing herein contained shall be construed to prevent the said company from making a contract for the transportation of the mail upon such terms as may be agreed on between said company and the agents of the United States.

XIV. *And be it further enacted*, That it shall be lawful for the company hereby created to receive donations and borrow money for the objects of this act, and to pledge the property of the company for the payment of such loans, and to make and issue all proper evidences of such loans and assurances for repayment thereof.

XV. *And be it further enacted*, That it shall and may be lawful for the company hereby created to construct all such bridges as it may be necessary for them to erect for the purposes of their rail road, as to afford general accommodation to all travellers; and to demand and receive from all persons passing over and using such bridges, a reasonable toll, which shall in no case exceed the highest rate of toll now allowed by law on any bridge of the State: *Provided, however*, that no toll shall be demanded for using said bridge on account of either property or persons passing along the rail road and paying tolls therefor. And if it shall be necessary for the company, in the selection of the route or construction of the road, by them to be laid out and constructed, to construct the same with, or to use any turnpike road or bridge, made or erected by any company incorporated or authorised by any law of this State, it shall be lawful for the president and directors of the company hereby created to contract with such corporations or persons for the right to use such road or bridge, or for the transfer of any of the rights and privileges of such corporations.

XVI. *And be it further enacted*, That it shall be lawful for said company to erect scales at their toll gate or gates to weigh the burthen of any wagon, carriage, machine, or other vehicle used in transporting produce or other commodities along said rail road.

XVII. *And be it further enacted,* That an annual meeting of the proprietors of the stock of said company shall be held at such time, and at such place, in each and every year, as the stockholders at their first general meeting, or at any subsequent general meeting, may appoint; to constitute which, or any general meeting called by the president and directors according to the provisions of this act, the presence of proprietors holding a majority of all the shares shall be necessary, either in person or by proxy properly authorised; and if a sufficient number do not attend on that day or any day appointed for a general meeting, called by the directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

XVIII. *And be it further enacted,* That in counting all votes of the said company, each member shall be allowed one vote for each share, as far as ten shares, and one vote for every five shares above ten, by him held at the time in the stock of said company.

XIX. *And be it further enacted,* That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the subscribers.

XX. *And be it further enacted,* That so soon as the said rail road shall be completed so far as the company may deem it expedient to extend the same, the president and directors of the said company, or a majority of them, shall semi-annually declare and make such dividend from the nett profits from the tolls herein granted as they may deem advisable, to be divided among the proprietors of the stock of said company in proportion to their respective shares.

XXI. *And be it further enacted,* That after said rail road shall be completed and put into operation, if the said president and directors shall, by reason of the said rail road being out of repair, or from any other cause, fail or neglect to transport any produce or other commodities, which shall be deposited convenient to said rail road, and which the said president and directors shall be required to transport as aforesaid, the toll for the transportation being tendered, as a penalty for such failure or neglect, the company shall be liable to the party injured by such failure or neglect.

XXII. *And be it further enacted,* That if any toll gatherer at any toll gate to be erected by the authority of this act shall ask, demand or receive any other or greater tolls than are hereby allowed, he shall forfeit and pay to the party aggrieved thereby twenty dollars for every such offence, recoverable with cost by warrant before any justice of the peace; and if such toll gatherer, being at the time of incurring such penalty in the service of the company, shall be unable to pay the judgment recovered against him, the said company shall be liable to pay the same.

XXIII. *Be it further enacted,* That if the said president and directors shall not begin the said work within two years after the passage of this act, or shall not complete within five years thereafter, then the interest of the said company in the said rail road and the tolls aforesaid shall be forfeited and cease.

XXIV. *Be it further enacted,* That the president and directors shall cause to be written or printed certificates for the shares of the stock in the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for every share subscribed by him; which certificate shall be transferrable by him, subject,

however, to all payments due thereon, and such assignee having first caused the transfer or assignment to be entered into a book to be kept by the company for that purpose, shall thenceforth become a member of said company, and shall be liable to pay all sums due, or which shall become due upon the stock assigned to him: *Provided, however,* that such assignment shall in no wise exempt the assignor or his representatives from their liability to the said company, for the payment of all such sums, if the assignee or his representatives shall be unable or shall fail to pay the same.

XXV. *Be it further enacted,* That if the said president and directors, or a majority of them, cannot agree with the proprietors for the purchase and sale of any such quantity of ground, not exceeding one acre at any one place, as may be necessary for a toll house or a house to cover any stationary engine, or for any other necessary purpose, it shall and may be lawful for the president and directors to file a petition in the Court of Pleas and Quarter Sessions of the county in which the land lies against the proprietors of the land, setting forth the circumstances; and upon its being made to appear to the satisfaction of such court that the said president and directors have caused the proprietor of such land to be notified ten days before court, the said court shall order the sheriff to summon a jury of good and lawful men, who, after having taken an oath (which oath the sheriff or his deputy is hereby authorised to administer) that they will assess the damages which such proprietor will sustain by reason of the condemnation of such land, shall assess the amount the petitioners ought to pay to such proprietor; and the said jury in assessing such damages shall take into the estimate the benefit resulting to the said proprietor from conducting such rail road through or near the lands of said owner or proprietor, but only in extinguishment of damages; and upon payment of the value found by the jury upon any such proceeding to the proprietor of the ground so condemned by the jury, or upon the payment thereof into court when for good cause shown the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned in fee simple. If any person or persons shall wilfully by any means whatever injure, impair, or destroy any part of the rail road constructed by authority of this act, or any of the necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the laws which may be in force in this State at the time for the protection of the public works or property of the State.

XXVI. *And be it further enacted,* That the corporation shall exercise the corporate powers hereby granted for ninety years, and no longer, without a renewal of the charter.

XXVII. *And be it further enacted,* That full right and privilege is reserved to the State, or to any company hereafter to be incorporated under the authority of this State, to connect with the road hereby provided for any other rail road leading from the main route to any part or parts of this State: *Provided,* that in forming such connexion no injury shall be done to the works of the company hereby incorporated.

XXVIII. *And be it further enacted,* That such compensation shall be made from time to time, to any of the officers, servants or agents of the company, as the proprietors in general meeting shall prescribe, or may authorise the president and directors to allow.

XXIX. *And be it further enacted,* that it shall be lawful for the Roanoke Navigation Company to demand and receive, on all articles which may be

transported down Roanoke river to Wilkins' Ferry for the purpose of being transported on said rail road, the same amount of toll as may be required and received on similar articles delivered at the town of Weldon, provided the said amount of toll do not exceed the amount of toll which said company are authorised by law to receive at the town of Weldon, on articles brought down Roanoke river.

CHAPTER LXXV.

An act to incorporate the Halifax and Weldon Rail Road Company.

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 it shall and may be lawful to open books in the town of Halifax, under the direction of James Simmons, Michael Ferrell, Thomas Rusby, Mark H. Pettway and N. M. Long, or any three of them; at Esfield, under the direction of Thomas Nicholson, Carey Whitaker, Spier Whitaker, John W. Simmons and John Croil, or any three of them; at Weldon, under the direction of Andrew Joiner, T. T. Wiatt, William H. Day, George Baskerville and John Purnell sen'r, or any three of them; at Nashville, under the direction of Henry Broun, B. E. Moore, William Burt, Joshua Watson and James S. Battle, or any three of them; and at such other places, and under the direction of such other persons, as the commissioners herein named for the town of Halifax shall designate and appoint, for the purpose of receiving subscriptions to the amount of fifty thousand dollars, to be divided into shares of one hundred dollars each, to constitute a joint capital stock for the purpose of making a rail road in the county of Halifax, from the town of Halifax to the town of Weldon. The times and places for receiving subscriptions as above shall be advertised in the manner deemed most proper by the commissioners at the town of Halifax, and the books for receiving the same shall be kept open twenty days; and should it, at the expiration of the twenty days, appear that more than fifty thousand dollars of stock shall have been subscribed for upon the books, it shall be the duty of the said commissioners at the town of Halifax, or any three of them, to reduce the number of shares subscribed for by each individual, in fair and equal proportions, until the whole number of shares shall be reduced to five hundred: *Provided*, that no reduction shall be made upon subscriptions not exceeding two shares; but should the whole amount of five hundred shares not be subscribed at the end of twenty days, then the books shall be kept open until the whole amount of five hundred shares shall have been subscribed: *Provided, however*, that as soon as two hundred and fifty shares shall be subscribed, then the subscribers, their heirs, executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of 'the Halifax and Weldon Rail Road Company;' and in that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and may make all such bye laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for well ordering and conducting the affairs of the company.

II. *Be it further enacted*, That upon every share subscribed, there shall be paid at the time of subscribing, by the person subscribing, the sum of two dollars, to the commissioners appointed to receive the subscriptions, and the residue shall be paid in such instalments and at such times as

the president and directors of the company may require. The said commissioners, and all persons holding money paid on subscriptions of stock, shall forthwith, after the election of president and directors of said company, pay over all moneys in their hands belonging to the company; and, in failure thereof, the president and directors may recover the amount due from them, or any one or more of them, by action, within ten days' previous notice in writing, in the Superior or County Court of any county wherein such commissioner or commissioners, their executors or administrators may reside.

III. *Be it further enacted*, That when two hundred and fifty shares or more of the stock shall be subscribed, public notice may be given by any three or more of the commissioners in the town of Halifax, who shall call a general meeting of the subscribers, giving ten days' notice in the news-paper published in the town of Halifax of the time and place of said meeting; to constitute any such meeting, a number of persons entitled to a majority of the votes upon all the shares subscribed, shall be present, either in person or by proxy; and should a sufficient number not attend, those present shall have power to adjourn, from time to time, until a majority of the shares subscribed shall be represented; the meeting shall then proceed, a majority of the stock being represented, to elect a president and five directors, who shall hold their office until the next annual meeting of the stockholders, and until their successors in office shall be appointed; subject nevertheless, to the provisions hereinafter mentioned. An annual meeting of the stockholders of the said company shall be held at such time in each year as the stockholders at their first general meeting may appoint, at which the election of president and directors shall take place in like manner as above; and when a vacancy shall occur by death, resignation or otherwise, the vacancy may be filled, for the time being, by the remaining president and directors; or if the presidency be vacant, the directors may fill as above. Any three or more of the directors may have power, in the absence of the president, to appoint one of their body president *pro tempore*, and transact business: *Provided always*, that the majority of votes representing shares in said company, given at any time against any president or director of said corporation, shall vacate his office or appointment; and shall also have power to fill such vacancy, until the next annual meeting of the stockholders.

IV. *Be it further enacted*, That the president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining a rail road, to be located as aforesaid, with as many sets of tracks as they or a majority of them may deem necessary and proper to be made; also to make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of the rail road. The said president and directors of the company shall have power to make contracts with any person or persons for any work to be done upon or for the said road, in such a manner and under such rules and regulations as they may deem proper and right; and all such contracts and agreements made by the company, or their legal agents, with any person or persons, shall be binding on the individual or individuals making them and also on the company. The president and directors shall have power to call on all the stockholders for a due and equal proportion of the amount subscribed by them to the capital stock of said company, in such sums and at such times as they, the president and directors, may deem proper and right, by giving one month's notice of such call in the newspaper

circulating among the subscribers. The president and directors shall have power to appoint a treasurer, clerk and all other officers that they may deem necessary and proper to aid and assist in managing and prosecuting said work, and to fix their compensation, and take such bonds with security for performance of duty, as they may prescribe. If any stockholder shall fail to pay the sum required of him by the president and directors or a majority of them, within one month after the same shall have been advertised in the newspaper published in the town of Halifax, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the president and directors, or a majority of them, may recover the balance of the original proprietor, or his assignee, or the executor or administrator or either of them, by motion, on ten days' notice, before the court of that county of which he is an inhabitant, or by warrant before a justice of such county; and any purchaser of the stock of the company under the sale of the president and directors, shall be subject to the same rules and regulations as original subscribers to the capital stock of the said company.

V. *Be it further enacted*, That the president and directors, their officers, servants, agents and contractors, shall have full power and authority to enter upon all lands and tenements through which they may judge it necessary to make the said rail road and to lay out the same according to their pleasure, so that neither the dwelling house, yard or garden of any person be invaded without his consent. If the president and directors cannot agree with the owner of the lands on the terms upon which the said rail road shall be opened through it, it shall be lawful for them to apply to the court of the county in which the land lies; and upon such application, it shall be the duty of the court to appoint five discreet, intelligent, disinterested and impartial freeholders to assess the damages to such land which will result from opening the said rail road through it. No such appointment, however, shall be made, unless ten days' previous notice, in writing, of the application, shall have been given to the owner of the land, or to the guardian, if the owner be an infant or non compos mentis, if such owner or guardian can be found within the county; or if he cannot be found, then such appointment shall not be made, unless notice of the application shall have been published at least one month in some public newspaper published at Halifax. A day for the meeting of the freeholders to perform the duties assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time, until the business shall be finished: of the five freeholders so appointed, any three or more of them may act, after having been duly sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land from opening the said rail road through the same; and that they will certify their proceedings thereupon to the court of the said county.

VI. *Be it further enacted*, That it shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land through which the rail road is to be opened, and after viewing the same and hearing such proper evidence as either party may desire to be heard, according to their best judgment, the damages which the owners of the land will sustain by opening the rail road through the same. In performing this duty, they shall consider the proprietor of the land to be compensated for the fee simple interest; they shall take into consideration the quantity and quality of the land which the rail road will occupy, the additional fencing or gates that will be required thereby, or other inconveniences which will result to the said land from the opening of the rail road; and shall combine therewith a just regard to the advantages which the owners of the land will derive from opening the rail road through the same.

VII. *Be it further enacted*, That when the said freeholders shall have agreed upon the amount of the damages, they shall forthwith make a written report of their proceedings under their hands and seals, in substance as followeth: "We, _____ freeholders, appointed by order of the court of _____ for the purpose of ascertaining the damages which would be sustained by _____ the proprietor of certain lands in said county through which the Halifax and Weldon Rail Road Company propose to open a rail road, do hereby certify that we met together on the land aforesaid on the _____ day of _____ the day appointed for that purpose by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order, as the case may be;) and that first having been duly sworn, or affirmed, and having viewed the premises, we proceeded to estimate the quantity and quality of the land aforesaid which would be occupied by the said rail road, the quantity of additional fencing or gates which would be probably occasioned thereby, and all other inconveniences which seemed to us likely to result therefrom to the said land; that we combined with these considerations, as far as we could, a just regard to the advantages which would be derived by the proprietor of the said land from the opening of the aforesaid rail road through the same; that under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid at the sum of _____ dollars. Given under our hands and seals, this the _____ day of _____. At the foot of the report so made, the magistrate before whom the said freeholders were sworn or affirmed shall make a certificate in substance as followeth: "_____ county, to wit: I, _____ a justice of the peace for said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn, or affirmed, before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named _____ from the opening of the above mentioned rail road through his land, and that they would certify truly their proceedings thereupon to the court of the said county. Given under my hand, this _____ day of _____. The report of the freeholders so made, together with the certificate of the magistrate aforesaid, shall be forthwith returned by the said freeholders to the court of said county; and unless good cause be shown against the report, it shall be confirmed by the court and entered on record; but if the said report should be disaffirmed, or the said freeholders, being unable to agree, should report their disagreement, the court may at its discretion, as often as may be necessary, supercede

them or any of them, appoint others in their place, and direct another view and report to be made in the manner above prescribed. On the affirmation of any such report, and on the payment or tender of payment of said damages into court, when for good causes shown the court shall so have ordered it, the president and directors shall be at liberty to open the said rail road upon the ground viewed and assessed by the freeholders aforesaid.

VIII. *Be it further enacted*, That whenever it shall become necessary to subject the lands of individuals to the use of said company in opening and constructing the said rail road through the same, and the consent of the proprietor or proprietors cannot be obtained, it shall be lawful for the president and directors of said company, and for their superintendents, agents, contractors, laborers and servants, to enter upon such lands and proceed in opening and constructing the said rail road through the same. The pendency of any proceedings in court, or before assessors or valuers, to ascertain the damages that will be sustained by the proprietor or proprietors of such land from opening and constructing the said rail road through the same, shall in no manner hinder or delay the progress of the said work; the true intent and meaning of this act being that all injury which may be done to any land without the consent of the proprietor or proprietors thereof, by opening and constructing the said rail road through the same, over and above the advantages of said rail road to such proprietor or proprietors, shall be fully and completely compensated for in damages when ascertained; for such damages, when ascertained as aforesaid, if they be not paid to the party or parties entitled to the same, or into court by the company, during the term at which the report shall be confirmed, the clerk of the said court, at any time after the adjournment of the court, on the application of the party or parties entitled to the said damages, or his, her or their attorney, shall issue an execution for the amount of such damages against the said company, which may be legally issued against a corporation on adjudgment for money.

IX. *Be it further enacted*, That if the said president and directors shall not obtain the consent of the proprietor or proprietors of any land through which they may propose to open and construct the said rail road, and shall not apply to the said County Court and procure assessors or valuers to be appointed as before directed, within forty days from the time the said president and directors, their superintendents, agents, contractors, laborers or servants, shall commence opening and constructing the said rail road through such land, then it shall be lawful for the proprietor or proprietors of such land, at any time previous to an application for the appointment of valuers by the said president and directors, giving the said president and directors ten days' previous notice, by serving the same on the president or any one or more of the directors, to apply to the said County Court; and upon such application, it shall be the duty of the said court to make the appointment of assessors or valuers as before directed, who shall be qualified in the same manner, and shall, upon the same principles, and in the same manner in all respects proceed to assess and report to the court the damages that will result to the proprietor or proprietors of such land, as if they had been appointed on the motion of the said president and directors; and the said court shall proceed upon the said report, and confirm or set aside the same, and appoint other assessors or valuers in all respects as if the same had been made by assessors or valuers appointed on the motion of the said president and directors; and if the said president

and directors shall not pay to the proprietor or proprietors of such lands, or into court, the damages assessed during the term of said court at which the report thereof shall be confirmed, at any time after the adjournment of the court, on the like application, the clerk shall issue the like execution for the amount of the damages against the said company.

X. *Be it further enacted*, That the said president and directors, for the purposes of making the said road, or of repairing the same after it shall have been made, shall also be at liberty by themselves, their officers, agents and servants, at any time to enter upon any adjacent land, and to cut, quarry, dig, take and carry away therefrom, any wood, stone, gravel or earth, which they may deem necessary: *Provided, however*, that they shall not, without the consent of the owner, take any timber, gravel, stone, or earth constituting any part of any fence or building; for all wood, stone gravel or earth, taken under authority of this act, and for all incidental injuries done to enclosures, crops, woods or grounds, in taking or carrying away the same, the said president and directors shall make to the owners a fair and reasonable compensation, to be ascertained, if the parties cannot agree, by any three impartial, disinterested and intelligent freeholders, who, being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn or affirmed by the justice, and then shall ascertain the compensation upon their own view for the wood, stone, gravel or earth taken, and for the injury done as aforesaid in taking them: *Provided, however*, that it shall be the duty of said proprietors to show to the justice of the peace to whom the application is made, that ten days' previous notice of the time of making the same has been given to the president or the principal superintendent of the said rail road; and no award which may be given under any appointment without such notice shall be obligatory or binding on said company.

XI. *Be it further enacted*, That whenever in the construction of said rail road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the said president and directors so to construct the said rail road across any other road or way already or hereafter to be established by law, as not to impede the passage or transportation of persons or property thereon; and when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual proper wagon ways across the said rail road from one part of his land to the other.

XII. *Be it further enacted*, That the said president and directors shall have power to purchase with the funds of the said company and place on the said rail road, all machines, wagons, vehicles, carriages and teams, of any description whatsoever, which they may deem necessary and proper for the purpose of transportation; all machines, vehicles, wagons and carriages purchased as aforesaid, and the works constructed under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective shareholders of the company forever, in proportion to their respective shares.

XIII. *Be it further enacted*, That so soon as the said rail road be completed, the president and directors shall be entitled to demand and receive on the same the following rates of toll, to wit: on all goods, produce, merchandize or commodity, of any description whatsoever, a sum not exceeding twelve and a half cents per ton per mile; for the transportation of passengers a sum not exceeding six cents per mile for each passenger; and for

the transportation of the mail, such a sum as they may agree for with the agents of the Government; that they shall be furthermore entitled to demand and receive for the work of storage and delivering of produce and other commodities, rates not exceeding the ordinary warehouse rates charged in the seaport towns of this State, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per cent. per annum interest thereon from the time the money was advanced by the stockholders until received back in the nett profits; but when the nett profits received as aforesaid by the tolls aforesaid, shall amount to a sum equal to the capital stock expended, with six per cent. interest thereon, then the toll which the said president and directors shall be entitled to demand and receive as aforesaid, shall be fixed and regulated from time to time by the president and directors, so as to make them sufficient in their estimation to yield a nett profit of fifteen per cent. per annum on the capital stock invested in the said road and the constructions connected with it, and the costs of the locomotive engines, cars, carriages and other vehicles, and the renewal and repairs of the same. The company, however, will not be bound to transport any produce or other commodities unless the owner thereof shall pay or tender to the said company at their toll gate or gates the toll due upon such produce or other commodities under this act.

XIV. *Be it further enacted*, That it shall be lawful for the said president and directors, and they are hereby authorised to erect toll gates at Halifax and at Weldon, and at any intermediate point or points on the line of their rail road.

XV. *Be it further enacted*, That in counting all the votes of the said company, each member shall be allowed one vote for each share as far as ten shares, and one vote for every five shares above ten, by him held at the time in the stock of the said company; the presence of the proprietors entitled to a majority of all the votes which could be given by all the stockholders, shall be necessary (in all meetings of the stockholders) either in person or by proxy properly authorised; if a sufficient number to constitute a majority do not attend on any day appointed for a general meeting, the proprietors who do attend may adjourn from time to time, until a general meeting shall be formed, consisting of a majority of the stockholders.

XVI. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the subscribers.

XVII. *Be it further enacted*, That as soon as the said rail road shall be completed, the president and directors of the said company shall semi-annually declare and make such dividends of the nett profits from the tolls herein granted as they may deem advisable, to be divided among the proprietors of the stock of the said company in proportion to their respective shares.

XVIII. *Be it further enacted*, That if any toll gatherer, at any toll gate to be erected under the authority of this act, shall ask, demand or receive any other or greater tolls than are herein allowed, he shall forfeit and pay the party aggrieved thereby ten dollars for every such offence, recoverable, with costs, by warrant before any justice of the peace; and if such toll gatherer, being at the time of incurring such penalty in the service of the company, shall be unable to pay the judgment awarded against him, the said company shall be liable to pay the same.

XIX. *Be it further enacted*, That if the said president and directors shall

not begin the said work within one year after the passage of this act, or shall not complete the same within three years thereafter, then the interest of the said company in the said rail road and the tolls aforesaid shall be forfeited and cease.

XX. *Be it further enacted*, That the said president and directors shall cause to be written or printed certificates for shares of stock in the said company; and shall deliver one certificate, signed by the president, to each person for every share subscribed by him, which certificate shall be transferable by him; subject, however, to all payments due or to become due; and such assignee, having first caused the transfer or assignment to be entered in a book of the company to be kept for that purpose, shall thenceforth become a member of the said company, and shall be liable to pay all sums due, or which shall become due, on the stock assigned to him: *Provided, however*, that such assignment shall in no wise exempt the assignor or his representatives from their liability to the said company for the payment of all such sums, if the assignee or his representatives shall be unable or shall fail to pay the same.

XXI. *Be it further enacted*, That it shall be lawful for the said company to purchase lands from the proprietors at each point of termination, and at any intermediate points of the said rail road or vicinity thereof, not exceeding ten acres, to be used by them for all necessary purposes of said rail road, or to be disposed of by them, when they shall deem it proper.

XXII. *Be it further enacted*, That if any person or persons shall wilfully by any means whatsoever, injure, impair or destroy any part of the rail road or any of the necessary works, buildings, machines, wagons, vehicles or carriages belonging to the said company, he, she or they shall forfeit and pay to the company five times the actual damages so sustained, to be sued for and recovered, with full costs, before any tribunal having cognizance of the same, by action of debt, in the name and for the use of the said company.

XXIII. *Be it further enacted*, That if any person or persons shall wilfully and with evil intent place or cause to be placed on the aforesaid line of the said rail road, any obstruction or impediment, so as to jeopardize the safety and endanger the lives of persons travelling on said road, he, she or they shall be deemed guilty of an indictable misdemeanor, and upon conviction thereof, in either the County or Superior Court of the county in which such offence may have been committed, shall be punished by fine and imprisonment, or either, at the discretion of the court.

XXIV. *Be it further enacted*, That this act, and every part and provision thereof, shall be subject to be altered, amended or modified by any future Legislature, as to them shall seem necessary and proper, except so much thereof as prescribes the rate of compensation or tolls for the transportation of produce or other commodities allowed to the said company, and the rate allowed for the transportation of passengers: *And provided also*, that the right of property acquired by the said company, under this act, shall not be taken away or impaired by any future Legislature.

XXV. *Be it further enacted*, That it shall not be lawful for any other company or person or persons whatever to travel upon or use the road of said company, or to transport persons or property of any description along the said rail road, without the license or permission of the president and directors of said company.

XXVI. *Be it further enacted*, That this act shall be in force from and after the passage thereof.

CHAPTER LXXVI.

An act to incorporate the Roanoke and Raleigh Rail Road Company.

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 it shall be lawful to open books in the town of Halifax, under the direction of Andrew Joiner, Thomas Burgess, Nicholas M. Long, Mark H. Pettway and John Purnell, Sen'r, or any three of them; at the town of Jackson, in the county of Northampton, under the direction of Joseph J. Exum, Etheldred J. Peebles, Matt. Calvert, John White and Samuel Spruill, or any three of them; at the town of Warrenton, in Warren county, under the direction of James Summerville, William K. Kearney, Daniel Turner, Peter R. Davis, Edward Hall, Thomas J. Judkins, William Plummer and Benjamin E. Cook, or any three of them; at the town of Louisburg, in Franklin county, under the direction of James Farrier, Doctor Willie Perry, Henry G. Williams, Robert J. Shaw and Alexander M'Knight, or any three of them; at the town of Nashville, in the county of Nash, under the direction of Willis Boddie, Henry Blount, Doctor John Arrington, William Burt, Bartholomew F. Moore and James S. Battle, or any three of them; at the town of Smithfield, in the county of Johnston, under the direction of Samuel Gully, David Thompson, Bythal Bryan, Thomas Rice and Ransom Saunders, or any three of them; at the town of Oxford, in the county of Granville, under the direction of Russel Kingsbury, William A. Maddox, Thomas B. Littlejohn, Nathaniel Robards and Stephen K. Sneed, or any three of them; at the town of Hillsborough, in the county of Orange, under the direction of Cadwallader Jones, Doct'r James Webb, Doct'r James S. Smith, William E. Anderson and Harrison Parker, or any three of them; at the town of Haywood, in the county of Chatham, under the direction of General Richard C. Cotten, Nathaniel Stedman, John S. Guthrie, Hugh McQueen and A. A. B. Smith, or any three of them; in the city of Raleigh, under the direction of William S. Mhoon, James Iredell, William Roles, Charles Hinton and Wesley Jones, or any three of them; at the town of Fayetteville, in the county of Cumberland, under the direction of Hugh Campbell, Jun. John Huske, James Seawell, David McNeil and Joshua W. Cochran, or any three of them; in the town of Wilmington, in New Hanover county, under the direction of Aaron Lazarus, Archibald McRae, Dr. William H. Hort, James Green and Daniel Sherwood, or any three of them; in the town of Greensborough, in Guilford county, under the direction of John M. Morehead, John M. Dick, Jesse McCuiston, Robert Modderwell and James McNairy, or any three of them; in the town of Caswell, in the county of Lenoir, under the direction of John C. Washington, Watson Willcox, Dr. William Holland, Craven Hitts and Charles Westbrook, or any three of them; in the town of Newbern, in the county of Craven, under the direction of John Sneed, Samuel Simpson, John M. Roberts, Robert Primrose and John G. Kinsey, or any three of them; in the town of Washington, in the county of Beaufort, under the direction of Eli Hoyt, Joshua Taylor, James Ellison, Nathaniel J. Oliver and John Myers, or any three of them; in the town of Greenville, in the county of Pitt, under the direction of William Bernard, Walter Henrahan, John Norcott, Reddin J. Blount and William Clark, Jr. or any three of them; in the town of Williamston, in the county of Martin, under the direction of Lawrence Cherry, Doctton W. Bagley, William Watts, Edwin W. Smithwick and Col. Asa Biggs, or any three of them; in the town of Plymouth, in the county of Washington, un-

der the direction John S. Bryan, Benjamin Mainland, Joseph C. Norcom, John B. Beasley and William Douglass, or any three of them; in the town of Windsor, in the county of Burke, under the direction of James L. Bryant, Jonathan S. Taylor, Dr. William Watson, Joseph B. G. Routledge and Edward Hardy, or any three of them; in the town of Martinsborough, under the direction of Col. John H. Wheeler, John W. Southall, Lewis M. Cooper, Isaac Pipkin and Hardy M. Banks, or any three of them; at Milton, in the county of Caswell, under the direction of Sam'l Wadkins, John Wilson, John T. Garland, Stephen Dedson and Willie Jones, or any three of them; and at Tarborough, in the county of Edgecombe, under the direction of John W. Cotton, Henry S. Clark, Michael Hearn, Henry Austin and Charles G. Hunter, or any three of them; and at such other places, and under the direction of such persons as any three of the commissioners herein before named to superintend the receiving of subscriptions at Halifax shall direct, for the purpose of receiving subscriptions to an amount not exceeding six hundred thousand dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by rail road, or by a rail road and canal or canals, from the town of Halifax or Weldon, by the most convenient and eligible route; which route shall be determined on by the company hereby incorporated. That the said books shall be opened at each place at such time as the commissioners or deputy commissioners shall respectively appoint, between the twenty fifth day of March and the twenty fifth day of July next, and shall be kept open in each place at least sixty days; and if it shall appear that more than the whole amount authorised by this act shall be subscribed, then it shall be the duty of the commissioners, or a majority of them, appointed to receive subscriptions at Halifax, to reduce the number of shares subscribed for, among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole number of shares shall be reduced to six thousand; but if the whole number of shares shall not be subscribed for within one year from the time books shall be opened to receive subscriptions, then the books may be closed or continued open as a majority of the commissioners named to receive subscriptions at Halifax may judge most beneficial, until the whole number of shares shall be subscribed for; and the time and place of receiving subscriptions as aforesaid, shall be advertised in one or more of the newspapers published in the city of Raleigh, in the town of Halifax and in the town of Fayetteville.

II. When one thousand shares shall be subscribed in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "the Roanoke and Raleigh Rail Road Company;" and in that name may sue and be sued, implead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and may make all such bye-laws, rules and regulations, not inconsistent with the laws or constitution of this State or of the United States, as shall be necessary for the well ordering or conducting the affairs of the company.

III. Upon any subscription of stock as aforesaid, there shall be paid, at the time of subscribing, to the person or persons appointed by this act, or by virtue of this act, to take subscriptions, the sum of one dollar on every

share subscribed; and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company. The said commissioners or deputy commissioners shall forthwith, after the election of a president and directors of the company, pay over to the said president and directors all moneys received by them; and on failure thereof, the said president and directors may recover the amount due from them or any one or more of them, by motion, on ten days' previous notice, in the Superior Courts, or Courts of Pleas and Quarter Sessions, or before a justice of the peace of the county in which such commissioner, his executors or administrators may reside.

IV. *Be it further enacted*, That when one thousand shares or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners appointed to receive subscriptions at Halifax, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time as they shall name in said notice. To constitute any such meeting, a number of persons holding a majority of all the shares subscribed shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting is formed.

V. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of the stock, at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president or any of the directors may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any three or more of the directors, or in the absence of the president, any three of the directors, who shall appoint one of their own body president pro tempore, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the board or by the proprietors in general meeting.

VI. *Be it further enacted*, That the president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining of a rail road or canal or canals, to be located as aforesaid, and to begin at the town of Halifax or Weldon, upon the Roanoke river, and be prosecuted in such direction as the stockholders may direct; and may cause to be made and constructed all works whatsoever which may be necessary and expedient in order to the completion of the said rail road or canal or canals.

VII. *Be it further enacted*, That the president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the said rail road or canal or canals, and performing all other works respecting the same which they shall judge necessary and proper; to call, on any emergency, a general meeting of the proprietors of the stock, giving one month's notice thereof in some newspaper published at the seat of government; to appoint a treasurer, clerk and such other officers, and transact all the business of the company during the intervals between the general meetings of the same.

VIII. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale, in manner aforesaid; and after retaining the sum due and charges of sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the sale shall not produce the sum required to be advanced, with the incidental charges attending the same, then the president and directors may recover the balance of the original proprietor or his assignee or executor or administrator, or either of them, by motion on ten days' notice before the Court of Pleas and Quarter Sessions of the county of which he is an inhabitant, or by warrant before a justice of said county; and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietor.

IX. *Be it further enacted*, That if the president and directors cannot agree with the owners of land through which it may be necessary to make the said rail road or canal or canals, as to the terms upon which the said rail road or canal or canals shall be opened through the same, then it shall be lawful for the said president and directors to file their petition in the Court of Pleas and Quarter Sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law in laying off public roads; and upon filing said petition, the same proceedings shall be had as in cases of public roads; and when the jury shall have assessed the damage to be paid to the owners of the land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying to the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the Court of Pleas and Quarter Sessions of the county wherein the land lies, the sum or sums so assessed, to enter upon the land laid off, and construct their road or canal thereon, to make all necessary excavations and embankments thereon, and all other structures necessary to the construction and preservation of said road or canal, and to hold the said land to their own use and benefit during their corporate existence; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation, as though they owned the fee simple therein; but should the progress of said rail road render it necessary for the president and directors to proceed with the same through the land of any person or persons during the pendency of any proceedings in court, or before a jury to ascertain the damages which will be occasioned by running said road through the same, it shall be lawful to do so; and in case the president and directors shall fail to pay the damages assessed by the jury, at the court by which the verdict shall be confirmed, either into the office of the clerk of the court or to the party entitled to receive the same, it shall be lawful for execution to issue as against other corporations; and either party not satisfied with the sentence or decree of the County Court in any case may appeal therefrom to the Superior Court for said county: *Provided*, that nothing in this act contained shall be so construed as to give power to said company to lay off said road or canal through any yard, garden or burial ground, attached or appurtenant

to the dwelling house on any plantation through which it may be deemed necessary to lay off said road or canal, without the consent of the owners thereof.

X. *Be it further enacted*, That whenever any wood, gravel, stone or earth may be wanted for the construction and repairing of said road or canal, and the president and directors cannot agree with the owners of the land adjacent, as to the terms on which they can procure the same, then it shall be lawful for the president and directors, by themselves or officers or agents, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, gravel or earth so needed as aforesaid: *Provided*, they shall not, without the consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone, constituting any part of a fence or building; and where any gravel, stone, or earth shall be so taken as provided for in this act, it may be lawful for the owner to file his petition in the Court of Pleas and Quarter Sessions of the county wherein the land lies, from which said earth, stone, gravel or wood may have been taken, first giving ten days' notice to said president and directors, their officer or agent, of the filing of such petition, praying to have a jury summoned to go upon the land and assess the damages he, she or they may have sustained thereby; upon which it shall be the duty of the court to order a jury as in laying off public roads; which jury shall go upon the lands, and, after being duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damages the owners of said land shall have sustained; and after assessing the same, shall return their proceedings to the said court; and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the president and directors; but if the said court shall not approve thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess said damages, and return their proceedings to said court; and, upon approval thereof by said court, said damages and costs shall be paid by said president and directors shall not pay the damages so assessed and all cost, execution may issue against them therefor as against other corporations: *Provided always*, that either party not satisfied with the sentence or decree of the County Court, may appeal therefrom to the Superior Court of Law for said county.

XI. *Be it further enacted*. That it shall be lawful for said company to purchase lands from the proprietors at any point on said road or canal or canals, not exceeding ten acres in any one tract, to be used by them for all necessary purposes of said road or canal or canals, or to be disposed of by them when it shall be deemed proper.

XII. *Be it further enacted*, That whenever, in the construction of said rail road or canal or canals, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the said president and directors of said company so to construct said road or canal across such established road or way, as not to impede the passage or transportation of persons or property along the same; or where it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual proper wagon ways across said road or roads from one part of his land to the other.

XIII. *Be it further enacted*, That said president and directors, or a majority of them, shall have power to purchase with the funds of said company, and place on the said rail road or canal or canals, constructed by them under this act, all machines, wagons, vehicles, boats, carriages and

teams, of any description whatsoever, which they may deem necessary and proper for the purposes of transportation.

XIV. *Be it further enacted*, That all machines, wagons, vehicles, boats, carriages and all other personal property purchased by said company, or works constructed under authority of this act, and all the profits which shall accrue from the same, shall be vested in the respective shareholders of the company forever, in proportion to their respective shares; and the said shares shall be deemed personal estate.

XV. *Be it further enacted*, That so soon as ten miles of said road or canal shall be completed, and as often thereafter as any other section of like length shall be completed, the president and directors shall transport all produce or other commodities that shall be deposited convenient to said rail road or canal, and which they shall be required to transport, to any point to which the said rail road or canal may have been completed, in the order in which the company shall be required to transport the same, after it shall have been deposited convenient to said road or canal, so that equal and impartial justice shall be done to all the owners of produce or other commodities in the transportation thereof by the company, provided the owners of produce or other commodities required to be transported by said company on said rail road or canal or canals, shall pay or tender to said company, at their toll gate or gates, the toll due upon such produce or other commodities under this act; and it shall be lawful for the president and directors of the said company, and they are hereby authorized to erect on such section or sections a toll gate or gates; and they shall be entitled to demand and receive a sum not exceeding the following rates, to wit: on goods, produce, merchandize or property transported, not exceeding four cents a ton per mile for toll, and eight cents a ton per mile for transportation; and for the transportation of passengers, not exceeding six cents per mile for passengers, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per centum per annum interest thereon from the time the money was advanced by the stockholders until received back in the nett profits; but when the nett profits received as aforesaid from the tolls aforesaid shall have amounted to a sum equal to the capital stock expended as aforesaid, with six per centum per annum interest thereon as aforesaid, then the tolls which the said president and directors shall be entitled to receive for the transportation of produce or other commodities on the said rail road or canal or canals, shall be so fixed and regulated from time to time by the said president and directors, so as to make them sufficient, in their estimation, to yield a nett profit equal to ten per centum per annum on the capital stock expended in making and completing the said rail road, or canal or canals over and above what may be necessary for the repairs and the renewal of the same. The president and directors of the said company, shall, at or shortly before each session of the Legislature, report to the Governor, or such other person or persons as the Legislature may appoint for that purpose, shewing the whole amount of capital stock expended in the construction of said road or canal or canals, the amount of tolls received during each year, the expenses and charges incurred during each year, and the nett annual profit or loss on the capital expended. And it shall not be lawful for any other company or person or persons whatever to travel upon or use the road of the said company, or to transport persons or property of any description along said road, without the license

or permission of said company. And nothing herein contained shall be construed to prevent the said company from making a contract for the transportation of the mail upon such terms as may be agreed on between said company and the agents of the United States.

XVI. *Be it further enacted*, That it shall be lawful for the company hereby created to receive donations and borrow money for the objects of this act, and to pledge the property of the company for the payment of such loans, and to make and issue all proper evidences of such loans and assurances of repayment thereof.

XVII. *Be it further enacted*, That it shall and may be lawful for the company hereby created to construct all such bridges as it may be necessary for them to erect for the purposes of their rail road, as to afford general accommodation to all travellers; and to demand and receive from all persons passing over and using such bridges, a reasonable toll, which shall in no case exceed the highest rate of toll now allowed by law on bridges of the State: *Provided, however*, that no toll shall be demanded for using said bridge on account of either property or persons passing along the rail road and paying tolls therefor. And if it shall be necessary for the company, in the selection of the route or construction of the road or canal or canals, by them to be laid out and constructed, to connect the same with, or to use any road, bridge or canal made or erected by any company incorporated or authorised by any law of this State, it shall be lawful for the president and directors of the company hereby created to contract with such corporation or persons for the right to use such road, bridge or canal, or for the transfer of any of the rights and privileges of such corporations.

XVIII. *Be it further enacted*, That it shall be lawful for said company to erect scales at their gate or gates to weigh the burthen of any wagon, carriage, machine, or other vehicle used in transporting produce or other commodities along said rail road.

XIX. *Be it further enacted*, That an annual meeting of the proprietors of the stock of said company shall be held at such time, and at such place, in each and every year, as the stockholders at their first general meeting, or at any subsequent general meeting, may appoint; to constitute which, or any general meeting called by the president and directors according to the provisions of this act, the presence of proprietors holding a majority of all the shares shall be necessary, either in person or by proxy properly authorised; and if a sufficient number do not attend on that day or any day appointed for a general meeting, called by the president and directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

XX. *Be it further enacted*, That in counting all votes of the said company, each member shall be allowed one vote for each share, as far as ten shares, and one vote for every five shares above ten, by him held at the time in the stock of said company.

XXI. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the subscribers.

XXII. *Be it further enacted*, That so soon as said rail road or rail roads or canal or canals shall be completed so far as the company may deem it expedient to extend the same, the president and directors of said company, or a majority of them, shall semi-annually declare and make such dividends

from the nett profits from the tolls herein granted as they may deem advisable, to be divided among the proprietors of the stock of said company in proportion to their respective shares.

XXIII. *Be it further enacted*, That after the said rail road shall be completed and put into operation, if the said president and directors shall, by reason of the said rail road being out of repair, or from any other cause, fail or neglect to transport any produce or other commodities, which shall be deposited convenient to said rail road, and which the said president and directors shall be required to transport as aforesaid, the toll for transportation being tendered, as a penalty for each failure or neglect, the company shall be liable to the party injured by such failure or neglect.

XXIV. *Be it further enacted*, That if any toll gatherer at any toll gate to be erected by authority of this act shall ask, demand or receive any other or greater tolls than are herein allowed, he shall forfeit and pay to the party aggrieved thereby two dollars for each and every such offence, recoverable with cost by warrant before any justice of the peace; and if such toll gatherer, being at the time of incurring such penalty in the service of the company, shall be unable to pay the judgment recovered against him, the said company shall be liable to pay the same.

XXV. *Be it further enacted*, That if the said president and directors shall not begin the said work within two years after the passage of this act, or shall not complete forty miles thereof within six years thereafter, then the interest of said company in the said rail road and the tolls aforesaid shall be forfeited and cease.

XXVI. *Be it further enacted*, That the president and directors shall cause to be written or printed certificates for the shares of the stock in said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for every share subscribed by him; which certificate shall be transferrable by him, subject, however, to all payments due thereon; and such assignee having first caused the transfer or assignment to be entered in a book to be kept by the company for that purpose, shall thenceforth become a member of said company, and shall be liable to pay all sums due, or which shall become due upon the stock assigned to him: *Provided, however*, that such assignments shall in no wise exempt the assignor or his representatives from their liability to the said company, for the payment of all such sums, if the assignee or his representatives shall be unable or shall fail to pay the same.

XXVII. *Be it further enacted*, That if the said president and directors, or a majority of them, cannot agree with the proprietors for the purchase and sale of any such quantity of ground, not exceeding one acre at any one place, as may be necessary for a toll house or a house to cover any stationary engine, or for any other necessary purpose, it shall and may be lawful for the president and directors to file a petition in the Court of Pleas and Quarter Sessions of the county in which the land lies against the proprietor of the land, setting forth the circumstances; and upon its being made to appear to the satisfaction of said court that the said president and directors have caused the proprietors of such land to be notified ten days before court, the said court shall order the sheriff to summon a jury of good and lawful men, who, after having taken an oath (which oath the sheriff or his deputy is hereby authorised to administer) that they will assess the damages which such proprietor will sustain by reason of the condemnation of such land, shall assess the amount the petitioners ought to pay to such proprietor; and the

said jury in assessing such damages shall take into the estimate the benefit resulting to said proprietor from conducting such rail road or canal through or near the lands of said owner or proprietor, but only in extinguishment of damages; and upon payment of the value found by the jury upon any such proceedings to the proprietor of the ground so condemned by the jury, or upon payment thereof into court when for good cause shown the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned in fee simple.

XXVIII. If any person or persons shall wilfully by any means whatsoever injure, impair or destroy any part of the rail road or canal or canals constructed by authority of this act, or any of the necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the laws which may be in force in this State at the time for the protection of the public works or property of the State.

XXIX. *And be it further enacted,* That the corporation shall exercise the corporate powers hereby granted for ninety years, and no longer, without renewal of the charter.

XXX. *And be it further enacted,* That full right and privilege is hereby reserved to the State, or to any company hereafter to be incorporated under the authority of this State, to connect with the road hereby provided for any other rail road leading from the main route to any part or parts of this State: *Provided,* that in forming such connexion no injury shall be done to the works of the company hereby incorporated.

XXXI. *And be it further enacted,* That such compensation shall be made from time to time, to any of the officers, servants or agents of the company, as the proprietors in general meeting shall prescribe, or may authorise the president and directors to allow.

CHAPTER LXXVII.

An act to incorporate the North Carolina Centre and Seaport Rail Road Company.

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 it shall and may be lawful to open books in the town of Beaufort, in the county of Carteret, under the direction of Jechonias Pigot, Jonas Mace, Francis L. King and John F. Jones, or any three of them; at the town of Swansborough, in Onslow county, under the direction of William P. Ferrand, Luke Huggins, Bazil Hawkins and George A. Thompson; at Onslow Court House, under the direction of James Thompson, Edward S. Jones, John A. Averett and John B. Thompson; at Trenton, in Jones county, under the direction of Hardy Bryan, Edmund Hatch, Samuel H. Simmons and Owen B. Cox; at Kinston, in Lenoir county, under the direction of William D. Mosely, Needham Whitfield, John C. Washington, Isaac Croom, Jr. or any three of them; at Snow Hill, in Greene county, under the direction of Jesse Speight, Charles Edwards, Tillman Holliday and William Williams, (clerk); at Newbern, under the direction of William Gaston, John Washington, John H. Bryan and John W. Guyon, or any three of them; at Stantonburg, in Edgecombe county, under William Stewart, Arthur Speight, Patrick S. Cromwell and William Pratt; at Waynesborough, in Wayne county, under the direction of Richard Washington, Arnold Borden, Nicholas Washington and James Whitfield; at Smithfield, in Johnston county, under John McLeod, James H. Smith, David Thompson and

James Frelick; at the city of Raleigh, under David L. Swain, Henry Seawell, James Iredell, Gavin Hogg, George E. Badger, William Boylan, George W. Mordecai and Augustus Mordecai, or any three of them; and at such places, and under the direction of such persons, as any three of the commissioners herein before named to superintend the receiving of subscriptions at Raleigh shall direct, for the purpose of receiving subscriptions to an amount not exceeding one million of dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of making a rail road, with the single or double track, to commence at some point on, or in the immediate neighborhood of the waters of Beaufort harbour, to the city of Raleigh, or to the point at which the said rail road shall intersect the rail road projected between Wilmington and Raleigh; which route, from Beaufort harbour to Raleigh, or to said point, shall be determined on by the company hereby incorporated. The times and places for receiving subscriptions, as above, shall be advertised in the manner deemed most proper by the commissioners; and the books for receiving the same shall be kept open at least sixty days; and if it shall appear that more than the amount of stock shall have been subscribed for upon the books, it shall be the duty of the said commissioners, or any five of them, to reduce the number of shares subscribed for by each individual, in fair and equal proportions, until the whole number of shares shall be reduced to ten thousand: *Provided*, that no reduction shall be made upon subscriptions not exceeding two shares; but should the whole amount of ten thousand shares not be subscribed for at the end of sixty days, then the books shall be kept open until the whole amount of ten thousand shares shall have been subscribed for: *Provide*^d, however, that as soon as two thousand shares shall be subscribed, and the company incorporated, the books shall thereafter be opened under the direction of the company.

II. *Be it further enacted*, That at the expiration of sixty days after the books are opened, should there be two thousand shares or more subscribed upon the books, then the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, under the name and style of "the Centre and Seaport Rail Road Company;" and in that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and may make all such bye laws and regulations (not inconsistent with the constitution and laws of the land) as may be necessary for the well ordering and governing of the said corporation.

III. *Be it further enacted*, That upon every share subscribed, there shall be paid at the time of subscribing, by the person subscribing, the sum of two dollars, to the commissioners authorised to receive the subscriptions, and the residue thereof shall be paid in such instalments and at such times as the president and directors of the company may require. The said commissioners, and all persons holding money paid on subscriptions of stock, shall forthwith, after the election of president and directors of said company, pay over all moneys in their hands belonging to the company; and upon failure thereof, the president and directors may recover the amount due from them, or any one or more of them, by motion, on ten days' previous notice in writing, in the Superior or County Court of any county wherein such commissioner or commissioners, their executors or administrators may reside.

IV. *Be it further enacted.* That when three thousand shares or more of the stock shall be subscribed, public notice may be given by any three or more of the commissioners, who shall call a general meeting of the subscribers, giving thirty days' notice in some one or more of the newspapers of the city of Raleigh, at such time and place as they may name in said notice; to constitute any such meeting, a number of persons constituting a majority of all the votes that can be given upon all the shares subscribed for, shall be present or represented by proxy; and should a sufficient number not attend, those present shall have power to adjourn, from time to time, until a majority of the shares subscribed shall be represented; those meeting shall then proceed (a majority of the stock being represented in the election) to elect a president and five directors, who shall hold their office until the next annual meeting of the stockholders, and until their successors in office shall be appointed; subject, nevertheless, to the provisions hereinafter mentioned. A general meeting of the stockholders shall be called annually, at which the election of president and directors shall take place; and where a vacancy shall occur by death, resignation or otherwise, the vacancy may be filled, for the time being, by the remaining president and directors; or if the presidency be vacant, the directors may fill as above. Any three or more of the directors may have power, in the absence of the president, to appoint one of their own body president *pro tempore*, and transact business: *Provided always*, that a majority of votes representing shares in said company, given at any time against any president or director of said corporation, shall vacate his office or appointment; and shall also have power to fill such vacancy until the next annual meeting of the stockholders.

V. *Be it further enacted.* That the president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining a rail road, to be located as aforesaid, with one or two tracks, as they or a majority of them may deem most expedient; also to make and construct all works whatsoever which may be necessary to the proper completion of said rail road. The said president and directors of the company shall have power to call on all the stockholders for a due and equal proportion of the amount subscribed by them to the capital stock of said company, in such sums and at such times as the president and directors may deem proper and right, by giving one month's notice of such call in two newspapers in the city of Raleigh. The president and directors shall have power to appoint a treasurer, clerk and all other officers that they may deem necessary and proper to aid and assist in managing and prosecuting said work, and to fix their compensation, and take such bonds with security for performance of duty, as they may prescribe. If any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published in Raleigh, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attend-

ing the sale, then the president and directors, or a majority of them, may recover the balance of the original proprietor, or his assignee, or the executor or administrator or either of them, by motion, on ten days' notice, before the court of the county of which he is an inhabitant, by warrant before a justice of such county; and any purchaser of the stock of the company under the sale of the president and directors, shall be subject to the same rules and regulations as the original proprietor was. The said president and directors of the company shall have power to make contracts with any person or persons for any work to be done upon or for said road, in such a manner and under such rules and regulations as they may deem proper and right; and all such contracts and agreements made by the company, or their legal agents, with any person or persons, shall be binding on the individual or individuals making them and also on the company. The president and directors, their officers and agents shall have full power and authority to enter upon all lands and tenements through which they may judge it necessary to make the said rail road, and to lay out the same according to their pleasure, so that neither the dwelling house, yard, garden or curtilage of any person be invaded without his consent. If the president and directors cannot agree with the owner of the lands upon the terms upon which the said rail road shall be opened through it, it shall be lawful for them to apply to the court of the county in which the land or any part thereof lies; and upon such application, it shall be the duty of the court to appoint five discreet and disinterested freeholders to assess the damages to such lands which will result from opening the said rail road through it. No such appointment, however, shall be made, unless ten days' previous notice, in writing, of the application, shall have been given to the owner of the land, or to the guardian, if the owner be an infant or non compos mentis, if such owner or guardian can be found within the county; or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month in some public newspaper published at Raleigh. A day for the meeting of the freeholders to perform the duties assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time, until the business shall be finished: of the five freeholders so appointed, any three or more of them may act, after having been sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their abilities, ascertain the damages which will be sustained by the proprietor of the land from opening said rail road through the same; and that they will truly certify their proceedings thereupon to the court of said county; and on the affirmance of the report, either the company or owner or owners of the land may, on giving security for the cost, crave and have an appeal to the Superior Court of Law, and an issue of quantum damnificatus shall be made up and tried at bar and in the Superior Court; the trial of the issue shall be at the return term of the appeal, unless cause be shown on affidavit for a continuance; and unless a new trial of the issue be granted, the finding of the jury shall be final and conclusive; and the court shall give judgment thereupon as in other cases; and on the appeal, either party may apply to the clerk of the court for writs of subpoena for witnesses, returnable to the Superior Court; and it is hereby declared such clerk shall have full power to issue such writs.

VI. It shall be the duty of the said freeholders, in pursuance of the or-

der appointing them, to assemble on the land through which the rail road is to be opened, and after viewing the same and hearing such proper evidence as either party may offer, to ascertain, according to their best judgment, the damages which the owners of the land will sustain by opening the rail road through the same; they shall take into consideration the quality and quantity of the land which the rail road will occupy, the additional fencing or gates which will be required thereby, and all other inconveniences which will result to the said land from the opening of said rail road; and shall combine therewith a just regard to the advantages which the owner of the land will derive from opening the rail road through the same.

VII. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings under their hands and seals, in substance as followeth: "We,

freeholders, appointed by an order of the court of _____ for the purpose of ascertaining the damages which would be sustained by the proprietor of certain lands in said _____ through which the Centre and Seaport Rail Road Company propose to open a rail road, do hereby certify that we met together on the land aforesaid on the _____ day of _____ the day appointed for that purpose by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order, as the case may be;) and that having first been duly sworn, or affirmed, and having viewed the premises, we proceeded to estimate the quantity and quality of the land aforesaid which would be occupied by the said rail road, the quantity of additional fencing or gates which would probably be occasioned thereby, and all other inconveniences which seemed to us likely to result therefrom to the said land; that we combined with these considerations, as far as we could, a just regard to the advantages which would be derived by the proprietor of said land from the opening of the aforesaid rail road through the same; that under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid at the sum of _____ dollars. Given under our hands and seals, this _____ day of _____." At the foot of the report so made, the magistrate before whom the said freeholders were sworn or affirmed shall make a certificate in substance as followeth: "_____ county, to wit: I _____ a justice of the peace for said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn, or affirmed, before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named _____ from the opening of the above mentioned rail road through his lands, and that they would certify truly their proceedings thereupon to the court of the said county. Given under my hand, this _____ day of _____." The report of the freeholders so made, together with the certificate of the magistrate aforesaid, shall be forthwith returned by said freeholders to the court of said county; and unless good cause be shown against the report, it shall be affirmed by the court and entered on record; but if the report should be disaffirmed, or the said freeholders, being unable to agree, should report their disagreement, or if, upon any other cause, they should fail to make a report within a reasonable time after their appointment, the court may at its discretion, as often as may be necessary, supercede them or any of them, appoint others in their stead, and direct another view and report to be made in the man-

ner above prescribed. On the affirmance of any such report, and of payment or tender of payment of said damages into court, when for good cause shown the court shall so have ordered it, the president and directors shall be at liberty to open said rail road upon the ground viewed and assessed by the freeholders aforesaid.

VIII. Whenever it shall become necessary to subject the lands of individuals to the use of said company in opening and constructing the said rail road through the same, and the consent of the proprietor or proprietors cannot be obtained, it shall be lawful for the president and directors of the said company, and for their superintendents and agents, contractors, laborers and servants, to enter upon such lands and proceed in opening and constructing the said rail road through the same. The pendency of any proceedings in court, or before assessors or valuers, to ascertain the damages that will be sustained by the proprietor or proprietors of such land from opening and constructing the said rail road through the same, shall in no manner hinder or delay the progress of the said work; the true intent and meaning of this act being that all injury which may be done to any land without the consent of the proprietor or proprietors of such, shall be fully and completely compensated for in damages when assessed: such damages, when ascertained by a confirmation of the report of the assessors or valuers, by the respective County Courts, if they be not paid to the party or parties entitled to the same, nor into the court by the company, during the term at which the report shall be confirmed, the clerk of the court shall, at any time after the adjournment of the court, on application of the parties entitled to said damages, or his or their attorney, issue execution for the amount of the said damages against the said company.

IX. If the president and directors of said company shall not obtain the consent of the proprietor or proprietors of land through which they purpose to open and construct the said rail road, and shall apply to the said County Court to procure assessors or valuers to be appointed to ascertain the damages which will result to the proprietor or proprietors of any land from opening and constructing the said rail road through the same, within forty days from the time the said president and directors, their superintendents, agents, contractors, laborers or servants, shall commence opening and constructing said rail road through such land, then it shall be lawful for the proprietor or proprietors of such land, at any time previous to an application for the appointment of valuers being made by the said rail road company, giving the said company ten days' previous notice, in writing, by serving the same on the president or any one or more of the directors of said company, to apply to the said county court; and upon such application it shall be the duty of said county court to appoint five discreet and disinterested freeholders, to assess the damages that will result to the proprietor or proprietors of such land from opening and constructing the said rail road through the same, who shall be qualified in the same manner, and shall upon the same principle, and in the same manner in all respects proceed to assess and report to the court the damages that will result to the proprietor or proprietors of such land, by opening and constructing the said rail road through the same, as if they had been appointed on motion of the said company; and if the said company shall not pay to the proprietors of such land, nor into the said court, the damages assessed during the term of the said court at which the report thereof shall be confirmed, at any time af-

After the adjournment of the court, on the like application, the clerk shall issue execution for the amount. There shall be an appeal to the Superior Court in like manner as on the proceeding where the company are plaintiffs under this act.

X. Whenever in the construction of said rail road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors of the said company so to construct the said rail road across any road or way already or hereafter to be established by law, as not to impede the passage or transportation of persons or property along the latter; and where it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual proper wagon ways across the said rail road.

XI. The said president and directors, or a majority of them, shall have power to purchase with the funds of said company and place on the rail road, constructed by them under this act, machines, wagons, vehicles, and carriages and teams, of any description whatsoever, which they may deem necessary or proper for the purposes of transportation.

XII. All machines, wagons, vehicles and carriages purchased as aforesaid with the funds of the company, and all their works constructed under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the company forever, in proportion to their respective shares; and the shares shall be personal property, and on the death of the stockholder shall go to his executor.

XIII. So soon as a section of ten miles of said road be completed, and as often thereafter as any other section of like length shall be completed, the said president and directors shall transport all produce or other commodities, that shall be deposited convenient to the said rail road, and which they shall be required to transport, to any point to which the said rail road may have been completed, in the order in which the company shall be required to transport the same, after it shall have been deposited convenient to the said rail road, so that equal and impartial justice shall be done to all the owners of produce or other commodities in the transportation thereof by the company: *Provided*, the owners of the produce or other commodities required to be transported by the said company on the said rail road, shall pay or tender to the said company, at their toll gates, the toll due on such produce or other commodities; and it shall be lawful for the president and directors of said company, and they are hereby authorised to erect, on such section or sections, a toll gate or gates; and they shall be entitled to demand and receive a sum not exceeding twelve and a half cents per ton, or two thousand pounds, per mile, for transporting produce or other commodities thereon; and for each passenger a sum not exceeding five cents per mile, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per cent. per annum interest thereon from the time the money was advanced by the stockholders until received back in the nett profits; but when the nett profits received as aforesaid by the tolls aforesaid, shall have amounted to a sum equal to the capital stock expended as aforesaid, then the toll which the said president and directors shall be entitled to demand and receive for the transportation of produce or other commodities, on the said rail road, shall be fixed and regulated from time to time by the president and directors of said company, so as to make them sufficient in their estimation to yield a nett

profit equal to ten per cent. per annum on the capital stock expended in making and completing the said rail road, over and above what may be necessary for the repairs and renewal of the same. The president and directors of the said company shall, at the end of each year, report to the Board of Public Works or Internal Improvement, if there be any such board, or, otherwise, to the Legislature, a statement showing the whole amount of capital stock expended in the construction of the said rail road, the amount of tolls received during each year, and the nett annual profit or loss on the capital expended.

XIV. That each stockholder in said company shall be entitled to one vote for each share by them held, as far as ten shares; and one vote for every five shares afterwards: *Provided, however*, that no stockholder shall be entitled to more than thirty votes.

XV. The president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the subscribers.

XVI. So soon as the first ten miles of said road shall be completed, the president and directors of said company or a majority of them may declare and make such dividend of the nett profits from the tolls herein granted as they may deem advisable, to be divided among the proprietors of the stock of the said company in proportion to their respective shares, and so on for each ten miles so completed.

XVII. After the said rail road shall be completed and put into operation, if the said president and directors shall, by reason of said rail road being out of repair, or from any other cause, fail or neglect to transport any produce or other commodities which shall be deposited convenient to the said rail road, and which the said president and directors shall be required to transport as aforesaid, the toll for the transportation being tendered, as a penalty for such failure or neglect, the company shall be liable to the action of the party injured by such failure or neglect: *Provided*, it shall not be required of the said president and directors to transport more produce or other commodities or passengers than the cars or other vehicles of the company in ordinary use are capable of conveying, when in good order.

XVIII. And if any toll gatherer, at any toll gate to be erected by authority of this act, shall ask, demand or receive any other or greater tolls than are herein allowed, he shall forfeit and pay to the party aggrieved thereby twenty dollars for every such offence, recoverable, with costs, by warrant before any justice of the peace; and if such toll gatherer, being at the time of incurring such penalty in the service of the company, shall be unable to pay the judgment thereupon recovered against him, the said company shall be liable for the same.

XIX. If the president and directors shall not begin the said work within two years after the passage of this act, or shall not complete the same, or one tract, from the waters of Beaufort harbour, as before mentioned, to the city of Raleigh or point before mentioned, within twenty years thereafter, then the interest of the said company in this charter, as far as respects the unfinished part of the route, shall be forfeited and cease.

XX. The president and directors shall cause to be written or printed certificates for the shares of the stock in said company; and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for every share subscribed by him, which certificate

shall be transferable by him; subject, however, to all payment due or to become due thereon; and such assignee, having first caused the transfer or assignment to be entered in a book of the company to be kept for that purpose, shall thenceforth become a member of said company, and shall be liable to pay all sums due upon the stock assigned to him: *Provided, however,* that such assignment shall in no wise exempt the assignor or his representatives from their liability to the said company for the payment of all such sums as were due at the time of the assignment, if the assignor or his representatives shall be unable or shall fail to pay the same.

XXI. If the president and directors, or a majority of them, cannot agree with the proprietors for the purchase and sale of any such quantity of ground, not exceeding three acres at any one place, as may be necessary for a toll house, or a house to cover any stationary machine, engine, or for cars, stables, warehouses or offices, or any other use which the convenience of the rail road may require, it shall and may be lawful to, and for the said president and directors to enter upon the land, under the same restriction, and on the same conditions, as provided for in sections nine and ten; upon which proceedings, the land may be condemned; and upon payment of the value found by the assessors or valuer to the owner or proprietor of the land so condemned and located, or upon payment thereof into court, when for good cause the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground, so condemned and located, in fee simple.

XXII. *Be it further enacted,* That it shall be lawful for the said company to purchase lands from the proprietors at the point of commencement, or at any section or termination of said rail road, or its vicinity, not exceeding twenty acres at any one point, to be used by them for all necessary purposes of said rail road, or to be disposed of when by them it shall be deemed proper.

XXIII. If any person or persons shall wilfully, by any means whatsoever, injure, impair or destroy any part of any rail road constructed under this act, or any of their necessary works, building, machine, wagons, vehicles or carriages, such person or persons shall be punished according to the law which may be in force in this commonwealth at the time for the protection of the public works or property of the State; and shall be liable moreover for the amount of all damages which the said company may thereby sustain.

XXIV. This act, and every part and provision thereof, shall be subject to be altered, amended or modified by any future Legislature, as to them may seem necessary and proper, except so much thereof as prescribes the rate of compensation or tolls for transportation of produce or other commodities allowed to the said company, and except so much thereof as prescribes and allows the entry on lands for the construction of the said rail road: *And provided also,* that the right of property acquired by the said company, under this act, shall not be taken away or impaired by any future Legislature.

XXV. It shall not be lawful for any other company or person or persons whatever to travel upon or on the road of said company, or to transport persons or property of any description along the said road, without the license or permission of the president and directors of said company; and nothing herein contained shall be construed to prevent said company from making contracts for the transportation of the mail, upon such terms as may be agreed on between said company and the agents of the United States.

XXVI. *Be it further enacted*, That it shall be lawful for the Legislature, at any time hereafter, to authorize the construction of any other road or roads to join with the said road, at any place which they may designate.

CHAPTER LXXVIII.

An act to incorporate the Wilmington and Raleigh Rail Road Company.

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 it shall be lawful to open books in the town of Wilmington, under the direction of Edward B. Dudley, P. K. Dickinson, Robert H. Cowan, Aaron Lazarus, James Owen, William B. Meares, William P. Hort, Alexander McRae and James S. Green, or any five of them; and in the city of Raleigh, under the direction of Gavin Hogg, William H. Haywood, Charles L. Hinton, Johnson Busbee, Charles Manley, Alfred Jones, Willis Whitaker, Rufin Tucker, Weston R. Gales and E. P. Guion, or any five of them; and at any other places, under the direction of commissioners which may be designated by any three of the aforesaid commissioners at Wilmington, or any three of the commissioners at Raleigh, for the purpose of receiving subscriptions to an amount not exceeding eight hundred thousand dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by a rail road, from some point within the town of Wilmington, or in the immediate neighborhood of the said town, to the city of Raleigh, or in the immediate neighborhood of the said city, the route of which road shall be determined on by the company hereby incorporated. The time and places of receiving subscriptions as aforesaid shall be made public by an advertisement in some newspaper published at Wilmington, and a newspaper published at Raleigh; but the said commissioners and deputy commissioners shall keep open the said books at least sixty days at each place of opening them; and at the time to be fixed by the commissioners at Wilmington for that purpose, it shall be the duty of all the said commissioners and their deputies to make return to the said commissioners at Wilmington of the subscriptions by them taken respectively; and if it shall appear that three hundred thousand dollars, or any larger sum, has been subscribed, the commissioners at Wilmington shall make it known by advertisement in the newspapers published there and in the city of Raleigh, and call a meeting of the subscribers at such time and place as they shall think fit, provided they shall give at least twenty days' notice of said meeting; but if the sum of three hundred thousand dollars shall not be subscribed for within the time first appointed, the commissioners at Wilmington and Raleigh, and at other places to be designated as aforesaid, shall again open the said books to receive further subscriptions, and keep them open until such time as they may deem proper and fit; and the like proceedings shall be adopted by the said commissioners and their deputies upon the re-opening of said books; as are required to be pursued upon the original or first opening of them; and if the whole amount of the capital or joint stock shall not be subscribed for upon either the first or second opening of the said books, then the books may be closed or continued open, as a majority of the commissioners at Wilmington may judge most beneficial, and for such a period of time as they may prescribe: *Provided, however*, that if upon the first or upon the second opening of the said books, the sum of three hundred

thousand dollars shall be subscribed for, the power to continue open the said books shall be transferred and vested in the subscribers to the said company, or the president and directors whom they shall appoint, and not in the commissioners.

II. *Be it further enacted*, That when three hundred shares shall be subscribed for in the manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a body politic or company, by the name and style of "the Wilmington and Raleigh Rail Road Company;" and in that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or a body politic in law; and may make all such rules, bye laws and regulations, not inconsistent with the constitution of the United States and this State, as shall be deemed necessary for the well ordering and conducting the affairs of the company.

III. *Be it further enacted*, That upon any subscription for stock in said company, there shall be paid two dollars on each share, at the time of subscribing, which payment shall be made to the commissioners receiving such subscriptions; and the residue thereof shall be paid in such instalments and at such time as may be required by the president and directors of said company. The commissioners and deputy commissioners appointed to receive subscriptions, shall forthwith, after the election of a president and directors of the company, pay over to the said president and directors all moneys received by them; and on failure thereof, the said president and directors may recover the amount due from them or from any one or more of them, by motion or by petition, in any County or Superior Court of the State; and if the sums are demanded by petition, the defendants shall answer on oath, and the suit whether by motion or petition shall be heard and determined at the first court: *Provided, however*, that in either case the defendants shall have been notified at least ten days before the court in which the motion is made or the petition filed.

IV. *Be it further enacted*, That when three hundred thousand dollars or more of the said stock shall be subscribed for, public notice of that event shall be given by any three or more of the commissioners at Wilmington, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time as they shall name in said notice. To constitute such meeting, or any general meeting of the stockholders, a number of persons holding a majority of all the shares shall be present, either in person or by proxy; and if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

V. *Be it further enacted*, That the proprietors of the stock, at the general meeting above directed, and every annual meeting thereafter, shall elect a president and ten directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president or any of the directors may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any called or general meeting. The president, with any five or more of the directors, shall constitute a board for the transaction of business; and if the office of president become vacant, the directors shall elect one of their own body pro tem.; and if there be a vacancy in the directory, the other directors may fill the vacan-

cy by electing a stockholder; and if the president shall at any time be absent from the board, the directors may, if five be present, appoint one of their own body to act as president during that meeting.

VI. *Be it further enacted*, That there shall be annual meetings of the proprietors of stock, at such times and places as the preceding general meeting have appointed. Proprietors may attend by proxy, under such rules as the bye laws prescribe: *Provided*, that in no case shall the president or any director vote under the authority of another stockholder; nor shall any officer or agent of the company be the proxy of a stockholder; and if there be any proxy which is jointly made to the president and another or others, or to any director and another or others, or to any other officer or agent of the company jointly with another or others, the proxy shall be void.

VII. *Be it further enacted*, That special meetings of the company may be called by the president and directors, or a majority of their board assembled; or it shall be called by the president whenever ten members of the company or more, owning together two hundred shares, shall require it: *Provided*, that public notice shall be first given of the time and place of the said meeting, and of the purpose for which it is called, unless the interest of the company requires that the cause of convening the meeting should not be published: *And provided*, that, either in person or by proxy, there shall be present at the meeting a number of persons owning together a majority of the stock.

VIII. *Be it further enacted*, That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining of a rail road to be located as aforesaid, and to begin at such point and prosecuted in such directions as the stockholders shall direct; and they may cause to be made and constructed for the said company all works whatsoever which may be deemed necessary or expedient to the successful and proper completion and enjoyment of said rail road. They may appoint a secretary and treasurer, and other officers, and take from them bonds and security for the faithful performance of their duties, which bonds shall be made payable to the company; but the salaries or other compensation of the said officers shall be regulated by the stockholders in general meeting. And during the intervals between the general meetings of the stockholders, the president and directors may transact all the business of the company, with the limitations herein before and hereafter stated.

IX. *Be it further enacted*, That the president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making said rail road and performing all other works respecting the same: *Provided*, they shall not make any contract with any member of the board of directors, nor with the president without the express assent of the stockholders being given to such a contract at a general meeting.

X. *Be it further enacted*, That at any general meeting of the stockholders, no person who has an individual interest in a question to be decided by them, shall be allowed to vote either for himself or as the proxy of another stockholder; and no person shall be elected a president or a director of the company, who does not own at least twenty shares of stock in the company; and if any person, after his election to the office of president or director, ceases to be the owner of so many shares, he shall thereupon

cease to be a president or a director of the company, and the vacancy shall be filled as heretofore provided for; nevertheless the stockholders may elect a president and directors who are not owners of twenty shares each, if it is done by the unanimous consent of those present at a general meeting.

XI. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him on his subscription by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, it shall and may be lawful for the said president and directors, without further notice, to move for judgment in the County or Superior Court of Wake or of New Hanover against the delinquent stockholder or his assignee, or both, for the amount of the instalment required to be paid, at any court held within one year after the notice, and the court shall give judgment accordingly; or they may sue for the same, in an action of assumpsit, or by warrant, according to the jurisdiction of the respective tribunals of the State; and in case of a warrant, there shall be no stay of execution; and it shall and may be lawful for the said president and directors, either without any such suit or after it, to sell at public auction, and convey to the purchaser, such share or shares of such stockholder so failing or refusing, giving however one month's notice of the time and place of sale, by advertisement in some newspaper published at the seat of government; and after retaining the sum due and all costs and charges of the suit or of the sale, or of both, out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the sale shall not produce the sum required to be advanced, with the incidental costs and charges aforesaid, the president and directors may recover the balance of the original proprietor or his assignee or executor or administrator, by notice in court as aforesaid; or if judgment has been already obtained, they may take out execution thereon for the balance due them; and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietor; and no sale by the original proprietor or his assigns, nor by the company, shall release the original proprietor from his obligation to the company to pay the whole amount of his subscription; but the president and directors may proceed against the original proprietor and his assigns, or the assignee of the original proprietor and his assigns, so that they do not exact full payment from both or any more than one.

XII. *Be it further enacted*, That the debt of a stockholder due to this company for stock therein, either as original proprietor or first or subsequent assignee, shall be considered as of equal dignity with judgments in the distribution of the assets of a deceased stockholder by his executor or administrator.

XIII. *Be it further enacted*, That it shall and may be lawful for the said company to purchase and hold, and to take by gift or devise all lands and other estate and property of any kind, to be by them used or improved, or resold and conveyed: *Provided*, the said property and estate are faithfully applied to the purposes and objects hereby intended to be effected; and they in general meetings and at other times, the president and directors for the time being are hereby authorised and empowered by themselves or their agents to exercise all the powers herein granted, and all such other powers and authority for the effectual prosecution of the undertaking hereby intended to be effected, and for the management of the affairs of the cor-

poration, not herein before granted, as may be necessary to carry into effect the object of this grant.

XIV. *Be it further enacted*, That if the president and directors aforesaid cannot agree with the owners of land through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall and may be lawful for the president and directors to file a petition, in the name of the company, in the Court of Pleas and Quarter Sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law for laying off public roads in said county; and upon the filing of said petition, the same proceedings shall be had as in cases of laying off public roads, excepting these, to wit: the president and directors, by themselves or by their agent, shall mark out the course of the road, and it may be wide enough to give the company sixty five feet clear on each side of the base of the road; and the jury in assessing the damage shall likewise assess the value of the benefits resulting to the owners of the land for the constructing of the road through or near the lands of the owner or owners of that which is marked out for the road, and the jury shall be sworn to act accordingly; and when the jury shall have assessed the damages to the owner or owners of the land through which the road is laid off, and also the value of the benefit resulting as aforesaid, it shall be returned to court, and final judgment entered accordingly for the damages assessed, which, however, shall be extinguished pro tanto by the value of the benefits resulting to the owner; and it shall be lawful for the company or the president and directors to pay the difference, if there be any, into the office of the clerk for the use of the owner or owners or his, her or their guardian, as the case may be, and thereupon, and also if there be no damage due, enter upon the land laid off, and construct their road or other improvements thereon, to make all necessary excavations and embankments and to hold the said land to their own use and benefit; and in all things have the same power over the said land so laid off, as though they owned the fee simple therein; *Provided*, that nothing in this act contained shall be so construed as to give power to said company to lay off said road through the yard, garden or burial ground, appurtenant to the mansion house of any person whatever, without the consent of the owner thereof, or his, her or their guardian, as the case may be.

XV. *Be it further enacted*, That the written consent of any owner or proprietor of any lands through which the said road is to be constructed, showing his, her or their agreement to the same, shall be valid and effectual to give the same power and authority over the lands covered by the road, and sixty-five feet on each side thereof as aforesaid, as if the same had been conveyed by a deed of bargain and sale, or condemned upon petition as aforesaid; and although the said lands may belong to a feme covert, the signing of such assent by her and her husband shall be as conclusive and effectual against her, as though she had been a feme sole, subject however to the proviso contained in the preceding section; and this assent shall be binding and conclusive though it be signed before the company is formed.

XVI. *Be it further enacted*, That when any wood, gravel, earth or stone shall be wanted for the construction or repairing of said road, and the president and directors cannot agree with the owners of the lands adjacent, as to the terms upon which they can procure the same, then it shall be lawful

for the president and directors, by themselves or agents or officers, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, earth or gravel so needed as aforesaid: *Provided*, that they shall not, without the owner's consent, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone, constituting any part of a fence or building; and when any gravel, stone, or earth shall be taken as in this act is provided, the president and directors may tender amends to the owner or proprietor; and if the owner or proprietor shall be dissatisfied with the amount, he may refuse it and file his petition against the company in any court of the county where the land lies, (first giving ten days' notice thereof to the president and directors) praying to have a jury summoned to go upon the land, view it and assess the damages he, she or they may have sustained thereby; upon which it shall be the duty of the court to order a jury as in laying off public roads; which jury shall go upon the land, and, after being duly sworn to do equal justice to all parties, they shall consider what damages the owners of the land shall have sustained; and, after assessing the same, shall return their proceedings to court; and if the court approve thereof, the damages so assessed shall be paid by the company; but if the court shall not approve thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess and make return to the court; and if the court shall approve thereof, the company shall pay the damages assessed; and if they do not pay it, judgment may be entered and execution may issue thereon as against other corporations: *Provided, however*, that the jury shall in all cases take into view the benefit which has resulted to the owner of the land by the construction and maintaining of the road: *Provided further*, that if the damages assessed by the jury are not more than the amount tendered by the company or its agent, (although the amount of the tender be not paid into court,) the petitioner shall not recover costs: *And provided further*, that either party not satisfied with the judgment of a County Court in such cases, may appeal therefrom to the Superior Court, upon giving bond and security, as in other cases of appeals.

XVII. *Be it further enacted*, That the president and directors, and all other officers and agents of the company, may enter upon the lands of any person or persons whatever, for the purpose of surveying a route for the said rail road and laying off the same; and they may mark or chop on the trees the courses laid off as aforesaid, so that they do not invade the dwelling or the yard or garden of any person or persons, without his, her or their consent.

XVIII. *Be it further enacted*, That if the president and directors of said company shall, without the consent of the owner, construct the said rail road over the lands of any person or persons before a condemnation of the same in the manner provided in the preceding section, it shall and may be lawful for the owner or owners of said lands to petition after the manner and according to the rules provided in the sixteenth section hereof, and not otherwise; and after the assessment of the damages to be paid, and the payment thereof, the property in the ground covered by the road and sixty five feet on each side thereof, measuring from the base of the said road, shall become to all intents and purposes vested in the company in fee simple; and if the owners of said lands shall bring any action of trespass against the company or any of its officers, or any other action but a petition as aforesaid, the defendants may give this act in evidence under the general issue, or upon a special plea; and it shall bar the said action or suit.

XIX. *Be it further enacted*, That it shall and may be lawful for the said president and directors to determine from time to time what instalments shall be paid on the stock subscribed; to purchase with the funds of the company, and place on the said rail road constructed by them, all machines, wagons, vehicles, carriages and teams of any description whatsoever, which may be deemed necessary and proper for the purposes of transportation; and all the property purchased by the said president and directors and that which may be given to the company, and the works constructed under the authority of this act, and all profits accruing on the said works, and the said property shall be vested in the respective shareholders of the company and their successors and assigns forever in proportion to their respective shares; and the shares shall be deemed personal property and the property of said company; and the shares therein shall be exempt from any public charge or tax whatsoever.

XX. *Be it further enacted*, That the stockholders of the said company may, at any general meeting, re open the books of subscriptions, under regulations to be prescribed by them, to increase the capital stock of said company until the whole capital of eight hundred thousand dollars is subscribed; or they may sell the stock remaining unsubscribed for, and the advance on the same above par shall belong to the proprietors of the stock originally subscribed; and in case the books are opened after a part of the road is completed and profits received thereon and expended on the road, the original subscribers shall be reimbursed out of the profits of the road the amount of profits that has been expended anterior to the last subscriptions, before any dividends of profits is made among all the stockholders.

XXI. *Be it further enacted*, That the stockholders in general meeting may, if they think fit, resolve to construct a branch or branches to the main road, to be connected with the main road at such point or points as they determine on, and to lead in such direction, and to such a point or points as they may think best; and in order that they may do so, the said stockholders are fully authorised to cause books to be opened for subscriptions to the said lateral road or branch of the main road; and the subscribers for stock shall be subject to all the rules previously made by the company, and become members of the company with this exception only, viz. that the stock subscribed by them shall be faithfully and honestly applied to the construction of that branch of the road for which they subscribed it; but the subscribers for the main road and the branches shall constitute but one company; and their rights of property and estate shall be in common and not separate: *Provided, however*, that the whole capital of subscribed stock shall not exceed one million of dollars.

XXII. *Be it further enacted*, That all the powers, rights and privileges conferred by the preceding sections upon the said company, in respect to the main road, and the lands through which it may pass, are hereby declared to extend in every respect to the said company, and the president and directors thereof, in the laying out, in the construction, and in the use and preservation of said lateral or branch roads.

XXIII. *Be it further enacted*, That it shall and may be lawful for the said company to construct a branch to the main road as aforesaid, under the restrictions aforesaid, so soon as the main road has reached the point at which the branch road is intended to be joined with the main road; but they shall not, under any pretence whatever, apply the funds of the company to

the construction of a lateral or branch road until the main road is completed, except they be subscriptions specifically made for the branch or lateral road.

XXIV. *Be it further enacted*, That no person shall have leave to connect or intersect with the said rail road or any of its branches, unless it shall be done by some company incorporated in this State; and in all such cases, the company intersecting shall erect the most approved and suitable apparatus for weighing the cars or other vehicles that are to be brought over the road intersected with; and if they fail to do so within a reasonable time after a request made of them, the company omitting this shall forfeit and pay to the other company two hundred dollars, to be recovered by action of debt before any court of record in this State; and shall be liable moreover to pay the cost of such an apparatus after it is put up by this company, which shall be recoverable by an action on the case brought before any court of record in this State: *Provided, however*, that the General Assembly shall not grant this right to intersect with this road to any company who shall build a road less than twenty miles long on one side of this road.

XXV. *Be it further enacted*, That where a branch or lateral road to the main road is shorter than twenty miles, no other person or company shall be authorized or empowered to build a rail road from any point near its termination, so as to intersect with this main road in order to injure this company.

XXVI. *Be it further enacted*, That so soon as ten miles of said rail road shall be completed, and as often thereafter as any other section of like length shall be completed, the said company or the president and directors may transport all produce or other commodities that shall be deposited convenient to the said road for that purpose, and which they may be required to convey to any point on said road; and it shall be lawful for the said president and directors or the company aforesaid, and they are hereby authorised to erect a toll gate or toll gates on said roads at such points as they may choose; and they shall be entitled to receive and to demand the following rates, to wit: not exceeding four cents a mile for toll, and nine cents a mile for transportation per ton of 2000 lbs.; and for the transportation of passengers, not exceeding six cents per mile for each passenger, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per cent. per annum interest thereon from the time the money was advanced by the stockholders until received back in the nett profits; but when the nett profits received as aforesaid from the tolls aforesaid shall have amounted to a sum equal to the capital stock aforesaid, with interest thereon as aforesaid, then the tolls which the said company or the president and directors shall be entitled to receive for the transportation of produce or other commodities on the said rail road shall be fixed and regulated from time to time by the president and directors of the company, so as to make them sufficient, in their estimation, to yield a nett profit equal to fifteen per cent. per annum on the capital stock of the company over and above what may be necessary for the repairs, improvement or renewal of the same, together with all other incidental expenses of the company; and it shall not be lawful for any other person or company whatever to travel along or upon the said road or any part thereof, or use it or any part thereof for transportation of produce or otherwise, without the license or permission of the president and directors; but nothing herein contained shall be so construed as to prevent the said company from making a contract for the transportation of the mail upon such terms as may be agreed on between said company and the agents of the United States.

XXVII. *Be it further enacted*, That it shall be lawful for the said company, in the construction of said road, to intersect or cross any public or private way established by law; and it shall be lawful for them to run their road along the route of any of said roads: *Provided*, that whenever they intersect or cross the said public or private roads, the president and directors shall cause the rail road to be so constructed as not to impede the passage of travellers on the public road or private way aforesaid; and whenever the rail road runs over and along with such public common road or way, the president and directors shall cause the new common road (which shall be laid out by order of the County Court upon the petition of the said president and directors) to be opened at their expense; but the jury impanelled shall again take into view, in estimating the damages of the owners, the value to the said owner of having the rail road constructed through or near his lands.

XXVIII. *Be it further enacted*, That certificates of stock shall be issued under such regulations as the bye laws prescribe; and the shares of the company shall be transferrable according to such rules and upon such terms only as may be established by the company in general meeting.

XXIX. *Be it further enacted*, That it shall be lawful for the president and directors to erect warehouses and other necessary buildings for the use of the company, at convenient and eligible sites; they may also erect scales at the toll gates or elsewhere on the road, or at the ends of it, to weigh the produce or other commodities conveyed thereon.

XXX. *Be it further enacted*, That it shall and may be lawful for the president and directors, or the company hereby created, to borrow money for the objects of this act; and to make and issue all proper evidences of such loan and assurances for the repayment thereof.

XXXI. *Be it further enacted*, That in all meetings of the company each share shall be entitled to one vote: *Provided*, that the stockholders may, at any general meeting, establish a different scale of voting, if it shall be unanimously agreed to.

XXXII. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of stockholders, and at any other times when the company shall require it; and so soon as the rail road is completed, the said president and directors, or a majority of them, shall semi-annually make a dividend of the profits of the road among the stockholders; or, if they shall deem it advisable to do it, they may make such dividends of profits as are collected for tolls and transportation and all other resources of the company, before the whole is completed.

XXXIII. *Be it further enacted*, That if the said company shall not begin the said road, or some part thereof, in three years after the ratification of this act, they shall forfeit all the privileges conferred by this charter. If they shall have not completed the main road from Wilmington to Raleigh, in twelve years thereafter, then the company shall forfeit so much of the rights and privileges hereby created as confer upon the said company the power of extending the said road above the point at which it shall be then constructed; but they shall not forfeit their property and privileges in any manner as to so much of the road as they have completed: *Provided, however*, that the said company shall in good faith expend all their capital subscribed, in endeavoring to construct a rail road

along the whole of said route, and providing the necessary vehicles and fixtures for its use and enjoyment.

XXXIV. *Be it further enacted*, That if the president and directors shall be unable to agree with the proprietor for the purchase and sale of such quantity of ground, as may be necessary for the erection of a toll house or a house to cover stationary machines, or to protect engines and cars or other vehicles, together with stables, warehouses and offices, or for any other use which the convenience of the company shall require, it shall and may be lawful for the president and directors to file a petition in some court of the county where the land lies against the proprietor or proprietors, setting forth the circumstances; and upon its being made to appear in court that the said proprietor or proprietors have had ten days' notice of such application, the court shall direct a jury to be summoned to go upon the premises; which jury shall be sworn to do equal and impartial justice, and to assess the damage which the said proprietor will sustain by reason of the condemnation of such land; and they shall proceed to assess the amount the petitioners ought to pay to the proprietor; but in assessing said amount the jury shall take into the estimate the benefit resulting to said proprietor from constructing such rail road, and directing the works contemplated, on or near to the lands of the proprietor, but only in extinguishment of damages; and the said president and directors may afterwards pay the said assessment into court or not as they choose; if they do pay it, the company shall be seized of such land in fee; if they refuse to do it, they shall pay the costs; and the sheriff or his deputy or the coroner or his deputy, as the case may be, are hereby authorised to administer the said oath to the jury aforesaid.

XXXV. *And be it further enacted*, That it shall and may be lawful for the company hereby created so to construct all such bridges as it may be necessary for them to erect for the purposes of their rail road, as to afford general accommodation to all travellers; and to demand and receive, by themselves or agents or tenants, from all persons passing over and using such bridges, a reasonable toll, not however to exceed the highest rate of toll allowed by law on any bridge of this State: *Provided, however*, that no such toll shall be charged on the produce or persons or any commodities which are conveyed in the cars of the rail road.

XXXVI. *Be it further enacted*, That full right and privilege are hereby reserved to the State, or to any company hereafter to be incorporated by their authority, to connect with the road hereby provided for, any other road leading from the main route to any part or parts of this State, so that in forming such connection no injury shall be done to the works of the company hereby incorporated.

XXXVII. *Be it further enacted*, That if any person or persons shall wilfully, by any means whatever, injure, impair or destroy any part of the road constructed by the authority of this act, or any of the works, buildings, machines, wagons, vehicles, carriages or other property of the company, such person or persons shall be liable to indictment, and upon conviction he, she or they shall be fined and imprisoned at the discretion of the court, not exceeding a fine of one thousand dollars and one year's imprisonment; and be liable moreover to the action of the company for damages, by an action on the case, in any court of record in this State.

XXXVIII. *Be it further enacted*, That this act shall be in force from

and after the ratification thereof; and all laws and clauses of laws, coming within the meaning and purview of this act, shall be, and the same are hereby repealed.

CHAPTER LXXIX.

An act supplementary to an act, passed in the year one thousand eight hundred and thirty-two, entitled "an act to enact, with sundry alterations and additions, an act entitled 'an act to incorporate the Portsmouth and Roanoke Rail Road Company,' passed by the Legislature of Virginia on the eighth day of May, one thousand eight hundred and thirty-two."

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 president and directors of the Portsmouth and Roanoke Rail Road Company be, and they are hereby authorised to subscribe a sum not exceeding thirty thousand dollars to the Weldon Toll Bridge Company, to construct a rail road on said bridge, with the consent of the said toll company, and to continue the same to the basin of the canal in the town of Weldon; and it shall be lawful for the said company to acquire and hold in fee simple such a quantity of land on or near the said basin, not exceeding ten acres, as may be necessary for the purposes of said company, and to dispose of such part thereof as the said company may deem proper.

II. *Be it further enacted by the authority aforesaid,* That the said company shall have full power and authority, in addition to produce and other commodities, to transport the mail and passengers on their rail road, at such rates for the transportation of the mail as they may agree for, and at a rate not exceeding six cents per mile for each passenger: *Provided,* that it shall not be incumbent on the company to put down passengers at any other than their regular stopping places or stands, in the line of their rail road.

III. *Be it further enacted by the authority aforesaid,* That the president and directors aforesaid be, and they are hereby authorised, at those points on the line of their rail road between the Roanoke river, in this State, and the Virginia State line, where they may deem it important for the better accommodation of the trade and business of their said rail road, to purchase from the proprietor land, not exceeding ten acres at any one point, to be used by them for the establishment of depots and warehouses and for other necessary purposes of said road, or to be disposed of when by them it shall be deemed proper.

IV. *Be it further enacted by the authority aforesaid,* That it shall be lawful for the said president and directors to charge for the storage of produce, merchandize and other articles, at such warehouses as they may find it necessary to construct, rates not exceeding the customary warehouse rates in the seaport towns of this State.

V. *Be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully, by any means whatsoever, injure, impair, or destroy any part of this rail road, or any of the necessary works, buildings, machines, wagons, vehicles or carriages belonging to the said company, he or they shall forfeit and pay the company five times the actual damages so sustained, to be sued for and recovered, with full costs, before any tribunal having cognizance of the same, by action of debt, in the name and for the use of the said company.

VI. *Be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully and with evil intent place or cause to be placed in the aforesaid line of the said rail road any obstruction or impediment,

so as to jeopardize the safety and endanger the lives of persons travelling on said rail road, he, she or they shall be deemed guilty of an indictable misdemeanor, and upon conviction thereof in either the County or Superior Court of the county in which such offence may have been committed, shall be punished by fine and imprisonment, or either, at the discretion of the court.

VII. *Be it further enacted by the authority aforesaid*, That nothing herein contained shall prevent the company from pursuing any other remedies, and enforcing any other penalties, provided by law and their act of incorporation, for trespasses on their property.

VIII. *Be it further enacted by the authority aforesaid*, That this act shall be in force from and after the passage thereof.

CHAPTER LXXX.

An act to amend an act, entitled an act to enact, with sundry alterations and additions, an act, entitled an act to incorporate the Petersburg Rail Road Company, passed by the Legislature of Virginia on the tenth day of February, one thousand eight hundred and thirty.

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 Petersburg Rail Road Company be, and they are hereby authorised to construct a lateral rail road, from the point at which their present line of rail road may be crossed by the Portsmouth and Roanoke rail road, or from such point in the neighborhood of the same, as they may deem most advisable, to the basin at Weldon; any thing in the act to which this is an amendment to the contrary notwithstanding.

II. *And be it further enacted*. That for the purpose of providing for the passage of said lateral rail road across the Roanoke river, should it be deemed advisable to construct said road to Weldon, the said Petersburg Rail Road Company be, and they are hereby authorised to subscribe such additional amount, not exceeding thirty thousand dollars, to the stock of the Weldon Toll Bridge Company, as may be requisite for increasing the width of the bridge, sufficiently to allow for the passage of said lateral rail road: *Provided however*, that if when the requisite amount of stock for the construction of said bridge, as authorised by acts of this General Assembly heretofore passed, shall have been subscribed for, and the requisite amount for widening said bridge as aforesaid shall have been ascertained by two competent persons, one to be appointed by each company herein mentioned, the said Petersburg Rail Road Company do not at once subscribe for said additional amount of stock, according to the rules and regulations specified in the act incorporating the Weldon Toll Bridge company, the privilege herein given of subscribing for said additional amount of stock shall cease; and nothing herein contained shall be so construed as to prevent said bridge company from procuring to construct said bridge in the same manner as if this act had never been passed.

III. *Be it further enacted*, That the same rights, privileges and immunities are hereby granted to the said Petersburg Rail Road Company, in the construction of said lateral rail road, as have been granted by the act to which this is an amendment; and the said company shall be subject to the same pains, penalties and obligations as are imposed by the said act, except that whenever it shall become necessary to subject the lands of individuals to the use of the said company, in opening and constructing the said lateral rail road through the same, and the consent of the proprietor or proprietors cannot be obtained, it shall be lawful for the president and

directors of the said company, and for their superintendents, agents and contractors, laborers and servants, to enter upon such lands and proceed in opening and constructing the said rail road through the same; the pendency of any proceedings in court or before a jury, to ascertain the damages that will be sustained by the proprietor or proprietors of such land from opening and constructing the said rail road through the same, shall in no manner hinder or delay the progress of said work; the true intent and meaning of this act being that all injury which may be done to any land, without the consent of the proprietor or proprietors thereof, by opening and constructing the said road, to the proprietor or proprietors of said land, shall be fully and completely compensated for in damages when ascertained; for such damages when ascertained by a confirmation of the report of the jury by the respective Courts of Pleas and Quarter Sessions, if they be not paid to the party or parties entitled to the same, or into the court by the company during the term at which the report shall be confirmed, execution may issue therefor as against other corporations: *Provided always*, that either party not satisfied with the sentence or decree of the County Court, may appeal therefrom to the Superior Court of Law for said county.

IV. This act shall be in force from and after its passage.

CHAPTER LXXXI.

An act to incorporate the Roanoke and Yadkin Rail Road Company.

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 it shall and may be lawful to open books, at any time before the first day of April next, in the town of Warrenton, under the direction of Peter R. Davis, James Somerville, Robert Stampfer, Daniel Torner, Dr. Joseph W. Hawkins and Henry Fittz; at Oxford, under the direction of Rhodes N. Herndon, Joseph H. Bryan, William M. Sneed, James Cooper and Thomas J. Hunt; at Hillsborough, under the direction of William Cain, junior, Dr. James S. Smith, Harrison Parker, Gabriel B. Lea, Michael Holt and John Caruthers; at Yancyville, under the direction of William A. Lee, George Williamson, James Kerr, Paul Harralson, Stephen Dodson and Quinton Anderson; at Greensborough, under the direction of Judithon Harper Lindsey, Daniel Clapp, Moses H. Mendenhall, Eli Smith, Abraham Geren and Henry Humphreys; at Rocksborough, under the direction of Stephen M. Dickens, John Barnett, William L. Allen, Portius Moore, Alexander Gordon; at Salem, under the direction of Emanuel Shober, John C. Blum, Charles F. Bagge, Frederick H. Shuman; at Rockford, under the direction of Peter Clingman, Meshac Franklin, Matthew M. Hughes, John Wright and Daniel W. Courts; at Lexington, under the direction of John A. Hogan, James Wiseman, William R. Holt, Absalom Williams, John Smith, Evander McIver and John Lee; at Salisbury, under the direction of Thomas L. Cowan, Maxwell Chambers, John Morphey, William F. Kelly, Robert McNamara, William Chambers and James Martin, junior; at Wentworth, under the direction of Thomas Settle, Robert Martin, William A. Carrigan, John Lawson and William Barnett; at Statesville, under the direction of Theophilus Falls, William F. Cowan, James Campbell, Joseph Chambers, Absalom K. Simonton; at Ashborough, under the direction of Benjamin Elliott, Jonathan Worth, Hugh McCain, George Hoover and Elisha Coffin; and at such other places, and under the direc-

tion of such other persons, as the six first named commissioners, or any three of them, may order or direct, for the purpose of receiving subscriptions to the amount of one million of dollars, to constitute a joint capital stock for the purpose of making a rail road from the town of Blakely or Weldon, upon the Roanoke, or such other place upon the river above said towns as may be fixed upon by the company by this act incorporated, to terminate at any point upon or west of the Yadkin river, in the State of North Carolina, if the corporators may wish to cross said river, to be selected by the company by this act created. The times and places for receiving subscriptions, as above, shall be advertised in the manner deemed most proper by the commissioners; and the books for receiving the same shall be kept open twenty days; and should it, at the expiration of the twenty days, appear that more than one million of stock shall have been subscribed for upon the books, it shall be the duty of the said commissioners, or any five of them, to reduce the number of shares subscribed for by each individual, in fair and equal proportions, until the whole number of shares shall be reduced to ten thousand: *Provided*, that no reduction shall be made upon subscriptions not exceeding two shares; but should the whole amount of ten thousand shares not be subscribed for at the end of twenty days from and after the first day of April next, then the books shall be kept open until the whole amount of ten thousand shares shall have been subscribed for: *Provided, however*, that as soon as one thousand shares shall be subscribed, and the company incorporated, the books shall thereafter be opened under the direction of the company.

II. *Be it further enacted*, That at the expiration of the twenty days after the books are opened, should there be one thousand shares or more subscribed upon the books, then the subscribers, their heirs, executors, administrators and assigns, shall be, and they are hereby declared to be incorporated into a company, under the name and style of the Roanoke and Yadkin Rail Road Company; and in that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and may make all such bye-laws and regulations as bodies politic and corporate are allowed to make within this State (not inconsistent with the constitution and laws of the land) that may be necessary for the well ordering and governing of the said corporation.

III. *Be it further enacted*. That upon every share subscribed, there shall be paid at the time of subscribing, by the person subscribing, the sum of three dollars, to the commissioners authorised to receive the subscriptions, and the residue thereof shall be paid in such instalments and at such times as the president and directors of the company may require. The said commissioners, and all persons holding money paid on subscriptions of stock, shall forthwith, after the election of president and directors for said company, pay over all moneys in their hands belonging to the company; and upon failure thereof, the president and directors may recover the amount due from them, or any one or more of them, by motion, on ten days' previous notice in writing, in the Superior or County Court of any county wherein such commissioner or commissioners, their executors or administrators may reside.

IV. *Be it further enacted*, That when one thousand shares or more of the stock shall be subscribed, public notice may be given by any three

or more of the commissioners, who shall call a general meeting of the subscribers, at the town of Warrenton, giving thirty days' notice in some one or more of the newspapers having in their opinion the greatest circulation in the section where the subscribers live, at such time as they may name in the said notice; to constitute any such meeting, a number of persons representing a majority of all the votes that can be given upon all the shares subscribed for, shall be present or represented by proxy; and should a sufficient number not attend, those present shall have power to adjourn, from time to time, until a majority of the shares subscribed shall be represented; those meeting shall then proceed, a majority of the stock being represented, to elect a president and five directors, who shall hold their office until the next annual meeting of the stockholders, and until their successors in office shall be appointed; subject, nevertheless, to the provisions hereinafter mentioned. Annually a general meeting of the stockholders shall be called within the state, at which the election of president and directors shall take place; and where a vacancy shall occur by death, resignation or otherwise, the vacancy may be filled, for the time being, by the remaining president and directors; or if the presidency be vacant, the directory may fill as above. Any three or more of the directors may have power, in the absence of the president, to appoint one of their body president *pro tempore*, and transact business: *Provided always*, that the proprietors of one fourth part of the stock of said company may at any time call a general meeting of the stockholders; and such meeting so called shall have power to remove any president or director, and to fill any vacancy occasioned by such removal; but no president or director shall be removed unless a number of votes representing a majority of shares of stock in said company be given against him: *And provided further*, that none but a resident citizen of this State shall be eligible to act as president and director.

V. *Be it further enacted*, That the president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair and maintaining a rail road, to be located as aforesaid, with as many sets of tracks as they or a majority of them may deem necessary and proper to be made; also to make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of the rail road. The said president and directors of the company shall have power to make contracts with any person or persons for any work to be done upon or for the said road, in such a manner and under such rules and regulations as they may deem proper and right; and all such contracts and agreements made by the company, or their legal agents, with any person or persons, shall be binding on the individual or individuals making them and also on the company. The president and directors shall have power to call on all the stockholders for a due and equal proportion of the amount subscribed by them to the capital stock of said company, in such sums and at such times as they, the president and directors, may deem proper and right, by giving one month's notice of such call in one or more newspapers printed in this State. The president and directors shall have power to appoint a treasurer, clerk and all other officers that they may deem necessary and proper to aid and assist in managing and prosecuting said work, and to fix their compensation, and take such bonds with security for performance of duty, as they may prescribe. If any stockholder shall fail to pay the sum required of him by the president

and directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published as aforesaid, it shall and may be lawful for the president and directors to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor, or his assignee, or the executor or administrator or either of them, by motion, on ten days' notice, before any court having jurisdiction thereof; and any purchaser of the stock of the company under the sale of the president and directors, shall be subject to the same rules and regulations as the original proprietor was. The president and directors, their officers, servants and agents shall have full power and authority to enter upon all lands and tenements through which they may judge it necessary to make the said rail road, and to lay out the same according to their pleasure, so that neither the dwelling house, yard, garden or curtilage of any person be invaded without his consent. If the president and directors cannot agree with the owner of the lands the terms upon which the said rail road shall be opened through it, it shall be lawful for them to apply to the court of the county in which the land lies; and upon such application, upon petition in writing, it shall be the duty of the court to appoint five discreet, disinterested and impartial freeholders to assess the damages to such land which will result from opening the said rail road through it; no such appointment, however, shall be made, unless ten days' previous notice, in writing, of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant or non compos mentis, if such owner or guardian can be found within the county; or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month in some public newspaper published at Raleigh. A day for the meeting of the freeholders to perform the duties assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time, until the business shall be finished: of the five freeholders so appointed, any three or more of them may act, after having been sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land from opening the said rail road through the same; and that they will truly certify their proceedings thereupon to the court of the said county.

VI. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land through which the rail road is to be opened, and after viewing the same and hearing such witnesses who may be qualified before a justice of the peace, as either party may offer, to ascertain, according to their best judgment, the damages which the owners of the land will sustain by opening the rail road through the same. In performing this duty, they shall take into consideration the quality and quantity of the land which the rail road will occupy, the additional fencing or gates which will be required thereby, and all other inconveniences which will result to the said land from the opening of the said rail road; and shall

combine therewith a just regard to the advantages which the owner of the land will derive from opening the rail road through the same.

VII. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings under their hands and seals, in substance as followeth: "We,

freeholders, appointed by an order of the court of _____ for the purpose of ascertaining the damages which would be sustained by the proprietor of certain lands in said county through which the Roanoke and Yadkin Rail Road Company propose to open a rail road, do hereby certify that we met together on the land aforesaid on the _____ day of _____ the day appointed for that purpose by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order, as the case may be;) and that having first been duly sworn, or affirmed, and having viewed the premises, we proceeded to estimate the quantity and quality of the land aforesaid which would be occupied by the said rail road, the quantity of additional fencing or gates which would probably be occasioned thereby, and all other inconveniences which seemed to us likely to result therefrom to the said land; that we combined with these considerations, as far as we could, a just regard to the advantages which would be derived by the proprietor of the said land from the opening of the aforesaid rail road through the same; that under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid at the sum of _____ dollars. Given under our hands and seals, this _____ day of _____." At the foot of the report so made, the magistrate before whom the said freeholders were sworn or affirmed shall make a certificate in substance as followeth: "_____ county, to wit: I _____ a justice of the peace for said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn, or affirmed, before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named _____ from the opening of the above mentioned rail road through his land, and that they would certify truly their proceedings thereupon to the court of the said county. Given under my hand this _____ day of _____." The report of the freeholders so made, together with the certificate of the magistrate aforesaid, shall be forthwith returned by the said freeholders to the court of said county; and unless good cause be shown against the report, it shall be affirmed by the court and entered on record; but if the said report should be disaffirmed, or the said freeholders, being unable to agree, should report their disagreement, or if, from any other cause, they should fail to make a report within a reasonable time after their appointment, the court may at its discretion, as often as may be necessary, supersede them or any of them, appoint others in their stead, and direct another view and report to be made in the manner above prescribed. On the affirmation of any such report, and on payment or tender of payment of said damages into court, when for good causes shown the court shall so have ordered it, the president and directors shall be at liberty to open the said rail road upon the ground viewed and assessed by the freeholders aforesaid.

VIII. Whenever it shall become necessary to subject the lands of individuals to the use of the said company in opening and constructing the said rail road through the same, and the consent of the proprietor or proprie-

tors cannot be obtained, it shall be lawful for the president and directors of the said company, and for their superintendents and agents, contractors, laborers and servants, by order of said company, to enter upon such lands and proceed in opening and constructing the said rail road through the same. The pendency of any proceedings in court, or before assessors or valuers, to ascertain the damages that will be sustained by the proprietor or proprietors of such land from opening and constructing the said rail road through the same, shall in no manner hinder or delay the progress of the said work; the true intent and meaning of this act being that all injury which may be done to any land without the consent of the proprietor or proprietors thereof by opening and constructing the said rail road through the same, over and above the advantages of the said road to the proprietor or proprietors of such land, shall be fully and completely compensated for in damages when assessed. For such damages, when ascertained by a confirmation of the report of the assessors or valuers, by the respective County Courts, if they be not paid to the party or parties entitled to the same, or into the court by the company, during the term at which the report shall be confirmed, the clerk of the court shall, at any time after the adjournment of the court, on application of the parties entitled to the said damages, or his or their attorney, issue execution for the amount of the said damages against the said company.

IX. *Be it further enacted*, That the president and directors, for the purpose of making the said rail road, or of repairing the same after it shall have been made, shall also be at liberty by themselves, their officers, agents or servants, at any time, to enter upon any adjacent lands and to cut, quarry, dig, take and carry away therefrom, any wood, stone, gravel or earth, which they may deem necessary: *Provided, however*, that they shall not, without the consent of the owner, cut down any fruit tree or trees preserved in any lot or field for shade or ornament, nor take any timber, gravel, stone or earth constituting any part of any fence or building. For all the wood, stone, gravel or earth, taken under authority of this act, and for all incidental injuries done to the enclosures, crops, woods or grounds, in taking or carrying the same away, the said president and directors shall make the owner a fair compensation, to be ascertained, if the parties cannot agree, by any three impartial and disinterested freeholders, who, being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn or affirmed by the justice, and shall then ascertain the compensation, upon their own view, for the wood, stone, gravel or earth taken, and for the injury done as aforesaid in taking them; of all which proceedings the president or chief engineer of the company shall have at least five days' notice, in writing; and either party dissatisfied with their award thus made, may take an appeal to the next Court of Pleas and Quarter Sessions of the county where the land lies.

X. If the president and directors of the said company shall not obtain the consent of the proprietor or proprietors of land through which they propose to open and construct the said rail road, and shall apply to the County Court to procure assessors or valuers to be appointed to ascertain the damages which will result to the proprietor or proprietors of any land from opening and constructing the said rail road through the same, within forty days from the time the said president and directors, their superintendents, agents, contractors, laborers or servants, shall commence open-

ing and constructing the said rail road through such land, then it shall be lawful for the proprietor or proprietors of such land, at any time previous to an application for the appointment of valuers being made by the said rail road company, giving the said company ten days' previous notice, in writing, by serving the same on the president or any one or more of the directors of said company, to apply to the said county court; and upon such application it shall be the duty of the said county court to appoint five discreet, disinterested and impartial freeholders, to assess the damages that will result to the proprietor or proprietors of such land from opening and constructing the said rail road through the same, who shall be qualified in the same manner, and shall upon the same principle and in the same manner in all respects proceed to assess and report to the court the damages that will result to the proprietor or proprietors of such land, by opening and constructing the said rail road through the same, as if they had been appointed on motion of the said company; and the said court shall proceed upon the said report, and confirm or set the same aside and appoint other assessors or valuers, in all respects as if the same had been made by assessors or valuers appointed on motion of the said company; and if the said company shall not pay to the proprietors of such land, or into the said court, the damages assessed during the term of the said court at which the report thereof shall be confirmed, at any time after the adjournment of the court, on the like application, the clerk shall issue execution for the amount.

XI. Whenever in the construction of the said rail road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors of the said company so to construct the said rail road across any road or way already or hereafter to be established by law, as not to impede the passage or transportation of persons or property along the latter; and where it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual proper wagon ways across the said rail road.

XII. The said president and directors, or a majority of them, shall have power to purchase with the funds of the said company and place on the said rail road, constructed by them under this act, machines, wagons, vehicles, carriages and teams, of any description whatsoever, which they may deem necessary or proper for the purposes of transportation.

XIII. All machines, wagons, vehicles and carriages purchased as aforesaid with the funds of the company, and all their works constructed under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective shareholders of the company forever, in proportion to their respective shares.

XIV. So soon as a section of ten miles of the said rail road shall be completed, and as often thereafter as any other section of like length shall be completed, the said president and directors shall transport all produce or other commodities, that shall be deposited convenient to the said rail road, and which they shall be required to transport, to any point to which the said rail road may have been completed, in the order in which the company shall be required to transport the same, after it shall have been deposited conveniently to the said rail road, so that equal and impartial justice shall be done to all the owners of produce or other commodities in the transportation thereof by the company: *Provided*, the owners of the produce or other commodities required to be transported by the said company on the said rail road,

shall pay or tender to the said company, at their toll gates, the toll due on such produce or other commodities under this act; and it shall be lawful for the president and directors of the said company, and they are hereby authorised to erect, on such section or sections, a toll gate or gates; and they shall be entitled to demand and receive a sum not exceeding twelve and a half cents per ton, or two thousand pounds, per mile, for transporting produce or other commodities thereon; and for each passenger a sum not exceeding five cents per mile, until the nett profits received shall amount to a sum equal to the capital stock expended, with six per cent. per annum interest thereon from the time the money was advanced by the stockholders until received back in the nett profits; but when the nett profits received as aforesaid by the tolls aforesaid, shall have amounted to a sum equal to the capital stock expended as aforesaid, with six per cent. per annum interest thereon, as aforesaid, then the toll which the said president and directors shall be entitled to demand and receive for the transportation of produce or other commodities on the said rail road, shall be fixed and regulated from time to time by the president and directors of the said company, so as to make them sufficient in their estimation to yield a nett profit equal to ten per cent. per annum on the capital stock expended in making and completing the said rail road, over and above what may be necessary for the repairs and renewal of the same. The president and directors of the said company shall, at the end of each year, report to the Board of Public Works or Internal Improvement, if there be any such board, or, otherwise, to the Legislature, a statement showing the whole amount of capital stock expended in the construction of the said rail road, the amount of tolls received during each year, the expense and charges incurred during each year, and the nett annual profit or loss on the capital expended.

XV. That each stockholder in said company shall be entitled to one vote for each share by them held, as far as ten shares; and one vote for every five shares afterwards: *Provided, however*, that no stockholder shall be entitled to more than thirty votes.

XVI. The president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders.

XVII. So soon as the first ten miles of the said rail road shall be completed, the president and directors of the said company or a majority of them may declare and make such dividend of the nett profits from the tolls here-in granted as they may deem advisable, to be divided among the proprietors of the stock of the said company in proportion to their respective shares, and so on for each ten miles so completed.

XVIII. After the said rail road shall be completed and put into operation, if the said president and directors shall, by reason of the said rail road being out of repair, or from any other cause, fail or neglect to transport any produce or other commodities which shall be deposited conveniently to the said rail road, and which the said president and directors shall be required to transport as aforesaid, the toll for the transportation being tendered, as a penalty for such failure or neglect, the company shall be liable to the action of the party injured by such failure or neglect: *Provided*, it shall not be required of the said president and directors to transport more produce or other commodities or passengers than the cars or other vehicles of the company in ordinary use are capable of conveying, when in good order.

XIX. And if any toll gatherer, at any toll gate to be erected by authority of this act, shall ask, demand or receive any other or greater tolls than are herein allowed, he shall forfeit and pay to the party aggrieved thereby twenty dollars for every such offence, recoverable, with costs, by warrant before any justice of the peace; and if such toll gatherer, being at the time of incurring such penalty in the service of the company, shall be unable to pay the judgment thereupon recovered against him, the said company shall be liable for the same.

XX. If the president and directors shall not begin the said work within three years after the passage of this act, or shall not complete the same or one tract from the Roanoke to the Yadkin within twenty years thereafter, then the interest of the said company in this charter, so far as respects the unfinished part of the route, shall be forfeited and cease.

XXI. The president and directors shall cause to be written or printed certificates for the shares of the stock in said company; and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for every share subscribed by him, which certificate shall be transferrable by him; subject, however, to all payments due or to become due thereon; and such assignee, having first caused the transfer or assignment to be entered in a book of the company to be kept for that purpose, shall thenceforth become a member of the said company, and shall be liable to pay all sums due upon the stock assigned to him: *Provided, however,* that such assignment shall in no wise exempt the assignor or his representatives from their liability to the said company for the payment of all such sums as were due at the time of the assignment, if the assignee or his representatives shall be unable or shall fail to pay the same.

XXII. If the president and directors, or a majority of them, cannot agree with the proprietors for the purchase and sale of any such quantity of ground, not exceeding ten acres at any one place, as may be necessary for the accommodation of a toll house, or a house to cover any stationary machine, engine, or for cars, stables, warehouses or offices, or any other use which the convenience of the rail road may require, it shall and may be lawful for the said president and directors to enter upon the land, under the same restrictions and on the same conditions as herein before provided; upon which proceedings, the land may be condemned; and upon payment of the value found by the assessors or valuers to the owner or proprietor of the land so condemned and located, or upon payment thereof into court, when for good cause the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground, so condemned and located, in fee simple.

XXIII. *Be it further enacted,* That it shall be lawful for the said company to purchase lands from the proprietors at the point of commencement, or at any section or termination of said rail road, or its vicinity, not exceeding twenty acres at any one point, to be used by them for all necessary purposes of said rail road, or to be disposed of when by them it shall be deemed proper.

XXIV. If any person or persons shall wilfully, by any means whatsoever, injure, impair or destroy any part of any rail road constructed under this act, or any of their necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the law which may be in force in this State at the time for the protection

of the public works or property of the State; and shall be liable moreover for thrice the amount of all damages which the said company may thereby sustain.

XXV. It shall not be lawful for any other company or person or persons whatsoever to travel upon or use the road of said company, or to transport persons or property of any description along the said road, without the license or permission of the president and directors of said company; and nothing herein contained shall be construed to prevent said company from making contracts for the transportation of the mail, upon such terms as may be agreed on between said company and the agents of the United States.

XXVI. *Be it further enacted*, That the president and directors of said company, at any time when the stockholders in general meeting shall or may direct, may, and they are hereby empowered to borrow, for and on behalf of the company, for the purpose of carrying into effect the provisions of this charter, any sum or sums of money: *Provided*, that the several sums so borrowed shall not exceed in amount the capital stock; and the said president and directors are hereby authorised, when so directed by the stockholders in general meeting, to pledge the property of the company for the payment of the same.

XXVII. *Be it further enacted*, That the State of North Carolina, by agents acting under its own authority, may enter with another rail road at any point of said Roanoke and Yadkin Rail Road, on paying for the right of using the same or any part thereof, such a rate of toll on the produce, passengers or commodities so brought in, as may be paid on other produce, passengers or commodities transported equal distances on said rail road, or cross the same, at any place or places, with another rail road; and the Legislature may authorise any company to cross or enter the same, at any point, with another rail road, on paying, by such company for the right of using the same, such a rate of toll as may be established by virtue of the provisions of this act, and which may be for the time being exacted by the said company for similar transportation on the same section of the road.

XXVIII. *Be it further enacted*, That if any person or persons shall wilfully and wantonly remove or disturb any of the constructions of rail road, or shall wilfully and wantonly put or place any obstruction to the vehicles on the constructions of said road, as that the regular passage of the vehicles may be interrupted thereby, such person or persons, if on conviction thereof in the Superior Court of Law in the county where the same may happen, shall be punished by fine and imprisonment at the discretion of the court; and if slaves they shall be subject to trial before a magistrate, and punished as in other cases of misdemeanor: *Provided*, nevertheless, that if death shall ensue from any wilful, wanton and malicious removal or disturbance of the constructions aforesaid, or from the wilful, wanton and malicious putting and placing of obstructions on said rail road, each person or persons so offending shall be deemed guilty of murder, and upon conviction thereof shall suffer death without benefit of clergy.

CHAPTER LXXXII.

An act to incorporate the Halifax Rail Road Bridge Company.

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 James Halliday, Elisha H. Eure, Thomas Ausby, Mason L. Wiggins and Samuel Calvert, or any three of them, be, and they are hereby appointed commission-

ers for receiving subscriptions to the amount of forty thousand dollars, for the purpose of building a bridge over Roanoke river at the town of Halifax; and the said commissioners, or a majority of them, shall prepare books and cause the same to be opened at such places and under the direction of themselves or such persons as they may appoint, on or before the first day of March next; and they shall continue open until the first day of July next, unless the said capital sum shall be subscribed before that time, at which time the said books shall be returned to the commissioners aforesaid in the town of Halifax; and at the same time there shall be a general meeting of the said subscribers personally or by proxy, which meeting may continue from day to day until the business thereof be finished; and if it shall appear that ten thousand dollars or more of the capital stock shall have been subscribed, the said subscribers, their heirs or assigns, from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company, by and under the name and style of the Halifax Rail Road Bridge Company; and may sue and be sued as such, plead and be impleaded, defend and be defended, and have succession for and during the period hereinafter limited, and a common seal; and such of the said subscribers as may be present at the said meeting, or a majority of them, are hereby empowered and directed to elect a president and four directors for conducting the business and concerns of the said company for one year, and until the next meeting of the stockholders. Every proprietor of stock, by writing under his or her hand, executed before some justice of the peace, may depute any other stockholder to vote for him or her at any general meeting; and the votes and acts of such proxy shall be as effectual to all intents and purposes as if the proprietor himself was personally present at the doing thereof.

II. *And be it further enacted*, That if the aforesaid sum of forty thousand dollars shall not be subscribed on or before the said first day of July next, the said commissioners, if directed by a majority of the subscribers at their general meeting, shall again open books of subscription and keep the same open until the first day of January thereafter, or until the aforesaid sum of forty thousand dollars shall be subscribed as aforesaid; and if more than the capital stock hereby authorised shall be subscribed, the commissioners shall strike off from the said subscription until the capital shall be reduced to forty thousand dollars; and in striking off subscriptions they shall begin and strike off a share from the largest subscription in the first instance, and continue to strike off one share from all subscriptions under the largest and above one share, until the same shall be reduced to the capital aforesaid.

III. *Be it further enacted*, That the capital sum aforesaid shall be divided into shares of one hundred dollars each, and any person may subscribe for one or more shares, but not for a part of a share: the shares shall be paid for at such times and places and by such instalments as the president and directors of said company shall direct, they first advertising the sum to be paid in each instalment in the Roanoke Advocate or State Gazette for at least twenty days; and if any person or persons, holding any share or shares in said company, shall fail to pay for the same in the manner and at the time prescribed by the president and directors aforesaid, the said president and directors may enforce the collection thereof by legal process; or they may expose to public sale the share or shares which the

said person may hold in the said company by giving ten days' public notice thereof; and if the said shares shall not sell for a sum sufficient to pay the instalments due thereon, the sum deficient may be recovered of the person or persons who owned the said stock; and the books of said company shall be good evidence of such sale and of the purchase of said shares.

IV. *And be it further enacted*, That the said president and directors shall have power to build a gate or gates on said bridge to be erected as aforesaid, and to ask and demand of persons passing on said bridge the toll, viz. for four wheeled carriages of pleasure, seventy five cents; for wagons, sixty cents; for two wheeled carriages of pleasure, twenty five cents; for carts, twenty cents; for a horse and man, ten cents; single horses, five cents; cattle per head, three cents; hogs and sheep, two cents; and foot passengers five cents.

V. *And be it further enacted*, That the said president and directors are hereby bound to keep the said bridge in good and sufficient repair, under the penalties prescribed by law in cases of roads and bridges.

VI. *And be it further enacted*. That the Court of Pleas and Quarter Sessions of Northampton county, upon the petition of the said president and directors, shall order the sheriff of said county to summon a jury or juries of good and lawful men to lay off a road from the foot of said bridge to some convenient place of intersection with the road leading to Northampton Court House; and to assess such damages as the owner or owners, through which the said road shall be laid off, may sustain thereby, to be paid by the said corporation; and upon its appearing to the satisfaction of the County Court of Northampton, that the said road is a good and sufficient one and in good repair, the same shall henceforth become a public road: *Provided*, that the road so to be condemned and laid out shall lead in the straightest convenient direction, on the bank of the river to the road leading from Halifax to Northampton Court House: *And provided further*, that nothing herein contained shall be so construed as to exclude the jurisdiction of the County Court of Northampton over the said road as now established by law.

VII. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

VIII. *And be it further enacted* That the company shall have the power to make bye laws, not inconsistent with the charter and government of the bridge.

IX. *And be it further enacted*, That the corporation hereby created shall terminate and be at an end at the expiration of ninety nine years, to be computed from the passage of this act.

CHAPTER LXXXIII.

An act to erect a new county by the name of Yancey.

Whereas the large extent of country comprehended in the bounds hereafter described in the counties of Burke and Buncombe, renders the attendance of the inhabitants thereof, to do public duties, extremely difficult and expensive: 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 all that part of the counties of Burke and Buncombe, included within the following bounds, to wit: beginning on the extreme height of the Black mountains; running

thence along said mountain to the top of improvement there along the dividing ridge to Daniel Carter's fork of the river; thence a direct course to the mouth of Big Piney creek; thence with the Watauga river, so as to include James Allen's house, to the Tennessee line; thence with said line to the county of Ashe; thence with the line of said county to the Grandmother mountain; thence a direct course to the extreme top of the Blue Placked mountain; thence with the Blue Ridge to where it meets the Black mountain; thence with the ridge of said mountain, to be continuing, be, and the same is hereby erected into a separate and distinct county, by the name of Yancy, with all the rights, privileges, and immunities of the other counties in this State.

CHAPTER LXXXIV.

An act supplemental to an act, passed at the present session of the General Assembly, entitled "an act to erect a new county by the name of Yancy."

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 first County Court of Yancy shall be held at some suitable place within five miles of the house of James Greenlee, on the third Monday in January next; and thereafter on the last Monday of December, on the last Monday of June, and the third Monday of October, in each and every year.

II. *Be it further enacted,* That Rickly Stanby, Thomas Baker, Joseph Shepherd, John McElroy and Levi Bailey, be, and they are hereby appointed commissioners to determine upon the site for the seat of justice in said county, who shall have authority to purchase or receive by donation for the use of said county, a tract of land consisting of not less than one hundred acres, upon which a town shall be laid off by said commissioners, to be known by the name of "Barnaville;" and the court house and other public buildings erected at some point thereon, within the distance of five miles from the house of James Greenlee; and after the completion of said court house, the future courts of said county shall be held therein.

III. *Be it further enacted,* That all suits to which citizens of Yancy are parties plaintiffs and defendants, which have been instituted and are now pending in the counties of Buncombe and Burke, shall be transferred to the courts having jurisdiction of the controversies in the county of Yancy; and it shall be the duty of the several clerks of the counties of Buncombe and Burke to deliver all the papers connected with such suits to the clerks of the courts in the said county of Yancy.

IV. *Be it further enacted,* That it shall be the duty of the justices of the peace in said county, at the first court which shall be held under the provisions of this act, to elect a sheriff, clerk of the County Court, coroner, constables and other county officers, until the first County Court which shall be held after the annual election in August next.

V. *Be it further enacted,* That it shall be the duty of said court, at its first session, to lay a tax of not exceeding one dollar on the poll and one dollar on the hundred dollars value of lands, for the purpose of providing a fund to build a court house and jail in said county.

VI. *Be it further enacted,* That it shall be the duty of the commissioners appointed by this act to lay off such lots as they may deem advisable, on the tract of land required to be obtained by the second section of this act, and

to sell the same upon a credit of one and two years; the title deeds to which shall be executed by the chairman of the County Court for the time being, when the purchase money shall be paid; and the proceeds of such sale shall constitute a part of the public building fund for said county.

VII. *Be it further enacted*, That until a jail shall be built in the county of Yancy, all persons subject to imprisonment therein may and shall be committed to the jail of Burke or Buncombe counties, at the expense, nevertheless, of the county of Yancy.

VIII. *Be it further enacted*, That all justices of the peace and militia officers, within the limits of the county of Yancy, shall continue to exercise the same authority which they have heretofore exercised in the counties of Buncombe and Burke.

IX. *Be it further enacted*, That it shall be the duty of the County Courts of Buncombe and Yancy, at their spring sessions, to appoint two commissioners respectively, who shall receive such compensation as the said courts shall determine. The duty it shall be to ascertain and mark the dividing line between said counties, whenever the same shall be necessary.

X. *And be it further enacted*, That the said commissioners shall commence their survey at Daniel Carter's fork field and run a direct line from thence to Barnard's station; from which point the line shall run along the old Warm Spring road to James Allen's road; and with his road, so as to include his house, to the Tennessee line; any thing in the act to which this is supplemental to the contrary notwithstanding.

CHAPTER LXXXV.

An act supplemental to the act erecting the county of Yancy, and the act supplemental to the same.

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 nothing contained in the act erecting the county of Yancy shall be so construed as to prohibit the sheriffs of Burke and Buncombe from collecting all such sums of money as are now due on judgments obtained in said counties, or taxes which may have been laid previous to the passage of this act.

II. *Be it further enacted*, That all sums which may be received from the citizens of Yancy, on account of taxes levied for county purposes, by the sheriffs of Buncombe and Burke as aforesaid, shall, after deducting the lawful commissions, be paid to the county trustee of Yancy.

III. *And be it further enacted*, That this act, and the acts to which it is declared to be supplemental, shall be in force from and after the passage of this act.

IV. *Be it further enacted*, That the County Court of Yancy shall have exclusive original jurisdiction of all offences below the grade of felony which may hereafter be committed in said county.

V. *Be it further enacted*, That all causes, civil and criminal, arising in the county of Yancy, of which by the laws of this State the Superior Courts have original jurisdiction, and all appeals from the County Court of Yancy, may and shall come within the jurisdiction of Buncombe Superior Court.

CHAPTER LXXXVI.

An act to provide for running and establishing the dividing line between the counties of Wayne and Duplin.

Be it enacted by the General Assembly of the State of North Carolina

and William Ashford, commissioners from the county of Sampson, and Alexander Mosley and Nathan B. Whitfield, commissioners from the county of Lenoir, one of whom shall be a surveyor, be, and they are hereby authorised and empowered to meet at or near a pine stump near the house of John Elliott, the corner of the county of Wayne, Sampson and Duplin, which is known as a pine stump, within six months after the passage of this act; and after having been sworn by some justice of the peace of the county of Wayne or Duplin, shall proceed to run, mark and establish the dividing line between said counties, beginning at the pine stump, according to the description laid down in the several acts of Assembly dividing counties and forming the counties of Wayne and Duplin.

II. *Be it further enacted*, That the above named commissioners shall and may have full power and authority to run and mark and establish any dividing line between the two counties, that the people most immediately concerned may agree upon among themselves, that the commissioners may deem just or equitable; and should the commissioners deem it best, either before or after commencing the running, to call in an umpire, they shall have full power to do so, provided the selection shall not be made from Wayne or Duplin county; and such person by them selected shall take the same oath of the commissioners herein named, and possess the same powers in all respects whatever; and should any vacancy occur in said board of commissioners, by death or any other cause, the remaining commissioners shall fill the same.

III. *Be it further enacted*, That the line run and marked by the before named commissioners shall be deemed and held in law to be the dividing line between the county of Wayne and the county of Duplin; and within a reasonable time after such survey shall have been completed, the commissioners shall make out two fair plats of the said line and return one of them to the clerk of the County Court of Wayne and the other to the County Court clerk of Duplin, and the clerks shall file said plat in their offices.

IV. *Be it further enacted*, That at the first Court of Pleas and Quarter Sessions to be held for the county of Wayne and Duplin, after the passage of this act, the court shall have full power, and shall make such allowance as a compensation to the before named commissioners for their services, as they may deem proper and right.

V. *Be it further enacted*, That as soon as the plat and survey of the line run by the commissioners under this act shall be returned to the clerks of the County Courts of Wayne and Duplin, all laws and clauses of laws heretofore passed, coming within the purview and meaning of this act, shall be repealed.

CHAPTER LXXXVII.

An act to amend an act, passed in the year one thousand eight hundred and twenty four, chapter forty three, entitled "an act to amend an act, passed in the year one thousand eight hundred and nineteen, entitled "an act to annex Smith's Island, at the mouth of Cape Fear river, to the county of Brunswick, and a part of Eagle's Island to the county of New Hanover."

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 Alexander McRae and John A. Taylor, of New Hanover county, and Henry Walters and Robert Gibbs, of Brunswick county, be, and they are hereby appointed commissioners to superintend the running the division line between the said counties, agreeably to the provisions of the above recited act, in place of those persons heretofore appointed for that purpose; and that they have

all the power and authority vested by said act in the former commissioners; and that the said commissioners shall receive two dollars per day, and the surveyor by them employed shall receive four dollars per day, to be paid by New Hanover county for their services.

CHAPTER LXXXVIII.

An act to abolish the office of county trustee in the counties of Nash, Columbus, Pasquotank, Currituck, Brunswick and Tyrrell.

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 office of county trustee in the counties of Nash, Columbus, Pasquotank, Currituck, Brunswick and Tyrrell be, and the same are hereby abolished; and the duties now required to be performed by the county trustees in said counties, shall, and they are hereby required to be performed by the sheriffs of said counties, under the same rules, regulations and penalties now prescribed by law for the government of the county trustees.

II. *Be it further enacted,* That in all cases where the law requires any suit or suits in said counties to be brought in the name of the county trustee, such suit or suits shall be brought in the name of the chairman of the County Court.

III. *And be it further enacted,* That this act shall be in force from and after the first day of May next.

CHAPTER LXXXIX.

An act to amend an act, passed in the year one thousand eight hundred and thirty two, entitled "an act to appoint an addition place of public sale in the county of Beaufort."

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 all sales hereafter made, under the before recited act, shall be on the following days and no other, that is to say, the sale day at Bath shall be on the Friday in each and every month next before the sale day at Washington; and the sale day at Durham's creek shall be on the Wednesday, in each and every month, next before the sale day at Bath.

II. *Be it further enacted,* That so much of the above recited act as comes within the meaning and purview of this act, be, and the same is hereby repealed.

CHAPTER XC.

An act to require the register and clerks of Camden county to keep their offices at the court house.

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 register and clerks of the County and Superior Courts of Camden county be, and they are hereby required to keep their respective offices at the court house in said county.

II. *Be it further enacted,* That if the register or either of the clerks above mentioned shall fail or refuse to comply with the provisions of this act, his or their offices shall be deemed to be forfeited; and such vacancy shall be filled according to the provisions already made by law for supplying such vacancies.

III. *Be it further enacted,* That the aforesaid officers shall, and they are hereby required to attend at least on every Tuesday and Friday in each and every week, at their respective offices; and for failure to comply with

the provisions of this act, they shall forfeit and pay the sum of five dollars for each and every offence, to be recovered before any justice of the peace of said county, in the name and for the use of the person suing for the same.

IV. *And be it further enacted*, That this act shall be in force from and after the first day of March next.

CHAPTER XCII.

An act concerning the poor of the county of Chatham.

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 wardens of the poor of the county of Chatham be, and they are hereby authorised and empowered to make allowances for the support of such of the poor of said county as can be maintained in private families at less expense to the county, than by sending them to the poor house of said county, as they are now required by law to do.

CHAPTER XCIII.

An act concerning the beach and marshy lands lying in the county of Currituck.

Whereas a large body of beach and marshy lands lying on the sea shore, between Nagg's Head and New Inlet, in the county of Currituck, is valuable on account of range for stock, and some persons who own stock thereon assume to themselves too large a portion of the profits arising therefrom, by killing and putting their own marks on the same: Therefore,

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 a majority of the persons having an interest in the said beach and marshy lands lying on the sea shore, between Nagg's Head and New Inlet, in the county of Currituck, shall have the power of selecting two commissioners, either of whom shall have power to act, whose duty it shall be, when called on by any person interested in stock running or ranging on said beach or marsh lands, to attend the killing or marking of any said stock; and as a compensation for which services they shall be paid seventy five cents per day, to be paid by the person calling on them.

II. *Be it further enacted*, That no person or persons living on Roanoke Inlet, in the county aforesaid, shall be permitted to kill or mark stock without applying to said commissioners, unless the same be within their own enclosures; said commissioners to be paid as above.

III. *Be it further enacted*, That if any person or persons shall be found killing, marking or removing stock from said beach or marshy lands, without complying with the provisions of the above recited act, he, she or they shall be liable to a penalty of fifty dollars, to be recovered by warrant before any justice of the peace of said county, the one half to the use of the informer, the other to the poor of said county.

IV. *Be it further enacted*, That this act shall be in force from and after the first day of March next; any law to the contrary notwithstanding.

CHAPTER XCIII.

An act to prevent shooting wild water fowls in the night time in Currituck county.

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 it shall not be lawful for any of the citizens of Currituck county to shoot wild water fowls

upon the sounds, rivers or other waters in said county, in the night time, under a penalty of ten dollars, recoverable (on conviction) before a justice of the peace, one half to the use of the overseers of the poor for the poor, and one half to the use of the informer.

CHAPTER XCIV.

An act to repeal part of an act, passed at the last session of the General Assembly, entitled "an act directing the manner in which constables shall hereafter be elected in the counties of Davidson, Buncombe, Chatham, Currituck, Wilkes, Duplin, New Hanover, Surry, Wayne, Hyde and Onslow."

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 before recited act be, and the same is hereby repealed, so far as regards the county of New Hanover.

II. *And be it further enacted,* That from and after the passage of this act, constables shall be appointed in the county of New Hanover by the County Court thereof, in the same manner and under the same rules, regulations and restrictions, as they were prior to the passage of the before recited act.

III. *And be it further enacted,* That this act shall be in force from and after the ratification thereof; and all laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER XCV.

An act directing the title of the lot upon which the public jail is erected in the town of Salisbury to be made to the chairman of the County Court of Rowan county.

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 person or persons in whom is vested the legal title of the lot of land upon which the jail is erected in the town of Salisbury be, and they are hereby authorized and directed to convey the same, in fee simple, to the chairman of Rowan County Court, and his successors in office, in trust, for the use and benefit of the citizens of Rowan county.

CHAPTER XCVI.

An act directing the scrolls of the votes of the twelfth Congressional district to be hereafter compared in the town of Ashville.

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 hereafter the scrolls of the votes given for members of Congress in the twelfth Congressional district of this State composed of the counties of Buncombe, Burke, Rutherford, Haywood and Macon, shall be compared by the respective sheriffs of said counties in the town of Ashville, in the county of Buncombe, on the Thursday immediately succeeding every election for members to represent said district in the Congress of the United States, under the same terms, rules and regulations as are already provided by law; any law, usage or custom to the contrary notwithstanding.

CHAPTER XCVII.

An act authorising the erection of a fire proof house in Camden county.

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 justices of the peace holding the Court of Pleas and Quarter Sessions for Camden county, at the next Court of Pleas and Quarter Sessions held for said county, be authorized, and they are hereby required to appoint three com-

missioners, to contract for the building of a fire proof house, of such dimensions and upon such plan as the said court may direct, convenient to the court house, for the purpose of keeping the records of said county therein.

II. *And be it further enacted*, That this act shall be in force from and after the passage thereof.

CHAPTER XXVIII.

An act to further regulate the finance of the county of Onslow.

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 clerk of the Court of Pleas and Quarter Sessions of the county of Onslow shall procure a blank book, at the expense of the county, in which he shall register all claims now existing against said county; he shall have a column on the right hand of each page to place the number and time of registration of each claim, and on the left hand of each page two columns, in the first of which he shall place in figures the amount of the claims so registered; and the one nearest the margin shall be left blank, for the purpose, when each claim is paid, to insert the time of payment and such other remarks as are required; and in the body of the page, he shall record such claims now existing against the county as may be brought to him for registration, numbered each one according to the priority of its production and approval.

II. *Be it further enacted*, That it shall be the duty of the clerk of the Court of Pleas and Quarter Sessions of Onslow county, on the first Monday of February, in the year of our Lord one thousand eight hundred and forty-four, to advertise at the door of the court house for the county, and at the several public places in said county, a notice to all persons having claims against said county to produce the certificates of said claims to him on or after the first Monday of July next, at his office for registration; and it shall be his duty to hand said certificates to the committee of finance for their inspection, and upon their approval, to register each certificate so produced to him; and shall certify on the back of said certificate that it has been registered, and the time and number of its registration, and the number of the page in which it is registered.

III. *Be it further enacted*, That it shall be the duty of the committee of finance to examine all certificates which may be brought to the clerk for registration, to ascertain if they be genuine; and if they shall so determine, said committee shall endorse them as approved over their proper signatures, and shall hand them over to the clerk for registration; and if said committee shall reject any certificate, the party holding the same may appeal to the Court of Pleas and Quarter Session of said county, which court shall decide upon the genuineness of said certificate at its next term, and if it is approved, pass an order for its registration, which order shall be endorsed on said certificate, and the clerk shall register it; and if the certificate be rejected, the clerk shall certify its rejection by order of the court on its face.

IV. *Be it further enacted*, That each certificate shall be paid by the county trustee, according to its priority of registration, out of the funds set apart for paying the claims now existing against the county.

V. *Be it further enacted*, That the Court of Pleas and Quarter Sessions of Onslow county shall set apart a certain part of the taxes levied for county purposes, for the payment of claims now due by the county.

VI. Be it further enacted, That the clerk of the Court of Pleas and Quarter Sessions of Onslow county shall register in the same manner as prescribed in the first section of this act, in a book to be kept by him for that purpose, all certificates hereafter to be issued, and certify on the back of said certificates in manner directed by the section of this act.

VII. Be it further enacted, That the committee of finance of said county shall annually, at the term for the election of county trustee, examine the accounts of the then county trustee, and compare all certificates which he may have taken up and produce as vouchers, with the registry kept by the clerk of the Court of Pleas and Quarter Sessions, and mark in the column kept for that purpose, over their proper signatures, the payment, the time when paid, and the time of examination and allowance by them, and shall deface said certificate by writing on the face thereof the word paid, and the date of allowance by them, and sign their names, and then punch said certificates; which certificate, with the report of their examination of the accounts of the county trustee, and his account as examined by them, shall be given to the court, and which, after being acted upon by the court, shall be filed in the office of the clerk of the Court of Pleas and Quarter Sessions.

VIII. Be it further enacted, That the county trustee, in the account which he renders to the court or committee, shall mark in words the number, amount, time when issued, person to whom issued, and time when registered, of every certificate he may have paid and produce as a voucher; and it shall be the duty of the committee appointed to examine his accounts to reject all charges in said accounts not entered according to the manner herein prescribed.

IX. And be it further enacted, That hereafter the sheriff of Onslow county shall pay unto the county trustee all the parish taxes collected by him; and the county trustee shall give a bond according to law for the faithful keeping and paying out of the same.

X. And be it further enacted, That the said county trustee shall pay all the certificates and accounts allowed by the wardens of the poor out of the said parish taxes; and the committee of finance shall yearly examine the books and charges of the said trustee in relation to said fund, and make a report thereon to the county court.

XI. Be it further enacted, That the county trustee may be allowed for paying out of the parish tax for his services two and a half per cent.; and it shall be his duty to keep the parish tax separate from all other county charges.

XII. Be it further enacted, That if the said county trustee shall fail to keep his book according to the above act, he shall forfeit and pay the sum of fifty dollars, to be recovered by the committee of finance suing for the same, or if he refuses to let any citizen of said county, when called on, to examine his books kept for said tax.

XIII. Be it further enacted, That the county wardens of the poor of said county shall be chosen by the Court of Pleas and Quarter Sessions of said county annually at May term of said court, from and after the passage of this act.

XIV. And be it further enacted, That this act shall take effect immediately from and after its ratification.

CHAPTER XCIX.

An act concerning the building of a Court House in Carteret county.

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 so much of the fourth section of an act, passed in the year one thousand eight hundred and sixteen, entitled "an act to confirm an accurate survey of the town of Beaufort, in the county of Carteret, and for other purposes," as requires the erection of the court house on lots number one hundred and twenty seven or one hundred and thirty five, be, and the same is hereby repealed; and the commissioners of public buildings of said county be, and they are hereby authorised to build a court house on any part of the public square in said town which they may deem most convenient; any other law to the contrary notwithstanding.

CHAPTER C.

An act to restore J. Madison Baird, of Buncombe county, to the rights of a free citizen.

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 J. Madison Baird, of the county of Buncombe, be, and he is hereby restored to all the rights, privileges and immunities of any free citizen of this State, in as full and ample a manner as if he never had been convicted of a violation of the act of Assembly, of one thousand eight hundred and two, against duelling.

CHAPTER CI.

An act to restore Daniel Murray, of Chatham county, to the rights of a free man.

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 Daniel Murray, of the county of Chatham, shall hereafter be entitled to all the rights and privileges of any free man in this State, in as full and ample a manner as if he had never been convicted of the crime of petit larceny.

CHAPTER CII.

An act to restore to credit Isaac Weston, of Duplin county.

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 Isaac Weston, of the county of Duplin, shall hereafter be entitled to all the rights and privileges of any free citizen within this State, in as full and ample a manner as if he never had been convicted of the crime of petit larceny.

CHAPTER CIII.

An act to restore to credit John Andrews, of Iredell county.

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 John Andrews, of the county of Iredell, shall hereafter be entitled to all the rights and privileges of a free citizen of this State, in as full and ample a manner as if he never had been convicted of a conspiracy.

CHAPTER CIV.

An act to divorce Ann Eliza Viverett.

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 Ann Eliza Viverett, who was Ann Eliza Armstrong, of the county of Edcombe, be,

and she is hereby declared to be divorced fully and absolutely from her husband, Micajah Viverett; and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same, as amply and entirely as if she had never been connected by the bonds of matrimony with her said husband, Micajah Viverett.

II. *Be it further enacted*, That this act shall take effect from and after the ratification thereof.

CHAPTER CV.

An act to secure to Kesiah Singleton, of Burke county, such property as she may hereafter acquire.

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 Kesiah Singleton, (wife of Christopher Singleton) of Burke county, be, and she is hereby entitled to hold, possess and enjoy, in her sole right, any estate, either real or personal, which she may hereafter acquire by purchase, gift or otherwise, in as full and ample a manner as if she had never been married to her said husband; and she is hereby authorised to prosecute or defend any suit, in her own name, in any court within this State, in the same manner as if she never had been married to the said Christopher Singleton; any law to the contrary notwithstanding.

CHAPTER CVI.

An act for the relief of Sarah Ann Keeth, wife of William Keeth.

Whereas it doth appear to the General Assembly of North Carolina that William Keeth, since the year one thousand eight hundred and twenty eight, hath abandoned Sarah Ann Keeth, his wife, and his children, and has gone into a foreign State; and whereas it doth also appear that the said Sarah Ann Keeth, the wife of the said William, is seized of an estate in remainder in fee of her own right in certain lands in Bertie county, to commence in possession after the determination of an estate in the same lands in her husband for his own life, as tenant by courtesy, which life estate has been sold by execution and is now held by a purchaser under the creditors of said William Keeth; and whereas it doth also appear that the said Sarah Ann Keeth is in very needy circumstances, and that she hath no means of supporting herself and her children, except by the sale of said remainder in fee in said lands; and that she cannot sell the same unless her said husband join in a deed to the purchaser, according to the laws of this State now in force, or unless she can be vested with the power to make a deed as a feme sole, by a private act, for the purpose of conferring on her such privilege; and whereas it doth appear that it is just and proper that the said Sarah Ann Keeth should have relief in the premises. Therefore,

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 Sarah Ann Keeth, wife of William Keeth, notwithstanding her coverture, shall have full power and authority to sell and convey any lands she has now in her seizen in fee, to any person or persons, his or their heirs, in the same manner as if she were a feme sole; and that she may seal and deliver any deed now in use in this State for the conveyance and assurance of real estate, whereby said land of which she is now seized shall be conveyed to any person or persons for such estate or estates as may thereby be granted to them; and said deed or deeds may be acknowledged or proved as all other deeds of persons not under coverture; and upon such acknowledgment or pro-

bate, without any private examination of the said Sarah Ann Keeth, shall be admitted to registration, and said deeds so sealed and delivered by her, and so proved or acknowledged and registered, shall be good and effectual in law to divest said Sarah Ann of any estate she may have in the lands, and pass the same to her grantee or purchaser, as if she were at the times of the delivery and probate a feme sole.

II. *Be it further enacted*, That the said Sarah Ann Keeth shall have, hold and enjoy the money arising from the sale of her said lands, to her separate use, as if she were a feme sole, free from the claim of her said husband and of any creditor of his, or any person claiming by or under him; and, further, that she shall hereafter hold and possess all property, real and personal, which she may acquire by purchase, gift, devise, succession and inheritance or otherwise, to her sole and separate use, as if she were a feme sole, free and clear from the claim and right of her said husband and of any creditor of his, or other person claiming by or under him.

III. *Be it further enacted*, That the said Sarah Ann Keeth may hereafter trade and contract as a feme sole, and may sue and be sued in all actions and suits in law or in equity, as a feme sole, without joining with or being joined with her said husband.

CHAPTER CVII.

An act to divorce Mary Read from her husband, Elias Read.

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 passage of this act, the bonds of matrimony between Mary Read and her husband, Elias Read, be dissolved; and that the said Mary shall be capable in law of suing and being sued, and of acquiring property by purchase, devise, descent or in any other way, and of holding the same to her separate use, in the same manner as if she were a feme sole; and shall possess and enjoy all the privileges and immunities of a feme sole.

CHAPTER CVIII.

An act to emancipate Joe, a slave.

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 Joe, a slave belonging to Sophia L. Smith, executrix of David Smith, deceased, late of Cumberland county, is hereby, with the consent and at the request of his said owner, emancipated and set free; and by the name of Joseph Hestler shall hereafter possess and exercise all the rights and privileges which are enjoyed by other free persons of color within this State: *Provided, nevertheless*, that before such slave shall be emancipated, the petitioner shall give bond and good security to the Governor and his successors in office, in the County Court of Cumberland county, that the said slave shall honestly and correctly demean himself as long as he shall remain in the State, and shall not become a parish charge; which bond may be sued upon in the name of the Governor for the time being, to the use of the parish and of any person injured by the misconduct of such slave.

CHAPTER CIX.

An act to emancipate Ned Hyman, a slave.

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 Ned Hyman,

a slave belonging to Elizabeth Hagans, of Martin county, is hereby, with the consent and at the request of his said owner, emancipated and set free; and by the name of Ned Hyman, shall hereafter possess and exercise all the rights and privileges which are enjoyed by other free persons of color within this State: *Provided, nevertheless*, that before such slave shall be emancipated, the petitioner shall give bond and good security to the Governor and his successors in office, in the County Court of Martin county, that the said slave shall honestly and correctly demean himself as long as he shall remain in the State, and shall not become a parish charge; which bond may be sued upon in the name of the Governor for the time being, to the use of the parish and of any person injured by the misconduct of such slave.

CHAPTER CX.

An act for the relief of Chaney Moreman.

Whereas at the autumn term, one thousand eight hundred and twenty three, of the Superior Court of Anson county, upon the petition of Benjamin Pratt, praying for the emancipation of Chaney Moreman, a slave, the property of said Benjamin Pratt, for meritorious services, such proceedings were had, that the said court, upon due proof of the matters stated in the said petition, did grant the prayer thereof, and did order, adjudge and declare the said Chaney to be emancipated, and entitled, by the name of Chaney Moreman, to all the privileges of a free born negro; and whereas the said petition and the memorial and record of the said proceedings have been lost or destroyed, and from the length of time since the said judgment was entered, doubts are entertained whether the said court can order the same to be now entered up as of the said term; and whereas, also, from the nature of the case, it is doubtful whether suit can be properly instituted for relief in a court of equity; and whereas the case is one of hardship and likely to result in injustice, without some provision by law in that behalf: 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 it shall and may be lawful for the said Superior Court of Law, either at the next succeeding spring or autumn term, upon the application of the said Chaney Moreman, to receive evidence of the contents of the said petition and the proceedings and judgment thereupon, and of the loss or destruction of the papers or other memorial thereof; and upon satisfactory proof of such loss or destruction and of the contents of the said petition and other proceedings, to order and direct the said petition, proceedings and judgment to be enrolled in the said court, as a record of the term when the said proceedings were had and the said judgment rendered.

II. *Be it further enacted*, That upon sufficient proof being made, either by parol or record, that a decree of emancipation was ordered by the court agreeable to the petition of said Pratt, and that the clerk of the court shall have neglected to enter the same on record as ordered, that upon the said proof being made, the judge of the court shall order the decree to be entered nunc pro tunc as aforesaid.

CHAPTER CXI.

An act to authorise Silas Cox, of Wayne county, to erect a bridge across Neuse river.

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 it shall and may

be lawful for Silas Cox to erect a bridge across Neuse river, at or near his ferry in the county of Wayne; and when the said bridge shall be completed, it shall be lawful for the proprietor thereof to erect a toll gate thereon.

II. *And be it further enacted*, That the rates of toll shall be as follows, to wit: on all wagons passing said bridge, sixty cents each; and all four wheeled carriages of pleasure, fifty cents; on all two wheeled carriages of pleasure, twenty five cents; on all carts, twenty five cents; for every man and horse, five cents; on every loose horse, five cents; on every head of cattle, two cents; and on hogs and sheep, one cent each: *Provided*, that said bridge shall be so constructed as to have one arch in the main current of the river forty feet wide, for the free passage of rafts down the same.

III. *And be it further enacted*, That when said bridge shall be built, the proprietor thereof shall keep the same in good and sufficient repair, under the like penalty as other proprietors of public bridges are subject to by the laws of this State.

CHAPTER CXII.

An act to amend an act, passed in the year one thousand eight hundred and twenty nine, entitled "an act for the protection of the bridge erected across Scuppernon river at Columbia, in Tyrrel county "

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 any person or persons who shall tie or make fast any raft or vessel to either of the bridges hereafter mentioned, viz. the bridges across Scuppernon river at Columbia and at Cross Landing, and the bridge across Little Alligator creek, in the county of Tyrrel; or shall run any raft or vessel against either of said bridges; or shall permit any raft or vessel to lie against either of said bridges, such person or persons shall be liable to the same penalties as prescribed in the before recited act, and shall be recovered in the same manner as therein prescribed.

CHAPTER CXIII.

An act to authorise Nicholson Washington, of the county of Wayne, to erect a bridge across Neuse river.

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 it shall and may be lawful for Nicholson Washington to erect a bridge across Neuse river, at or near his ferry called Spring Bank, in the county of Wayne; and when the said bridge shall be completed, it shall be lawful for the proprietor thereof to erect a toll gate thereon.

II. *And be it further enacted*, That the rates of toll shall be as follows, to wit: on all wagons passing said bridge, sixty cents each; and all four wheeled carriages of pleasure, fifty cents; on all two wheeled carriages of pleasure, twenty five cents; on all carts, twenty five cents; for every man and horse, five cents; on every loose horse, five cents; on every head of cattle, two cents; and on hogs and sheep, one cent each: *Provided*, that said bridge shall be so constructed as to have one arch in the main current of the river, forty feet wide, for the free passage of rafts down the same.

III. *And be it further enacted*, That when said bridge shall be built, the proprietor thereof shall keep the same in good and sufficient repair, under the like penalty as other proprietors of public bridges are subject to by the laws of this State.

CHAPTER CXIV.

An act to incorporate the Smith River Toll Bridge Company, in the county of Rockingham.

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 William A. Carragan, John Lawson, Tilghman Coleman, James Dilliard, Thomas Hamlin, George W. Jones and Dubartes Dempsey, or any three of them, be, and they are hereby appointed commissioners to receive subscriptions to the amount of six thousand dollars, for the purpose of building a bridge across Smith river, immediately above the Island ford of said river, in the county of Rockingham; and the said commissioners, or a majority of them, shall prepare books and cause the same to be opened for subscriptions of stock at such places and under the direction of themselves or such persons as they may appoint, on or before the first day of February next; and they shall continue open until the first day of May next, at which time the said books shall be returned to the said commissioners in the town of Leaksville; and at the same time there shall be a general meeting of the subscribers, personally or by proxy, which meeting may continue from day to day until the business thereof be finished; and if it shall appear that two thousand dollars or more of the capital stock have been subscribed, or as soon as the sum of two thousand shall be subscribed, the said commissioners, their heirs and assigns, shall be, and they are hereby declared to be incorporated into a company, by and under the name and style of the "Smith River Toll Bridge Company;" and as such may sue and be sued, plead and be impleaded, defend and be defended, and have perpetual succession and a common seal; and such of the said subscribers as shall be present at the first meeting after the sum of two thousand dollars shall be subscribed, or a majority of them, are hereby empowered and directed to elect a president and four directors for conducting the business and concerns of said company for one year, and until the next meeting of the stockholders. Every proprietor of stock, by writing under his or her hand, executed before some justice of the peace, may depute any other stockholder to vote for him or her at any general meeting; and the votes of such proxy shall be as effectual to all intents and purposes as if the proprietor himself were personally present at the doing thereof.

II. *Be it further enacted by the authority aforesaid,* That the capital stock of said corporation shall be six thousand dollars, divided into one hundred and twenty shares, of fifty dollars each; and if the whole sum shall not be subscribed on or before the first day of May next, it shall be the duty of said commissioners, or a majority of them, should the sum of two thousand dollars be not subscribed by the said first day of May next, to open said books for further subscriptions at such times and places as they may choose; and as soon as said corporation shall organize and elect a president and directors, said books and subscriptions shall be under their direction and control; and should more than the sum of six thousand dollars be subscribed, said commissioners shall strike off said subscriptions until the sum is reduced to six thousand dollars; and in striking off subscriptions they shall begin and strike off a share from the largest subscriptions in the first instance, and continue to strike off one share for all subscriptions under the largest and above one share, until the same shall be reduced to the capital stock aforesaid.

III. *Be it further enacted*, That the shares shall be paid for at such times and places and by such instalments as the president and directors of said company shall direct, they first advertising the sum to be paid in each instalment in some newspaper for at least twenty days; and if any person or persons, holding any share or shares in said company, shall fail to pay for the same in the manner and at the time prescribed by the president and directors aforesaid, the said president and directors may enforce the collection thereof by legal process; or they may expose to public sale the share or shares which such person may hold in the said company, by giving ten days' notice thereof; and if the said share or shares, shall not sell for a sum sufficient to pay the instalments due thereon, the sum deficient may be recovered of the person or persons who own the said stock; and the books of of said company shall be good evidence of such sale and of the purchase of said shares.

IV. *Be it further enacted*, That said corporation shall have full power and authority to elect a president and four directors biennially, to transact and manage the business of said corporation, and to supply any vacancy that may happen from death, resignation or otherwise; and to pass all such bye laws, not inconsistent with the laws of this State, as they shall deem expedient

V. *Be it further enacted*, That the said president and directors shall have power and authority to erect a gate or gates in said bridge, as soon as the same shall be built, and to ask, demand and receive from persons passing over the said bridge not exceeding the following toll. viz. for four wheeled carriages of pleasure, seventy-five cents; and wagons, fifty cents; for two wheeled carriages of pleasure, fifty cents; for carts, twenty five cents; for a man and horse ten cents; single horse, five cents; foot passengers, five cents; cattle per head, three cents; hogs and sheep, three cents.

VI. *Be it further enacted*, That the County Court of Rockingham, if a majority of the justices shall deem it expedient, shall have full power and authority to take shares in said stock to an amount not exceeding two thousand dollars: and shall have power and authority to lay a tax for that purpose, to be collected as other county taxes; and shall have power to appoint a person to represent the interest of said county in said company; and the said County Court shall have until May term thereof next to determine what number of shares shall be taken by said county.

VII. *Be it further enacted*, That in order to procure a suitable and convenient site for said bridge, it shall be lawful for the president and directors of said company to file their petition in the County Court of Rockingham against the owner or owners of the land on either side of said river, praying that so much thereof may be condemned to their use, upon the payment by them of a fair equivalent, as may be necessary for the purposes contemplated by this act; upon which the said court shall summon the proprietors of the land to appear at its next succeeding term and answer the allegations of said petition; and the court shall at the same term order twelve honest freeholders, unconnected with any of the parties, to view, lay off and value, on oath, so much land as may be necessary for said bridge, not exceeding one acre on either shore, and report the proceedings to the next term; when, unless the said report shall be set aside for valid exceptions thereto, the same shall be confirmed; and if the said president and directors shall pay into court, for the benefit of

said proprietors, the sum of money assessed as the value of said land, the court shall forthwith decree that the said president and directors shall stand seized of, possess and enjoy the said land to their own use forever; and if any of said proprietors shall be infants, the defences of their guardians, either regularly constituted or appointed in this special case, shall render the title acquired by the said president and directors in said land as valid and effectual as if they were of full age and appeared in proper person.

VIII. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER CXV.

An act to incorporate the Madison Toll Bridge Company, in the county of Rockingham.

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 Randal D. Scales, Pleasant Black, Thomas Searcey, Robert H. Dalton, Richard Wall, Isaac Hotchkiss and Abner W. Scales, or any four of them, be, and they are hereby appointed commissioners to receive subscriptions to the amount of five thousand dollars, for the purpose of building a bridge across Dan river at or near Madison, in the county of Rockingham; and the said commissioners, or a majority of them, shall prepare books and cause the same to be opened for the subscription of stock, at such places and under the direction of themselves or such persons as they may appoint, on or before the first day of May next, and they shall continue open sixty days; at the end of which time the said books shall be returned to the said commissioners in the town of Madison; and at the same time there shall be a general meeting of the subscribers personally or by proxy, which meeting may continue from day to day until the business thereof be finished; and if it shall appear that two thousand dollars or more of the capital stock have been subscribed, or as soon as the sum of two thousand dollars shall be subscribed, the said subscribers, their heirs and assigns, shall be, and they are hereby declared to be incorporated into a company, by and under the name and style of the Madison Toll Bridge Company; and as such may sue and be sued, plead and be impleaded, defend and be defended, and have perpetual succession and a common seal; and such of the said subscribers as shall be present at the first meeting after the said sum of two thousand dollars shall be subscribed, or a majority of them, are hereby empowered and directed to elect a president and four directors for conducting the business and concerns of said company for one year, and until the next meeting of the stockholders. Every proprietor of stock, by writing under his or her hand, executed before some justice of the peace, may depute any other stockholder to vote for him or her at any general meeting, and the votes of such proxy shall be as effectual to all intents and purposes as if the proprietor himself were personally present at the doing thereof.

II. *Be it further enacted*, That the capital stock of said corporation shall be five thousand dollars, divided into one hundred shares, of fifty dollars each; if the whole sum shall not be subscribed on or before the last day of June next, it shall be the duty of said commissioners, or a majority of them, should the sum of two thousand dollars be not subscribed by the said last day of June next, to open said books for further subscription, at such times and such places as they may choose; and as soon

as said corporation shall organize and elect a president and directors, said books and subscriptions shall be under their direction and control; and should more than the sum of five thousand dollars be subscribed, said commissioners shall strike off said subscriptions until the sum is reduced to five thousand dollars; and in striking off subscriptions they shall begin and strike off a share from the largest subscriptions in the first instance, and continue to strike off one share for all subscriptions under the largest and above one share, until the sum shall be reduced to the capital stock aforesaid.

III. *Be it further enacted*, That the shares shall be paid for at such times and places and by such instalments as the president and directors of said company shall direct, they first advertising the sum to be paid in each instalment in some newspaper for at least twenty days; and if any person or persons, holding any share or shares in said company, shall fail to pay for the same in the manner and at the time prescribed by the president and directors aforesaid, the said president and directors may enforce the collection thereof by legal process; or they may expose to public sale the share or shares which such person may hold in the said company, by giving ten days' notice thereof; and if the said share or shares shall not sell for a sum sufficient to pay the instalments due thereon, the sum deficient may be recovered of the person or persons who own the said stock; and the books of said company shall be good evidence of such sale and of the purchase of said shares.

IV. *Be it further enacted*, That said corporation shall have full power and authority to elect a president and four directors biennially, to transact and manage the business of said corporation, and to supply any vacancy that may happen from death, resignation or otherwise; and to pass all such bye laws, not inconsistent with the laws of this State, as they shall deem expedient.

V. *Be it further enacted*, That the said president and directors shall have power and authority to erect a gate or gates on said bridge, as soon as the same shall be built, and to ask, demand and receive from persons passing on the said bridge not exceeding the following toll, to wit: for four wheeled carriages of pleasure, seventy five cents; for wagons, fifty cents; two wheeled carriages of pleasure, fifty cents; carts, twenty five cents; for a man and horse, ten cents; single horse, five cents; foot passengers, five cents; cattle per head, three cents; hogs and sheep three cents.

VI. *Be it further enacted*, That in order to procure a suitable and convenient site for said bridge, it shall be lawful for the president and directors of said company to file their petition in the County Court of Rockingham against the owner or owners of the land on either side of said river, praying that so much thereof may be condemned to their use, upon the payment by them of a fair equivalent, as may be necessary for the purposes contemplated by this act; upon which the said court shall summon the proprietors of the land to appear at its next succeeding term and answer the allegations of the said petition; and the court shall at the same time order a jury, unconnected with any of the parties, to view, lay off and value, on oath, so much land as may be necessary for said bridge, not exceeding one acre in quantity on either shore, and to report their proceedings to the next term; when, unless the said report be set aside for valid exceptions thereto, the same shall be confirmed; and if the said president and directors shall pay

into for the benefit of the said proprietors the sum of money assessed as the value of said land, the court shall forthwith decree that the said president and directors shall stand seized of, possess and enjoy the said land to their own use forever; and if any of said proprietors shall be infants, the defences of their guardians, either regularly constituted or appointed in this special case, shall render the title acquired by the said president and directors in said land as valid and effectual as if they were of full age and appeared in proper person.

VII. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER CXVI.

An act authorising Thomas Love and Dilliard Love, of Macon county, to erect a bridge across Tennessee river, at the most convenient place, at or near where the State road crosses the same.

Whereas the land on the western side of said river, and adjoining the same, is the property of the State:

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 Governor shall convey to the said Thomas Love and Dilliard Love, their heirs and assigns, one acre of land in a square, including the butment of said bridge, for the purpose of extending the said bridge on the bank of the river above high water mark, and for the purpose of erecting a toll house, as soon as the said Thomas Love and Dilliard Love, or either of them, shall pay to the State the sum of ten dollars for the same.

II. *Be it further enacted*, That as soon as said bridge shall be completed, the said Thomas Love and Dilliard Love, their heirs and assigns, shall be authorised to ask, demand and receive the following tolls for crossing the said bridge, to wit: for every four wheeled carriage of pleasure, fifty cents; for every six horse wagon, sixty two and a half cents; for every five horse wagon, fifty six and a quarter cents; for every four horse wagon, fifty cents; for every wagon drawn by one or two horses, mules or oxen, or two wheeled carriage of pleasure, twenty five cents; for every cart, twenty five cents; for every man and horse, ten cents; for every person on foot, five cents; for every loose horse or mule, five cents; for every head of neat cattle, three cents; for every head of hogs or sheep, two cents.

III. *Be it further enacted*. That the said Thomas Love and Dilliard Love shall be authorised to keep a gate on said bridge, and if any person or persons shall break through said gate and refuse to pay toll as above prescribed, they shall forfeit and pay a fine of five dollars to the said Thomas Love and Dilliard Love, to be recovered by warrant before any justice of the peace for said county, in the name of said Loves, their heirs and assigns.

IV. *And be it further enacted*, That if said Thomas Love and Dilliard Love, their heirs and assigns, either by themselves, their agent or any person keeping said gate, shall ask, receive or demand any greater sum than they are allowed by this act, for persons, wagons, carriages or stock crossing said bridge, they shall forfeit and pay the sum of five dollars, to be recovered, in the name and for the use of any person suing for the same, before any justice of the peace for said county.

V. *And be it further enacted*, That nothing in this act shall be so construed as to authorise them to interfere with the ford in said river; but that

the same shall remain open and free for all persons to cross at; any law to the contrary notwithstanding.

VI. *Be it further enacted*, That if any person or persons shall sustain any damage in crossing said bridge, in consequence of the same being out of repair, it shall be recovered of said Thomas Love and Billiard Love, their heirs and assigns, before any tribunal having jurisdiction of the same.

CHAPTER CXVII.

An act to amend an act, entitled "an act to authorise the building of a toll bridge over Reamoke river at the town of Weldon, and to incorporate a company for that purpose."

Whereas it has been represented to this General Assembly that the capital stock, authorised to be raised by the above recited act, is insufficient to build the contemplated bridge in the most durable and substantial manner: 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 the capital stock of the Weldon Toll Bridge Company be, and the same is hereby increased to fifty thousand dollars; and it shall be lawful to open books of subscription on the first day of February next, for raising the additional stock hereby created, under the superintendence of A. Joyner, Thomas F. Wiatt, Richard H. Weaver, Rice B. Pierce and William H. Day, or any three of them, and under the direction of such other persons as they may appoint, and to continue the same open until the fifteenth day of November, one thousand eight hundred and thirty four, unless the capital aforesaid should be earlier subscribed, in which case the books shall be immediately closed.

II. *Be it further enacted*, That the additional stock hereby created shall be paid for in the same manner, and stand in all respects upon the same footing, terms, conditions, limitations and restrictions as the original stock of twenty thousand dollars, authorised to be raised under the provisions of the said recited act.

III. *And be it further enacted*, That it shall be lawful for the president and directors of the Weldon Toll Bridge Company to call meetings of the said company, at such times and places as they may deem proper, whenever the business of the said company shall render the same necessary.

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

CHAPTER CXVIII.

An act to authorise William A. Erwin to establish a ferry across the Catawba river, in Burke county.

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 William A. Erwin be, and he is hereby authorised to establish a ferry on the Catawba river, at Thomas England's old ferry in Burke county; which ferry, when so established, shall be subject to the same rules and regulations now prescribed for the government of ferries.

II. *And be it further enacted*, That this act shall be in force from and after the passage thereof.

CHAPTER CXIX.

An act to incorporate the Wilmington Volunteers.

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 company of

infantry in the town of Wilmington, commanded by captain Isaac Northrup, be, and the same is hereby incorporated under the name of the "Wilmington Volunteers;" and by that name and style may have power to adopt such bye-laws, rules and regulations for the government of the same as a majority may deem proper, not inconsistent with the laws and Constitution of this State; and all fines, penalties and forfeitures incurred under such bye-laws shall be recovered in the same manner that militia fines are now recovered in this State, and when so recovered, shall be applied to the use and benefit of said company for military purposes.

CHAPTER CXX.

An act to incorporate the Providence Union Artillery Company, in the county of Mecklenburg.

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 a company of artillery, in the county of Mecklenburg, is hereby incorporated under the title of the Providence Union Artillery Company.

II. Be it further enacted, That the Providence Union Artillery Company shall have power to adopt such bye-laws for the government of the company, not inconsistent with the laws and Constitution of this State, as they, or a majority of them, may deem proper; and all fines, penalties and forfeitures incurred in pursuance of such bye-laws, shall be recovered in the same manner that militia fines are recovered in this State, and appropriated to the use and benefit of said company for military purposes.

CHAPTER CXXI.

An act to incorporate the Chowan Volunteer Company.

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 volunteer company in the county of Chowan, commanded by Captain Everard Garrett, be, and the same is hereby incorporated and made a body corporate and politic, by the name and style of the "Chowan Volunteer Company;" and by that name and style shall have succession, and be able and capable in law to sue and be sued, plead and be impleaded in any court in this State; and shall have power to make bye-laws, rules and regulations for the government of said company, not inconsistent with the Constitution and laws of the State; and all fines, penalties and forfeitures incurred in pursuance of such bye-laws, shall be recovered in the same manner that militia fines are recovered in this State, and appropriated to the use and benefit of said company for military purposes.

CHAPTER CXXII.

An act concerning the Wilkes county volunteer artillery company.

Whereas the company of volunteer artillery in Wilkes county, commanded by Captain George Gilreath, has not been fully organized, equipped and mustered as a volunteer artillery company, according to the requisitions of the present militia laws of this State:

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 Wilkes county volunteer artillery company shall hereafter be denominated and known as a company of light infantry, and shall be attached to, and perform duty in the seventy-fourth regiment of the militia of this State, and

shall be governed in all respects by the militia laws now in force in relation to light infantry.

II. *Be it further enacted*, That the arms and accoutrements now in the possession of and belonging to the said volunteer company of artillery, shall hereafter be subject to the rules and regulations prescribed in an act, passed in the year eighteen hundred and thirty-one, entitled an act for the distribution of the public arms among the several counties of the State, and for the preservation and accounting for the same, except that the said company, after being attached to the seventy-fourth regiment as aforesaid, shall be entitled to retain the possession of the said arms so long as the company shall exist as a light infantry company, and no longer.

III. *Be it further enacted*, That if the said company shall not, within six months from and after the passage of this act, fully organize and equip themselves as a volunteer light infantry company, according to the requisitions of the existing laws, which fact shall be made fully to appear to the satisfaction of the commanding officers of the regiments to which they belong, then and in that case the said company shall be dissolved, and the persons belonging to the same shall be enrolled and perform duty in the district company in which they may respectively reside.

IV. *Be it further enacted*, That so much of an act, passed in the year eighteen hundred and thirty-one, entitled an act to incorporate the Wilkes county volunteer artillery company, as comes within the purview and meaning of this act, be, and the same is hereby repealed.

CHAPTER CXXIII.

An act to incorporate the Haywood Troopers, in the county of Chatham.

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 troop of cavalry in the county of Chatham, commanded by Captain Shult, be, and the same is hereby incorporated and made a body politic and corporate, by the name and style of the Haywood Troopers; and by that name shall have succession, and be able and capable in law to sue and be sued, plead and be impleaded in any court in this State; and shall have power to make bye-laws, rules and regulations for the government of said company, not inconsistent with the laws and Constitution of this State; and all fines, penalties and forfeitures incurred in pursuance of such bye-laws, shall be recovered in this State and appropriated to the use and benefit of said company for military purposes.

CHAPTER CXXIV.

An act to incorporate the Northampton Independent Volunteers.

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 company of infantry in the county of Northampton, commanded by Captain Madison Dupree, be, and the same is hereby incorporated and made a body politic and corporate, by the name and style of "the Northampton Independent Volunteers;" and by that name shall have succession, and be able and capable in law to sue and be sued, plead and be impleaded in any court in this State; and shall have power to make bye-laws, rules and regulations for the government of said company, not inconsistent with the laws and Constitution of the State; and all fines, penalties and forfeitures incurred in

pursuance of said bye-laws, shall be recovered in the same manner that the militia fines are recovered in this State, and appropriated to the use and benefit of the said company for military purposes.

CHAPTER CXXV.

An act to incorporate the Iredell Union Troopers.

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 troop of cavalry in the county of Iredell is hereby incorporated, by the name of "the Iredell Union Troopers;" and by that name and style shall have power to adopt such bye-laws, rules and regulations for the government of the same as a majority may deem proper, not inconsistent with the laws and Constitution of this State; and all fines, penalties and forfeitures incurred under such bye-laws, shall be recovered in the same manner that militia fines are now recovered in this State; and when so recovered, shall be applied to the use and benefit of said troop for military purposes.

CHAPTER CXXVI.

An act to incorporate the Meltonsville Cavalry, in the county of Anson.

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 troop of cavalry in the county of Anson, commanded by Joseph White, is hereby incorporated by the name of the Meltonsville Cavalry; and by that name and style shall have power to adopt such bye-laws, rules and regulations for their government as a majority may deem proper, not inconsistent with the laws and Constitution of this State; and all fines, penalties and forfeitures incurred under such bye-laws, shall be recovered in this State; and when so recovered, shall be appropriated to the use and benefit of said cavalry for military purposes.

CHAPTER CXXVII.

An act to attach the company of cavalry in the county of Rowan, called the Rowan Troopers, to the Mecklenburg and Cabarrus regiment of cavalry.

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 company of cavalry, called the Rowan Troopers, be, and they are hereby attached to the Mecklenburg and Cabarrus regiment of cavalry; any law to the contrary notwithstanding: Provided, that nothing herein contained shall authorise the commanding officer to call the companies composing said regiment to Rowan for muster, unless it be with the consent of a majority of the officers in general court martial given.

CHAPTER CXXVIII.

An act authorising the commissioned officers of the eighty seventh regiment of Davidson county militia to move or change the place of mustering said regiment.

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 ratification of this act, it shall and may be lawful for the commissioned officers of the eighty seventh regiment of Davidson county militia to move or change the muster of said regiment to such place as a majority of the commissioned officers of said regiment may fix upon; any law, usage or custom to the contrary notwithstanding.

CHAPTER CXXIX.

An act concerning the western regiment of the militia of Chatham county.

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 commissioned officers attached to the western regiment of the militia of Chatham county and the north regiment of the county of Surry, when in court martial assembled, shall have full power and authority to fix the place where the regimental musters of the same shall be held, and to alter and change the same at their pleasure; any law, usage or custom to the contrary notwithstanding.

CHAPTER CXXX.

An act for the better regulation of the militia of Buncombe county.

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 passage of this act, it shall be the duty of the major general to review the several regiments of militia in the county of Buncombe separately and at their usual places of parade.

CHAPTER CXXXI.

An act in relation to the independent or volunteer companies formed out of the fifty seventh or fifty eighth regiment of the militia in Guilford.

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 one artillery company and all the volunteer companies attached to either the fifty seventh or fifty eighth regiments of Guilford county militia, are hereby formed into a separate and distinct regiment; which regiment, for its organization, conduct and operation, shall have the same number of field officers and other necessary officers, enjoy the same rights and privileges, and be subject to the same duties, as other militia regiments.

II. *Be it further enacted,* That any other volunteer company which may hereafter be formed in either the fifty seventh or fifty eighth regiment of the Guilford county militia shall be attached to this regiment.

III. *Be it further enacted,* That should the court martial of the regiment thus formed find it expedient, the regiment may at any time, with the consent of the brigadier general commanding the brigade, dissolve itself.

CHAPTER CXXXII.

An act to authorise certain persons therein named to raise by lottery six thousand dollars, for cutting a canal in Washington county.

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 John B. Chesson, Thomas Norman, Joseph S. Norman, John B. Beasley, Levi Fagan, James A. Chesson and William L. Chesson, be, and they are hereby authorised to raise by way of lottery six thousand dollars, by such scheme or schemes as they or a majority of them may think most advisable, in special confidence that the said sum shall be applied to the excavating and cutting a canal, to commence at the Newlands in the county of Washington, running through the Pocoson lands, and to lead into the Albermarle sound at the mouth of the Cove swamp near the residence of the Rev'd Joshua Swifts, or at any other place that may be deemed advisable.

II. *Be it further enacted,* That the said lottery or lotteries shall be con-

ducted and drawn under the superintendence and direction of the persons before named, or a majority of them, under such rules, regulations and restrictions as they may prescribe.

III. *Be it further enacted*, That when the aforesaid commissioners, or a majority of them, shall think a sufficient sum has been raised to enable them to commence the aforesaid canal, they shall proceed to contract with some suitable person or persons to cut and excavate the aforesaid canal in such way and manner as they or a majority of them may think proper.

IV. *Be it further enacted*, That when the said canal shall have been completed, the same shall, and it is hereby declared to be open and free to the passing and repassing of all and every person, free of toll or any other charge whatever.

V. *Be it further enacted*, That so much of the land through which the said canal may run, as may be necessary to the completion of a road on either bank, as may be most convenient, or such portion as may be necessary to the repair and preservation of said canal, shall be, on application to the Court of Pleas and Quarter Sessions as in ordinary cases, and hereby is condemned: *Provided, however*, that no more land shall be taken for the use and purposes of said canal and road than shall extend sixty feet each way from the centre of said canal.

VI. *Be it further enacted*, That it shall be lawful for any person or persons to drain his, her or their lands into said canal, and such persons so draining shall be responsible for the annual repair and clearing out of said canal and road, with such aid as may be deemed proper, from time to time, to be afforded by the Court of Pleas and Quarter Sessions of said county.

VII. *And be it further enacted*, That this act shall be in force from and after the passage thereof.

CHAPTER CXXXIII.

An act regulating lay days on Frying Pan, in Tyrrell county.

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 it shall not be lawful for any person or persons fishing in the waters of Frying Pan, in the county of Tyrrell, to lay out their seine or seines or haul their seine ashore, or to suffer their seine or net to lie in the channel of the said water, from the rising of the sun on Sunday until after the rising of the sun on Monday, or from the rising of the sun on Thursday until after the rising of the sun on Friday; and that no person or persons shall haul more than one seine at the same fishing at the same time.

II. *Be it further enacted*, That any person or persons violating the provisions of this act shall forfeit and pay for each and every offence the sum of one hundred dollars, to be recovered before any justice of the peace in said county, and applied one half to the use of the informer, and the other half to the poor of said county.

III. *And be it further enacted*, That this act shall be in force from and after the fifteenth day of March next; any other law, usage or custom to contrary notwithstanding.

CHAPTER CXXXIV.

An act granting to Asa Delozier and Henry Reagan, under certain conditions, two tracts of land.

Whereas Asa Delozier and Henry Reagan, citizens of the State of Tennessee, by memorial to this Legislature, have represented that they have

discovered a vein of silver ore on the public lands, and they being willing to make known the locality of the same, on condition that the State will grant to them certain privileges in relation thereto; and whereas it is believed that the knowledge of the locality of this vein of silver ore, if it be such, may lead to other important discoveries: Therefore,

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 Asa Delozier and Henry Reagan, in consideration of their discovery of a deposit of silver ore on the public lands of this State, and of making known the locality of the same, be, and they are hereby authorised to locate and lay off three hundred acres of land in any part of the mountainous districts of this State, so as to include the silver mine or a part thereof which they claim to have discovered; and they shall cause the same to be surveyed and the lines and boundaries designated by some competent surveyor, in the presence of at least two respectable citizens of North Carolina and of an agent of the State to be appointed for that purpose, which agent the Governor is hereby authorised and directed to appoint, and to allow him for his services such compensation as may be deemed just and equitable: *Provided*, that the aforesaid three hundred acres of land shall be laid off in an oblong form, the sides of which shall not be more than twice as long as the ends and parallel with the general direction of the vein of ore; and there shall be made out two accurate plats or diagrams of the said three hundred acres of land, to be certified by the surveyor and by the agent of the State, one of which shall be delivered to Asa Delozier or Henry Reagan, and the other shall be transmitted by the agent to the Secretary of State; and the Secretary of the State on application shall issue a grant according to the diagram and certificate aforesaid in favor of the said Asa Delozier and Henry Reagan, for the term of twenty five years.

II. And be it further enacted, That the said Asa Delozier and Henry Reagan shall hold, possess and enjoy the aforesaid three hundred acres of land for the term aforesaid, together with all the rights and immunities appertaining to the same, subject however to the following conditions, to wit: First. They shall, within twelve months after the ratification of this act, locate the land and commence regular and systematic operations on the mine, and on failure to do so, their right, title and interest in the premises shall become null and void, and the whole shall revert to the State. Secondly. After the operations on the mine shall have been commenced, if at any time they are suspended for a longer period than six months, such suspension shall work a forfeiture of the land and mine, and the same shall revert to the State again. Thirdly. The said Asa Delozier and Henry Reagan, grantees, or their agents or representatives, shall keep true and accurate accounts of the products of the mine, and shall semi-annually pay over to the Public Treasurer of the State, or to an agent to be appointed by him, the one-tenth part of the nett proceeds of the mine; for the payment of which the grantees or their representatives shall give bond and satisfactory security to the Governor of the State; and to the end that the nett proceeds may at all times be ascertainable, they shall also keep regular accounts and books of all expenditures incurred in working said mine, in establishing fixtures, in erecting machinery for the reduction of the ores and the separation of the metal, and of all other necessary and proper expenses connected with and arising out of the operations on the mine, and these

accounts and books and all other matters and things appertaining to the operations of said mine shall at all times be open to the inspection and examination of an agent to be appointed by the Governor of the State for the time being for the purpose of attending to the interest of the State in this and in any other mines that may hereafter be developed; which agent shall have the right to object to any charge or item of expense which may seem to him extravagant and unnecessary; and if the aforesaid grantees, or those who may represent them, shall insist on the admission of the charge or item thus objected to, then it shall be referred to three arbitrators for their decision, to be made on oath, one of said arbitrators to be chosen by each of the parties, and the third by the two thus selected.

III. *And be it further enacted* That if at any time any false accounts shall be exhibited by the said Henry Reagan and Asa Delozier, or their legal representatives or assigns, for the purpose of defrauding the State, or if they or their legal representatives or assigns shall attempt to practice any fraud upon the State, it shall be lawful for the Governor of the State to cause to be issued, returnable to the Superior Court of the county wherein the grant may be located, a scire facias to said Henry Reagan and Asa Delozier, or their legal representatives or assigns, to show cause why this grant shall not be forfeited; and on conviction thereof this grant and all its privileges and immunities shall be declared null and void: *Provided, however,* that the Governor shall in no case issue any scire facias unless it be upon the petition on affidavit of some one or more persons, in writing, setting forth at full length the charge or charges so made.

And whereas it may become necessary for the said grantees to require and use much fuel and timber and likewise considerable water power for the reduction of the ores, or for other purposes connected with the operations on the mine, which fuel, timber and water power may not exist in sufficient quantities on the three hundred acres of land, but which may be found convenient thereto on the public lands:

IV. *Be it therefore enacted* That the said grantees, or their representatives, shall have the privilege to select any water site within three miles of the mine, and may lay off in a square form one hundred acres of land, which they shall cause to be surveyed and marked off as in the case of the three hundred acres, and plats or diagrams thereof made and certified, on which the Secretary of State shall issue a grant in like manner as for the three hundred acres of land before provided for: *Provided,* that nothing herein contained shall be construed to give to the grantees the privilege of working any mines that may exist on said survey of one hundred acres; but all mines and metals thereon existing shall remain to the State and be subject to its future disposition.

V. *And be it further enacted,* That the mine or mines that may be opened and put in operation under the provisions of this act shall be subject to no higher taxation than lands of like quality in the same district of country; and in making the assessment of the valuation of the lands, no account shall be taken of the supposed mineral wealth, since that can only be obtained by the application of skill and much labour and by the hazard of capital, and inasmuch as the State in all cases will receive her part of the nett products or profits of the mine: *Provided always,* that the State may at any time resume the said grant by the payment of twenty five thousand dollars to the said Reagan and Delozier or their legal representatives: *And*

provided further, that they shall also be paid a fair consideration for the fixtures which may be attached to said mine; and in case the agent who may be appointed by the State cannot agree with said Reagan and said Delozier as to the value of said fixtures, then and in that case it shall be referred to two arbitrators, one to be appointed by the State and the other by the said parties or their legal representatives; and the said arbitrators shall, in case of a difference between them, have power to appoint an umpire, who shall fix the value of said fixtures: *Provided also*, that a failure on the part of the grantees to comply with any of the provisions of this act shall work an immediate forfeiture of all the privileges herein granted.

CHAPTER CXXXV.

An act to authorise Joseph S. Jones to inspect certain records, and to make extracts therefrom.

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 Joseph S. Jones, of the county of Warren, be, and he is hereby authorised to examine the public records in the offices of the Governor, the Secretary of State and Comptroller, and also the files of the Senate and of the House of Commons of the General Assembly, and to make therefrom such extracts as he may think proper: *Provided*, that in so doing he shall give no interruption to any of the officers charged with the custody of said records in the regular discharge of their duties.

CHAPTER CXXXVI.

An act to authorise the Public Treasurer to sell certain lands in the vicinity of Raleigh.

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 Public Treasurer be authorised to sell without reserve, at public sale, after giving two weeks' notice, a certain tract of land, the property of the State, known as the Bushy Branch tract, lying in the county of Wake, near the city of Raleigh, and lately the property of John Haywood, deceased; the sale to be made at a credit of one and two years, with interest, upon the purchaser giving bond with good personal security: and said lands shall be sold in one or more lots as may be thought most advantageous for selling.

II *Be it further enacted*, That the Secretary of State shall issue a grant for said tract of land, or any part or parts thereof, upon the receipt of the Public Treasurer for the purchase money being filed in his office. And this act shall be in force from and after the ratification of the same.

CHAPTER CXXXVII.

An act to alter the name of Nancy Brazier, and to legitimate her.

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 name of Nancy Brazier, daughter of John Goodbread, of Rutherford county, shall be, and the same is hereby altered to that of Nancy Goodbread; and by that name she is hereby legitimated and entitled to inherit from her said father, John Goodbread, by descent and distribution, as fully and effectually as if she had been born in lawful wedlock; any thing in any law to the contrary notwithstanding.

CHAPTER CXXXVIII.

An act to legitimate and alter the name of Mary Anne Martha Wallace, of Halifax county.

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 name of

Mary Anne Martha Wallace, daughter of Sarah Wallace and Thomas Bustin, of the county of Halifax, shall be, and the same is hereby altered to that of Mary Anne Martha Bustin; and by that name she is hereby legitimated and entitled to inherit from her said father, Thomas Bustin, by descent and distribution, as fully and effectually as if she had been born in lawful wedlock; any thing in any law to the contrary notwithstanding.

CHAPTER CXXXIX.

An act to amend and correct an error in an act, passed at the last session, entitled "an act to alter the names of Richard Alderson and William White, of Beaufort county, and entitle them to inherit."

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 youth, called in said act William Whitehurst, shall, and he is hereby declared to possess every right intended to be secured to him in and by said act, and as effectually as if his name had been correctly written William Wood instead of William White, previous to its alteration to William Whitehurst.

CHAPTER CXL.

An act to legitimate and alter the names of Nancy H. Relfe and Permelia Relfe, of Pasquotank county.

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 names of Nancy H. Relfe and Permelia Relfe shall be, and the same are hereby altered to those of Nancy H. Jackson and Permelia Jackson, and by said names shall be, and are hereby declared legitimated and entitled to inherit from their father Samuel Jackson by descent and distribution as effectually as if they had been born in wedlock; any thing in any other law to the contrary notwithstanding.

CHAPTER CXLI.

An act to alter the name of William Lawrence Cherry, of the county of Pitt, and to legitimate him.

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 passage of this act, William Lawrence Cherry, of the county of Pitt, an illegitimate son of James Perkins and Ann M. Perkins, his wife, shall hereafter be known and called by the name of William Lawrence Perkins, and by that name may sue and be sued, plead and be impleaded, and receive and take property by descent or distribution.

II. And be it further enacted That the said William Lawrence Perkins be, and he is hereby declared legitimate and capable in law to receive and inherit property, as heir to the said James Perkins, in as full and ample a manner as if he had been born in lawful wedlock; any law to the contrary notwithstanding.

CHAPTER CXLII.

An act to alter the name of Priscilla Williams, wife of Egbert H. Williams, of the county of Edgecomb.

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 Priscilla Williams, wife of Egbert H. Williams, of the county of Edgecomb, shall be hereafter known as Evelina Williams, and by that name shall be entitled to all the rights and privileges she has heretofore enjoyed under the name of Priscilla Williams.

II. Be it further enacted, That this act shall be enforced from the ratification thereof.

CHAPTER CXLIII.

An act to prevent the felling of timber in or otherwise obstructing the runs of Moore's creek and White Oak creek, in the county of New Hanover.

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 hereafter obstruct the runs of Moore's creek, between Rodgers' old mills and Moore's creek bridge, and White Oak creek, from its mouth to Henry's mills, both in the county of New Hanover, by felling timber therein or otherwise, or shall cause the same to be done, he, she or they shall be guilty of a misdemeanor and liable to indictment in the County or Superior Court of said county, and upon conviction shall be fined at the discretion of the court not exceeding fifty dollars for each offence: *Provided*, that nothing in this act shall be so construed as to prevent the owners of land on said creeks from building water fences thereon; and this act shall not extend to cases where in clearing and improving land timber is felled into the runs of said creeks, if such timber be removed within five days.

II. *Be it further enacted*, That if any slave or slaves shall be guilty of obstructing the runs of said creeks, without the order of his, her or their owner, they shall, upon conviction before any justice of the peace for said county, receive not exceeding thirty nine lashes, and the owner of the slave or slaves so convicted shall be liable for the costs of the prosecution.

CHAPTER CXLIV.

An act to prevent the felling of timber in the run of Hogan's creek, in Caswell county.

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, after the first day of February next, shall fell timber in or otherwise obstruct the channel of Hogan's creek, in the county of Caswell, shall be guilty of a misdemeanor, and may be indicted for the same in the County or Superior Courts of said county, and on conviction shall be fined at the discretion of the court, not exceeding twenty dollars for each and every offence against this act: *Provided*, that nothing herein contained shall be so construed as to prevent owners of land from erecting water fences or building mills thereon; nor shall any persons incur the penalty herein prescribed who shall fell timber in or otherwise obstruct the channel of said water course in clearing his, her or their lands, provided he, she or they shall remove the same within ten days.

II. *And be it further enacted* That if any slave or slaves shall be guilty of obstructing the channel of said creek, without the order of his or her owner, they shall be, upon conviction before two justices of the peace of said county, sentenced to receive not exceeding thirty nine lashes, and the owner of such slave or slaves shall be liable for the costs of the prosecution.

CHAPTER CXLV.

An act providing for the appointment of overseers and hands to clear out Crane's creek, in the counties of Moore and Cumberland.

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 at the first term of the Courts of Pleas and Quarter Sessions held for the counties of Moore and Cumberland, a majority of the acting justices being present, they shall appoint overseers and hands to clear out and keep open Crane's

creek, for the free passage of rafts down the same, from McDaniel's mills, in Moore county, to Little river, in Cumberland county.

II. *And be it further enacted*, That the overseers thereof shall be appointed in the same manner and shall be subject to the same penalties as overseers of public highways now are by law.

III. *And be it further enacted*, That the overseers and hands aforesaid shall be exempt from working on any public road whatever.

CHAPTER CXLVI.

An act to prevent injury to the navigation of the Cape Fear river, and for other purposes.

Whereas masters of vessels and others are in the practice of throwing stones and other ballast into the Cape Fear river at and near Wilmington, whereby damage is done to the navigation thereof: 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 hereafter it shall not be lawful for any master of a vessel, or other person, to throw any stone, earth or other ballast, or any other thing which can be injurious to the navigation of said river, into the same, within seven miles of the town of Wilmington, except it be at such place as may be designated by the commissioners of the navigation and pilotage of Cape Fear river.

II. *Be it further enacted*, That any person guilty of a violation of this act shall be liable to an indictment in the County or Superior Court of Law of New Hanover county, and on conviction thereof shall be punished by fine and imprisonment, or either, at the discretion of the Court.

III. *Be it further enacted*, That the captain, master or commander of any vessel, from which any stone, earth or other ballast, or any other thing which can be injurious to the navigation of said river, may be thrown, contrary to the provisions of this act, shall forfeit and pay the sum of two hundred dollars, to be recovered in the name of the commissioners of navigation and pilotage of Cape Fear river for the time being, by action at law in the Superior Court of Law of New Hanover county, one half to the use of the informer and the other half to the use of said commissioners for the improvement of the navigation.

IV. *Be it further enacted*, That it shall be the duty of said commissioners for the time being to enforce the penalties of this act.

V. *Be it further enacted*, That all the powers and authority now vested in the commissioners of pilotage and navigation of Cape Fear river, below Negro Head point, shall be and remain in said commissioners, and shall extend up both branches of said river seven miles above said point.

CHAPTER CXLVII.

An act to prevent the falling of timber in or obstructing the run of the Lower creek, in the county of Burke.

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 first day of February next, it shall not be lawful for any person to obstruct, by falling trees therein, the run of the Lower creek, in the county of Burke, from Shoat's bridge to the mouth of said creek, under the penalty of ten dollars for every such obstruction, to be recoverable before any jurisdiction having cognizance thereof by any informer, one half to his use, and the other to the use of the wardens of the poor for said county:

Provided, that nothing herein contained shall be so construed as to prevent the owners of land on said creek from building water fences or mills thereon; nor shall any person incur the penalty herein prescribed who shall fall timber in or otherwise obstruct the run of said creek in clearing and improving his, her or their lands, provided they shall remove the same within ten days.

CHAPTER CXLVIII.

An act to prevent the hauling of seines or obstructing the passage of fish on certain days in Upper Broad creek, in Craven county.

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 hereafter it shall not be lawful for any person, between the fifteenth day of February and the fifteenth day of May in each and every year, to haul or put in the water so as to obstruct the passage of fish any seine in Upper Broad creek, in Craven county, from Saturday evening at sunset to Monday evening sunset.

II. *Be it further enacted*, That any person offending against the provisions of the first section of this act, if a free person, shall forfeit and pay to any person suing for the same the sum of one hundred dollars for each and every offence, to be recovered before any tribunal having jurisdiction of the same; and be furthermore liable to indictment, and upon conviction be fined or imprisoned at the discretion of the court, the fine to be not less than twenty-five dollars or more than fifty dollars, or imprisoned more than thirty days; if a slave, to receive a whipping on his or her bare back, upon conviction before any justice of the peace of Craven county, not to exceed thirty-nine lashes.

CHAPTER CXLIX.

An act to repeal an act, passed in the year eighteen hundred and thirty-one, entitled an act to prevent obstructions to the passage of fish up Neuse and Trent rivers.

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 so much of the before recited act as prevents fishing in the time therein specified in that part of the Neuse river which lies in the limits of Lenoir county, be, and the same is hereby repealed.

CHAPTER CL.

An act concerning fisheries on the Scuppernong river, in the counties of Tyrrell and Washington.

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 passage of this act, it shall not be lawful for any person or persons to haul any seine or seines in the waters of the Scuppernong river, in the counties of Washington and Tyrrell, from Saturday evening sunset until Monday morning sunrise.

II. *Be it further enacted*, That if any person or persons shall offend against the provisions of the above recited act, he, she or they shall, on due conviction thereof, forfeit and pay the sum of fifty dollars, to be recovered before any jurisdiction having cognizance thereof, one half to the use of the informer, the other half to the poor of said county.

III. *Be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER CLI.

An act to prevent obstructing the passage of fish up New river, in the county of Ashe.

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 or

persons shall, on any pretence whatever, by means of a dam, weir, trap or otherwise, from and after the fifteenth day of March next until the first day of June, so obstruct the channel of New river, from the Virginia line to the confluence of the South and North forks of said river, in Ashe county, and from thence to the Three Forks of the South Fork of New river, in Ashe county, as not to leave one-fourth of the said river, in the deepest part of the main channel, open for the free passage of fish; and any person violating the true meaning and intent of this act, shall be liable to indictment for each and every offence, and upon conviction shall be fined at the discretion of the court.

II. *Be it further enacted*, That any person or persons who have heretofore erected or caused to be erected, or have any interest in any dam or other impediment, so as not to leave open one-fourth part of the river as above set forth, and who shall not, on or before the fifteenth day of March next remove or cause to be removed any such obstruction, shall be liable to indictment, and on conviction shall be fined at the discretion of the court.

III. *Be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER CLII.

An act to prevent the felling of timber in or otherwise obstructing the runs of the south-west branches of New river, in Onslow county.

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 first day of February next, it shall not be lawful for any person or persons to obstruct, by felling trees therein, the run of the south-west branch of New river, in Onslow county, from the mouth to the Holly Shelter road, leading from the rich lands of New river to Wilmington, North Carolina, and the other branches called Mill Run to Henry Ward's landing, under the penalty of ten dollars for every such obstruction, to be recovered before any jurisdiction having cognizance thereof by any informer, one half to his use, and the other half to the use of the wardens of the poor of said county: *Provided*, that nothing herein contained shall be so construed as to prevent the owners of lands on said runs or creeks or swamps from building water fences or mills thereon; nor shall any person incur the penalty herein prescribed who shall fell timber in or otherwise obstruct the runs of said creeks or swamps in clearing and improving his or her lands, provided the same shall be removed in ten days; and all owners of slaves shall be liable, under the provisions of this act, for all violations of this act by their said slaves.

CHAPTER CLIII.

An act to prevent the felling of timber in or otherwise obstructing the run of Ellis' creek, in Bladen county.

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 fall timber in or otherwise obstruct the run of Ellis' creek, from its mouth to James Owen's mills, in the county of Bladen, he, she or they shall forfeit and pay the sum of twenty dollars for each and every offence, to be recovered before any justice of the peace having cognizance thereof, one half to the use of the informer, and the other half to the use of the poor of the county: *Provided*, that nothing herein contained

shall be so construed as to prevent owners of land on said creek from erecting water fences across the same, or building mills thereon; nor shall any person incur the penalty herein prescribed who shall fall timber in or obstruct the run of said creek in clearing and improving their lands, provided he, she or they shall remove the same within ten days.

II. *Be it further enacted*, That if any slave or slaves shall offend against the provisions of this act, on conviction before any justice of the peace, he, she or they shall receive thirty lashes on their bare back, and the owners of the said slave or slaves shall pay all costs.

III. *Be it further enacted*, That this act shall be in force from and after the passage thereof.

CHAPTER CLIV.

An act to prevent obstructions to the run of Rockfish creek, in Duplin, and Tar river, in Franklin counties.

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 passage of this act, if any person or persons shall fell timber in or otherwise obstruct the run of Rockfish creek, in Duplin county, from the Turpentine landing below the lower bridge across said creek to the upper end of the lake near Mrs. Brice's, or the run of Tar river, within the limits of the county of Franklin, such person so offending shall forfeit and pay the sum of twenty dollars for each and every offence, to be recovered by warrant before any justice of the peace of the county in which such offence may be committed, one half to the use of the informer, and the other half to the use of the poor of such county: *Provided*, that nothing herein contained shall be so construed as to prevent owners of land on said creek or river from erecting water fences across the same, or building mills or other machinery thereon; nor shall any person incur the penalty herein prescribed who shall fell timber in or obstruct the run of said creek or river in clearing or improving their lands, provided he, she or they remove the same within ten days.

CHAPTER CLV.

An act to prevent the falling of timber in or otherwise obstructing the run of Perquimons river, in Perquimons county.

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 fall timber in or otherwise obstruct the run of Perquimons river, in Perquimons county, from Newby's bridge to Reddick's bridge, he, she or they shall forfeit and pay the sum of five dollars for each and every offence, to be recovered before any jurisdiction having cognizance thereof, to the use of the informer: *Provided*, that nothing herein contained shall be construed to prevent owners of land on said river from falling timber in or otherwise obstructing the run of said river in clearing and improving their lands, provided that they shall remove the same within five days.

CHAPTER CLVI.

An act to prevent obstructions in First Broad river, in the county of Rutherford.

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 hereafter if any person or persons shall fell timber in or otherwise obstruct the channel of First Broad river, in the county of Rutherford, from the mouth of said river up to Lucas' ford, such person or persons shall be deemed guilt-

ty of a misdemeanor, and may be indicted in the County or Superior Courts of said county, and on conviction may be fined at the discretion of the court, not exceeding fifty dollars for each and every offence against this act: *Provided, however*, that nothing in this act shall be so construed as to prevent the erection of water fences or mills on said river, or to prevent the owners of land on said river from clearing the same, if the timber cut down and filled in said river in clearing such lands be removed within ten days.

II. *And be it further enacted*, That if any slave or slaves shall offend against the provisions of this act, on conviction before any justice of the peace in said county, such slave so offending shall receive not exceeding thirty-nine lashes on his or her bare back; and the owner of such slave or slaves shall be liable for all costs.

CHAPTER CLVII.

An act to prevent the felling of timber in or otherwise obstructing the navigation of the North East branch of Cape Fear, between Outlaw's and Kornegay's bridge, in Duplin county.

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 hereafter fell any timber in or otherwise obstruct the navigation of the North East branch of Cape Fear, between Outlaw's and Kornegay's bridge, in the county of Duplin, he, she or they so offending shall be deemed guilty of a misdemeanor, and may be prosecuted in either the County or Superior Court of said county, and on due conviction thereof, shall be fined at the discretion of the court; the fine, however, not to exceed fifty dollars.

II. *Be it further enacted*, That if any negro slave shall be guilty of the said offence, he, she or they so offending shall, on conviction thereof before any justice of the peace for said county, receive thirty-nine lashes on his, her or their bare back well laid on, and the owner thereof be liable for all costs.

CHAPTER CLVIII.

An act to improve the State road from the bank of the Tuckasejah river, by the way of Franklin, to the Georgia line.

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 John Hall, Nimrod S. Garrot and William Bryson, be, and they are hereby appointed commissioners to review and make such alterations in the State road leading from the west bank of the Tuckasejah river, by the way of Franklin, to the Georgia line; and it shall further be the duty of said commissioners to mark out and take down, in writing, such alterations as they may make, and return the same to the first court that may happen after the first day of April next.

II. *And be it further enacted*, That the justices of the Court of Pleas and Quarter Sessions for the county of Macon, at the court that may happen first after the first day of March next, seven justices being present, shall appoint three fit and discreet persons as commissioners, for the purpose of opening books and receiving subscription of stocks to the amount of two thousand dollars, which sum shall constitute the capital stock of the company hereby incorporated; and it shall be the duty of the commissioners to open books at the town of Franklin, and at such other places as the court may direct, on the first day of April next, for the purpose of receiving subscriptions of stock in said company.

III. *Be it further enacted*, That the aforesaid capital stock of two thousand dollars shall be divided into shares of twenty dollars each, and shall be applied to the use of completing and keeping in repair a turnpike road, commencing at the Tuckasejah river where the State road now crosses the same; thence to the Savannah creek; thence up the same on or near where the road now runs, to the top of the Cowee mountain; thence turning to the right and going down the said mountain to the foot of the same, where the said turnpike road shall terminate, a distance of about fifteen miles; the road to be, when completed, of the following dimensions, that is to say, sixteen feet wide, clear of all obstructions, except where side cuttings may be necessary, in which case the road shall be twelve feet wide; all necessary bridges shall be twelve feet wide; and the declivities of the road shall not exceed one foot perpendicular to eight feet horizontal.

IV. *Be it further enacted*, That as soon as one thousand dollars shall be subscribed, it shall be the duty of the commissioners to call a general meeting of the stockholders in the town of Franklin; and if the stockholders owning a majority of all the shares subscribed for shall attend, it shall and may be lawful for them to proceed to appoint a president, treasurer and three directors, for the term of one year and until the next general meeting of the stockholders; and the president, treasurer and directors, when so appointed, and their successors in office, shall constitute a body corporate and politic in law, by the name and style of the "Cowee Turnpike Company;" and by that name may sue and be sued, plead and be impleaded in any court of record within this State; and as such shall have perpetual succession and a common seal; and shall have and possess in common all the rights and privileges which may be necessary to carry into full effect the objects of this corporation.

V. *Be it further enacted*, That the number of votes to which any stockholder shall be entitled shall be according to the number of shares he may hold, in proportion following, that is to say, for one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding fifty, one vote; for every ten shares above fifty, one vote.

VI. *Be it further enacted*, That the president and directors shall have power, from time to time, to make and establish such bye laws for their own government as they may think proper, not inconsistent with the constitution and laws of the State.

VII. *Be it further enacted*, That the owners of a majority of all the shares subscribed shall have power at any time to remove from office the president, treasurer and directors of said company, or any of them, and to appoint others in their stead, and to fill all vacancies which may happen in any way; and it shall be the duty of the president to make a full and fair statement of all the affairs of the company to each general meeting of the stockholders; and it shall be the duty of the treasurer to receive and account for all moneys belonging to the company, and to keep a fair account for the same, and to do and perform all such duties as may be required of him in relation to his office.

VIII. *Be it further enacted*, That the stockholders, at their first general meeting, shall fix on the time and proportion in which the stock subscribed shall be paid; and shall further have power to declare the stock of delinquent stockholders forfeited.

IX. *Be it further enacted*, That when the road shall be completed as directed in the third section of this act, it shall and may be lawful for the company to erect a toll gate at some convenient place on said road, and demand and receive toll at the following rates, that is to say, for a man and horse, ten cents; for loose horses and mules, five cents; for hogs and sheep, one cent each; for cattle, two cents per head; for six horse wagon, seventy five cents; for five horse wagon, sixty two and a half cents; for four horse wagon, fifty cents; for three or two horse wagon, thirty seven and a half cents; for one horse wagon, twenty five cents; for four wheel carriage of pleasure, fifty cents; for each gig or sulkey or cart, twenty five cents: *Provided, however*, that no toll shall be collected until the said road shall have been viewed and received by the commissioners appointed by the court for that purpose.

X. *Be it further enacted*, That before any toll shall be collected as aforesaid, the County Court shall appoint one or more commissioners for the purpose of viewing and seeing that the said road is kept up; and if at any time the company shall suffer the road to get out of repair and remain so for the space of one month, the president and directors shall be subject to indictment, and on conviction shall be fined at the discretion of the court, and shall also have the gate opened and kept open until the road shall be put in good repair; the commissioners to receive the sum of one dollar for every day they are necessarily engaged in viewing and making return of said road, to be paid by the company.

XI. *Be it further enacted*, That all the hands liable to work on public roads, and living within the bounds as now specified, and subject to work under overseers agreeable to the orders of the County Court of Macon, shall be subject to work six days in each and every year, east of the top of the Cowee mountain, under the direction of the turnpike company, for the purpose of making the necessary improvements on said road; and that all the hands living north of the said road on the west side of the Cowee mountain, as far as the mouth of Dilliard Love's mill creek, thence down the Tennessee river to the Iola ford on said river, shall be subject to work six days in each and every year on said turnpike road, under the direction of the company aforesaid, and shall be exempt from working on any other road in said county.

XII. *Be it further enacted*, That nothing in this act contained shall render any citizen of the county of Macon liable to pay any of the above tolls.

XIII. *Be it further enacted*, That this act shall be in force from and after the passage thereof; and that the powers hereby granted shall cease and determine at the expiration of twenty years.

XIV. *Be it further enacted*, That if any person or persons shall, for the purpose of avoiding the payment of the above recited tolls, either break through or go around the before recited gate, they shall be subject to pay five dollars, recoverable before any justice of the peace for said county.

CHAPTER CLIX.

An act concerning the public road from the Old Fort, in Burke county, to Ashville, in Buncombe county.

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 fourth section of an act, passed in the year one thousand eight hundred and twenty-

nine, entitled "an act for the improvement of the road from the Old Fort, in Burke, to Ashville, in Buncombe," be, and the same is hereby repealed.

II. *Be it further enacted* That it shall be the duty of the Court of Pleas and Quarter Sessions for the county of Burke, at the first term which shall happen after the first day of March next, to appoint an overseer of the said road from the Old Fort to the Buncombe line, appointing such hands as have hitherto worked on said road, and such other hands as said court may designate.

III. *Be it further enacted*, That it shall be the duty of the Court of Pleas and Quarter Sessions for the county of Buncombe, at the first court which shall happen in said county after the first day of March next, to lay off said road, in said county, in such districts as may be convenient, and appoint overseers thereof, and allot such hands (including the two miles hands) to such overseers as may be necessary to keep the said road in good order and repair.

IV. *Be it further enacted*, That the said overseers and hands shall be subject to the same rules, regulations and penalties as are now fixed and prescribed by law for working on public roads.

V. *Be it further enacted*. That the commissioners appointed to lay off and superintend said road, shall hereafter be entitled to ask, demand and receive, at their gate or gates, the following tolls, and no other, viz. for each wagon drawn by four or more horses, seventy-five cents; for each wagon drawn by three horses, fifty cents; for every one horse cart, twenty-five cents; for pedlars' wagon, thirty-seven and a half cents; for four wheeled carriages of pleasure, seventy-five cents; for every gig or sulkey, twenty-five cents; for every person on horse-back, six and a quarter cents; for every loose horse or mule, four cents; for every head of beef cattle, two cents; and hogs per head, one cent.

VI. *Be it further enacted*. That if any person or persons passing over said road, and shall evade or refuse to pay the tolls herein granted, shall, for each and every offence, forfeit and pay the sum of five dollars, to be recovered in the name of the said commissioners, before any justice of the peace for Burke county, one half to the use of the person suing for the same, and the other half to the commissioners aforesaid.

VII. *Be it further enacted*, That nothing in this act contained shall be so construed as to release the commissioners of the said road from their obligations to the State; and that no provision thereof shall be binding upon the said commissioners until a majority of them shall, under their hands and seals, notify the Public Treasurer of their agreement with and acceptance of the same.

VIII. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER CLX.

An act to appoint commissioners to mark and lay off the road from Allen Burton's old place to Ashe Court House

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 John Gamble, James Maxwell, Joshua Cox, James Smith and Alexander B. McMillan, or any three of them, be appointed commissioners to lay off and mark the road from Allen Burton's old place, in the county of Ashe, to Ashe Court House.

CHAPTER CLXI.

An act concerning the new road from Lincolnton to Rutherfordton.

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 so much of the new road established by the act of eighteen hundred and thirty as is situate between the point where it leaves the Garner's Ford road, in Rutherford county, and the point where it intersects the same west of Thomas Good's plantation, be discontinued; and that portion of the Garner's Ford road lying between said points, be, and the same is hereby established as a part of the said new road; any law, usage or custom to the contrary notwithstanding: *Provided*, the same shall intersect the new road at or near the eighteen mile post on the new road.

CHAPTER CLXII.

An act to authorise Samuel Latham, of the county of Pitt, to erect a gate across the public road near his plantation.

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 passage of this act, Samuel Latham, of the county of Pitt. is hereby authorised and empowered to erect a gate across the road leading from the main public road near Tranter's creek, in said county, to Boyd's Ferry, on Tar river, at his Hodge plantation, about one hundred yards on the south side of Grindall creek; and that the said gate, when erected, shall be under the same rules and regulations of other gates in this State established upon public highways.

CHAPTER CLXIII.

An act appointing commissioners in the county of Haywood to superintend the road from the Buncombe line to the Macon line in said county.

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 Joseph M'Cracken, Kedor Boone and Joseph Cathey be appointed commissioners, from the Buncombe line to the Macon line in Haywood county, to view and report all such amendments and alterations in the respective portions of said road as to them, or any two of them, may be deemed necessary.

II Be it further enacted, That the aforesaid commissioners shall be entitled to receive, for each and every day they may act, one dollar per day, to be paid in the same manner as other charges are.

III. Be it further enacted, That it shall be the duty of the respective overseers of the said road, upon notice given them, to attend upon the said commissioners, when they are making a review of said road, along that portion thereof which they may have to work, so that they may fully understand the extent of the improvements or alterations on the said road; and if it shall appear by the report of the said commissioners that it will require a greater number of hands to make any alterations in said road than such overseer may have hands to work under him by his order, in that case it shall be the duty of the County Court to order such number of hands as is most convenient, to work under the overseer whose portion of road is to be altered: *Provided, nevertheless*, that nothing herein contained shall be so construed as to allow any alteration in said road without the consent of the owners of the land over which the same would pass by such alteration.

IV. Be it further enacted, That all laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER CLXIV.

An act to amend an act, passed in the year one thousand eight hundred and twenty six, chapter one hundred and twenty five, entitled "an act to regulate the time of appointing overseers of roads in the county of Anson."

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 all overseers of roads who are, or shall be appointed agreeable to the provisions of the above recited act, and who shall fail to return their orders at the expiration of the year for which they are, or shall be appointed, and the County Court thereby fails to make another or other appointments, the overseer or overseers in such case retaining his or their order or orders shall, to all intents and purposes, be considered overseer or overseers for twelve months longer, and until their orders be returned or appointments made as contemplated by said act, except in case of death or removal; any thing contained in said act to the contrary notwithstanding.

CHAPTER CLXV.

An act to authorise Jeremiah Ingram, of the county of Anson, to erect a gate across the road leading from Wadesborough to Standback's ferry on Peedee river.

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 Jeremiah Ingram, of the county of Anson, be, and he is hereby authorised to erect a gate on his own land, across the road leading from Wadesborough to Stanback's ferry on Peedee river, at or near his blacksmith's shop, under the same rules, regulations and restrictions as are provided by law in such cases.

CHAPTER CLXVI.

An act to appoint commissioners for the town of Bath.

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 on the first Monday in February next, and in each and every year thereafter, there shall be an election held in the town of Bath, for the purpose of choosing five fit and proper persons to act as commissioners of said town; and should any person so elected die, remove or become unable to perform the several duties which may devolve upon him, then and in such case the remaining commissioners are authorised and empowered to appoint another in his place.

II. *Be it further enacted,* That should any person so elected or appointed refuse or neglect to act as a commissioner of said town, such person so neglecting or refusing to act shall forfeit and pay the sum of twenty dollars, to be recovered before any jurisdiction having cognizance thereof, one half to the use of the town, and the other half to the use of the person suing for the same.

III. *Be it further enacted,* That the election for commissioners shall be conducted under the same rules, regulations and restrictions and penalties as are now observed in elections of a similar kind.

IV. *Be it further enacted,* That all laws and clauses of laws, coming within purview and meaning of this act, be, and the same are hereby repealed.

V. *Be it further enacted,* That this act shall be in force from and after the ratification thereof.

CHAPTER CLXVII.

An act to establish a town at the court house in the county of Caswell, by the the name of Yan-cyville, and to incorporate the same.

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 a town is hereby established at the court house in the county of Caswell, by the name of Yanceyville.

II. *Be it further enacted* That the government of said town of Yanceyville shall be vested in the following persons, as commissioners, to wit: Col. Thomas Graves, Thomas D. Johnson, Paul A. Harrelson, Doctor Allen Gunn and John C. Harvey.

III. *Be it further enacted*, That said commissioners and their successors in office, appointed agreeable to the directions of this act, shall be, and they are hereby incorporated into a body corporate, by the name of the Commissioners of the town of Yanceyville; and by such name shall have succession and a common seal, sue and be sued; and by such name shall have power, from time to time and at all times hereafter, to make such rules, regulations and bye-laws and ordinances as to them, or a majority of them, shall seem necessary for the good government of said town, by laying out, amending and repairing the streets; by widening those already laid out, where it does not interfere with improvements; by making walk ways on each side of the streets; to sink pumps or wells; to provide for the strict observation of the Sabbath day; to appoint a town clerk and such other persons as may be necessary for the good management and conducting thereof; by appointing a town constable, town watches, patrols and overseer of streets; and to make such allowance by fee or otherwise, for the services of the officers aforesaid, as a majority of the commissioners may think necessary; and to make such rules, bye-laws and ordinances as to the said commissioners, or a majority of them, may appear necessary; and shall also have full power to take cognizance of all the breaches of the said rules, bye-laws and ordinances, and enforce fines for said breaches; and the said commissioners, before they enter upon the duties of their office, shall take and subscribe the following oath before some justice of the peace, to wit: "I, A. B. do solemnly swear or affirm (as the case may be) that I will faithfully perform the duties of a commissioner of the town of Yanceyville to the best of my ability and judgment: so help me God." And if at any time hereafter any of the persons appointed commissioners by this act shall refuse to act or qualify, or shall die or remove themselves away, or should be otherwise incapable of acting, the other remaining commissioners, being duly qualified, shall fill up such vacancy by electing or appointing some other fit person residing within said town; which commissioners so elected or appointed according to the directions of this act shall have and possess the same power, and be under the like restrictions and penalties with those in whose stead they were appointed.

IV. *And be it further enacted*, That it shall be the duty of said commissioners generally in all things to superintend the police of said town of Yanceyville, and to support the peace and good order of its inhabitants and others who may be there, and to suppress all riotous and disorderly assemblies, especially on the Sabbath day, whether of free persons or of slaves; and for the prevention of criminal trespasses, offences or breaches of the peace, the said commissioners, or a majority of them, are hereby vested with adequate power and authority to punish the same by laying fines and enforcing the collection thereof; and all fines incurred and collected shall be appropriated to the benefit of said town.

V. *And be it further enacted*, That the commissioners as aforesaid shall

have full power and authority to lay such tax on the inhabitants of said town and their estates within the same as a majority of said commissioners may deem necessary, not exceeding fifty cents on each and every poll and every hundred dollars' worth of town property, for the payment of a town watch or patrol, or for such other purposes as the said commissioners may deem necessary for the benefit and better regulation of the said town.

VI. *And be it further enacted* That the town constable annually appointed by said commissioners shall give bond and security to said commissioners for the faithful performance of the duties of his office, and take and subscribe the following oath, to wit: I, A. B. do solemnly swear, or affirm, that I will faithfully perform the duties of the office of constable for the town of Yanceyville to the best of my ability and judgment; that I will endeavor to suppress all riotous and disorderly assemblies; that I will execute if in my power all precepts to me directed by the town commissioners: so help me God. It shall be the duty of the constable aforesaid to execute all precepts to him directed by the commissioners of said town, and make due return thereof; to collect the town taxes or other dues, by distress of goods or otherwise, in the same manner as the county tax is collected and accounted for by the sheriff; and in case of a default thereof, the town clerk shall and may proceed against the town constable before the board of commissioners, as the county trustee is authorised to do against sheriffs; and the said constable shall be entitled to the same fees as other constables appointed by court.

VII. *Be it further enacted* That the said commissioners shall fix their stated meetings, which shall be at least once in three months; and if any commissioner on due notice shall fail or neglect to attend, unless prevented by sickness or some other good cause satisfactory to the board, he shall forfeit and pay the sum of two dollars, to be recovered before any justice of the peace for the use of the town by any person suing for the same.

VIII. *Be it further enacted*, That the said commissioners shall, when duly qualified, appoint one of their body to act as chairman, who shall have power, at any time during the recess of their stated meetings, to call a meeting of the board of commissioners, who shall be liable to the same penalties for neglecting to attend a call meeting as they are for neglecting to attend a regular meeting.

IX. *Be it further enacted*, That at any meeting of the said commissioners, a majority of the members named in this act shall be competent to carry the same into effect, as if the whole number were present.

X. *And be it further enacted* That the jurisdiction of said commissioners shall extend one half mile from the court house in any direction; any law to the contrary notwithstanding.

CHAPTER CLXVIII.

An act to amend an act concerning the town of Wadesborough, passed in the year one thousand eight hundred and twenty five, chapter seventy five, and for other purposes.

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 magistrate of police in the town of Wadesborough be, and he is hereby required to receive, in each and every year, the lists of taxable property and polls liable to taxation within the limits of said town, which list shall be taken on oath.

II. *Be it further enacted*, That the first five working days in March in

every year, are hereby established as the time in which the list of taxable property within the limits of said town shall be taken; and it shall be the duty of the magistrate of police to advertise at three public places in said town, at least ten days before the days herein established for giving in the lists of taxable property and polls, the time and place when and where he will attend to receive the same.

III. *Be it further enacted*, That all persons residing within the limits of the town of Wadesborough shall attend at the time and place so to be appointed by the magistrate of police of the said town, and shall return on oath his, her or their list, in writing, to the magistrate of police; all town lots with their improvements, the number and square if known; all free white males between the ages of twenty one and forty five; all slaves, male and female, between the ages of twelve and fifty, which to him, her or them belonged, or who lived in his, her or their family on the first day of February last past.

IV. *Be it further enacted*, That all property and polls within the limits of said town liable to pay tax, and which shall not be returned to the magistrate of police within the time herein before limited for making their return, shall be liable to pay a two fold tax and a fine of one dollar; and it shall be the duty of the magistrate of police to make return of a list of such property and the owners' names who are liable for a double tax and a fine of one dollar, at the time he makes his general return of the tax list to the town council: *Provided, always*, that if such person who fails to make their return within the time as prescribed by this act was prevented by sickness or some unavoidable accident from attending, then and in that case he, she or they shall not be liable to a double tax and fine.

V. *Be it further enacted*, That it shall be the duty of the magistrate of police, on or before the twentieth day of March in each and every year, to deliver or cause to be delivered to the town council the list of taxable property by him so taken, and also a list of the names of such persons as are liable to pay a double tax and fine as aforesaid; and if any magistrate of police of said town shall refuse or neglect to perform the duties by this act required, he shall forfeit and pay the sum of ten dollars for every such neglect or refusal, to be recovered by warrant in the name of the town council of Wadesborough, for the use of the town.

VI. *Be it further enacted*, That when the magistrate of police shall have filed his list of taxables and polls, as by this act required, then the town council, in each and every year, shall appoint three assessors, owners of real estate, whose duty it shall be to value and assess the town lots and improvements within the limits of said town; the town clerk shall notify, in writing, the said assessors of their appointment; and the assessors so notified of their appointment shall within three days proceed to affix a value in dollars and cents to each individual's real estate, including the improvements thereon, contained in said list delivered to them; and the said assessors are hereby required, after they shall have completed the assessment and valuation as aforesaid, to file with the town clerk a fair and correct list in alphabetical order, with the names of the owners, the number of town lots and the value thereof.

VII. *Be it further enacted*, That if the assessors, or either of them, appointed under this act, shall refuse to perform the duties required, or shall be prevented by sickness or other unavoidable cause, then and in that

case it shall be the duty of the town council to make other and further appointment as the case may require.

VIII. *Be it further enacted*, That the assessment and valuation so made by the assessors shall be data upon which the town council shall found the tax which they may yearly direct to be levied on the real estate within the limits of said town.

IX. *Be it further enacted*, That the town clerk shall make out in alphabetical order a correct list of taxable property and polls, as returned to him by the assessors, and hand the said list to the town constable, or such other person which the town council shall appoint to collect the taxes, who shall, within four days after he receives the tax list, appoint a day and place within the limits of said town, when and where he will attend for the purpose of receiving from the inhabitants of said town agreeable to the list of taxable property and polls furnished him as by this act directed, the said constable, or the person appointed by the town council, having first caused ten days' previous notice of the time and place and cause of his attendance to be given, by advertising the same at three public places in the limits of said town; and if any person or persons so notified shall neglect or refuse to pay on the day appointed his taxes as assessed, it shall and may be lawful for the said constable, or the person so appointed to collect, to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing; and for every distress and sale so made, it shall and may be lawful for the constable, or person appointed to collect said taxes, to levy therewith the sum of forty cents for his services.

X. *Be it further enacted*, That it shall be the duty of the town clerk to record in alphabetical order, in a book to be kept for that purpose, the list of taxable property filed by the magistrate of police and the assessment returned by the assessors; and the said clerk shall, on or before the fifteenth day of February in every year, furnish the magistrate of police with a fair alphabetical copy at large of the lists of taxable property of the preceeding year; and it is hereby declared to be the duty of the clerk, within ten days after the town council shall have laid the tax, to deliver to the town constable, or to the person whom they may appoint to collect the taxes, a fair and accurate copy of the return made by the magistrate of police in alphabetical order, and shall annex the valuation of each person's property as made by the assessors, together with the amount of taxes due on each person's property; and for these services the clerk shall receive a reasonable compensation, to be paid out of the funds belonging to the town council.

XI. *Be it further enacted*, That the town constable, or the person appointed to collect the taxes, shall, within three months after the tax lists are placed in his hands, account for and pay over to the treasurer of the town council all such sums as he may be made liable for and accountable for by virtue of his appointment.

XII. *Be it further enacted*, That the town constable or collector is hereby authorised to demand and receive, in all cases of distress, the sum of forty cents whether he proceed to sell or not.

XIII. *Be it further enacted*, That the town council of Wadesborough shall and may, from time to time, make all such appropriations out of the funds collected as they in their discretion shall deem necessary to advance the interest, promote the respectability, comfort and health of the citizens of said town; any law to the contrary notwithstanding.

XIV. *Be it further enacted*, That if the magistrate of police shall refuse or neglect to perform the duties required of him by this act, or from sickness or any other unavoidable cause he is prevented from discharging the same, then and in that case the town council shall appoint some justice of the peace of Anson county to perform the duties.

XV. *Be it further enacted*, That this act be and the same is hereby declared to be in force from and after its passage.

XVI. *Be it further enacted*, That so much of the above recited act as fixes the sum of ten cents on every hundred dollars worth of town lots be, and the same is hereby repealed.

CHAPTER CLXIX.

An act to authorise the present commissioners of the town of Statesville, in Iredell county, to execute deeds to certain lots in said town.

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 present commissioners of the town of Statesville be, and they are hereby authorised to execute deeds for such town lots as were purchased of former commissioners, the present commissioners first being satisfied that said lots have been paid for.

CHAPTER CLXX.

An act to alter the name of Kinston, in Lenoir county.

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 town of Kinston, in the county of Lenoir, shall hereafter be known and distinguished by the name of Caswell.

CHAPTER CLXXI.

An act authorising and empowering the commissioners of the town of Edenton to lease for a term of years the commons and other vacant lots in said town.

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 commissioners of the town of Edenton are hereby authorised and empowered to lease, for any term of years not exceeding ten, any portion or all of the town commons and other vacant lots belonging to said town, as they may deem advisable and expedient.

II. *And be it further enacted*, That the money arising from the rents of said commons and vacant lots shall be paid to the treasurer of said town and applied as other moneys are belonging to the town.

III. *And be it further enacted*, That all laws and clauses of laws coming within the meaning of this act shall be, and the same are hereby repealed.

CHAPTER CLXXII.

An act to amend an act, passed in the year one thousand eight hundred and twenty one, entitled "an act to amend the several inspection laws of this State, so far as it respects turpentine in the town of Wilmington."

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 it shall hereafter be the duty of inspectors of turpentine in the town of Wilmington, if it be clear of any fraudulent mixture so as not to render it unmerchantable, to decide between the hard and the soft and specify the same in his bill, and the soft shall be branded with the letter S, and the hard with the

letter H on the heads of the barrels; and each barrel so inspected and branded shall be held and considered as good clear turpentine; any law, usage or custom to the contrary notwithstanding.

II. *Be it further enacted*, That if any inspector as aforesaid give any bill contrary to the direction of this act, he shall forfeit the sum of one hundred dollars, one half to the informer, the other half to the party aggrieved.

III. *Be it further enacted*, That so much of the inspection laws of this State as comes within the purview and meaning of this act is hereby repealed.

IV. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

CHAPTER CLXXIII.

An act to empower the commissioners of the town of Hillsborough to appoint a town constable.

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 commissioners of the town of Hillsborough be, and they are hereby authorised and empowered annually to appoint a town constable, and to take from him a bond with security in the penal sum of two thousand dollars, payable to the magistrate of police of said town and his successors in office, conditioned for the faithful performance of all his duties as town constable, which are or may be ordained by law or the regulations of said town; and that in making such appointment the said commissioners may or may not at their pleasure select any individual who has been appointed a constable for said county.

II. *Be it further enacted*, That said officers so appointed shall have all the powers, authorities and immunities, and be subject to the same regulations and restrictions as the town constables heretofore appointed have had or have been subject unto; and they may be removed from office at any time by the concurrence of two-thirds of the said board of commissioners.

CHAPTER CLXXIV.

An act to appoint commissioners for the town of Kenansville, in the county of Duplin.

Whereas the commissioner of the town of Kenansville, in the county of Duplin, have removed, failed to act, &c. Therefore,

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 Charles H. Cooper, William K. Fredrick, Thomas J. Kinnison, Thomas S. ephard and David Southerland, be, and they are hereby appointed commissioners for the town of Kenansville, in the county of Duplin.

II. *Be it further enacted* That they be, and they are hereby invested with all the powers and authority that the former commissioners were.

CHAPTER CLXXV.

An act to prevent the throwing of ballast or otherwise obstructing the channel between Bogue inlet and the town of Swansboro', in Onslow county.

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 Elijah Wade, William P. Ferrand, Edward Hawkins, Edward Ferrand and Tyrey Moore, be, and they are hereby appointed commissioners of the town of Swansborough, in the county of Onslow.

II. *Be it further enacted*, That no captains of vessels, or any person or

persons whatsoever, shall throw any ballast, rock, earth, or any thing else, in the channel between the Bogue inlet and the town of Swansborough, in the county of Onslow, which may have a tendency to obstruct said channel, under a penalty of fifty dollars, to be recovered in the name of the said commissioners before any jurisdiction having cognizance of the same, one half to the use of the informer, and the other half to the use and benefit of the poor of said county.

III. *Be it further enacted*, That any three of the aforesaid commissioners may discharge the duties of their office; and if upon the death, or refusal to act, or removal out of the State of any of the aforesaid commissioners, the remaining commissioners may appoint others in their stead.

IV. *Be it further enacted*, That said commissioners shall have power to make bye laws, rules and regulations, not inconsistent with the constitution and laws of this State.

V. *Be it further enacted*, That this act shall be in force from and after the first day of February next.

CHAPTER CLXXVI.

An act concerning market fees in the town of Fayetteville.

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 passage of this act, the commissioners of the town of Fayetteville shall not exact, demand or receive any fees, tolls or taxes on any hog or beef, venison or mutton, unless the same shall be sold in the market house in such town, the vender or his agent using the clevers, scales or blocks of said market house.

II. *Be it further enacted*, That if any of said articles be sold in the market house or within the market square, the vender or his agent shall pay the fees, tolls or taxes imposed on such articles by the commissioners aforesaid: *Provided*, that nothing herein contained shall be construed to affect any law or ordinance requiring articles not herein named to be sold in market may be prescribed by the police of said town.

III. *Be it further enacted*, That all laws and clauses of laws coming within the purview and meaning of this act, be, and the same are hereby repealed; and this act shall be in force from and after the passage thereof.

CHAPTER CLXXVII.

An act authorizing the survey of the towns of Lexington and Charlotte.

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 commissioners in the town of Lexington and in the town of Charlotte shall have power and authority, and are hereby authorised to employ one or more surveyors to survey the town of Lexington, in the county of Davidson, and the town of Charlotte, in the county of Mecklenburg, whose duty it shall be to make one or more fair and correct plots of said towns, describing the boundaries of the lots therein; and that one of the plots thus made out shall be proved in the County Court of said counties by the oath of one of the surveyors making said survey, and registered in the register's office in said counties and filed in the office of the clerk of the County Court; the expenses of said survey shall be paid out of the funds belonging to the respective said towns respectively.

CHAPTER CLXXVIII.

An act to extend the provisions of an act, passed at the last session of the General Assembly, chapter 53, entitled "an act to authorise the removal of buildings on the public lands in the town of Franklin."

Whereas many persons have erected buildings on that part of the public land constituting the four hundred acres adjoining the town of Franklin, in the county of Macon, that has not been laid out into town lots: and whereas the provisions of the before recited act only extends to the removal of the buildings of those that have built on the town lots:

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 the before recited act be, and the same are hereby extended to all those who have built any buildings on any part of the public lands aforesaid, their heirs, executors, administrators and assigns; any law to the contrary notwithstanding: *Provided* the said buildings on the public lots and public lands adjoining the town of Franklin shall be removed within twelve months after said lands and lots shall have been sold.

CHAPTER CLXXIX.

An act for the better regulation of the town of Pittsborough.

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 hereafter five commissioners shall be elected annually for the town of Pittsborough, on the first Thursday in April, in each and every year; and that all free men who have resided in said town for three months immediately preceding any election for commissioners as aforesaid, shall be entitled to vote at said election.

II. *And be it further enacted,* That the commissioners hereafter elected by virtue of this act, shall have and possess all the rights and immunities, and do and perform all such acts and things as the commissioners of said town were authorised to do by virtue of an act of the General Assembly, passed in the year of our Lord one thousand eight hundred and twenty five, chapter eighty; and that all laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER CLXXX.

An act for the better regulation of the fire company in the town of Charlotte.

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 passage of this act, it shall not be lawful for the fire company in the town of Charlotte to consist of more than sixty members, including officers, engineers and privates.

II. *Be it further enacted,* That if the number of members belonging to said company at present be greater than the aforesaid number of sixty, the captain or officer commanding said company shall have a meeting of the same, and strike the excess of sixty from his roll in such way as a majority present, when thus met, shall agree upon, on or before the first day of May next; and if the captain or other officer commanding said company, shall neglect or refuse to comply with the provisions of this act, he shall be subject to a fine of fifty dollars, to be recovered by warrant before the magistrate of police for the town of Charlotte, in the name of the board of commissioners of the town of Charlotte, and applied by said board to the use and benefit of said town.

III. *Be it further enacted.* That all members stricken off as aforesaid, shall be bound to perform militia duty in the company in which he was enrolled when he became a member of said fire company: *Provided,* that such persons shall be at liberty to join any volunteer company authorised by the militia laws of this State.

CHAPTER CLXXXI.

An act to repeal a part of the act of incorporation of the town of Washington.

Whereas certain citizens of the town of Washington have purchased several unimproved lots within the corporate limits of said town, and there is no prospect the most remote of their ever being improved, except for farming purposes, which was the only intention of the purchasers; and whereas their remaining in the corporation will subject the owners of them to the payment of more taxes than their value would intrinsically amount to: 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 so much of the act of incorporation as includes within the limits of said town the unimproved lots situated to the west of Washington street, be, and the same is hereby repealed and made void and of no effect.

II. *Be it further enacted,* That from and after the passage of this act, Washington street shall be known and described as the western boundary of the corporation of said town; any thing in any other law to the contrary notwithstanding.

CHAPTER CLXXXII.

An act to amend an act, passed in the year eighteen hundred and fourteen, entitled an act to revive the second section of an act, passed in the year one thousand eight hundred and one, entitled an act to revive an act, passed in the year one thousand seven hundred and seventy five, for the regulation of the city of Raleigh, and to amend the same, and for other purposes.

Whereas, by the third section of the said act, the commissioners are authorised to class the citizens to act as a city watch; and whereas it is found difficult to procure the punctual attendance of the said watch for want of authority by the intendant to appoint a captain thereof:

Be it enacted That the intendant of police, or other persons appointed by the city commissioners as directors of the watch, shall be authorised to appoint some one of each class as a captain thereof; and every person so appointed, who shall fail to serve or shall discharge his class before the time allowed by the city ordinance, shall for each and every offence forfeit and pay a sum not less than five, nor more than ten dollars, as may be provided by an ordinance of said commissioners, to be recovered by warrant before the intendant, in the name of the commissioners, for the benefit of the city: *Provided,* that no person above the age of sixty years shall be compelled to serve as captain of any watch.

CHAPTER CLXXXIII.

An act to appoint commissioners to lay off a town at a place called Trap Hill, in the county of Wilkes.

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 Samuel Johnson, senior, John Sparks, senior, Robert Bangs and Samuel B. Johnson, be, and they or a majority of them are hereby appointed commissioners for the purpose of laying off a town on the lands of Benjamin F. Martin and William M. Forister, at a place known by the name of Trap Hill, in the

county of Wilkes; which town, when laid off as hereinafter prescribed, shall be called Johnsonville.

II. *Be it further enacted*, That the said commissioners, or a majority of them, are hereby authorised to appropriate twenty five acres of land at the place aforesaid, (first having obtained the consent of the owners thereto,) and to lay off the same in convenient lots of such size as they may deem proper, with such number of streets and alleys as to them may seem advisable; which lots, when so laid off, the said commissioners or a majority of them shall sell at public sale upon such terms and conditions as may be prescribed by the owners of the land aforesaid.

III. *Be it further enacted*, That the proceeds of the sale of the lots aforesaid shall be paid over by the said commissioners to the owners of the land aforesaid, as a full compensation for the land hereby authorised to be appropriated to the said town; upon the payment of which, the said owners shall execute to the purchaser or purchasers of the said lots a good and sufficient title in fee simple for the lots so purchased as aforesaid.

CHAPTER CLXXXIV.

An act authorising the County Court of Washington to appoint a patrol for the town of Plymouth.

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, it shall be the duty of the Court of Pleas and Quarter Sessions for the county of Washington, should they deem it necessary, at the first court held for said county after the first day of January next, and in each and every year thereafter, to appoint a patrol for the town of Plymouth, not exceeding five persons, nor less than three, whose duty it shall be to patrol said town at least once a week and as much oftener as shall be deemed necessary, subject to the same rules and regulations as are already prescribed by law for patrols.

II. *Be it further enacted*, That the said patrol shall be allowed for their services a sum not exceeding fifteen dollars, nor less than five dollars, at the discretion of the court; and that the court shall be authorized to lay a tax on the black polls within the limits of said town at the time other taxes are laid, for the purpose of paying said patrol.

III. *And be it further enacted*. That if the said patrol should fail or neglect to perform the duty of patrol, they shall forfeit and pay the sum of ten dollars, to be recovered by warrant before any justice of the peace of said county.

Read three times and ratified in General Assembly, this 13th day of January, 1834. }

WM. J. ALEXANDER, S. H. C.
W. D. MOSELEY, S. S.

A true copy.

WM. HILL, Secretary.

RESOLUTIONS,

Passed by the General Assembly of 1833—34.

Whereas the map of the survey of the lands lately acquired by treaty from the Cherokee Indians, which was deposited in the clerk's office of the county of Haywood by an act of the General Assembly, has become so mutilated that it is entirely unfit for use:

Be it therefore resolved by the the General Assembly of the State of North Carolina, That the Governor be, and he is hereby authorised and directed to have an exact copy made of the map, representing the general face of the country, district, sections and surveys of the said land, from the one now deposited in the Governor's office, for the benefit of the commissioner who may be appointed to sell said land, and for the examination of all persons who may be desirous to purchase any of said land.

And be it further resolved, That the said copy of said map shall be executed upon parchment, and when executed shall be transmitted to the office of the clerk of the County Court of the county of Macon, and by him kept for the use of all persons wishing to examine the same.

And be it further resolved, That the Governor shall be authorised to draw upon the Public Treasurer for all such sums of money as will be necessary for having said work performed and transmitting the said map to its place of destination; and said map shall be completed as soon as practicable and transmitted accordingly.

Resolved, That the superintendent of public works be, and he is hereby authorised and directed to investigate and examine the accounts and condition of the Neuse, Yadkin, Catawba and Tar river navigation companies, and ascertain as far as practicable what disposition has been made of the funds of each of said companies; whether any remains unexpended, and in whose hands; whether the State has not paid more than by the terms of her subscription she was bound to do; and if so, whether any part of it can be recovered back again; and ascertain whether either or all of said companies are willing to surrender their charters, and upon what terms. That he examine into the condition of the Plymouth and Pongo Turnpike Road and Clubfoot and Harlow's Creek Canal, and of the accounts and management of said canal; and report the result of all such investigations to the next General Assembly.

Resolved further, That the said superintendent be allowed, in addition to his present daily compensation, all necessary travelling expenses, to be judged of and allowed by the Board of Internal Improvement.

Whereas an act has been passed during the present session of the Legislature directing the sales of the undisposed of part of the lands lying in the counties of Haywood and Macon, acquired by the State from the Cherokee Indians; and whereas a portion of said lands is in dispute between the State and certain individual claimants under grants issued to Esselman and Holderman and Cathcart; in order that the whole of said lands may be offered for sale at the same time, and that the titles which shall be made under such sales may be valid,

Be it resolved by the General Assembly of the State of North Carolina, That the Governor be, and he is hereby authorised, with the advice of the counsel on the part of the State in the suit wherein the said claimants are parties, to enter into a written agreement with said claimants or their lawful agent or agents, binding said claimants in case they should recover all or any part of the land in dispute, and which may be sold under the provisions of the act above referred to, to receive all such payments and bonds for payment as the State may receive in consideration of the sale of said lands, upon paying to the State such sum or sums as the State may have expended in effecting the sale or sales provided for in the aforesaid act.

And be it further resolved, That in order to make the said sale or sales agreeable to the contracting parties, the Governor may consult with the said claimants, or their lawful agent, as to the person to be appointed under the provisions of the act before referred to to sell the aforesaid lands.

Whereas, owing to a defect in the law prescribing the manner in which contracts for fuel shall be made for the use of the General Assembly, it sometimes happens that there

is a deficiency in quantity and quality, and whereas it is proved that the expenses of the Legislature for fuel and stationery should be kept separate and distinct from those of the public offices, which is not now done, for remedy whereof,

Be it resolved by the General Assembly, That in future it shall be the duty of the clerk of the House of Commons for the time being to contract annually, under sealed proposals, for the delivery of such quantities of good sound oak and hickory wood as may be necessary for the use of the General Assembly during each session; which wood shall be cut at least two months before the meeting of the Legislature; and for this purpose the clerk shall offer the contract in some one of the Raleigh papers at least thirty days before he closes it.

Be it further resolved, That in case of vacancy in the office of clerk, or in case such clerk shall reside at a distance from the seat of Government, rendering it inconvenient to attend to these duties, then the Governor for the time being shall appoint some fit person to make the contract for fuel, and to procure the stationery in the manner as required of the clerk by these resolutions.

Resolved, That the Board of Internal Improvement be, and they are hereby authorised and directed to appropriate the dividends arising on stocks held by the State in the Cape Fear Navigation company to such works as shall have the effect of making the waters flow higher up the river between Fayetteville and Wilmington: Provided, that the same dividends on all other stock in said company be appropriated to the same object.

Resolved further, That the improvements to be made on the river as aforesaid shall be made under the direction of the Board of Internal Improvement, by an agent to be appointed by the said board and paid out of the dividends as aforesaid, or under the direction of the Board of Internal Improvement under the said company.

Resolved, That the Comptroller credit William S. Moon, Public Treasurer, for ten thousand five hundred and sixty five dollars and forty one cents, that being the amount of treasury notes counted and burnt by the committee of Finance during the present session of this General Assembly.

Whereas a rail road company hath been incorporated at the present session of the General Assembly with authority to construct a rail road from Fayetteville to the Pee Dee or Yadkin river and thence westwardly; and whereas it is apparent that such road of intercommunication would be of great public utility; with a view therefore of affording such aid and assistance as shall enable the company incorporated aforesaid to effect an object of such general benefit,

Be it resolved by this General Assembly, That John Kelly, Hugh Campbell, senior, Hiram Robinson and James Seawell are hereby appointed commissioners, with authority to raise by way of lottery or lotteries fifty thousand dollars; which sum by them so raised the said John Kelly, Hugh Campbell, senior, Hiram Robinson and James Seawell, as commissioners aforesaid, shall vest in the name and on behalf of the town or corporation of Fayetteville in the stock of the Cape Fear, Yadkin and Pee Dee Rail Road Company.

Be it further resolved, That said commissioners shall not, nor any other person or persons whom said commissioners may constitute as managers to draw said lottery or lotteries, receive a discount upon any of the prizes drawn in said lottery or lotteries exceeding fifteen per cent.; and that said commissioners, before they proceed to raise the sum as aforesaid, shall take and subscribe on oath before the board of commissioners or police of the corporation of Fayetteville, to the faithful discharge of the trust reposed in them; which oath, subscribed and sworn to before the justice of the peace, shall be filed in the office of the clerk of the police of Fayetteville for safe keeping: Provided, that the necessary reasonable expenses attending the drawing of said lottery or lotteries, or in raising the required fund as aforesaid, shall not be considered as a part of the fifteen per cent. authorised to be deducted upon the prizes thereof.

Resolved, That the Governor be requested to adopt such measures as in his opinion may be necessary to effect an early settlement of the claims which this State has upon the General Government, on account of expenditures incurred in the public defence during late war with Great Britain.

Resolved, That the Governor be, and he is hereby authorised and required to procure counsel to attend to the interest of the State of North Carolina in a suit now pending in the

Supreme Court of the United States, in which Lattimore and others are plaintiffs and certain individuals in the counties of Haywood and Macon are defendants.

Be it further resolved, That the Governor be, and he is hereby authorised to draw upon the Public Treasurer for such sum or sums as may be necessary to carry this resolution into effect; and that the Treasurer be allowed the same in the settlement of his public accounts.

Resolved, That the Governor be authorised to tender the use of that part of the Government House occupied by the House of Commons to the members of the Conference of the Methodist Episcopal Church, which is to meet in this city in February next, for the purposes of holding their sessions.

Resolved, That the Public Treasurer be, and he is hereby directed to publish with the acts of the General Assembly extracts from the several acts and parts of acts of the General Assembly which prescribes the duties of magistrates appointed to take the list of taxables, and the manner of giving in list of property for taxation; that the same be so arranged, without regard to date, as to exhibit most clearly the duty of magistrates in taking list of taxable property in their respective districts, and the duty of persons who are required to give in property or persons for taxation; together with marginal references to the several acts containing the several provisions as published.

Resolved, That the president and directors of the Literary Fund be authorised to draw upon the Public Treasury for the several annual appropriations which have not been expended of the Literary Fund, to be laid out by them in the purchase of a library for the State; and that the library when procured shall be committed to their direction.

Resolved further, That the arsenal shall be prepared, under the direction of the president and directors of the Literary Fund, for the reception of the State library, and shall be appropriated to this object until otherwise directed by this General Assembly.

Whereas, during the late negro excitement or threatened insurrection, the arsenal in the city of Raleigh was entered, and many of the public arms taken therefrom in an illegal manner and without the consent of the Governor or Adjutant General, which are now scattered about and becoming injured from the want of care: For remedy whereof,

Resolved by the General Assembly of North Carolina, That the Adjutant General be authorised, and he is hereby required to have the said arms, so improperly taken as aforesaid, collected and taken care of; and that he be authorised to draw upon the Treasurer for the expense attending the same; and that the Treasurer be allowed the same in the settlement of his public accounts.

Resolved, That the Governor and his successors in office be authorised, and they are hereby required to have placed at the graves of all members of the Legislature that have been, or hereafter may be interred in the city of Raleigh, (whose remains are not intended to be removed by their friends,) a suitable pair of grave stones, containing the name, age and county that he represented; and that he draw upon the treasury for the amount thereof; which amount shall be allowed the Treasurer in the settlement of his public accounts.

Resolved, That the Comptroller be, and he is hereby directed, in the statement which by law he is required annually to prepare and have printed, in addition to the particulars now required to be stated, to state in separate columns the number of acres of land and the total value of the land in each county, and the value of town property also.

Resolved, That the Public Treasurer be directed to pay to the Governor of this State the sum of three hundred dollars per annum, from the commencement of his term of office until he shall be placed in possession of the government house, in lieu for house rent and contingent expenses.

Resolved, That Samuel S. Shepherd, sheriff of Martin county, be allowed the sum of thirty-six dollars, which he paid to the Comptroller by reason of a mistake of the clerk of the County Court of Martin, in his return of the white polls of Martin for the year eighteen thirty.

Resolved, That the Public Treasurer be directed to deliver to Alfred M. Slate his bond, the said bond being given for the penalty incurred by the sheriff of Martin for failing to settle for the taxes of one thousand eight hundred and twenty-six, and that he be released from the payment of the same.

Resolved, That the Treasurer be authorised to refund to Stephen Owens, late sheriff of Beaufort county, the sum of one hundred and twenty-eight dollars, it having been paid by said Owens in consequence of his failure to produce at his annual settlement certain pedlars' licenses, but which have since been returned.

Resolved, That the Public Treasurer pay to Hannah Clarke, administratrix of Jesse Clarke, deceased, the sum of thirty-seven dollars and fifty cents, it being the amount of pension due said Jesse Clarke at the time of his death.

Resolved, That the securities of John Sloan, late sheriff of Mecklenburg county, be released from the payment of the penalty of four hundred dollars, imposed by law for failing to account for the public taxes, together with the interest thereon: *Provided*, that nothing herein contained shall be so construed as to release the said John Sloan or his securities from the payment of any part of the public taxes, interest thereon, or cost of suit, which may remain unpaid.

Resolved, That the Public Treasurer be, and he is hereby directed to pay to Richard H. Weaver, clerk of the Court of Pleas and Quarter Sessions for the county of Northampton, the sum of twelve dollars and eighty cents, that amount having been paid into the Treasury for insolvent taxables in said county; and that he be allowed the same in the settlement of his accounts.

Whereas it appears from the books of the Public Treasurer, and from documents filed in his office, that David Rogers, purchaser of section number fourteen, district number seven, has overpaid the purchase money due for the said tract to the amount of sixteen dollars and thirty-two cents: Therefore

Resolved, That the Public Treasurer be directed to refund to the said David Rogers the said sum of sixteen dollars and thirty-two cents; for which he shall be allowed in the settlement of his accounts.

Resolved, That the Public Treasurer pay to Elizabeth Forbus, or David Thomas, Esq. agent, for her use, the sum of sixty dollars, in consideration of the revolutionary services of her husband, Arthur Forbus, who was mortally wounded at the battle of Guilford, out of any money in the Treasury not otherwise appropriated; and that he be allowed the same in the settlement of his public accounts.

Resolved, That the Public Treasurer pay to the legal representative of Leonard Henderson, late Chief Justice of the State, six hundred and twenty-five dollars; and that he be allowed the same in the settlement of his public accounts.

Resolved, That Mary Sloan, widow of Captain John Sloan, a soldier who was killed in battle during the revolutionary war, be allowed out of the Public Treasury, for the ensuing year, the sum of one hundred dollars; and that the Public Treasurer be allowed the same in the settlement of his accounts.

Resolved, That the Public Treasurer be authorised and directed to pay to Isaac Baxter, sheriff of Currituck county, ten dollars and forty cents for insolvents not heretofore allowed him by the Comptroller; and that he be allowed the same in the settlement of his public accounts.

Resolved, That the Public Treasurer pay to Howell Allbritton, sheriff of Pitt county, the sum of sixteen dollars and twenty cents, for eighty-one insolvent polls allowed by the County Court aforesaid for the year one thousand eight hundred and thirty-two; and that the Public Treasurer be allowed the same in the settlement of his accounts.

Resolved, That the Public Treasurer be, and he is hereby directed to refund to Archibald Campbell the sum of ten dollars, the purchase money of one hundred acres of land by him entered in the county of Cumberland, on the fourteenth February, one thousand eight hundred and twenty nine, number four hundred and twelve, and which entry was covered by a grant of older date; and that the Public Treasurer be allowed the same in the settlement of his public accounts.

Resolved, That Martha Spears, widow of John Spears, an invalid pensioner, be allowed the sum of fifty dollars, to be paid out of the Public Treasury; and that the Public Treasurer be allowed the same in the settlement of his accounts.

Resolved, That the Public Treasurer be instructed to pay to the legal representatives of David Latham, deceased, the senator from Martin county, the pay to which he was entitled as a member of this Legislature, including the day of his demise and the expenses of his burial; and that the Treasurer be allowed the same in the settlement of his accounts.

Resolved, That the Secretary of State be, and he is hereby authorised to issue a grant to John Johnson for one hundred acres of land, in Cumberland county, on his entry number one thousand three hundred and fourteen, when the survey thereof shall be returned to his office, he, the said John Johnson, having paid the purchase money for the same in due time.

Whereas Nathan Horton, of Ashe county, has paid into the treasury of this State, on the twenty seventh day of November, one thousand eight hundred and fifteen, the purchase money for twenty five acres of land, lying in said county, upon an entry number two thousand seven hundred and sixty seven, but failed to return the survey as by law required; and whereas Nathan Horton has departed this life, leaving William Horton, James Horton David Horton, Phineas Horton, Elizabeth Horton and Jonathan Horton, his only children and heirs at law: Be it therefore Resolved, That the Secretary of State issue to the said William Horton, James Horton, David Horton, Phineas Horton, Elizabeth Horton and Jonathan Horton a grant for the said twenty five acres of land.

Resolved, That the Secretary of State be, and he is hereby authorised and required to issue a land warrant for six hundred and forty acres of land to James Moore, of Duplin county, for military services.

Whereas Archibald Gilchrist, of Robeson county, in March, eighteen hundred and twenty six, entered eighty five acres of vacant land in the county of Richmond, and in eighteen hundred and twenty seven received the certificate of the entry taker, but failed in obtaining the grant within the time prescribed by law: Therefore

Resolved, That the Public Treasurer be authorised to receive the purchase money for the same, and the Secretary issue the grant for the said eighty five acres of land, in like manner as if the papers had been presented within the time prescribed by law: Provided, however, that the grant so obtained shall not be valid against any subsequent entry made according to law, or any wise go to impair the right of any person who may hold under such subsequent entry.

Resolved, that the Secretary of State be instructed to issue to Kenneth Ray a grant for two hundred acres of land, per warrant number two thousand five hundred and forty two, surveyed the seventh of December, one thousand eight hundred and thirty three, and entered the eleventh of December, one thousand eight hundred and thirty, on his, the said Ray, paying the purchase money for the same: Provided, that this resolution shall not operate to the prejudice of any entry which may have been made of the same tract of land between the fifteenth of December, one thousand eight hundred and thirty two and the adoption of this resolution.

Whereas Daniel McKay, late of Iredell county, paid, on the twenty fifth day of September, eighteen hundred, into the treasury the purchase money for twenty five acres of land, No. four hundred and forty one, for which he has not received a grant: Therefore

Resolved, That the Secretary of State be, and he is hereby directed to issue to the heirs of the said Daniel McKay a grant for the same: Provided, that the Secretary shall have satisfactory evidence of the purchase money having been paid.

Resolved, That the Secretary of State be authorised to grant a patent for two hundred acres of land, situate in the county of Onslow, adjoining the land called Turkey Point, to William Ferrand, the said William Ferrand having many years since paid the entry money, according to entry number eight hundred and thirteen, and having neglected to take out a patent.

Resolved, That the Secretary of State issue to William McLeod a grant for one hundred acres of land, surveyed upon warrant number seven thousand one hundred and seventy three, situate, lying and being in the county of Montgomery, on the waters of Cabin creek, beginning at a post oak, George Bruer's corner, and runs thence west one hundred and fifty poles to a pine; thence north seventeen degrees east one hundred and twenty poles to and with Milly James' line to a stake; thence north eighty six degrees east one hundred and twenty poles to said McLeod's old line; then with said line south one hundred and twenty poles to the first station; which was entered by the said William McLeod on the fourth day of January, one thousand eight hundred and fourteen, and for which he paid the entry money into the Treasurer's office within the time prescribed by law: Provided that said grant shall not interfere with any entry subsequently made.

Resolved, That the Public Treasurer be authorised to pay all expenses incurred for advertising by the commissioners as appointed by the Governor to open books of subscription for stock in the Bank of North Carolina.

Resolved, That the Public Treasurer pay to Abram Brower, of Randolph county, out of any moneys in the public treasury not otherwise appropriated, the sum of fifty four dollars; and that the same be allowed him in the settlement of his public accounts.

Whereas Toliver Witcher, one of the members of the House of Commons from the county of Ashe, was detained by sickness from taking his seat until the ninth of December: Be it therefore

Resolved by the General Assembly of the State of North Carolina, That the Public Treasurer pay to Toliver Witcher the usual compensation for the sixteen days that he was prevented by sickness from taking his seat as a member of the House of Commons; and that he be allowed a credit for the same in the settlement of his public accounts.

Resolved, That our senators in Congress be instructed, and our representatives requested to adopt the necessary measures to render the system of militia discipline of the United States less burdensome in its character and more efficient in its organization.

Resolved, That his Excellency the Governor be requested to transmit copies of these resolutions and report to the President of the United States and the Governors of the several States and to each of our senators and representatives in Congress.

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APPENDIX.

The following extracts from the several acts of Assembly relative to the taking of lists of taxable property, have been prepared for publication by the Public Treasurer in compliance with a resolution of the General Assembly of 1833-34, directing the "Public Treasurer to publish with the acts of the General Assembly extracts from the several acts and parts of acts of the General Assembly which prescribe the duties of magistrates appointed to take the list of taxables, and the manner of giving in lists of property for taxation; that the same be so arranged, without regard to date, as to exhibit most clearly the duty of magistrates in taking lists of taxable property in their respective districts, and the duty of persons who are required to give in property or persons for taxation, together with marginal references to the several acts containing the several provisions as published."

—*—*—

Act of 1801, chapter 570, Rev. Code.

I. The last twenty working days in July in every year are hereby established as the time when the list of taxable property shall be taken in every county in the State. Time when lists of taxables are to be taken.

II. At the respective Courts of Pleas and Pleas and Quarter Sessions in each county, which shall first happen after the first day of April in every year, the justices for taking the lists of taxable property shall be appointed; and the clerks of the several courts aforesaid shall give notice thereof, with a list of the names of said justices, and of the districts for which they were appointed in the course of the term in which such appointments are made, by advertising the same at the court house. The clerk shall issue notices of such appointments to the sheriff of the county, who shall serve the same within ten days on the justices so appointed; and it shall be the duty of the justices so appointed to advertise in the district at three different places for which he is appointed, at least ten days before the days established for giving in the lists of taxables, the place whereat he will attend to receive the same; and if any justice of the peace so appointed shall become incapable, die or remove out of the county before the duties of his appointment shall be performed, then any three other justices of the county (on notice of such death, incapability or removal being given them in writing by the sheriff) may, and they are hereby authorised and required to appoint some other justice of the peace to perform the duties of the person so becoming incapable. Time for appointing justices to take lists.
Clerks to give notice by advertising; also notice to be served by the sheriff.
Duty of justices so appointed.
In case of incapability to serve, &c.

III. The justices appointed as aforesaid shall, and it is hereby declared to be their duty to deliver to the constables of their respective districts for which they are appointed, within five days after the time hereinbefore established for taking lists, a copy of the names of the persons who have given in their lists of taxables, together with a warrant directed to the said constable, commanding him to make diligent inquiry for, and to summon every person in his district liable to pay public taxes, and who had failed to make return on the days herein prescribed, to appear before such justice within ten days, and make return Constables to be directed by the justices to search out such as have not given in their list.

His fee of his list of taxables, and the constable shall take and receive for the service of said warrant and making return of the same, with the names of such persons as he shall have summoned thereon annexed to or endorsed on said warrant, the sum of two shillings for each and every person by him so summoned and returned; and the said constable is hereby empowered to demand and receive the same: *Provided always*, that on every return so to be made by the constable, the justice shall administer to him an oath in the following form, to wit: "You, A. B. do solemnly swear that the persons whose names you have returned on this warrant are inhabitants of the district for which you are appointed constable; and are liable to pay taxes, to the best of your knowledge and belief; and that you have duly summoned each and every of them agreeably to the directions of this warrant: so help you God."

and oath.

1819, Chap. 999, R. C.

Manner of giving in list. IV. The justices of the peace appointed to take the lists of taxable property shall, after giving due notice thereof according to the directions of the act of 1801, require each and every person or persons liable to pay a land tax by lease or otherwise to list each and every tract of land by him, her or them holden within the county, stating the number of acres of each separate tract, its local situation, and its reasonable value, including the improvements thereon. And each and every person or persons liable and bound to list lands, shall return the said list upon oath or affirmation, as the case may be, *as it respects the number of acres*, and shall affix the value to each tract of land, including the improvements thereon, contained in said list, not less than the value affixed to the same by the board of principal assessors under the last act of Congress providing for the assessment of the lands of the United States; and it shall be the duty of the justices of the peace by whom the list of taxables are taken to return to the clerk of the court, with his list of taxables, the abstract of assessment furnished him by the clerk. And in all cases, where, by reason of improvements made on said lands since the said assessment was made, or by any other cause, the justice receiving such list shall be of opinion that the said assessment is below the real value of said land, with its improvements, he shall appoint two freeholders acquainted with said land to value said land upon oath; and such persons shall receive a compensation for their services of one dollar each for every day they may be engaged in valuing said lands, to be paid by the owners of the lands, provided the valuation made by such persons shall exceed that returned to the justice by the owner of the land; and in case the valuation shall not exceed that returned by the said owner, the com-

Upon oath as to quantity.

Value not less than that fixed by U.S. assessors.

Justice to return the abstract furnished by clerk.

Where valuation is too low how to proceed.

Who pays cost of revaluation.

* NOTE.—This clause is virtually repealed in those counties in which the Courts of Pleas and Quarter Sessions come early in the month of August, so as not to give time to the constables for performing this duty between the taking of the list and the court to which it is required to be returned by the act of 1819, which follows.

compensation as aforesaid shall be paid by the county: *Provided*, Where that when a tract of land shall be in two or more counties, the lies in person shall be bound to list the same in the county where he counties. or she resides, if in either; if not, then he or she may list the same in either of said counties: and in case of transmitting a list of taxable property from the county in which the person is bound to list it resides to that in which the property is situate, the oath required to the list may be taken before any magistrate of the county in which the person bound to return the same resides.

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V. At the term of the Court of Pleas and Quarter Sessions to which the lists of taxables are returned, the said court, not less than seven justices being present, shall appoint three respectable freeholders as a board of appeal, to whom the clerk of said court shall deliver the lists of taxables returned to his office, who, before they enter on the duties assigned them by this act, shall take an oath before some justice of the peace to discharge said duty to the best of their judgment and ability.

Board of

peal.

To take oath.

Their powers
and duties.

Said board shall meet at the court house on the Monday following said court; shall hold their sittings on every day of that week, unless the court shall limit their sitting to a less number of days; and shall hear the complaints, not only of those who feel aggrieved by the valuation affixed to the lands returned by them for taxation, but also the complaints of any other person who shall represent that justice has not been done to the State by reason of the low assessment of the lands of any person. Such board shall have power to administer oaths; may require the oath of the complainant; shall affix such valuation to any lands or town lots as they believe just, as well from their own knowledge of such lands and town lots as from the evidence adduced before them; shall return their valuation to the clerk of the court; and such decision shall be final. Said board shall receive a reasonable compensation, not less than two dollars per day, to be allowed by the court appointing them, and be paid by the county trustee.

Their deter-
mination final.
Compensat'n.

VI. The clerks of the respective Courts of Pleas and Quarter Sessions, in every county, shall, by public advertisement, notify the inhabitants of their counties of the term to which the lists of taxables will be returned, and that the board of appeal will meet at the court house on the Monday following said term, and of the number of days said board will sit to hear appeals.

Clerk to give
notice of meet-
ing of board.

VII. Every person appointed a member of the board of appeal, and failing to attend and act in such appointment, unless unable to attend, shall forfeit one hundred dollars, to be recovered in any court having jurisdiction thereof; and the vacancy in the board shall be filled by the remaining members.

Penalty for
not serving.

Vacancy how
filled.

VIII. Persons failing to list lands shall pay a double tax, &c.

Double tax.

IX. The justices appointed as aforesaid shall make out a fair copy of the list of lands by them taken, in alphabetical order, with the number of acres and valuation annexed; and return

Alphabetical
list to be fur-
nished to clerk.

APPENDIX.

His fee

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valuation
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abstract there-
of.

the same, together with the list of other taxable property by them taken, to the clerk of the County Court at the next succeeding court which may happen after the time prescribed by law for taking the list of taxable property: and the clerks of the several County Courts are hereby required, under the same penalties, regulations and restrictions as are already by law enjoined, to return to the comptroller, on or before the first day of September in each and every succeeding year thereafter, an abstract of such lists, showing the number of acres of land so listed, the valuation thereof, and the valuation of town property which shall be contained on said lists.

X. It shall be the duty of each of the clerks of the County Courts in this State, who have not already obtained the same, to apply to the principal assessors appointed under the late act of Congress for laying and collecting a direct tax for the district in which his county be situate for a copy of the valuation of lands in said county, made by the assessors under the said act; and it shall be the duty of said assessors to furnish said copy, for which he shall be paid a sum not exceeding ten dollars; and the clerk shall furnish each justice of the peace appointed to take the list of taxable property in his county with an abstract of said copy, showing the assessed value of each tract of land in the district for which the said justice shall be appointed to take the list of taxable property.

When land
not given in,
freeholder
shall be ap-
point'd by jus-
tice to value
the same.

XI. If any person owning lands in any county within this State or any non-resident shall fail to return, either by himself or agent, to the justice appointed to take the list of taxable property in the district in which the land of such owner or non-resident may be situated, a list of his or her land, with the number of acres and their valuation, in manner hereinbefore prescribed, it shall be the duty of the said justices to appoint a freeholder acquainted with the lands to value the same on oath, within five days, and return the valuation to the said justice; and the said freeholder shall receive a compensation of one dollar for each tract by him valued, to be levied and collected by the sheriff at the time he collects the taxes on said land, if not previously paid by the owner, and under the same rules, regulations and restrictions.

His compen-
sation paid by
owner.

Where land is
not given in
and freehold'r
is not appoint-
ed by justice,
sheriff to sum-
mon one to
value it.

XII. Where any person shall have failed, either by himself, agent or guardian, to list his, her or their lands, and the justice appointed to take the list of taxable property shall have failed to have the same assessed according to the provisions aforesaid, it shall be the duty of the sheriff, within the time prescribed for collecting taxes, to summon one freeholder near to or acquainted with the lands, whose duty it shall be, within five days after such notification, to value said lands on oath, which oath the sheriff or his lawful deputy is hereby authorized to administer; and it shall be the duty of such freeholder summoned as aforesaid to transmit under his hand a fair transcript of such valuation to the clerk of the County Court, at or before the succeeding County Court, and also to deliver to the sheriff another transcript of the same, within ten days after the valuation afore-

Duty of such
freeholder &
his compen-
sation.

said; and the said freeholder shall receive a compensation for his services as assessor of one dollar for every tract of land by him assessed, to be levied and collected by the sheriff at the time he collects the taxes on said land, if not previously paid by the owner; and the clerk of the County Court shall incorporate the return made by the freeholders aforesaid with those made by the justices. Clerk's duty in relation thereto.

XIII. Town property shall be given in and assessed in the same manner as prescribed in this act for other real estate. Town lots.

XIV. Any person summoned or appointed by the justices or sheriff as aforesaid to value lands, who shall refuse or fail to perform the duties required by this act, shall forfeit and pay the sum of fifty dollars, to be recovered in the name of the county trustee to the use of the county. Penalty on freeholder refusing to serve

1795, Chap. 480, R. C.

XV. All entries of land heretofore made, or which shall hereafter be made, shall be, and the same are hereby declared to be liable to the payment of taxes, and shall be returned in the same manner and paid at the same time as other taxable property; and if any entry of lands shall be caveated, it shall in that case be the duty of the person who originally entered the land to return the same for taxation, such caveat to the contrary notwithstanding. Entr's of land to be list'd for taxation.

1782, Chap. 176, R. C.

XVI. Inventories of the estates of testators, intestates, minors and absentees shall be delivered by the executors, administrators, guardians, agents or attorneys, in the same manner as the estates of other persons. Lists to be given by agents, &c.

XVII. Every person holding lands by title of dower, courtesy, or other estate for life, or on lease for five years or more, shall pay all such taxes as shall be assessed on the same, in like manner as owners of other lands are required to pay by this act. What length of title taxable

1784, Chap. 195, R. C.

XVIII. The inhabitants of the respective districts in each county shall attend at the time and place to be appointed, and shall return on oath, in writing, to the justice appointed to receive the same, the quantity of land; the particular tracts; the counties in which the same lie, with the number of free males and servants twenty-one years old and upwards; the number of slaves, male and female, between the ages of twelve and fifty years, which to him belonged, or who lived in his family; and the number of town lots of which he was possessed on the first day of April then last passed; and the oath to be administered by the justice receiving such list shall be as follows, viz. "You, _____, do swear (or affirm as the case may be) that this list by you delivered contains a just and true account of all the property for which by law you are subject to pay taxes, to the best of your knowledge and belief: so help you God." How list to be given and of what.

And when liability accrues.

Oath.

How justices shall return his own list. XIX. The justices appointed to receive lists of taxables shall make return of their own lists to the county court, or to some other justice.

1803, Chap. 639, R. C.

Remedy for mistakes made in listing. XX. Where it shall appear to the satisfaction of any of the County Courts of this State that any person or persons are charged with more land or polls on their list or lists of taxable property than he or they ought to pay for, the said court may order their clerk to give a certificate for the quantity of acres or polls so overcharged, which certificate shall be received by the Treasurer of the State in part of said taxes from the sheriff of said county.

Pamphlet Acts 1821, chap. 45.

Stud horses and Jacks to be listed. XXI. All owners or keepers of stud horses and jack-asses shall enlist the same for taxation as other taxable property is enlisted; and on failure of such owner or keeper to enlist such stud horses or jack-asses as aforesaid, they or either of them shall be liable to pay a double tax for such horse or jack-ass.

Pamphlet Acts 1822, chap. 1.

Billiard tables. XXII. The owner or possessor of every billiard table, or other public table constructed or erected for playing games of chance, by whatever named called, shall give in such billiard or other table as aforesaid, in the same manner as other taxable property. The owners of all turnpike roads where toll is received, and of gates across any public road in this State, shall give in the same at the same time they give in their taxable property.

Turnpike roads and gates across public roads. XXIII. All free males between the ages of twenty one and forty five, and all slaves between the ages of twelve and fifty years, shall pay a poll tax; and all slaves shall be listed in the county wherein they reside.

Pamphlet Acts 1828, chap. 34.

Persons suffering free negroes to live on their lands to give them in. XXIV. Where any free negro or mulatto, liable to pay a public tax, shall reside on the land of another person, with his or her consent, the person on whose land such free negro or mulatto may reside shall include each and every such free negro or mulatto as a free poll in his or her list of taxable property, and be liable to pay all public, county and parish taxes on every such free negro or mulatto.

Penalty for neglecting. XXV. And any person, for refusing or neglecting to give in such free negro or mulatto as aforesaid, shall be liable to all the penalties for refusing or neglecting to give in a list of his or her own taxable property.

Rev. Code, page 1482.

List to be delivered to sheriff by clerk. XXVI. The clerks of the several County Courts shall, within thirty days after the Board of Appeal have finished its session, deliver to the sheriffs of their respective counties a fair and accurate copy of the returns made, in alphabetical order, and annex to the valuation of each person's property the amount of taxes due thereon.

TREASURER'S REPORT.

TREASURY DEPARTMENT, 18th Nov. 1833.

The Honorable the General Assembly of the State of North Carolina.

In obedience to the directions of an act of the General Assembly, passed at the session of 1827, entitled "an act concerning the Public Treasury," the Public Treasurer respectfully submits the following Report:

1. Of the public or unappropriated Revenue and Expenditures.

| | |
|---|------------------|
| The balance of cash remaining in the Public Treasury on the first day of Nov. 1831, was | \$33,022 99 |
| The receipts during the ensuing fiscal year, ending on the 31st day of Oct. 1832, amounted to | 94,500 43 |
| | <hr/> 127,523 42 |
| The disbursements during the same period amounted to | 119,598 68½ |

Which, deducted, show the balance of cash remaining in the hands of the Public Treasurer, on the first day of Nov'r, 1832, as reported to the General Assembly of that year, and for which he is charged in the books of this office, to be 7,924 73½

The receipts at the Treasury, from all sources of unappropriated revenue, during the last fiscal year, that is, from the 31st of October, 1832, to the first of November, 1833, amounted to one hundred and eighty eight thousand eight hundred and nineteen dollars and ninety seven cents, (\$188,819 97,) viz.

| | |
|---|-------------|
| Cash received of the sheriffs for public tax, being the ordinary revenue of 1832, payable into the Treasury on the 1st October, 1833, and not otherwise appropriated, | \$67,834 64 |
| Ditto on account of additional returns of taxes, (see statement marked A.) | 285 60 |
| Ditto State Bank of North Carolina, for dividends of capital stock, | 54,493 89 |
| Ditto Bank of Newbern, ditto, | 45,450 00 |
| Ditto Bank of Cape Fear, tax of one per cent. on capital stock, | 2,601 00 |
| Ditto Bank of Newbern, ditto, | 3,827 25 |
| Ditto State Bank of North Carolina, for dividends of profit on 2764 shares of stock, at 2 per cent. for the half year ending in December, 1832, | 5,528 00 |
| Ditto Lewis Bond, sheriff of Bertie, for judgment in Supreme Court against A. M. Slade, one of the sureties of the late sheriff of Martin county, | 678 29 |
| Ditto John Sloan, late sheriff of Mecklenburg, part of judgment against said Sloan and sureties, for tax of 1831, | 1,050 51 |

| | |
|--|-----------------------|
| Ditto sundry persons for sales of furniture at Government House, per resolution General Assembly, (statement B,) | 100 32 |
| Ditto Gov. Swain, as guardian, ex officio, of Jas. N. Forsyth, per resolution last General Assembly, | 190 50 |
| Ditto William M'Pheeters, judgment against him on due bill assigned to the State by the executors of former Public Treasurer, | 29 19 |
| Ditto William H. Haywood, sen'r, part of Judgment Wake Superior Court, | 50 00 |
| Ditto Buncombe Turnpike Company, for dividends on the stock owned by the State in said company, | 400 00 |
| Ditto ditto, | 150 00 |
| Ditto the executor of Mrs. E. E. A. Haywood, for rent of public lots in the city of Raleigh, rent of 1832, | 10 00 |
| Ditto on bonds for sales of property of the late Jno. Haywood, Esq. Principal, \$1,200 00 Interest, 233 55 | 1,442 55 |
| Ditto John M'Rae, in full of judgment against him in Wake Sup'r Court, Principal, \$,000 00 Interest from 1st Dec. last, 153 58 | 3,153 58 |
| Ditto F. J. Haywood, for 2nd and 3rd bonds, Principal, 523 50 Interest, 156 90 | 680 40 |
| Ditto John Holloway, 4th bond for sales of land near Raleigh, Principal, 337 57 Interest, 75 93 | 413 52 |
| Ditto Charles Manly, 2nd bond for machine tract of land, Principal, 408 00 Interest, 42 43 | 450 43 |
| | <hr/> 188,819 97 |
| Which, with the balance stated above, show an aggregate amount of | 196,744 70½ |
| The disbursements at the Treasury for the same period, that is, from the 31st October, 1832, to the 1st Nov. 1833, for which vouchers have been delivered to the Comptroller and by him allowed, amount to | 138,867 46½ |
| Which, deducted, show the balance of cash remaining in the hands of the Public Treasurer, and for which he is accountable, on the first of November, 1833, to be | <hr/> 57,877 24 <hr/> |

TREASURER'S REPORT.

The disbursements for the year, as stated above and deducted, consist of the following items, viz.

| | |
|---|-------------|
| General Assembly, | \$39,518 09 |
| Rebuilding Capitol, | 32,030 00 |
| Treasury Notes burnt by Committee of Finance, session of 1832, | 18,681 38½ |
| Judiciary, | 22,448 00 |
| State Bank of North Carolina, interest on the deferred payment for stock, | 3,356 24 |
| Executive Department, | 2,300 00 |
| Treasury Department, | 2,000 00 |
| Department of State, | 1,160 50 |
| Comptroller's Department, | 1,000 00 |
| Penalties for failing to comply with act of 1831, refunded per resolution General Assembly, | 3,600 00 |
| Electoral Election, | 1,371 02 |
| Sheriffs for settling tax, | 1,021 05 |
| Public Printer, | 900 00 |
| Pensioners, | 816 00 |
| Congressional Elections, | 519 94 |
| Electors, | 416 85 |
| Adjutant General's Office, | 200 00 |
| Bogue Banks, | 60 42 |
| Money burnt, issues of 1783 and 1785, | 8 20 |
| Contingencies, | 7,459 77 |

\$138,867 46½

For a more detailed exhibit of the items which make up this expenditure, and of payments on account of "allowances or drafts made by the General Assembly, and warrants issued by the Governor," &c. as required by the 11th section of the act of 1827, the Comptroller's Statement, prepared for the use of the members of the present General Assembly, is respectfully referred to. The specification therein of the disbursements, is made from the vouchers received and paid for at the Treasury, and will be found to agree with the entries in the books of this office.

The following statements of the moneys received and expended on account of the Literary and Internal Improvement Funds, are also submitted in further discharge of the duties required by the several acts of Assembly.

II. Of the Literary Fund.

The balance of cash remaining in the hands of the Public Treasurer, as Treasurer of the Literary Fund, on the 31st day of October, 1832, as reported to the general Assembly of that year, was

\$38,586 52½

The receipts at the Treasury of money belonging to this fund, from the 31st Oct. 1832, to the 1st day of Nov. 1833, amount to twenty eight thousand four hundred and thirty eight dollars and forty nine cents, (28,438 49,) and consist of the following sums, viz.

| | |
|---|----------|
| Cash received for entries of vacant land, | 6,270 43 |
|---|----------|

| | | |
|--|-----------|-----------|
| Ditto for taxes on sales at auction received of sundry auctioneers, | 675 64 | |
| Ditto for tavern tax received of sheriffs, | 2,737 28 | |
| Ditto State Bank of North Carolina for dividends of stock belonging to President and Directors of Literary Fund, | 14 100 00 | |
| Ditto ditto for dividends of profits on stock owned by the President and Directors of this Fund, | 564 60 | |
| Ditto Bank of Newbern for dividends of capital belonging to President and Directors of this Fund, | 3,525 00 | |
| Ditto Cape Fear Navigation Company for dividends of profits appropriated to this Fund, | 566 14 | |
| | | 23,438 49 |

Making, when added to the balance above stated, the am't of 117,024 31½

There has been no expenditure from the Literary Fund during the year.

III. Of the Fund for Internal Improvement.

| | | |
|--|----------|-----------|
| Balance on the 31st Oct. 1832, as reported to the General Assembly of that year, | 813 40½ | |
| The receipts at the Treasury on account of the Fund for Internal Improvement, from the 31st Oct. 1832, to the 1st Nov. 1833, amounted to one thousand four hundred and fifty-eight-dollars and sixty one cents, 1,458 61, viz. | | |
| Cash received of sundry purchasers of Cherokee lands, appropriated by law to this Fund. | | |
| (statement C.) Principal, | 1,073 15 | |
| Interest, | 324 23 | |
| | 1,397 48 | |
| Ditto John T. C. Wiatt, auctioneer, for sale of camp equipage, | 61 13 | |
| | | 1,458 61 |
| | | 2,272 01½ |

The expenditures for the same period amounted to one thousand two hundred and ninety two dollars ninety three cents, (1,292 93,) viz.

| | | |
|--|--------|--|
| This sum paid A. G. Keen, balance due him for work of Cape Fear river, | 258 76 | |
| Ditto James Wyche, Superintendent of Public Works, as per account stated, | 74 00 | |
| Ditto ditto for postage, on warrant of the Board Internal Improvement, | 4 92 | |
| Ditto Wm. R. Hill, Secretary of the Board, | 9 00 | |
| Ditto James Mebane, for Cape Fear Navigation Company, being the balance of the State's last subscription to the stock of that company, according to the account kept by the Board of Internal Improvement. | 896 25 | |

TREASURER'S REPORT.

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| | | |
|--|-------|-----------------|
| Ditto James Wyche, Superintendent of Public Works, on a count of salary. | 50 00 | |
| | | <u>1,002 93</u> |
| Which sum, deducted, leaves a balance due the Board of Internal Improvement of | | <u>979 08½</u> |

The above disbursements from the Fund for Internal Improvement are also sustained by vouchers properly taken at the Treasury Office, passed upon, and filed by the Comptroller, as directed by the 21st section of the act of 1827. They will be found likewise to agree with the entries in the books of the two offices.

This Fund has become so reduced as to have but little more than a nominal existence; nor is there a prospect of its accumulating much from any resources now within the control of the Board. The receipts from Cherokee purchasers constitute at present its only source of income. These at best would be inconsiderable; but, owing to the unsettled state of the title to those lands, collections have of late been almost entirely suspended. The whole amount of bonds, exclusive of interest, as shown by the bond account kept in this office, was, on the 31st Oct. last, \$92,034 67 1-8.

RECAPITULATION.

The foregoing statements show balances of cash on hand at the close of the business of the fiscal year ending on the 31st of October, 1833, as follows, viz.

| | |
|---|-------------------|
| Amount as Public Treasurer, | \$57,877 24 |
| Ditto Treasurer of the Fund for Internal Improvement, | 979 08½ |
| Ditto Treasurer of the Literary Fund, | 117,034 81½ |
| Making an aggregate of | <u>175,881 14</u> |

With which the Public Treasurer, as such, and as Treasurer of the Literary and Internal Improvement Funds, stands charged in the books of this and the Comptroller's office, and for which he is therefore accountable on the 1st day of November, 1833. This amount is disposed of (as directed by law) in the following manner, viz.

| | |
|---|-------------------|
| Deposited in the State Bank of North Carolina at Raleigh, and remaining at the credit of the Public Treasurer on the 1st day of November, 1833, | 80,678 47 |
| Ditto Bank of Newbern ditto, | 66,538 59 |
| Ditto Bank of Cape Fear, Fayetteville, | 19,044 35 |
| Worn Treasury notes, silver change, &c. deposited in the vault of the Treasury, | <u>166,281 41</u> |
| | <u>9,599 73</u> |
| | <u>175,881 14</u> |

It will be seen, in the course of the examination about to be made by the Committee of Finance into the fiscal operations of the past year, that not only the sheriffs, but all others charged with the collection and paying into the Treasury of the public revenue, have observed a punctuality in the

discharge of their duty which, it is believed, is without a parallel in any previous year. By the act of 1827, the Public Treasurer and Comptroller are required to publish annually, on the 1st day of November, a list of the delinquents. It is remarkable that there has been no necessity for such publication the present year, inasmuch as there has not been a single instance of default in any collecting officer; and it gives me particular pleasure to have this opportunity of bearing public testimony to the promptness and fidelity of those with whom it is made my duty to act, and in whom these qualifications are so important. Such punctuality, while it contributes to render plain and facile the business of this office, also proves much for the excellence and security of the present mode of collecting the revenue. The law in relation to the tax on sales at auction is not, however, altogether free from exception. It provides that the Court of Pleas and Quarter Sessions may appoint as many as three auctioneers in each county, who are required to make quarterly exhibits to the clerk of said court of the amount of goods sold; an abstract of which the clerk is required to transmit annually, in the month of October, to the Comptroller. Upon this return, the auctioneer is charged with the tax, which is levied per centum on the amount of sales. Many counties in the State appoint no auctioneers, and the only evidence we have of the appointments made, is furnished by the abstract forwarded by the clerk; and even this does not furnish the names of the sureties. Now, it may, and does sometime happen that an auctioneer fails to file with the clerk an account of his sales; of course the clerk can make no return to the Comptroller; and thus a delinquency may escape altogether the knowledge of the Public Treasurer, whose duty it is to bring the delinquent to account, or enforce the penalty for neglect. It would, therefore, seem obviously better that the clerks be compelled, in like manner as they now are in relation to sheriffs, to certify to the Comptroller the names of each auctioneer and his sureties, in their respective counties; and where there is no appointment, to certify the fact. By requiring certificates from *all* the counties, as well where no appointments are made as where they are, every delinquency, whether arising from the neglect of the clerk or auctioneer, must necessarily be exposed. Defects of this kind may exist in the *mode of collecting* the taxes; but that must be regarded as much less exceptionable than the *manner of levying* them. Much of the most active property in the country, that which is most productive to its owner, and in many States is made to yield a large portion of public revenue, is, in our State, entirely free from taxation; while that on which the burden is intended to be imposed is so unequally taxed as to render what would be light in the aggregate, in some instances, grievous and difficult to pay. It seems hardly reasonable that the owners of real estate should be subject to a tax of $\frac{1}{2}$ to $\frac{3}{4}$ per centum on the value of their property, and the rich capitalist left untouched. Yet this is the case, and especially with such real estate as, in addition to the public, county and poor tax, pays also a corporation tax. The evil is further aggravated by the unequal operation of the law regulating the assessment of lands. This subject has before been presented to the consideration of the Legislature; and, with great deference, it is conceived, cannot be too earnestly pressed upon their attention, both with a view to distributing more equally the burden of taxation, and as the means of increasing the public revenue to an amount equal to the current expen-

ses of the government. A moderate poll tax of 20 or 25 cents, and one-tenth of one per centum on the value of every species of property, with such discriminations as might be thought expedient, could not be complained of as high. Yet such a system, with a proper revision of the assessment law, would probably bring into the Treasury three times the amount of the present revenue.

In receiving of the State Bank the dividend of capital which was made in January last, a difference of opinion arose as to the amount to which the State was entitled; the dividend being fifty per cent. It was claimed on the one hand, that the State ought to receive fifty dollars for every share of stock she owned in that institution, and *for which she had paid*. About 839 of the shares originally subscribed by the State, according to particular stipulations in the charter, have never been paid for. On these shares nothing was claimed, as nothing had ever been paid. On the other hand, it was contended that an amount sufficient to pay for all the shares subscribed, at one hundred dollars each, should be retained out of what was acknowledged to be due; thereby compelling the State to pay 100 dollars for stock avowed by the Bank to be worth but 75. The amount claimed and withheld was \$41,953 05, though the real matter in dispute is just the difference between the nominal and real value of as many shares of stock as have not been paid for. The justice of the claim, it was thought, after taking counsel, would warrant the expense of a law suit, and one has accordingly been instituted, and will stand for adjudication at the next term of the Supreme Court. In this suit it is also made a question, whether the Bank is entitled to the four per cent. interest on the deferred payment for stock, which it has heretofore received of the State.

The sum of six hundred and seventy eight dollars and twenty nine cents, (678 29,) stated to have been received on a judgment against Alfred M. Slade, one of the sureties of Edward Griffin, former sheriff of Martin county, was received in part discharge only. For the balance of the judgment, (being the penalty incurred by the sheriff for failing to settle for the tax of 1826,) Mr. Slade was permitted to give his bond, with good personal security, which bond is now on file in this office, and will be immediately collected, unless remitted by the Legislature.

The sum of seventy nine dollars and nineteen cents, (79 19,) being composed of the sums stated to have been received of William M'Pheeters and William H. Haywood, sen'r, has been placed to the credit of the judgment against John Haywood, Esquire. Those sums having been received on claims assigned to the State by his executors, and by agreement to be so credited when received by the Public Treasurer. The balance of that judgment yet unsatisfied, exclusive of interest, is \$17,740 40.

The following statement shows the debit of the Public Fund to the Literary Fund, at the periods stated, viz.

| | |
|---|-------------|
| On the first day of December, 1832, the balance against the Public Fund was | \$14,125 05 |
| 1st January, 1833 | 24,547 69 |
| 1st Feb. " | 66,016 75 |
| 1st March, " | 12,982 49 |
| 1st April. " | 12,742 75 |

On the 1st day of May the Literary Fund had been reimbursed, and a balance of \$24,230 21 stood to the credit of the Public Fund. Since that

time, there has been no occasion to use the money of the former to answer demands on the latter.

The demand at this office for the redemption of Treasury notes, it will be seen by statement K, accompanying this report, has been rapidly diminishing for two years. From that statement, and from the great scarcity in the country, the inference is fair, that the amount yet in circulation, after making proper allowance for what may be destroyed, cannot be very considerable—probably from twenty-five to thirty-five thousand dollars.

The necessity for legislation on the subject of banks and a circulating medium, has been apparent to the Legislature for some years past, from their repeated efforts, at every session, to do something in relation to it. That necessity and the difficulties in transacting the business of this office, growing out of the particular state of the local currency in North Carolina, yet exist; and, in addition, the time has now arrived when it would be proper to make some other provision for the public deposits, if the charters of the present banks are not to be extended. With the State Bank the deposits have already ceased to be desirable, and are certainly no advantage to any bank which has not the privilege of doing business. It is then at least questionable whether the obligation of the banks to keep them does not expire with their original charters on the 31st Dec. 1834. In order to meet the inconvenience, therefore, of being unprovided with a place of safety for depositing of the public money, some action of the present Legislature would seem to be necessary.

The file marked (D) herewith transmitted, is referred to, for a more detailed statement of the nett amount of the different branches of the ordinary revenue, and the cash received thereon; also the receipts from other sources not appropriated to particular funds, and payable into the Treasury, from the 1st November, 1832, to the 1st November, 1835.

A statement of the insolvencies allowed by the Comptroller in settling with the Sheriff's is shown in file (E).

(F) exhibits the number of shares of bank stock owned by the State, and by the President and Directors of the Literary Fund, showing also the number on which the dividends have been appropriated to the several funds respectively. This statement varies from the one made last year only in the addition of four shares of State Bank stock transferred to the State by the Governor as guardian ex officio of James N. Forsyth, as directed by a resolution of the last General Assembly.

The bank exhibits received at this office since the last session of the General Assembly will be found in file marked (G.)

All which is respectfully submitted.

WILLIAM S. MHOON, Public Treasurer.

TREASURER'S REPORT

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(A)

Statement of Cash received in the Treasury from the 31st day of October, 1831, to 1st day of November, 1833, on additional returns of taxes.

| Sheriffs | | Counties | Tax due. | Amount paid. |
|---------------------|-------|-------------|----------|--------------|
| William H. Arcibald | | Cabarrus | 1831 | \$14 78 |
| Fielding Slater | | Rowan | do | 15 83 |
| Wm. C. Clanton | (late | Warren | do | 14 66 |
| Wm. C. Butler | do | Burke | do | 73 74 |
| William Carson | | Rutherford | do | 39 15 |
| Nathaniel Harrison | | Buncombe | do | 21 51 |
| Thomas Ward | | Lincoln | do | 15 65 |
| James H. Wood | | Northampton | do | 13 67 |
| Salathiel Stone | | Stokes | do | 2 71 |
| Howell Albritton | | Pitt | do | 1 44 |
| Gabriel Holmes | | New Hanover | do | 4 81 |
| George Williamson | do | Caswell | do | 32 94 |
| Thomas D. Watts | do | Orange | do | 4 99 |
| Joseph Medley | do | Anson | do | 23 58 |
| Thomas McDonald | | Moore | 1832 | 6 14 |
| | | | | 285 60 |

I. WETMORE, Clk T. D.

(B)

Statement of Bonds and Cash received for sales of Furniture at the Government House, made on the 1st and 2d of April, 1833, in pursuance of a resolution of the General Assembly of 1832.

BONDS.

| | | |
|---------------------------------|----------------------|---------|
| Romulus M. Saunders and others, | due 1st Jan'y, 1834, | \$23 00 |
| William F. Clark | do do | 36 55 |
| Henry Gorman | do do | 60 95 |
| William Thompson | do do | 39 00 |
| John C. Stedman | do do | 53 95 |
| Nathaniel O. Blake | do do | 8 77 |
| William E. Dunn | do do | 8 75 |
| H. W. Montague | do do | 98 85 |
| William G. Hill | do do | 20 00 |
| | | 349 82 |

CASH.

| | |
|--|--------|
| Received of E. P. Guion | 13 57 |
| Do William Hill | 4 75 |
| Do Robert Harrison | 6 00 |
| Do William Polk | 18 88 |
| Do Willis Whitaker | 16 72 |
| Do William Peck, crier, paid to him by sundry purchasers | 41 10 |
| | 100 82 |
| | 450 64 |

I. WETMORE, Clk T. D.

(C)

Statement of Cash received in the Treasury on the bonds due on account of sales of Cherokee lands, from 31st October, 1832, to 1st November, 1833, belonging to the Fund for Internal Improvement.

| Date. | From whom received. | Bonds paid. | Principal | Interest. | Total. |
|---------|-------------------------|----------------|-----------|-----------|---------|
| 1832. | | | D. C. | D. C. | D. C. |
| Nov. 17 | William Underwood | full 3d & 4th | 39 00 | 15 29 | 54 29 |
| Decr. 1 | Abraham Pickelsimer | do 1st | | 2 82 | 2 82 |
| " | do do | part 3d | 31 31½ | 10 86½ | 42 18 |
| " | Theophilus Johnston | full 3d | 28 60 | 17 47 | 46 07 |
| " | Thomas Rogers | part 4th | 27 04 | 2 96 | 50 00 |
| " | John Stiles | full 2d | | 3 21 | 3 21 |
| " | do do | part 3d | 6 79 | | 6 79 |
| " | Taviner B. Moore | full 4th | | 14 64 | 14 64 |
| " | Tr'sts Franklin Acad'y. | | 10 00 | | 10 00 |
| 6 | Joseph E. Bell | full 3d | | 16 89 | 16 89 |
| " | do do | part 4th | 52 00 | 6 11 | 58 11 |
| " | Hiram Dimsdale | full 4th | 30 42 | 10 26 | 40 68 |
| " | George Penland | do 4th | 30 46 | 22 23 | 52 69 |
| 19 | David Millsaps | do 4th | 24 75 | 9 15 | 33 90 |
| 24 | David Rogers | do 4th | 77 25 | 33 19 | 110 44 |
| 27 | Zachariah Cabe | part 4th | 250 00 | | 250 00 |
| " | Alfred Brown | full 3d & 4th | 114 00 | 45 40 | 159 40 |
| " | Joseph Welch | do 2d & 3d | 116 25 | 48 65 | 164 90 |
| " | do do | part 4th | 60 70 | | 60 70 |
| 1833. | | | | | |
| Jan'y 5 | John Addington | full 1st & 2d | 40 78½ | 18 74½ | 59 53 |
| " | do do | part 3d | 5 47 | | 5 47 |
| " | David Rogers | part 4th | 18 81 | | 18 81 |
| " | Amos Curtis and others | full | 20 00 | | 20 00 |
| May 1 | William Sweatman | do 2d, 3d, 4th | 43 75 | 17 21 | 60 96 |
| 18 | William Siler | do 3d | 20 43 | 29 24 | 49 67 |
| " | do do | part 4th | 25 33 | | 25 33 |
| | | | 1073 15 | 324 33 | 1397 48 |

I. WETMORE, Clk T. D.

TREASURER'S REPORT.

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(D)

Statement of the nett amount of the different branches of Revenue, and the Cash received thereon, and from other sources not appropriated to other Funds, and payable into the Treasury, from the 31st October, 1832, to the 1st day of November, 1833.

| Branches of Revenue of 1832, and from whom Cash has been received. | | | | Amount. | | Aggregate. | | Am't paid. | |
|---|---------|----|---|---------|----|------------|----|------------|----|
| | | | | D. | C. | D. | C. | D. | C. |
| Tax on Land | - | - | - | 23,011 | 30 | | | | |
| Do Town Property | - | - | - | 1,351 | 35 | | | | |
| Do Polls | - | - | - | 23,012 | 87 | | | | |
| Do Stud Horses | - | - | - | 1,515 | 85 | | | | |
| Do Gates | - | - | - | 94 | 00 | | | | |
| Do Stores | - | - | - | 9,163 | 31 | | | | |
| Do Pedlars | - | - | - | 2,575 | 60 | | | | |
| Do Artificial Curiosities | - | - | - | 1,287 | 86 | | | | |
| Do Natural Curiosities | - | - | - | 352 | 50 | | | | |
| Do Billiard Tables | - | - | - | 470 | 00 | | | | |
| BANK TAX. | | | | | | 67,834 | 64 | 67,834 | 64 |
| Bank of Newbern | - | - | - | 3,827 | 25 | | | | |
| Bank of Cape Fear | - | - | - | 2,601 | 00 | | | | |
| BANK DIVIDENDS OF CAPITAL. | | | | | | 6,428 | 25 | 6,428 | 25 |
| State Bank of North Carolina | - | - | - | 54,493 | 89 | | | | |
| Bank of Newbern | - | - | - | 45,450 | 00 | | | | |
| BANK DIVIDENDS. | | | | | | 99,943 | 89 | 99,943 | 89 |
| State Bank of North Carolina | - | - | - | 5,528 | 00 | | | | |
| MISCELLANEOUS. | | | | | | 5,528 | 00 | 5,528 | 00 |
| Additional return of public tax | - | - | - | 285 | 60 | | | | |
| Lewis Bond, judgment vs. Slade | - | - | - | 678 | 29 | | | | |
| John Sloan, judgment vs. him | - | - | - | 1,050 | 51 | | | | |
| Sales of Furniture at Government House, | - | - | - | 100 | 82 | | | | |
| Governor Swain, Guardian, &c. | - | - | - | 190 | 50 | | | | |
| Creditors of John Haywood | - | - | - | 79 | 19 | | | | |
| Baucombe Turnpike Company Dividends | - | - | - | 550 | 00 | | | | |
| Land rent | - | - | - | 10 | 00 | | | | |
| Sales Land and Negroes, viz. | | | | | | | | | |
| Principal | \$1,209 | 00 | | | | | | | |
| Interest | 233 | 55 | | | | | | | |
| John McRae, judgment vs. him, | | | | 1,442 | 55 | | | | |
| Principal | \$3,000 | 00 | | | | | | | |
| Interest | 153 | 38 | | | | | | | |
| Fabius J. Haywood, viz. | | | | 3,153 | 38 | | | | |
| Principal | \$523 | 50 | | | | | | | |
| Interest | 156 | 90 | | | | | | | |
| John Holloway, viz. | | | | 630 | 40 | | | | |
| Principal | \$337 | 57 | | | | | | | |
| Interest | 75 | 95 | | | | | | | |
| Charles Manly, viz. | | | | 413 | 52 | | | | |
| Principal | \$408 | 00 | | | | | | | |
| Interest | 42 | 43 | | | | | | | |
| | | | | 450 | 43 | | | | |
| | | | | | | 9 085 | 10 | 9 085 | 10 |
| | | | | | | 188,819 | 97 | 188,819 | 97 |

L. WETMORE, Cl'k T. D.

(E)

Statement of Insolvents allowed by the Comptroller to the Sheriffs, in their settlement of the taxes of 1832.

| Sheriffs. | Counties. | Amount. |
|--------------------|------------|---------|
| | | D. C. |
| Hampton B. Hammond | Anson | 15 00 |
| Nathaniel Harrison | Buncombe | 16 80 |
| John Boon | Burke | 22 40 |
| John McLean | Cumberland | 12 80 |
| Isaac Baxter | Currituck | 7 80 |
| Horace D. Bridges | Chatham | 30 00 |
| Absalom Fulford | Carteret | 7 20 |
| William D. Rascoe | Chowan | 4 80 |
| Thomas J. Pasteur | Craven | 20 80 |
| William Kennebec | Davidson | 1 00 |
| Spencer L. Hart | Edgecombe | 35 00 |
| Gustin Perry | Franklin | 26 40 |
| James W. Doak | Guilford | 18 20 |
| Richard G. Cowper | Hertford | 20 00 |
| James Simmons | Halifax | 28 40 |
| Allen S. Ballinger | Johnston | 3 00 |
| Hiram Caldwell | Irwell | 12 80 |
| James R. Riddick | Gates | 10 00 |
| William Huggins | Jones | 10 00 |
| Thomas Ward | Lincoln | 80 |
| Samuel W. W. Vick | Nash | 2 40 |
| Joshua R. Pool | Pasquotank | 5 80 |
| James Long | Perquimons | 5 00 |
| William Crawford | Richmond | 12 00 |
| Fielding Slater | Rowan | 21 20 |
| William Carson | Rutherford | 31 20 |
| Martin Roberts | Rockingham | 10 40 |
| Salathiel Stone | Stokes | 10 40 |
| Thomas B. Right | Surry | 20 20 |
| John J. Bryan | Wilkes | 9 00 |
| William Thompson | Wayne | 8 40 |
| Paschal B. Burt | Wake | 19 40 |
| John W. Taylor | Greene | 8 80 |
| | | 486 00 |

L. WETMORE, CPY T. D.

TREASURER'S REPORT.

19

(F)

A statement showing the aggregate number of shares of Bank Stock owned by the State of North Carolina and by the President and Directors of the Literary Fund on the 1st November, 1833.

| | | |
|--|-------|-------|
| Shares of Stock of the State Bank of North Carolina, owned by the State, and divid's unappropriated, | 2,768 | |
| Ditto ditto by the President and Directors of the Literary Fund, and purchased with the cash belonging to that Fund, | 282 | 3,050 |
| Ditto Stock of the Bank of Newbern, owned by the State, and dividends unappropriated, | 155 | |
| Ditto ditto dividends appropriated to the Fund for Internal Improvement, | 1,304 | |
| Ditto ditto dividends appropriated to the Literary Fund, | 359 | |
| Ditto owned by the President and Directors of the Literary Fund, and purchased with the cash belonging to that Fund, | 141 | 1,959 |
| Ditto Stock of the Bank of Cape Fear owned by the State, and dividends unappropriated, | 10 | |
| Ditto ditto dividends appropriated to the Fund for Internal Improvement, | 1,358 | |
| Ditto ditto dividends appropriated to the Literary Fund, | 704 | |
| Ditto owned by the President and Directors of the Literary Fund, and purchased with the cash belonging to that Fund, | 50 | 2,122 |
| Aggregate number of shares, | | 7,131 |

WILLIAM S. MHOON, Pub. Tr.

(6)
An Exhibit showing the situation of the State Bank of North Carolina, May 21st, 1853.

| | D. | C. | D. | C. |
|--|--------------|--------------|------------|--------------|
| Specie | \$107,944 37 | | 798,775 | |
| Foreign Bank notes and Bills of Exchange | \$90,775 44 | | 513,734 50 | |
| Foreign Bank credits | 74,322 97 | 573,032 78 | 150,314 40 | |
| Bank Stock taken for debt | | 44,210 00 | 293,381 46 | |
| Due from individuals for notes discounted, &c. | | 1,006,974 12 | 16,789 48 | |
| Real Estate | | 148,762 94 | | |
| | Dollars | 1,772,994 84 | Dollars | 1,772,994 84 |

To Wm. S. Moore, Esq. Pub. Treas'r North Carolina.

CHARLES DEWEY, Cash'r.

State of the Bank of Cape Fear, on the 1st of July, 1853.

| | Dolls. | | Dolls. |
|---|-----------|--|-----------|
| Capital Stock | 496,500 | Specie and notes of Bank United States | 96,170 |
| Notes of this Bank in circulation | 557,735 | Deposites in Foreign Banks | 300,719 |
| Deposited | 60,958 | Due by Banks in North Carolina | 1,007 |
| Dividends unpaid | 1,743 | Notes of other Banks on hand | 6,418 |
| Due to Banks | 49,482 | Real Estate | 75,887 |
| Profit and Loss or surplus | 120,434 | Bills of Exchange | 25,909 |
| Ditto by transactions in stock of this Bank | 46,467 | Debt | 628,009 |
| | Dollars | | Dollars |
| | 1,134,119 | | 1,134,119 |

JOHN HILL, Cashier,

An Exhibit of the affairs of the Bank of Newbern, taken Friday, 30th November, 1832.

| Amount of bills receivable | | Dollrs. | Dollrs. |
|--|-----------|-------------------------|-----------|
| do real estate | 598,216 | Capital stock | 706,200 |
| do individual debt | 27,900 | Due to deposits | 93,709 |
| do foreign banks and bills of exchange | 20,000 | do Foreign banks | 287 |
| do specie and United States notes | 135,501 | do Dividends | 751 |
| do balance, loss | 43,145 | do Notes in circulation | 507,423 |
| | 182,999 | | |
| Dollars | 1,068,361 | Dollars | 1,008,361 |

BANK OF NEWBERN, December 10, 1832.

M. S. Moon, Esq. Public Treasurer,
 Sir,—The above Exhibit of the affairs of the Bank of Newbern, represents only such debts as have been estimated and are deemed to be good.
 I have the honor to be, respectfully, your obedient servant,
 JOHN W. GUNION, Cash'r.

An Exhibit of the affairs of the Bank of Newbern, taken on Saturday, the 29th June, 1833.

| Bills receivable | | Dollrs. | Dollrs. |
|-----------------------------------|---------|--|-----------|
| Real estate | 400 171 | Capital stock 7,062 shares or | \$706,200 |
| Individual debt | 27,900 | Dividend of capital of 25 per cent. | 176,550 |
| Due from foreign banks | 20,000 | | |
| do bills of exchange | 124 835 | Due to deposits | 529,630 |
| do specie and United States notes | 53 948 | do Foreign banks | 124,732 |
| | 57,776 | do dividends on profit | 1,268 |
| Balance, loss | 163,392 | do to dividend of capital 25 per cent. 7th Jan. 1833 | 703 |
| | | do notes in circulation | 11,875 |
| | | | 242,294 |
| Dollars | 910,022 | Dollars | 910,022 |

BANK OF NEWBERN, July 16th, 1833.

Wm. N. Moon, Esq. Public Treasurer,
 Sir,—The above Exhibit of the affairs of the Bank of Newbern, represents only such debts as are deemed to be good.
 Very respectfully, your obedient servant,
 JOHN W. GUNION, Cash'r.

(K)

Statement of Treasury notes issued and reported by the former Public Treasurer, to the Comptroller of the State, to have been put in circulation according to the acts of Assembly of 1814, 1816 and 1823.

| | | |
|---|-------------|----------------------------|
| Amount issued under the act of 1814 | | \$82,000 00 |
| Ditto | 1816 | 80,000 00 |
| Ditto | 1823 | 100,000 00 |
| | | <u>262,000 00</u> |
| Amount burnt by Committee of Finance according to the Comptroller's Report of 1819, | | \$943 34 |
| Ditto | ditto 1821, | 7,710 00 |
| Ditto | ditto 1822, | 9,784 52 |
| Ditto | ditto 1823, | 6,310 51½ |
| Ditto | ditto 1824, | 5,696 25 |
| Ditto | ditto 1825, | 12,170 89½ |
| Ditto | ditto 1826, | 15,392 46 |
| Ditto | ditto 1827, | 15,523 98 |
| Burnt by Committee of Finance, | 1827, | 9,303 76 |
| Ditto | ditto 1828, | 17,781 89 |
| Ditto | ditto 1829, | 19,971 85½ |
| Ditto | ditto 1830, | 21,601 61 |
| Ditto | ditto 1831, | 29,811 77 |
| Ditto | ditto 1832, | 18,681 38½ |
| | | <u>190,684 22½</u> |
| | | 71,315 77½ |
| Deduct amount on hand in the vault of the Treasury, | | <u>9,214 87</u> |
| Shewing a balance unredeemed and in circulation of | | <u><u>\$61,161 90½</u></u> |

W. S. MHOON, Pub. Tr.

ment of the Nett Amount of that Branch of the Revenue which is receivable by the Sheriffs, for the year 1832.

A Statement of the Net Amount of that Branch of the Revenue which is receivable by the Sheriffs, for the year 1832.

| County. | No. of cases. | Debtors' Names. | Land Tax. | | Town Property Tax. | | Poll Tax. | | Said Horse Tax. | | Store Tax. | | Tavern Tax. | | Water Poll Tax. | | Artificial Candy Tax. | | Narcotic Tax. | | Gate Tax. | | Liquor Tax. | | Amount Paid Sheriff. | | Amount Paid Sheriff. | | |
|---------|---------------|---------------------------|-----------|------|--------------------|------|-----------|------|-----------------|------|------------|------|-------------|------|-----------------|------|-----------------------|------|---------------|------|-----------|------|-------------|------|----------------------|------|----------------------|------|----|
| | | | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | |
| 1 | 1 | Hampton D. Hammond | 399 | 16 | 10 | 64 | 435 | 03 | 13 | 69 | 113 | 50 | 32 | 56 | 38 | 20 | 14 | 10 | - | - | - | - | - | - | 1 | 933 | 17 | 933 | 17 |
| 2 | 1 | John Gambill | 138 | 48 | 7 | 99 | 318 | 34 | 3 | 69 | 15 | 04 | 15 | 04 | 33 | 34 | 14 | 11 | - | - | - | - | - | - | 8 | 409 | 81 | 409 | 81 |
| 3 | 1 | John Russ | 187 | 87 | - | - | 310 | 40 | - | - | 33 | 20 | 41 | 36 | - | - | 14 | 11 | - | - | - | - | - | - | 8 | 573 | 92 | 573 | 92 |
| 4 | 1 | Nathaniel Harris | 374 | 93 | 27 | 81 | 313 | 38 | 13 | 51 | 131 | 60 | 25 | 93 | 47 | 06 | 23 | 20 | 4 | 74 | - | - | - | - | 4 | 1158 | 91 | 1158 | 91 |
| 5 | 1 | John Bonn | 485 | 56 | - | - | 504 | 97 | 15 | 51 | 103 | 40 | 41 | 36 | 113 | 89 | 23 | 20 | 14 | 11 | - | - | - | - | 5 | 1306 | 70 | 1306 | 70 |
| 6 | 1 | Stephens | 232 | 27 | - | - | 443 | 79 | - | - | 224 | 66 | 109 | 04 | 130 | 40 | 23 | 20 | - | - | - | - | - | - | 6 | 1148 | 81 | 1148 | 81 |
| 7 | 1 | George Cronquist | 235 | 02 | 4 | 50 | 249 | 68 | 20 | 68 | 30 | 08 | 3 | 76 | 13 | 80 | - | - | - | - | - | - | - | - | 7 | 631 | 38 | 631 | 38 |
| 8 | 1 | Samuel Cain, late Sheriff | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 8 | 1613 | 32 | 1613 | 32 |
| 9 | 1 | Lewis Bond | 503 | 91 | 9 | 72 | 711 | 77 | 42 | 77 | 134 | 12 | 41 | 56 | 56 | 40 | 38 | 20 | - | - | - | - | - | - | 9 | 1683 | 27 | 1683 | 27 |
| 10 | 1 | Thomas J. Pasteur | 643 | 71 | 156 | 25 | 524 | 90 | 9 | 40 | 633 | 23 | 101 | 53 | 13 | 20 | 23 | 23 | - | - | - | - | - | - | 10 | 1683 | 27 | 1683 | 27 |
| 11 | 1 | Almon Fulford | 115 | 30 | 19 | 27 | 161 | 68 | - | - | 38 | 88 | 41 | 30 | 91 | - | - | - | - | - | - | - | - | - | 11 | 860 | 35 | 860 | 35 |
| 12 | 1 | James Baxter | 123 | 09 | - | - | 231 | 63 | 3 | 70 | 43 | 81 | 53 | 04 | 56 | 40 | - | - | - | - | - | - | - | - | 12 | 912 | 39 | 912 | 39 |
| 13 | 1 | Luke G. Lamb | 160 | 53 | - | - | 231 | 01 | 10 | 81 | 129 | 72 | 100 | 04 | - | - | - | - | - | - | - | - | - | - | 13 | 648 | 84 | 648 | 84 |
| 14 | 1 | Thomas Lea | 875 | 48 | 3 | 45 | 604 | 04 | 53 | 58 | 174 | 84 | 60 | 15 | 37 | 60 | 23 | 20 | 14 | 10 | - | - | 4 | 70 | 1351 | 45 | 1351 | 45 | |
| 15 | 1 | William D. Rascoe | 215 | 03 | 63 | 65 | 530 | 16 | 174 | 186 | 12 | 26 | 33 | 18 | 80 | 23 | 20 | - | - | - | - | - | - | - | 14 | 947 | 02 | 947 | 02 |
| 16 | 1 | Thomas D. Bridges | 498 | 75 | 13 | 37 | 593 | 33 | 71 | 91 | 184 | 08 | 37 | 60 | 75 | 20 | - | - | - | - | - | - | - | - | 15 | 1439 | 53 | 1439 | 53 |
| 17 | 1 | James H. Leavelle | 357 | 75 | 153 | 76 | 325 | 93 | 25 | 92 | 76 | 28 | 48 | 88 | 58 | 13 | 56 | 40 | - | 85 | 50 | - | - | - | 16 | 2018 | 32 | 2018 | 32 |
| 18 | 1 | Joshua Williamson | 93 | 40 | 9 | 64 | 164 | 31 | 7 | 10 | 102 | 42 | 7 | 32 | 75 | 20 | - | - | - | - | - | - | - | - | 17 | 530 | 94 | 530 | 94 |
| 19 | 1 | William H. Archibald | 295 | 02 | - | - | 288 | 30 | 94 | 101 | 32 | 11 | 28 | 73 | 20 | 56 | 40 | - | - | - | - | - | - | - | 18 | 838 | 36 | 838 | 36 |
| 20 | 1 | James K. Holl | 233 | 93 | 62 | - | 337 | 28 | 10 | 30 | 50 | 76 | 56 | 40 | 119 | 80 | - | - | - | - | - | - | - | - | 19 | 832 | 90 | 832 | 90 |
| 21 | 1 | William Kennedy | 437 | 95 | 13 | 92 | 373 | 81 | 36 | 19 | 77 | 08 | 18 | 80 | 84 | 60 | 28 | 20 | 14 | 10 | - | - | - | - | 20 | 1085 | 95 | 1085 | 95 |
| 22 | 1 | Spencer C. Hart | 385 | 78 | 30 | 32 | 799 | 16 | 47 | 163 | 44 | 67 | 68 | 18 | 50 | - | - | - | - | - | - | - | - | - | 21 | 1941 | 11 | 1941 | 11 |
| 23 | 1 | Gaston Perry | 34 | 61 | 34 | 35 | 470 | 26 | 53 | 93 | 141 | 20 | 43 | 88 | 10 | 66 | 40 | - | - | - | - | - | - | - | 22 | 350 | 55 | 350 | 55 |
| 24 | 1 | James W. Doak | 601 | 83 | 34 | 50 | 456 | 36 | 60 | 63 | 233 | 12 | 19 | 66 | 56 | 40 | 28 | 20 | - | - | - | - | - | - | 23 | 1346 | 84 | 1346 | 84 |
| 25 | 1 | James R. Riddick | 978 | 59 | - | - | 331 | 08 | 20 | 68 | 62 | 04 | 15 | 04 | 18 | 80 | 23 | 20 | - | - | - | - | - | - | 24 | 774 | 43 | 774 | 43 |
| 26 | 1 | Leslie Gilliam | 593 | 89 | 21 | 85 | 903 | 72 | 49 | 88 | 266 | 96 | 37 | 60 | 56 | 40 | 28 | 20 | 14 | 10 | - | - | - | - | 25 | 1972 | 34 | 1972 | 34 |
| 27 | 1 | James W. Taylor | 314 | 50 | 2 | 32 | 305 | 31 | 31 | 93 | 62 | 04 | 37 | 60 | - | - | - | - | - | - | - | - | - | - | 26 | 619 | 59 | 619 | 59 |
| 28 | 1 | James Simmons | 913 | 83 | - | - | 913 | 83 | - | - | 913 | 83 | - | - | 58 | 28 | 107 | 40 | - | - | - | - | - | - | 27 | 1307 | 57 | 1307 | 57 |
| 29 | 1 | Richard G. Cowper | 334 | 15 | 29 | 14 | 361 | 19 | 24 | 44 | 240 | 38 | 37 | 60 | 38 | 20 | - | - | - | - | - | - | - | - | 28 | 538 | 27 | 538 | 27 |
| 30 | 1 | Henry S. Spencer | 160 | 64 | - | - | 234 | 83 | 3 | 76 | 83 | 72 | 37 | 60 | 18 | 80 | - | - | - | - | - | - | - | - | 29 | 538 | 27 | 538 | 27 |
| 31 | 1 | Nelson G. Howell | 111 | 80 | 3 | 46 | 111 | 11 | 12 | 38 | 34 | 84 | 30 | 08 | 56 | 40 | - | - | - | - | - | - | - | - | 30 | 537 | 91 | 537 | 91 |
| 32 | 1 | Iraan Caldwell | 412 | 73 | - | - | 501 | 77 | 93 | 83 | 129 | 72 | 18 | 80 | 73 | 20 | 14 | 10 | - | - | - | - | - | - | 31 | 1175 | 34 | 1175 | 34 |
| 33 | 1 | William Higgins | 219 | 18 | 3 | 35 | 265 | 39 | 46 | 29 | 56 | 26 | 23 | 56 | 18 | 80 | - | - | - | - | - | - | - | - | 32 | 813 | 53 | 813 | 53 |
| 34 | 1 | Allen S. Ballinger | 395 | 70 | 1 | 61 | 395 | 70 | 1 | 61 | 39 | 13 | 31 | 38 | 48 | 88 | 37 | 60 | - | - | - | - | - | - | 33 | 628 | 44 | 628 | 44 |
| 35 | 1 | Thomas B. Young | 218 | 40 | 2 | 30 | 226 | 31 | 38 | 07 | 169 | 20 | 78 | 96 | 112 | 80 | 38 | 20 | 14 | 10 | 4 | 70 | - | - | 34 | 1957 | 54 | 1957 | 54 |
| 36 | 1 | John Davis | 185 | 98 | 9 | 04 | 335 | 40 | 5 | 35 | 72 | 26 | 32 | 18 | 80 | - | - | - | - | - | - | - | - | - | 35 | 657 | 78 | 657 | 78 |
| 37 | 1 | Norman McDonald | 177 | 81 | 1 | 16 | 318 | 64 | 12 | 22 | 83 | 84 | 33 | 84 | 18 | 80 | - | - | - | - | - | - | - | - | 36 | 496 | 31 | 496 | 31 |
| 38 | 1 | James Traut | 95 | 58 | 5 | 53 | 121 | 54 | 16 | 45 | 30 | 48 | 15 | 04 | 18 | 80 | - | - | - | - | - | - | - | - | 37 | 512 | 33 | 512 | 33 |
| 39 | 1 | John M. Allen | 203 | 80 | 2 | 80 | 203 | 80 | 2 | 80 | 203 | 80 | 2 | 80 | 203 | 80 | - | - | - | - | - | - | - | - | 38 | 628 | 44 | 628 | 44 |
| 40 | 1 | Moses McConaughy, | 637 | 98 | 38 | 94 | 764 | 60 | 50 | 76 | 195 | 32 | 33 | 84 | 75 | 20 | 56 | 40 | - | - | - | - | - | - | 39 | 1833 | 18 | 1833 | 18 |
| 41 | 1 | Samuel S. Shepherd | 278 | 85 | - | - | 329 | 76 | 16 | 92 | 93 | 12 | 73 | 20 | 18 | 80 | 23 | 20 | - | - | - | - | - | - | 40 | 842 | 85 | 842 | 85 |
| 42 | 1 | Gabriel Holmes | 332 | 61 | 206 | 59 | 605 | 17 | 11 | 28 | 94 | 109 | 04 | 38 | 20 | - | - | - | 4 | 70 | 470 | 00 | - | - | 41 | 2697 | 59 | 2697 | 59 |
| 43 | 1 | Samuel W. W. Vick | 506 | 19 | - | - | 422 | 62 | 83 | 84 | 84 | 60 | 32 | 56 | - | - | - | - | - | - | - | - | - | - | 42 | 862 | 32 | 862 | 32 |
| 44 | 1 | James H. Wood | 737 | 15 | 4 | 79 | 731 | 70 | 88 | 127 | 84 | 37 | 60 | 37 | 60 | - | - | - | 4 | 70 | - | - | - | - | 43 | 1769 | 74 | 1769 | 74 |
| 45 | 1 | Peter Harrell | 218 | 91 | 1 | 92 | 218 | 91 | 1 | 92 | 21 | 36 | 26 | 32 | 18 | 80 | - | - | - | - | - | - | - | - | 44 | 591 | 75 | 591 | 75 |
| 46 | 1 | James C. Turndine | 888 | 37 | 68 | 80 | 976 | 47 | 80 | 37 | 524 | 66 | 94 | 73 | 20 | 56 | 40 | 14 | 10 | - | - | - | - | - | 45 | 2478 | 37 | 2478 | 37 |
| 47 | 1 | John Barnett | 266 | 12 | - | - | 460 | 22 | 39 | 48 | 60 | 16 | 30 | 08 | 18 | 80 | - | - | - | - | - | - | - | - | 46 | 871 | 86 | 871 | 86 |
| 48 | 1 | Joshua A. Pool | 219 | 51 | 26 | 09 | 325 | 66 | 12 | 82 | 86 | 32 | 127 | 84 | - | - | - | - | - | - | - | - | - | - | 47 | 1013 | 60 | 1013 | 60 |
| 49 | 1 | Howell Allbright | 30 | 78 | 1 | 18 | 310 | 95 | 10 | 92 | 103 | 45 | 42 | 18 | 80 | - | - | - | - | - | - | - | - | - | 48 | 1945 | 13 | 1945 | 13 |
| 50 | 1 | James Long | 244 | 91 | 10 | 12 | 244 | 91 | 10 | 12 | 109 | 04 | 26 | 83 | 38 | 20 | - | - | 9 | 40 | - | - | - | - | 49 | 733 | 93 | 733 | 93 |
| 51 | 1 | Fiedling Stahl | 693 | 37 | 80 | 60 | 778 | 14 | 12 | 144 | 76 | 26 | 32 | 37 | 60 | 84 | 60 | 28 | 20 | - | - | - | - | - | 50 | 1880 | 87 | 1880 | 87 |
| 52 | 1 | George Hoover | 421 | 85 | 5 | 59 | 329 | 94 | 27 | 56 | 99 | 61 | 11 | 28 | 18 | 80 | - | - | 14 | 10 | - | - | - | - | 51 | 928 | 26 | 928 | 26 |
| 53 | 1 | Matthia Roberts | 423 | 06 | - | - | 441 | 09 | 15 | 198 | 133 | 36 | 63 | 92 | 56 | 40 | 84 | 60 | - | - | - | - | - | - | 52 | 1249 | 11 | 1249 | 11 |
| 54 | 1 | John Brown | 238 | 52 | 1 | 39 | 399 | 72 | 5 | 17 | 22 | 85 | 15 | 04 | - | - | - | - | 4 | 70 | - | - | - | - | 53 | 617 | 67 | 617 | 67 |
| 55 | 1 | William Crawford | 206 | 44 | 37 | 27 | 340 | 58 | 32 | 98 | 56 | 11 | 29 | 75 | 20 | - | - | - | - | - | - | - | - | - | 54 | 510 | 10 | 510 | 10 |
| 56 | 1 | William Carson | 484 | 76 | 12 | 82 | 578 | 29 | 32 | 43 | 159 | 12 | 127 | 84 | 31 | 60 | 38 | 20 | 14 | 10 | 4 | 70 | - | - | 55 | 1335 | 86 | 1335 | 86 |
| 57 | 1 | Curtis Thompson | 302 | 74 | 1 | 31 | 451 | 29 | 15 | 104 | 39 | 48 | 80 | 08 | 112 | 80 | - | - | - | - | - | - | - | - | 56 | 952 | 74 | 952 | 74 |
| 58 | 1 | Thomas B. Wright | 869 | 28 | 6 | 49 | 356 | 45 | 15 | 122 | 20 | 48 | 88 | 73 | 20 | 56 | 40 | 14 | 10 | - | - | - | - | - | 57 | 1064 | 51 | 1064 | 51 |
| 59 | 1 | Richard Stone | 470 | 66 | 42 | 51 | 543 | 10 | 37 | 199 | 59 | 75 | 20 | 75 | 20 | 56 | 40 | 28 | 20 | - | - | - | - | - | 58 | 1392 | 56 | 1392 | 56 |
| 60 | 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

The foregoing Statement is formed on Returns filed in the Comptroller's Office of North Carolina, this 1st day of November, 1888

1. Statement of the nett amount of that branch of the Revenue which is receivable by the Auctioneers for duties on sales at Auction, for 1832-3; and from the Banks of Newbern and Cape Fear, for the tax of 1833, on Stock owned by individuals, at one per cent.

| Names of Auctioneers. | Counties. | Sums due by Auctioneers. | | Sums paid by Auctioneers. | |
|--|-------------------------------|----------------------------|--------------|---------------------------|------|
| | | Dolls. | Cts. | Dolls. | Cts. |
| George W. Davis | New-Hanover county, for 1832, | 54 | 41 | 54 | 41 |
| Nathanial C. Oliver | Carteret do do | 5 | 58 | 5 | 58 |
| Thomas Vaughan | Beaufort do for 1833, | 20 | 00 | 20 | 00 |
| Edward Williams | Pasquotank do | 54 | 90 | 54 | 90 |
| Saml W. Tilghast | Cumberland do | 226 | 57 | 226 | 57 |
| James Pollex | Cumberland do | 32 | 72 | 32 | 72 |
| Henry Devere | Cumberland do | 24 | 70 | 24 | 70 |
| Joseph S. Fowler | Craven do | 48 | 01 | 48 | 01 |
| | | 19 | 75 | 19 | 75 |
| | | 673 | 64 | 673 | 61 |
| BANKS. | | Amount due by individuals. | Amount paid. | | |
| Bank of Northw. | \$377 | Dolls. | Cts. | Dolls. | Cts. |
| Bank of Cape Fear | 2601 | 3737 | 23 | 2601 | 00 |
| | | 6438 | 23 | 6428 | 23 |
| RECAPITULATION OF RECEIPTS. | | | | Dolls. | |
| Revenue paid by the Sheriff, the Revenue of 1832, | | \$70,571 | 92 | | |
| Paid by the Sheriff, on additional returns, | | 283 | 60 | | |
| | | 70,855 | 52 | | |
| From which deduct Taxen Tax, belonging to the L. | | 7,337 | 38 | | |
| | | 68,127 | 24 | | |
| Bank Dividends on unappropriated stock, | | 5,838 | 00 | | |
| Sales of Land and Negroes, | | 1,411 | 33 | | |
| Charles Tully, on his bond, | | 49 | 43 | | |
| Dividend on the Bank of Northw., | | 54 | 82 | | |
| Dividend of Bank of Newbern Stock, | | 45,453 | 00 | | |
| Bancroft Turnpike Company, (Dividend on Stock), | | 530 | 00 | | |
| Cash received from the Government for 1832, | | 4 | 19 | | |
| Do rec'd of Gov. Smith, <i>ex gratia</i> , Guard and J. N. Forsyth, 1832 | | 102 | 50 | | |
| Received on account of sale of F. Murrell, | | - | 102 | 50 | |
| Received of John Holliday, on his bond, | | 54 | 82 | | |
| Received of Paines J. Haywood, on his bond, | | 680 | 40 | | |
| Received of Alfred M. Shaw, attorney of Elwell Griffin, | | 678 | 31 | | |
| Received of John Shaw, late Sheriff of Mecklenburg, | | 1,055 | 00 | | |
| Collected for rent of Philip Kester, | | 10 | 00 | | |
| Do received of John McKee, | | 3,153 | 38 | | |
| Do received of Bank of Cape Fear, (Bank Tax), | | 3,027 | 25 | | |
| Do received of Bank of Newbern, (do do) | | 3,027 | 25 | | |
| Balance due North Carolina on the 1st November, 1832, | | 7,934 | 73 | | |
| | | 196,474 | 70 | | |
| Deduct Disbursements for 1833, | | 139,867 | 46 | | |
| | | | | 57,877 | 24 |
| LITERARY FUND. | | | | | |
| Amount paid on Entries of Vacant Land, for 1833, | | 6,279 | 41 | | |
| Do for Auction Tax, for do | | 375 | 00 | | |
| Do received for Tavern Tax, for do | | 2,757 | 58 | | |
| Do received for Bank Dividend, | | 674 | 00 | | |
| Do received for Dividend of Stock State Bank, | | 13,148 | 00 | | |
| Do received for Dividend of Stock Bk. of Newbern, | | 3,625 | 00 | | |
| Do received of George McNeill, Treasurer, (Cape Fear Navigation Dividend), | | 86 | 14 | | |
| Balance due Literary Fund, 1st November, 1832, | | 38,885 | 32 | | |
| | | | | 117,034 | 00 |
| INFRASTRUCTURE IMPROVEMENT FUND. | | | | | |
| Amount paid on bonds of Citizens Land, | | 1,397 | 48 | | |
| * Cash received on account of sale of Camp Equipage, | | 61 | 13 | | |
| * Balance due the Board 1st November, 1832, | | 815 | 40 | | |
| | | 2,277 | 01 | | |
| | | 1,293 | 93 | | |
| Deduct disbursements for 1833, | | | | 975 | 08 |
| | | | | 175,885 | 92 |

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