



Library of
The University of North Carolina

COLLECTION OF
NORTH CAROLINIANA

ENDOWED BY
JOHN SPRUNT HILL
of the Class of 1889

39.5.1.1187

1828-1839

UNIVERSITY OF N.C. AT CHAPEL HILL



00035472513

*This book must not be
taken from the Library
building.*

7 Aug 31 1968

15 No '38'

LAWS

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

AT THE


SESSION OF 1838-'39.

Published agreeably to an Act of the 7th Jan. 1837.

RALEIGH:

PRINTED BY J. GALES AND SON, OFFICE OF THE RALEIGH REGISTER.

1839.



Digitized by the Internet Archive
in 2010 with funding from
Ensuring Democracy through Digital Access (NC-LSTA)

PUBLIC ACTS

OF THE

STATE OF NORTH-CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

AT THEIR SESSION WHICH COMMENCED ON MONDAY THE NINETEENTH
OF NOVEMBER, ONE THOUSAND EIGHT HUNDRED AND THIRTY-
EIGHT, AND ENDED ON TUESDAY THE EIGHTH OF JANUARY,
ONE THOUSAND EIGHT HUNDRED AND THIRTY-NINE.

ARSENAL.

CHAPTER I.

AN ACT vesting in the United States of America, jurisdiction over a certain tract of Land in the Town of Fayetteville, and County of 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 the jurisdiction of the State of North-Carolina is hereby ceded to the United States of America, for the purpose of erecting and maintaining thereon Arsenals, Magazines, Dockyards, or other necessary buildings over all that tract, piece or parcel of land, situate, lying and being in the Town of Fayetteville, in the County of Cumberland, and bounded as follows: beginning at the South East corner of John Huske's lot, and running South along the Western boundaries of Adam street, nine chains and nineteen links to the North East corner of James Campbell's lot; thence West twenty-five chains and fifty links to a corner stone marked

Jurisdiction
vested in the
U. States.

U. S. ; thence South, thirty minutes West, fourteen chains and seventy-five links, to a corner stone marked U. S. ; thence South, eighty-nine degrees thirty minutes West, seventeen chains and seventy-five links, to a corner stone marked U. S. ; thence North, thirty minutes East, thirty-five chains and ninety-two links, to a corner stone marked U. S. ; thence East, seventeen degrees South, seventeen chains and fifty links, to a corner stone marked U. S. ; thence South, thirty minutes West, seven chains and fifty links, to a corner stone marked U. S. ; thence East, twenty-five chains and fifty links, to the beginning. The evidence of the several purchases of the land which is hereby ceded, being recorded in the Office of the Register for the County of Cumberland, and jurisdiction in the like manner ceded to the United States of America, over all tracts or parcels of land adjacent to the lands above described, which may hereafter be purchased by the United States of America, for the purpose aforesaid, the evidences of such purchase or purchases being duly recorded in the Office of the Recorder for the County of Cumberland, or such County in which the land so purchased is situated.

North Carolina to retain concurrent jurisdiction.

II. *And be it further enacted*, That the jurisdiction so ceded to the United States of America, is granted upon the express condition, that the State of North Carolina shall retain a concurrent jurisdiction with the United States of America, in and over the tract of land aforesaid, so far as that civil process in all cases, and such criminal process as may issue under the authority of the State of North Carolina, against any person or persons charged with crimes committed, without the said tract of land, may be executed therein in the same way and manner as if this jurisdiction had not been ceded. The United States to retain the same jurisdiction, so long as said tract or tracts of land shall be used for the purpose expressed in the foregoing section, and no longer.

[Ratified 8th January, 1839.]

ATTACHMENTS.

CHAPTER II.

AN ACT to amend an Act passed at the session of one thousand eight hundred and thirty-six, one of the "Revised Statutes," and entitled an Act authorising Attachments to issue for the recovery of Debts, and directing the proceedings thereon.

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 any person against whose estate any Attachment has issued in pursuance of the Act to which this is an amendment, his or her attorney, agent or factor, at any time before final judgment entered, or writ of inquiry executed, upon giving the bail required by the said Act, to replevy the estate so attached, and plead to issue, so that the plaintiff is not thereby delayed of his trial.

Defendants against whose estate attachment is issued may replevy or plead to issue.

Be it further enacted, That this Act shall be in force from and after its ratification.

[Ratified 8th January, 1839.]

BANK OF CAPE FEAR.

CHAPTER III.

AN ACT to amend the Charter of the Bank of Cape Fear.

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 Charter of the Bank of Cape Fear embraced in the several Acts of the General Assembly relating thereto, be so altered and amended, that in all subscrip-

Authorizes the sale of stock belonging to delinquent Stockholders.

tions for Stock which have been heretofore, or which shall be hereafter made in said Bank, where payments according to the provisions of said Charter, on the requirements of the Directors of said Bank, shall be delayed or refused by such subscribers, it shall be the duty of the President and Directors aforesaid, after due advertisement for one month, to cause the share or shares in Stock of such delinquent subscriber, to be sold at public auction to the highest bidder for Cash, and the purchaser thereof shall be entitled to all the rights and privileges of such subscriber in relation to such subscription; and it shall be his duty to pay the balance due on said Stock, as soon as he shall be required so to do as aforesaid; and in case of his failure so to do, either in whole or in part, his interest in the same may be sold according to the terms and manner herein before specified.

[Ratified 3d January, 1839.]

BASTARD CHILDREN.

CHAPTER IV.

AN ACT to amend an Act of the Revised Statutes, Chapter Twelve, entitled "Bastard Children."

Courts authorized to legitimate.

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 putative father of any illegitimate child or children, may apply by petition in writing, either in the County or Superior Court of the County in which such father may reside, praying such child or children be declared legitimate. If it shall appear to the Court, that such petitioner is reputed the father of such child or children, the said Court may thereupon declare and pronounce the said

child or children legitimated accordingly : *Provided*, That Proviso. nothing herein contained shall be so construed as to extend such legitimation further than as provided in the ninth section of the above recited Act: *Provided further*, that no bastard child or children whose putative father was married at the time of his, her, or their birth, shall come within the provisions of this Act.

[Ratified 8th January, 1839.]

BRIDGES.

CHAPTER V.

AN ACT to compel owners of Bridges to construct Draws.

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 owners of Steam Boats or other craft, who may intend navigating any River or Creek within this State, shall give three months notice thereof in one of the Public Journals of this State, published nearest the River or Creek he may wish to navigate, and to the owner or owners of each separate Bridge, requiring said owner or owners to construct a Draw of width sufficient to admit the passage of the Boat intended for use. Notice to be given to owners of Bridges

II. *And be it further enacted*, That all owners of Bridges who shall fail to construct a Draw, as required by the first section of this Act, within three months from the date of the notice, shall forfeit and pay the sum of fifty dollars, to be recovered before any jurisdiction having cognizance thereof, one half to the use of the person suing for the same, and the other half to the use of the poor of the county ; and shall be further subject to the like penalty for every three months that said owner or owners shall neglect to comply with the requirements of this Act. Penalty.

Free Bridges.

III. That where there is now any Bridge erected, or which may hereafter be erected by order of any County Court, or by the orders of any two County Courts, which Bridge is a free Bridge, over any River or Creek intended to be navigated by any individual or company of individuals with a Steam Boat or other craft, it shall and may be lawful for such individual or company of individuals to construct a Draw in such Bridge, at his or their own expense, and to keep the Draw in good repair.

Draws to be kept in good repair.

IV. That any individual or company of individuals who shall construct a draw in any public Bridge, agreeably to the third section of this Act, shall, upon failure to keep such Draw in good repair, be deemed and held guilty of a misdemeanor, and shall be held further liable in damages to any person who may sustain damage by such neglect.

[Ratified 28th December, 1838.]

CAPITOL.

CHAPTER VI.

AN ACT making an appropriation for carrying on and completing the Capitol of the State, 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 sum of seventy-five thousand dollars be, and the same is hereby appropriated for carrying on, completing and furnishing the Capitol, now being erected in the City of Raleigh; and the Commissioners appointed by law are hereby authorised, or a majority of them, to draw on the public Treasurer of this State, for such sums out of said appropriation, as they, or a majority of them, may require from time to time, in the progress of said work, and the warrants of said Commissioners shall be a sufficient authority to the Treasurer, for payment of the sums so required.

\$75,000 appropriated.

II. *Be it further enacted*, That the Public Treasurer be, and he is hereby authorised and directed to pay up the notes or bonds given by the Chairman of the Commissioners for re-building the Capitol, to the President and Directors of the Bank of the State of North Carolina, to the amount of nineteen thousand dollars, with interest from the nineteenth day of November, one thousand eight hundred and thirty-eight. Loan at Bank of the State to be paid.

III. *Be it further enacted*, That the Public Treasurer be, and he is hereby directed to pay up the notes or bonds given by the Chairman of the Commissioners for re-building the Capitol, to the President and Directors of the Bank of Cape Fear, to the amount of eleven thousand three hundred dollars with interest from the nineteenth of November, one thousand eight hundred and thirty-eight, and that he be allowed the same in the settlement of his public accounts. Loan at Cape Fear Bank to be paid.

[Ratified 7th January, 1839.]

CLERKS.

CHAPTER VII.

AN ACT concerning the appointment of Clerks of the Superior Courts.

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 where any appointment shall be made by a Judge of the Superior Court, in pursuance of the powers vested in him by law, of a Clerk of any Superior Court, and it may not be convenient for the said Judge personally to administer the oaths or take the bonds required from a Clerk, it shall and may be lawful for the said Judge to issue a commission to any two Justices of the Peace of the County for the Superior Court of which the said Clerk is appointed, to take the oath and bonds required by law; and it shall be Empowers two Justices to administer oath of office and to take bonds

the duty of the said Justices, to administer the said oaths, to cause them to be subscribed by the Clerk appointed, and to take the said bonds, and to return the bonds and oaths so taken, to the next term of the Superior Court of Law for their County.

Remedy for
neglect.

II. *Be it further enacted*, That upon failure of any person so appointed, to exhibit to the Superior Court of his County, at the term next succeeding his appointment, such evidence of his having taken the oaths or having given the bonds ; or in case of the bonds so given, being unsatisfactory to the Judge holding the Court next after such appointment, the said appointment is hereby declared to be vacated, and the Judge holding the Court shall proceed to make an appointment according to law.

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

[Ratified 8th of January, 1839.]

COMMON SCHOOLS.

CHAPTER VIII.

AN ACT to divide the Counties into School Districts, and for other purposes.

Sheriffs to ad-
vertise.

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 the duty of the Sheriffs of the several counties of this State, when they advertise the next election for members of Congress, to give notice, at the same time, by public advertisement in every election precinct, that an election will be held to ascertain the voice of the people upon the subject of Common Schools ; and all who are in favor of raising by taxation, one dollar for every two dollars proposed to be furnished out of the Literary Fund, for the

establishment of Common Schools in each School district, will deposit their vote with the word "School" written on it; those opposed to it, will vote "No School" upon their ticket; and all who vote for members of the House of Commons, shall be entitled to vote; and it shall be the duty of the poll keepers to count the votes given at each precinct for School or no School, and to return the same to the Sheriff, who shall count together all the votes; and if a majority shall be found in favor of Schools, it shall be the duty of the Sheriff to furnish a certificate of the same to the next County Court of his County; and any Sheriff failing to comply with the requisitions of this Act, shall suffer all the penalties imposed by law for failing to discharge his duty in any election for members of Assembly.

Vote of the
people.

Penalty.

II. *Be it further enacted*, That the several Courts of Pleas and Quarter Sessions in each County of the State of North Carolina, shall, in such County as shall determine to accept these terms, at the first Court that may happen after such election, a majority of the Justices of such County being present, proceed to elect not less than five, nor more than ten persons, as Superintendants of Common Schools, for such County; and in such election, it shall be necessary for a choice, that each of the persons elected shall receive a majority of the votes of all the Justices present.

Superinten-
dants to be e-
lected.

III. *Be it further enacted*, That said Superintendants, or a majority of them, shall meet within a reasonable time thereafter, and shall have power to choose one of their number as Chairman, and shall proceed to divide their respective Counties into School districts, for the purpose of establishing Common Schools, containing not more than six miles square, but having regard to the number of the white children in each, so far as they can ascertain the same: *Provided, nevertheless*, that no greater number of School districts shall be laid off in any County than shall be equal to one for every six miles square of inhabited territory in said County.

School Dis-
tricts.

IV. *Be it further enacted*, That said Superintendants shall number the districts, and make return thereof to the

Boundaries.

first County Court in their several Counties, which shall be held after the first day of January, one thousand eight hundred and forty; and it shall be the duty of said Superintendants, in making their return, to designate, as well as they may, the natural boundaries and prominent objects of the boundary of each of said districts; and it shall be the duty of said Court, to cause such return to be recorded in the Register's office of said County.

School Committee men.

V. *Be it further enacted*, That the aforesaid Boards of Superintendants, in each County, after completing the division as aforesaid, shall appoint not less than three, nor more than six *School Committee Men*, in each district, whose duty it shall be to assist said Superintendants in all matters pertaining to the establishment of Schools for their respective districts.

Penalty.

VI. *Be it further enacted*, That if any person who shall be thus appointed to serve as Superintendant, shall refuse or neglect to do so after having accepted said appointment, he shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, in any Court of Record in this State; and such penalty, when recovered, to be paid over to the President and Directors of the Literary Fund, and to be appropriated to the Literary Fund; and it shall be the duty of the County Attorney for the State, to prosecute suit in all such cases, for and on behalf of the President and Directors of the Literary Board.

Duty of Superintendants.

VII. *Be it further enacted*, That in any county where a majority of the votes have been for Common Schools, and a certificate of the same has been furnished by the Sheriff to the said Superintendants of Common Schools, it shall be the duty of the Superintendants to transmit the same, with a certificate of the number of School Districts in their respective counties, to the President of the Literary Board.

Tax to be levied.

VIII. *Be it further enacted*, That in every county in the State, where the vote shall be in favor of Common Schools, it shall be the duty of the said County Courts, at the first term that shall happen after the first Monday in January, one

thousand eight hundred and forty, a majority of the Justices being present, to levy a tax to the amount of twenty dollars for each district in said county, in the same manner that other county taxes are now levied for other county purposes, to be paid over to the School Committee of the respective districts, upon the certificate of the Chairman of the Board of Superintendants.

IX. *Be it further enacted*, That forty dollars out of the State levy, nett income of the Literary Fund, for the year one thousand eight hundred and thirty-nine, is hereby appropriated to each district in said counties where the vote shall be in favor of the establishment of Common Schools, which shall be paid by the Public Treasurer, upon the warrant of the Governor, upon the certificate of the Chairman of the Board of Superintendants of said counties, that taxes have been levied to the amount of twenty dollars for each School District in their respective counties, and that School houses have been erected in each district, sufficient to accommodate at least fifty Scholars.

X. *Be it further enacted*, That every county which shall refuse or neglect to levy the tax, and build the School houses herein specified, shall at any time hereafter be entitled to receive the forty dollars hereby appropriated to each district, upon complying with the terms hereinbefore specified.

Counties refusing to levy a tax, not to be excluded from benefits of Act.

XI. *Be it further enacted*, That if in taking the next census of the United States, Congress shall fail to provide for ascertaining the number of inhabitants, and especially of white children, in the several School districts of North-Carolina, it shall be the duty of the Governor, as President of the Board of Common Schools, to make such arrangement with the Marshal of the United States for the District of North-Carolina, or with his deputies in the several counties, or with such other person or persons as he may deem proper, to cause such census to be ascertained, together with any other information which he may deem important to the establishment of a just and equal system of Common Schools throughout the State; and to communicate the same, together with a full report of

Census to be taken of School districts.

the returns of the Superintendants in the several counties and the proceedings of the Board of Common Schools under this Act.

Duty of County
Trustee.

XII. *And be it further enacted*, That it shall be the duty of the County Trustee, or the Agent of Public Accounts in each county, to transmit to the Governor, as President of the Board of Common Schools, a full and accurate statement of the whole amount of taxes levied and collected in his county for the years one thousand eight hundred and thirty-nine, and one thousand eight hundred and forty, (excepting the Public Revenues paid into the Public Treasury by the Sheriffs) specifying in such statement what were the subjects from which such taxes were levied, and how much from each source of taxation; also, a full and true account of the disbursements of the monies so collected, showing specially what amounts have been paid for the prosecution of insolvent criminals, and their maintenance in Jail; and that such statements shall be returned to the Governor on or before the first day of December, one thousand eight hundred and forty; and if any County Trustee or other Agent of Public Accounts shall fail to make return as aforesaid, he shall forfeit and pay the sum of two hundred dollars, to be added to the fund for Common Schools; and it shall be the especial duty of the Solicitor of each county to sue for the same, if any failure shall occur in his county.

Penalty.

[Ratified 8th January, 1839.]

CONSTABLES.

CHAPTER IX.

AN ACT concerning the election and qualification of Constables, in certain cases.

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 inhabitants of each Captain's district, in each county in this State, shall, within thirty days before the County Court of any county, which shall commence its session either on the fourth or last Monday in December, or first Monday in January, proceed to the election of Constables, under the same rules and regulations as are now prescribed by law for holding such elections before the first Court which shall be held after the first day of January in each and every year; and that it shall be the duty of the several County Courts, commencing their sessions as aforesaid, to qualify the persons elected as Constables, under the same rules, regulations and restrictions as are now in force. When to be elected.

II. *And be it further enacted by the authority aforesaid,* That nothing herein contained shall repeal any law Proviso. concerning the election of Constables in any individual county in this State.

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

[Ratified 22d December, 1838.]

COUNTIES.

CHAPTER X.

AN ACT to erect that Territory of this State lately acquired by Treaty from the Cherokee Indians, into a separate and distinct County, by the name of Cherokee.

Boundaries.

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 Macon County bounded as follows, viz: beginning at the junction of the Tennessee and Tuckaseegee Rivers; thence down the main channel of the Tennessee River to the State line of Tennessee; thence with said Tennessee line, to where it intersects the Georgia line; thence with the line dividing this State from Georgia, Eastwardly, to the Mountain dividing the waters of Hiwassee and Valley Rivers, from those of the Nantahala River; thence along with the highest summit, and various courses of the said Mountain, to the point of beginning, be, and the same is hereby erected into a separate and distinct County, by the name of Cherokee, with all the rights, privileges, and immunities of the other Counties of this State.

[Ratified 4th January, 1839.]

CHAPTER XI.

AN ACT supplemental to the Act erecting the County of Cherokee.

First 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 the first County Court of Cherokee shall be held in one of the houses of Fort Butler, on the first Mon-

day before the fourth Monday in March and September, and the second Monday before the last Monday in January, and the third Monday before the last Monday in June; and for the purpose of organizing the first Court, it shall be lawful for any Justice of the Peace for the county of Macon to administer the oaths prescribed by law to such persons as may be appointed at the present session of the General Assembly Justices of the Peace for the county of Cherokee.

II. *Be it further enacted*, That the County Court of Cherokee shall have exclusive jurisdiction of all offences of which County Courts have jurisdiction, which may hereafter be committed in said county. Jurisdiction.

III. *Be it further enacted*, That all suits between citizens of Cherokee, in the Courts of Pleas and Quarter Sessions of Macon county, and indictments, wherein citizens of Cherokee are defendants, shall be transmitted by the Clerk of Macon to the Clerk of Cherokee, in the same manner as suits are now sent from one county to another. Transfer of causes, &c.

IV. *Be it further enacted*, That all causes, civil and criminal, arising in the county of Cherokee, of which, by the laws of the State, the Superior Courts have original jurisdiction, and all appeals from the County Courts of Cherokee, may and shall come within the jurisdiction of the Superior Court of Macon. Jurisdiction.

V. *Be it further enacted*, That the Justices of the Peace of the county of Cherokee, at their first Court, shall proceed to appoint a Clerk, Sheriff, and other county Officers, (Entry Taker excepted,) in the same manner, and under the same rules as are prescribed by law for other counties in this State. County Officers.

VI. *Be it further enacted*, That it shall be the duty of said Court, at its first session, to lay a tax, not less than fifty cents on the poll, and twelve and a half cents on the hundred dollars value of land, for the purpose of providing a fund to build a Court House in said county. County Tax-
es.

VII. *Be it further enacted*, That until a Court House and Jail shall be built in said county, any of the buildings put

Temporary
Court House
&c.

up by the Army at Fort Butler, on the four hundred acres of land on which the town of Murphey is situate, shall be for the use of the Courts of the county of Cherokee, until a Court House and Jail shall be built.

Militia Offi-
cers.

VIII. *Be it further enacted*, That all Militia Officers, within the bounds of the county of Cherokee, shall continue to exercise the same authority as they have heretofore done in the county of Macon, and shall be subject to the same penalties as like Officers in other counties.

Penalty for
injury done
to publicpr o-
perty.

IX. *Be it further enacted*, That any person moving or in any way damaging any of the buildings at Fort Butler, or cutting any timber on any part of the four hundred acres of land set apart for the future disposition of the Legislature, shall be subject to indictment; and, on conviction, shall pay all damages, and be fined at the discretion of the Court.

[Ratified 8th January, 1839.]

CHAPTER XII.

AN ACT to lay off and establish a County by the name of Henderson.

Boundaries.

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 the Southern portion of Buncombe county, beginning on the top of Pisgah Mountain, on the Haywood line, and from thence taking the dividing ridge between Hominy Creek and Mills' River, to the dividing ridge between Mills' River and Avery's Creek; from thence, keeping said ridge, to the head of Israel's Branch; from thence, taking down said Branch, to French Broad River; from thence, up said River, opposite the mouth of Cane Creek; from thence, crossing the River, to the mouth of Cane Creek;

from thence, taking up Cane Creek, to the Buncombe Turnpike Road; from thence, taking said Road, to the top of the ridge between Cane Creek and Mud Creek; from thence, taking the main dividing ridge, between Cane Creek and Clear Creek waters, to the top of the Bear Wallow Mountain, on the Rutherford line; from thence, with the Rutherford line, to the South-Carolina line; from thence, with the South-Carolina line, to the Macon line; from thence, with the Macon line, to the Haywood line; from thence, with the Haywood line, to Pisgah, the beginning, be, and the same is hereby erected into a separate and distinct County, by the name of Henderson.

Boundaries.

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

[Ratified 15th December, 1838.]

CHAPTER XIII.

AN ACT supplemental to an Act passed by the present General Assembly, entitled "An Act to lay off and establish a County by the name of Henderson."

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 of Henderson shall be, and is hereby invested with all the rights, privileges and immunities of the other counties in this State, except as is hereafter provided.

Vested rights.

II. *Be it further enacted*, That all the Justices of the Peace, and Officers of the Militia, who reside within the limits of the county of Henderson, shall continue to hold and exercise all the official powers and authorities, in and for said county, that they have hitherto held and exercised in and for the county of Buncombe.

Powers of Justices and Militia Officers.

Constables.

III. *Be it further enacted*, That the Constables now residing in the county of Henderson shall continue to hold their offices and perform all duties appertaining thereto, until the first County Court to be held for said county, under the same rules, regulations and penalties, as Constables are subject to in other counties in this State.

Representat'n
in the Legis-
lature not af-
fected.

IV. *Be it further enacted*, That the counties of Buncombe and Henderson shall continue to be represented in the General Assembly as one county, and in the name of the county of Buncombe, until a future Legislature shall otherwise provide and direct; and elections shall be held, until the first session of the General Assembly which shall be had after the year eighteen hundred and forty-one, for members of both Houses of the General Assembly, and of Congress, and for Electors for President and Vice President, by the Sheriff or other returning Officers of Buncombe county, in all the Territory heretofore comprehended in the limits of said county, at the times and places, and under the same rules, regulations and restrictions as have been appointed or may hereafter be appointed by law; and the certificate of said Sheriff or other returning Officer, to the result of said election or elections, shall be as valid and effectual to all intents and purposes, as if the Act laying off and establishing the county of Henderson had never been passed.

First Court.

V. *Be it further enacted*, That a Court of Pleas and Quarter Sessions shall be, and the same is hereby established in and for the county of Henderson, to be held by the Justices of said county, on the third Monday in February and July, and the fifth Monday after the fourth Monday in March and September, in each and every year—the first session of which shall be held on the third Monday of February next, at the house of Hugh Johnson, when the Court aforesaid, a majority of the Justices of said county being present, shall elect a Clerk, a Sheriff, a Coroner, a Register, an Entry Taker, a Surveyor, Constable, and all other Officers for said county, who shall enter into bond as required by law, and shall hold and con-

County Offi-
cers.

tinue in said offices until successors to them are duly chosen and qualified, according to the Acts of the General Assembly, in such cases provided. And the said Court, at its first session aforesaid, may appoint the place of its future sessions, until a Court House shall be erected for said county.

VI. *Be it further enacted*, That the Court of Pleas and Quarter Sessions, established by this Act, shall possess and exercise the same power, authority and jurisdiction, as is possessed and exercised by other County Courts in this State, and shall have exclusive jurisdiction of all crimes committed within the limits of Henderson county, of which the County Courts have jurisdiction, until a Superior Court of Law is established for said county; and all suits at law, now pending in the County Court of Buncombe, wherein the citizens of Henderson county are both Plaintiffs and Defendants, and all indictments, in the County Court of Buncombe, against citizens of Henderson county, shall be transferred to the County Court of Henderson, in the manner now provided for transferring suits from one county to another; and all appeals from the County Court of Henderson shall be sent to the Superior Court of Buncombe.

Jurisdiction.

Transfer of causes, &c.

VII. *Be it further enacted*, That all criminal offences which may be committed in the County of Henderson, which are cognizable only in the Superior Court of Law, shall be and continue under the jurisdiction of the Superior Court of Law, of the County of Buncombe, until a Superior Court shall be created for the County of Henderson.

Jurisdiction.

VIII. *Be it further enacted*, That all persons who may be liable to imprisonment under any process, either civil or criminal in Henderson County, before the completion of the Jail therein, may be committed to the Jail of Buncombe.

Jail.

IX. *Be it further enacted*, That all process issued from the Superior Court of Buncombe against the citizens of Henderson, shall be valid without the seal of office being affixed thereto, until a Superior Court is created for the County of Henderson, and all process so issued, after the third Monday

Process valid without seal of office.

of February next, shall be directed to the Sheriff of Henderson County, and be executed by him.

Commissioners to select scite. X. *Be it further enacted,* That Asa Edney, Capt. Robert Jones, Richard Allen, John Miller, Benjamin Wilson, Epaphroditus Hightower, John Clayton, Esq., Col. Samuel Chunn, Reuben Deaver, John Jarret, Senr. and John Young, are hereby appointed Commissioners, to select and determine upon a scite for a permanent seat of justice in said County, who shall locate the same as near the centre of said County as practicable, by taking into consideration, both the extent of territory and population, and nine of the Commissioners hereby appointed shall have power to act.

County Seat. XI. *Be it further enacted,* That seven of the above appointed Commissioners first named, shall have power to purchase or receive, by donation, for the use of the County of Henderson, a tract of land consisting of not less than twenty five acres, to be conveyed to the Chairman of the County Court and his successors in office, upon which a town shall be laid off, and shall be called Hendersonville, where the Court House and Jail shall be erected, and where, after the completion of the Court House, the Courts of said County shall be held, and the Clerk and Register shall keep their offices.

Town to be laid off in lots. XII. *Be it further enacted,* That the County Court of Henderson, at its first session, shall appoint five Commissioners, to lay off the lots of said Town, and, after designating such as shall be retained for public uses, shall expose, after advertisement for thirty days, the residue to sale at public auction, upon a credit of twelve and eighteen months, and shall take from the purchaser bonds, with security for the purchase money, payable to the Chairman of the County Court and his successor in office, and upon payment of the purchase money, the Chairman, or his successor in office, shall execute titles therefor, which money shall be appropriated to the building of the Court House and Jail.

XIII. *Be it further enacted,* That nothing in this Act contained, shall be so construed, as to prohibit the Sheriff of

Buncombe County, from collecting such sum or sums of money as are due, or may become due on any judgment, before the first Court of Pleas and Quarter Sessions of the County of Henderson.

Sheriff of
Buncombe.

XIV. *Be it further enacted*, That nothing in this Act shall be so construed as to prevent the Sheriff of Buncombe from collecting all arrears of taxes in the same manner, as he could have done previous to the division of the County : *Provided, nevertheless*, that the Sheriff of Buncombe County shall not collect any taxes in the County of Henderson, or of the citizens of said County, imposed by the County Court of Buncombe, and which are collected in the year one thousand eight hundred and thirty-nine, but that the same may be collected by the Sheriff of Henderson, to the use of Buncombe County.

Proviso.

XV. *Be it further enacted*, That the Court of Pleas and Quarter Sessions of Buncombe shall have power, until a Superior Court is created for Henderson, to draw Jurors from said County, not exceeding sixteen, to serve at each term of Buncombe Superior Court, and the Jurors so drawn shall be summoned by the Sheriff of Henderson, and for non-attendance, shall be subject to the same penalties, imposed by the Statute Laws of this State, and the Jurors as aforesaid, after the year one thousand eight hundred and thirty-nine, shall not be paid by the County of Buncombe.

Jurors.

XVI. *Be it further enacted*, That all paupers in Buncombe County, originally from Henderson, after the year one thousand eight hundred and thirty-nine, shall be transferred to the Wardens of the County of Henderson.

Paupers.

XVII. *Be it further enacted*, That the citizens of the County of Henderson shall pass the Buncombe Turnpike Road free of toll, and be liable to work on said Road, under the same rules and regulations, as the citizens of Buncombe.

Turnpike:

XVIII. *And be it further enacted*, That this Act shall be in force from and after its ratification.

[Ratified 28th December, 1838.]

COURTS OF JUSTICE—JURISDICTION.

CHAPTER XIV.

AN ACT to amend the thirty-ninth section of the Revised Statute entitled "An Act concerning Courts of Justice, Practice, Pleas and Process."

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 action of debt, other than on penal Statute, no action of detinue or replevin, no action of account, assault and battery, or for the unlawful taking of goods, no action upon the case, no suit for legacies, or for distributive shares of intestates' estates, shall be brought to any Court of Pleas and Quarter Sessions, other than the Court of the County in which the defendant resides; and if any such action or suit shall be brought in any other Court of Pleas and Quarter Sessions, the same may be abated on the plea of the defendant: *Provided*, that nothing herein contained shall be construed to repeal the forty-eighth section of said Act.

All civil suits to be brought in the county where Defendant resides.

[Ratified 28th December, 1838.]

COURTS OF JUSTICE—JURORS.

CHAPTER XV.

AN ACT to amend the twenty-seventh section of an Act,
entitled "An Act concerning Courts of Justice,
Practice, Pleas and Process."

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 several Courts of Pleas and Quarter Sessions in each County of this State, may, when they deem it necessary, cause to be drawn the names of forty-two persons, to serve as Jurors at the next succeeding Court, any law to the contrary notwithstanding.

Allows 42
Jurors to be
drawn.

[Ratified 7th January. 1839.]

D I V O R C E S.

CHAPTER XVI.

AN ACT concerning infant children whose parents shall be divorced.

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 Superior Court of Law, or any Superior Court of Equity in this State, shall grant a divorce, whether from the bonds of matrimony, or from bed and board, if the parties divorced have any child or children under the age of twenty-one years, the said Courts may commit the custody and tuition of such child or children, either

Custody of the
child or child-
ren to be com-
mitted either
to father or
mother.

Guardian.

to the father or mother, as the Court may think the interest of the child or children shall require; and, if any such child or children shall have any estate, real or personal, or be entitled to any such estate, the said Court shall and may appoint a fit and proper person or persons to take the care and management of such estate or estates, and the person or persons so appointed, shall enter into bond with security, as required of Guardians of Orphans, and shall have the same authority as Guardians, and be regulated in all respects by the law relative to Guardians of Orphans, so far as respects the property and rights of Orphans; but shall not have any care of, or authority over the person of such child or children, unless the person appointed to take the care and management of the estates of such child or children, be either the father or mother to whom the custody and tuition of the said child or children have been committed by the Court.

Temporary
custody.

II. *And be it further enacted*, That the Court granting a divorce, may commit the custody of the infant child or children of the parties, in the first place, to one of the parties for a time, to be limited by the Court, and after the expiration of that time, to the other party.

[Ratified 7th January, 1839.]

DUE BILLS.

CHAPTER XVII.

AN ACT to explain and amend the eighty-sixth section of an Act passed at the session of eighteen hundred and thirty-six, one of the Revised Statutes, entitled
“An Act concerning crimes and punishments.”

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 is hereby declared and enacted to have

been, and to be, the true intent and meaning of the section recited in the title of this Act, to refer to and include Notes or Due Bills, issued by individuals or by corporate bodies, for sums under one dollar, intended to pass as the representative, or as a substitute for money, and that the said Act shall be construed accordingly.

Includes in provisions of the Act one dollar notes.

II. *Be it further enacted*, That this Act shall be in force from and after its ratification.

[Ratified 8th January, 1839.]

ELECTIONS.

CHAPTER XVIII.

AN ACT to prevent frauds in voting at Elections, &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 each voter shall be required to have the names of all the persons for whom he votes in the Commons Box, on the same scrip of paper or ticket, so that there shall not be more tickets than voters.

Voters to put all names voted for, on same ticket.

[Ratified 8th January, 1839.]

ENTRIES.

CHAPTER XIX.

AN ACT to extend the 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 all entries of lands, the purchase money for which may

Extension of
time.

Proviso.

become due and payable, on or before the fifteenth day of December, in the year of our Lord one thousand eight hundred and thirty-nine, may be paid in, and the payment is hereby extended to the fifteenth day of December, in the year of our Lord one thousand eight hundred and forty, and on that day shall be punctually paid, any law to the contrary notwithstanding: *Provided always*, that nothing in this Act shall be so construed as to prejudice the priority of the entry of lands by any person, the payment of the purchase money for which is hereby extended, but that all such entries shall have and possess all the privileges and benefits of the existing laws, as if the purchase money had been paid at the time it became due, and this Act had not been passed: *Provided, also*, that nothing in this Act contained shall be construed so as to interfere with any other person who has made entries before the passage of this Act.

[Ratified 22d December, 1838.]

CHAPTER XX.

AN ACT to amend and supply the defects of an Act passed at the present General Assembly, entitled an Act to extend the time for paying Entry Money.

Whereas, the above recited Act in its provisions, only extends or allows a longer time for paying on Entries the purchase money which is not yet due, and makes no provision for Entries, the time for paying in which has past—

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 enterers of vacant lands who have made such entries since the first day of January one thousand eight hundred and thirty-four, and failed to pay the purchase money within the time limited by law, and all entries hereafter made, shall have until the fifteenth day of December

Payment on
Entries since
Jan'y, 1834,
extended to
Dec. 1841.

one thousand eight hundred and forty-one, to pay for the same: *Provided*, that nothing herein contained shall extend Proviso. to the Swamp Lands in this State, which has been forbidden to be entered by the Laws of this State.

II. *Be it further enacted*, That this Act shall be in force from the date of its ratification.

[Ratified 3d January, 1839.]

CHAPTER XXI.

AN ACT limiting the time in which title to lands heretofore entered and paid for, may be perfected.

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 persons who have made entries of vacant lands lying in the counties of Wilkes, Ashe, Burke, Rutherford, Buncombe, Yancy, Haywood, Macon, Stokes and Surry, who have paid the purchase money for the same, since the first day of January one thousand eight hundred and thirty, shall have until the first day of January one thousand eight hundred and forty-one, to perfect title. Limitation.

II. *And be it further enacted*, That nothing herein contained shall be so construed, as to prejudice the interests of claimants on junior entries, who have complied with the Proviso. Laws of the State, nor to authorise any individual or company of individuals, to perfect title to more than two hundred acres on entries made in any one year. That this Act shall be in force from and after its ratification.

[Ratified 7th January, 1839.]

GAMING WITH SLAVES.

CHAPTER XXII.

AN ACT to prevent free persons from gambling with Slaves.

Penalty.

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 white person to play with any Slave or Slaves at any game of Cards, or at any game of hazard or chance, for any money, liquor, or any kind of property, whether the same be staked or not; and any white person, so offending, shall be subject to indictment, and, on conviction, shall be fined or imprisoned, at the discretion of the Court: *Provided*, such imprisonment shall not exceed six months.

Proviso.

[Ratified 7th January, 1839.]

INSOLVENT DEBTORS.

CHAPTER XXIII.

AN ACT to amend the fifty-eighth Chapter of the Revised Statutes, entitled "Insolvent Debtors."

Persons im-
prisoned for
inability to pay

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That if any person shall be convicted in any Court of Record in this State, of any crime or misdemeanor, and shall be in execution for the fine and costs of prosecution, and shall have remained in prison for the space of twenty days, it shall

be lawful for the person so in execution to be discharged from imprisonment, under the same rules and regulations as are prescribed for the discharge of debtors in execution, by the first and fourth sections of said Act: *Provided*, That nothing herein contained shall be so construed as to release any person from imprisonment, who shall be in prison for any definite length of time, under sentence of any Court.

costs in State
Prosecutions,
to be discharg
ed under the
Insolvent laws
Proviso.

[Ratified 8th January, 1839.]

MARRIAGES.

CHAPTER XXIV.

AN ACT prohibiting Marriages between free persons of color and white persons.

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 free negro or free person of color to marry a white person; and any marriage, hereafter solemnized or contracted between any free negro or free person of color and a white person, shall be null and void.

Marriages be-
tween free ne-
groes or free
persons of co-
lor and whites
void.

[Ratified 8th January, 1839.]

PENSIONS.

CHAPTER XXV.

AN ACT to amend an Act, entitled "an Act for the relief of such persons as have been disabled by wounds, or rendered incapable of procuring for themselves and families, subsistence in the Militia Service of this State, and providing for the Widows and Orphans of such as have died."

Certificates to be signed by Governor, instead of the Speakers, the years the legislature does not meet.

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 above recited Act as requires the certificate of the County Court to be countersigned by the Speakers of the General Assembly, shall be, and the same is hereby repealed, so far as to enable Pensioners to receive their Pensions every year, when there is no Session of the General Assembly, and during such years, the certificates shall be countersigned by the Governor.

[Ratified 3d January, 1839.]

PUBLIC PRINTING.

CHAPTER XXVI.

AN ACT to amend an Act passed on the seventh day of January, one thousand eight hundred and thirty-seven, entitled "An Act concerning the Public Printing 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 Secretary of State, in letting out the Public Print-

ing of the State under the above recited Act, shall not agree to give to any one with whom he may contract, any higher sums than the following, viz: For printing, folding and stitching the Acts and Resolutions of the General Assembly, four dollars per printed octavo page, for all the pages contained in a single number or series of the work: for printing, folding and stitching the Journals of the two Houses of Assembly, the sum of one dollar and fifty cents per printed octavo page, for all the pages contained in a single number of the work: for all printing ordered by either or both Houses of the General Assembly, other than the Acts and Resolutions and Journals, one dollar and fifty cents per printed octavo page for all the pages contained in a single number of the work: *Provided*, that the number of copies does not exceed two hundred, and when the number ordered does exceed two hundred, he shall receive twelve and a half per cent. on the cost of the first two hundred, for every additional hundred.

II. *And be it further enacted*, That whenever the person employed to do the printing of the two Houses of the General Assembly, shall fail to do the same as required, it shall and may be lawful to employ other persons to do the same, the cost of which shall be deducted from the compensation which such person would be otherwise entitled to.

[Ratified 7th January, 1839.]

RAIL ROADS.

CHAPTER XXVII.

AN ACT to amend an Act entitled an Act to incorporate the Fayetteville and Western 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 whenever it shall appear to the Board of Internal Improvement of this State, by a certificate under the seal of said Company, signed by their Treasurer, and countersigned by their President, that two-fifths part of one million two hundred and fifty thousand dollars of the stock of the Fayetteville and Western Rail Road Company have been subscribed for and taken, and that at least one-fourth of said stock has been actually paid into the hands of said Treasurer of said Company, the said Board of Internal Improvement shall be, and they are hereby authorized and required to subscribe, on behalf of the State, for stock of said Company, to the amount of three-fifths of the one million two hundred and fifty thousand dollars, the capital stock of said Company, and the said subscription shall be paid in the following manner, to-wit: the one-fourth part as soon as the said Company shall commence work, and one-fourth thereof every six months thereafter, until the whole subscription in behalf of the State shall be paid: *Provided*, the Treasurer and President of said Company shall, before they receive the aforesaid instalments, satisfactorily assure the said Board of Internal Improvement, by the certificates under the seal of said Company, that an equal proportion of the private subscription has been paid in, in equal proportion to the stock subscribed by the State.

State Sub-
scription.

3/5

Proviso.

Cherokee
Bonds, and
Surplus Rev-
enue.

II. *Be it further enacted*, That in the payment of the foregoing instalments, the said Board shall be, and are hereby authorised and directed to apply in the first instance, all

the Cherokee Bonds now owned and held by the State, and after they are exhausted, then apply the money arising from the fourth quarter of the Surplus Revenue of the General Government, provided it is paid in time.

III. *Be it further enacted*, That if in case the fourth quarter of the Surplus Revenue as aforesaid be not paid in time, then, and in that event, the Board of Internal Improvement aforesaid, shall, and they are hereby authorised and empowered to borrow on the credit of the State, not exceeding five hundred thousand dollars, to carry on and pay the foregoing instalments. Board authorised to borrow.

IV. *Be it further enacted*, That if in case it shall become necessary to borrow the money aforesaid, the Treasurer of the State shall issue the necessary certificates, binding and pledging the State for the payment of the said sum, which said certificates shall be under the control, and regulated by the said Board of Internal Improvement. Certificates.

V. *Be it further enacted*, That the State shall appoint the number of Directors in said Company in proportion to the stock subscribed, who shall be appointed by the Governor, by and with the advice and consent of his Council, and removed in like manner. Directors.

VI. *And be it further enacted*, That the Board of Internal Improvement be required to procure by some Engineer of high distinction, a report upon the practicability and probable cost of opening a communication between Albemarle Sound, and the ocean at Nagshead. Engineer to survey Albemarle Sound and Nagshead.

[Ratified 4th of January, 1839.]

CHAPTER XXVIII.

AN ACT supplemental to an Act passed at the present session of the General Assembly, entitled "An Act to amend an Act entitled an Act incorporating the Fayetteville and Western Rail Road Company."

WHEREAS, by the original charter and the amendments thereto, no provision is made for giving the State a right to vote in the meetings of the Stockholders of the Fayetteville and Western Rail Road Company, in proportion to her stock, and the above recited Act directs a subscription of three-fifths of the stock in said company, without giving her a proportionate vote in said Company meetings: 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 at all meetings of the stockholders of the Fayetteville and Western Rail Road Company, the representative of the State at said meetings, shall vote in proportion to the Stock, held and owned by North Carolina, except in the election of Directors, of whom the State is already authorized to appoint her proportion, and the Governor may, from time to time, appoint the agent, who shall represent the State in said meetings.

State to have
proportionate
vote.

Supervisory
power.

II. *Be it further enacted, That the State of North Carolina shall have full power and authority by an agent or agents appointed by the Legislature, at all times to examine the books and operations of said Company, and the General Assembly may, by law, provide at their pleasure, for a more strict accountability of the officers of the Company to the State, as may hereafter be found necessary to the public convenience and security.*

Opening of
Books.

III. *Be it further enacted, That books shall be opened for subscriptions of individuals and others, in said Company, under such rules, at such places and times, and by such persons, as the Board of Internal Improvement or the said Company shall direct, and the persons subscribing shall be bound to pay for their stock as provided by the charter, and they shall stipulate in their subscriptions.*

IV. *And whereas*, It may be found upon the estimates and surveys of said Road, that the Road can be constructed for a less sum than one million two hundred and fifty thousand dollars, and it was the true intention of the above first recited Act, to subscribe for the State only three-fifths of such a sum as it shall be estimated the construction of the Road from a point on the Cape Fear River near Fayetteville, to the point on the Yadkin River, will cost, provided individuals subscribe the other two-fifths of said latter sum : 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 if the Board of Internal Improvements shall be satisfied that the said Rail Road can be constructed for a less sum than one million two hundred and fifty thousand dollars, it shall be their duty to subscribe for the State in the stock of said Company, three-fifths of said estimate, and no more : *Provided, always*, however, that individuals shall have subscribed before hand, the other two-fifths of said estimate, subject to all the other conditions, restrictions and limitations in the said first recited Act, any thing in the said first recited Act of the present session to the contrary notwithstanding.

Subscription by the State limited to 3-5 of whole amount of the stock.

V. *And whereas*, By the above recited Act, it is directed that the sum necessary to pay the subscription of the State to the stock in said company in certain cases, shall be borrowed upon the public credit, but the manner of dividing it is not pointed out in such way as to promote competition for said loan, and to secure a full price therefor, and so as to prevent doubts, and consequently, a sacrifice of the scrip or certificate of the State therefor,

Be it further enacted, That if it shall become necessary to make a loan for the purpose of paying the State's subscription, or any part thereof to said Company, it shall be the duty of the Treasurer to issue certificates bearing interest, not exceeding six per centum per annum, payable semi-annually, the principal and interest of said certificates to be paid at the places that shall be agreed upon by the State and the lender

Re-payment of the loan, if found necessary to pay the State's subscription.

or holder of said certificates, provided all the certificates payable in North Carolina, shall be payable at the Public Treasury, and all those payable elsewhere, shall be payable at one place, and at one place only, and the said debt shall not be redeemable before the first day of January, one thousand eight hundred and sixty-one, and shall be redeemable thereafter as the Legislature may prescribe by law, and for the payment of said interest and principal, according to the true intent of this and the preceding Act, the faith of the State of North Carolina is hereby pledged.

Act of 1835. VI. *Be it further enacted*, That the said loan shall be made and evidenced in all other respects in the same manner and form, that was provided by an Act passed in 1835, entitled, "an Act to provide for the payment of the instalments on the Shares reserved to the State in the capital stock of the Bank of the State of North-Carolina."

Banks. VII. *Be it further enacted*, That it shall and may be lawful for any of the incorporated Banks of this State, to buy, hold, sell and transfer, any of the State stock, or scrip issued by the State of North Carolina, in pursuance of this Act.

Limitation of time. VIII. *Be it further enacted*, That unless two-fifths of the capital stock of the said Company shall be taken by individuals within four years, and the Road begun to be constructed within that time, that the State's subscription to said Road shall be null and void.

IX. *And be it further enacted*, That this Act, together with the original Act, shall be in force from and after their ratification.

[Ratified 7th January, 1839.]

CHAPTER XXIX.

AN ACT for the relief of the Raleigh and Gaston Rail Road.

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 any time after the passage of this Act, the President and Directors of the Raleigh and Gaston Rail Road Company may make their bonds payable to the Public Treasurer of the State of North-Carolina, for the sum of five hundred thousand dollars, and no more; which said bonds are to be signed by the President, and under the seal of the Corporation, and made for any sum or sums not under one thousand dollars each, and to carry interest at the rate of six per cent. per annum, which interest is to be paid semi-annually, to-wit, on the first Monday in July and on the first Monday in January in each and every year thereafter; and the amount of said bonds to be made payable on the first of January, one thousand eight hundred and sixty, at such place as the President and Directors of said Company and the parties may agree upon.

Bonds to be
executed by
the Company
to the amount
of \$500,000.

II. *Be it further enacted,* That upon the President making the bonds as aforesaid, and filing the same with the Public Treasurer of the State, it shall be his duty, and he is hereby directed to endorse on the said bonds as follows: Pay to ——— or order, and this endorsement pledges the State of North-Carolina as security for the payment of the sum in the bond, according to the provisions of the Act of the General Assembly of 1838 and 1839, entitled "An Act for the relief of the Raleigh and Gaston Rail Road Company": which endorsement is to be signed by the Public Treasurer in his official capacity, and countersigned by the Comptroller.—The Public Treasurer, after endorsing the bonds as before mentioned, shall duly number and register them at large, in a book prepared and kept for that purpose.

Endorsement

III. *Be it further enacted,* That it shall be the duty of the Public Treasurer, on the endorsement being made as be-

Bonds to be
delivered to
Company.

fore directed, and the bonds being numbered and registered, and the mortgage, as hereinafter directed, being made and delivered to the Governor, to deliver the same to the President and Directors of said Company, and they are at liberty to fill up the blank in said endorsement with the name or names of the person or persons, or company, or corporation, to whom the same may be sold or transferred, and when so filled up, shall be as binding on the State of North-Carolina, as if the same was done by the Public Treasurer at the time of making the endorsement as aforesaid.

Transfer to be
registered.

IV. *Be it further enacted*, That the President and Directors, from time to time, as they shall sell or transfer the said bonds, and fill up the blank with the name or names of the person, company or corporation to whom they are sold or transferred, shall cause a statement to be filed with the Public Treasurer, setting forth the time of the transfer or sale, the person, company or corporation to whom payable, to be by him registered in the book to be kept for the registration of the bonds aforesaid.

Faith of the
State pledged

V. *Be it further enacted*, That for the payment of the interest semi-annually, at the rate of six per centum per annum, in the principal debt due on the bonds hereby authorised to be made, the credit and faith of the State is pledged to the holders of said bonds; and on failure of the President and Directors to pay the principal and interest as it accrues, the Public Treasurer is authorised to pay the same out of any money in the Treasury at the time. For the full and entire payment and redemption of said principal, the General Assembly doth hereby guarantee the principal due on the bonds authorised by this Act to be created.

Bonds, how
transferred.

VI. *Be it further enacted*, That the said bonds shall be transferable by the holders of the same, or by his, her or their attorney, in a book to be kept by the Public Treasurer for that purpose; and in every such transfer, the outstanding bond shall be surrendered to, and cancelled by the Public Treasurer, and a new bond shall be issued for the same amount, to the person entitled to the same.

VII. *Be it further enacted*, That the debt hereby created, shall not be redeemable until after the first day of January, one thousand eight hundred and sixty, and after that day the same shall and may be redeemed, at such time or times, and in such proportions as may hereafter be declared and appointed by law. Debt, when
redeemable.

VIII. *Be it further enacted*, That whenever the President and Directors of the Raleigh and Gaston Rail Road Company shall make, execute and deliver to the Governor Mortgage. of this State, for and in behalf of the State, a deed of mortgage under the seal of said Company, wherein and whereby shall be conveyed to the said Governor and his successors in office, for the use and benefit of the State, all the estate, real and personal, belonging to the said Raleigh and Gaston Rail Road Company, or in any manner pertaining to the same, conditioned for indemnifying and saving harmless the State of North Carolina from the payment of the whole or any part of the bonds hereby authorised to be made and issued by the President and Directors of the Raleigh and Gaston Rail Road Company, and endorsed by the Public Treasurer; also make, execute and deliver under the seal of said Company, to the Governor, for the use and benefit of the State, a pledge of so much of the profits of said Company, as shall be sufficient to pay semiannually, the interest which may accrue on said bonds, until the final payment and redemption of the principal of said bonds—which said deed of mortgage and pledge shall be approved by the Attorney General of the State: Then it shall be the duty of the Public Treasurer, and he is hereby required to deliver to the President and Directors of the Raleigh and Gaston Rail Road Company, the whole of said bonds which by this Act he is authorized and required to endorse, taking therefor the receipt of the President of said Raleigh and Gaston Rail Road Company.

IX. *Be it further enacted*, That in case of failure by the President and Directors of the said Raleigh and Gaston Rail Road Company, to pay and discharge semi-annually the interest which may accrue on the bonds hereby authorised to Duty of the
Governor, if
interest be not
paid regularly

be made and executed, it shall be lawful for the Governor of this State for the time being to apply in behalf of the State to the Superior Court of Equity for the county of Wake, for a sequestration of the receipts for transportation on said Road, and for the appointment of a Receiver or Receivers of the said receipts ; which Court, on the proof of the failure to pay such interest by the President and Directors of said Rail Road Company, shall have power to order such sequestration, and appoint a Receiver or Receivers accordingly : and in case of such sequestration, and the appointment of a Receiver or Receivers of the profits for transportation on said Road, it shall be the duty of such Receiver or Receivers to apply so much thereof as shall be sufficient to pay the interest on said bonds semi-annually, and to pay the excess to the President and Directors of said Raleigh and Gaston Rail Road Company.

Bonds payable after 1860, and for failure to do so, the mortgage to be foreclosed.

X. *Be it further enacted*, That from and after the commencement of the year one thousand eight hundred and sixty, it shall be the duty of the President and Directors of the Raleigh and Gaston Rail Road Company, to pay and redeem the principal of the bonds hereby authorized to be issued by the President and Directors of said Raleigh and Gaston Rail Road Company, and endorsed by the Public Treasurer, and delivered by him to the said Raleigh and Gaston Rail Road Company, at such times and in such amounts, annually, as may be prescribed and directed by Act of the General Assembly of this State, and in case of failure of the President and Directors of the said Raleigh and Gaston Rail Road Company, to pay off and redeem the principal of the said bonds, at such times and in such amounts as may be prescribed and directed by Act of the General Assembly, then it shall be the duty of the Governor of this State, for the time being, to cause the mortgage made and executed by the President and Directors of the said Raleigh and Gaston Rail Road Company, to be foreclosed in the Superior Court of Equity for Wake County, which Court is hereby authorised and empowered to take jurisdiction of the same, and on the decree of foreclosure being made by said Court, it shall be the further duty of

the Governor of the State, to cause the whole estate, real and personal, so conveyed by mortgage, to be sold at such time and in such ways, as shall most effectually protect and save harmless the State against any loss or damage, by reason of its liability for the payment of said bonds, or any part thereof, and out of the proceeds of such sale or sales, to pay off and redeem the whole amount of principal of said bonds, and to pay the excess to the President and Directors of said Company.

XI. *Be it further enacted*, That the State may, at any time within seven years after the completion of said Raleigh and Gaston Rail Road, take five thousand Shares of the stock of said Road, or any less number of Shares of the Stock; and if the State shall elect to take five thousand shares of stock, the said five thousand shares shall be a full equivalent for the liability of the State for the principal of said bonds, and on electing to take the said five thousand shares, the mortgage of the real and personal estate of the said Company to secure the payment of the principal of said bonds, and the pledge of the profits of the said Road, for securing the payment of interest as herein provided for, shall cease, determine and become of no force and effect, and thereafter the State shall be liable for the payment of the principal of said bonds, and the interest accruing thereon. And if the State shall elect to take any number of shares less than five thousand, such number of shares shall be an equivalent for the liability of the State for the principal of so much of the money due on said bonds as is equal in value to the shares taken by the State, estimating each share at one hundred dollars: *Provided*, that on electing to take such number of shares, the State shall refund to the President and Directors of said Company, the full amount of interest which they may have paid on said shares so taken by the State; and the mortgage of the real and personal estate of said Company, to secure the payment of the principal of said bonds, and the pledge of the profits of the said Rail Road for securing the payment of interest as herein provided for, shall stand as securities to the

The State to take stock, if it shall elect.

State for the payment of the principal of so much of said bonds as shall be left, after deducting the number of shares taken by the State, each share being estimated at one hundred dollars, and for the payment of interest accruing on said residue of the principal.

XII. *Be it further enacted*, That the Stockholders in said Raleigh and Gaston Rail Road Company shall have power, and they are hereby authorised, if they deem it necessary, to increase the capital stock of said Company to one million five hundred thousand dollars, by adding thereto such number of shares as shall not in the whole exceed fifteen thousand shares, which additional shares shall be taken and held to be a part of the capital stock of the said Raleigh and Gaston Rail Road Company, as fully as if the same had been originally subscribed therein.

XIII. *Be it further enacted*, That if by reason of any loans of money obtained in Europe or elsewhere, on the credit of said Company, the amount of bonds hereby authorised to be issued, shall be found more than sufficient to complete the said Raleigh and Gaston Rail Road, then and in that case, it shall, and is hereby made the duty of the said Company, to surrender and deliver up to the Public Treasurer, such amount of the said bonds as may be found to be unnecessary as aforesaid, to the completion of the said Road, and that all monies borrowed by the said Company shall be faithfully applied to the said Road, and to no other purpose whatever.

XIV. *Be it further enacted*, That in case the real and personal estate of the said Raleigh and Gaston Rail Road Company, so mortgaged for the benefit and indemnity of the State of North-Carolina, and to be sold (if necessary) as by this Act directed, should prove insufficient to pay off and satisfy the full amount of the bonds aforesaid, including the principal and interest thereon; then each and every stockholder of said Raleigh and Gaston Rail Road Company shall be held liable to pay towards making up such deficiency, the full amount of the shares respectively held and owned by him or her therein, at the time when said deficiency shall be

Power to increase capital stock.

Bonds to be surrendered--if more than necessary to complete the Road.

Stockholders liable in their individual capacity for the debt hereby created.

ascertained, or such ratable proportion thereof, as may be requisite to pay such stockholder's deficiency, and no more: *Provided*, that the General Assembly may, at any time, appoint a Committee to examine into the situation of the said Company, and that whenever it shall appear that the said Company are insolvent, and unable to pay the amount borrowed under the authority of this Act, the General Assembly may direct the mortgage to be foreclosed, according to the provisions heretofore prescribed.

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

[Ratified 7th January, 1839.]

CHAPTER XXX.

AN ACT to incorporate the 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 be lawful to open books in the City of Raleigh, under the direction of George W. Mordecai, William Boylan, Thos. P. Devereux, Duncan Cameron, William H. Haywood, Jun., Charles Manly, R. Smith, and Alfred Jones, or any three of them; at Warrenton, under the direction of Weldon N. Edwards, Joseph W. Hawkins, Thomas White, George D. Baskerville, Peter R. Davis, and William Plummer, or any three of them; at Weldon, under the direction of Andrew Joyner, Thomas S. Wyatt, Whitmel H. Hardie, James Simmons, and William H. Day, or any three of them; at Halifax, under the direction of James Halliday, Jesse H. Simmons, Michael Ferrell, A. A. Austin, Redding J. Hawkins, and Joseph L. Simmons, or any three of them; and at such other places, and under the direction of such other persons as any three of the commissioners here-

Books, where
to be opened.

Commission-
ers.

in before named, to superintend the receiving of Subscriptions, shall direct, for the purpose of raising subscriptions to Capital stock. an amount not exceeding two hundred thousand dollars, in Shares of one hundred dollars each, for the purpose of effecting a communication by a Rail Road, from some point on the Raleigh and Gaston Rail Road, between Littleton and the Roanoke River, and the termination of the Portsmouth Rail Road at Weldon, and for providing every thing necessary and convenient, for the purpose of transportation on the same.

II. The times and places for receiving Subscriptions, shall be advertised in one or more newspapers published in the City of Raleigh, and the books for receiving the same shall not be closed in less than ten days; and if it shall appear that more than two thousand shares of the capital stock aforesaid shall have been subscribed for within the said ten days, Scaling of subscriptions, if necessary. it shall be the duty of the said Commissioners at Raleigh, or any five of them, 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 two thousand; but if the whole amount shall not be subscribed for within ten days from the time the books shall be opened to receive subscriptions, then the books may be closed, or continued open, or closed and re-opened, without further notice, as a majority of the above mentioned Commissioners may judge to be most expedient, until the whole number of shares shall be subscribed for.

III. When one thousand 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 Weldon Rail Road Company, and by that name, shall be capable in Incorporation Law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no further; and shall have perpetual succession, and by said corporate name

may sue and be sued, and may have and use a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do for the purposes mentioned in this Act, and may make all such bye-laws, rules and regulations, not inconsistent with the laws of this State or the United States, as shall be necessary for the well ordering and conducting the affairs of the Company. Upon any subscription of stocks as aforesaid, there shall be paid at the time of subscribing to the said commissioners or their agents *Instalments.* appointed to receive such subscriptions, the sum of two dollars 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.

IV. The said Commissioners or their agents shall forthwith, after the first election of 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 *Duty of Commissioners.* them, or from any one of them, by motion, on ten days previous notice in the Court of Pleas and Quarter Sessions, or the Superior Court of Law in any County wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a Justice of the Peace of said County.

V. When one hundred thousand dollars 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 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. *Meeting of Stockholders.*

VI. To constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed shall be present, either in person or by proxy; and if a sufficient number to constitute a *Quorum.*

meeting do not attend on that day, those who attend shall have power to adjourn from time to time, until a meeting shall be formed.

Officers.

VII. The subscribers at their general meeting before directed, and the proprietors of 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 and Directors, or any of them, 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 two or more of the Directors, or in the event of the sickness, absence or disability of the President, any three or more of the Directors who shall appoint one of their own body President *pro tem.* 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 the appointment of the Board, until the next annual meeting.

Powers.

VIII. 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, with as many sets of tracks as they or a majority of them may deem necessary; and may cause to be made, and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said Rail Road.

Contracts, &c.

IX. 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, and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the Company may demand, until the whole of their subscriptions shall be advanced; to call, or

any emergency, a general meeting of the subscribers, giving one month's notice thereof in one of the Newspapers printed in the City of Raleigh; to appoint a Treasurer, Clerk, and such other Officers as they may require, and to transact all the business of the Company during the intervals between the general meetings of the stockholders.

X. If any stockholder shall fail to pay the sum required of him by the President and Directors, or by a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the City of 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 purchasers 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 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 of either of them, by suit in any Court of Record, having jurisdiction thereof, or by warrant before a Justice of the Peace of the County of which he is a resident; 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 proprietors.

Proceedings
on failure to
pay subscrip-
tions by any
of the Stock-
holders.

XI. *Be it further enacted*, That if the Capital Stock of the Company, hereby incorporated, shall be found insufficient for the purpose of this Act, it shall and may be lawful for the President and Directors of the said Company, or a majority of them, from time to time, to increase the said Capital stock to an amount not exceeding two hundred and fifty thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders, for the time being, or their legal representatives, the option of taking

Increase of
capital stock.

such additional shares, in proportion to the amount of stock respectively held by them; and opening Books in the City of Raleigh, and such other places as the President and Directors may think proper, for any balance of the Capital stock created, which may not be taken by said stockholders for the time being, or in their behalf; and the subscribers for such additional shares of the Capital stock in the said Company are hereby declared to be thenceforward incorporated into the said Company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Property of
the Company
pledged for the
payment of
monies bor-
rowed.

XII. *Be it further enacted*, That the President and Directors, or a majority of them, shall have power to borrow money for the objects of this Act, to issue Certificates or other evidences of such loans, and make the same convertible into the stock of the Company, at the pleasure of the holder, provided that the Capital shall not thereby be increased to an amount exceeding two hundred and fifty thousand dollars, and to pledge the property of the Company for the payment of the same, with its interest, provided that no certificate of loan convertible into stock, or creating any lien or mortgage on the property of the Company, shall be issued by the President and Directors, unless the expediency of making a loan on such terms, and of issuing such certificates, shall have first been determined on at a general meeting of the Stockholders, by two thirds of the votes which could legally be given in favor of the same.

Authority to
enter upon
lands, &c.

XIII. *Be it further enacted*, That the said President and Directors, their officers, agents and servants, shall have full power and authority to enter upon all lands and tenements, through which they may desire to conduct their Rail Road, and to lay out the same according to their pleasure, so that the dwelling-house, yard, garden or curtelage of no person be invaded without his consent; and, that they shall have power to enter on and lay out such contiguous lands as they may desire to occupy as sites for depots, toll-houses, ware houses, engine sheds, work-shops, water stations, and other buildings for the necessary accommodation of their officers,

agents and servants, their horses, mules and other cattle, and for the protection of property entrusted to their care: *Pro-* PROVISO.
vided, that the land so laid out on the line of the Rail Road shall not exceed, except at deep cuts and fillings, eighty feet in width, and that the adjoining land for the sites of building, unless the President and Directors can agree with the owner or owners for the purchase of the same, shall not exceed one and a half acres in any one parcel. If the President and Directors cannot agree with the owner or owners of the land, so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to apply to the Court of Pleas and Quarter Sessions of the County, in which said land or the greater part of it may lie, and upon such application, the Court shall appoint five disinterested and impartial freeholders, to assess the damages to the owner from Appointment of assessors. the condemnation of the land for the purposes aforesaid. No appointment, however, shall be made, unless ten days previous notice of the application shall have been given to the owner of the land, or 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, next preceding, in some newspaper printed as convenient as may be to the Court-house of the County, and shall have been posted at the door of the Court-house on the first day, at least, of the next preceding Term of said Court. A day for the meeting of the said freeholders, to perform the duty 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 their business shall be finished. Of Quorum. the five freeholders, so appointed, any three or more 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 that will be sustained by the proprietor of the land, from the condemnation thereof for the use of the Company, and that they

will truly certify their proceedings thereupon to the Court of said county.

Duty of Assessors.

XIV. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned, and after viewing the same, and hearing such proper evidence as either party may offer, they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof for the Company. In performing this duty, they shall consider the proprietor of the lands as being the owner of the whole fee simple interest therein; they shall take into consideration the quality and quantity of the land to be condemned, the additional fencing that will be required thereby, and all the inconvenience that will result to the proprietor from the condemnation thereof; and shall combine therewith a just regard for the advantages which the owner of the land will derive from opening the Rail Road through the same.

Form of Report.

XV. 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, as follows: We, ———, freeholders, appointed by an order of the Court of Pleas and Quarter Sessions, for the purpose of ascertaining the damages that will be sustained by ———, proprietors of certain lands in said county, which the President and Directors of the Weldon Rail Road Company propose to condemn for their use, do hereby certify that we met together on the land aforesaid, on the — day of —, the day appointed therefor by the said order (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order) and that having been first duly sworn (or affirmed, as the case may be) and having visited the premises, we proceeded to estimate the quantity and quality of the land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which would probably result therefrom to the proprietor of said land, and 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 ——. 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, shall make a certificate in substance as follows: — County, sct. I, ———, a Justice of the Peace of the 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 ——— by the condemnation of the aforementioned land for the use of the Weldon Rail Road Company, and that they would certify truly their proceedings thereon to the Court of said county. Given under my hand, this — day of ——.

Form of Justice's certificate.

XVI. The report of the freeholders so made, together with the certificate of the Justice of the Peace as aforesaid, shall be forthwith returned by the said freeholders to the Court of the county, and unless good cause can be shown against the report, it shall be confirmed by the Court, and entered upon record; but if the said report should be disaffirmed, or if 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, in 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.

Provision in case of failure by Assessors to report.

XVII. On the confirmation of any such report, and on payment or tender to the proprietor of the land, of the damage so assessed, or the payment of said damages into Court, when for good cause shown, the Court shall have so ordered, Land vested in the Company, on confirmation of report, &c.

the land viewed and assessed as aforesaid shall be vested in the Weldon Rail Road Company, and they shall be adjudged to hold the same in fee simple, in the same manner as if the proprietor had sold and conveyed it to them.

XVIII. While these proceedings are pending for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have been established, the President and Directors, if they think that the interest of the Company require it, may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid, and which they desire to condemn and apply to the use of the said Company. If, when they so take possession, proceedings to ascertain the damages as aforesaid be pending, it shall be their duty diligently to prosecute them to conclusion, and when the report of the freeholders ascertaining the damages, shall be returned and confirmed, the Court shall render judgment in favor of the proprietors of the land for the amount thereof, and either compel its payment into Court, or award process of execution for the recovery, as to them shall seem right.

XIX. In the mean time no order shall be made; and no injunction shall be awarded by any Court or Judge to stay the proceedings of the Company in the prosecution of their work, unless it be manifest that their officers, agents or servants, are transcending the authority given them by this Act, and that the interposition of the Court is necessary to prevent injury that cannot be adequately compensated for in damages.

XX. If the President and Directors shall take possession of any land before the same shall have been purchased by them, or condemned or paid for according to the provisions of this Act, and shall fail for forty days to institute proceedings for its condemnation as aforesaid, or shall not prosecute with due diligence the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said President and Directors or any of them, ten days previous notice, to apply to the Court of the County in which the land or the greater part thereof shall lie, and

Company authorised to enter upon lands before the appointment of Assessors.

Court authorised to appoint Assessors, on failure of the Company to do so.

upon such application, the Court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of his land to the use of the Company, shall appoint a day for their meeting, to perform the duties assigned them, and shall dismiss at the cost of the Company any proceedings then depending in their behalf, for the condemnation of the said land. The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties in all respects, in the same manner as if they had been appointed by the President and Directors of the Company, and the Court shall in like manner confirm or disaffirm their report, supersede them or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary, and when any such report, ascertaining the damages, shall be confirmed, the Court shall render judgment in favor of the proprietor for the damages so assessed and double costs, and shall thereupon either compel the Company to pay into Court the damages and costs so adjudged, or award process of execution therefor, as to them shall seem right.

Duty of Assessors, when appointed by the Court.

XXI. When the judgment rendered for the damages assessed and costs, shall be satisfied by the payment of the money into Court, or otherwise, the title of the land, for which such damages are assessed, shall be vested in the Company, in the same manner as if the proprietor had sold and conveyed it to them.

Vested title.

XXII. *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 or their agreement to the same, shall be valid and effectual to give the same power and authority over all land required for the construction of the Road, as if the same had been conveyed by deed or bargain and sale, or condemned upon petition as aforesaid.

Written consent of the owner, valid.

XXIII. The said President and Directors, for the purpose of constructing their Rail Road aforesaid, and the works necessarily connected therewith, or of repairing the same after they shall have been made, or of enlarging or otherwise al-

Authority to take materials from adjacent lands.

tering the same, shall 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 any tree 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 wood, stone, gravel or earth, taken under authority of this Act, for all incidental injuries done to the inclosure, crops, wood or ground, in taking and carrying away the same, the said President and Directors shall make to the owner a fair and reasonable 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 by him, and shall then ascertain the compensation upon their own view of the wood, ground, earth or stone taken and for the injury done as aforesaid in taking them : *Provided, however*, that it shall be the duty of the owner or owners to show to the Justice of the Peace to whom the application is made, that ten days previous notice of making the same has been given to the President, or one of the principal agents of the Rail Road Company, and no award which may be given under any appointment, without such notice, shall be obligatory or binding on the Company : *Provided however*, that either party, not satisfied with the award which may be given as above, may appeal to the Court of Pleas and Quarter Sessions of the County in which the land may be situated, who may, as in the case of the assessment of lands, confirm or disaffirm the report of the freeholders, supersede them or any of them, and appoint others in their stead or direct another view and report to be made as often as may be necessary.

Proviso.

Compensation to owner.

Arbitration.

Proviso.

Further Proviso.

Company liable for injury

XXIV. If the said President and Directors, in entering upon the land of any person under the authority of this Act, for the purpose of laying out, constructing, enlarging, altering or

repairing any of their said works, shall by themselves or their officers, do any wanton and wilful injury to such land or its appurtenances, or to the crops growing or gathered, or to any other property thereon, the Weldon Rail Road Company shall pay to the person so injured, double the amount of damages which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons who may have contracted with the Company for the construction of any portion of the Road, or any part of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

XXV. 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 such established Roads or Ways, as not to impede the passage or transportation of persons or property along the same, or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual a proper wagon way across said Rail Road, from one part of his land to the other: *Provided however*, that in order to prevent the frequent crossing of established Roads or Ways, or in case it may be necessary to occupy the same, it may be lawful for the said President and Directors to change the said Road to points they may deem it expedient to do so, and that for entering upon or taking any land that may be necessary therefor, they shall be, and are hereby authorized to proceed under the provisions of this Act, as in the case of land necessary for their Rail Road: *Provided further*, that previous to the making of any such change, the said Company shall make and prepare a Road equally good with the portion of the Road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on the Company to keep in repair the portion of any Road which they may have changed as aforesaid.

Established
roads or ways
not to be ob-
structed.

Proviso.

Further Pro-
viso.

XXVI. The said President and Directors, or a majority of them, shall have power to purchase with the funds of the

Carriages, &c. Company, and place on the Rail Road constructed under this Act, all machines, wagons, vehicles, and carriages and teams of every description whatsoever, which they may deem necessary or proper for the transportation of persons or property, or if they should deem it more expedient to do so, they may contract with any individual or individuals for effecting the transportation on the same.

Property of
the Company

XXVII. All machines, wagons, vehicles and carriages, purchased as aforesaid with the funds of the Company, or engaged in the business of transportation on said Rail Road, and all the works of said Company constructed, or property acquired 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 the proportion of their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever.

Transportat'n

XXVIII. Upon the Road hereby authorised, the Company shall have the exclusive right of transportation. When it is completed, they shall at all times furnish and keep in good repair the necessary carriages and other requisites for the safe and convenient transportation of persons and property, and it shall be their duty, at all times, upon the payment or tender of the tolls hereby allowed, to transport to any depot on the Road, which the owner of the goods may indicate, and there to deliver, all articles which shall be delivered to them for transportation, or offered to them in proper condition to be transported, at said depot on the Road most convenient for the reception thereof.

Order of trans-
portation.

XXIX. They shall give no undue preference to the property of one person over that of another, but as far as practicable, shall carry each in the order of time in which it shall be delivered or offered for transportation, with the tolls paid or tendered. If the Company, or any of its officers or agents, shall fail to receive, transport or deliver in due time any property so offered to them for transportation, or shall fail to take up or sit down any passenger or passengers at such con-

venient point as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured double the amount of the lawful toll paid or tendered, and shall moreover be liable to an action on the case, in which full damages and double costs shall be recovered.

Liability for
failure to trans-
port.

XXX. So soon as any portion of the Rail Road hereby authorised may be in readiness for transportation, it shall be lawful for the said President and Directors to transport, by their officers or agents, or by contracts under them, persons and property on the same, and they shall have power to charge for the transportation of persons, goods, produce merchandize and other articles, and for the transportation of the mail, any sum not exceeding the following rates, viz: on persons, not exceeding eight cents a mile for each person, unless the distance which any person be transported be less than ten miles, in which case the President and Directors may be entitled to make an extra charge of fifty cents for taking up and putting down each person so transported; for the transportation of goods, produce, merchandize, and other articles, not exceeding an average of twelve cents per ton, per mile; and for the transportation of the mail, such sums as they may agree for; and the said President and Directors shall be furthermore entitled to demand and receive for the weighing, storage and delivery of produce and other commodities, at their depots and warehouses, rates not exceeding the ordinary warehouse rates charged for such services.

Rates of trans-
portation.

XXXI. *Be it further enacted*, That if the said President and Directors shall deem it advisable to construct the Bridge which may be necessary on the line of their Rail Road, of sufficient width to admit of the passage of common Roads, as well as their Rail Road, over the same, they may be entitled to demand and receive from all persons, and for wagons, carriages, and for all four and two wheeled vehicles, and for all beasts of burden, sheep and hogs passing the same, the tolls which may be allowed by the Court of Pleas and Quarter Sessions of the County in which the said bridge may be.

Bridge.

Dividends.

XXXII. As soon as ten miles of the Rail Road hereby authorised shall be completed, the President and Directors shall annually or semi-annually declare and make such dividend as they may deem proper, of the nett profits arising from the resources of the said Company, after deducting the necessary current and probable contingent expenses of the said Company, and shall divide the same among the proprietors of the stock of said Company, in proportion to their respective shares.

Meetings of Stockholders.

XXXIII. An annual meeting of the subscribers to the stock of said Company, shall be held at such time and place in each year, as the Stockholders at their first general meeting, or at any subsequent 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 the proprietors entitled to a majority of all the votes which could be given by all the Stockholders 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 aforesaid, the proprietors who do attend may adjourn from time to time, until such general meeting shall be had.

Apportionment of votes.

XXXIV. In counting all votes of the said Company, each member shall be allowed one vote for each share not exceeding two shares; one vote for every two shares above two and not exceeding ten; and one vote for every five shares above ten by him held at the time in the stock of the Company: *Provided however*, that no Stockholder, whether an individual, body politic or corporate, shall be entitled to more than sixty votes on any amount of the capital stock of said Company held by him or them.

XXXV. The President and Directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the Stockholders.

XXXVI. The works hereby required of the Weldon Rail Road Company, shall be executed with diligence, and if they be not commenced within three years after the passage of

this Act, and finished within ten years after the first general meeting of the Stockholders, then this charter shall be forfeited.

XXXVII. The President and Directors shall cause to be written or printed certificates of 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 the number of shares subscribed by him, which certificate shall be transferable 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 the purpose, shall thenceforth become a member of the Company aforesaid, and shall be liable to pay all sums due or to become due upon the stock assigned him: *Provided however*, that such assignment shall in no wise exempt the assignor or his representative from their liability to the said Company for their payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same. Certificates.

XXXVIII. If any person or persons shall wilfully, by any means whatever, impede or hinder the construction of, injure, impair or destroy any part of the Rail Road to be constructed under this Act, or any of the necessary works, machines, wagons, vehicles, carriages or other property belonging to the said Company, or shall place any obstruction on said Road, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof, in the Court of Pleas and Quarter Sessions, or Superior Court of Law of the County in which the offence may be committed, shall be fined and imprisoned at the discretion of the Court. Penalty for obstructing or injuring the Road.

XXXIX. *Be it further enacted*, That when the General Assembly may be of the opinion that the charter hereby granted shall have been violated, it may be lawful by joint resolution of the two Houses, 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, calling up- Proceedings, in case of violation of charter.

Books open to
inspection, &c

on the said corporation to show cause why their charter shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations. Their books shall at all times be open to the inspection of a Committee of the General Assembly appointed for the purpose, and the President of said Company shall biennially make a report to the Legislature, on or before the third week of their Session, of their receipts and expenditures, and of such other of their proceedings as he shall deem proper.

Road may be
crossed.

XL. *Be it further enacted*, That any Rail Road which may hereafter be constructed by the State or by any Company incorporated by the Legislature, shall be at liberty to cross the Road hereby allowed to be constructed upon a level or otherwise as may be advantageous: *Provided*, that the free passage of the Weldon Rail Road is not obstructed.

Depot at the
point crossed.

XLI. *Be it further enacted*, That whenever the Rail Road shall be so crossed or approached by any other Rail Road incorporated by the State, the said Weldon Rail Road Company may erect a depot at or near the point of intersection, where they may receive and deliver passengers and freight, and take therefor the same rates of compensation, and be subject to the same regulations as other depots; and if they fail or refuse to erect such depot, the State or Company owning such intersecting Road, may erect one, and the Company hereby incorporated shall receive and deliver passengers and freight at such depot, under the same regulations as aforesaid, unless the same shall be rendered impracticable by the situation of the Rail Road at such place.

XLII. *And be it further enacted*, That this Act shall take effect and be in force from and after its ratification, and shall endure and continue for the term of ninety years.

[Ratified 8th January, 1839.]

CHAPTER XXXI.

AN ACT to prevent the malicious obstruction of Rail Roads.

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 wilfully and maliciously put or place any stone, earth, timber, wood, or any other thing whatever, upon any Rail Road in this State, or upon any Bridge or Viaduct belonging to, and forming part thereof; or, shall wilfully and maliciously cut, break, remove, displace, or in any other manner, or by any means whatever, destroy or injure any rail or sill of any such Rail Road, or any such Bridge or Viaduct, or any part thereof, or shall, by any ways or means whatever, injure, destroy, or obstruct any such Rail Road, Bridge or Viaduct, as aforesaid, the party so offending, shall, on conviction thereof, be fined in any sum not exceeding one thousand dollars, be imprisoned for any time not exceeding three years, and find securities for being of good behaviour for not less than one, nor more than seven years, from and after the expiration of the said imprisonment, in such sum as the Court having cognizance of the same shall direct. And if it shall happen that that by reason of the commission of the offences aforesaid, or any one of them, any Engine or Car shall be thrown off the track of any such Rail Road, or shall be stopped or obstructed so that any person or persons shall thereby be instantly killed, or so wounded or hurt as to die therefrom, within six calendar months thereafter, or shall thereby be maimed or lose the use of any limb or member, then, and in every such case, the party so offending, his aiders, abettors, helpers, counsellors and advisers, shall be deemed guilty of felony, and shall suffer death, as in case of felony, without the benefit of clergy.

Malicious obstructions defined.

Punishment.

II. *And be it further enacted,* That this Act shall go into operation and take effect from and after the first day of March next, and not sooner.

[Ratified 7th January, 1839.]

ROAD IN CHEROKEE COUNTY.

CHAPTER XXXII.

AN ACT to improve a part of the State Road leading from the Town of Franklin, in Macon County, across the Nantahala and Valley River Mountain, to the new Town site called Murphy.

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 be, and he is hereby authorised to appoint some suitable person as Commissioner, whose duty it shall be to examine that part of the new State Road leading from Franklin in Macon County, to the Town site called Murphy, from the eight to the twenty-nine mile post, a distance of twenty-one miles, and after due examination thereof, shall determine and fix on the length of sections which shall not exceed the number determined upon by John L. Smith, the original Commissioner for said Road ; and the Commissioner so appointed shall receive for his services and expenses, two dollars per day for each day he may be in actual service for the purpose aforesaid, to be paid out of the fund hereinafter appropriated for the improvement of said Road.

Governor to
appoint Com-
missioner.

Contracts.

II. *Be it further enacted,* That when said Road shall be laid off in sections of convenient extent, the Commissioner shall give thirty days public notice, by advertising at the Court House, and two other places in each of the Counties of Haywood and Macon, of the time and place for letting out the contracts for improving said Road, which shall be done in the Town of Franklin, and he shall let the contracts out by sections at public auction, to the lowest bidder.

Liability of
contractors.

III. *Be it further enacted,* That the Commissioner shall take from each contractor a bond with approved security,

payable to the State of North Carolina, for the faithful execution of the work according to specification, one item of which shall be, that there shall not exist on any part of said Road, a greater rise than one foot in eight, and on failure of any contractor to execute his work according to the terms specified in the contract, then it shall be the duty of said Commissioner to commence suit on the bond, and prosecute the same to judgment and execution, and the money thus collected, shall be applied to the improvement of said Road.

IV. *Be it further enacted*, That for the purpose of improving said Road, a sum not exceeding two thousand dollars be, and the same is hereby appropriated, payable in bonds accruing from the sale of the Cherokee Lands, and the Governor is hereby authorised to draw his warrant or warrants on the Public Treasurer in favor of the Commissioner, for such portion of this appropriation as to him may seem necessary and proper. \$2,000 appropriated.

V. *Be it further enacted*, That said Commissioner, before entering upon the duties of his commission, shall execute to the State of North Carolina a bond with approved security, conditioned for the faithful application of the funds placed in his hands for the improvement of the Road, and on the completion thereof, shall report to the Governor of the State the character of the improvement and vouchers for the expenditure of all sums disbursed by him. Commissioner to give bond.

VI. *And be it further enacted*, That said Commissioner shall have said Road completed by the fifteenth day of July, one thousand eight hundred and thirty-nine, and on the completion of the Road, shall carefully examine the same, receive it, if done according to contract, and thereupon report to the Governor as by the foregoing section. Road when to be completed.

[Ratified 4th January, 1839.]

REGISTRATION.

CHAPTER XXXIII.

AN ACT to extend the time for registering Grants, 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, all other Powers of Attorney, which are required to be proved and registered by any Act of the General Assembly, all Bills of Sale, Deeds of Gift, already proved, or which may hereafter be proved, 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 of Mesne Conveyance, Powers of Attorney, Bills of Sale, and Deeds of Gift, shall be as good and valid as if they had been proved and registered within the time heretofore allowed: *Provided*, that nothing herein contained shall be construed to extend to mortgages or to conveyances in trust.

Two years allowed.

Proviso.

[Ratified 4th December, 1838.]]

CHAPTER XXXIV.

AN ACT to amend an Act, passed at the present Session, entitled "An Act to extend the time for recording Grants, Deeds, Mesne Conveyances," &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 the provisions of the above recited Act shall not be so construed as to give any person power to record Grants from the State for any of the Swamp Lands which have been, or may be surveyed by direction of the Literary Board, with a view to draining the same.

Swamp Lands
excluded from
provisions of
the Act.

[Ratified 8th January, 1839.]

REPLEVIN.

CHAPTER XXXV.

AN ACT to amend an Act, entitled "An Act concerning the action of Replevin."

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, upon the trial of any action of Replevin, for any slave or slaves, the Plaintiff or Plaintiffs shall recover, final judgment shall be rendered against the Defendant and his security, in case he shall have given a bond, as required by the fourth section of an Act concerning the action of Replevin, for such value as shall be assessed by the Jury, upon such slave or slaves, with a condition, to be discharged by the surrender of such slave or slaves, demanded by the writ,

Where the
Plaintiff re-
covers, condi-
tional Judg-
ment to be
rendered a-
gainst Deft.

and the payment of such damages as may be adjudged by the Court, for the taking and detention of such slaves; which damages, for the taking and detention aforesaid, the Court shall assess double the amount assessed by the Jury.

[Ratified 8th January, 1839.]

REVENUE LAWS.

CHAPTER XXXVI.

AN ACT to amend the Revenue 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,

Where lands
have not been
valued, Court
to do so.

That the several Courts of Record, held by the Justices of the Peace within their respective counties in this State, shall have power, and are hereby required, on application in behalf of any person liable to taxes upon lands in such county, and which shall not have been valued and returned as the law directs, to value the same in like manner as the Boards of Valuation in such county are required to value taxable lands, and such valuations, it shall be the duty of the Clerk to record in like manner, and under the same rules, regulations and restrictions, as other taxable lands within such county.

Renders valid
all proceed-
ings had sub-
sequent to the
time prescrib-
ed by the Act.

II. *Be it further enacted,* That where any of the County Courts in this State shall have appointed their Boards of Valuation subsequent to the time required by law, and in pursuance thereof, the lands within such county shall have been valued, returned and recorded as the law directs, such valuation, and all other proceedings had thereupon conformably to law, are hereby declared to be good and available to all in-

tents and purposes, as though the same had been done in due time, and shall be liable for taxes, and subject to the same rules, regulations and restrictions, as other lands liable for taxes are, within this State. .

• III. *Be it further enacted*, That said Courts, within their respective counties, or any Justice, within his district, appointed to receive taxables for such district, shall, either of them, have power, and are hereby required, on application of any person liable to taxes on lands, within said county or district, to apportion the valuation or assessment thereof, in such manner that the several persons liable to taxes thereon shall be subject to his, her or their share of taxes, and no more, and such apportionment to be listed accordingly: *Provided*, it shall be the duty of said Justice to summon two disinterested freeholders, who, first being sworn, shall act with said Justice in such apportionment.

Taxes to be properly apportioned.

IV. *Be it further enacted*, That the said Courts shall have power to receive returns of taxables in their several counties, at any term before the first day of April in each and every year—the person so applying to such Court, and having his taxables listed, paying to the Clerk forty cents for receiving and recording the same.

Tax list to be given in by first of April.

V. *Be it further enacted*, That said Courts shall hear and determine upon any and all applications within their several counties, to be relieved from a double tax already incurred, or which may hereafter be incurred, within their respective counties, and to remit the same, and if paid, to order the Clerk to issue a certificate of the public or State tax, to the persons thus relieved, which certificate shall be receivable by the collector, in behalf of the holder thereof, as so much of his, her or their next year's tax, and not after, and also a like certificate of the amount of county and poor double tax so paid, which shall be receivable in like manner as the above tax, or refunded out of the county fund, as the said Court may in their discretion order and direct, for which said Clerk shall receive ten cents on each certificate, to be

Double Tax.

paid by such relieved party, which certificates shall be allowed the Sheriff, in settlement of his public and county taxes.

Returns made
after tax list
is made out.

VI. *Be it further enacted*, That such returns of taxables as shall be made under the provisions of this Act, to the Clerk of any of said Courts, and which shall be made after such Clerk shall have recorded his lists of taxes, or set up his list in the Court House, such Clerks shall record said returns as supernumeraries, and deliver out duplicates, and make returns thereof as other taxables.

Where the
Court fails to
appoint Board
of Valuation.

VII. *Be it further enacted*, That where any of the County Courts have failed to appoint a Board of Valuation, according to the provisions of the Revenue Act of one thousand eight hundred and thirty-six, but have appointed Justices in the several districts of their county, to take the list of taxable property, and all persons liable for taxes have given in their list under the old assessments, the same is hereby declared to be lawful and binding, as though a Board of Valuation had been appointed, and the land given in under such valuation.

Time of ap-
pointing B'ds
of Valuation,
extended.

VIII. *Be it further enacted*, That where any Court may have failed to appoint a Board as aforesaid, the time for appointing such Board of Valuation is hereby extended until the first Court that may happen after the first day of May next, and the acts of such Board, thus appointed, shall be as valid, as though they had been appointed in one thousand eight hundred and thirty-six, and the persons whose lands are thus valued shall hereafter give in their list of lands according to the valuation thus made.

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

[Ratified 7th January, 1839.]

REVISED STATUTES.

CHAPTER XXXVII.

AN ACT to give effect to the "Revised Statutes," as the same have been published by the Commissioners appointed for that purpose.

WHEREAS, certain Acts passed at the last Session of the General Assembly, and known as the "Revised Statutes," were directed by the ninth section of the first chapter of the said Statutes, to be published under the superintendence of Commissioners to be appointed by the Governor, and the same have been published accordingly: *And whereas*, the Commissioners for superintending the said publication, have reported to this General Assembly, that numerous errors were found to have been made in the enrolment of the said Statutes and otherwise, which errors they deemed it proper to correct, and did correct in the said publication, so that the printed text of the said Statutes, in many particulars, doth not agree with the enrolment thereof in the office of the Secretary of State, whereby many questions may arise, and much doubt and uncertainty result. For the prevention 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 the printed text of the said Statutes, as published by the said Commissioners, shall be held, deemed, and taken to be the true text of the said Statutes, and the said Statutes (except so far as the same may be repealed, altered or modified by any Act or Acts of this present General Assembly) shall be in full force, operation and effect, as the same are contained and printed in the said publication, any variance or variances therein from the enrolment of the said Statutes notwithstanding.

Preamble.

The Statutes to be construed according to printed text

[Ratified 7th January. 1839.]

ROANOKE INLET.

CHAPTER XXXVIII.

AN ACT to amend an Act, passed in the year one thousand eight hundred and twenty-one, entitled "An Act to incorporate a Company entitled the Roanoke Inlet Company, and for other purposes.

New Com-
missioners.

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 already appointed by the aforesaid Act, together with E. Pettigrew, Joseph Halsey, D. A. Bateman and H. G. Spruill, of Tyrrel County; Josiah Collins Jr., D. C. Guyther, T. S. Armistead and J. B. Chesson, of Washington County; S. M. Smithwick, H. Williams, J. D. Biggs and S. S. Shepherd, of Martin; Joseph B. G. Roulhac, L. S. Webb, J. L. Bryan and E. Hardy, of Bertie; John A. Anderson, J. W. Southall, Abner Harold and Watson Lewis, of Hertford; H. Gilliam, William G. Doughtry, T. A. Jourdan and Rufus K. Speed, of Gates; James C. Johnston, Joseph B. Skinner, William C. Warren, Augustus Moore, R. T. Paine, J. P. Heath, of Chowan; Thos. Jones, Thos. Wilson, John S. Wood and Miles Elliot, of Perquimons; John C. Ehringhaus, Horatio N. Williams, Josiah Fearing and Charles R. Kinney, of Pasquotank; Haywood S. Bell, and Samuel W. Ferebee, of Camden; Joshua Harrison, Isaac Tillett and John B. Jones, of Currituck County, be, and they are hereby appointed Commissioners for the purposes mentioned in the before recited Act, and that the said Commissioners shall open books for the purpose of receiving subscriptions, on or before the first day of May next, and shall continue them open until the first day of November next, and when the sum mentioned in the before recited Act shall have been subscribed, the subscribers shall be incorpo-

rated into a Company, by and under the name of the Roanoke Inlet Company, and shall have all the power, privileges, and immunities, and shall be governed by the same rules, regulations and restrictions, as are prescribed by the before recited Act.

II. *And be it further enacted*, That if the said navigation shall not have been improved or completed, as contemplated by the provisions of the before recited Act, within ten years from and after the passage of this Act, all exclusive privileges granted to the said incorporated Company, shall cease and determine on the expiration of the said term of ten years. Limitation of Charter.

III. *And be it further enacted*, That this Act shall be in force from and immediately after its ratification.

[Ratified 15th December, 1838.]

SHERIFFS AND CORONERS.

CHAPTER XXXIX.

AN ACT authorizing Sheriffs and Coroners to make deeds in certain cases.

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 where any Sheriff or Coroner has heretofore sold, or may hereafter sell any real or personal estate, in obedience to Executions or Writs of *venditioni exponas* to him directed, and may not have executed deeds to the purchaser for the same, such Sheriff or Coroner, though he may be out of office, shall, and he is hereby required to seal and execute a deed or deeds of sale for real or personal estate, to

Authorizes Sheriffs, &c. to make deeds after their term of office has expired.

such purchaser at said sale who has satisfied or paid the money for the same. And in case any Sheriff or Coroner, having sold any estate as aforesaid has died, or may die or remove out of the State, or become incapable of making a deed, then his successor in office is hereby required and empowered, on application, to make such conveyance as is herein directed.

Deeds for Taxes. II. *Be it further enacted*, That where any Sheriff has sold, or shall hereafter sell lands for the Taxes due thereon agreeably to law, and be out of office, dead or removed, before a Deed or Deeds have been, or shall be executed for the same, it shall and may be lawful for such Sheriff out of office, or in case of his death, for his successor, to make and execute a Deed or Deeds to the person or persons purchasing the same under the same rules, regulations and restrictions, as are required by law. And the Deed or Deeds, executed by virtue of this Act, shall be as good and valid in law, to pass title to the purchaser, as if the same had been made by the Sheriff in office at the time of sale.

[Ratified 7th January, 1839.]

WEIGHTS AND MEASURES.

CHAPTER XL.

AN ACT concerning Weights and Measures adopted by Resolution of Congress, as Standards throughout the United States.

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 be, and he is hereby authorized to pro-

cure for each of the counties of this State, one complete set of all the Weights and Measures adopted as Standards by Resolution of Congress, approved the fourteenth of June, one thousand eight hundred and thirty-six, which shall correspond with the Standards furnished for this State by the Secretary of the Treasury of the United States, in pursuance of the said Resolution.

Each county to be furnished with Weights and Measures.

II. *Be it further enacted*, That as soon as said sets of Standard Weights and Measures shall be procured, his Excellency, the Governor, shall take such means as he may deem most expedient, and the least liable to expense and delay, for delivering the same, at the respective Court Houses in this State, to the Clerks of the County Courts thereof.

Governor to forward them at public expense.

III. *Be it further enacted*, That any person who may be employed to construct, make or furnish for this State, the aforesaid Standards, shall be entitled to receive such pay therefor as the Governor may, by contract in writing, agree to give, payable only on completion of the contract and delivery of such Standards to the order of his Excellency: *Provided nevertheless*, that should the person or persons, so undertaking to furnish such Standards, give to the Governor a bond in double the amount to be paid for such Weights and Measures (which bond shall be made payable to the State with approved security) then, in that case, such sums may be paid in advance, as shall be agreed upon.

Contracts to be made.

IV. *And be it further enacted*, That the Governor be, and he is hereby authorized to draw on the Public Treasurer for such sums, not exceeding ten thousand dollars, as he may deem necessary to carry the foregoing provisions into effect, payable out of any monies in the Treasury, not otherwise appropriated.

[Ratified 7th January, 1839.]

WRECKS.

CHAPTER XLI.

AN ACT to divide the first Wreck District in Carteret County into two Districts, and to appoint an additional Commissioner of Wrecks.

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 Court of Carteret, a majority of the Justices being present, at the first Court to be held after the first day of January next ensuing, may, should they deem it expedient and necessary, divide the first Wreck District in said county into two Wreck Districts; and to accomplish that object, the said Court is hereby authorized to appoint three Freeholders, whose duty it shall be to go on the Island of Ocracoke, and divide the same into two equal divisions, with proper metes and bounds, and make return thereof to the next succeeding County Court; and the said Freeholders shall be allowed a compensation for their services at the discretion of the Court, not exceeding two dollars per day, to be paid by the newly appointed Commissioners.

County Court
to have the
District divided.

Compensation
for service.

II. *Be it further enacted, That in the event of the District being divided, as authorized by the first section of this Act, a majority of the Justices being present, shall nominate and appoint one additional Commissioner of Wrecks for the District hereby created, who shall perform the same duties in his allotted District, and be subject to the same rules, regulations and restrictions, as are now prescribed by law.*

Additional
Commissioner

[Ratified 8th January, 1839.]





RESOLUTIONS

OF A PUBLIC NATURE,

PASSED BY THE

LEGISLATURE OF N. CAROLINA,

AT ITS SESSION OF 1838-39.

RESOLUTIONS relating to the General Government.

WHEREAS, we believe that a great crisis has arrived in the political history of our country, on the issue of which, we conceive the safety of our free institutions to depend : And whereas, we consider it our bounden duty, as the representatives of the freemen of North Carolina, to express in calm and dispassionate language, our opinions on the great questions which have been for some time, and some of which still are agitating the public mind :

Preamble.

I. *Resolved therefore*, That this General Assembly do condemn in the most decided manner, that act of the Senate of the United States expunging the records of that body, as a palpable violation of the plain letter of the Constitution, and as an act of party servility, calculated to degrade the character of the Senate.

Expunging Resolution.

II. *Resolved*, That resolutions ought to be passed by the Senate of the United States, condemnatory of that act, and rescinding the resolution authorizing it to be done.

III. *Resolved*, That this General Assembly do condemn the Sub Treasury system which this Administration is endeavoring to establish, as another item in that series of fatal experiments of this and the past Administration, which are the main source of that derangement in the currency, and prostration of commercial credit, that have been so severely felt of

Sub-Treasury

late in every branch of industry, and which, if suffered to become a law, will, by its tendency to augment Executive power, to unite the purse and the sword in the hands of the Executive, and to destroy the credit system by the exaction of specie in the Government dues, ultimately change the real character of our Government, and place in peril the liberties of our country.

IV. *Resolved*, That we consider the Public Lands of the United States as the common property of all the States, and that we therefore condemn the late Act of Congress allowing settlers on the Public Lands, the right of pre-emption at the minimum price, as an act of gross injustice to the old States, who originally ceded them, or who contributed to a common fund for their purchase.

V. *Resolved*, That we believe that the proper and equitable disposition of the public domain, is to divide the proceeds arising from their sales among the several States of the Union, according to the ratio of their federal population.

VI. *Resolved*, That we do most solemnly protest against the wasteful extravagance of the present Administration, and their profligate expenditure of the public money, which not only creates a demand for heavy taxation in order to meet the exorbitant appropriations of the General Government, but which tends to the corruption of public morals, and the degradation of the national character.

VII. *Resolved*, That the power and patronage of the Executive Department of the Federal Government have increased to an alarming extent, and ought to be diminished.

VIII. *Resolved*, That our Senators in Congress will represent the wishes of a majority of the people of this State, by voting to carry out the foregoing Resolutions.

IX. *Resolved*, That the Governor of this State be requested to forward a copy of these Resolutions to each of our Senators in Congress, with a request that they lay them before the Senate of the United States; and one to each of the Governors of the several States of the Union, with a request that they lay them before their respective Legislatures.

[Ratified 28th December, 1838.]

RESOLUTIONS relating to the Public Domain.

Resolved, That each of the United States, being a party to the National compact, possesses an interest in the Public Lands, proportioned to the federal population of each, or, in the terms of the compact, according to the usual respective proportions of the general charge and expenditure.

Rights of the States.

Resolved, That those States, in whose favor Congress has not made appropriations of the Public Domain, for the purpose of Education, are entitled to such appropriations as will correspond in a just proportion with those heretofore made in behalf of other States.

Grants for Education.

Resolved, That this General Assembly do condemn, in the most decided manner, the Bill now before Congress, proposing to graduate the price of the Public Lands, as an attempt, in disguise, to cede them to the States in which they lie, at a mere nominal price.

Graduation Bill.

Resolved, That our Senators and Representatives in the Congress of the United States, be requested to urge the claims of the State of North-Carolina, to her portion of the Public Lands, and to vote against the Bill now before Congress, proposing to graduate the price of the same.

Request to Senators.

Resolved, That his Excellency the Governor be requested to forward a copy of these Resolutions to each of our Senators and Representatives in Congress, with a request that they lay them before their respective bodies.

Request to Governor.

[Ratified 3d January, 1839.]

RESOLUTION relating to Nags Head.

Resolved, That our Senators and Representatives in Congress be requested to use their exertions in procuring from the General Government an appropriation for opening an Inlet, at or near Nags Head, on the coast of North-Carolina.

Request to Senators, &c.

Resolved, That the Governor of this State be requested to forward, as early as convenient, copies of the foregoing Res-

Request to Governor.

olution to each of our Senators and Representatives in Congress.

[Ratified 8th January, 1839.]

RESOLUTIONS relating to Lunatics and a Lunatic Asylum.

Governor to
collect infor-
mation.

Resolved, That his Excellency the Governor be requested to collect all the information in his power, in relation to the number, age and sex of all persons reported to be Lunatics, and grievously mad, within the several counties of the State, and whether at large or in confinement, and where and how long confined; and that he report the information so collected to the Legislature, at its next session.

Duty of Sher-
iffs, &c.

Resolved further, That the Sheriffs of the several counties of this State, and Clerks of the several County Courts, may be required by the Governor to give such information as they can acquire upon the matters aforesaid, in their respective counties, and to communicate the same to him.

Lunatic Asy-
lum.

Resolved further, That his Excellency the Governor be required to ascertain what plan of a Lunatic Asylum has been most successful in other States, and to submit a plan to the next Legislature, for a suitable institution of that kind for the State of North-Carolina.

[Ratified 8th January, 1839.]

RESOLUTION relative to a Penitentiary.

Governor to
collect infor-
mation,

Resolved, That his Excellency, Edward B. Dudley, be requested to open a correspondence with the Governors of the several States which have adopted the Penitentiary system, to procure all the information he can, upon the subject of Penitentiaries, also all the information he can obtain in relation to Houses of Refuge for orphan children, and minor offenders, also of Lunatic Asylums, and to lay the same before the next Legislature.

[Ratified 7th January, 1839.]

RESOLUTION relative to Common Schools.

Resolved, That the Secretary of State be directed to have printed, so much of the Report on Elementary Public Instruction in Europe, by C. E. Stow, and other information on the subject of Common Schools, as the President and Directors of the Literary Fund shall deem proper, ten copies for the use of each Member of the General Assembly; and that the same be distributed with the Acts and Journals of this Session.

[Ratified 7th January, 1839.]

RESOLUTION relating to the Wilmington and Raleigh Rail Road.

Resolved, That the last quarter of the State's subscription to the Wilmington and Raleigh Rail Road Company, shall be payable in such proportions as may be required of the individual Stockholders.

[Ratified 7th January, 1839.]

RESOLUTION concerning Swamp Lands.

WHEREAS, doubts have arisen as regards the title of the State to a part of the reclaimed lands on the margin of the Mattamuskeet Lake: therefore,

Resolved, That the President and Directors of the Literary Fund be, and they are hereby directed to take such steps as they may judge best for the investigation of such titles.— And the said Board is hereby directed to examine, and do such other and further work, as can be profitably performed on said Lake.

[Ratified 8th January, 1839.]

RESOLUTION concerning Specie Change.

Preamble.

WHEREAS, it is believed that a great deficiency of Specie Change now exists in the United States, and that at all points remote from the Mints authorized to coin this kind of Currency, there exists a scarcity, perplexing and obstructive to the interests, not only of the trading and manufacturing classes, but to the great injury of all the productive branches of trade and industry, so much so, as to induce the Legislature of many of the States to seek relief in the issue of Treasury Notes: *And whereas*, it is known that the coinage of the Branch Mint in this State is confined to Gold Bullion alone, and that said Mint is located in a region suffering peculiarly from the want of small coin as change; be it therefore

Request to
Senators, &c.

Resolved, That our Senators and Representatives in Congress be requested to use their best endeavors to have a Law passed, directing the coinage of small Change at the Branch Mint at Charlotte in this State, and that the Governor forward to our Senators and Representatives a copy of this Resolution.

[Ratified 4th January, 1839.]

RESOLUTION concerning delinquent Sheriffs.

Irregular re-
turns of the
Election for
Governor.

Resolved, That whereas the returns made by the Sheriffs of the Counties of Gates, Perquimons and Guilford, of the votes for Governor in the late election, were by them believed to be duly made, and that the defects therein were in form and not in substance, and whereas those made by the Sheriff of Rutherford were by him duly made, and in full discharge of his duty,

Resolved therefore, That no proceedings in law be taken thereupon, and that they stand severally acquitted and discharged from all liability whatever.

[Ratified 28th December, 1838.]



PRIVATE ACTS

OF THE

STATE OF NORTH-CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

AT THEIR SESSION WHICH COMMENCED ON MONDAY THE NINETEENTH OF NOVEMBER, ONE THOUSAND EIGHT HUNDRED AND THIRTY-EIGHT, AND ENDED ON TUESDAY THE EIGHTH OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND THIRTY-NINE.

ACADEMIES.

CHAPTER I.

AN ACT to incorporate the Trustees of Pleasant Grove Academy, in the county of Perquimons.

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 Burnham, John Burnham, Joseph Godfrey, son of Hugh, Mark Sawyer, and Robert Stacy, junior, be, and they are hereby incorporated by the name and style of the "Trustees of the Pleasant Grove Academy," and the successors of the Trustees appointed by Act of Assembly of one thousand eight hundred and sixteen, 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 a 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.

[Ratified 22d December, 1838.]

CHAPTER II.

AN ACT to incorporate the Trustees of the Rutherfordton Male and Female Academies 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 Edmund Bryan, John McEntire, William Twitty, John B. Miller, Waller B. Rutherford and Martin Beam, and their successors in office, be, and they are hereby declared a body politic and corporate, to be known and distinguished by the name and style of the Trustees of Rutherfordton Male and Female Academy, and by that name shall have perpetual succession and a common seal, and shall be able and capable in law of holding lands and tenements, sufficient for the purpose of the Schools, and of suing and being sued, plead and be impleaded.

II. *Be it further enacted,* That the said corporation shall have power to make all rules, regulations, and bye-laws, not inconsistent with the Constitution and Laws of the State, which shall and may be necessary for the good government of said Schools, and the management of the property and finances of the same, and also to fill all vacancies among the Trustees, from time to time, occasioned by death, resignation or other cause, and also to appoint such officers as they may think proper.

[Ratified 28th December, 1838.]

CHAPTER III.

AN ACT to incorporate Junto Academy in the County of Orange.

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 Holt, Eli Murray, Michael Holt, Priestly H. Mangum,

James Phillips and Dr. Michael W. Holt, be, and they are hereby declared a body politic and corporate, to be known and distinguished by the name and style of the "Trustees of Junto Academy," now under the tuition of the Reverend Daniel W. Kerr, at Junto Post Office, formerly called Mount Pleasant, in Orange County, and by that name and style shall have succession and a common seal, and shall be invested with power and authority to sue and be sued, plead and be impleaded in any Court of Justice, and to hold such lands and chattels as may be acquired for the use of said Academy, according to the will of the donor or donors thereof.

II. *Be it further enacted*, That the said Trustees and their survivors, or a majority of them, shall have power to supply all vacancies which may occur in their body from death, resignation, removal or otherwise; and that this Act shall take effect and be in force, from and after its ratification.

[Ratified 15th December, 1838.]

CHAPTER IV.

AN ACT to amend an Act passed in the year of our Lord one thousand eight hundred and twenty-two, entitled an Act to incorporate the Male and Female Academy in the Town of Charlotte, in Mecklenburg County.

WHEREAS, under the provisions of said Act the Trustees have built a Female Academy; and whereas, many of said Trustees have since died or removed away—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 John Irwin, J. D. Boyd, H. B. Williams, William J. Alexander, Leroy Springs, J. H. Wilson, Dan. Alexander, Braly Oates, and Wm. Davidson, and their successors in office, be, and they are hereby constituted Trustees of the said Female Academy, and as such shall be entitled to all the privileges conferred by said Act.

II. *Be it further enacted*, That said Trustees shall immediately after the passage of this Act, ascertain the amount paid by each individual towards the building of said Academy, and when the amount is equal or exceeds the sum of one hundred dollars, the Chairman of said Trustees, to be appointed by a quorum thereof, shall issue to the persons so having paid, certificates of such payment, which shall entitle him or her to an interest in the property, equal to the sum so paid by him or her.

III. *Be it further enacted*, That said Trustees shall have full power and authority in case of the death, resignation or removal of any one of their body, to appoint some other fit and suitable person to supply his place.

IV. *And be it further enacted*, That five of said Trustees shall always constitute a quorum, to do any business connected with said Academy.

[Ratified 7th of January, 1839.]

CHAPTER V.

AN ACT to establish the "Salisbury Female Academy," 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 Thomas L. Cowan, Michael Brown, Alexander Long, and Samuel Lemly and their successors, be, and they are hereby dec'ared to be a body politic and corporate, to be known and distinguished by the name of the "Trustees of the Salisbury Female Academy," and by that name shall have perpetual succession, and shall be able and capable in law to have, receive, and possess lands and tenements, goods, chattels and raonies that may be given to them, and apply the same according to the will of the donor, or dispose of the same, if not forbidden by the terms of said gift; they may sue and be sued, plead and be impleaded

in any Court of Law in this State, shall have power to fill vacancies in their body, occasioned by death, removal or resignation of any of them, establish such laws and regulations for the government of said Institution, as may be necessary for the preservation of order and good morals, not inconsistent with the Laws of this State, and do and perform all such acts and things as are incident to, and usually exercised by bodies politic, for the accomplishment of the object contemplated.

[Ratified 7th January, 1839.]

CHAPTER VI.

AN ACT to amend an Act, entitled an Act to establish the Clemmons-ville Academy.

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 Clemmons, Benton C. Douthit, Robert O. Burton, Henry Eakells, James Reid, Henry P. Poindexter, Thomas S. Campbell, John C. Stone, Peter Doub, Meshack Pinkston, James Jameson, Burgess L. Beall, William R. Holt, Isaac S. Gibson, Richard P. Puryear, Samuel Luckey, and Archibald G. Carter, be, and they are hereby constituted a body politic and corporate, by the name and style of the Trustees of the Clemmons-ville Academy, 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 monies, goods, and chattels, and choses in action which may be given to them for the use of said Academy, 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 forever, any lands, rents, tene-

ments, hereditaments, of what kind, nature or quality soever, in special trust and confidence, the same, with the profits thereof, to apply to the use and purpose of supporting and endowing the said Academy, and may purchase and hold for the purpose aforesaid, all such chattels, and personal or real 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, alien, enfeoff, confirm and assure to the purchaser, any or all such lands, rents, tenements and hereditaments as aforesaid, when not restrained by the terms of the grant or devise to them.

III. *Be it further enacted*, That the said Trustees shall have power from time to time, to appoint their own President, Secretary and Treasurer, and such Professors and Tutors in and over said Academy, as to them shall appear proper, and may remove the same for misbehaviour, inability, or neglect of duty, and they shall have power to make all necessary bye-laws and regulations, not inconsistent with the laws and Constitution of this State, or the Constitution of the United States, for the government of said Academy, and five Trustees shall be a quorum to transact all manner of business.

IV. *Be it further enacted*, That the said Trustees, whenever they shall think proper, shall be empowered to establish and keep up a manual labor department in the said Academy, which department as a component part of said Institution, shall be conducted on such plan, and in such mode, as the Board of Trustees shall from time to time adopt.

V. *And be it further enacted*, That in case of death, resignation or refusal to act, or removal from the State of any of the Trustees, the remaining Trustees shall have the power to fill all vacancies, and to add to their number, provided they shall never have more than thirty nor less than ten.

[Ratified 8th January, 1839.]

CHAPTER VII.

AN ACT to incorporate the Trustees of the Randolph Female Academy, in Randolph 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 Jonathan Worth, Alexander Gray, John B. Troy, Hugh McCain, George Hoover, James M. A. Drake, A. H. Marsh, H. B. Elliott, Jesse Larrance, S. B. Glenn and Samuel Hill and their successors, are hereby declared to be a body corporate and politic, to be known and distinguished by the name of the Trustees of the Randolph Female Academy, and by that name shall have succession, and shall be able and capable in law to have, receive, and possess any lands, tenements or goods that may be given them, and apply the same according to the will of the donor, or dispose of the same, if not forbidden by the terms of said gift; they may sue and be sued, plead and be impleaded in any Court of Law in this State, shall have power to appoint to any vacancies which may arise in the Board of Trustees, and establish such laws and regulations for the government of said institution, as may be necessary for the preservation of good morals, and do all such acts as are necessary for the establishment of said Academy.

II. *And be it further enacted,* That three of said Trustees shall be a sufficient number to do and perform any business appertaining to said Academy.

III. *Be it further enacted,* That this Act shall enure and continue in force for the space of thirty years, and no longer.

[Ratified 8th January, 1839.]

BRIDGES.

CHAPTER VIII.

AN ACT to authorize the construction of a Bridge across Trent 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 Richard D. Spaight, Thomas J. Emory, Thomas J. Pasteur, to erect a Bridge across the Trent River, at Swimming Point, near the town of Newbern, from the land on the North side of said River, at said Point, to the land on the South side of the same, by themselves, and in company with those whom they may associate with themselves; which said Bridge shall have a well-constructed Draw overhanging the channel of said River, sufficient to admit the passage of all vessels ascending and descending said River; and when the said Bridge shall be completed, it shall and may be lawful for the proprietors thereof to erect a toll gate thereon, or on some part of the road leading thereto, and the following shall be the usual rate of toll, viz: for a foot passenger, five cents; for a single horse or mule, ten cents; for a man and horse, fifteen cents; for a two-wheel carriage, drawn by one or two horses, mules or oxen, forty cents; for every four-wheel carriage, drawn by one horse, mule or ox, fifty cents; for every four-wheel carriage, drawn by two or more horses, mules or oxen, seventy-five cents; for all neat cattle, ten cents each, and for all hogs and sheep, five cents each.

II. *Be it further enacted,* That when it shall be required by petition of the proprietors of said Bridge, the County Court of Craven shall order the Sheriff of Craven to summon a Jury of good and lawful men to lay off a road from the foot of said Bridge, on the South side of Trent River, to some convenient place of intersection with the road which now leads from the Newbern Ferry to Beaufort, and also to lay off another road from the foot of said Bridge, on the North side of said River, to some convenient place of intersection with the road leading

from Pembroke Ferry to the town of Newbern; and the said Jury shall assess such damages as the owners of the land over which the said road shall run, may sustain thereby, to be paid by the proprietors of said Bridge; and on its appearing to the satisfaction of the County Court of Craven, that said road is a good and sufficient one, and in good repair, the same shall thenceforth become a public road.

III. *Be it further enacted*, That if any person shall wilfully and maliciously set fire to and burn the said Bridge, with an intent to destroy the same, he she or they shall be deemed guilty of felony, and shall be punished accordingly.

IV. *Be it further enacted*, That if the proprietors of said Bridge shall refuse or neglect to keep the said Bridge in good and sufficient repair, or let the same remain out of repair for and during the space of fifteen days, unless hindered by extreme bad weather, or the partial destruction of said Bridge, by storm, or other unavoidable accidents, they shall be liable to be indicted either in the County or Superior Court of Craven, and upon conviction, shall be fined at the discretion of the Court.

V. *Be it further enacted*, That the Bridge hereby authorized to be built shall be completed for the passage of carriages within two years from the passage of this Act, or the privilege and authority hereby granted shall cease and determine.

VI. *And be it further enacted*, That this Act shall be in operation from and after the passage thereof.

[Ratified 7th January, 1839.]

CHAPTER IX.

AN ACT to establish a Toll Bridge over the South Yadkin River, near Hall's Mills in Davie 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 Hall, of the county of Davie and State of North-Carolina,

his heirs and assigns, be, and the same are hereby authorised and empowered to keep up a Toll Bridge over the South Yadkin River, near Hall's Mills on said River, and to ask, demand and receive the following toll for crossing the same, to-wit: for every four-wheel carriage of pleasure, fifty cents; for every wagon with four horses, fifty cents; for every two-wheel carriage of pleasure, twenty-five cents; for every wagon with one or two horses, twenty-five cents; for every cart, twenty cents; for every horse, five cents; for every person on foot, five cents; for every cow, sheep or hog, three cents.

[Ratified 15th December, 1838.]

CHAPTER X.

AN ACT to authorize Archibald K. S. Hunter, of Cherokee County, to move the Bridge by him built across Hiwassee 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 Arch'd. K. S. Hunter, of Cherokee county, his heirs and assigns, be, and they are hereby authorized to move his Bridge across Hiwassee River, one fourth of a mile higher up and above the mouth of Valley River, so as to meet the State Road where it crosses Hiwassee in the Lower land, and that, as soon as the said Bridge can be moved and put in order for travellers, the said A. K. S. Hunter, his heirs and assigns, shall be authorized to demand and receive the same tolls as are now allowed by law for crossing said Bridge.

II. *Be it further enacted,* That one acre of ground (in a square) around the abutment on the West side, shall be allowed for the use of the Bridge: *Provided, however,* the said A. K. S. Hunter, his heirs and assigns, shall first pay to the Treasurer of the State the price per acre for second quality land, and the Secretary is hereby authorized, on the receipt of the Treasurer, to issue a grant for the same.

[Ratified 3th January, 1839.]

CHAPTER XI.

AN ACT to authorize the Justices of the Court of Pleas and Quarter Sessions for the County of Perquimons to purchase the Float Bridge across Perquimons River, and to confirm all contracts for 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 the Court of Pleas and Quarter Sessions for the County of Perquimons, a majority of the Justices being present, are hereby authorized and empowered to purchase the Float Bridge across Perquimons River, adjoining the town of Hertford, for the benefit of said County.

II. *And be it further enacted,* That all contracts for the purchase of said Bridge, which have hitherto been made by the Justices of said county, for the benefit of said county, are hereby ratified and confirmed, and the Justices aforesaid are hereby empowered to receive title to, and to hold said Bridge, as Trustees, for the county of Perquimons, and to exact or remit the usual lawful toll for the passing thereof, as to them may seem most conducive to the benefit of the people of said county.

III. That said Justices, as Trustees aforesaid, shall keep said Bridge in good and sufficient repair, and in default thereof, they shall be liable to damages in all such suits or complaints in law, as have been heretofore allowed in similar cases.

[Ratified 15th December, 1838.]

COLLEGES.

CHAPTER XII.

AN ACT to incorporate the Trustees of "Greensborough Female College," 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 J. J. M. Lindsay, Andrew Lindsay, George C. Mendenhall, Edward T. Broadnax, George Wilson, John J. Alston, Jesse Harper, Boaz Adams, George W. Jeffreys, Benton Field, Moses Brock, Samuel S. Bryant, Peter Doub, James Reid, Bennet T. Blake, Hezekiah G. Leigh, John Hank, Robert O. Burton, William Compton, and William E. Pell, 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 Greensborough Female College, and by that name shall have succession, and so continue for the term of fifty years, and a common seal, and that the said Trustees and their successors, by the name aforesaid, or a majority of them, shall be able and capable in law to take, demand, receive, and possess all monies, goods, and chattels, and choses in action, that shall be given them for the use of the said College, and by gift, purchase and demise, 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 benefit of said College, and that said Trustees shall have such other powers, and enjoy such other rights, as are usually incident to corporate bodies.

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; and further, that they the said Trustees

or a majority of them, and their successors for the term aforesaid, shall be able and capable in law to sue and be sued, plead and be impleaded, in all Courts whatsoever, either in Law or in Equity, of record, or otherwise.

III. *And be it further enacted*, That there shall not be less than twenty nor more than forty in number of the Trustees at any time for said College, and that one half, and not more of the number of said Trustees, shall at all times be members of the North Carolina Conference, of the Methodist Episcopal Church, and that on the death, resignation, or refusal to act of any of the Trustees, for the time being, or the removal of any one from office, by the concurrence of two-thirds present, for neglect of duty or other cause, the vacancy or vacancies so happening, shall be filled by appointment of other Trustees, to be made by the North Carolina Conference of the Methodist Episcopal Church, which Trustees so appointed shall be vested with the same power, trust, and authority, as the others.

IV. *And be it further enacted*, That the said Trustees and their successors, or a majority of them, shall have the power of appointing a President and such Professors and Tutors as to them shall appear necessary and proper for said College, whom they may remove for misbehaviour, inability or neglect of duty, and may, from time to time, make such bye-laws and regulations for their own government, and that of the College, and the preservation of order and good morals therein, as to them may appear expedient: *Provided*, the same are not inconsistent with the Constitution and laws of the State: *And provided further*, if a majority of said Trustees shall not convene for the purposes aforesaid, it shall and may be lawful for seven of said Trustees and their successors to form a quorum to do business, and may, from time to time, make necessary bye-laws and regulations.

V. *And be it further enacted*, That any real estate, over and above three 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.

VI. *And be it further enacted*, That the Faculty of the Greensborough Female College, that is to say, the President, Professors and

Teachers, by and with the consent of the Trustees, shall have the power of conferring all such degrees, or marks of literary distinction, as are usually conferred in Colleges and Seminaries of learning.

VII. *Be it further enacted*, That the whole amount of real and personal estate belonging to said College, shall not, at any one time, exceed in value two hundred thousand dollars.

VIII. *And be it further enacted*, That this Act shall take effect and be in force from and after its ratification.

[Ratified 28th December, 1838.]

CHAPTER XIII.

AN ACT to incorporate the Trustees of Davidson College.

WHEREAS the Constitution of North-Carolina provides that all useful learning shall be encouraged and promoted by the establishment therein of one or more Colleges; and whereas many worthy citizens of this State have, by petition, respectfully manifested their earnest desire for the establishment of a College in the Western part thereof, to educate youth of all classes, without regard to the distinction of religious denominations, and thereby promote the more general diffusion of knowledge and virtue:

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 John Robinson, Ephraim Davidson, Thomas L. Cowan, Robert H. Burton, Robert H. Morrison, John Williamson, Jos. W. Ross, Wm. L. Davidson, Charles W. Harris, Walter S. Pharr, Cyrus L. Hunter, Jno. D. Graham, Robert Potts, Jas. M. H. Adams, David A. Caldwell, William B. Wood, Moses W. Alexander, sen., D. C. Mebane, James W. Osborne, Henry A. Pharr, John M. Wilson, P. J. Sparrow, James G. Torrence, Charles L. Torrence, John L. Daniel, P. E. Bishop, G. W. Dunlap, and John Springs, and their successors duly elected and appointed in the manner as hereinafter directed, be, and they are here-

by made, constituted and declared to be a corporation and body politic and corporate in law and in fact, to have continuance fifty years, by the name, style and title of the "Trustees of Davidson College," and by the name and title aforesaid, to have perpetual succession and a common seal, and shall forever hereafter be persons able and capable in law to take, receive and hold all manner of lands, tenements, rents, annuities, and other hereditaments, which at any time or times heretofore, have been granted, bargained, sold, released, devised, or otherwise conveyed, and the same lands, rents, annuities, and other hereditaments are hereby vested in the said corporation and their successors forever; also that the said Trustees and their successors, at all times hereafter, shall be able and capable to purchase, have, receive, take, hold and enjoy in fee simple, or lesser estate or estates, any lands, tenements, rents, annuities or other hereditaments, by the gift, grant, bargain, sale, alienation, release, confirmation or devise of any person or persons, or bodies corporate or politic, capable and able to make the same; and further, that the said Trustees and their successors, under the corporate name aforesaid, shall be able and capable in law to take, receive and possess all monies, goods and chattels that have been given, or shall be hereafter given, sold, released or bequeathed, by any person or persons, for the use of said College, and the same to apply according to the will of the donors; and all such lands, rents, tenements, hereditaments, monies, goods and chattels, of what kind, nature or quality soever the same may be, the said Trustees and their successors to have, hold, possess and use in special trust and confidence, for the purpose of establishing and endowing said College, at the site heretofore selected therefor in the county of Mecklenburg.

II. *And be it further enacted by the authority aforesaid,* That the said Trustees and their successors, by the name aforesaid, shall be able and capable in law to bargain, sell, grant, convey and confirm to the purchaser or purchasers, such lands, rents, tenements and hereditaments aforesaid, when the condition of the grant to them, or the will of the deviser, does not forbid it; and further, that the said Trustees, and their successors, by the name aforesaid, shall be able and capable in law to sue and be sued, to plead and be impleaded, answer and be answered,

•

in all Courts of Record whatever, in all manner of suits, complaints, pleas, matters and demands.

III. *And be it further enacted by the authority aforesaid*, That the said Trustees and their successors shall be, and are hereby authorized and empowered to make, ordain and establish such bye-laws, ordinances and regulations for the government of said College, and the preservation of order and good morals therein, as are usually made in such Seminaries, and to them may seem necessary: *Provided*, the same be not repugnant to the Constitution and Laws of this State or of the United States.

IV. *And be it further enacted by the authority aforesaid*, That the said Trustees and their successors shall have power and authority to make and use a common seal, with such device and inscription as they may think fit and proper, and the same to alter and renew at their pleasure.

V. *And be it further enacted by the authority aforesaid*, That the said corporation shall not consist of more than forty-eight members, one fourth of whom shall go out of office every year, subject however to re-election; and that the number of members necessary to make up the complement, not appointed by this Act, and to keep up the succession of Trustees, shall be from time to time appointed by the Presbyteries of Concord, Morganton and Bethel, and such other Presbytery or Presbyteries in the State of North-Carolina, as may hereafter become associated with them in patronizing said College, in such manner as may be mutually agreed upon by said Presbyteries and the corporation aforesaid: *Provided, nevertheless*, that in case the said Presbyteries fail at any time to make such necessary appointments, then the right of election shall devolve upon, and be exercised by the aforesaid Trustees and their successors.

VI. *And be it further enacted by the authority aforesaid*, That the Presbyteries aforesaid, with whatever other Presbytery or Presbyteries may become associated with them in patronizing said College, shall be authorised and empowered, whenever necessary and expedient, to appoint a President of said College, and such Professors and Tutors,

or other officers, as to them may appear necessary and proper, in such manner as may be mutually agreed upon: *Provided nevertheless*, that should said Presbyteries fail at any time to make such appointments as may become necessary for the instruction and government of said College, then the election of such officer or officers shall be made by the Trustees aforesaid and their successors.

VII. *And be it further enacted by the authority aforesaid*, That the Faculty of said College, that is the President and Professors, by and with the consent of the Trustees, shall have the power of conferring all such degrees or marks of Literary distinction as are usually conferred in Colleges or Universities.

VIII. *And be it further enacted by the authority aforesaid*, That the aforesaid Trustees and their successors, shall, and may as often as they shall see proper, according to rules by them to be prescribed, elect out of their number a President, and shall have authority to appoint a Treasurer, Secretary, and such other officers or servants as shall by them be deemed necessary, to continue in office for such time, and to be succeeded by others, in such manner as the said Trustees shall direct; and further, that not less than nine of said Trustees shall be required to constitute a quorum for the transaction of business.

IX. *And be it further enacted by the authority aforesaid*, That it shall not be lawful for any person or persons to set up or continue any gaming or Billiard table, or any device whatever for playing at any game of chance or hazard, by whatever name called, or to exhibit any slight of hand, theatrical or equestrian performances, dramatic recitations, rope or wire dancing, or other itinerant, natural or artificial curiosities, or to receive or use any license to retail spirituous liquors or otherwise to sell, give or convey, to the Students of said College, any intoxicating liquors, within two miles of the said College, without the special permission in writing of the Faculty of said College; and any person or persons who shall offend against the provisions of this Act, or any of them, shall forfeit and pay the sum of two hundred dollars, to be recovered in any Court of record having cognizance of the same, one-half to the use of the informer, and the other half to the use of said College.

X. *Be it further enacted*, That the whole amount of real and personal estate belonging to said corporation, shall not at any one time exceed in value the sum of two hundred thousand dollars.

XI. *Be it further enacted*, That whenever the said College shall hold and possess lands, exceeding in quantity five hundred acres, including the College buildings, it shall for such excess, pay into the public Treasury the usual Tax.

XII. *And be it further enacted by the authority aforesaid*, That this Act shall take effect and be in force, from and after its ratification.

[Ratified 28th December, 1838.]

CHAPTER XIV.

AN ACT to amend an Act, entitled an Act to establish a Literary and Manual Labor Institution in the County of Wake, passed in one thousand eight hundred and thirty-three.

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 shall continue and be in full force and operation, except so far as it may be hereby repealed, for the term of fifty years from the expiration of the present charter now to be amended, and that the successors of the Trustees hereby appointed, shall continue to possess and enjoy all the rights and privileges thereby granted, and that in future, they shall be known by the name and style of the Trustees of Wake Forest College, and by that name shall have succession, and may take, demand, receive, possess, and enjoy, all property or monies which may be acquired by them, by gift, devise, or otherwise, provided the same shall not exceed in amount two hundred thousand dollars, and shall dispose of the same in promoting learning and virtue in the establishment aforesaid, situated in Wake Forest, in the County of Wake, according to the will of the donor or donors thereof

II. *Be it further enacted*, That the Faculty of said Wake Forest College, that is to say, the President and Professors, by and with the consent of the Trustees, shall have the power of conferring all such degrees or marks of Literary distinction, as are usually conferred in Colleges or Universities.

III. *Be it further enacted*, That if any member of the Trustees of said College shall fail to give his personal attendance at any of the meetings of said Board, for the term of three years, the seat of said absent Trustee shall be, and it is hereby declared to be vacated, and the Trustees are hereby authorized to fill the same, as is provided in the Act aforesaid, and that said Trustees may also remove any member of their Board for improper conduct: *Provided*, that the cause thereof shall be entered on their journal, and that the member to be proceeded against shall have three months notice of the procedure, and that a majority of two-thirds of the Trustees then assembled shall be necessary to effect such removal.

IV. *Be it further enacted*, That the lands and other property belonging to the said Trustees for the benefit of said College, shall be, and the same is hereby exempted from all kinds of public taxation, provided the amount of lands so exempted shall not exceed at any time six hundred acres.

V. *Be it further enacted*, That no license to retail spirituous liquors at the site or within one mile of said College shall be granted, and if granted, the same shall be void.

VI. *Be it further enacted*, That no person shall set up or keep any Billiard Table or other public table constructed or erected for playing games of chance by whatever name called, and no person shall exhibit any theatrical, slight of hand or equestrian performance, dramatic recitation, rope or wire dancing, or natural or artificial curiosities at the College aforesaid, or within one mile thereof, without the permission in writing of the Faculty thereof, and any person or persons offending herein, or who shall sell, give, or convey to the Students of said College, any intoxicating liquors at or within one mile of said College, without the special permission in writing of the Faculty of said College, shall forfeit and pay the sum of one hundred dollars, to be recovered in any Court of record having cognizance of the same, one-half to the

use of the informer, and the other to the College, and any person or persons offending herein, shall be guilty of a misdemeanor, and upon conviction in the County or Superior Court of Wake, shall be fined at the discretion of the Court.

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

[Ratified 28th December, 1838.]

CONSTABLES.

CHAPTER XV.

AN ACT to alter the mode of electing Constables in this State, so far as relates to the county of Martin.

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 Courts of Pleas and Quarter Sessions of the county of Martin, which shall be commenced and holden next after the first of January ensuing, seven of the acting Justices being present, may nominate and appoint as many persons of their said county to be Constables for one year, as they may judge necessary and expedient, in each and every year—any law to the contrary notwithstanding.

II. *Be it further enacted*, That the Constables appointed by the authority aforesaid shall be subject to the same rules, regulations and restrictions as are now prescribed by law, and that all laws and clauses of law, coming within the meaning and purview of this Act, be, and the same are hereby repealed.

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

[Ratified 15th December, 1838.]

CORPORATIONS.

CHAPTER XVI.

AN ACT to incorporate the Cape Fear and Western Steam Boat Company 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 Duncan G. MacRae, of the Town of Fayetteville, and such other persons as he may hereafter associate with him, shall be and are hereby created, constituted and declared to be a body corporate and politic, in fact and in name, by the name of the "Cape Fear and Western Steam Boat Company of North-Carolina," and by that name, he and they, and their successors, may and shall have succession, and shall be in law capable of suing and being sued, answering and being answered, defending and being defended, in all Courts, and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may have a common seal, and make, change, and alter the same at their pleasure.

II. *Be it further enacted,* That the Capital Stock of said Company shall consist of Thirty thousand dollars, divided into shares of one hundred dollars each.

III. *Be it further enacted,* That the said Company shall and may, in addition to the Boats they now have navigating the Cape Fear River, purchase or build one or more Steam Boats, and other necessary Tow boats, Flats or Lighters, to be employed in the same navigation, and shall be capable in law of holding land in the Towns of Fayetteville and Wilmington, for the erection of Wharves and Warehouses, requisite for the landing and storing of articles conveyed in said Boats.

IV. *Be it further enacted,* That the said Company shall have power and authority from time to time to make all necessary rules, regulations and bye-laws, for the government and direction of the concerns thereof, not inconsistent with the Constitution and Laws of this State,

or of the United States, providing therein for the appointment of the officers and managers of said Company, the disposition and transfer, and mode of representation of stock, the establishing of the rates of freight, and all other matters necessary to carry into effect the objects of their incorporation.

V. *Be it further enacted*, That said Company, for and in consideration of the corporate privileges granted by this Act, shall carry freight at twenty per cent. below the printed rates of one thousand eight hundred and twenty-five, of the Henrietta Steam Boat Company.

VI. *And be it further enacted*, That this Act shall be in force from and after the first day of January, one thousand eight hundred and thirty-nine, and shall continue in force for ten years, and no longer.

[Ratified 3d January, 1859.]

CHAPTER XVII.

AN ACT to incorporate the "Phoenix Company," in the Town of Fayetteville, Cumberland 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 James H. Hooper, John S. Pearson and Charles P. Mallett, their associates, successors and assigns, be, and they are hereby created a corporation and body politic in law and in fact, by the name and style of the "Phoenix Company," and by that name and style may sue and be sued, plead and be impleaded, in any Court of Record, contract and be contracted with, have perpetual succession and a common seal, and acquire, possess, enjoy and retain real and personal estate, and shall so continue until the first day of January, one thousand eight hundred and sixty.

II. *Be it further enacted*, That said corporation shall have power to establish Factories and Mills for the manufacture of Wool and Cotton, in their various branches, upon Cross Creeks, in the town of Fay-

etteville and county of Cumberland, and for no other purpose whatsoever.

III. *Be it further enacted*, That said corporation shall have power to make all necessary bye-laws and regulations for its good government, not inconsistent with the Laws and Constitution of the State, and shall have power to appoint their officers and agents, to transact their business and conduct their operations.

IV. *Be it further enacted*, That the capital stock of said Company shall consist of seventy-five shares of one thousand dollars each.

V. *Be it further enacted*, That an annual meeting of the stockholders, in person or by proxy, shall be holden in the town of Fayetteville, on the first Monday in June in each and every year, at which meeting, proper officers shall be appointed to conduct the business of said corporation, who shall hold their office for one year, or until their successors be chosen: but nothing in this clause shall be so construed as to prevent general meetings whenever the interest of the Company may require it.

VI. *Be it further enacted*, That the stockholders of said Company, in general meeting, shall have power to adopt rules and regulations with regard to certificates and evidence of stock, and transfers and assignments of the same, and may have power to increase their capital stock, whenever the business of said Company may require it, to an amount not exceeding two hundred thousand dollars, in addition to the capital stock herein granted.

VII. *Be it further enacted*, That each stockholder shall vote according to the following scale, that is to say: for each share, not exceeding five shares, one vote; for every four shares above five shares, not exceeding thirteen shares, one vote; and for every ten shares above thirteen shares, one vote.

VIII. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of their proceedings, in a book or books provided for that purpose, and shall produce said record in any Court of Justice, when required by said Court.

IX. *Be it further enacted*, That the proper officers of said Company, when expedient, shall semi-annually declare dividends of the nett profits thereof.

X. *Be it further enacted*, That the private property of the individual stockholders shall be liable for all the debts, contracts and liabilities of the corporation, in proportion to the stock subscribed by each individual.

XI. *And be it further enacted*, That this Act shall take effect and be in full force from and after its ratification.

[Ratified 7th January, 1839.]

CHAPTER XVIII.

AN ACT to incorporate the Hiwassee Turnpike 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 Felix Axley, John Tatham, Singleton Red, George W. Lovingood and D. F. Ramsour, or a majority of them, are hereby appointed Commissioners to open books and receive subscriptions of stock to the amount of three 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 Murphey, and at such other places as a majority of them may think proper, on the first day of April next, after giving due notice of the time and places, by public advertisement, at least fifteen days previous.

II. *Be it further enacted*, That the aforesaid capital stock of three thousand dollars shall be divided into shares of twenty dollars each, which shall be applied in laying out and marking a Turnpike Road from the town of Murphey, in the late purchase, the nearest and best way to the Tennessee line, either in the direction of the old Unacoy Road, or down the Hiwassee River, as the Company hereby incorporated may think best, the Road to be made sixteen feet wide, clear of obstructions, except where side cutting may be necessary, in which case the Road may be twelve feet wide, and the declivities shall not exceed one foot perpendicular to eight feet horizontal.

III. *Be it further enacted*, That as soon as one thousand five hundred dollars shall be subscribed, it shall be the duty of the Commissioners to call a general meeting of the stockholders in the town of Murphey; and if the stockholders owning a majority of all the shares subscribed for, shall attend, it shall and may be lawful for them 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 Hiwassee 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, have perpetual succession and a common seal, and shall have and possess all the rights and privileges necessary to carry into full effect the objects of this corporation.

IV. *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 the proportion following, that is to say: for one share, and not more than two, one vote; for every two shares above two, and not above ten, one vote; for every four shares above ten, and not exceeding fifty, one vote; and for every ten shares above fifty, one vote; and 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.

V. *Be it further enacted*, That the owners of a majority of all the Shares subscribed, shall at any time have power 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 monies belonging to the Company, and keep a fair account of the same, and to do and perform all such duties as may be required of him in relation to his office.

VI. *Be it further enacted*, That the stockholders at their first gen-

eral meeting, shall fix on the time and proportions in which the Stock subscribed shall be paid, and shall further have power to declare the stock of delinquent subscribers forfeited.

VII. *Be it further enacted*, That when the Road shall be completed as directed in 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 tolls at the following rates, that is to say, for a man and horse ten cents; for loose horses and mules, five cents; for cattle, two cents each; hogs and sheep one cent each; for six horse wagons, seventy-five cents; five horse wagons, sixty-two and a half cents; four horse wagons, fifty cents; two or three horse wagons, thirty-seven and a half cents; one horse wagon, twenty-five cents; four wheeled carriages of pleasure, seventy-five cents; gig, or sulkey, or cart, twenty-five cents: *Provided however*, That no toll shall be collected, until the Road shall have been viewed and received by a commissioner or commissioners appointed by the County Court for that purpose.

VIII. *Be it further enacted*, That before any toll shall be collected, the County Court of Cherokee shall appoint one or two commissioners for the purpose of viewing and receiving said Road, if made in accordance with the provisions of this Act, and to see at all times whether it is kept up, and if at any time the Company shall suffer the Road to get out of order, and remain so for the space of twenty days, the President and Directors shall be subject to indictment in any Court of record, and on conviction, shall be fined at the discretion of the Court, and shall also be compelled to open the gate, and keep it open until the Road shall be put in good repair, and the commissioners shall receive one dollar each for every day he or they may be necessarily engaged in viewing and making return of said Road to the Court aforesaid, to be paid by the Company.

IX. *Be it further enacted*, That if any person or persons shall, for the purpose of avoiding the payment of the above tolls, either break through or go round the toll gate, they shall be subject to pay five dollars, and be further liable to damages, to be recovered before any Court or Justice of the Peace for said county.

X. *Be it further enacted*, That the powers and authorities hereby granted shall expire on the thirty-first day of December, in the year one thousand eight hundred and fifty-eight.

[Ratified 8th January, 1839.]

CHAPTER XIX.

AN ACT to incorporate the Buncombe Warm Springs 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 W. Patton and John E. Patton, and their associates, and all those who may hereafter become associated with them, at the Warm Springs, in the county of Buncombe, in business, in building, furnishing and keeping a Hotel, together with all and every branch of business belonging thereto, or being necessary or convenient in the prosecution of the said business, be, and they are hereby incorporated under the name and style of the “Buncombe Warm Springs Company,” and under such name shall have succession, may sue and be sued, plead and be impleaded, defend and be defended, as a body politic and corporate, may acquire, hold, sell and transfer property, both real and personal, may have and use a common seal, and the same to change or alter at their discretion, and shall have all other privileges and powers to which corporations are entitled.

II. *Be it further enacted*, That the said Company, their successors and assigns, or a majority of them, shall have power to appoint such officers as to them shall seem necessary, and to pass all such by-laws, rules and regulations for the government of said Company, and the management of its business, as they shall deem advisable, not inconsistent with the Constitution or Laws of the State, or of the United States.

III. *And be it further enacted*, That the capital stock of the Company shall not exceed one hundred and fifty thousand dollars, in shares of one hundred dollars each; and that this Act shall be in force from and after the ratification thereof.

[Ratified 8th January, 1839.]

CHAPTER XX.

AN ACT to incorporate the North-Carolina Mutual Fire Insurance 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 H. N. Williams, Joshua A. Pool, John C. Ehringhaus, James Barber, George Storey, Joseph H. Pool, John J. Grandy and C. R. Kinney, and such other persons as shall hereafter be associated with them under the rules and regulations hereinafter prescribed, shall be a corporation, by the style of the "North-Carolina Mutual Fire Insurance Company," and that they and their successors and assigns shall enjoy all the privileges and powers incident to corporations, and be subject to all the liabilities incident thereto.

II. *Be it further enacted*, That the property and business of said corporation shall be managed by a President and not less than five, nor more than ten Directors, to be annually chosen by the stockholders; and in case that no election should be made at the expiration of any one year, the President and Directors of the preceding year shall be held and deemed to be and remain in office until an election take place.

III. *Be it further enacted*, That every person insuring property to the amount of five hundred dollars, shall be a member of said corporation, and stockholder to the amount of the deposit note and premium, and be entitled to one vote for each five hundred dollars he may insure: *Provided, however*, that no member, upon his own stock, shall be entitled to more than ten votes; each member may constitute a

proxy at any meeting of the corporation; every person insuring in said corporation shall, in addition to the premium demanded by the corporation, execute his note to the President and Directors, for not less than two nor more than ten per cent. on the amount insured—which note shall create a lien upon all the property insured, and land on which the building stands, and shall be deposited in the office of said corporation, to constitute a fund to indemnify against loss. Whenever any loss may happen, it shall be the duty of the President and Directors of the corporation, on ascertaining the amount to be paid, to assess upon the notes so deposited, an amount sufficient to pay such loss, and give notice of such assessment in two Newspapers printed in the State, one of which shall be in Raleigh, and the members shall thereupon, within thirty days, pay the amount assessed on their deposit notes; and in default thereof, it shall be lawful for the President of the corporation to advertise the property insured ten days in the Papers aforesaid, and expose it to sale, for the purpose of securing the amount, or put the same in suit in any Court of Record held in the county of Pasquotank, and recover judgment, to be discharged by paying the amount thereon assessed and costs of suit. The corporation shall have full power to insure buildings and goods of all descriptions, against any loss by fire, in the manner and on the plan above set forth, to any amount it may deem advisable; and whenever the amount insured and secured in the manner above set forth, shall amount to two hundred and fifty thousand dollars, the corporation shall have full power and authority to insure buildings and goods at such premiums as it may deem advisable, without admitting the insured as members of the corporation.

IV. *Be it further enacted*, That all monies which shall be received by said corporation, for premiums, shall, under the direction of the President and Directors, be invested in stock, notes, bonds, or other productive securities, and the same, with the income thereof, be appropriated to pay the expenses of said corporation, losses which may occur, or in return dividends to the members of said corporation.

V. *Be it further enacted*, Whenever the President and Directors shall have notice of any loss, the same shall be paid within thirty days after notice thereof shall, in writing, have been given the President

and Directors, provided the funds of the corporation be sufficient; and if insufficient, the President and Directors shall, within thirty days after such notice, cause an assessment to be made on the deposit notes, sufficient to pay such loss, and shall proceed in the manner hereinbefore pointed out, to collect such assessment, and from the collection so made, shall, within ninety days from said notice, pay the loss to the insured; and in default of such assessment, and faithful exertion to collect the sums assessed, they shall be personally responsible to the sufferers for the amount of loss. In any suit or suits to be commenced against the corporation, notice to the President or any one of the Directors shall be sufficient service to compel the corporation to appear and plead, or in default thereof, judgment shall, as in other cases, be entered up against it. Any judgment obtained against the corporation shall constitute a lien upon all the deposit notes and all other property of the corporation. Suits may be brought against the corporation in the Superior Courts of the counties of Wake and Pasquotank. The corporation shall continue to exist for thirty years from the rising of the General Assembly.

VI. *Be it further enacted*, That the office and records of said corporation shall be kept in such place in Elizabeth City, in the county of Pasquotank, as the President and Directors shall from time to time provide; and the annual meeting of said corporation shall be held in Elizabeth City, on the first Monday in February.

VII. *Be it further enacted*, That H. N. Williams is hereby authorized to call the first meeting of said corporation, at such time and place, in Elizabeth City, as he may think proper, giving notice thereof in one or more Newspapers published in this State, at least fourteen days before said meeting.

[Ratified 8th of January, 1839.]

CHAPTER XXI.

AN ACT to incorporate the Washington 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 there shall be established in the County of Davidson, a Mining Company, by the name and style of the Washington Mining Company, with a capital of five hundred thousand dollars, divided into shares of one hundred dollars each; that Roswell A. King and John W. Thomas, and such other persons as they may associate with them, are hereby appointed Commissioners, and are authorized at such time and place as they, or a majority of them may deem proper, after ten days public advertisement of the same, to open books for the purpose of receiving subscriptions for shares of stock in said corporation, and that the said Commissioners are hereby authorized to receive in payment, or part payment of stock subscribed, any Mining property, at such valuation as they may deem just and reasonable, and that upon, and at the time of subscribing, the sum of five dollars on each and every share, shall be paid to said Commissioners.

II. *Be it further enacted,* That after the said stock shall have been subscribed, the Commissioners aforesaid, or a majority of them, shall call a meeting of the subscribers, by giving at least ten days public notice, who shall personally or by proxy, proceed to elect five Directors, and they from among themselves shall appoint a President, who, together with the other Directors, shall have power to make all rules, regulations and bye-laws, necessary for the management and well being of said Company, and in all general meetings of the stockholders, whether personally or by proxy, they shall vote in proportion to the number of shares they respectively own.

III. *Be it further enacted,* That the President and Directors shall have power to call in from time to time, as they may deem expedient by instalments, the whole or any part of the capital stock subscribed as aforesaid, and in case of the refusal or failure to comply with such requisition by any subscriber, the stock of such subscriber, together with the sum or sums theretofore paid by him, shall be forfeited to the

Company, and the said capital shall be considered as personal property, and shall be assignable and transferable under such rules and regulations as shall be prescribed by the bye-laws of said Company.

IV. *Be it further enacted*, That when the sum of twenty thousand dollars shall have been paid in, and not before, the stockholders, their successors and assigns, are hereby declared to be incorporated by the name and style of the "Washington Mining Company," and shall continue to exist as such for the period of fifty years, and may sue and be sued, plead and be impleaded, and possess and enjoy all the rights and privileges of a corporation or body politic, and also to make, have, and use a common seal, and the same to break, alter, and renew at pleasure; *Provided*, that the business of the Company shall be confined to purposes of Mining.

V. *Be it further enacted*, That the stockholders shall meet annually at such place as the Directors shall deem most convenient for the stockholders, for the purpose of electing five Directors from their body, which Directors shall appoint one of their own number as President, who, with the other Directors, shall appoint the other officers of the said Company, and make rules and regulations for the management of the same.

VI. *Be it further enacted*, That any legal process against said corporation, may be served on the President thereof, or in case he is out of the State, service of the same on any Director, or if there be no Director in the State, service of the same on any stockholder shall be sufficient, and the property of the corporation, of whatever kind or nature, shall be liable to the satisfaction of the debts of said corporation, and be subject to be levied on by execution, attachment, or other legal or equitable process, and sold.

VII. *Be it further enacted*, That this Act shall take effect and be in force immediately from and after the ratification thereof.

[Ratified 7th January, 1839.]

COUNTY TRUSTEE.

CHAPTER XXII.

AN ACT providing for the appointment of a County Trustee and Treasurer of Public Buildings in the County of Columbus.

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 County Court of Columbus County, a majority of said Justices being present, shall, during the sitting of their respective Courts, to be held next after the first day of January, in each and every year, appoint a County Trustee and Treasurer of Public Buildings, under the rules and regulations already provided for the appointment of said officers; any law to the contrary notwithstanding.

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

[Ratified 8th January, 1839.]

COURTS.

CHAPTER XXIII.

AN ACT to change the time of holding the Courts of Pleas and Quarter Sessions for the County of Wilkes.

WHEREAS, by some means, an error occurred in the revisal of the Revised Statute of this State, entitled "An Act concerning Courts of Justice, Practice, Pleas and Process," passed at the last Session of the

General Assembly, whereby the time of holding the Courts of Pleas and Quarter Sessions of the County of Wilkes, was entirely changed from the time at which they had usually been held: 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, the Courts of Pleas and Quarter Sessions of the County of Wilkes shall be commenced and holden on the first Monday after the fourth Monday in January, April, July and October, in each and every year, any law to the contrary notwithstanding.

II. *Be it further enacted,* That all process of whatsoever nature or kind, already issued, or which may hereafter be issued, shall be made returnable, and be returned to the Terms of said Court prescribed in the first section of this Act, and all jurors summoned, or who may hereafter be summoned to attend at the next Term of the Court of Pleas and Quarter Sessions of said County, shall give their attendance at the first Term of the said Court fixed by this Act.

III. *Be it further enacted,* That all suits or other matters now pending in the Court of Pleas and Quarter Sessions of the County of Wilkes, shall be set for hearing and determination, at the first Term of the said Court, which may happen in the year one thousand eight hundred and thirty-nine, in the same manner that they would have been at the time fixed for holding the said Courts by the Revised Statute aforesaid.

IV. *Be it further enacted,* That so much of the Revised Statute aforesaid, as comes within the meaning and purview of this Act, be, and the same is hereby repealed, and that this Act shall be in force from and after the ratification thereof.

[Ratified 1st December, 1838.]

CHAPTER XXIV.

AN ACT to alter the times of holding the Superior Courts of Law and Equity for the Counties of Stokes and 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 the Superior Courts of Law and Equity for the County of Stokes, shall be held in the Town of Germanton, on the second Monday after the fourth Monday in March and September, and that the Term of said Court for the County of Stokes, shall continue for two weeks successively, at the Spring and Fall Terms of one thousand eight hundred and thirty-nine; and that for the County of Guilford, shall be held in the Town of Greensborough, on the fourth Monday after the fourth Monday in March and September, in one thousand eight hundred and thirty-nine, and shall continue for one week only at each Term in said year.

II. *Be it further enacted,* That all process which has been or shall hereafter be issued from the Superior Courts of Law and Equity aforesaid, shall be returnable at the times of holding said Courts respectively, as herein prescribed.

III. *And be it further enacted,* That this Act shall be in force from and after its passage, and shall continue in force only for the Spring and Fall Terms of one thousand eight hundred and thirty-nine, after which, the said Courts of the aforesaid Counties of Stokes and Guilford, shall commence and be holden as now by law they are required to be.

[Ratified 4th January, 1839.]

CHAPTER XXV.

AN ACT to amend an Act, entitled "An Act concerning Courts of Justice, Practice, Pleas and Process," so as to alter the times for holding the County Courts of Person County, 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 first section of the Act of one thousand eight hundred and thirty-six, entitled "An Act concerning Courts of Justice, Practice, Pleas, and Process," be, and the same is hereby repealed, only so far as respects the appointment of the times for holding the Courts of Pleas and Quarter Sessions in the County of Person, and that in future the Courts of Pleas and Quarter Sessions of Person County shall be held on the third Monday of March, June, September and December, in each and every year.

II. *And be it further enacted, That all judgments, sentences, and acts, rendered, pronounced or performed by the said Court, since the passage of the Act aforesaid, shall be, and the same are hereby declared to be as valid and effectual to all intents and purposes, no matter when said Courts were holden, as if the said recited Act had never been passed.*

[Ratified 7th January, 1839.]

CHAPTER XXVI.

AN ACT to alter the time of holding the County Courts of Rowan.

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 for the county of Rowan shall hereafter be held on the first Monday in February, May, August

and November, in each and every year, under the same rules and regulations as are now provided by law, and all process shall be made returnable to the Court as altered by this Act.

II. *And be it further enacted*, That all laws or clauses of law, coming within the meaning and purview of this Act, be, and the same are hereby repealed: *Provided*, that nothing in this Act shall be construed to extend to the next Term of the Court of Pleas and Quarter Sessions of said county.

[Ratified 8th January, 1839.]

CHAPTER XXVII.

AN ACT authorizing the Justices of the Peace, in certain Counties in this State, to class themselves for holding the Courts of Pleas and Quarter Sessions.

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, a majority of the Justices in the following counties, viz: Beaufort, Wayne, Greene, Granville, Hertford, Yancy, Davidson, Rowan and Macon, shall and may have power to form their entire Magistracy into classes of five, or five and six Justices each, as said majority may see fit, three of whom shall be sufficient for holding the County Courts in their respective counties.

II. *Be it further enacted*, That after the classification aforesaid is made, tickets of each class so formed shall be deposited in a box, and at the time of drawing a Jury for the succeeding Court, one ticket of Justices shall be drawn for holding the Court; and it shall be the duty of the Sheriff, by himself or Deputy, to notify the Justices so drawn, that the duty of holding said Court devolves upon them.

III. *And be it further enacted*, That any Justice or Justices belonging to the county, who may see proper to do so, may go upon the

Bench, and exercise all the power and authority vested in them by law, as fully and effectually as though this Act had never been passed.

[Ratified 4th January, 1839.]

CHAPTER XXVIII.

AN ACT concerning the Court of Pleas and Quarter Sessions for the County of Iredell.

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 Terms of the Court of Pleas and Quarter Sessions of Iredell county, now held on the fifth Monday after the fourth Monday of March and September, shall be commenced and holden on the third Monday of May and November respectively, in each and every year, and that all process shall be issued and returnable accordingly.

II. *Be it further enacted,* That so much of the Revised Statute as comes within the meaning and purview of this Act, be, and the same is hereby repealed; and that this Act shall be in force from and after the ratification thereof.

[Ratified 15th December, 1838.]

CHAPTER XXIX.

AN ACT for the better regulation of the County Courts 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 the Court of Pleas and Quarter Sessions, held for the county of Rutherford, on the second Monday of January, shall hereafter be holden on the fourth Monday in February, in each and every year—any law, usage or custom to the contrary, notwithstanding.

[Ratified 4th January, 1839.]

INSPECTION LAWS.

CHAPTER XXX.

AN ACT to amend the Inspection Laws.

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 for the County of New-Hanover, a majority of the Justices of said County being present, shall at the Sessions at which they appoint Inspectors for the Town of Wilmington, also appoint one Inspector for each of the Saw Mills in the vicinity of said Town, for the inspection of Lumber only, and if either of the Inspectors appointed for the inspection of Lumber, at either of said Steam Saw Mills, shall fail, when called upon by the proprietors, or their agents, promptly, faithfully and diligently to discharge their duties as such, they shall for every failure, forfeit and pay to the party agrieved, the sum of fifty dollars, to be recovered before any Justice of the Peace.

II. *Be it further enacted*, That all Saw Mill and other Lumber on the Cape Fear River, and at the several ports belonging to the same, shall hereafter be governed by the following rules and inspection, viz: all sound boards and plank with square edges, showing heart one-half the length, and as near an equal thickness at both ends as may be, shall be merchantable, and also all sound boards and plank with square edges, and showing heart one-half the length, and as near an equal thickness at both ends as may be, and split not more than one-third of the length shall be merchantable; all sound scantling with square edges, and as near the same dimensions at both ends as may be, shall be merchantable; and all sound scantling with square edges two-thirds of their length, and the bark no more than one inch wide, and as near the same dimensions as may be at both ends, shall be merchantable, and all Saw Mill and other lumber, not being of the description aforementioned, shall be refuse.

III. *Be it further enacted*, That the fees for inspection of lumber shall be thirty cents for every thousand feet, and for ton or square timber, fifteen cents for every thousand feet.

IV. *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, and that this Act shall be in force from and after its ratification.

[Ratified 7th January, 1839.]

JURORS.

CHAPTER XXXI.

AN ACT to empower the Court of Pleas and Quarter Sessions of Buncombe, to draw Jurors for each week of the Superior Court of 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 the Court of Pleas and Quarter Sessions of Buncombe shall be authorized, as long as the Superior Court of said County is held two weeks, to draw Jurors for each week of said Court, and the Jurors shall be drawn in the following manner, to-wit: twelve for the first week, all of whom shall be citizens of Buncombe, and thirty from the Counties of Buncombe and Henderson for the second week, to make a grand and petit Jury; and the Clerk of the Court of Pleas and Quarter Sessions of Buncombe, is hereby required to make out a separate list of Jurors for each week, and also of those drawn from Henderson.

II. *Be it further enacted,* That this Act shall be in force from and after its ratification.

[Ratified 28th December, 1838.]

CHAPTER XXXII.

AN ACT making compensation to the Jurors for Columbus 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 in future, each and every person who shall be appointed and summoned, and shall attend the County and Superior Courts of Columbus

County, as Jurors, shall be allowed the sum of one dollar for each and every day's attendance.

II. *Be it further enacted*, That the County Court aforesaid, a majority of the Justices being present, shall, and they are hereby authorized and required to lay from year to year a tax sufficient on all polls, and other taxable property in said county, to pay the Jurors aforesaid, and that each Juror shall obtain a certificate from the Clerk.

III. *And be it further enacted*, That the tax so laid shall be kept for the purpose expressed in this Act, and promptly paid by the County Trustee, to each and every Juror, at the expiration of the Courts for which he has served.

[Ratified 7th January, 1839.]

CHAPTER XXXIII.

AN ACT to repeal the Act of Assembly of one thousand eight hundred and thirty-five, allowing compensation to Jurors in the County 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 hereafter, the Act of the General Assembly of one thousand eight hundred and thirty-five allowing compensation to the Jurors of Yancy county, be, and the same is hereby repealed—any law to the contrary notwithstanding.

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

[Ratified 28th December, 1838.]

MANUFACTURING COMPANIES.

CHAPTER XXXIV.

AN ACT to incorporate the Rocky Mount 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 William H. Battle, Amos J. Battle, Benjamin D. Battle, and Christopher C. Battle, and such other persons as may become associated with them, in the manner and for the purposes hereinafter mentioned, are hereby constituted a body politic and corporate, by and under the name and style of the "Rocky Mount Manufacturing Company," for the purpose of manufacturing Cotton and Woolen Goods, and for carrying on the Milling business, in all their various branches, at the Falls of Tar River, in the counties of Edgecomb and Nash; and by that name, they and their assigns and successors shall be, and hereby are authorized and empowered to purchase, take, hold, occupy, possess and enjoy, to them and their successors, any goods, chattels and effects, of whatever kind they may be, the better to enable them to carry on such business to advantage, and may purchase and hold real estate, not exceeding five hundred acres of land at or near the site of said Manufactory and Mills; may sue and be sued, contract and be contracted with, and may have and use a common seal, and alter the same at pleasure; and shall have power to make such bye-laws and regulations, not contrary to the laws of the United States, or of this State, as may be deemed expedient and proper for the government of said corporation.

II. The capital stock of said corporation shall not exceed five hundred thousand dollars, and said corporation may go into operation whenever and as soon as one hundred thousand dollars shall be taken up or subscribed for, and not before; and that a share of said stock shall be five hundred dollars, and shall be deemed and considered personal estate, and may be transferable only on the books of said Company, in such form as the Directors thereof shall prescribe; and the

said Company shall at all times have a lien upon all the stock or property of the members of said corporation, invested therein, for all debts due from them to said Company.

III. The stock, property and affairs of said corporation shall be managed by not less than three, nor more than seven Directors, one of whom they shall appoint their President, who shall hold their offices for one year, who shall be chosen within fifty days after the formation of said Company; and on the first Monday in April, every year thereafter, the President and Directors shall be elected, who shall be citizens of the United States—in which elections, and in all other meetings, the stockholders shall be entitled to one vote for every share held by them respectively, and may vote in person or by proxy, in such manner as may from time to time be prescribed in general meeting. The said Directors, or a majority of them, may choose a President, and in his absence, a President *pro tempore*; they shall have power to call special meetings of the stockholders, to supply vacancies in their own body, to appoint such officers, agents and clerks as the stockholders, in general meeting, shall authorize, to take bonds, with sufficient security, for the good conduct, fidelity and attention of such officers, agents and clerks, and to do all other acts and things, touching the affairs of the Company, not otherwise specially provided for. Dividends of the nett profits of the said Company, shall be made at such times as shall be determined by the stockholders in general meeting: *Provided*, that at no time shall the profits accumulate to an amount of more than fifteen per cent. of the capital stock, and remain so accumulated for more than six months; *And provided further*, that no dividend shall be made of any part of the capital stock, under the pretence of making a dividend of the profits, and that the surplus only of the property, effects and debts due to the Company, above the amount of its capital stock, responsibilities and debts due from it, shall be regarded as profits.

IV. A majority of the Directors shall form a quorum to transact business, and may sell and convey any part of the land, with the appurtenances, which they are hereby authorized to acquire and hold; and the said land and appurtenances, when sold, shall be considered real estate.

V. At any time within twelve months after the passage of this Act, books of subscription may be opened by the said William H. Battle, Amos J. Battle, Benjamin D. Battle and Christopher C. Battle, and by such other persons as they or any three of them may appoint, at such places as they may appoint, for the purpose of obtaining subscriptions to the said Company; and when the sum of one hundred thousand dollars shall be subscribed, the said William H. Battle, Amos J. Battle, Benjamin D. Battle and Christopher C. Battle, shall call a meeting of the stockholders, who shall meet at the time and place appointed, and proceed to the election of a President and Directors, as hereinbefore directed; and upon the subscription of one hundred thousand dollars of stock, and not before, the said stockholders shall be vested with the corporate powers and privileges hereinbefore granted: *Provided*, that nothing contained in this Act shall be construed to authorize or empower the said corporation to use their funds for any banking transaction.

VI. If any of the subscribers for stock in said Company shall fail to pay the amount of his subscription, at such time and in such instalments as he may be called on by the President and Directors of the Company, it shall be lawful for the Company to recover the same by action of debt in any Court of Record in this State, or to sell the stock of said delinquent subscriber, at such time and upon such terms as the said President and Directors may prescribe; and such delinquent shall receive no dividend, until the amount of such subscription shall have been paid.

VII. The stockholders, or a majority of them in interest, may, from time to time, enlarge the capital stock of said Company, by selling, or ordering their President and Directors to sell shares therein, at such times and in such manner, to such amount and at such price or prices as they, in general meeting, may direct, until the capital stock may reach the said maximum amount of five hundred thousand dollars; and upon all such additional stock being taken, the owners thereof shall, to all intents and purposes, be members of the Company hereby incorporated, and have equal privileges and powers with the original stockholders; and any premiums obtained, or losses sustained on such stock

shall be the common gain or loss of all the stockholders, in proportion to the capital stock owned by them respectively.

VIII. If there should be no election of President and Directors, at any annual meeting, as hereinbefore prescribed, those in office shall continue until the next annual election, or until an earlier election can be held by the stockholders in general meeting, at which a major part of the stock shall be represented, and elect the said officers.

IX. Upon the payment of the whole amount of their stock, subscribed by the stockholders respectively, the President and Directors of said Company shall issue to them a certificate or scrip for the number of shares subscribed by them respectively.

X. *Be it further enacted*, That in case of failure on the part of said corporation, that the private or individual property of the stockholders therein shall be subject by law to the payment of the debts of the corporation, in proportion to the amount of stock by them severally owned, and not otherwise.

XI. This Act shall be in force from and after its passage, and shall continue in force for and during the term of fifty years.

[Ratified 3d January, 1839.]

CHAPTER XXXV.

AN ACT to incorporate the High Shoals 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 Henry Fulenwider, and as many other persons as he may hereafter associate with him, be, and are hereby constituted a body politic and corporate, for the general purpose of manufacturing Iron in its various branches from ore, and from Iron when manufactured, under the name and style of the "High Shoals Manufacturing Company," and by that name and style shall sue and be sued, contract and be contracted with,

may hold real estate and personal estate for the purpose of Manufacturing aforesaid, and shall have power to make bye-laws and regulations, not contrary to the laws of the United States or of this State, as may be deemed expedient and proper for the government of the said corporation.

II. *Be it further enacted*, That the Capital Stock shall be two hundred thousand dollars; *Provided nevertheless*, that if in the first instance that amount be not subscribed, the Company may commence operations when thirty thousand dollars be subscribed, with liberty to said Company afterwards, at their pleasure, to enlarge it to two hundred thousand dollars aforesaid, the shares to be one hundred dollars each.

III. *Be it further enacted*, That after the Company aforesaid shall have been organized, it shall be their duty to choose five Directors, who shall be stockholders in said Company, in which elections, and in all other meetings, the stockholders shall be entitled to one vote for every share held by them respectively, and may vote in person or by proxy in such manner as may from time to time be prescribed in general meeting. The said Directors, or any three of them, may choose a President, and in his absence, a President *pro tem.*; they shall have power to call special meetings of the stockholders to supply vacancies in their own body, to appoint such officers, agents and clerks, as the stockholders in general meeting shall authorize, to take bonds with security for their good conduct, fidelity and attention to business. Dividends shall be made at such times as the said stockholders shall think proper.

IV. *Be it further enacted*, That the stock in said Company shall be deemed personal estate, and shall be transferred in such manner as the stockholders in general meeting shall prescribe; *Provided*, that nothing herein shall be so construed as to prevent said Company from selling or conveying any land or their appurtenances which they may hold, when sold, from being considered real estate.

V. *Be it further enacted*, Whenever any of the stockholders in said Company shall transfer their stock, they shall cease to be stockholders, and their transferee shall be subject to all rights and liabilities that the person transferring to him had before.

VI. *Be it further enacted*, That if any of the stockholders shall fail

to pay up their stock at the time and in the manner prescribed by the stockholders in general meeting, which they have subscribed respectively, it shall be lawful for the Company to recover the amount by action of debt in any Court of record in this State, and such delinquents shall receive no dividends until the amount of such subscription be paid.

VII. *Be it further enacted*, That if there should be no election of President or Directors at any meeting, as hereinbefore prescribed, the Directors then in office shall continue in office until the next meeting of Directors, or until an earlier election by the stockholders in general meeting, a majority being present, or by representation.

VIII. *Be it further enacted*, That within sixty days after the first meeting of the stockholders, all persons who are stockholders shall enter their names by themselves or agent, properly authorized, and also the amount of stock by them respectively subscribed, in a bound book prepared for that purpose by the President and Directors of said Company, and upon such persons so entering their names, and the amount of stock held by them, it shall be the duty of said President and Directors of said Company, to issue to such persons scrip, or a certificate of the number of shares subscribed by them respectively.

IX. *Be it further enacted*, That this Act shall be in force from and after the passage thereof, and shall continue in force for thirty years.

X. *Be it further enacted*, That each stockholder respectively shall be liable in his individual capacity to the extent of his stock subscribed, for the debts contracted by said Company after the property of the Company is first exhausted.

[Ratified 3d January, 1839.]

CHAPTER XXXVI.

AN ACT to incorporate the Lexington 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 Samuel Hargrave, Alfred Hargrave, John L. Hargrave, Franklin G. Hargrave, J. Hamilton Hargrave, James P. Humphreys, Charles L. Payne, John P. Mabry and James G. Cairns, their associates, successors and assigns, be, and they are hereby created a corporation and body politic in law and in fact, by the name and style of the "Lexington Manufacturing Company," for the purpose of manufacturing Cotton, and if they deem it expedient, Hemp, Wool, Flax, Silk and Iron, or either of these products, and by that name and style may sue and be sued, plead and be impleaded, in any Court of Record, contract and be contracted with, have perpetual succession and a common seal, and acquire, own and possess real and personal estate, and shall so continue until the first day of January, one thousand eight hundred and ninety.

II. *Be it further enacted, That said corporation shall have power to make all necessary bye-laws and regulations for its good government, not inconsistent with the Laws and Constitution of this State, and shall have power to appoint their officers and agents.*

III. *Be it further enacted, That the capital of said Company shall consist of not less than fifty-five thousand dollars, and not more than one hundred thousand dollars of shares of five hundred dollars each.*

IV. *Be it further enacted, That an annual meeting of the stockholders shall be holden at the Factory, on the third Thursday of January in each and every year, at which meeting, proper officers shall be appointed to conduct the business of said corporation, who shall hold their offices for one year, or until their successors are chosen; at such and all other meetings, the stockholders shall be entitled to vote in person or by proxy, one vote for every five shares held by them respectively: nothing in this clause shall be so construed as to prevent general meetings when the interest of the Company may require them.*

V. *Be it further enacted*, That the stockholders of said Company, in general meeting; shall have power to adopt rules and regulations with regard to certificates and evidences of stock, and transfers and assignments of the same, and may have power to increase their capital stock, whenever the business of said Company may require it, to an amount not exceeding one hundred thousand dollars.

VI. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of their proceedings, in a bound book or books provided for that purpose, and shall produce said record in any Court of Justice, when required so to do by such Court.

VII. *Be it further enacted*, That dividends of the profits of the concern shall be declared by the officers of the Company, at convenient times, whenever the state of the funds render it prudent.

VIII. *Be it further enacted*, That for all debts and liabilities which shall be due, and owing by the Company, at the time of its dissolution, the persons then composing the Company shall be individually responsible to the extent of their respective shares of stock, and no further.

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

[Ratified 3d January, 1839.]

CHAPTER XXXVII.

AN ACT to incorporate the Yadkin 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 Charles Fisher, Samuel Lemly, Benjamin Austin, Charles Frederick Fisher, and their associates, successors and assigns, be, and they are hereby created a corporation and body politic, by the name and style of the "Yadkin Manufacturing Company," and by that name

and style, may acquire, hold, possess and transfer estate real and personal, may contract and be contracted with, sue and be sued, plead and be impleaded in any Court of Record in this State, have a common seal, with power to break, renew or change the same, have perpetual succession, and shall so continue until the first day of January, one thousand eight hundred and eighty.

II. *Be it further enacted*, That said corporation shall have power to establish Factories and Mills in the counties of Rowan and Davie, for the manufacturing of Cotton, Flax, Hemp, Wool, Silk, Iron, Wheat, Corn, and all other materials whatsoever.

III. *Be it further enacted*, That the capital stock of said Company may consist of one hundred thousand dollars, in shares of one hundred dollars each, and may, from time to time, with the consent of two-thirds of the Stockholders, be enlarged to the amount of two hundred and fifty thousand dollars.

IV. *Be it further enacted*, That said corporation shall have power to make and establish bye-laws and regulations necessary and proper for its own government, the same being not inconsistent with the Constitution and Laws of the State.

V. *Be it further enacted*, That the shares of stock in said corporation shall be deemed and taken as personal property, and shall be transferable under such rules and regulations as may be prescribed by the corporation. Whenever any of the corporators shall transfer or assign over the shares by them respectively held, and thereby cease to be stockholders, they shall respectively cease to be members of said Company, as to all its subsequent transactions.

VI. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of its proceedings in a book or books provided for that purpose, and shall produce the same in any Court of Record in this State, when required so to do by order of such Court.

VII. *And be it further enacted*, That the private property of the individual stockholders shall be liable for all the debts, contracts and liabilities of the corporation, in proportion to the stock subscribed by each individual.

[Ratified 7th January, 1839.]

CHAPTER XXXVIII.

AN ACT to incorporate the President and Directors of the Randolph 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 John B. Troy, as President, Hugh McCain, Elisha Coffin, John Miller, Jesse Wheeler and Henry Kivett, Directors, be, and they are hereby created a corporation and body politic, in law and in fact, for one year from the passage of this Act, by the name and style of the "Randolph Manufacturing Company," for the purpose of manufacturing Cotton Yarn, Cloth, and other materials from Cotton, Hemp, Wool, Flax, or either of these products; and by that name and style, may sue and be sued, plead and be impleaded, in any Court of Record, contract and be contracted with, have succession and a common seal, and acquire, own and possess real and personal estate, and shall continue and endure for the space of thirty years, and no longer.

II. *Be it further enacted,* That said corporation shall have power to make all necessary bye-laws and regulations for its good government, not inconsistent with the Laws and Constitution of this State, and shall have power to appoint their officers and agents; that the capital stock of said Company shall consist of not less than twenty-five thousand dollars, nor more than fifty thousand dollars.

III. *Be it further enacted,* That an annual meeting of the stockholders shall be holden at the Factory, on the first Monday of January, one thousand eight hundred and forty, and in each and every year thereafter, at which meeting a President and five Directors shall be appointed to conduct the business of said corporation, who shall hold their offices for one year, or until their successors are chosen; at such and all other meetings, the stockholders shall be entitled to one vote in person or by proxy, for every twenty shares, and for all over twenty, one vote for every five shares held by them respectively. Nothing in this clause shall be so construed as to prevent general meetings, when the interest of the Company may require them.

IV. *Be it further enacted*, That the stockholders of said Company, in general meeting, shall have power to adopt rules and regulations, with regard to certificates and evidence of stock, and transfers and assignments of the same, and may have power to increase their capital stock, whenever the business of the said Company may require it, to an amount not exceeding fifty thousand dollars.

V. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of their proceedings, in a bound book or books provided for that purpose, and shall produce said record in any Court of Justice, when required to do so by said Court.

[Ratified 8th January, 1839.]

CHAPTER XXXIX.

AN ACT to incorporate the Weldon 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 Thomas G. Wiatt, Benjamin A. Pope, Jabez Smith, Whitmel H. Hardie, and Andrew Joyner, and such other persons as may become associated with them, in the manner and for the purposes hereinafter mentioned, are hereby constituted a body politic and corporate, by and under the name and style of the "Weldon Manufacturing Company," for the purpose of manufacturing Wool, Cotton and Flax, at or near the town of Weldon, on the Roanoke Canal, and by that name, they and their assigns and successors shall be, and hereby are authorized and empowered to purchase, take, hold, occupy, possess and enjoy, to them and their successors, any goods, chattels and effects, of whatever kind they may be, the better to enable them to carry on such business to advantage; and may purchase and hold real estate, not exceeding five hundred acres of land, at or near the site of said town of Weldon; may sue and be sued, contract and be contracted with, and may have

and use a common seal, and alter the same at pleasure, and shall have power to make such bye-laws and regulations, not contrary to the laws of the United States or this State, as may be deemed expedient and proper for the government of said corporation.

II. The capital stock of said corporation shall not exceed two hundred and fifty thousand dollars, and said corporation may go into operation whenever, and as soon as fifty thousand dollars shall be taken up or subscribed for, and not before, and that a share of said stock shall be two hundred dollars, and shall be deemed and considered personal estate, and may be transferable only on the books of said Company, in such form as the Directors thereof shall prescribe, and the said Company shall at all times have a lien upon all the stock or property of the members of said corporation invested therein, for all debts due from them to said Company.

III. The stock, property and affairs of the corporation shall be managed by not less than three, nor more than five Directors, one of whom they shall appoint their President, who shall hold their offices for one year, who shall be chosen within thirty days after the formation of said Company; and on the day of the annual meeting of said Company, every year thereafter, the President and Directors shall be elected, who shall be citizens of the United States; in which elections, and all other meetings, the stockholders shall be entitled to one vote for every share held by them respectively, and may vote in person or by proxy, in such manner as may from time to time be prescribed in general meeting; the said Directors or a majority of them may choose a President, and in his absence, a President *pro tempore*; they shall have power to call special meetings of the stockholders to supply vacancies in their own body, to appoint such officers, agents and clerks, as the stockholders in general meeting shall authorize, to take bonds with sufficient security for the good conduct, fidelity and attention of such officers, agents and clerks, and to do all other acts and things, touching the affairs of the Company, not otherwise specially provided for. Dividends of the nett profits of the said Company shall be made at such times as shall be determined by the stockholders in general meeting; *Provided*, that at no time shall the profits accumulate to an a-

mount of more than fifteen per cent. of the capital stock, and remain so accumulated for more than six months; *And provided further*, that no dividends shall be made of any part of the capital stock, under the pretence of making a dividend of the profits, and that the surplus only of the property, effects and debts, due to the Company above the amount of its capital stock, responsibilities and debts due from it, shall be regarded as profits.

IV. A majority of the Directors shall form a quorum to transact business, and may sell and convey any part of the lands with the appurtenances, which they are hereby authorized to acquire and hold, and the said land and appurtenances, when sold, shall be considered real estate.

V. At any time within twelve months after the passage of this Act, books of subscription may be opened by the said Thomas G. Wiatt, Benjamin A. Pope, Jabez Smith, Whitmell H. Hardie and Andrew Joyner, or a majority of them, and by such other persons as they or any three of them may appoint, at such places as they may deem proper, for the purpose of obtaining subscriptions to the said Company, and when the sum of fifty thousand dollars or more shall be subscribed, the said Thomas G. Wiatt, Benjamin A. Pope, Jabez Smith, Whitmell H. Hardie and Andrew Joyner, or a majority of them, shall call a meeting of the stockholders, who shall meet at the time and place appointed, and proceed to the election of a President and Directors as herein before directed; and upon the subscription of two hundred and fifty shares of stock, and not before, the said stockholders shall be vested with the corporate powers and privileges herein before granted: *Provided*, that nothing contained in this Act shall be construed to authorize or empower the said corporation to use the funds for any banking transaction.

VI. If any of the subscribers for stock in said Company shall fail to pay the amount of his or her subscription at such time and in such instalments as he or she may be called on for, by the President and Directors of the Company, it shall be lawful for the Company to recover the same by action of debt, in any Court of record in this State, or to sell the stock of said delinquent subscriber, at such time, and upon such terms, as the said President and Directors may prescribe, and such de-

linquent shall receive no dividend until the amount of such subscription shall have been paid.

VII. The stockholders, or a majority in interest, may from time to time enlarge the capital stock of said Company, by selling or ordering their President and Directors to sell shares therein, at such times, in such manner, to such amount, and at such price or prices, as they in general meeting may direct, until the capital stock may reach the said maximum amount of two hundred and fifty thousand dollars, and upon all such additional stock being taken, the owners thereof shall, to all intents and purposes, be members of the Company hereby incorporated, and have equal privileges and powers, with the original stockholders, and any premiums obtained, or losses sustained in such stock, shall be the common gain or loss of all the stockholders, in proportion to the capital stock owned by them respectively.

VIII. If there shall be no election of President and Directors, at any annual meeting, as herein before prescribed, those in office shall continue until the next annual election, or until an earlier election can be held by the stockholders in general meeting, at which a major part of the stock shall be represented, and elect the said officers.

IX. Upon the payment of the whole amount of the stock subscribed by the stockholders respectively, the President and Directors of said Company shall issue to them a certificate or scrip for the number of shares subscribed by them respectively.

X. *Be it further enacted*, That in case of failure on the part of said corporation, that the private or individual property of the stockholders therein, shall be subject by law to the payment of the debts of the corporation, in proportion to the amount of stock by them severally owned, and not otherwise. That this Act shall be in force from and after its passage, and shall continue in force for and during the term of fifty years.

[Ratified 8th of January, 1839.]

MILITIA.

CHAPTER XL.

AN ACT to incorporate the Raleigh Guards and Henderson Light Infantry Companies.

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 Light Infantry in the City of Raleigh, commanded by Wm. F. Collins, Esq., and the Company of Light Infantry in the county of Henderson, be, and the same are hereby incorporated—the former by the name of the “Raleigh Guards,” and the latter by the name of the “Henderson Light Infantry Company,” and shall have authority to make such bye-laws for the regulation of their respective Companies, not inconsistent with the Constitution and Laws of this State, and of the United States, as they shall deem fit.

II. *Be it further enacted,* That all fines and amercements which shall be collected by the said Companies, shall enure to their own use.

III. *Be it further enacted,* That the said Captains, or other Commanding Officers of said Companies, shall, at least six times in each year, order out the said Companies to muster, the “Raleigh Guards” in the City of Raleigh, and the “Henderson Light Infantry Company” in the county of Henderson; and shall also, at least four times in each year, drill the Officers, commissioned and non-commissioned, of the said Companies, to improve them in Military discipline.

IV. *Be it further enacted,* That this Act shall be in force from and after its ratification.

[Ratified 8th January, 1839.]

CHAPTER XLI.

AN ACT concerning the Militia of 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 the Colonels and other officers of Militia in the County of Beaufort, shall hereafter muster the Battalions called the Washington, Bath and Durham Creek Battalions, at some convenient place in the divisions of the said county, forming the said Battalions, as may be selected by a majority of the commissioned officers of the respective Battalions.

II. *Be it further enacted,* That the said Colonels and other officers mentioned in the first section, in all cases of review, insurrection or invasion, shall parade the Regiment composed of the Battalions of Washington, Bath and Durham Creek at Washington, as heretofore.

[Ratified 7th January, 1839.]

CHAPTER XLII.

AN ACT to regulate Drill Musters in the 87th Regiment of the North Carolina Militia, in Davidson 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 officers of the 87th Regiment of the North Carolina Militia, in Davidson County, by appointment of the commanding officers of that Regiment, shall have and hold at least two, and not more than four Drill Musters in said Regiment in each and every year, and any officer who shall fail to appear at the time and place so appointed by the commanding officer of said

Regiment, or if appearing, be not equipped as by law required, such officer, so failing or neglecting, shall forfeit and pay the same sum which such officer would be compelled to pay in case of failure or neglect at any Regimental or Battalion parade or review; any law, usage or custom to the contrary, notwithstanding.

[Ratified 7th January, 1839.]

CHAPTER XLIII.

AN ACT to amend the sixteenth section of the Revised Statutes, concerning the Militia, so far as relates to the County of Jones.

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 lawful for every Captain or Commanding Officer of a Company of twenty-fifth Regiment of North Carolina Militia of Jones County, to muster, train and exercise his Company once in every three months; any law to the contrary notwithstanding.

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

[Ratified 8th January, 1839.]

MISCELLANEOUS.

CHAPTER XLIV.

AN ACT for the better regulation of the Town of Greenville.

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 the duty of the Sheriff of Pitt County, either by himself or his lawful Deputy, on the first Thursday in January, in each and every year, to open the polls of election, for the purpose of electing five freeholders as Commissioners in the Town of Greenville, for the term of one year.

II. *Be it further enacted,* That it shall be the duty of the said Sheriff to advertise the time of holding the election for Commissioners ten days previous thereto, and the Sheriff shall summon two freeholders, residents of the said Town, who, together with himself or his deputy, shall hold the election at the Court House in said Town, and shall keep the poll open from twelve o'clock in the morning, to four o'clock in the evening; and it shall be the duty of the Sheriff to serve the Commissioners elected with a notice of their election, within five days thereafter, and on failure of any of the above mentioned duties enjoined on the Sheriff, he shall, on conviction before any magistrate of the County of Pitt, forfeit and pay the sum of fifty dollars, and each freeholder, refusing or neglecting to assist the Sheriff in holding the poll, shall be subject to a penalty of five dollars, to be recovered in like manner, and the penalties, when collected, shall be paid into the hands of the Treasurer of the Town, to be applied for the improvement of the said Town.

III. *Be it further enacted,* That the persons so elected as Commissioners shall, within ten days after being notified by the Sheriff of their election, meet at the Court House, and take and subscribe before some Magistrate, the following oath: "I, A B, do swear or affirm, that I

will execute the office of Commissioner for the Town of Greenville, faithfully, impartially, and truly, without favor, affection, or prejudice, and that in all things as Commissioner, I will discharge my duty to the best of my skill and judgment: so help me God." Which oath, so taken and subscribed, shall be filed by the Magistrate with the Clerk of the County Court; any freeholder of said Town, who shall, after being duly elected and notified by the Sheriff, refuse to qualify and serve as Commissioner, shall forfeit and pay a penalty of twenty dollars, and it shall be the especial duty of the Treasurer to warrant for and recover the same: *Provided*, that no person shall be compelled to serve more than one year in every three.

IV. *Be it further enacted*, That the Commissioners of said Town, at their first meeting after their annual election in each and every year, shall appoint some fit person of said Town to act as Intendant of Police, whose duty it shall be to see the ordinances duly and faithfully executed, and after taking oath before some Magistrate to act impartially, he is hereby authorized to issue his warrant, directed to the Town Constable, Sheriff, or any Constable of the County of Pitt, to bring the offenders against the rules and regulations and ordinances of said Town before him, and on their conviction, which shall be in manner of trials before Justices of the Peace, the said Intendant is hereby authorized to give judgment and execution, agreeably to the laws established for the government of said Town: *Provided*, that either party may appeal to the next County Court, and where the Commissioners are the appellants, no security shall be required on such appeal: *Provided further*, that in all appeals thus taken, no costs shall accrue to the County, but in all cases where the Commissioners are the party cast, shall be paid out of the funds of the Corporation.

V. *Be it further enacted*, That the said Commissioners shall annually choose one out of their number to be Treasurer of said Town, into whose hands all monies becoming due to said Town shall be paid, and there kept until otherwise disposed of, for the benefit of said Town, as a majority of said Commissioners shall direct; the said Treasurer before he enters upon the execution of his office, shall take an oath to discharge his duty faithfully, and to account for all monies by him received, and he shall be allowed for his services a compensation not ex-

ceeding five per cent. on the amount of monies so received by him.—The Commissioners of said Town may also choose and appoint either one of their own body, or some other fit person to be their Clerk, to act as such during their pleasure, whose duty it shall be to record the proceedings of the Commissioners, take care of the Journals, books and papers, to which all persons upon payment of two shillings, under the penalty of five dollars, to be recovered by warrant from said Clerk, for every refusal, may have access, and the said Commissioners shall allow said Clerk such compensation for his services as they deem just and adequate, and said Clerk shall take an oath faithfully to discharge the duty of his office.

VI. *Be it further enacted*, That the Commissioners of said Town, or a majority of them, are hereby authorized and empowered, some time in the month of March, annually, to lay a tax not exceeding forty cents on each hundred dollars value of real estate, and improvements in said Town, and a tax not exceeding one dollar on each taxable poll for the purpose of defraying the expenses thereof, and for keeping the streets and wells in repair. The Intendant of Police shall, within the last twenty working days in February, receive the list of taxables of said Town, which lists shall refer to the property owned by the said inhabitants, on the first day of January preceding, he first giving ten days notice of the place where he will attend for that purpose, and any person failing or refusing to give in on oath, their lists, shall pay a double tax. It shall be the duty of the Intendant of Police, on or before the first Monday in March in each and every year, to summon three freeholders of said Town to appear before him, within five days, which said freeholders being first duly sworn to act impartially, shall assess the cash value of the several Town lots and improvements, which assessment, after being by them subscribed, shall be deposited with the Clerk of said Corporation, and any freeholder refusing to appear and assess the Town lots, when so summoned, shall forfeit and pay five dollars, to be recovered and applied as herein before set forth.

VII. *Be it further enacted*, That the Town Clerk shall immediately, upon the receipt of the tax lists from the Intendant, and the assessment from the freeholders, record the same in the Town books, and furnish the Sheriff of Pitt County, a true copy from said lists, ex-

tending the amount of each person's tax, on or before the first day of April in each and every year, and on failure of the town Clerk to perform any of the duties above required of him, he shall forfeit and pay the sum of one hundred dollars, to be recovered and applied as aforesaid.

VIII. *Be it further enacted*, That the Sheriff of Pitt county, immediately upon the receipt of the aforesaid list, shall proceed to collect the same, either by distress or otherwise, under the same rules and regulations as are prescribed for collecting the County and State taxes; and shall, on or before the fifteenth day of October in each and every year, pay over the said taxes to the Treasurer of said Town, deducting therefrom a commission of six per cent., and such insolvent polls as he may, on oath, return a list of; and on failure thereof, the said Treasurer shall, upon giving ten days notice in writing to the said Sheriff and any or all of his securities, move the Court of Pleas and Quarter Sessions of Pitt county for judgment against said Sheriff and his securities; whereupon, the said Court shall proceed to render judgment with twelve per cent. damages, by way of interest, from the said fifteenth day of October; and a certified copy by the Clerk, of the tax lists, from the records of said Corporation, shall be admitted as *prima facie* evidence against such Sheriff and his securities.

IX. *Be it further enacted*, That the said Sheriff, before he enters upon the duties of collecting the taxes, as by this Act imposed, shall enter into bond in such sums and such sureties, made payable to the Commissioners of the Town of Greenville for the time being, or their successors in office, as they may deem necessary and proper, for the faithful performance of the duties required.

X. *Be it further enacted*, That, from and after the next February Term of Pitt County Court, no person shall keep an Ordinary or Store for retailing spirituous liquors, or retail the same by the small measure, in the Town of Greenville, until he or she shall have first applied to the Commissioners of said Town, and have obtained from them a certificate of their recommendation (or from a majority of them) for that purpose, which recommendation shall be valid for one year and no longer; and every person who shall keep an Ordinary, or who shall retail spirituous liquors by the small measure, in the Town of Greenville, after

the February Court aforesaid, without having first obtained licence and recommendation of the Commissioners aforesaid, shall forfeit and pay the sum of ten dollars, to be recovered in any action of debt before the Intendant of Police of said Town, or any Justice of the Peace for the County of Pitt; and it shall be the duty of the Treasurer, in the name of the Commissioners, within one year after the offence is committed, to sue for the same, and apply the same for the use of the Town. Every retailer of spirituous liquors by the small measure, in the Town of Greeneville, shall pay an annual tax of two dollars to the Treasurer of said Town, before he receives the Certificate of his recommendation from the Clerk, to be applied, as before mentioned, for the contingencies thereof.

XI. *Be it further enacted*, That the Commissioners of said Town, so chosen and being qualified according to the directions of this Act, shall be, and are hereby incorporated into a body politic and corporate, by the name of the Commissioners of Greeneville, and by that name to have succession and a common seal; and that they and their successors, by the name aforesaid, shall be able and capable in law to have, purchase, receive, enjoy, possess and retain, to them and their successors forever, in trust and confidence for the said Town, any lands, rents, tenements and hereditaments, of what kind, nature or quality soever, and also to grant, alien and dispose of the same, together with all the lands and hereditaments now belonging to said Town, and not already conveyed by the former Commissioners of said Town; also to receive and take any gift or donations whatsoever to the said Town, and by the same name, to sue and be sued, plead and be impleaded, answer and be answered in all Courts of Record whatsoever, to make such rules, regulations and ordinances, as to them shall seem meet and proper, for repairing the streets, appointing a market place and regulating the same, erecting public pumps and wells, and keeping those already erected in repair, appointing Town watches or patrols, and making proper allowances for such services, and for the removal of nuisances, and all such other necessary ordinances, rules and regulations, as may tend to the advantage, improvement and good government of said Town, not inconsistent with the laws and Constitution of this State; and the said rules, regulations and ordinances, from time to time to al-

ter, change, amend or discontinue, as to the said Commissioners, or a majority of them, shall appear necessary and best to answer the purposes intended for regulating and governing said Town; and shall, also, have full and ample power to enforce a compliance and observance of such necessary regulations, by imposing fines and penalties on those who shall refuse or neglect to conform to such rules and regulations, to be recovered by warrant, under the hand and seal of the Intendant of Police, or of some Justice of the Peace for the County of Pitt, directed to any Town Officer which the said Commissioners may appoint, to the Sheriff, deputy Sheriff, or any Constable of the County of Pitt, to bring such delinquent or offenders before such Intendant of Police, or Justice of the Peace; and on conviction, the Intendant of Police or Justice is hereby required to give judgment and award execution, which the said Officer is hereby required to execute by distress and sale of the offender's goods and chattels—which fine, when levied and collected, shall be paid into the hands of the Treasurer of the Town, as a part of the common stock of the Town, and by him to be accounted for.

XII. *Be it further enacted*, That in case of vacancy among the said Commissioners, the remaining Commissioners shall elect a freeholder of said Town to act as Commissioner until the ensuing annual election, who shall have the same powers, and be subject to the same penalties, as the other Commissioners, who were elected at the annual election.

XIII. *Be it further enacted*, That the Commissioners of said Town shall annually publish an account of their receipts and expenditures within the twenty days immediately preceding the annual election for Commissioners; and said accounts shall be posted up at the Court House in said Town, signed by the Treasurer and countersigned by the Clerk of the Town; and on failure of said Commissioners to publish their accounts, as above required, they shall forfeit and pay a penalty of fifty dollars, to be recovered in any action of debt before any Justice of the Peace for the County of Pitt, to be applied to the use and benefit of said Town, and it shall be the duty of the succeeding Commissioners to sue for the same.

XIV. *Be it further enacted*, That within twenty days after the annual election of Commissioners for said Town, it shall be the duty of

the former Treasurer to settle with and pay over to his successor in office, all such monies belonging to said Town as he may or ought then to have in possession ; and upon failure thereof, he shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, before any Justice of the Peace for the County of Pitt ; and the Treasurer for the time being may, upon giving ten days notice, move the County Court for judgment against the former Treasurer, and the Court shall render a judgment for the amount of monies which may or ought to be in the hands of the former Treasurer, with twelve per cent. damages by way of interest, from the expiration of the time for which he was elected.

XV. *Be it further enacted*, That it shall be the duty of the Clerk of said Commissioners to post up, at the Court House in Greenville, a copy of all such rules and regulations and ordinances as may be made by said Commissioners ; and no rule, regulation or ordinance of said Commissioners, imposing fine or penalty, shall be in force, until the same shall have been published as aforesaid for ten days : *Provided*, nothing herein contained shall be so construed as to prevent the said Commissioners from adopting ordinances to take immediate effect, relating to contagious diseases and nuisances.

XVI. *And be it further enacted*, That the citizens of said Town shall not be hereafter compelled to work on the streets of said Town ; and that all Acts or parts of Acts coming within the meaning and purview of this Act, be, and the same are hereby repealed ; and that this Act shall be in force from and after the ratification thereof.

[Ratified 28th December, 1838.]

CHAPTER XLV.

AN ACT to compel the Jailer of Stokes County to live in the Jail, and for other purposes.

WHEREAS the Court of Pleas and Quarter Sessions of the county of Stokes having, at much expense, provided comfortable apartments in the Jail or Public Prison of said county, for the accommodation of the Sheriff or duly authorized Jailer thereof: 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 keeper of the Public Prison of Stokes county shall occupy or reside in the same.

II. *Be it further enacted,* That the keeper of the Jail aforesaid shall, before taking possession thereof, pass to the Chairman of the County Court, or to the Treasurer of Public Buildings, a statement in writing, setting forth the actual state and condition of said Prison and other buildings attached thereto, and particularly the apartments designed for the accommodation of the Jailer; and that the keeper of the Jail aforesaid shall be held and deemed liable for all and every damage done to the apartments, the buildings or premises aforesaid, which may arise from his negligence or mismanagement, to be recovered in any Court of Record, in the name of the State of North-Carolina, to the use of the county aforesaid.

III. *Be it further enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same,* That the keeper aforesaid shall not at any time carry on, nor permit to be carried on, any traffic or trade in the Prison aforesaid, nor upon the premises thereof, nor erect any building, nor in any manner change those erected by the county, unless it be by consent of the Court of said county; and for every violation of this section, the keeper aforesaid shall, for every such violation, be held and deemed guilty of a misdemeanor, and upon conviction thereof by a Jury in any

Court of Record having cognizance of the same, shall be fined at the discretion of the Court, not less than ten dollars, nor more than one hundred dollars.

[Ratified 28th December, 1838.]

CHAPTER XLVI.

AN ACT making valid certain surveys made by the Deputy Surveyor 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 all surveys made by Ninian Edmonston, a Deputy Surveyor in and for said county of Haywood, subsequent to the first day of September, A. D. one thousand eight hundred and thirty-six, of entered lands in said county of Haywood, be, and they are hereby declared to be valid, as though they had been made in strict conformity with the Acts of the General Assembly, now in force on that subject.

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

[Ratified 15th December, 1838.]

CHAPTER XLVII.

AN ACT to authorize Robert Walker, of Wilkes county, to build a Mill on his own land, on Roaring River, at or near a place called the Rock 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 Robert Walker, of Wilkes county, be, and he is hereby authorized

to erect a Dam across Roaring River, and to build a Mill on his own land on said River, at or near a place called the Rock House.

II. *And be it further enacted*, That all laws and clauses of laws, conflicting with the provisions of this Act, be, and the same are hereby repealed.

[Ratified 15th December, 1838.]

CHAPTER XLVIII.

AN ACT to emancipate Caroline Cook and her four children, viz: Pamela, Archibald T., James Ellis, and Martha Jane.

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 Caroline Cook, wife of Joshua Cook, and her four children, viz: Pamela, Archibald T., James Ellis, and Martha Jane, slaves, the property of Archibald Lovelace, of the county of Wilkes, be, and they are hereby, with the consent and the request of their said owner, emancipated and set free, and by their names of Caroline Cook, Pamela Cook, Archibald T. Cook, James Ellis Cook, and Martha Jane Cook, shall hereafter possess and exercise all the rights and privileges which are enjoyed by other free persons of colour in this State: *Provided, nevertheless*, that before said slaves shall be emancipated, the said Joshua Cook, or their said Master, shall give bond and good security in the County Court of Wilkes county, that said slaves shall honestly demean themselves as long as they shall remain in the State, and shall not become a county charge, which said bond shall be made payable to the State of North-Carolina, and may be sued upon in the name of the State, to the use of the county, and of any person injured by the mal-conduct of said slaves.

[Ratified 22d December, 1838.]

CHAPTER XLIX.

AN ACT to authorize the forming of a Fire Engine Company in the Town of Bethania, Stokes 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 free white males of the Town of Bethania are hereby authorized to form and enrol themselves into a Fire Engine Company, provided that the number of members shall not exceed forty.

II. *Be it further enacted,* That the persons who are now and those who shall hereafter be enrolled as members of the Bethania Fire Engine Company, shall serve for the term of five years from the time of their enrolment, except in cases of removal out of Town.

III. *Be it further enacted,* That it shall be the duty of the Captain of said Company to cause to be taken care of and preserved, in the house prepared for that purpose, the engines, ladders and apparatus thereunto belonging; and when any repairs thereof be deemed necessary by a majority of the Officers of said Company, the Captain shall cause the same to be done—the expenses for which repairs shall be paid by the Town Treasurer, or for want thereof, by the Commissioners of said Town, on the draft of the Captain of said Company, which draft, when paid, shall be considered a good and sufficient voucher in the settlement of the Town taxes.

IV. *Be it further enacted,* That for raising a fund for the purpose aforesaid, as well as for the purchase of a Fire Engine, hose and ladders, the Commissioners of said Town are hereby authorized, and shall lay an annual tax, not exceeding one dollar on every white taxable poll, nor more than fifty cents on every hundred dollars value of real estate in said Town, which taxes, when laid, shall be collected and accounted for as the other taxes of said Town.

V. *Be it further enacted,* That in case of fire in said Town, it shall and may be lawful for one or more of the fire wardens of the said Town, and two or more officers of said Engine Company, when they shall deem it expedient for stopping the further progress of the fire, to order any house or houses to be pulled down, blown up, or other-

wise destroyed, for which, they or any person acting under them shall not be responsible in any manner whatever, and any person or persons sued for the same may plead this act in bar thereof.

VI. *Be it further enacted*, That a majority of the members of said Company shall have power and authority to make such laws, rules and regulations, and pass such bye-laws for their government as to them may seem best, not inconsistent with the Constitution of the United States or of this State, and that all fines and penalties incurred by virtue of this Act, or by any of said bye-laws, shall be recoverable before any Justice of the Peace for said County of Stokes: *Provided nevertheless*, that the right of appeal shall be preserved to either party, as is now by law established in trials before a Justice.

VII. *Be it further enacted by the authority aforesaid*, That this Act shall be in force from and after the ratification thereof, provided the inhabitants of said Town shall approve of the same in full Town meeting.

[Ratified 3d January, 1839.]

CHAPTER L.

AN ACT to exempt Lock Keepers on the Dismal Swamp Canal from working on Roads and from Militia service.

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 Lock Keepers on the Dismal Swamp Canal shall be, and they are hereby exempted from working on all Public Roads, and from Militia duty, except in time of insurrection or invasion; any law to the contrary notwithstanding.

[Ratified 8th January, 1839.]

CHAPTER LI.

AN ACT to amend the several Acts heretofore passed in relation to the burning of the Court House and records of Hertford 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 an Act of the General Assembly, passed at the Session of 1830'-31, entitled an Act for the relief of such persons as may suffer from the destruction of the records of Hertford County, occasioned by the burning of the Court House and Clerks' offices of said County, and also an Act amendatory of the same, passed at the Session of 1831-'32, entitled an Act in addition to an Act passed at the last Session of the General Assembly of this State, in relation to the burning of the records of the County of Hertford, be, and the same are hereby amended so as to extend any of their provisions which may have expired from the limitation therein contained, for the term of five years, from and after the passage of this Act.

[Ratified 7th January, 1839.]



CHAPTER LII.

AN ACT concerning the ranging of Hogs, Horses or Cattle, in Currituck County, in certain cases.

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, residents of the State of Virginia, to drive any hogs, horses or cattle into the County of Currituck, for the purpose of ranging or pasturing on any of the marsh or pasture lands in said County, and every person or persons violating the provisions of this Act, shall forfeit and pay the sum of five dollars for every head of hogs, horses or cattle, that

may be so ranged or pastured, over ten head for every hundred acres of land he or they may own in said County, to be recovered before any Justice of the Peace in the County of Currituck, one-half to the use of the person prosecuting, and the other to the Wardens of Poor.

II. *Be it further enacted*, That in case there shall be no owner, attorney or agent, on whom a warrant can be executed, it shall be lawful to attach all such hogs, horses or cattle, over ten head for every hundred acres, and such attachment to be returned to the next County Court of Currituck, governed by such rules and regulations as is provided for attachments in other cases: *Provided*, that this Act shall not be so construed as to take effect on cattle, horses or hogs, that may have accidentally strayed over the line; and this Act shall be in force from and after its ratification.

[Ratified 7th January, 1839.]

CHAPTER LIII.

AN ACT allowing compensation to the Wardens of the Poor, in the County of Wayne.

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 Wardens of the Poor, for the County of Wayne, shall be allowed for their services a compensation, not exceeding twelve dollars each, per annum, which compensation, and the amount thereof, shall be fixed by the Justices of the Peace of the Courts of Pleas and Quarter Sessions of said County, which shall happen after the first day of January in each and every year, a majority of the Justices being present, to be paid, levied and raised, as other sums for County charges are.

II. *And be it further enacted*, That this Act shall be in force, from and after its ratification.

[Ratified 28th December, 1838.]

RIVERS AND CREEKS.

CHAPTER LIV.

AN ACT relating to clearing out Rock Fish Creek in the County of Duplin, 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 Justices of the Court of Pleas and Quarter Sessions, for the County of Duplin, may appoint overseers and hands for the purpose of clearing out and keeping navigable, Rock Fish Creek in said County, from its mouth to the upper end of John Knowls' Lake.

II. *Be it further enacted,* That all persons residing within three miles of said Creek, who are liable to work on public Roads, shall be included in the list of overseers and hands: *Provided however,* that nothing contained in this Act shall be so construed as to exempt said overseers and hands from working on the public Roads, as they are now compelled to do by law.

[Ratified 8th January, 1839.]

CHAPTER LV.

AN ACT to prevent obstructing the passage of Fish up the Pedee and Main Yadkin 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 the Courts of Pleas and Quarter Sessions of the counties of Anson, Montgomery and Richmond, at the Sessions of said Courts, which shall be holden in the month of April, in the year of our Lord, one

thousand eight hundred and thirty-nine, shall appoint six Commissioners, each of the Courts appointing two, who shall view and inspect the Pedee and Yadkin Rivers, from the South-Carolina line to the Rowan and Davidson line, at some time between the first day of June and the fifteenth day of August in said year, and the said Commissioners shall have power and authority, and it is hereby made their duty to lay off and set apart for the free passage of fish up said Rivers, a space of one hundred feet in width, in the main channel of said Rivers, marking and designating the same in the best manner they can, and the said Commissioners shall have full power and authority, and it is hereby made their duty to pull down, destroy, and remove, any stand, dam, weir hedge or trap, or any other impediment to the free passage of fish, which may then be in the said part of the Rivers so laid off and set apart by them as aforesaid, and for this purpose may employ and hire any number of persons, at such wages as they may think proper.

II. *Be it further enacted*, That the said Commissioners shall report to the Grand Jury of the Superior Court of Law of each of said Counties, which shall be held in the month of September, in the year aforesaid, what they have done in the premises, and such report shall be evidence of the facts therein set forth, and the part of the Rivers laid off and set apart by the Commissioners, for the free passage of fish, shall be held and deemed in law to be one hundred feet in width, in the main channel of the Rivers, and no evidence to the contrary shall be admitted in the trial of any case arising under this Act.

III. *Be it further enacted*, That the major part of the Commissioners appointed under this Act, shall have power and authority to do and perform all the duties hereby imposed on them, and the acts done by such major part, shall be as valid and effectual as if done by all the Commissioners.

IV. *Be it further enacted*, That every person who shall, after the survey and inspection of the Rivers, made under this Act, erect any stand, dam, weir hedge, trap, or any other impediment, to the free passage of fish, in such part of the Rivers as shall be laid off and set apart by the Commissioners for the free passage of fish, shall be liable to indictment, and on conviction, shall be fined or imprisoned at the discretion of the Court, and shall, in addition thereto, forfeit the sum

of one hundred dollars, to be recovered by any person who will sue for the same.

V. *Be it further enacted*, That the acts done by the said Commissioners, as hereinbefore directed, shall be and continue in force for six years after the same shall have been done, and until a new survey and inspection of the Rivers shall be made.

VI. *Be it further enacted*, That the Commissioners shall be allowed two dollars a day each, for so many days as they shall be employed in the performance of the duties hereby imposed upon them, to be paid by the Counties respectively who shall appoint them, and all persons who shall be employed by the Commissioners to assist them in the discharge of their duties, shall be paid such sums as the Commissioners have agreed to give them, to be paid by the County in which the work was done, and if part of the work be done in one County, and part in another, then each County shall pay one-half of the sum agreed to be given.

VII. *And 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, so far as the Counties of Anson, Montgomery and Richmond are thereby affected.

[Ratified 8th January, 1839.]

R O A D S .

CHAPTER LVI.

AN ACT appointing Commissioners to lay off a Public Road from Burnsville, Yancy County, to the Tennessee 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 Roberts, John Ramsay, and George Gahagan, be appointed

Commissioners to lay off a public Road, leading from Burnsville, Yancy County, by the way of Ball Mountain Creek, crossing the Walnut Mountain, and down Laurel Creek to James Allen's stand; thence with James Allen's Road to the Tennessee line; and the said Commissioners appointed as aforesaid are hereby authorized, a majority being present, to supply such vacancies as may happen from time to time in the Board, as they or a majority of them may deem proper.

II. *Be it further enacted*, That the County Court of Yancy, a majority of the Justices being present, shall allow the said Commissioners, as a compensation for their services, a sum not exceeding two dollars per day; and that all laws and clauses of law, coming within the meaning and purview of this Act, be, and the same are hereby repealed, and that this Act shall be in force from and after the ratification thereof.

[Ratified 28th December, 1838.]

CHAPTER LVII.

AN ACT to appoint Commissioners to lay off a part of the great State Road, from Presley Shepherd's to Frederick Seavert's.

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 Payton Colvard, James Vannoy, Allen Whittington, Absalom Bower, Jacob Hartrog, and Benjamin Calloway, Esquires, be, and the same are hereby appointed Commissioners to view and lay off that part of the State Road leading from Presley Shepherd's to Frederick Seavert's.

II. *Be it further enacted*, That before said Commissioners shall enter upon the duty of their office, they shall take an oath before some Justice of the Peace of Wilkes or Ashe Counties, that they will lay off the said Road the best and most convenient way, having due regard to private property, as well as public good, and shall on oath assess all

damages that any individual or individuals may sustain by the construction of said Road.

III. *Be it further enacted*, That the said Commissioners shall report to the County Courts of Wilkes and Ashe, and if said Courts, a majority of the Justices being present, shall concur in said reports, then it shall be their duty to order out a sufficient number of hands to work out said Road.

IV. *And be it further enacted*, That said Commissioners shall be paid for their services, at the discretion of said Courts; likewise the damages assessed by said Commissioners.

[Ratified 7th of January, 1839.]

CHAPTER LVIII.

AN ACT to authorize the laying off and establishing a Turnpike Road from Cove Creek, in Rutherford county, to Joseph Garrius', 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 John W. Harris, Aaron W. Whitesides and Martin Beam, of the county of Rutherford, and James Brevard, James W. Patton and Lambert Clayton, of the county of Buncombe, be, and they are hereby appointed Commissioners, with power and authority to open books and receive subscriptions to the amount of ten thousand dollars, which sum shall constitute the capital stock of the Company hereby incorporated, for the purpose of making and keeping in repair a Turnpike Road, commencing at Cove Creek Bridge in Rutherford county, thence along or near the State Road crossing the Blue Ridge, at the Hickory Nut Gap, to Joseph Garrius' in Buncombe county; 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 June thereafter, unless the said capital sum shall be subscribed before that time, at which time, or so soon as the sum of eight thousand dollars shall be subscribed, the said books shall be returned to said Commissioners, at such place as a majority of them may direct: 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 shall be finished; and if the sum of eight thousand dollars or more of the capital stock shall have been subscribed, the said subscribers, their heirs and assigns, from the time of the first meeting, shall be, and they are hereby declared to be a body corporate and politic, by and under the name and style of the "Hickory Nut Turnpike Company," and may, as such, sue and be sued, plead and be impleaded, and have perpetual succession and a common seal, and all other corporate rights necessary for the objects of the Company. Such of the said subscribers, as may be present at the meeting aforesaid, or a majority of them, are hereby empowered and directed to elect a President and three Directors for conducting the business and concerns of said Company, for one year, and until the next general meeting of the stockholders.

II. *Be it further enacted*, That if the said sum of ten thousand dollars shall not be subscribed on or before the first day of June, the said Commissioners shall again open books of subscription, and keep the same open until the first day of November, one thousand eight hundred and forty, or until the aforesaid sum of ten thousand dollars shall be subscribed as aforesaid.

III. *Be it further enacted*, That the capital stock aforesaid shall be divided into shares of fifty dollars each, and any person may subscribe for one or more shares; the shares to be paid at such time and places, and by such instalments, as the President and Directors shall direct. If any person, 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 as aforesaid, they may enforce the legal process, or they may expose to sale the share or shares which such delin-

quent may hold in said Company, by giving ten days public notice; and if the said stock shall not sell for a sum sufficient to pay the instalments thereon, the sum deficient may be recovered of the person who owes the said stock, and the books of the Company shall be good evidence of such sale and purchase of said shares.

IV. *Be it further enacted*, That the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the 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 more than ten, one vote ; for every four shares above ten, and not exceeding twenty, one vote ; and for every six shares thereafter, one vote.

V. *Be it further enacted*, That the owners of a majority of all the shares subscribed, shall have power to appoint Commissioners to lay off and mark the location of said Road ; make and ordain all bye-laws for the government and regulation of said Company, and the Officers thereof ; and shall have authority, at any time, to remove from office the President and Directors of the said Company, or any of them, and appoint others in their stead ; and may, from time to time, in general meeting, make all such rules and regulations as they may deem necessary for the good regulation of the concerns of said Company. The President and Directors shall have power to appoint such under Officers as they may deem necessary ; and it shall be the duty of the President to make a full and fair statement of the affairs of the Company, to each general meeting of the stockholders ; and it shall also be the duty of the President to make a report, setting forth the true condition of the Company and the amount of the annual receipts, to each session of the General Assembly of the State of North-Carolina.

VI. *Be it further enacted*, That the President and Directors may appoint a Treasurer, whose duty it shall be to receive all monies due the Company, to keep a fair account of the same, and perform all other duties which may be assigned him by said Company. The ascent or descent of no part of said Road shall exceed one foot perpendicular to ten feet horizontal ; and shall be received by a Commissioner appointed by each of the County Courts of Rutherford and Buncombe, to

examine and receive so much of said Road as may be situate in their respective counties. Then it may be lawful for said Company to erect a Toll Gate at some convenient place on said Road, not more than three miles from the dividing line between the counties of Rutherford and Buncombe, at which said Company may demand and be entitled to receive the following toll, that is to say: for a man and horse, twelve and a half cents; for loose horses and mules, six and a quarter cents each; for hogs and sheep, two cents each; for cattle, three cents per head; for six horse wagons, one dollar and twenty-five cents; for five horse wagons, one dollar and twelve and a half cents; for four horse wagons, one dollar; for two or three horse wagons, fifty cents; for one horse wagons or carts, twenty-five cents; for four wheeled carriages of pleasure, one dollar; for gigs or sulkies, fifty cents; and for every animal intended for exhibition, seventy-five cents; and that no coach or stage in which the mail shall be transported, shall be subject to a toll exceeding two dollars per week.

VII. *Be it further enacted*, That the said Commissioners, appointed to lay off said Road, shall have power to assess the damage in favor of any person through whose lands said Road may pass; and in case the owners of said lands, or guardians of infant owners, shall object to said assessment, and demand a Jury to assess said damages, then and in that case, said Commissioners shall summon a Jury of good and lawful men, unconnected, who, first being sworn to assess the damages, taking into consideration any advantage said Road may be to the owners of said lands, shall, upon their oaths, assess the same; and such assessment, whether by the Commissioners or said Jury made, the same shall be certified by the Commissioners, or a majority of them, and delivered to the owners of said lands, payable by the stockholders of said Company, recoverable before any competent jurisdiction in this State, in the name and for the said owners.

VIII. *Be it further enacted*, That the Road shall be completed in the manner following, that is to say: twenty feet wide, clear of obstructions, except where side cutting may be necessary, in which case said Road shall be twelve feet wide; all Bridges shall be twelve feet wide.

IX. *Be it further enacted*, That said Road shall be, and is hereby declared to be, when completed, a public High Road; and that the

President and Directors of the stockholders in said Road shall be subject to indictment for failing to keep said Road in good repair, either in the County or Superior Courts of the counties in which the part so out of repair shall lie, and be subject to such punishment as is inflicted on overseers of public Roads in this State, for non-performance of duty, under the existing laws.

X. *Be it further enacted*, That persons living within four miles of said Road shall not be liable for toll, except in cases of market wagons, pedlars' carriages, and carriages of pleasure.

XI. *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 round said Gate, they shall forfeit and pay to said Company the sum of five dollars, to be recovered before any Justice of the Peace for either of the counties of Rutherford or Buncombe.

XII. *Be it further enacted*, That all privileges and immunities herein granted to said Company, shall continue for the full term of twenty-five years from and after the completion of said Road, and no longer: *Provided*, that the charter be null and void unless carried into effect within two years from its passage.

XIII. *And be it further enacted*, That this Act shall be, and the same is hereby declared to be in force, from and after the ratification thereof.

[Ratified 7th January, 1839.]

CHAPTER LIX.

AN ACT relating to the Public Road in Buncombe County, &c.

AN ACT to amend an Act passed in the year one thousand eight hundred and thirty-five, entitled an Act to amend an Act passed in eighteen hundred and twenty, chapter ten hundred and seventy-one, entitled an Act for repairing and improving the Road leading from the place known by the name of the Old Fort in Burke County, over the Swannanoah Gap, to Asheville, in Buncombe County, and thence to the point of intersection with the road leading through Haywood County, to the Southern boundary line 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 William Jones, senr., John Thash, Esq., and Jacob Weaver, be appointed Commissioners in addition to those named in said Act as Commissioners appointed in the County of Buncombe, to view, mark, and point out such alterations and amendments, as they in their judgment may think right and proper on the Public Road, leading from Asheville, in Buncombe County, to Waynesville, in Haywood County, as far as the line of Haywood County; that they or any three of them shall be sufficient to perform the duties aforesaid, under the same rules, regulations and restrictions, as is required in the before recited Act.

II. That the said Commissioners, or any three of them, shall make report of their proceedings to the next County Court of Buncombe, which shall happen after they are notified of their appointment; that the several overseers of the said Road shall forthwith proceed to clear out and put in lawful repair, the Road thus marked by the said Commissioners, which shall thereafter be deemed and considered the public Road.

[Ratified 8th January, 1839.]

CHAPTER LX.

AN ACT authorizing the making a Turnpike Road in 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 John B. Allison, Allen Fisher, John Zachary, Alexander Wilson and James Cathey, junior, be, and they are hereby appointed Commissioners, with power and authority to open books and receive subscriptions to the amount of four thousand dollars, which sum shall constitute the capital stock of the Company hereby incorporated, for the purpose of making and keeping in repair, a Turnpike Road, commencing at or near Benjamin Allison's, in the County of Haywood, running thence up the Tuckaseegie River, to the fork of said River, thence the nearest and most practicable route through Hamburg, to intersect the South Carolina road at the State line; the said Road to be, when completed, of the following dimensions: that is to say, sixteen feet wide, clear of obstructions, except where side cutting is 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 when completed, shall not exceed one foot perpendicular, to nine feet horizontal.

II. *Be it further enacted,* That the aforesaid capital stock shall be divided into shares of twenty dollars each, and as soon as the whole amount of the capital stock shall be subscribed, it shall be the duty of the Commissioners to notify the stockholders by advertisement, to require their attendance at such time and place as they may designate, and if the stockholders holding a majority of the shares subscribed shall attend such general meeting, it shall and may be lawful for the stockholders 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 and Directors, when so appointed, and their successors in office, shall constitute a body politic and corporate in law, by the name and style of the "Hamburg Turnpike Company," may sue and be sued, plead and be impleaded, before any Court of

record, or before any Justice of the Peace in this State, and as such, shall have perpetual succession and a common seal, and have all other power and right incident to corporate companies, which may be necessary to carry into effect the object of this incorporation.

III. *Be it further enacted*, That the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the 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 more than ten, one vote, for every four shares above ten, and not exceeding twenty, one vote, and for every eight shares thereafter, one vote.

IV. *Be it further enacted*, That the owners of a majority of all the shares subscribed, shall have power to appoint Commissioners to lay off and mark the location of the Road, and make all necessary bye-laws for the government and regulation of the said Company and the officers thereof, and shall have authority at any time to remove from office the President and Directors of said Company, or any of them, and to appoint others in their stead, and shall from time to time in general meeting, make all such rules and regulations as they may deem necessary for the well ordering, and better regulation of the concerns of said Company. The President and Directors shall have power to make such rules and regulations as may be necessary for the management of the affairs of the Company, not inconsistent with the bye-laws of the stockholders, which shall be in force until the next general meeting; it shall further be the duty of the President to make a full and fair statement of the affairs of the Company, to each general meeting of the stockholders, unless otherwise ordered, and employ such agents and officers as the officers of the Company may require.

V. *Be it further enacted*, That it shall be the duty of the Treasurer to receive all monies due the Company, to keep a fair account of the same, and perform all such duties as may be, from time to time, assigned him by the stockholders.

VI. *Be it further enacted*, That the stockholders shall, at their first general meeting, fix on the terms and the proportion in which stock subscribed shall be paid, and shall further have power to declare the stock of delinquent stockholders forfeited.

VII. *Be it further enacted*, That when the Road shall be completed, as before directed, 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 the following toll, that is to say : for a man and horse, six cents ; for loose horses and mules, four cents ; for hogs and sheep, one and a half cents ; for cattle, two cents each per head ; for six horse wagon, sixty cents ; for five horse wagon, fifty cents ; for four horse wagon, forty cents ; for three horse wagon, thirty cents ; for one horse wagon, twenty cents ; for four wheel carriages of pleasure, fifty cents ; for each gig, sulkey or cart, twenty cents.

VIII. *Be it further enacted*, That before any toll shall be collected as aforesaid, the County Courts of Haywood and Macon, or either of them, shall appoint three Commissioners for the purpose of viewing, receiving, and seeing that the said Road is kept in good repair, and if, at any time, the Company shall suffer the Road to get out of repair, and remain so for the space of fifteen days, the President and Directors shall be subject to indictment, and on conviction, shall be fined at the discretion of the Court before which they are tried ; and shall also have the Gate opened, and kept open until the Road shall be put in good repair ; and the Commissioners shall receive the sum of one dollar for every day they are necessarily engaged in receiving and making returns for said Road, to be paid by the Company.

IX. *Be it further enacted*, That if any person or persons shall, for the purpose of avoiding the payment of the above recited tolls, break through or go round said Gate, they shall be subject to pay five dollars for every such offence, recoverable before any Justice of the Peace in either of the counties through which the Road passes.

X. *Be it further enacted*, That all the powers hereby granted shall cease and determine at the expiration of twenty-five years after the completion of said Road.

XI. *And be it further enacted*, That this Act shall be in force from and after its ratification.

[Ratified 8th January, 1839.]

CHAPTER LXI.

AN ACT to appoint Commissioners to alter and amend a part of the State Road in Cherokee 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 Thomas Tatham and James Patterson be, and they are hereby appointed Commissioners on that part of the State Road from the twenty-ninth mile post, down Valley River, to the Town of Murphy; and Westley Brown and William Loudermilk, from Murphy to the Georgia line.

II. *Be it further enacted,* That when any two or more of the citizens upon said Road shall suggest to the Commissioners, or any two of them, in writing, that alterations or amendments in the location of said Road, ought to be made, the Commissioners so notified shall proceed to the premises, and if, in their opinion, alterations are necessary, they shall make the same; and so soon as the persons complaining shall have marked out the new way, and put it in order according to law, then the Commissioners shall declare it the public Highway, and the old Road shall cease to be kept up.

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

[Ratified 8th January, 1839.]

TOWNS.

CHAPTER LXII.

AN ACT to incorporate the Town of Morganton, 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 it shall be the duty of the Sheriff of Burke County, on the first Saturday in February, in each and every year, at the Court House in said county, to open polls for the election of five Commissioners in and for the Town of Morganton, to continue in office for the term of one year thereafter.

II. *Be it further enacted,* That any citizen of the said Town of Morganton, in the county of Burke, who has resided therein for two years, and who, at the time of his election, is possessed of a freehold in the same, of the value of five hundred dollars, shall be eligible as such Commissioner; and every inhabitant of the same, who has resided twelve months therein, and who is qualified according to the Constitution, to vote for members of the House of Commons, shall be entitled to vote in said election; and such election conducted and regulated in the same manner, by ballot, as elections for members of the General Assembly, and in the event of a tie, the Sheriff aforesaid shall give the casting vote.

III. *Be it further enacted,* That the said Commissioners, after their election, shall, before entering on the duties of their office, take an oath before some Justice of the Peace of the county aforesaid, faithfully and impartially to perform said duties, and thereupon they shall be constituted a body politic and corporate, by the name and style of the Commissioners of Morganton.

IV. *Be it further enacted,* That the said Commissioners shall possess full power and authority to appoint a Magistrate of Police and a Town Treasurer and Constable, and to lay and collect a tax on the

property and inhabitants of said Town, not exceeding twenty-five cents on the poll, and ten cents on every hundred dollars value of Town property, per annum, to establish patrols, and to enact and adopt all such bye-laws, rules and regulations, as they, or a majority of them, may deem necessary for the good order and government of said Town: *Provided*, the same be not inconsistent with the Constitution and Laws of the State or of the United States.

V. The Town Constable aforesaid shall be the collector of the Town tax, under the direction of said Commissioners, and for that purpose, shall have all the powers and immunities of Sheriffs in the collection of the public revenues; and said taxes, when collected, shall be applied to the improvement and repair of the streets of said Town, and if there be a residue, to such other objects as said Commissioners, or a majority of them, may deem necessary to its prosperity and advancement.

VI. That this Act shall take effect and be in force from and after its ratification.

[Ratified 28th December, 1838.]

CHAPTER LXIII.

AN ACT to circumscribe the corporate limits of the Town of Milton.

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 territory at present embraced within the corporate limits of the Town of Milton, as is situated North, East and South of the County Line Creek, be, and the same is hereby excluded from the said Corporation; and that from and after the passage of this Act, the corporate limits of said Town shall be confined to the territory (as laid off and marked by Commissioners appointed under the Act of one thousand eight hundred and eighteen) which lies within the fork of County Line Creek and Dan River.

[Ratified 15th December, 1838.]

CHAPTER LXIV.

AN ACT to appoint Commissioners for the Town of Hertford, and 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 John Wood, sen., Exum Elliott, Henry W. Barber, Benjamin Berry and Thomas F. Jones, be, and they are hereby appointed Commissioners for the Town of Hertford, in Perquimons county, with the power of appointing successors in the case of death or removal, in the same manner as they have been heretofore appointed by the Commissioners of said Town of Hertford.

II. *And be it further enacted by the authority aforesaid,* That the Commissioners aforesaid be, and they are hereby empowered and authorised to sell all the vacant lots on the margin of the River, in said Town, and all other vacant lots in said Town, to which there is no good and sufficient title, and with the money arising from said sales, that they lay off and enclose a public Grave Yard within the limits of said Town of Hertford, and otherwise apply it, as to them shall seem most meet and proper for the benefit and improvement of the said Town.

[Ratified 22d December, 1838.]

CHAPTER LXV.

AN ACT to appoint Commissioners for the Town of Bethania, 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, The government of the Town of Bethania, in Stokes county, shall be vested in the following persons and their successors, viz: George J.

Wilson, Solomon Transou, Peter Transou, Elias Shaub, and J. G. Lash, and said Commissioners and their successors in office, appointed agreeably to this Act, shall be, and they are hereby incorporated into a body corporate and politic, by the name of the Board of Commissioners for the Town of Bethania, 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 adopt such rules and regulations, and pass such bye-laws and ordinances, as to them or a majority of them, may be deemed necessary for the good government of said Town; and such rules, regulations, bye-laws and ordinances, so passed, shall be as binding as if they were here specially enacted, provided they are not inconsistent with the Constitution of the United States, or of this State, and provided that the inhabitants of said Town shall, in full Town meeting, approve of this Act of Incorporation.

II. *Be it further enacted*, That if, at any time hereafter, any of the persons appointed Commissioners by this Act shall refuse to act, or shall die, or remove out of said Town, or otherwise be incapable of acting, the remaining Commissioners shall fill up such vacancy by selecting or appointing some other fit person, which Commissioner, so selected or appointed, shall have the same power, and be under like restrictions, as those in whose stead they were appointed.

III. *Be it further enacted*, That said Board of Commissioners shall have power to appoint a Town Constable and Treasurer, and such other Officers as they may deem necessary; and the Constable, so appointed, shall have power to collect all taxes, fines and forfeitures, arising by virtue of this Act, in the same form and manner as in ordinary cases by warrant before any Justice of the Peace for said county, and he shall be allowed the same fees.

IV. *Be it further enacted*, That said Board of Commissioners be, and they are hereby authorized and empowered to lay and collect such taxes on Town property, not exceeding fifty cents on each hundred dollars valuation of real estate in said Town, and twenty cents on every taxable poll, as they shall deem necessary for the repair of the streets, and for the good of the Corporation.

V. *Be it further enacted*, That all fines and penalties incurred by virtue of this Act, or by any of said bye-laws, shall be recoverable before any Justice of the Peace for the county of Stokes: *Provided, nevertheless*, that the right of appeal shall be preserved to either party, as is now by law established in trial before a Justice.

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

[Ratified 3d January, 1839.]

CHAPTER LXVI.

AN ACT to incorporate the Town of Mocksville, in Davie 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 Thomas McNeely, Lemuel Bingham, James F. Martin, Ephraim Gaither and John McRorie, and their successors, be, and they are hereby appointed Commissioners for the Town of Mocksville, in the County of Davie, with full power and authority to adopt such rules and regulations, and to enact such bye-laws as they may deem necessary for the order and good government of said Town, not inconsistent with the laws of this State or of the United States.

II. *Be it further enacted*, That upon the death, resignation, or inability to act, of any of the aforesaid Commissioners, the remainder shall have full power and authority to appoint his successor, who shall be possessed of all power granted by this Act to his predecessor.

III. *And be it further enacted*, That the corporate limits of said Town are hereby declared one-half mile in each and every direction from the Court House, the Court House to be the centre of the chartered limits of said Corporation.

[Ratified 8th January, 1839.]

RESOLUTIONS
OF A PRIVATE NATURE,

PASSED BY THE
LEGISLATURE OF N. CAROLINA,
AT ITS SESSION OF 1838-39.

RESOLUTION in favor of the Public Treasurer.

Resolved, That Daniel W. Courts, Public Treasurer, be allowed the sum of one thousand two hundred and ninety dollars sixty seven cents, amount of Treasury notes counted and burnt by the Committee of Finance, in the settlement of his Public Accounts.

[Ratified 15th December, 1838.]

RESOLUTION in favor of B. B. Smith.

Resolved, That the Public Treasurer pay to B. B. Smith, the sum of twelve hundred and fifty dollars, as a compensation for the use of the House now occupied by the General Assembly, for and during its present Session, agreeably to the contract of his Excellency, the Governor, and that the same be allowed him in the settlement of his Public Accounts.

[Ratified 15th December, 1838.]

RESOLUTION in favor of David Royster.

Resolved, That the Public Treasurer pay to David Royster, thirteen dollars and fifty cents, for furnishing the present Legislature with

two tables and Speaker's mallet, and that he be allowed the same in the settlement of his Public Accounts.

[Ratified 15th December, 1838.]

RESOLUTION in favor of William Ashley.

Resolved, That the Public Treasurer pay to William Ashley, the sum of forty-eight dollars and twenty-five cents, for furnishing the Senate and House of Commons with tables and spit boxes, and that the same be allowed him in the settlement of his Public Accounts.

[Ratified 15th December, 1838.]

RESOLUTION in favor of Turner & Hughes.

Resolved, That the Public Treasurer pay to Messrs. Turner & Hughes, sixteen dollars, the price of Maps purchased for the use of the present Legislature.

[Ratified 22d December, 1838.]

RESOLUTION in favor of Osborne Bowers.

Resolved, That the Treasurer pay to Osborne Bowers, the sum of fifteen dollars, for four tables purchased of him for the use of the Clerks of both Houses, and that he be allowed the same in the settlement of his Public Accounts.

[Ratified 22d December, 1838.]

RESOLUTION in favor of certain enterers of Lands paid for and not granted in Wilkes.

WHEREAS, divers good citizens in Wilkes and Ashe Counties have made Entries of vacant and unappropriated lands in said Counties, in small quantities, and have paid the State for the same, as will appear

by the Public Treasurer's receipts, to-wit: Jonathan Horton, for seventy acres, entry number five thousand one hundred and six, Treasurer's receipt, number seven hundred and forty-five, and said Horton, for thirty acres, entry number five thousand one hundred and five, Treasurer's receipt, number seven hundred and forty-four; Ransom Hays, for fifty acres, entry number five thousand and fifty-four, Treasurer's receipt, number one thousand two hundred and fifteen; P. Hennessey and A. Sudderth, for two hundred acres, entry number three thousand and thirty-one, Treasurer's receipt, number five hundred and sixteen; James Stuart, for seventy-five acres, number three thousand five hundred and three, Treasurer's receipt, number now filed in Comptroller's Office; Joshua Storey, for fifty acres, entry number four thousand two hundred and seven, Treasurer's receipt, number three hundred and seventy-two; John Storey, for thirty acres, entry number five thousand one hundred and seven; Treasurer's receipt, number fifty-one; David E. Horton, for fifty acres, entry number three thousand four hundred and forty-eight, Treasurer's receipt, number five hundred and seventy; William Davenport, for one hundred acres, entry number three thousand four hundred and forty-eight, Treasurer's receipt, four hundred and seventy-three; and Thomas Lenoir, for fifty acres, entry number five thousand and eighty-six, Treasurer's receipt, now filed in the Comptroller's office, all of whom have forwarded their surveys, and are ready to be granted; therefore

Resolved, That the Secretary of State issue grants to the above named persons respectively, for their said entries paid for, if it does appear by returns to him made by the Comptroller, that the said lands have been paid for as above stated; any law to the contrary notwithstanding.

[Ratified 22d December, 1838.]

RESOLUTION in favor of Thomas Winkler, and others.

Resolved, That the Secretary of State be, and he is hereby authorized to issue the following Grants on warrants and surveys in his office, the purchase money for which has been heretofore paid into the Public Treasury, viz: Thomas Winkler, one hundred acres, entry number eleven thousand six hundred and ninety-eight; Shadrach Green, fifty acres, entry number eight hundred and thirty-seven; Shadrach Green, fifty acres, entry number seven hundred and nineteen; Thomas Willis, one hundred acres, entry number twenty-seven; Levi Hensley, fifty acres, entry number three hundred and eighty-four; John Buchanan, one hundred acres, entry number two hundred and fifty-five; Henry Hensley, fifty acres, entry number four hundred and ten.

[Ratified 22d December, 1838.]

RESOLUTION directing the Secretary of State to issue Grants for Lands sold at the late sale of the Cherokee Lands, in certain cases.

WHEREAS, by the twelfth section of the Act of Assembly, passed at the last session, authorizing the sale of the Cherokee Lands, the Commissioners who superintended the same were authorized to receive payments in advance, either in whole or in part; and whereas, in several instances, the purchasers of said lands paid in full for them at the time of purchase, and obtained the Commissioners' receipt; and whereas, by the ninth section of the Act aforesaid, the Secretary of State is authorised to issue grants for said lands, *only* upon proof made to him of payment therefor, by the production of the Treasurer's receipt; and whereas, in the cases referred to, the Treasurer can give no receipt:—For remedy whereof, be it

Resolved, That the Secretary of State shall be authorized to issue grants in the cases above referred to, for the lands sold at the late sale of the Cherokee Lands, upon the production by the purchaser of a *certificate* from the Public Treasurer, certifying that it appears from the returns made to him by the Commissioners of sale, that any parti-

cular tract of land was paid for in full, to the said Commissioners, at the time of the sale—which certificate the Public Treasurer is hereby empowered to make.

[Ratified 28th December, 1838.]

RESOLUTION directing the Secretary of State to issue certain Grants.

Resolved, That the Secretary of State be, and he is hereby authorized to issue the following Grants on warrants and surveys in his Office, the purchase money for which has been heretofore paid into the Public Treasury, viz: John Carson, twenty acres, entry number eight thousand one hundred and forty-four; Jasper Billings, fifty acres, entry number five thousand two hundred and eighty-five; Benjamin Crous, seventy-five acres, entry number seven thousand three hundred and seventy-nine; Joel Lawrence, one hundred and twenty acres, entry number seven thousand two hundred and eighty-one; Joel Lawrence, fifty acres, entry number seven thousand five hundred and fifty-seven; M. R. Lyon, one hundred acres, entry number seven thousand two hundred and twenty-three; John Long, one hundred acres, entry number seven thousand four hundred and forty-five; Jesse Osburn, one hundred acres, entry number seven thousand nine hundred and eighty-two; Washington Long, fifty acres, entry number four thousand nine hundred and sixty-nine; Daniel Sturgill, twenty-five acres, entry number seven thousand two hundred and twenty-one; James Gentry, twenty acres, entry number seven thousand eight hundred and fifteen; Levi Jones, seventy-five acres, entry number eight thousand and sixty-five; George P. Faw, fifty acres, entry number seven thousand seven hundred and six; David Sands, fifty acres, entry number five thousand and twenty; Francis Sturgill, seventy-five acres, entry number seven thousand two hundred and eleven.

[Ratified 28th December, 1838.]

RESOLUTION in favor of Hiram Higgins and Solomon Perry,
of Ashe.

WHEREAS, it appears by the Treasurer's receipt, number seven hundred and seventy-one, that Hiram Higgins did, on the second of December, one thousand eight hundred and thirty-five, pay in his Office the sum of five dollars for fifty acres of land by him entered in the county of Ashe, as per Entry Taker's receipt, number seven thousand two hundred and sixty-three; and that Solomon Perry did, on the seventh of January, one thousand eight hundred and twenty-eight, pay into the Treasurer's Office the sum of five dollars for fifty acres of land by said Perry entered in the county of Ashe, as per Entry Taker's certificate, number four thousand six hundred and fifteen—Therefore

Resolved, That the Secretary of State make out Grants for the above named persons, any thing to the contrary notwithstanding.

[Ratified 28th December, 1838.]

RESOLUTION relating to the Public Printing.

Resolved, That the Public Printer have permission to return such documents as he cannot print so soon as the Legislature may desire, and that the Clerks of the two Houses employ such other persons as they may think proper, on the same terms and responsibilities as are now incurred by the Public Printer; and that the said Public Printer be released from all responsibility for the execution of the work so returned.

[Ratified 28th December, 1838.]

RESOLUTION for repairing the Steeple of the Presbyterian Church.

WHEREAS the Legislature has had the use of the Bell of the Presbyterian Church, for four sessions past, and by the frequent use, the Steeple has become unsafe for the ringing of the Bell—Therefore

Resolved, That the Public Treasurer pay to the Trustees of the Presbyterian Church, one hundred dollars, for repairing the Steeple of said Church, and he be allowed the same in his settlement of the Public Accounts.

[Ratified 28th December, 1838.]

RESOLUTION in favor of Matthew Waddell.

Resolved, That the Treasurer pay to Matthew Waddell, the sum of twenty-four dollars and forty cents, for carrying a writ of election to the Sheriff of the County of Anson, to supply the vacancy occasioned by the resignation of Col. White, and that he be allowed the same in the settlement of his Public Accounts.

[Ratified 28th December, 1838.]

A RESOLUTION in favor of Benjamin Hawkins.

Resolved, That the Secretary issue to Benjamin Hawkins, a Grant for one hundred acres of land in Buncombe County, entry number five thousand one hundred and six, and for which the purchase money has been paid as per Comptroller's certificate, dated the fifteenth day of December, one thousand eight hundred and thirty-six.

[Ratified 28th December 1838.]

RESOLUTION imposing duties on the Public Printer, and Secretary of State.

Resolved, That hereafter it shall be the duty of the Public Printer to deliver to the Secretary of State, six copies of all such public documents, exclusive of bills, as either branch of the Legislature may order to be printed, which documents, the Secretary of State shall have bound in six separate volumes, two to be deposited in the Public Library, two in the Senate Chamber, and two in the Chamber of the House of Commons.

[Ratified 28th December, 1838.]

RESOLUTION in favor of Samuel Chunn.

Resolved, That the Secretary of State be authorized to alter a grant issued in the name of Samuel Chunn, of the County of Buncombe, for fifty acres of land, and dated the seventh day of December, one thousand eight hundred and twenty, by striking out the word "West," in the second course of said grant, and inserting the word "South."

[Ratified 3d January, 1839.]

RESOLUTION in favor of Charles L. Hinton.

Resolved, That the Public Treasurer be authorized to pay to Charles L. Hinton, twenty dollars, which he had to pay the Treasurer in lieu of a twenty dollar counterfeit note on the Planter's and Mechanic's Bank of South Carolina, which he received as Commissioner at the Cherokee Land sale in September last.

[Ratified 3d January, 1839.]

RESOLUTION relating to the Sheriff of Ashe.

Resolved, That no proceedings be taken against the Sheriff of Ashe, for and on account of any defect which may exist in his return of the votes for Governor taken at the late election in said County.

[Ratified 3d January, 1839.]

RESOLUTION concerning the Secretary of State.

Resolved, That the Secretary of State re-deposit the Sale Book, containing an account of the late sales of the Cherokee Lands, with the Comptroller of Public Accounts.

[Ratified 3d January, 1839.]

RESOLUTION concerning the Books, Papers, and Furniture of the
General Assembly.

Resolved, That Green Hill be appointed to collect all the Books and Papers which have been furnished for the use of the Legislature, and deposite them in the Public Library, and that he collect all the Furniture which has been procured for the use of the Legislature, immediately on the adjournment thereof, and deposite the same in the Arsenal, and that the Governor be directed to allow him a reasonable compensation for his service, which shall be paid by Public Treasurer.

[Ratified 3d January, 1839.]

RESOLUTION in favor of Flealden Hensley and others.

Resolved, That the Secretary of State be, and he is hereby authorized to issue the following Grants on warrants and surveys in his Office, the purchase money for which has been paid into the Public Treasury, viz: Flealden Hensley, fifty acres, entry number three hundred and forty-five; John Jackson, fifty acres, entry number two hundred and fifty-two; Ransom P. Merrill, one hundred acres, entry number five hundred and sixty-nine; John Collis, one hundred acres, entry number ten thousand two hundred and seventy-six; John Keith, one hundred acres, entry number four hundred and thirty-eight; Love Clark, fifty acres, entry number one hundred and ninety-six; Samuel Bradford, fifty acres, entry number three hundred and forty-four.

[Ratified 3d January, 1839.]

RESOLUTION in favor of William Leach, of Randolph County.

Resolved, That the Secretary of State be, and he is hereby instructed to issue to William Leach, of the county of Randolph, two Grants for land heretofore paid for, as per Treasurer's receipt, number three hundred and seven, Entry Taker's certificate number one thousand six

hundred and eighty-two, for nine acres; and receipt number four hundred and thirty-nine, Entry Taker's certificate number one thousand six hundred and eighty-one, for twenty-five acres.

[Ratified 3d January, 1839.]

RESOLUTION in favor of John McGee.

Resolved, That the Secretary of State be, and he is hereby authorized to issue to John McGee, of Bladen county, a Grant for fifty acres of land, on his entry number eighty-four, for which the purchase money has been paid.

[Ratified 4th January, 1839.]

RESOLUTION in favor of Dove Pannel.

Resolved, That the Secretary of State be authorized to issue to Dove Pannel, of Rutherford county, a Grant for thirteen acres of land, on his entry number one thousand six hundred and twenty-seven, for which the purchase money has been paid.

[Ratified 4th of January, 1839.]

RESOLUTION in favor of James C. Turrentine, Sheriff of Orange County.

Resolved, That the Public Treasurer be, and he is hereby authorized and directed to pay to James C. Turrentine, Sheriff of Orange county, the sum of sixty-two dollars and fifty cents, it being the aggregate sum paid by him into the Treasury of the State, on insolvent taxable polls, for the years one thousand eight hundred and thirty-five and one thousand eight hundred and thirty-six, for which no allowance was made to him in his settlement with the Comptroller.

[Ratified 4th January, 1839.]

RESOLUTION in favor of Simon M. Smithwick.

Resolved, That the Public Treasurer pay to Simon M. Smithwick, late Sheriff of Martin county, the sum of twenty-three dollars and sixty cents, for one hundred and eighteen insolvent polls, allowed by the County Court aforesaid, for the year one thousand eight hundred and thirty-six, and that he be allowed the same in the settlement of his Public Accounts.

[Ratified 4th January, 1839.]

RESOLUTION in favor of Willis D. Dowd.

Resolved, That the Public Treasurer pay to Willis D. Dowd twelve dollars and fifty cents for carrying a writ of election to the county of Moore, and that he be allowed the same in the settlement of his Public Accounts.

[Ratified 7th January, 1839.]

RESOLUTIONS making compensation to the Comptroller and Treasurer.

Resolved, That the Public Treasurer pay to William F. Collins, Comptroller of the State, the sum of five hundred dollars, in full compensation for the additional services and responsibilities created by the Act of the Legislature, at its last session, in relation to the sale of the Cherokee lands, and that the Treasurer be allowed that sum in the settlement of his Public Accounts.

Be it also Resolved, That the Treasurer be allowed two hundred and fifty dollars for the additional services of his Clerk in having charge of the bonds for Cherokee lands, and in full for his services in keeping the accounts of the Internal Improvement Board.

[Ratified 7th January, 1839.]

RESOLUTION in favor of William Harbinson, of Lincoln County.

Resolved, That the Public Treasurer be authorised and directed to pay to William Harbinson, of Lincoln county, the sum of twenty dollars, and that he be allowed the same in the settlement of his Accounts.

[Ratified 7th January, 1839.]

RESOLUTION to pay for furniture procured for the use of the General Assembly.

Resolved, That the Public Treasurer pay to James Page, Principal Doorkeeper of the House of Commons, ninety-eight dollars and twenty-three cents, to be disbursed by him in payment of sundry small bills for furniture and articles procured for the use of the two Houses of this General Assembly, the present session.

[Ratified 7th January, 1839.]

RESOLUTION to reimburse expenses of the Governor.

Resolved, That the Treasurer be directed to pay to his Excellency Edward B. Dudley, the sum of seven hundred and forty-eight dollars and thirty-three cents, the same being for money already expended by him in refitting the Governor's House, and for furniture for the same.

[Ratified 7th January, 1839.]

RESOLUTION in favor of Joseph H. Waters.

Resolved, That the Secretary of State be, and he is hereby authorized to alter a grant issued to Samuel Waters, on the twenty-fourth of April, one thousand seven hundred and sixty-two, under a plot and certificate of survey entered on record in the office of the Secretary of State, bearing date the twenty-sixth of February, one thousand seven hundred and sixty-two, for six hundred and forty acres of land,

of which Joseph H. Waters is now proprietor, by striking out the word "Bladen," as inserted in the grant, and substituting the word "New-Hanover," as inserted in the plot of survey.

[Ratified 7th January, 1839.]

RESOLUTION in favor of John C. Ehringhaus.

Resolved, That the Public Treasurer pay John C. Ehringhaus, the sum of eight dollars and five cents, for overpaying into the Treasury the same, as Auctioneer of Pasquotank County, for the year one thousand eight hundred and thirty-six, and that the same be allowed him in settlement of his Public Accounts.

[Ratified 7th January, 1839.]

RESOLUTION in favor of William H. Haywood, Junr.

Resolved, That the Treasurer pay to William H. Haywood, Junior, Commissioner to settle the Military claim of this State on the General Government, the sum of six hundred and fifty dollars, out of any money in the Public Treasury, not otherwise appropriated, for his services and expenses, and that the Treasurer be allowed the same in the settlement of his accounts.

[Ratified 7th January, 1839.]

RESOLUTION in favor of the Doorkeepers.

Resolved, That the Public Treasurer pay to each of the Doorkeepers of both Houses, twenty-five dollars, the usual extra allowance, and that they be compelled to pay out of the same, the hands necessarily employed by them for bringing wood and water to the State House during the present session.

[Ratified 7th January, 1839.]

NORTH-CAROLINA.

SECRETARY OF STATE'S OFFICE, }
April, 1839. }

I, WILLIAM HILL, Secretary of State in and for the State of North-Carolina, do hereby certify that the Acts and Resolutions contained in this Pamphlet are true copies of the original Acts and Resolutions passed by the General Assembly of this State, at its late session.

WILLIAM HILL, *Secretary of State.*

INDEX TO THE PUBLIC LAWS.

ARSENAL.

Giving to the United States jurisdiction over a tract of land in the town of Fayetteville Page 5

ATTACHMENTS.

Defendants in suits commenced by Attachments, may give bail, replevy and plead to issue 7

BANK OF CAPE FEAR.

To amend the Charter of the Bank 7

BASTARD CHILDREN.

Illegitimated children may be declared legitimate by the County or Superior Court on the application of the putative father 8

BRIDGES.

To compel the owners of Bridges to construct Draws 9

CAPITOL.

Appropriation to complete the Capitol of the State 10

CLERKS.

Two Justices may take the bond, and administer the oath of office to a Clerk appointed by a Judge of the Superior Courts 11

COMMON SCHOOLS.

To divide the counties into School districts and establish a system of Common Schools 12

CONSTABLES.

Appointing the time when Constables shall be elected 17

COUNTIES.

To erect and establish the County of Cherokee 18

Act supplemental to the foregoing 18

To lay off and establish the county of Henderson 20

Act supplemental thereto 21

COURTS OF JUSTICE.

To amend the 39th section of the Revised Statute entitled "An Act concerning Courts of Justice, Practice, Pleas and Process." Jurisdiction of the County Courts to be the same as before the passage of the Revised Act 26

To amend the 27th section of the foregoing Statute. County Courts authorized to draw forty-two persons to serve as Jurors at the next Court 27

DIVORCES.

The custody of the children of persons divorced may be committed to either parent, and proper guardians of their estates may be appointed 27

DUE BILLS.

The true intent of the 86th section of the Revised Statute "concerning Crimes

INDEX.

and Punishments," is to render penal the issuing of Notes or Due Bills for sums under one dollar, intended to pass as the representative of money	28
ELECTIONS.	
Voters for members of the House of Commons required to write the names of all persons voted for on a single scrip of paper	29
See CONSTABLES.	
ENTRIES.	
Where there are no intervening entries, entry money due on the 15th December, 1839, may be paid on the 15th December, 1840	29
The like privilege extended by supplemental Act (ch. 20) to 15th December, 1841, on all entries other than of Swamp Lands, since 1st January 1834	30
All entries in the counties of Ashe, Buncombe, Burke, Haywood, Macon, Rutherford, Stokes, Surry, Wilkes and Yancey, made since 1st January 1830, may be paid for by 1st January 1841 (saving the rights of junior entries)	31
GAMING WITH SLAVES.	
White persons indictable for playing at any game of hazard with Slaves	32
INSOLVENT DEBTORS.	
Persons imprisoned for fine and costs of a criminal prosecution, during the space of twenty days, may be discharged under the 1st and 4th sections of the Revised Statute entitled "Insolvent Debtors"	32
MARRIAGES.	
Marriages between free persons of color and white persons, declared to be unlawful, and rendered null and void	33
PENSIONS.	
In every year during which there is no Session of the General Assembly, Pension Certificates issued by the Clerks of the County Court, may be countersigned by the Governor instead of the Speakers of the two Houses	34
PUBLIC PRINTING.	
Secretary of State to pay for printing the Laws, not more than \$4 ; for the Journals and for all printing ordered by the General Assembly, not more than \$1 50 for each octavo page	34
RAIL ROADS.	
An Act to amend an Act entitled an Act to incorporate the Fayetteville and Western Rail Road Company, Ch. 37	36
Act supplemental thereto, ch. 38	38
An Act for the relief of the Raleigh and Gaston Rail Road	41
to incorporate the Weldon Rail Road Company	47
ROAD IN CHEROKEE COUNTY.	
The sum of \$2000 appropriated to improve the Road between Franklin, in Macon, and Murphey, in Cherokee County	66
REGISTRATION.	
The time for registering Grants (with the exception of grants for Swamp Lands surveyed by direct on of the Literary Board,) mesne conveyances, (except mortgages and conveyances in trust,) powers of attorney, bills of sale and deeds of gift, extended for two years from 4th December 1838, ch. 33, 34	68
REPLEVIN.	
When the Plaintiff recovers in his action, judgment shall be rendered for the sum assessed by the jury as the value of the slaves demanded in the writ, which may be discharged by the surrender of the slaves	69
REVENUE LAWS.	
To amend the Revenue Laws with respect to the valuation of lands	70

INDEX.

REVISED STATUTES.

The printed text of the Revised Statutes, and not that of the enrolment in the office of the Secretary of State, to be regarded as the true text	75
For the various amendments of the Revised Statutes, see Attachments—Bastard Children—Constables—Courts of Justice—Due Bills—Insolvent Debtors—Pensions—Public Printing—Replevin—Revenue Laws—Wrecks.	
For the Revised Statutes which have been amended, see Vol. 1 Chap. 6, 12, 94, 81 sects. 27 and 29—39, 34, sect. 86—58, sections 1 and 4—87, 95, 101, 102, 123	

INDEX TO THE PRIVATE ACTS.

ACADEMIES AND COLLEGES.

To incorporate Pleasant Grove Academy in the County of Perquimons	89
Rutherfordton Male and Female Academies	90
Junto Academy in Orange	90
Salisbury Female Academy	92
Randolph Female Academy	95
To amend the Act of 1822, incorporating the Male and Female Academy in Charlotte	91
Act establishing the Clemmons ville Academy	93
To incorporate the Greensborough Female College	100
Davidson College	102
To amend the Act of 1833, establishing a Literary and Manual Labor Institution, in the County of Wake	106
BRIDGES.	
To authorize the construction of a Bridge across Trent River	96
A. K. S. Hunter, of Cherokee, to move his Bridge on Hiwassee River	93
the Justices of the County Court of Perquimons to purchase the Float Bridge across Perquimons River	99
To establish a Toll Bridge over the South Yadkin River near Hall's Mills, in Davie County	97

CONSTABLES.

To alter the mode of electing Constables in Martin County	106
---	-----

CORPORATIONS.

To incorporate the Cape Fear and Western Steam Boat Company	109
Hiwassee Turnpike Company	114
Buncombe Warm Springs Company	115
North Carolina Mutual Fire Insurance Company	116
Washington Mining Company	119

COUNTY TRUSTEE.

To appoint a County Trustee and Treasurer of Public Buildings in Columbus Co.	121
---	-----

COURTS.

To change the time of holding the County Courts of Wilkes	121
Superior Courts of Stokes and Guilford	123
County Courts of Person	124
County Courts of Rowan	124

INDEX.

To change the time of holding the County Courts of Iredell	126
County Courts of Rutherford	127
To authorize the Justices of Beaufort, Davidson, Granville, Green, Hertford, Macon, Rowan, Yancy and Wayne, to arrange themselves in classes to hold the County Courts	125
INSPECTION LAWS.	
Regulating the Inspection of Lumber in Wilmington	127
JURORS.	
Jurors to be drawn for each week of the Superior Court of Buncombe	129
To allow compensation to the Jurors of Columbus	129
To repeal the Act of 1835, giving compensation to Jurors in Yancy County	130
MANUFACTURING COMPANIES.	
To incorporate the Phoenix Company of Fayetteville	110
Rocky Mount Manufacturing Company	131
High Shoals Manufacturing Company	134
Lexington Manufacturing Company	137
Yadkin Manufacturing Company	138
Randolph Manufacturing Company	140
Weldon Manufacturing Company	141
MILITIA.	
To incorporate the Raleigh Guards and Henderson Light Infantry	145
Concerning Battalion Musters in Beaufort	146
Regulating Drill Musters in Davidson	146
Drill Musters in Jones may take place every three months	147
MISCELLANEOUS.	
For the better regulation of the town of Greenville	148
Requiring the Jailer of Stokes to live in the Jail, and prescribing his duties	155
To render valid certain surveys made by the Deputy Surveyor of Haywood	156
To authorize Robert Walker to build a mill at or near the Rock House, on Roaring River	156
To emancipate Caroline Cook and her four children	157
To authorize a Fire Engine Company in Bethania	158
To exempt Lock Keepers on the Dismal Swamp Canal from mustering and working on roads	159
To amend the Acts in relation to the burnt Records of Hertford	160
Concerning the ranging of Hogs, Horses or Cattle in Currituck	160
To allow compensation to the Wardens of the Poor in Wayne	161
RIVERS AND CREEKS.	
To clear out Rockfish Creek in Duplin	162
To permit the passage of fish up the Pedee and Main Yadkin Rivers	162
ROADS.	
Appointing Commissioners to lay off a Public Road from Burnsville to the Tennessee line	164
Appointing Commissioners to lay off a part of the great State Road from Presly Shepherd's to Frederic Seavert's	165

INDEX.

To establish the "Hickory Nut Turnpike Company" in Rutherford and Buncombe	166
Relating to the Road from Asheville to Waynesville	171
To establish the "Hamburg Turnpike Company" in Haywood	172
To alter and amend the State Road in Cherokee	175

TOWNS.

To incorporate Morganton, in Burke county	176
Mocksville, in Davie county	180
To circumscribe the corporate limits of Milton	177
To appoint Commissioners, &c. for Hertford	180
for Bethania	178



REPORTS

OF

THE COMMITTEE OF FINANCE.

IN SENATE.

The Committee on Finance have instructed me to report, that they have carefully examined all the books and vouchers in the Treasurer's and Comptroller's Offices, and find that they correspond with the Reports made by the two Officers presiding over those Departments, to the present General Assembly, for the two last fiscal years, ending the 31st October, 1838. They have, also, examined the Deposites in Bank, and find them to correspond with the amount stated in the Treasurer's Report. The vouchers which have been examined by the Committee in the Comptroller's Office, have been all cancelled. As far as your Committee can judge, all the accounts have been kept in conformity with the laws regulating those Departments. The Committee think it but justice to say, that much credit is due to the Comptroller and Treasurer, for the able and faithful manner they have discharged the duties of the Departments over which they preside.

Respectfully submitted.

EDMUND JONES, Chairman.

HOUSE OF COMMONS.

The Committee on Finance have carefully examined the Books and Accounts of the Public Treasurer and Comptroller, from the 31st October 1836, to the 31st October 1838, and take much pleasure in saying that they correspond entirely with the statements given in the printed Reports of both Treasurer and Comptroller, as furnished to this General Assembly by them. They have, also, examined with much care the monthly account of the Treasurer with Bank Deposites, and find that they are in strict conformity with the Act of the General Assembly. Your Committee cannot forego the expression of the most entire satisfaction at the able, honest and business-like manner in which their Books and Accounts are kept.

WM. P. WILLIAMS, Chairman.

TREASURER'S REPORT.

TREASURY DEPARTMENT, }
November 22d, 1838. }

SIR:

I have the honor herewith to transmit to you, to be laid before the General Assembly, a Report, prepared in obedience to an Act of Assembly, entitled "An Act concerning the Treasurer of the State."

I have the honor to be,

With great respect, Sir,

Your obedient servant,

DANIEL W. COURTS.

THE HONORABLE THE SPEAKER OF THE HOUSE OF COMMONS.

*To the Honorable the General Assembly
of the State of North-Carolina:*

In obedience to the directions of an Act of the General Assembly, entitled "An Act concerning the Treasurer of the State," the Public Treasurer respectfully submits the following Report:

I. Of the Public or unappropriated Revenue and Expenditures.

The balance of cash in the Public Treasury, on the 1st day of November, 1835, was	\$46,856 30
The receipts of the ensuing fiscal year, ending on the 31st day of October, 1836, amounted to	539,559 94
To which add the sum of	2,670 38
Being the amount drawn from the Internal Improvement Fund, to meet a part of the disbursements of that year, from the Public Fund; making an aggregate amount of	589,086 62
The disbursements during the same period, amounted to	<u>589,086 62</u>

The receipts at the Treasury Department for the two last fiscal years, that is from the 31st day of October, 1836, to the 1st November, 1838, amount to six hundred and fifty-seven thousand, five hundred and thirty-four dollars and sixty-four cents (\$657,534 64) and consist of the following items, viz:

Cash received from the Secretary of the Treasury of the United States, being part of the Surplus Revenue allotted to North-Carolina, under the Act of Congress of June, 1836, to defray the civil and contingent expenses the State, according to an Act of the last Legislature,	100,000 00
Do. of the Surplus Revenue, with which to redeem the scrip of the State, sold to the Secretary of the Treasury of the United States, for the benefit of the Cherokee Indians,	300,000 00
Do. from Sheriffs, for Public Tax of 1836, being the ordinary Revenue payable into the Treasury in 1837, and not specifically appropriated,	71,356 50
Do. from the same, on account of additional returns of taxes (see Statement A.)	336 49
Do. from the Bank of Cape Fear, for dividend of 8 per cent. on 10 shares of stock unappropriated, declared November, 1836,	80 00
Do. from D. L. Barringer, under a Resolution of 1835, in favor of said Barringer and W. N. White,	100 00
Do. from the Bank of the State of North-Carolina, for dividend of 4 per cent. profit on 4053 shares of Stock, declared in December, 1836,	16,232 00
Do. from Whitmel Stallings, being the amount overpaid him as a member of the General Assembly of 1832, owing to a mistake in the Clerk's certificate,	6 00
Do. from J. W. Bryan, being the amount overdrawn by him as a member of the Legislature of 1836, owing to a mistake in the Clerk's certificate,	3 00
Do. from the Bank of Cape Fear, for dividend of 2 per cent. profit on ten shares of stock,	20 00
Do. from F. J. Haywood, being the amount of his two bonds given for the purchase of part of the Bushy Branch tract of land,	424 87
Do. from Wm. H. Haywood, Jr. in discharge of a claim of the State of North-Carolina against the State Bank of North-Carolina,	17,464 83
Do. from Wm. H. Haywood, Jr. Agent for the adjustment of the claims of this State against the General Government, for the services of the Militia of the State and money expended during the late war,	30,000 00
Do. from the Merchants' Bank of Newbern, for the tax of 25 cents on each share of stock held by individuals in said Bank,	562 50
Do. from the Bank of the State of North-Carolina, for the tax of 25 cents on each share of stock held by individuals in said Bank,	2,250 00

Do from the Bank of Cape Fear, for the tax of 25 cents on each share of individual stock in said Bank,	1,381 75
Do. from the State Bank of North-Carolina, as the final dividend of six per cent. of 2768 shares of capital stock owned by the State in said Bank,	16,608 00
Do. from the Bank of Newbern, as the final dividend of 10 and 1-5 per cent. of 1818 shares of capital stock in said Bank,	18,543 60
Do. from the Bank of Cape Fear, for dividend No. 57, of 7 per cent. profit on 10 shares of stock in said Bank unappropriated,	70 00
Do. from Joshua Roberts, Treasurer of the Buncombe Turnpike Company,	925 00
Do. from the Bank of Cape Fear, dividend of $4\frac{1}{2}$ per cent. on 10 shares of stock in said Bank,	45 00
Do. from the Merchants' Bank of Newbern, as the tax of 25 cents on each share of stock held by individuals in said Bank, payable in 1838,	562 50
Do. from Sheriffs, for public tax of 1837, being the ordinary revenue payable in 1838, and not specifically appropriated,	77,176 43
Do. from the same, on account of additional returns of taxes (see Statement A.)	636 11
Do. from the Bank of the State of North-Carolina, as the tax of 25 cents on each share of individual stock in said Bank, payable in 1838,	2,250 00
Do. from the same, as the purchase money for one-half of lot No. 192, in the City of Raleigh, belonging to the State,	500 00
Which form an aggregate amount of	<u>\$657,534 64</u>

The disbursements from the Public Fund for the same period, that is, from the 31st of October, 1836, to the 1st day of November, 1838, consist of the following items, viz :

This sum repaid to the Fund for Internal Improvements, that amount of this Fund having been heretofore used for the purposes of the Public Fund,	2,670 38
Paid S. F. Patterson, Commissioner to purchase in the Scrip of the State, from the Secretary of the Treasury of the United States, upon the warrant of the Governor,	300,000 00
Paid General Assembly,	39,409 57
“ Treasury Notes burnt by Committee of Finance,	1,552 91
“ Judiciary,	52,875 08
“ Rebuilding Capitol.	138,026 05

Paid Public Printing,	4,002 43
“ Contingencies,	31,080 19
“ Executive Department,	4,675 00
“ Treasury “	4,000 00
“ Department of State	1,600 00
“ Comptroller's Department,	2,000 00
“ Adjutant General's Office,	400 00
“ Governor's House and Lot,	5,057 85
“ N. J. King, one of the Commissioners for the survey of the Cherokee Lands,	14,750 00
“ Interest on State Loan,	11,500 00
“ Council of State,	261 00
“ Sheriffs for comparing Senatorial Polls,	206 68
“ “ for Convention returns,	43 16
“ “ for settling Public Tax,	2,053 20
“ “ for Governor's Election,	862 37
“ “ for Congressional “	520 49
“ “ for Electoral “	1,281 51
“ Bogue Banks,	55 85
“ Pensioners	773 75
“ Electors	410 60

Making an aggregate amount of 620,068 07

Which deducted from the amount of receipts, leaves a balance in the hands of the Public Treasurer on the 1st day of Nov. 1838, of 37,466 57

For a more detailed exhibit of the items constituting the foregoing disbursements, the Comptroller's Statement, usually furnished for the use of the Members of the General Assembly, is respectfully referred to.

II. *Of the Literary Fund.*

The balance of Cash in the hands of the Public Treasurer as Treasurer of Literary Fund, on the 31st of Oct. 1836, as reported to the General Assembly of that year, was 3,845 09

The receipts at the Treasury Department, of money, belonging to this Fund, for the two last fiscal years, that is, from the 31st day of Oct. 1836, to the 1st day of Nov. 1838, amount to six hundred and seventy-nine thousand, one hundred and thirty-nine dollars and fifty-three cents (679,139 53) and consist of the following items, viz :

Cash received from sundry Auctioneers, for tax on sales at auction, 1,734 05

Cash from the Roanoke Navigation Company, for dividend of 2 per cent. on 500 shares of stock appropriated to this Fund,	1,000 00
Cash from Bank of Cape Fear, for dividend of 8 per cent. profit on 704 shares of stock appropriated to this Fund, declared 21st Nov. 1836,	5,632 00
Cash from the same, for dividend of 8 per cent. on 50 shares of stock belonging to this Fund,	400 00
Cash for entries of vacant land,	10,938 00
Cash from the Bank of the State of North Carolina, for dividend of 4 per cent. on 1,941 shares of stock belonging to this Fund, declared Dec. 1836,	7,768 00
Cash from the Bank Cape Fear, for dividend of 2 per. ct. on 704 shares of stock appropriated to this Fund,	1,408 00
Cash from the same, for dividend of 2 per cent. on 50 shares of stock, belonging to this Fund,	100 00
Cash, that part of the Surplus Revenue appropriated to this Fund by the last Legislature, for the subscription for stock in the Bank of Cape Fear, and for draining the Swamp Lands of the State,	500,000 00
Cash, this sum repaid by the Fund for Internal Improvements, that amount having been heretofore transferred from this to the Fund for Internal Improvement, to meet a claim upon the latter Fund, from the Wilmington and Raleigh Rail Road, upon a draft of the Governor,	34,828 13
Cash as principal repaid on loans made by the President and Directors of the Literary Fund, to sundry individuals and corporations, under an Act of the last Legislature,	14,818 00
Cash, tax on retailers of spirituous liquors, for the year 1836, payable in 1837,	2,885 80
Cash, tax on Do. for 1837, payable in 1838,	2,953 91
Cash from the Bank of the State of North Carolina, for dividend of one-fourth of one per cent. on 5000 shares of stock, owned by this Board,	1,250 00
Cash, this sum from the President and Directors of the Literary Fund, as interest on loans made by them to sundry individuals and Corporations,	14,858 69
Cash from the President and Directors of the Fund for Internal Improvements as interest on loans made by them appropriated to the Literary Fund,	18,114 75
Cash, interest for advanced payment in the late subscription for stock in the Bank of Cape Fear.	6,750 00
Cash from the State Bank of North Carolina, as the final dividend of 6 per cent. of 282 shares of capital stock, belonging to the Literary Fund,	1,692 00

Cash from the Bank of Newbern, the final dividend of 10 and 1-5 per cent. of 141 shares of capital stock held by the President and Directors of the Literary Fund,	1,438 20
Cash from the Bank of Cape Fear, dividend No. 57, of 7 per cent. on 2,000 shares of stock belonging to this Fund,	14,000 00
Cash, George McNeil, agent for the Cape Fear Navigation Company, dividend of 1 per cent. on 650 shares of stock in said Company,	650 00
Cash from the Bank of Cape Fear, dividend of 4½ per cent. on 2,000 shares of stock,	9,000 00
Cash, Cape Fear Navigation Company, dividend of 1 per cent. on 650 shares of stock,	650 00
Cash from the Bank of the State of North Carolina, dividend No. 6 of 5½ per cent. on 5000 shares of stock belonging to this Fund,	26,250 00

Making an aggregate amount of 679,139 53

Which added to the balance before stated, make the sum of \$682,984 62

The disbursements from this Fund for the two last fiscal years, are as follows :

Cash paid for 3000 shares of stock in the Bank of Cape Fear,	300,000 00
Cash refunded to John and Thomas Webb, being the amount overpaid by them on entries of vacant land,	7 50
Cash transferred to Internal Improvement Fund, by direction of the President and Directors of the Literary Fund,	34,828 13
Cash paid sundry individuals and Corporations, being amount loaned by the President and Directors of this Fund, under the act of the last General Assembly,	282,627 00
Cash paid charges of the Board,	1,370 24
Cash paid the Bank of Cape Fear for 207 shares of stock subscribed for by this Board,	20,700 00
Cash paid for draining Mattamuskeet Lake,	8,000 00
Cash paid Isaac Croom, for tax fees returned to this office by the Clerk of the County Court of Wayne, under an act of the General Assembly of 1822,	18 00
Cash for draining the Swamp Lands of the State,	8,148 64

Making the sum of 655,699 61

Which deducted from the amount before stated, leaves a balance in the hands of the Public Treasurer as Treasurer of the Literary Fund, on the 1st Nov. 1838, of 27,285 11

III. *Of the Fund for Internal Improvements.*

The balance of Cash in the hands of the Public Treasurer as Treasurer of the Fund for Internal Improvement on the 31st of Oct. 1836, as reported to the General Assembly of that year, was

34,747 51

The receipts at the Treasury Department, on account of the Fund for Internal Improvements for the two last fiscal years, that is, from the 21st Oct. 1836, to the 1st Nov. 1838, are as follows:

Cash received from the Public Fund, being the amount heretofore drawn from this Fund, to meet charges upon the Public Fund,

2,670 38

Cash received from the Bank of Cape Fear, as dividend of 8 per cent. on 1358 shares of stock, dividend appropriated to this Fund,

10,864 00

Cash from sundry persons on bonds given for the sale of Cherokee lands, 1,534 42 of which was paid by the Commissioners for the sale in 1836;

3,124 39

Cash from N. Edmonston, Commissioner for the sale of Cherokee Lands in 1836, being one-eighth of the purchase money,

3,253 11

Cash from the Bank of Cape Fear, for dividend of 2 per cent. on 1358 shares of stock,

2,716 00

Cash, being part of the Surplus Revenue,

533,757 39

Cash, as principal repaid on loans made by the President and Directors of this Fund,

251,000 00

Cash from the Literary Fund to meet the demand of the Wilmington and Raleigh Rail Road Company, by a warrant of the Governor,

34,828 13

Cash received from the Bank of Cape Fear, as a premium on part of the Surplus Revenue deposited with said Bank,

964 60

Cash from the same for dividend No. 57 of 7 per cent. on 112 shares of stock belonging to this Fund,

784 00

Cash from James W. Guinn, collected by him on sundry bonds given for Cherokee Lands,

11,295 00

Cash, Thomas L. Clingman, collected by him as above,

2,860 00

Cash from the Bank of Cape Fear, dividend of 4 1/2 per cent. profit on 112 shares of stock,

504 00

Making an aggregate amount of

863,621 00

Which added to the above balance, makes the sum of

898,368 51

The disbursements from this Fund for the same period, are as follows:

Cash paid N. Edmonston, Commissioner for the sale of Cherokee Lands,

390 87

Cash, Hybart and Strange, for advertising Cherokee Lands,	6 00
Cash, Humphrey Posey, per resolution of the General Assembly of 1837,	150 00
Cash, charges of the Board, Clerks, &c.,	791 25
Cash paid the Wilmington and Raleigh Rail Road Company, being the subscription for stock under an act of the last Legislature,	300,000 00
Cash, paid this sum loaned by the President and Directors of this Fund to sundry individuals and Corporations,	549,450 00
Cash, this sum repaid to Literary Fund,	34,828 13
Cash paid John L. Smith, for the construction of a Road from Franklin, in Macon county, to the Georgia line,	9,000 00
Which, together, amount to the sum of	894,616 25
And deducted from the foregoing amount, leaves a balance in the hands of the Public Treasurer, as Treasurer of the Fund for Internal Improvement, on the 1st day of November, 1838, of	3,752 26

All the disbursements made at the Treasury Department, during the two years, it is believed, are sustained by proper vouchers, which will be found on file in the Comptroller's Office.

RECAPITULATION.

The foregoing statements show a balance of Cash on hand, on the 31st of October, 1838, as follows, viz:

Amount as Public Treasurer,	\$37,466 57
Do. as Treasurer of the Literary Fund,	27,285 11
Do. as Treasurer of the Fund for Internal Improvements,	3,752 26

Making an aggregate of 68,503 94

With which the Public Treasurer, as such, and as Treasurer of the Literary and Internal Improvement Funds, stands charged on the Books of this Department, and for which he is therefore accountable, on the 1st day of November, 1838.

This amount is disposed of (as directed by law) in the following manner:

Deposited in the Bank of the State of North-Carolina, at Raleigh, and remaining at the credit of the Public Treasurer, on the 31st October, 1838,	40,070 28
Deposited in the Bank of Cape Fear, at Raleigh, on the same day,	26,821 18
Worn Treasury Notes, Silver Change, &c. in the vault of the Treasury,	1,612 48
Making an aggregate amount of	<u>68,503 94</u>

It will be seen from the foregoing statement, that at the close of the fiscal year ending the 31st of October, 1836, the Public Fund was entirely exhausted, and had in fact, become debtor to the Fund for Internal Improvements, for the sum of two thousand six hundred and seventy dollars and thirty-eight cents, (\$2,670 38) as was shown by the last report of the late Public Treasurer.

You will discover also, that under the authority given me by the last Legislature, I appropriated to the purposes of the Public Fund one hundred thousand dollars of the Surplus Revenue, received from the United States. I did not, however, exercise the further authority given me to borrow fifty thousand dollars from the Banks of the State to meet the disbursements from this Fund; but preferred using, as I did for that purpose, the money belonging to the Literary and Internal Improvement Funds, to paying interest on the amount it thus became necessary to use. The proper amounts were restored to these Funds respectively, when, upon the coming in of the Revenue, the Public Fund was sufficiently replenished to do so.

As this is your first session since the enactment of the present law, providing a new mode of assessing the lands in this State for taxation, I have, with the view of showing the operation of the law, and that you may judge of the extent to which it has accomplished the purpose for which it was designed, annexed the accompanying table.

This table exhibits the number of acres listed for taxation in each county, in 1836, which was the last year of the operation of the late law, the aggregate valuation, and the average value per acre, and also, the number of acres listed in each county in 1837, when the present law was in operation, the aggregate valuation, and the average value

per acre, as well as the number of acres listed throughout the State, at each period.

A comparison of these two years, as indicated by this table, will show, it is believed, with sufficient distinctness, what change the present law has effected.

It will be thus perceived, that the number of acres listed throughout the State in 1837, exceeds the number listed in 1836, by three millions five hundred and four thousand, two hundred and sixty-one acres. And that this great difference is owing more to the agency of the present law, than to the additional number of acres that was granted in the State from the first of April 1836, to the first of April 1837, which would have been the difference, had all the lands that were subject to tax in both those years been listed as the law required, is shown by the fact, that from a careful examination, it has been ascertained that the number of acres granted between those periods, was only one hundred and twenty-one thousand and sixty-five; and the aggregate valuation throughout the State in 1837, is found to exceed that of 1836, by eleven million, nine hundred and sixteen thousand, four hundred and seventy-eight dollars.

It may be proper to remark, that the tax on lands has decreased every year since 1820, the time at which the late law went into operation, until 1835, when there was an increase of a few hundred dollars over that of the preceding year; and again, in 1837, a similar increase over that of 1836. The amount received this year from this source, which is the first under the present law, shows an increase of about six thousand dollars.

But, as the great object of the act was to subject to a fair contribution for the support of Government, all the lands if possible, in the State, that was liable to tax, from an impression that under the abuses growing out of the old system, a portion paid too small a tax, and much of it paid none whatever, it becomes important to ascertain how much land there was in the State that was liable to a tax at the time of listing the lands in 1837, and compare that quantity with the number of acres actually listed and assessed in that year. With that view, the table is made to exhibit all the lands that had been granted in each County in the State, down to the 1st of April 1837.

In arriving at this, reference was had to a former report, made from this office by Mr. Mhoon, which showed the number of acres that had been granted in the State, as far down as the beginning of the year 1833, and combining with that the number that has been found to have been granted from that period to the 1st of April 1837, the result shows that the quantity listed in the latter year, is less than it should have been by about half a million of acres. And valuing all the lands in the State, at the same rate at which they were valued under the act of Congress in 1815, which may be regarded as a fair standard, the valuation of 1837 falls below what it should have been, by more than five millions of dollars, and the nett revenue from this source should have been increased by about three thousand dollars. In this table, no reference is made to the additional returns of tax from the difficulty of obtaining correct data, particularly as to the number of acres on which they are based; it is apparent however, that they would vary these results but very little.

It appears also, that while more than a million and a half of acres had been granted since 1815, that the valuation now is less than that of 1815, by nearly two and a half millions of dollars, according to the assessment of 1837.

In order to ascertain whether all the counties had taken the necessary steps to carry out the provisions of this act, a circular letter was addressed to the Clerks of the several County Courts from this office, upon the subject. Answers from nearly all of them have been received, from which it appears that the counties of Chowan, Duplin, Columbus, Bertie, Craven, Onslow and Sampson, did not execute the law in 1837, in consequence of the acts of the last Legislature not reaching them in time to do so. The most of these, however, assessed their lands in 1838 according to the provisions of this act.

Having thus presented the subject in such of its bearings as seemed obviously to fall within the province of this Department, it may not be improper upon dismissing it to remark, that the most general objection urged against the law by the community, appears to be, the want of uniformity of valuation under it, not only in the same County, but very frequently in the same neighborhood, which results from the fact that

the assessors appointed for each tax district, act at every stage of their proceedings without any concert with those appointed for the other districts in the same County.

It is therefore respectfully suggested that the inequality necessarily growing out of this state of things, should be corrected by some tribunal established by law for that purpose.

In pursuance of the act of the last Legislature, providing for the redemption of the scrip issued by the State, I transferred on the 1st day of February 1837, to the Trustees of the University of North Carolina, one thousand shares of stock belonging to the State in the Bank of the State of North Carolina, and took up the scrip of the State for one hundred thousand dollars. Subsequent to the transfer, a question arose, whether this Stock having ceased to be the property of the State, was not like all other stock held by individuals in the Banks of this State, subject to an annual tax of 25 cents on each share, or whether it was not the wish of the Legislature, that it should be exempted from tax, as by an act of 1789, all the property of the University was exempted from taxation, to say nothing of the constitutional injunction upon the Legislature, to foster such an institution—and consequently, of the seemingly idle ceremony of the State giving to it in one breath, and taking back in the shape of taxes in the next. As the question seemed to address itself more properly to the Legislature, it was deemed best to bring it at once before you. In the mean time, the Trustees have executed their obligation to the Public Treasurer to pay the tax, should the Legislature indicate a preference for that course. The other State scrip which had been sold to the Secretary of the Treasury of the United States, for the benefit of the Cherokee Indians, amounting to three hundred thousand dollars, has been redeemed by the payment of the principal and interest of 5 per cent. from the 1st of August 1836, to the 6th of March 1837, inclusive. This scrip as well as that redeemed from the University, is deposited in this office.

I have received from the Secretary of the Treasury of the United States, the three first Instalments of the Surplus Revenue, allotted to North Carolina, under the act of Congress of June 1836, amounting together, to the sum of fourteen hundred and thirty-three thousand,

seven hundred and fifty-seven dollars and thirty-nine cents, (1,433,757 39,) the disposition of which, in accordance with the directions of the last General Assembly, is shown by the tabular statement.

Such of the bonds given for Cherokee Lands, as were required to be put in suit, have been placed in the hands of Attornies for that purpose; and notwithstanding some embarrassment was experienced upon the general suspension of the Banks, as to the proper course to be pursued, growing out of the implied restriction of the Resolution of the last Legislature upon this Office, as to the receipt of the notes of non-specie paying Banks out of the State, as the circulation of that section of the State consisted almost entirely, at that time, of the paper currency of South-Carolina and Georgia; yet a considerable sum has been collected in funds, that have been so managed as to be rendered available at this Office; and it is believed, that with a few exceptions, the whole of this description of bonds will be collected during the ensuing winter and spring.

The amount was received in gross sums, from one of the two gentlemen charged with the collection of these bonds, without having with him, at the time, the means of distinguishing the precise amount received from each debtor. This evidence will be furnished in a few days, when a detailed statement of the whole, showing the sum received from each individual, will be immediately presented to the Legislature.

The Act of 1784, regulating the payment of Pensions out of the Treasury of the State, requires every year, a certificate of the Court of the county in which the applicant resides, to the General Assembly, of his continued inability, &c. to procure a subsistence, and that that certificate shall be countersigned by the Speakers of the two Houses, to make it a sufficient authority for the payment of the money. From the construction that has been placed upon this Act, some amendment is believed to be necessary, now that the system has been changed from annual to biennial sessions of the Legislature, in order fully to carry out the humane purposes for which the Act was passed.

Upon the opening of the books of subscription, for an increase of the capital stock in the Bank of Cape Fear, in the month of April, 1837, I subscribed, under the Act of the last Legislature, entitled "An

Act concerning the Bank of Cape Fear," for three thousand shares of stock, in behalf of the Literary Fund, paying therefor three hundred thousand dollars, and in April last, received from the Bank the sum of six thousand seven hundred and fifty dollars, as interest on the advanced payment.

In the month of October, 1837, Dr. J. F. E. Hardy, who had been for some time the State Director in the Buncombe Turnpike Company, resigned that appointment; and under the provision of the charter of the Company, giving the authority to the Public Treasurer to fill such vacancies, I issued a commission to James W. Patton, of Buncombe, who had been highly recommended as a suitable agent to represent the interests of the State.

Since the last Report from this Office, one half of lot 192, as designated in the Plan of the City of Raleigh, belonging to the State, has been sold to the Bank of the State, for five hundred dollars, as shown by the Tabular Statement; and lots No. 188 and 189 have been sold by my predecessor to George Little, for the sum of seven hundred dollars, for which he executed three bonds now on file in this Office, for \$233 33½ each, with security, bearing date the 17th of January, 1837, payable on the 17th of January, 1838-39 and '40 respectively. I have received also, from N. Edmonston, Commissioner for the sale of Cherokee Lands in 1836, a bond for \$3 12½, accidentally omitted in his settlement.

Much credit is again due the Sheriffs, for the punctuality with which they have accounted for the public tax of the two last years.

Copies of such Bank Exhibits as have been received at this Office, since the last session, are hereto annexed, and such others as may be received during the session, will be immediately presented.

The accompanying Statements, marked from A. to J. inclusive, give such information on the subjects to which they relate, as the books of this Department furnish, and contain, it is believed, all that the Act regulating the Treasury Department requires.

All which is respectfully submitted.

DANIEL W. COURTS, *Public Treasurer.*

A.

Statement of Cash received in the Treasury, from the 31st day of Oct. 1836, to the 1st day of Nov 1838, in additional returns of Taxes.

SHERIFFS.	COUNTIES.	WHEN DUE.	AM'T. PAID.
Willie Jones	Warren	1835	33 38
Thos. L. Lea	Caswell	1834-5 & 6	100 93
Neill McAlpin	Robeson	" "	50 91
John Harman	Chatham	1835	40 10
S. M. Smithwick	Martin	"	24 09
Thomas Wilson	Yancey	1835-6	17 36
George Philips	Ashe	"	6 43
James Wood (late)	Northampton	1830-1-2-3-4 & 5	52 24
Thomas Ward	Lincoln	1835	23 81
William Carson	Rutherford	"	43 70
William D. Petway	Edgecomb	1834 & 5	29 54
Wm. D. Rascoe	Chowan	1835 & 6	7 68
John McLean (late)	Cumberland	"	2 31
S. W. W. Vick	Nash	"	12 28
Young H. Allen	Montgomery	1836	18 54
Eben Hearne	"	"	34 72
James W. Doak	Guilford	"	5 60
Samuel Terry	Richmond	"	32 83
Salathiel Stone	Stokes	1835 & 1836	10 88
Robert B. Davis	Washington	" "	7 35
Wm. Wilkins	Rutherford	" "	26 79
James Quinne	Lincoln	" "	16 14
John M. Smith	Davidson	" "	17 34
Etheldred J. Peebles	Northampton	" "	111 56
Joshua A. Pool	Pasquotank	" "	16 00
Wm. Merry, (late)	Camden	" "	58 74
John Freeman	Bertie	" "	58 47
Leslie Gilliam	Granville	1834-5 & 6	19 91
George W. Melvin	Bladen	1836	21 77
Alex. Johnson	Cumberland	"	18 24
James C. Turrentine	Orange	"	20 33
Wm. Hankins	Brunswick	"	30 60
Edward K. Jiggetts	Hertford	"	25 31
Henry S. Spence	Hyde	"	6 45
			<u>\$972 60</u>

B.

Statement of Cash received in the Treasury on the Bonds due on account of Sales of Cherokee Lands, from the 31st day of Oct. 1836, to the 1st Nov. 1838, exclusive of the amount received from Messrs. Clingman and Gwinn, as Attorneys; belonging to the Board of Internal Improvement.

DATE.	FROM WHOM RECEIVED.		BONDS PAID.	AMOUNT.
Dec. 1.	John Gribble	IN PART.	4th Instalment.	\$71 00
" 10.	William Cathey	"	3d	100 00
" 12.	Thomas Shepherd	IN FULL.	1, 2, 3 & 4.	10 61
	" "		1st	10 21
	" "		"	10 21
	" "		"	10 14
	" "		"	10 14
	" "		"	10 14
	" "		"	10 14
	" "		"	10 14
	" "		"	10 14
	" "		"	21 28
	Elijah Shepherd		"	11 14
	" "		"	10 14
	" "		"	10 14
	" "		"	10 14
	" "		"	11 19
	Jacob Mason		"	14 75
	Charles Stiles		"	16 20
	Thomas Monteath		"	10 19
	Nathan Pilkinton		"	12 61
	Wm. R. Buchanan		"	16 52
	Joseph Buchanan		"	20 28
	" "		"	10 14
	Dempsey Raby		"	10 23
	" "		"	11 75
	James Buchanan, Jr.		"	14 02
	Abraham Wiggins, Jr.		"	10 14
	John Wilson		"	12 96
	Wm. Cockerham,		"	10 14
	" "		"	11 73
	Daniel West		"	27 34
	Thomas West		"	10 14
	Wm. West		"	10 94
	Moses Hall		"	12 06
	" "		"	10 14

Dec. 12.	Wm. Morrison		1st Instalment	15 21
	" "		" "	10 60
	Thomas Ammons		" "	11 81
	" "		" "	11 75
	Nimrod S. Jarret		" "	16 63
	" "		" "	16 17
	Polly Davis		" "	13 98
	Samuel Bryson		" "	11 14
	Benj. Trammel		" "	14 56
	Wm. Kinsey		" "	10 14
	Henderson Sandl�y		" "	10 14
	Samuel Lovingood		" "	17 00
	" "		" "	10 14
	Nathaniel Carroll		" "	10 14
	Amos Ledford		" "	12 66
	Michael Waters		" "	11 14
	Wm. Barnes		" "	19 96
	" "	In full.	1, 2, 3, & 4.	17 39
	Jesse Burrell		1st.	14 18
	James Fouts		" "	31 00
	" "		" "	10 14
	David Johnson		" "	10 99
	Jacob Shope		" "	19 98
	Travis Elmore		" "	13 79
	" "		" "	10 14
	John Corbin		" "	11 14
	" "		" "	10 14
	Matthew Davis		" "	24 51
	James Russell		" "	28 57
	George Penland		" "	13 98
	George T. Ledford		" "	10 14
	Samuel T. Jannison		" "	16 14
	" "		" "	12 24
	" "		" "	16 29
	" "		" "	11 11
	Ezekiel Dowdle		" "	16 20
	Wm. Roan		" "	23 49
	David McConnell		" "	10 14
	Ephraim Ammons		" "	18 54
	" "		" "	12 27
	" "		" "	10 19
	" "		" "	12 39
	" "		" "	10 14
	" "		" "	12 18

Dec. 12.			1st Instalment.	
	Ephraim Ammons			32 90
	S.M'Dowell & E. Ammons		"	15 18
	Thomas Welch		"	46 00
	" "		"	14 18
	" "		"	10 43
	B. S. Brittain & John Hall		"	14 59
	" "		"	25 92
	" "		"	21 43
	" "		"	14 93
	" "		"	32 48
	" "		"	12 81
	Robert Ensly		"	4 29
	" "		"	31 55
	" "		"	30 41
	Eli Ritchie		"	40 96
	Thomas Gribble		"	89 70
	Samuel Harrison	In part.	4th	16 00
	John Tatham	"	3d	25 00
	James Connelly		4th	15 00
	Hugh Gibbs		4th	10 00
	John Hooper		4th	12 00
	Abraham Picklesimer	"	4th	12 12
	John Hyde	In full.	2d	43 54
	" "	In part.	3d	18 46
	Joseph Young	In full.	1st	53 55
	" "	In part.	2d	36 45
	John Hyde	"	2d	250 00
	Alexander Cresp	In full.	2d	20 79
	" "	In part.	3d	9 21
	David Rogers	"	4th	133 00
	John Murray	"	3d	25 00
	Wm. Parker, sen.	In full.	2d	27 27
	" "		3d	26 29
	" "		4th	25 31
	Benjamin S. Brittain		1, 2, 3 & 4	37 00
	" "		"	23 18
	William Rogers		"	15 18
	John Gibbs		"	15 18
	" "		"	10 14
	Jacob Siler		"	26 81
	Jesse D. Siler		"	10 14
	" "		"	10 14
	" "		"	10 14
	" "		"	13 18

Dec. 12.	Jesse D. Siler		1, 2, 3 & 4.	14 18
	" "		"	10 14
	" "		"	10 14
	Joseph Davis		"	13 19
	James Ledford		"	10 14
Dec. 16.	Samuel Kelly		"	14 93
	Benjamin S. Brittain		3d	54 48
	" "		4th	151 89
	Elijah Johnston		2d	35 98
	" "	In part.	3d	29 02
	Charles McLean		3d	19 00
	George Dickey	In full.	4th	50 79
	" "		1st	2 18
	" "	In part.	2d	7 03
Dec. 19.	S. Enlow, for A. Enlow		2d	60 00
	Henry Wilson	In full.	4th	9 88
	James Hooper	In part.	2d	50 00
	Samuel Gipson	In full.	3d	41 45
	" "	In part.	4th	33 55
	Joseph Buchanan		3d	50 00
	Jacob Siler		2d	45 00
	Robert Fox	In full.	2d	20 91
	" "	In part.	3d	7 84
	Adam Corn & }		2d	37 00
	Jacob Trammel }			
	Isaac Ashe, for }		3d	10 00
	John Stiles }			
	Robert Philips		4th	5 50
	William A. Brittain		4th	50 00
	John Ledford, for }		3d	50 00
Dec. 22.	John Stevenson }			
	John Battle	In full.	2d	11 74
	" "	In part.	3d	3 26
	Thomas Love, Jr.	In full.	1st	11 49
	" "		1st	8 11
	" "	In part.	2d	60 40
	William Roger		3d	15 00
	Richard Wilson	In full.	2d	21 89
	" "	In part.	3d	16 23
	A. Corn & J. Trammel }		3d	65 00
	by John Bryson, sen. }			
	Joseph Shepherd	In full.	2d	43 12
	" "		3d	41 62

1837 Jan. 5	Joseph Shepherd	In full.	4th	40 12
	John Gribble		4th	62 67
	William Cathey	In part.	3d	25 00
	John Bell	In full.	2d	59 28
	" "		3d	5 72
	John Stephenson		1st	143 53
	" "	In part.	4th	6 47
	Enos Shields		1st	21 90
	William A. Brittain	In full.	4th	131 75
	Samuel Smith	In part.	4th	50 00
9 15	Andrew Welch	In full.	1st	49 56
	" "	In part.	2d	87 44
	Samuel Broadway	In full.	2d	4 30
	" "		3d	13 62
	" "	In part.	3d	12 08
	Austin Barrister		3d	18 00
	Aaron Pinson		4th	35 00
	Jonathan Phillips		2d	90 00
	J. R. Siler, Assignee	In full.	"	10 00
	Henry Drayman	In part.	2d	32 00
1838 March 1	John Howard		2d	95 00
	Nathan Thompson	In full.	1st	112 16
	" "	In part.	2d	57 84
	Andrew Welch		4th	200 00
	Abraham Enloe		3d	15 00
	Robert Kalerbond 1836	In full.	1 2, 3 & 4	10 55
	" "		"	18 42
	Mark Coleman	In part.	2d	200 00
	Washington Crawford		3d	50 00
	Abraham Wiggins		3d	15 00
	John Dohson	In full.	3d	38 01
	" "	In part.	4th	71 99
	" "	In full.	4th	16 39
	William Parker		4th	70 00
	John Broadway		"	80 30
	" "		2d	132 25
	" "		3d	147 33
	Robert Phillips		4th	17 66
	William A. Brittain	In part.	4th	100 00
	Joab L. Moore		3d	20 00
	John Murray		3d	10 00
	Jeremiah Harrison		4th	16 00

March 1.		4th Instalment.	
John Bell			65 00
John Dobson		3d	100 00
Hugh Gibbs		3d	10 09
John Hyde	In full.	"	73 70
" "	In part.	4th	150 00
James Connelly		1st	15 00
Alexander Crisp		4th	24 30
Jonathan Coward	In full.	4th	129 51
John Hyde	In part.	4th	100 00
Samuel Bryson		1st	22 00
Eli Collins	In full.	1st	1 59
Michael Waters		1st	2 16
Samuel Smith		"	9 95
" "		"	2 45
Jacob Shope		"	51 75
Saul Smith		"	1 84
John Siler		"	11 90
James Bradley		"	2 87
Washington Angel		"	4 01
Frederick Raby		"	31 99
" "		"	16 94
Zachariah Peak		"	3 47
Ephraim Ammons		"	5 03
Jonathan M. Bryson		"	5 10
M. Wikle		"	14 02
Cornelius Cooper		"	1 78
" "		"	2 67
John Conly		"	1 59
Ephraim Ammons		"	3 60
James James		"	2 80
James Robinson	In part.	"	9 11
James Conly		"	1 81
John Conly		"	2 06
James Angel		"	7 87
" "		"	15 40
Washington Angel		"	3 89
Philip Guier		"	9 10
Samuel Bryson		"	1 84
" "		"	2 61
Samuel Lovingood		"	4 88
Philip Guier		"	57 51
James Angel		"	11 72
James Truit	In full.	"	1 65
Cornelius Brown	In part.	"	8 75

March 1.	William Siler	In full.	1st Instalment.	6 39
	John Gillespie		"	1 62
	John Sutton		"	1 62
	Joseph Stillwell		"	1 68
	James Truit		1 2 3 & 4	8 85
	Samuel Lovingood		"	26 11
	William Siler		"	33 81
	John Gillespie		"	8 51
Sept.	John Sutton		"	8 71
	George Wikle		"	27 71
	Jacob Deets		"	14 64
	Miles Ashe		"	10 94
	Elizabeth Stiles		"	2 81
	Adam Corn		"	1 56
	Levi Vandike		"	6 41
	James Addington		"	7 03
	Hannah Fortenbury		"	3 06
	Samuel Runnels		"	3 18
	John Palmer		"	2 34
	James Rogers		"	1 56
	Hugh Rogers		"	2 75
	James Fouts		"	3 12
			N. B. \$510 12	
	David Rogers	In full.	4	16 35
	Thomas Love	In part.	1	45 00
	" "		4	45 00
	Robert Fox	In full.	3	12 10
	William Mason	In part.	4	12 00
	Samuel Broadway	In full.	3	22 20
	" "	In part.	4	7 80
	J. L. Dilliard and others		1	621 00

\$8124 59

C.

Statement of Treasury Notes issued and reported to the Comptroller, and put in circulation according to the Acts of Assembly of 1814, 1816 and 1823.

Amount issued under the Act of	1814	\$82,000 00
do. do. do.	1816	80,000 00
do. do. do.	1823	100,000 00
		<hr/>
		\$262,000 00
Amount redeemed and burnt by the Committee of Finance as per Comptroller's Reports,		211,297 05
		<hr/>
		50,702 95
Deduct amount in hand in the vault of the Treasury		1,290 67
		<hr/>
Showing balance unredeemed of		\$49,412 28
		<hr/>

D.

Statement of the number of Shares of Bank Stock owned by the State of North Carolina, and by the President and Directors of the Literary Fund.

Shares of Stock in the Bank of the State, owned by the President and Directors of the Literary Fund,		5000
Shares of Stock in the Bank of Cape Fear, owned by the President and Directors of the Literary Fund,	5207	
Shares of Stock in the Bank of Cape Fear, owned by the State of North Carolina.	10	
Shares of Stock in the Bank of Cape Fear, owned by the State, and dividends appropriated to Fund for Internal Improvement,	112	5529
	<hr/>	<hr/>
Aggregate number of shares		10329

Statement of the nett amount of the different branches of Revenue, for
the years 1836 and 1837.

BRANCHES OF REVENUE.	AMOUNT.	AGGREGATE.
1836.		
Tax on Land,	23,413 83	
“ on Town Property,	1,649 40	
“ on Polls,	27,433 66	
“ on Stud Horses,	1,668 97	
“ on Stores,	11,347 64	
“ on Gates,	122 20	
“ on Pedlars,	3,138 66	
“ on Taverns,	2,885 80	
“ on Artificial Curiosities,	1,551 00	
“ on Natural Curiosities,	296 10	
“ on Billiard Tables,	940 00	
“ on Brokers,	47 00	
“ on Negro Traders,	84 60	
		74,578 85
1837.		
Tax on Land	29,323 04	
“ on Town Property	2,163 68	
“ on Polls	28,757 48	
“ on Stud Horses	2,279 52	
“ on Gates	220 90	
“ on Stores	9,581 14	
“ on Taverns	2,953 91	
“ on Pedlars	2,882 98	
“ on Artificial Curiosities	1,720 20	
“ on Natural Curiosities	366 60	
“ on Billiard Tables	470 00	
“ on Brokers	47 00	
		80,766 45
		\$155,345 30

Statement of the Insolvents allowed by the Comptroller to the Sher-
iffs in their settlement of the taxes of 1836 and 1837.

SHERIFFS.	COUNTIES.	NO. OF POLLS	AMOUNT.
George Philips	Ashe	109	\$21 80
Willie Jones	Buncombe	53	10 60
John Harman	Chatham	99	19 80
Jno. B. Dawson	Craven	104	20 80
Wm. D. Rascoe	Chowan	29	5 80
Isaac Baxter	Currituck	13	3 60
Alex. Johnson	Cumberland	77	15 40
Jno. M. Smith	Davidson	63	12 60
Thomas Foster	Davie	40	8 00
Wm. D. Petway	Edgecomb	73	14 60
Gustin Perry	Franklin	36	7 20
John W. Taylor	Greene	42	8 40
James W. Doak	Guilford	84	16 80
James Simmons	Halifax	127	25 40
Edward K. Jiggetts	Hertford	56	11 20
Joseph M. Bogle	Iredell	99	19 80
Allen S. Ballenger	Johnston	105	21 00
Risden McDaniel	Jones	8	1 60
James Quinne	Lincoln	38	7 60
Evander McIntosh	Moore	13	2 60
James Truit	Macon	23	4 60
Etheldred J. Peebles	Northampton	25	5 00
Peter Harrell	Onslow	7	1 40
Nathan Bagley	Perquimons	86	17 20
Benj. M. Selby	Pitt	33	6 60
Joshua A. Pool	Pasquotank	30	6 00
Wm. Wilkins	Rutherford	162	32 40
Martin Roberts	Roekingham	46	9 60
John H. Hardie	Rowan	76	15 20
Samuel Terry	Richmond	21	4 20
Curtis Thompson	Sampson	56	11 20
Salathiel Stone	Stokes	177	35 40
H. G. Hampton	Surry	99	19 80
Robert B. Davis	Washington	46	9 20
John J. Bryant	Wilkes	34	6 80
Wm. G. Jones	Warren	45	9 00
Wm. Thompson	Wayne	45	9 00
Paschal B. Burt	Wake	72	14 20
Thomas Wilson	Yancy	52	10 40

1836

Young H. Allen	Anson	138	27 60
Allen Grist	Beaufort	36	7 20
Jno. Freeman	Bertie	33	6 60
Jno. A. Pearson	Burke	20	4 00
Isaac Baxter	Currituck	26	5 20
Alex. Johnson	Cumberland	65	13 00
Absalom Fulford	Carteret	90	18 00
Thomas L. Lea	Caswell	5	1 00
John Harman	Chatham	150	30 00
John B. Dawson	Craven	86	17 20
William D. Rascoe	Chowan	28	5 60
John M. Smith	Davidson	102	20 40
Wm. D. Petway	Edgecomb	8	1 60
Gustin Perry	Franklin	43	8 60
James W. Doak	Guilford	125	25 00
John W. Taylor	Greene	6	1 20
James Simmons	Halifax	105	21 00
Edward K. Jiggetts	Hertford	44	8 80
Allen S. Ballenger	Johnston	86	17 20
James Quinne	Lincoln	39	7 80
Eben Hearne	Montgomery	60	12 00
E. J. Peebles	Northampton	59	11 88
Benj. M. Selby	Pitt	66	13 20
Nathan Bagley	Perquimons	62	12 40
Joshua R. Pool	Pasquotank	19	3 80
Martin Roberts	Rockingham	54	10 80
Samuel Terry	Richmond	37	7 40
Wm. Wilkins	Rutherford	76	15 20
Salathiel Stone	Stokes	16	3 20
Henry G. Hampton	Surry	89	17 80
Curtis Thompson	Sampson	71	14 20
John J. Bryan	Wilkes	79	15 80
Wm. M. Jones	Warren	69	13 80
Wm. Thompson	Wayne	53	10 60
Paschal B. Burt	Wake	80	16 00
Robert B. Davis	Washington	39	7 80
Thomas Wilson	Yancy	54	10 80

 \$443 60

STATE OF THE BANK OF CAPE FEAR ON THE EVENING OF THURSDAY 1st NOVEMBER 1838.

Capital Stock	800,000 00	Specie	200,900 00
Increased Capital	575,750 00	Deposites in Foreign Banks	337,343 00
Notes in circulation	885,013 00	Notes of other Banks on hand	74,228 00
Deposites	215,801 00	Due by Banks in North Carolina	47,658 00
Dividends unpaid	1,864 00	Real estate	85,921 00
Due to Banks	22,611 00	Debt	1,827,164 00
Profit and Loss	72,175 00		
	<u>\$2,573,214 00</u>		<u>\$2,573,214 00</u>

(Signed) JOHN HILL, CASHIER.

State of the Merchants' Bank of Newbern, on Thursday the 30th day of November, 1837.

Specie	\$21,877 05
Notes of the Bank of the United States	8,050 00
“ of Virginia, Maryland & N. Carolina	1,202 00
“ Bank of Cape Fear	2,959 00
Check of Bank of the State of N. Carolina	3,914 58
<hr/>	
Bank of the State of North-Carolina	550 79
Bank of Cape Fear, Fayetteville	727 13
“ “ Washington	7,529 43
Pulmon Bank, New-York	11,580 52
Bank of the United States	14,305 20
Merchants' Bank, Baltimore	2,010 74
Farmers' and Mechanics' Bank, Philadelphia	66,258 14
<hr/>	
Bills of Exchange	
Bills receivable	
Real Estate	
<hr/>	
Of the above amount of Bills receivable	300,045 06
<hr/>	
There is due from Stockholders not Directors	85,236 00
And due from Directors	16,808 00
<hr/>	
	\$102,044 00

Capital Stock, 2250 shares	\$225,000 00
Notes in circulation	119,065 00
Deposites	43,860 60
Bank of Cape Fear	6,692 56
Board of Internal Improvement	25,000 00
Bank of Newbern	69,473 88
Dividends No. 1, 2 and 3 unpaid	309 09
General Profit and Loss	14,474 40
<hr/>	
	\$503,875 44

*Merchants' Bank of Newbern,
December 8th, 1837.*

D. W. COURRS, Esq.
Public Treasurer.

Sir—The above statement of the condition of this Bank,
is herewith transmitted to you for the General Assembly,
agreeably to its charter.
(Signed)

JOHN SNEAD, Pres't.

102,961 95
56,531 46
300,045 06
6,334 34

\$503,875 44



STATE OF THE BANK OF THE STATE

Bills and Notes discounted	\$2,545,504 74	
Bills of Exchange	418,545 33	
		2,964,050 07
Real Estate		35,311 13
Pension Office		197 72
<i>Due from Banks, &c.</i>		
Due Branda, McKinna & Wright		
August 1st, no.	14,573 83	
Merchants Bank, Baltimore	1,943 89	
Bank of Metropolis, Wash-		
ington City	863 10	
Fulton Bank, New-York	4,506 20	
Bank U. States, Philadelphia	28,641 96	
Planters' and Mechanics' B'nk		
Charleston, S. C.	31,255 25	
Cha's. Edmonson Agt. do.	11,594 40	
Bank of Cape Fear, Wash-		
ington, N. C.	117 67	
Bank of Virginia, Norfolk	5,711 84	
Farmers' Bank, do.	4,808 31	
Merchants' Bank, Boston	6,326 68	
Merchants' Bank, New York	47,530 31	
Bank of the State of Alabama,		
Mobile	6,808 43	
		164,681 87
<i>Notes of other Banks.</i>		
Bank United States	1,170 00	
Virginia Banks	6,161 00	
North Carolina Banks	20,107 00	
		27,438 00
<i>Specie.</i>		
Silver	372,520 00	
Gold	130,825 87	
Cents	211 23	
		503,557 22
Bills and Checks in transitu		23,757 54
Due by Directory 64,141 50		
on Stockholders not Directory		
		<u>\$3,718,993 55</u>

NORTH CAROLINA, NOVEMBER 25, 1837.

Capital Stock		1,500,000 00
General Profit and Loss		247,625 33
Treasurer of the United States		9,718 61
do. for Post Office Dep't.		3,912 76
<i>Pension Office.</i>		
Invalid Pensions	12,693 97	
Revolutionary Pensions	4,868 69	
Pensions under Act of 1828	363 02	
1832	16,854 47	
1836	831 29	
		35,611 14
Public Treasurer of N. Carolina		12,051 98
Board of Internal Improvement		275,000 00
<i>Due to Banks.</i>		
Due to State Bank of N. Carolina	93,905 69	
Bank of Newbern	81 57	
Farmers' Bank Va. Petersburg	52,662 81	
Bank of do. do.	55,423 05	
Merchants' Bank, Philadelphia	209 33	
do. do. Newbern	550 79	
Bank U. S. Fayetteville agency	2,004 76	
Merchant's Bank, New York	873 36	
Bank Cape Fear, Wilmington	27,025 19	
do. do. Fayetteville	42,715 29	
do. do. Salisbury	976 00	
do. do. Hillsboro'	711 42	
		277,189 20
<i>Notes in circulation.</i>		
Notes issued at Raleigh	372,750 00	
Newbern	132,920 00	
Tarborough	158,845 00	
Fayetteville	236,785 00	
Wilmington	153,830 00	
Elizabeth City	64,925 00	
		1,120,055 00
Dividends unpaid	287 75	
Individual Deposites	372,591 78	
		237,879 00
		\$3,718,993 55

C. DEWEY, *Cashier.*





