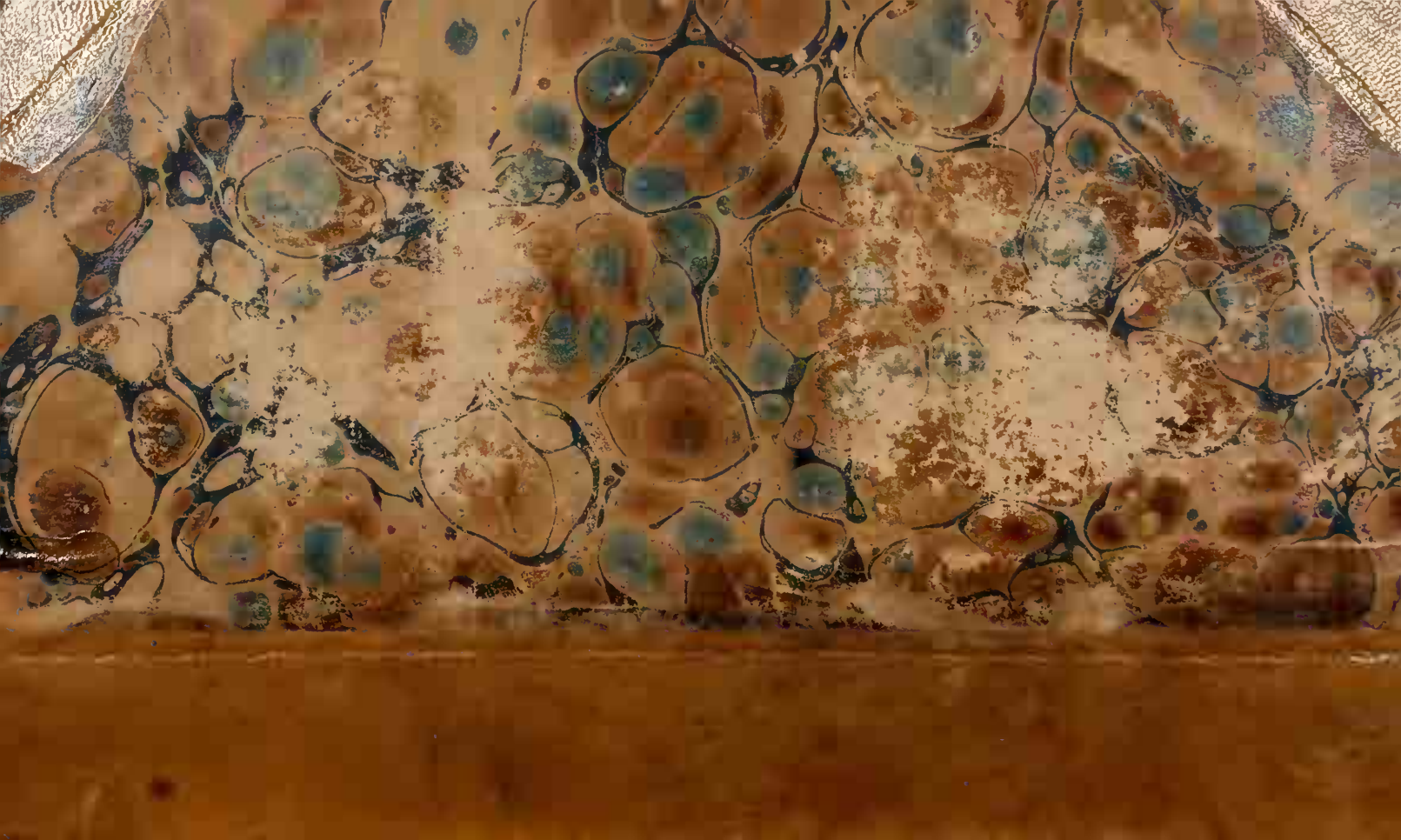



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LAWS

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

AT THE

SESSION OF 1840-41.

Published agreeably to Act of Assembly.

RALEIGH:
PRINTED BY W. R. GALES, OFFICE OF THE RALEIGH REGISTER.
1841.

PUBLIC ACTS

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

At their Session, which commenced on Monday, the sixteenth of November, one thousand eight hundred and forty, and ended on Tuesday, the twelfth of January, one thousand eight hundred and forty-one.

BILLS, BONDS & PROMISSORY NOTES.

CHAPTER I.

An Act to repeal in part an Act, entitled "An Act concerning Bills, Bonds and Promissory Notes."

Be 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 eighth section of the thirteenth Chapter of the Revised Statutes, entitled "An Act concerning Bills, Bonds and Promissory Notes," as fixes the rate of damages on protested bills drawn or endorsed in this State, upon any person or body corporate in any other of the United States, or in any of the Territories thereof, excepting the State of Louisiana, at six per centum upon the

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principal sum, is hereby repealed, and the damages on all such bills shall be three per cent. on the principal sum, and no more: any law, usage or custom, to the contrary notwithstanding.

Act to go into effect from its ratification.

II. *Be it further enacted, by the authority aforesaid,* That this Act shall go into effect from and after the ratification of the same.

[Ratified the 11th day of January, 1841.]

ROB. B. GILLIAM, *S. H. C.*
A. JOYNER, *S. S.*

A true copy,
W. HILL, *Secretary of State.*

CAPITOL.

CHAPTER II.

An Act making an appropriation for the completing the Capitol of the State, and for other purposes.

For completing the Supreme Court, Library, and Comptroller's Rooms.

I. *Be 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 Two Thousand Dollars be, and the same is hereby appropriated for completing the two rooms designed for the Supreme Court and Library, and the two rooms designed for the Door-keepers, and for furnishing with proper cases, and finishing the office designed for the Comptroller in the Capitol, in the City of Raleigh, the work to be done under the direction of the Public Treasurer; and he is hereby directed to pay such sums out of said appropriation, as from time to time may be required.

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 rebuilding the Capitol, to the President and Directors of the Bank of the State of North Carolina, to the amount of Twenty Thousand Dollars, with interest from the sixteenth day of November, one thousand eight hundred and forty.

Appropriation for paying up notes given by the Commissioners for rebuilding the Capitol.

III. *Be it further enacted*, That the sum of Nine Thousand three hundred and seventy-four dollars and forty-six cents be, and the same is hereby appropriated to pay the outstanding accounts against the State, for articles furnished or labour done on the State Capitol; and the Public Treasurer is hereby authorised and directed to pay the said accounts on the warrant of the Governor.

Appropriation for paying off out-standing accounts.

IV. *Be it further enacted*, That it shall be the duty of the Public Treasurer to dispose of the Quarry belonging to the State, by rent, or in any manner that he may think will best promote the interest of the State.

The Treasurer directed to dispose of the Stone Quarry.

V. *And be it further enacted*, That S. Birdsall, Clerk of the Commissioners, be directed to hand over to the Public Treasurer, all the money and notes and accounts that he may have in his possession, due by individuals for Rock and other articles sold by the Commissioners, to the amount of One Thousand three hundred and forty-nine dollars and seventy-eight cents; and it shall be the duty of the Public Treasurer to proceed to a speedy collection of them.

The Clerk of the late Board to hand over to the Public Treasurer, the notes and accounts which he may hold for Rock and other articles.

[Ratified the 11th day of January, 1841.]

PUBLIC BUILDINGS.

CHAPTER III.

An Act to amend an Act, entitled "An Act concerning the Seat of Government and the Public Buildings."

A person to be appointed to take charge of the ground & public buildings on the Capitol square

I. *Be 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 Board authorised and constituted by the above recited Act to take charge of and keep in repair the buildings belonging to the State, in the City of Raleigh, shall, in addition to their other duties, appoint some prudent and discreet person, removable at the will of a majority of them, whose duty it shall be to take charge of the ground and public buildings of the Capitol Square. He shall take care of the furniture, sweep and cleanse the unoccupied parts of the building: he shall keep the keys of the several doors not occupied as offices, and conduct visitors through the Capitol whenever requested so to do: he shall, under the direction of the Board, trim the trees on the Public Square, and remove the leaves and other rubbish as often as the same may be necessary, and shall perform any other duty required by the said Act of which he is capable, whenever specially ordered by the Board so to do—for all which services a reasonable and just price shall be paid to such agent, to be judged of, and determined by said Board.

To enter into bond for the faithful discharge of his duty.

II. *And be it further enacted, by the authority of the same,* That previously to entering upon the duties of his office, the Keeper of the Capitol shall enter into a bond with good security in the sum of Two Hundred and Fifty Dollars, payable to the State of North Carolina, conditioned for the faithful discharge of his duty according to law; which said

bond shall be deposited in the office of the Secretary of State, and shall be renewed every two years under the care of the Board, and shall be put in suit whenever, in the judgment of said Board, the conditions of the same have been broken, provided that the said bond shall not be adjudged to be vacated or discharged by one or more judgments on the same, until the whole penalty is recovered.

[Ratified the 26th day of December, A. D. 1840.]

CHEROKEE AGENCY.

CHAPTER IV.

An Act authorising the Governor to appoint an Agent in the County of Macon or Cherokee.

I. *Be 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 of this State be, and he is hereby authorised, after the first day of March, one thousand eight hundred and forty-one, to appoint an Agent, who shall, after his appointment, reside in the County of Macon or Cherokee, whose duty it shall be to receive payment, from time to time, of all purchasers of Cherokee Lands, of all or any part of the money due on their several bonds; to ascertain and report to the Treasury Department, once every three months, the condition of the debtors, as solvent, doubtful or otherwise, and guard and protect the general interest of the State in connection with the said lands, whether sold or unsold.

An Agent to be appointed & to reside in Macon or Cherokee, to receive money due from the purchasers of lands.

The Public Treasurer to place such bonds in his hands as he and the Governor may think proper for collection.

II. *Be it further enacted*, That the Agent so appointed shall be authorised to receive from the Public Treasurer, such of the bonds given for Cherokee Lands as the Public Treasurer, with the advice of the Governor, shall deem proper, for which said Agent shall execute to the Treasurer his receipt. *Provided*, that at no time shall the said Agent hold in his hands bonds and monies received thereupon, to an amount beyond the penalty of his bond; he shall take the bonds to the County of his residence, and there receive all such payments as may be voluntarily made, and institute suit in all cases, when he shall be directed to do so by the Public Treasurer, or when the interest of the State shall in the least seem to require it.

Bank Notes, &c. which the Agent shall receive in payment.

III. *Be it further enacted*, That the Agent thus appointed, shall receive in payment gold and silver coin, and the notes of all specie-paying Banks in this State and South Carolina, and in addition to which the Agent may, and he is hereby required to receive from all debtors for Cherokee Lands, whose permanent residence may be West of the Blue Ridge, the notes of the specie-paying Banks of Georgia, payable at Augusta and Savannah; he shall on the first Monday in every month, transmit to the Public Treasurer an accurate statement of his receipts during the month; and he shall be required to pay over to the Public Treasurer, or deposite to the credit of the Treasurer in such Bank as the Public Treasurer may designate, on the first Monday of the months of June, September, December and March, in each and every year, all monies by him received during the three preceding months.

Agent to take an oath & enter into bond for the faithful performance of his duties.

IV. *Be it further enacted*, That the Agent thus appointed, shall, before entering on the duties of his office, take before the Governor, an oath for the faithful performance of all the duties enjoined by this Act, and shall enter into bond, with sufficient securities, in the sum of one hundred thousand dollars, to secure the honest and faithful discharge of the several requisitions of this Act; which bond shall be made payable to the State of North Carolina, and upon breach of the

conditions thereof, or any of them, the Treasurer shall cause the bond to be put in suit in the Superior Court of Wake County, and such bond shall not become void upon the first recovery, or if judgment shall be given for the defendant, but may be put in suit, and prosecuted from time to time until the whole penalty shall be recovered.

V. *And be it further enacted*, That the Agent aforesaid shall receive, as a fair compensation for all the services required of him, three per centum on the amount of all sums received and collected; and he may be dismissed from office and a successor appointed at any time that the Governor may believe that his duties are not honestly and correctly discharged, and upon his dismissal from office, it shall be his duty to deliver over to the Treasurer, or to such person as the Governor shall appoint to succeed him, such bonds as may be in his hands and remain uncollected, and shall immediately account with the Public Treasurer for all monies by him received upon said bonds.

Compensation of the Agent.

[Ratified the 30th day of December, A. D. 1840.

CHAPTER V.

An Act supplemental to an Act passed at the present Session of the General Assembly, authorising the Governor to appoint an Agent to collect the Cherokee Bonds.

Be 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 Treasurer whenever he shall deliver to the Agent appointed by the Act to which this is a supplement, any Cherokee bonds, to take from the said Agent a memorandum or receipt, specifying

Public Treasurer to take proper receipts from the agent for such bonds as he may deliver to him for collection.

the names of the obligors in said Bonds; the amount for which they were given, and the time when they become due, and also the payments made on them severally, and in the event of any of said bonds being lost or destroyed before they may be collected, a copy of the said memorandum or receipt, certified to be accurate by the Treasurer, whose hand writing may be proven by the oath of any person knowing it, shall be received as evidence in the same manner as the original bonds, and a recovery shall be had on them, without the production of the said bonds, any law, usage or custom to the contrary notwithstanding; *Provided*, however, as preparatory to the introduction of such receipts as evidence in the cases above specified, the loss of the bonds shall be proved in the manner usual in other cases when secondary evidence is offered in lieu of evidence of the first degree.

[Ratified the 11th day of January, 1841.]

CHURCHES.

CHAPTER VI.

An Act to protect Churches.

Persons defacing or injuring any place of worship or monument of the dead, will be adjudged guilty of a misdemeanor, & punished accordingly.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That every person who shall wilfully or maliciously remove any monument of Wood, Stone, or other durable material, erected for the purpose of designating the spot where any dead body is interred, or of preserving or perpetuating the birth, age, death or memory of any dead person

in any public or private Burying-ground or Church, or who shall wilfully or maliciously deface or alter any such monument, or the marks or letters, or any inscription upon any such monument, made and erected as aforesaid, for the purpose aforesaid, or who shall wilfully deface any part of any Church or other Building devoted to the service of Almighty God, shall, upon conviction in any Court of record, be adjudged guilty of a misdemeanor, and fined or imprisoned at the discretion of the Court.

[Ratified the 12th day of January, A. D. 1841.]

CHAPTER VII.

COMMON SCHOOLS.

An Act for the establishment and better regulation of Common Schools.

The net annual income of the Literary Fund to be distributed among the several Counties 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 nett annual income of the Literary Fund, (exclusive of monies arising from the sale of Swamp Lands,) shall annually be distributed among the several counties of this State, in the ratio of their Federal population, to be ascertained by the Census next preceding such distribution.

II. *Be it further enacted*, That the Courts of Pleas and Quarter Sessions of the Counties which voted for "Schools," under the provisions of the Act of one thousand eight hundred and thirty-eight, entitled "An Act to divide the Coun-

County Courts at first term, held after the 1st of Jan. annually, shall appoint superintendents.

ties into School Districts, and for other purposes," at the first term which shall be held after the first day of January, in each and every year, or at the succeeding term of said Court, a majority of the Justices of the Peace of said County being present, the said Court shall appoint not less than five, nor more than ten, superintendents of Common Schools, who shall hold their appointments for one year, and until others are chosen.

Who shall meet within 15 days after their appointment.

III. *Be it further enacted*, That said superintendents shall assemble within fifteen days after their appointment, at the office of the Clerk of the County Court, and appoint one of their number chairman.

The Clerk of the County Court to be ex officio clerk of the Board of superintendants.

IV. *Be it further enacted*, That the Clerk of the County Court shall be *ex officio* Clerk of the Board of superintendents, and shall record, in a book to be kept for that purpose, the proceedings of the Board, and such other papers touching the subject of Common Schools, as the Board may direct; and shall safely keep all papers which may be committed to his custody by said Board.

The share of the Literary Fund coming to each County, shall be payable on or before the 1st of September annually.

V. *Be it further enacted*, That the share of the Literary Fund, to which each County may be entitled, under the provisions of this Act, shall be due and payable on or before the first day of September, in each and every year, and shall be paid to the chairman of the Board of superintendents, or his lawful Attorney, upon the warrant of the Comptroller: *Provided, however*, that before such distribution shall be had, the payments which may have been made to the Counties, under the Act of one thousand eight hundred and thirty-eight aforesaid, shall be added to the nett annual income aforesaid in the Treasury; and the amount which may have been paid to any County, shall be deducted from the share of said County, and the excess only paid over.

VI. *Be it further enacted*, That the Court of Pleas and Quarter Sessions of each and every County, a majority of the Justices being present, are hereby authorised and empowered to levy a tax in the same manner that other County taxes are now levied for other County purposes, which shall not

exceed one half of the estimated amount to be received by said county for that year from the Literary Fund; and the Sheriff is hereby required to collect and pay over the same to the chairman of the Board of superintendents, on or before the first day of October ensuing; and his bond, given to secure the payment of county taxes, shall contain a condition for the faithful collection and payment of the School taxes to the person authorised to receive the same; and for a breach of said condition by the Sheriff, the chairman of the Board of superintendents, shall have the same remedies against him and his securities, as are given to the County Trustee for enforcing the payment of ordinary county taxes.

County Courts authorized to levy a School tax, as other County taxes are levied, which shall not exceed one-half of the sum which is estimated will be received from the Literary fund.

VII. *Be it further enacted*, That the Board of superintendents shall have power, and they are hereby required, within three months after their appointment, to lay off their Counties into School Districts, and number the same, of such form and size as they may think most conducive to the convenience of the inhabitants of said County, with power to alter the boundaries of said Districts, causing said boundaries and such alterations to be recorded by their Clerk, in the book in which the record of their proceedings is kept.

The Board of superintendents shall lay off their Counties into school districts, of such form and size as they may judge best.

VIII. *Be it further enacted*, That the free white men of the several School Districts, who are entitled to vote for members of the House of Commons, on the first Monday after the expiration of one month after the said School Districts shall have been laid off, as herein before directed, shall vote by ballot for three men, to be entitled "The School Committee," who shall hold their appointment for one year, and until others are chosen; and that said election shall be held at such convenient place in the School Districts, severally, as the said superintendants may designate; and the three persons having the highest number of votes at such election, shall be declared elected as the "School Committee" of their respective Districts; and the superintendents shall have power to fill any vacancy which may occur in said Committee, by death, removal or other cause. The chairman of the Board of superintendents shall give public notice in writing,

The free white men of the several school districts to vote by ballot for the School Committee.

at three or more public places in each District, of the election directed to be held as provided in this section, at least ten days before the day of such election; and the Board of superintendents shall appoint two freeholders of the District to conduct such election of the "School Committee." The said freeholders shall give to the said Board, within three days after such election, a certificate under their hands, of the number of votes received by each person; and the said Board shall declare the three persons receiving the highest number of votes the "School Committee," as herein provided: *Provided, nevertheless*, that whenever the Districts fail to make an election, the Board of superintendents shall appoint the School Committee, who shall continue in office till others are chosen at the next annual election.

The Committees of the several School districts to be constituted into bodies corporate.

IX. *Be it further enacted*, That each Committee of the several School Districts shall be, and is hereby constituted a body corporate, by the name and style of "School Committee of District number of the County of ," as the case may be; and in that name shall be capable of purchasing and holding real and personal estate for School purposes; of selling and transferring the same; and prosecuting and defending all suits for and against said Corporation.

Mode in which suits shall be bro't against any School district.

X. *Be it further enacted*, That whenever suit is brought against any "School District," the process shall be by summons; a copy of which shall be left with some one of the Committee of said District.

School Committees to designate and purchase or lease sites for Schools.

XI. *Be it further enacted*, That it shall be the duty of the School Committee to designate and purchase, or lease, a suitable site for a School House, as near the central part of each District as may be convenient; to hire, purchase, or build a School House of such form and dimensions as they may deem suitable; and to use, for the procuring of a site and School House, such funds as the superintendents may place in their hands for these purposes.

School Committee to report to Board

XII. *Be it further enacted*, That the School Committee shall, in one month after their appointment, report in writing

to the chairman of the Board of superintendents the number and names of the white children in their districts of five and under twenty-one years of age.

of superintendents number of white children from 5 to 21 years old.

XIII. *Be it further enacted*, That it shall be the duty of School Committees to contract with a suitable teacher for their respective Districts, for such time as the monies to which said District may be entitled will permit; and to pay him, by giving an order on the chairman of the Board of superintendents.

School Committees to contract with suitable teachers.

XIV. *Be it further enacted*, That any branch of English education may be taught in said Schools; and all white children under the age of twenty-one years, shall be permitted to attend the School of their District as Scholars, and receive instruction therein.

Any branch of English education to be taught. And Scholars under the age of 21 to be received.

XV. *Be it further enacted*, That said School Committees shall have power to visit the Schools from time to time, and generally to perform all such duties as they may deem necessary to the successful operation of said Schools.

School Committees to visit the Schools.

XVI. *Be it further enacted*, That within one month after the School Committees shall have reported to the chairman of the Board of superintendents, the number of children in their respective Districts, the chairman shall call a meeting of said Board, who shall determine how many teachers are necessary for each District of their County; and the monies received from the Literary Fund, and from the county taxes, shall be distributed among the School Districts of their County, in the ratio of the number of teachers required.

The Board of superintendents shall meet and divide the money received from the Literary fund and the County tax as they may judge proper.

XVII. *Be it further enacted*, That the Board of superintendents shall have power, and they are hereby authorised, to make such other regulations relating to the Schools of their County, not inconsistent with the provisions of this Act, as they may deem necessary to the usefulness of said Schools.

The Board to make such additional regulations as may be required.

XVIII. *Be it further enacted*, That the School Committees shall annually, on or before the first day of October of each and every year, make a report to the Board of superintendents, shewing the number of children in their respective Districts who have received instruction at their Schools the

School Committees make annual reports to the Board of superintendents, shewing the number of children

which have been instructed, the length of time continued, &c.

preceding year; the length of time the same was kept up; and such other facts in relation to their Schools as they may deem expedient.

The Chairman of each Board of superintendents shall annually report to the President and Directors of the Literary fund, the amount of money he has received, how he has paid it out, &c.

XIX. *Be it further enacted*, That the chairman shall annually, within fifteen days after the first day of November, report in writing to the President and Directors of the Literary Fund, or to such other officer or Board as may be appointed by the General Assembly to manage said fund, the amount of money he may have received the preceding year, and from whom, and to whom he has paid it, setting forth the name of each individual, and the amount paid to him; the number of children who may have been taught in the Schools of his County the preceding year; for what time the Schools may have been kept up in the several Districts; with such other facts and suggestions as he may deem useful—and he shall make two copies of so much of said report as relates to the monies received and disbursed by him; one of which he shall file with the Clerk of the Board of superintendents, and the other he shall put up for public inspection in some conspicuous place in the Court house of his County.

The Chairman of the several Boards of superintendents to give bond, &c.

XX. *Be it further enacted*, That the Court of Pleas and Quarter Sessions which shall appoint the Board of superintendents shall have power to require the person who may be appointed chairman of said Board, before he enters on the duties of his office, to give bond and security for the faithful application of the funds which may come to his hands, in such penalty as said Court may prescribe; which bond shall be payable to the State of North Carolina, and shall be approved and received by a majority of the superintendents; and shall be filed by them with the Clerk of the County Court: *Provided, however*, that when the chairman is required to give bond as aforesaid, he shall be allowed to retain five per cent. of the monies which shall pass through his hands, as a compensation for his services.

XXI. *Be it further enacted*, That it shall be the duty of the Sheriffs of the Counties in which a majority of the votes, under the provisions of the Act of one thousand eight hun-

dred and thirty-eight aforesaid, were for "no School," 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 persons who may be entitled to vote for a member of the House of Commons, shall be entitled to vote in said election; and every voter in favor of the provisions of this Act, will deposite his vote with the word "School" upon his ticket; and those opposed to it, will vote "No School" on their tickets. And it shall be the duty of the poll-keepers to count the votes given at such precinct for "School" or "No School," and to return the same to the Sheriff, who shall count together all the votes, and certify the number for "School" and "No School" separately, to the Governor, within twenty days after said election, and to the County Court of his County next ensuing said election; and any Sheriff failing to comply with the requisitions of this Act, shall suffer all the pains and penalties imposed by law for failing to discharge his duty in any election for members of Assembly.

The Sheriffs of such of the Counties in which a majority of the votes under the provisions of the act of 1838 were for "*No School,*" when they advertise their next elections again to ascertain the voice of the People on this subject.

XXII. *Be it further enacted*, That the County Courts of the Counties in which a majority of the votes were for "No School," under the Act of one thousand eight hundred and thirty-eight aforesaid, shall not appoint superintendents, or take any other action on the subject of "Common Schools," until a majority of the people of such County shall have voted for the system agreeably to the provisions of the preceding section.

Until counties which formerly opposed to Schools, shall have changed their opinion, they will be entitled to no portion of Education fund.

XXIII. *Be it further enacted*, That in each of the said Counties, where a majority of the votes shall be for "Schools," such County shall be entitled to the same rights and privileges, and the County Court shall perform the same duties, and be invested with the same powers as in the Counties where a majority of the votes were cast for "Schools," under the provisions of the Act of one thousand eight hundred and thirty-eight aforesaid; and any County Court in said Counties, subsequent to said election, a majority of the Justices of

In such Counties where there may be found a majority of votes for the Schools, each shall be entitled to all the privileges of their sister Counties who

were amongst the first to support them.

said County being present, shall have power, and they are hereby required, to appoint superintendents of Common Schools agreeably to the provisions of the second section of this Act.

Directors Literary fund to reserve funds that may be due to such counties as do not yet accept of the School system, putting the same at interest until they may be ready to receive them.

XXIV. *Be it further enacted*, That the President and Directors of the Literary Fund, as soon as it shall be ascertained what Counties vote against the provisions of this Act, shall vest so much of said Fund as said Counties would have been entitled to receive, under the ratio provided for in the first section of this Act, in the Stock of any of the Banks of this State, or of the United States, or to loan the same to individuals, upon such terms as may, in their opinion, be best calculated to improve the value thereof.

President and Directors of Literary fund, to prepare proper forms of the returns required of the Board of Superintendents and School Committees.

XXV. *Be it further enacted*, That the President and Directors of the Literary Fund shall prepare proper forms, to enable the chairman of the Board of superintendents and the School Committee men to make the returns required of them by this Act; and shall cause the same to be printed and distributed to the Counties which have voted, or may hereafter vote, for Schools; and shall defray the expense incident to the printing and distribution of said forms, out of the Literary Fund.

Penalties for failing to fulfil the duties of office.

XXVI. *Be it further enacted*, That if any superintendent or Committee man, appointed agreeably to the provisions of this Act, such superintendent or Committee man having accepted the appointment, or any Clerk of the County Court, shall refuse or neglect to perform the duties required of him by law, he shall forfeit and pay the sum of *fifty dollars*, to be recovered by action of debt, in the name of the State, in any Court of record in this State; and such penalty, when recovered, shall be paid over to the chairman of the Board of superintendents of the County in which said default may occur, to be applied as the other monies which shall come to his hands from the Literary Fund and the County; 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 his County.

XXVII. *Be it further enacted,* That if the chairman of the Board of superintendents shall fail or neglect to pay, on demand, any draft which he may by law be bound to pay, he shall be liable to suit before any tribunal having cognizance thereof, in the name of the person in whose favor said draft may be drawn; and the Plaintiff shall be entitled to recover, over and besides the amount of said draft, twelve per cent. damages for its unlawful detention.

If the Chairman of the Board of Superintendents fail to pay any draft which may be rightfully drawn upon him, he will be subject to pay 12½ per cent damages.

XXVIII. *Be it further enacted,* That this Act shall not be so construed as to prevent any County which has levied and collected a tax, agreeably to the provisions of the eighth section of the Act of one thousand eight hundred and thirty-eight aforesaid, upon complying with the other requisites of said Act, from drawing from the Literary Fund, at any time before the first day of September next, the amount to which said County may be entitled under the provisions of said Act; such payment, however, to be deemed in the nature of an advancement to said County; it being the true intent and meaning of this Act to make all the Counties, favorable to one system of Common Schools, as nearly equal as possible, by the distribution to be made from the Literary Fund by this Act, under the ratio provided for in the first section.

No County, which has levied a tax agreeably to the 8th section of the Act 1838, and complies with the other requisites of said Act, shall be prevented from drawing from Literary Fund the amount which the said County may be entitled to.

XXIX. *Be it further enacted,* That the teachers of any Common Schools shall be exempt from performing military duty, working on the road, or serving on the jury, whilst engaged in teaching in said Schools.

The School Teachers to be exempt from military duty, working on the road, and serving as jurors.

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

[Ratified this, the 11th day of January, A. D. 1841.]

CORPORATIONS.

CHAPTER VIII.

An Act to authorise the laying off and establishing a Turnpike Road, from Laxton Lynch's, in Rutherford County, to the Widow Sail's, in Buncombe County.

Commissioners appointed.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That John W. Harris, Aaron W. Whitesides and William Twitty, of the County of Rutherford, and Bedford Sherrals, Joseph Garron and Isaac T. Poor, 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 or opposite Laxton Lynch's, in Rutherford County, thence along or near the State Road, crossing the Blue Ridge at the Hickory-Nut Gap, to the Widow Sail's, in Buncombe County. And

Books of Subscription to be opened.

the said Commissioners, or a majority of them, shall prepare books, and cause them 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 amount of the said Capital Stock 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

General meeting of subscribers to be held

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.

Company incorporated.

President and Directors to be appointed.

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-one, or until the sum of Ten Thousand Dollars shall be subscribed as aforesaid.

Books again to be opened if necessary.

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 Public Treasurer shall subscribe for and on behalf of the State for fifty Shares, and the Public Treasurer shall have power to appoint a Director of said Company. The Shares to be paid at such times 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 delinquent 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

Capital to be divided into shares of $50 each.

Public Treasurer to subscribe for 50 Shares.

Shares of delinquent stockholders to be sold.

may be recovered of the person who owes the same, and the books of the Company shall be good evidence of such sale and purchase of said Shares.

Rules for voting by the Stockholders.

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; every four Shares above ten, and not exceeding twenty, one vote; and for every six Shares after twenty, one vote.

Commissioners to lay off the Road. President to make statement of the affairs of the Company at each general meeting.

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 by-laws for the 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 and disbursements to each Session of the General Assembly of North Carolina.

Dimensions of the Road.

Commissioners to receive the Road.

VI. *Be it further enacted,* That the Road shall be completed in the manner following: 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, and the ascent or descent of no part of said Road shall exceed one foot perpendicular to eight feet horizontal. It shall be the duty of the County Courts of

Rutherford and Buncombe, each to appoint a Commissioner to examine and receive so much of said Road as may be situate in their respective Counties, and shall be completed according to the foregoing provisions. Whenever the said Road shall be received, as aforesaid, then it may be lawful for said Company to erect a toll-gate or gates at some convenient place on said Road, at which said Company may demand, and be entitled to receive, not exceeding the following rates of 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 five and six horse wagons, one dollar and twenty-five 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 gigs and sulkies, fifty cents; for four wheeled carriages of pleasure, one dollar; 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 three dollars per week.

Toll gates may be erected.

Rates of toll.

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 the said Road may pass; and in case the owner of said lands shall object to such 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 land, 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, and recoverable before any competent jurisdiction in this State, in the names and for the said owners.

Damages how to be assessed.

VIII. *Be it further enacted*, That said Road shall be, and is hereby declared to be when completed, a Public High

Said road to be a public highway.

Road; and that the President and Directors thereof, 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 be situate, and be subject to such punishment as is inflicted on the Overseers of Public Roads in this State under the existing laws.

Persons exempt from toll

IX. *Be it further enacted*, That all persons living within five miles of said Road, and such of the citizens of Henderson and Rutherford Counties as cross at the "Reedy-patch Gap," shall be exempt from paying toll.

Penalty for avoiding toll.

X. *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 the said gate; such person or persons shall forfeit and pay to said Company, the sum of ten dollars, to be recovered before any Justice of the Peace for either of the Counties of Rutherford, Buncombe or Henderson.

Privileges of the Charter to continue for 30 years.

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

Public Treasurer to pay the State subscription out of Internal Improvement fund.

XII. *Be it further enacted*, That the Public Treasurer shall pay the State subscription hereby authorised, out of any monies belonging to the Internal Improvement Fund, in the Treasury, not otherwise appropriated; *Provided*, that no payment on the part of the State shall be made until the whole sum subscribed by individuals shall have been secured by bond and security, to be judged of by the Governor; *and Provided*, that afterwards no money shall be paid by the State until a like sum has been paid by individuals.

Act to go into immediate effect.

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

[Ratified this, the 11th day of January, 1841.]

COUNTIES.

CHAPTER IX.

An Act to lay off and establish a new County by the name of Cleaveland.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a County be, and is hereby laid off and established, by the name of Cleaveland, to be composed of parts of the Counties of Rutherford and Lincoln, beginning at a point in the South Carolina line, and running a North course so as to pass within fourteen miles, East of Rutherfordton, until it strikes the Burke County-line, thence with the dividing-line of Burke and Rutherford, to the Lincoln-line, thence to the thirteen mile-post, on the Lucas Ford Road, thence to the twelve mile-post, on the new Post-Road, leading from Rutherford to Lincolnton, thence to the twelve mile-post, leading from Lincolnton to Qwinn's Ferry, thence to the twelve mile-post, leading from Morganton to Yorkville, South Carolina, thence with the Road passing Abernathy's Store, by the Gold Mine, at King's Mountain, to the South Carolina line, then with it to the beginning. County of Cleaveland established.

II. *Be it further enacted*, That the said County of Cleaveland shall be invested with all the rights, privileges, and immunities of the other Counties in this State. Invested with all the rights of other Counties.

III. *Be it further enacted*, That R. H. Burton, Alexander McKorkle, H. Cansler, Eli Hoyle, Ed. Bryant, Achillis Durham, John McDowell, Samuel Andrews and David Gray, shall be, and they are hereby appointed Commissioners, whose duty it shall be, to designate some point in said County, not more than four miles from Thomas Wilson's Mineral Spring, which shall be the County Seat of said County. Commissioners appointed to designate the County seat.

[Ratified, the 11th day of January, 1841.]

CHAPTER X.

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

Justices of the Peace residing in the county of Cleaveland, to continue to hold and exercise the like powers which they hitherto held in the Counties of Rutherford & Lincoln.

Be 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 Justices of the Peace and officers of the Militia, who reside within the limits of the County of Cleaveland, 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 Counties of Rutherford and Lincoln.

Constables also to continue to hold their offices.

II. *Be it further enacted,* That the Constables now residing in the County of Cleaveland, shall continue to hold their offices, and perform all the 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.

The Counties of Rutherford Lincoln and Cleaveland to be represented in the General Assembly as heretofore, & Members of Congress elected as formerly until a future Legislature may otherwise direct.

III. *Be it further enacted,* That the Counties of Rutherford, Lincoln and Cleaveland, shall continue to be represented in the General Assembly, in the same manner as heretofore, and in the name of the Counties of Rutherford and Lincoln, until a future Legislature shall otherwise provide and direct; and all elections for Members of Congress and Members of both Houses of the General Assembly, shall be held by the Sheriffs, or other returning officers of the Counties of Rutherford and Lincoln, in all the territory heretofore comprehended in the limits of their respective Counties, at the time and places, and under the same rules, regulations and restrictions, as have been appointed, or may hereafter be appointed by law, and the certificates of said Sheriffs, or other returning officers as to the result of said elections, shall be as

valid and effectual, to all intents and purposes, as if the Act laying off and establishing the County of Cleaveland had never been passed.

Place & time of holding County courts

IV. *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 Cleaveland, to be held by the Justices of said County; the first Session of said Court shall be held on the second Monday of March next, at the House of William Weathers, Esq. That the Court of Pleas and Quarter Sessions shall be held on the third Monday in January, the second Monday in August, and the sixth Monday after the fourth Monday in March, in each and every year thereafter, except that no Court shall be held after the first Session of said Court, until the second Monday in August next, when the Court aforesaid, a majority of the Justices of said County being present, shall elect a Clerk of the County Court, a Sheriff, a Coroner, a Register and Entry-taker, a Surveyor, Constables, and all other officers for said County, who shall enter into bond, as required by law, and shall hold and continue in said offices until their successors are duly chosen and qualified, according to law in such cases made and 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.

Clerk, Sheriff, &c. to be elected.

The County Court to possess the same power and authority of other County Courts.

V. *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 said 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 Courts of Rutherford and Lincoln, wherein the citizens of Cleaveland County are both plaintiffs and defendants, and all indictments in the County Courts of Rutherford and Lincoln, against citizens of Cleaveland County, shall be transferred to the County Court of Cleaveland, in the manner now

All suits pending in the Courts of Rutherford and Lincoln in which the citizens of Cleaveland are both plaintiff and defendants and all

indictments against the citizens of Cleaveland, shall be transferred.

provided for transferring suits from one County to another; and all appeals from the County Court of Cleaveland, shall be sent to the Superior Court of Rutherford, where the plaintiff resides in that portion of Cleaveland taken from Rutherford, and to the Superior Court of Lincoln, when the plaintiff resides in that portion of the County now taken from Lincoln County.

All offences committed in Cleaveland which are cognizable only in a Superior Court, shall continue under the jurisdiction of Superior Courts of Rutherford or Lincoln.

VI. *Be it further enacted*, That all criminal offences which may be committed in the County of Cleaveland, which are cognizable only in the Superior Court of law, shall be and continue under the jurisdiction of the Superior Courts of law of the County of Rutherford, when the offender resides in that portion of Cleaveland County which was taken off Rutherford, and to the Superior Court of Lincoln, when the offender resides in that portion of Cleaveland County which was taken off Lincoln, until a Superior Court shall be created for the County of Cleaveland.

Persons imprison'd under civil or criminal process, to be committed to the Rutherford or Lincoln Jail.

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

Process issued from the Superior Courts of Rutherford or Lincoln shall be valid without the Seal of office.

VIII. *Be it further enacted*, That all process issued from the Superior Courts of Rutherford or Lincoln, against the citizens, shall be valid without the Seal of office being affixed thereto, until a Superior Court is created for the County of Cleaveland; and all process so issued after the first County Court which shall be held for said County of Cleaveland, shall be directed to the Sheriff of Cleaveland County, and by him executed.

County Seat of Justice to be located.

IX. *Be it further enacted*, That the Commissioners appointed by the Act, to which this is a supplement, or a majority of them, shall have power to locate the County Seat of said County, according to the provisions of said Act, and have power to purchase, or receive by donation, a tract of land consisting of not less than one hundred Acres, to be conveyed to the Chairman of the County Court and his success-

ors in office, for the use of said County, upon which a Town shall be laid off, and shall be called *Shelby*, 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; and that each of said Commissioners shall be allowed two dollars per day for their services while engaged in discharge of their duties.

County Court at its first term to appoint Commissioners to lay off the town of Shelby.

X. *Be it further enacted*, That the County Court of Cleaveland, 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 to Sale at Public auction, the residue of said lots, at such time, and after giving such Notice, as said Court may direct, upon a credit of one and two years, and shall take from the purchaser bonds with security, for the purchase money, payable to the Chairman of the County Court, and his successors in office, and upon the payment of the purchase money, the Chairman, or his successor in office, shall execute titles therefor; which shall be appropriated to building the Court-House and Jail.

Sheriffs of Rutherford & Lincoln to be at liberty to collect their dues before the 1st County Court of Cleaveland.

XI. *Be it further enacted*, That nothing in this Act contained, shall be so construed as to prohibit the Sheriff of Rutherford or Lincoln Counties from collecting such sum or sums of money as are due, or may become due, on any Judgments before the first Court of Pleas and Quarter Sessions of the County of Cleaveland.

Said Sheriff's may also collect arrears of taxes.

XII. *Be it further enacted*, That nothing in this Act is to be so construed as to prevent the Sheriffs of Rutherford and Lincoln from collecting all arrears of Taxes, in the same manner as he could have done previous to the division of the Counties, *Provided nevertheless*, That the Sheriff of Rutherford and Lincoln shall not collect any taxes in the County of Cleaveland, or of the citizens of said County, imposed by the County Courts of Rutherford and Lincoln, and which are to be collected in the year one thousand eight hundred and forty one; but that the same may be collected by the Sheriff

of Cleaveland, upon the tax duplicates of the Clerks of the Counties of Rutherford and Lincoln, to the use of Cleaveland County.

Co'ty Courts of Rutherford and Lincoln shall, until a Sup'r. Court is erected for Cleaveland draw Jurors for the Superior Courts, as heretofore.

XIII. *Be it further enacted*, That the County Courts of Rutherford and Lincoln shall have power, until a Superior Court is created for the County of Cleaveland, to draw Jurors as heretofore, to serve at each term of the Superior Courts of Rutherford and Lincoln, and the Jurors so drawn, shall be summoned by the Sheriff of Cleaveland, under the same penalties, now imposed by law, and the Jurors as aforesaid shall be paid by the County of Cleaveland.

Paupers to be transferred. Time of holding Superior Courts.

XIV. *Be it further enacted*, That all paupers in Rutherford and Lincoln Counties, originally from Cleaveland, after the year one thousand eight hundred and forty one, shall be transferred to the Wardens of Cleaveland County.

The Clerks of the Superior Courts of Rutherford and Lincoln to transfer to the Clerk of the Sup'r Court of Cleaveland, all civil process pending in their Courts, when both parties reside in Cleaveland.

XV. *Be it further enacted*, That there shall be opened, and held for the County of Cleaveland, at the place where the County Court for said County is held, a Superior Court for said County, which Court shall be held on the sixth Monday after the fourth Monday in September next, and on the sixth Monday after the fourth Monday in March and September, in each and every year thereafter; and it shall the duty of the Clerks of the Superior Courts of law for Rutherford and Lincoln Counties, to transfer to the Clerk of the Superior Court of Cleaveland, all civil cases pending in Rutherford and Lincoln Superior Courts, when both parties reside in said County of Cleaveland; and all State cases pending in said Courts, where the defendants reside in the County of Cleaveland, under the same provisions provided for the transferring of cases from the County Courts of Lincoln and Rutherford to the Clerk of the County Court of Cleaveland.

Provides for election of a Superior court Clerk.

XVI. *Be it further enacted*, That when elections are next held for Members of Congress in this State, the Sheriff of Cleaveland shall hold an election at the several precincts in said County for a Clerk of the Superior Court of said County, to serve as such for four years, under the liabilities imposed by law on Clerks of the Superior Court.

XVII. *Be it further enacted*, That the County of Cleaveland shall compose a part of the seventh judicial district, and that Judges and Solicitors shall attend said Courts, under the same provisions and liabilities, and receive the same pay, as is received for attending other Counties in said district.

Cleaveland shall compose a part of the 7th Judicial district.

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

This Act to go into immediate effect.

[Ratified, the 11th day of January, A. D. 1841.]

CHAPTER XI.

An Act to lay off and establish a County by the name of Caldwell.

Be 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 portion of the Counties of Burke and Wilkes, beginning at Lovelady Ford, on the Catawba River, in the County of Burke, from thence to Corpening's Bridge, on Lower Creek, thence to John's River, at the upper end of the plantation of the late John Perkins, crossing the same, to and with the dividing ridge between Warrior Creek and Wilson's Creek, to the Yancy line, thence with said line to the Ashe line, and with the Ashe line to the dividing Ridge between Buffalo and Elk Creek, thence with said ridge to the Yadkin River, at the mouth of Elk Creek, crossing the same to and with the dividing Ridge between Beaver Creek, and King's Creek, to the top of the Brushy Mountain, at the Burke line, thence with said line to the corner of Iredell County, and with said line to the Catawba River, thence with the River to the beginning, be, and the same is hereby erected into a separate and distinct County, by the name of Caldwell.

New County of Caldwell established.

This Act to go into immediate effect.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XII.

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 Caldwell."

Be 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 Caldwell 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.

County of Caldwell is invested with all the powers & privileges of other Counties.

II. *Be it further enacted*, That the Justices of the Peace, and Officers of the Militia, who reside within the limits of the County of Caldwell, 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 the Counties of Burke and Wilkes.

Justices of the Peace, &c. residing in Caldwell, shall continue to hold and exercise their official power.

III. *Be it further enacted*, That the Constables now residing in the County of Caldwell, 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.

Constables also shall continue to hold their offices.

IV. *Be it further enacted*, That the Counties of Burke, Wilkes and Caldwell, shall continue to be represented in the General Assembly in the same manner as heretofore, and in the name of the Counties of Burke and Wilkes, until a future

The Counties of Burke, Wilkes and Caldwell shall

Legislature shall otherwise provide and direct; and all elections for Members of Congress, and both Houses of the General Assembly, shall be held by the Sheriffs or other Returning Officers of the Counties of Burke and Wilkes, in all the territory heretofore comprehended in the limits of their respective Counties, at the time 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 Sheriffs, 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 Caldwell had never been passed.

continue to be represented in the General Assembly, as heretofore, & members of Congress shall be elected as formerly, until a future Legislature shall otherwise direct.

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 Caldwell, to be held by the Justices of said County, the first Court to be held on the first Monday in March, in the year one thousand eight hundred and forty-one, and thereafter, to be held on the fourth Monday in April, July, October and January, in each and every year; *Provided*, that no Court shall be held on the fourth Monday in April, one thousand eight hundred and forty-one, and that the Sessions of said Court shall be held at the Store-house of George Powell, near the house of George Smith, jun. until the seat of Justice for said County shall be established, as herein provided, and that at the first Session of said Court, a majority of the Justices of the Peace being present, shall elect a Clerk, Sheriff, Coroner, Register, Entry-taker, Surveyor, Constables, and all other officers for said County, who shall enter into Bonds as required by law and shall hold and continue in said offices until successors to them are duly chosen and qualified, according to the Acts of the General Assembly in such cases made and provided.

Times of holding County Court.

No Court to be held in April, 1841.

A Clerk, Sheriff, Coroner, Register, Entry-taker, Surveyor, Constables, to be appointed.

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

The County Court of Caldwell to possess the same powers as all

other County Courts.

within the limits of Caldwell County, of which the County Courts of other Counties in this State have jurisdiction, until a Superior Court of law is established for said County; and

Certain suits to be transferred.

all suits at law, now pending in the County Courts of Burke and Wilkes, wherein the citizens of Caldwell are both plaintiffs and Defendents; and all indictments in said Courts against citizens of Caldwell County, shall be transferred to the County Court of Caldwell, in the manner now provided for transferring suits from one County to another; and all

Appeals from County Court of Caldwell to be sent to Superior Court of Burke or Wilkes.

appeals from the County Court of Caldwell, shall be sent to the Superior Court of Wilkes for trial, when the plaintiffs reside in that portion of Caldwell taken from Wilkes, and to the Superior Court of Burke, when the plaintiffs reside in that portion of said County taken from Burke.

All criminal offences cognizable only in the Superior Courts, to be sent for trial to the Counties of Wilkes or Burke until a Superior Court is established in Caldwell.

VII. *Be it further enacted*, That all criminal offences which may be committed in that part of Caldwell taken from Burke, 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 Burke, and similar offences committed in that portion of said County, taken from Wilkes, shall be, and continue under the jurisdiction of the Superior Courts of Wilkes, until a Superior Court of law shall be given to the County of Caldwell.

Commitments before completion of a Jail in Caldwell to be made to the Jail of Burke or Wilkes

VIII. *Be it further enacted*, That all persons who may be liable to imprisonment under any process, either criminal or civil, in Caldwell County, before the completion of a Jail in said County, shall be committed to the Jail of either the County of Burke or Wilkes.

Process issued from the Superior Courts of Burke or Wilkes, against citizens of Caldwell shall, for the present, be valid without the seal of office.

IX. *Be it further enacted*, That all process issued from the Superior Courts of Burke or Wilkes against the citizens of Caldwell, shall be valid without the Seal of office being affixed thereto, until a Superior Court is created for the County of Caldwell; and all process so issued, until a Sheriff shall have been elected for the County of Caldwell, shall be executed by either the Sheriff of Burke or Wilkes; and after that time, such process shall be directed to the Sheriff of Caldwell, and be executed by him.

X. *Be it further enacted*, That Catlet Jones, Edmund Jones, William Dickson, Daniel Moore, senior, William Watts, John Blair, senior, Levi Laxton, senior, Peter Ballew, junior, and Abner Pain, are hereby appointed Commissioners to select and determine upon a site for a permanent Seat of Justice for said County, who shall locate the same as near the centre of said County as practicable, and a majority of said Commissioners shall have power to act.

Commissioners for fixing on a site for Seat of Justice

XI. *Be it further enacted*, That a majority of said Commissioners shall have power to purchase or receive by donation, for the County of Caldwell, a tract of land, consisting of not less than twenty-five acres, to be conveyed to the Chairman of the County Court of said County, and his successors in office, upon which a Town shall be laid off, and called "*Lenoir*," 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 Clerks and Register shall keep their offices.

The Seat of Justice to be called Lenoir.

XII. *Be it further enacted*, That the County Court of Caldwell, 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 due notice, the residue to sale at Public Auction, upon a credit of one and two years, and shall take from the purchasers bonds and security for the purchase money, made payable to the Chairman of the County Court, and his successors, and upon the payment of the purchase money, the Chairman, or his successors, shall execute title therefor; which money shall be appropriated to the building of a Court House and Jail.

County Court to appoint Commissioners to lay off the town lots.

XIII. *Be it further enacted*, That nothing in this Act shall be so construed as to prohibit the Sheriffs of Burke and Wilkes from collecting such monies as are due, or may become due, on any judgment before the first Court of Pleas and Quarter Sessions that shall be held for Caldwell County.

The Sheriffs of Burke and Wilkes to collect arrears due on any judgment in Caldwell.

XIV. *Be it further enacted*, That this Act shall not be so construed as to prevent the Sheriffs of Burke and Wilkes from collecting all arrears of taxes in the same manner as

Also to collect arrears of taxes.

they could have done previous to the creation of the County of Caldwell, *Provided, nevertheless*, that the Sheriffs of Burke and Wilkes Counties shall not collect any taxes in the County of Caldwell, or of the citizens of said County, imposed by the County Courts of Burke and Wilkes, and which are to be collected in the year one thousand eight hundred and forty-one; but that the same may be collected upon the tax duplicates of the Clerks of Burke and Wilkes, by the Sheriff of Caldwell, and be paid over to the use of Caldwell County.

Manner of drawing Jurors.

XV. *Be it further enacted*, That the Courts of Pleas and Quarter Sessions of Burke and Wilkes, shall have power until a Superior Court is created for Caldwell, to draw Jurors from said County as heretofore for Burke and Wilkes Superior Courts, and the Jurors so drawn shall be summoned by the Sheriff of Caldwell, and for non-attendance, shall be subject to the same penalties as are now prescribed by law.

Time of holding the County Court of Burke changed.

XVI. *Be it further enacted*, That the Courts of Pleas and Quarter Sessions for the County of Burke, heretofore held upon the fourth Monday in July and January, shall after the first day of March next, be held upon the third Monday in July and January in each and every year; any law to the contrary notwithstanding.

Act to go into immediate effect.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XIII.

An Act to lay off and establish a County by the name of "Stanly."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a County shall be, and the same is hereby laid off, and established in the territory now comprehended in the Western limits of Montgomery County, in manner as follows, viz: That the Rivers Pedee and Yadkin, as now running through the County of Montgomery, shall be the dividing line between the County of Stanly and Montgomery; and all that part of the present County of Montgomery, lying and being West of the said Rivers, Peedee and Yadkin, shall hereafter constitute a separate and distinct County, to be called and known by the name of Stanly; and it shall be, and is hereby invested with all the rights, privileges and immunities of the other Counties of this State, except as is hereinafter provided. County of Stanly erected

II. *Be it further enacted,* That all Justices of the Peace, and Officers of the Militia, who reside within the limits of the County of Stanly, shall continue to hold and exercise all the official powers and authorities in and for the said County, that they have hitherto held and exercised in and for the County of Montgomery. Justices of the Peace & other officers within the limits of Stanly to continue in office.

III. *Be it further enacted,* That a Court of Pleas and Quarter Sessions shall be, and the same is hereby established, in and for the said County of Stanly, to be held by the Justices last aforesaid, and such others as may be appointed, in and for said County, on the fourth Monday of January, April, July and October, in each and every year; the first Session of which, on the fourth Monday of April next, shall be held, at or near the House of Eben Hearne, when the Court aforesaid, a majority of the whole number of Justices of said Court being present, shall appoint a Clerk of said Court, a Sheriff, Times of holding the County Courts.

a Coroner or Coroners, Constables, and other Officers for said County, who shall enter into bonds as required by law, and shall hold and continue 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 said Court, at its first Session as aforesaid, may appoint the place of its future Sessions, until a Court-House shall be erected for said County.

Commissioners for fixing on a Seat of Justice.

IV. *Be it further enacted*, That Parham Kirk, Daniel Palmer, Mathias Moose, Senior, John Little, Jacob Elfird, Edward Davis, Richard Stoker, Sen. James Allen, William Swaringen, or any five of them, shall have power to act in this behalf, be and they are hereby appointed Commissioners to select and determine upon a suitable place for a permanent Seat of Justice in said County, which shall be within eight miles of the house of Eben Hearne, as aforesaid, and shall purchase, or receive by donation, for the use of said County, a tract of land containing not less than Fifty Acres, to be conveyed to the Chairman of the County Court, and his successors in Office, upon which they shall lay off a Town the name of which shall be determined by themselves, in which the public Court House and Jail of said County shall be erected; and after the completion of the same, the Courts of said County shall be held, and the Clerk's Office shall be kept in said Town.

And lay off a town.

And dispose of the lots.

V. *Be it further enacted*, That the Commissioners aforesaid, after laying off the lots of the Town aforesaid, shall designate such as shall be retained for public uses, shall expose the residue to public sale upon a credit of one and two years, and shall take bond, with security for the payment of the purchase money, in favor of the Chairman of the County Court and his successors in Office; and the said Chairman shall execute titles therefor, upon the payment of the purchase money, which shall go into the County Treasury, and the said Court of Pleas and Quarter Sessions may levy taxes for all public uses, under the same rules, regulations and restrictions, as like Courts in other Counties.

VI. *Be it furthr enacted*, That all persons who may be liable to imprisonment, under any process whether civil or criminal, in said County, before the completion of the public Jail therein, may be committed to the Jail of any adjoining County, in like manner as when a Jail has been destroyed by accident.

Persons liable to imprisonment before the completion of the Jail, to be committed to the Jail of any adjoining county.

VII. *Be it further enacted*, That the Court of Pleas and Quarter Sessions established by this Act, and the Superior Courts of Law and Equity, which may be hereafter provided for said County, shall have the like provisions, authorities and jurisdiction, as the same Courts possess and exercise in other Counties, and all suits now pending in any of the Courts of Montgomery County, wherein the citizens of Stanly are both Plaintiffs and Defendants; and all indictments against them, or any of them, shall be transferred to the Court having jurisdiction thereof in the County of Stanly, in the manner now prescribed for transferring suits from one County, to another.

Courts established in Stanly to possess like powers with those of other counties

VIII. *Be it further enacted*, That nothing in this Act contained, shall be so construed as to prohibit the Sheriff of Montgomery County from collecting such sum or sums of money as are due, or may yet become due, on any judgment, before the first Court of Pleas and Quarter Sessions of said County of Stanly; or any taxes whatever may have been laid previously to the passage of this Act. The said Sheriff of Montgomery County shall keep an accurate statement of the amount of taxes which he shall collect in the County of Stanly, in the year one thousand eight hundred and forty-one, and shall certify the same so received for public taxes, on oath, to the Comptroller, in his annual settlement in the year last aforesaid.

The Sheriff of Montgomery to collect such money as may be due to him in Stanly.

IX. *Be it further enacted*, That all criminal offences which may be committed in the County of Stanly, which are cognizable only in the Superior Courts of law, shall be and continue under the jurisdiction of the Superior Courts of law of Montgomery County, until a sufficient Court shall be erected by law for the County of Stanly.

Criminal offences in Stanly before the establishment of a Superior Court, to be tried in Montgomery.

Until otherwise provided the Counties of Montgomery and Stanly to be represented in the General Assembly as at present.

X. *Provided always, nevertheless,* That the County of Montgomery and Stanly shall continue to be represented in the General Assembly as one County, and in the name of the County of Montgomery, until a future Legislature shall otherwise provide and direct; and elections shall be held for Members of both Houses of the General Assembly, of Congress, Governor of the State, and Electors of President and Vice-President, by the Sheriff, or returning officer of Montgomery County, in all the territory heretofore comprehended within the limits of said County, and 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, as to the result of said election or elections, shall be as valid and effectual to all intents and purposes, as if this Act had never been passed.

This Act to go into immediate effect.

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

[Ratified this, the 11th day of January, 1841.]

CHAPTER XIV.

An Act supplemental to an Act, entitled "An Act to lay off and establish a County by the name of Stanly," and for other purposes.

Sup'r. Court provided for Stanly.

Be 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 a Superior Court of Law and Equity opened and held at or near the house of Eben Hearne, in the said County of Stanly, on the first Monday in September, and the first Monday in March, in each and every

Time of holding the Superior Courts.

year thereafter until a Court House shall be built, as provided for in said Act, at the Town therein provided to be established, then at said Town and Court House, on the first Monday in March and the first Monday in September, in each and every year thereafter, which Courts shall have the same jurisdiction that the present Superior Courts of Law and Equity in the several Counties in this State now have and exercise.

Time of holding the County Courts.

II. *Be it further enacted*, That the several Courts of Pleas and Quarter Sessions of said County of Stanly, as provided for in said Act, to be held on the fourth Monday in January, April, July and October, in each and every year, shall be held on the second Monday in February, May, August and November, in each and every year, with all the powers and authorities conferred in said Act, and shall have and exercise all the jurisdiction and powers of other County Courts in this State, provided that the Justices of the Peace in said County of Stanly, at the first County Court to be holden on the second Monday in February next, shall perform and execute all the duties and powers required of them to be exercised, at the County Court to be held on the fourth Monday in April, as provided for in said Act; and provided further, that nothing herein contained shall be so construed as to authorise the Courts of Pleas and Quarter Sessions of the County of Stanly to have and hold jurisdiction of, or to try and determine causes civil or criminal, in which the intervention of a Jury may be necessary.

The time of holding the Sup'r Courts in Moore C'ty altered.

III. *Be it further enacted*, That the next Fall Term of the Superior Court of Law and Equity for the County of Moore, shall be holden on the Monday before the last Monday in August next; and that the Superior Courts of Law and Equity for the County of Moore thereafter, shall be holden on the Monday before the last Monday in February and August, in each and every year thereafter, and that all process shall issue and be returnable accordingly.

Time of holding the Supe-

IV. *Be it further enacted*, That the next Fall Term of the Superior Court of Law and Equity for the County of

rior Courts of Montgomery altered.

Montgomery, shall be holden on the last Monday of August next; and that the Superior Courts of Law and Equity for the said County of Montgomery, shall thereafter be holden on the last Monday in February and August, in each and every year thereafter, and that all process shall issue and be returnable accordingly.

Stanly to constitute a part of the 5th Judicial Circuit.

V. *Be it further enacted*, That the County of Stanly shall hereafter constitute a part of the fifth Judicial Circuit in this State, and the Judge and Solicitor who shall attend the Superior Courts in said County, shall be respectively entitled to the same pay for attending said Courts, that they now by law are entitled to receive for attending other Superior Courts in said Circuit.

The Sheriff of Montgomery to act in the County of Stanly also, until that C'ty elects a Sheriff.

VI. *Be it further enacted*, That the Sheriff elected in and for the County of Montgomery at the last election of Sheriff, shall have, possess and exercise all the rights, powers and privileges, and be subject to all the rules, regulations, restrictions and liabilities, in and for the Counties of Montgomery and Stanly, that he has heretofore exercised and been subjected to in the County of Montgomery, before the passage of the Act laying off and erecting the said County of Stanly, until a Sheriff shall be appointed, as provided for in the Act to which this is supplemental; and until a Sheriff shall be appointed for said County of Montgomery, by the first County Court of the County of Montgomery, which shall happen after the passage of this Act; and whenever a Sheriff shall be appointed for said Counties respectively, by the County Court of Stanly and the County Court of Montgomery, a majority of the acting Justices being present, the respective Sheriffs thereof so appointed, shall continue in office in their several Counties until Sheriffs shall be elected by the free white men therein respectively, according to law.

Seat of Justice in Stanly to be called Albemarle.

VII. *And be it further enacted*, That the seat of Public Justice in the said County of Stanly, shall be called "Albemarle," and by that name shall be known, and be recognized hereafter.

[Ratified, the 11th day of January, 1841.]

COURTS.

CHAPTER XV.

An Act to repeal a part of the eighteenth Section of the Revised Statutes, entitled "An Act concerning the Supreme 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 Judges of the Supreme Court shall have power annually to appoint a proper officer to be denominated Marshal of the Supreme Court, to attend upon the said Court during the Session thereof, who shall discharge the duties and receive the compensation, by the said section imposed upon and granted to the Sheriff of Wake County; and that so much of the said Section as requires the said Sheriff to attend said Court be, and the same is hereby repealed.—And the said Supreme Court shall have power to remove said Marshal and appoint another, when they may deem it proper.

Judges of Supreme Court to appoint a Marshal to attend their Sessions.

II. *And be it further enacted,* That the Clerk of the Supreme Court, in giving the usual Certificate to said Marshal for attending said Court, shall tax only the number of days which the Marshal actually attended in pursuance of the order of the Court.

Clerk to certify the number of days which the Marshal has attended.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XVI.

An Act to alter the times of holding the Superior Courts of Law and Equity for the Counties of Cabarrus and Mecklenburg.

Sup'r Court of Cabarrus to be held on the 3d Monday in February and August. And the Superior Courts of Mecklenburg on the 4th Monday in February and August.

Be 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 Cabarrus, shall be held in the Town of Concord, on the third Monday in February and August, in each and every year; and that the Superior Courts of Law and Equity for the County of Mecklenburg, shall be held in the Town of Charlotte, on the fourth Monday in February and August in each and every year.

Sup'r Court of Mecklenburg shall not hereafter continue longer than one week

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

All Process to stand continued.

III. *Be it further enacted*, That hereafter the Superior Court of the County of Mecklenburg, shall not continue longer than one week at each Term, and that this Act shall be in force from and after its ratification.

[Ratified, the 11th day of January, 1841.]

CHAPTER XVII.

An Act concerning the Superior Courts of Hyde, Northampton and Davie Counties.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall not be lawful for the Clerks of the Superior Courts for the Counties of Hyde, Northampton and Davie, to issue to the Judge who may preside at any of the Superior Courts for the Counties aforesaid, a Certificate, until four o'clock on Thursday evening in each week, when the said Courts shall be held; *Provided*, that this Act shall not be so construed as to prevent the Judge from holding said Courts the whole week, if the state of the docket shall require it; *And provided further*, that this Act shall not be so construed as to prevent the Clerk from issuing the Certificate, should any unavoidable circumstance happen to prevent the Court from being held for the prescribed time.

Directions to Clerks in relation to the issue of Certificates to the Judges.

[Ratified, the 11th day of January, 1841.]

CHAPTER XVIII.

An Act to alter the time of holding the Superior Court of Law and Equity, and the Court of Pleas and Quarter Sessions for the County of Carteret.

Be 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 Court of Law and Equity for the County of Carteret, shall be hereafter opened and held on the Tues-

Sup'r Court of Carteret to be hereafter

held on Tuesday after the 3d Monday after the 4th Monday in March & Sep.

day after the third Monday after the fourth Monday in March and September, in each and every year, under the same rules and regulations as are now provided by law for holding said Courts.

County Court of Carteret to be held on the Tuesday after the 3d Monday in February, May, August & Nov.

II. *Be it further enacted*, That from and after the passage of this Act, the Court of Pleas and Quarter Sessions of Carteret County, shall be opened and held on the Tuesday after the third Monday in February, May, August and November, in each and every year, under the same rules and regulations as are now prescribed for holding said Courts.

Proceedings and Process in said Courts to stand continued, &c.

III. *Be it further enacted*, That all proceedings and process of every kind, depending in or returnable to any of said Courts, shall stand continued and be returnable to the several Terms herein before expressed, respectively; any law to the contrary notwithstanding.

Repealing clause.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XIX.

An Act fixing the times at which the Superior Courts of Law, and Courts of Equity shall be held hereafter in the several Counties composing the seventh Judicial Circuit.

Time of holding the Superior Courts in the Counties composing the

Be 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 in the Counties composing the seventh Judicial Circuit, shall be opened and held at the following times, to-wit: Cherokee, on the first Monday in March and September; Macon, on the second

Monday in March and September; Haywood, on the third Monday in March and September; Henderson on the fourth Monday in March, and September; Buncombe, on the first Monday after the fourth Monday in March and September; Yancy, on the second Monday after the fourth Monday in March and September; Burke, on the third Monday after the fourth Monday in March and September; Rutherford, on the fifth Monday after the fourth Monday in March and September, in each and every year after the first day of June, in the year one thousand eight hundred and forty-one. And that the Terms of Burke and Rutherford Superior Courts shall each continue two weeks when necessary; and Buncombe but one week thereafter. 7th Judicial Circuit.

II. *Be it further enacted,* That the non Jury Courts of Pleas and Quarter Sessions, of the several Counties composing the Seventh Judicial Circuit, shall be held in the several Counties at the same time of holding the Superior Courts for the same as prescribed by this Act, and that in the Counties in which the Superior Courts continue more than one week, the non-Jury County Courts shall be held on the first week of the Term. Time of holding the non jury Courts in the 7th Judicial Circuit.

[Ratified, the 11th day of January, 1841.]

CHAPTER XX.

An Act giving to the County of Henderson a Superior Court of Law and Court of Equity.

Be 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 a Superior Court of Law and Court of Equity opened and held for the County of Henderson, at the Court House in Hendersonville, on the fourth Monday in September next, and on the fourth Monday in March and September, in each and every year thereafter; which Courts shall have the same jurisdiction that the present Superior Courts of Law, and Courts of Equity, in the several Counties in this State now have and exercise.

Su'pr Courts of Henderson to be held on the 4th Monday in Sept. and March.

II. *Be it further enacted,* That the County of Henderson shall hereafter constitute a part of the seventh Judicial Circuit, and that the Judge and Solicitor who shall attend the Superior Courts in said County, shall be respectively entitled to the same pay for attending said Courts, that they now are entitled by law to receive for attending other Superior Courts in said Circuit.

County of Henderson to constitute a part of the 7th Judicial Circuit.

III. *Be it further enacted,* That a Clerk and Master in Equity, of skill and honesty, and a resident of said County, shall be appointed for the same, by the Judge attending the first Term of said Court, who shall give bond and security as directed by law for such officer, and take the oath prescribed for his qualification.

Clerk & Master in Equity to be appointed.

IV. *Be it further enacted,* That the Sheriff of Henderson County shall open a poll for the Election of a Clerk of the Superior Court of Law, at the usual time and place of holding elections for members of Congress, in the year one thousand eight hundred and forty-one, and at the same time every four years thereafter in the same manner, and under the same rules and restrictions, that are now provided by law for the election of Clerks of the Superior Courts of Law, in

Sheriff to hold a poll for the election of a Clerk of the Sup'r. Court at the usual time of electing Members of Congress in 1841, and every four years thereafter.

other Counties, who shall give bonds and take the oaths prescribed by law for such officers.

V. *Be it further enacted*, That the County Court of Henderson shall appoint thirty-six Jurors, to attend the said Court, in the same manner as Jurors are appointed to attend other Superior Courts of this State.

Jurors to be appointed.

VI. *Be it further enacted*, That all civil causes depending in the Superior Courts of Law and Equity for the County of Buncombe, the plaintiff in which causes reside in Henderson County; and also all actions of Ejectment and trespass *quare clausum fregit*, for or concerning lands in Henderson County, shall be transferred, with all process and proceedings therein, to the Superior Court of Law, hereby established for the County of Henderson, and the provisions of existing laws for the appointment, summoning and attendance of Jurors, for the transmission and receipt of records, proceedings and papers, for docketing and bringing the causes forward for trial, for summoning witnesses, issuing original and mesne process, and for all other purposes relative to the preparation for trial, and determination of the business of said Court be, and the same is hereby extended to the Superior Court of Henderson. The neglects and failures of the several officers of the Superior Court of Buncombe, and County of Henderson, shall be subject to the same penalties and forfeitures, as are prescribed for similar neglects and failures by the existing laws; and the same officers shall be entitled to the same fees for their services, as are established for like services in other Counties.

All civil cases, depending in Buncombe Sup'r. Court, the Plaintiffs in which reside in Henderson and also all actions of Ejectment &c. concerning lands in Henderson, shall be removed to that Court.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXI.

An Act to regulate the time of holding the Courts of Rutherford and Cleaveland Counties.

Su'pr. Court of Rutherford to continue but one week.

Be 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 Rutherford County shall continue but one week.

Cleaveland Co'ty. Court to be held on the 2d Monday in Jan.

II. *Be it further enacted,* That the County Court of Cleaveland, heretofore directed to be held on the third Monday of January, shall be held on the second Monday in January in each and every year.

III. *And be it further enacted,* That this Act shall be in force from and after the first day of June next.

[Ratified, the 12th day of January, 1841.]

CHAPTER XXII.

An Act giving the County of Cherokee a Superior Court of Law and Equity.

Su'pr. Court of Cherokee to be held on the 3d Monday of March next and on the 1st Monday in Sept. and March thereafter.

Be 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 a Superior Court of Law and Court of Equity, opened and held at the Town of Murphey, for the County of Cherokee, on the third Monday in March next, and on the first Monday in September and March, in each and every year thereafter; which Courts shall have the same jurisdiction, that the present Superior Courts of Law and Equity, in the several Counties in this State now have and exercise.

County of Cherokee to constitute a part of the 7th Circuit.

II. *Be it further enacted*, That the County of Cherokee shall hereafter constitute a part of the seventh Circuit, and that the Judge and Solicitor, who shall attend the Superior Courts in said County, shall be respectively entitled to the same pay for attending said Courts, that they now are entitled by law to receive for attending other Superior Courts in said Circuit.

Clerk, and Clerk & Master in Equity to be appointed.

Jurors to be appointed.

III. *Be it further enacted*, That a Clerk and Clerk and Master in Equity, both men of skill and honesty, and residents in the County of Cherokee, shall be appointed for the same, by the Judge attending the first Term of said Court; that they shall give bonds and security as directed by law for such officers, and take the oaths prescribed for their qualification; the Clerk so appointed shall hold his office until the regular election and qualification of his successor; the County Court of Cherokee shall appoint thirty Jurors to attend the said Court, in the same manner as Jurors are appointed to attend other Superior Courts in this State.

All civil causes depending in the Superior Court of Macon, the Plaintiffs in which reside in Cherokee; and all actions of Ejectment, &c. concerning lands in Cherokee, to be removed to that Court.

IV. *Be it further enacted*, That all civil causes depending in the Superior Court of Law and Equity for Macon County, the plaintiffs in which causes reside in Cherokee County; and also all actions of Ejectment and trespass *quare clausum fregit*, for or concerning lands in Cherokee County; all indictments for offences heretofore committed in Cherokee, shall be transferred, with all process and proceedings therein, to the Superior Court of Law hereby established for the County of Cherokee; and the provisions of the existing laws for the appointment, summoning and attendance of Jurors, for the transmission and receipt of the records, proceedings and papers, and for docketing and bringing the causes forward for trial; for summoning witnesses, issuing original and mesne process, and generally for all purposes relative to the preparation for trial, and determination of the business of said Court be, and the same is hereby extended to the Superior Court of Cherokee. The neglects and failures of the several officers of the Superior Court of Macon, and of the County Court of Cherokee, shall be subject to the same pen-

alties and forfeitures, as are prescribed for similar neglects and failures by the existing laws, and the said officers shall be entitled to the same fees for their services as are established for like services in other Counties.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXIII.

An Act to repeal an act passed in the year one thousand eight hundred and thirty-one entitled, "An Act to give exclusive jurisdiction to the Superior Courts for the County of Moore."

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That the before recited Act be and the same is hereby repealed: and that from and after the passage of this Act, the Court of Pleas and Quarter Sessions of Moore County, shall have jurisdiction of all pleas and prosecutions of the State, which are now cognizable and exercised by the other County Courts in this State.

Court of Pleas and Quarter Sessions of Moore County to have certain powers.

II. *Be it further enacted,* That the Justices of said Court are authorised, and required to draw Jurors to attend at the May and November terms of said Court in each and every year, under the same rules, regulations and restrictions, as are now prescribed by Law.

Justices authorised to draw Jurors.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXIV.

An Act to regulate the time of holding the Superior Court of Moore, at its next ensuing Term.

Be 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 next ensuing Term of the Superior Court of Law and Equity for the County of Moore, shall be opened and held on the third Monday in February and continue for two weeks, should the business of the Court require it, under the same rules and regulations, as are now prescribed by law for holding said Court. Moore Superior Court when held.

II. *Be it further enacted,* That all suits, appeals, writs, and other process, returnable to the next ensuing Term of Moore Superior Court, shall be returned on the said third Monday of February next, and that all witnesses, Jurors and parties, who have been, or may be summoned, or bound to attend at the next Term of the Superior Court of Moore, are hereby required to attend on the said third Monday of February next. Process to be returned.

III. *Be it further enacted,* That this Act shall not be construed to effect the time or manner of holding the Superior Court of Moore County, after the next ensuing Term.

[Ratified, the 24th day of December, 1840.]

ELECTIONS.

CHAPTER XXV.

An Act to amend the fifty-third Chapter of the Revised Statutes, concerning the Governor.

Duty of Sheriffs in relation to the election of Governor.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That it shall be the duty of the Sheriffs of the several Counties in this State, to file the returns and poll-books, made to him by the returning Officers of the votes taken for Governor, in each year, when there shall be a Governor's election, with the Clerk of the County Court; and it shall be the duty of the Clerks to receive said returns and poll-books, and deposite and safely keep them in his office, and give the Sheriff a receipt therefor, stating for what precincts the returns and poll-books are made. And it shall be the duty of the Sheriffs to transmit to the Secretary of State, the said receipt, at the time he transmits his duplicate of the votes taken for Governor; and in case any Sheriff or Clerk shall fail to comply with the provisions of this section, he or they shall forfeit and pay the sum of one hundred dollars, to be sued for and recovered, as is now provided in the sixteenth section of said Chapter.

II. *Be it further enacted*, That it shall be the duty of the Sheriffs of the several Counties in this State, to transmit to the Secretary, on or before the first day of October, in each and every year, when there shall be an election for Governor, a statement of the votes taken for Governor, which statement shall be made from the poll-books, in the following form, viz:

Form of Sheriff's return to the Secretary.

STATE OF NORTH CAROLINA,

County.

I, Sheriff of the County of do here-

by certify, that at the elections held in said County to elect a Governor of this State for two years from the first day of January next, at the places appointed by law for holding elections in said County, on the day of 18 votes were given for and votes for Given under my hand this day of

Sheriff.

III. *Be it further enacted*, That if any Sheriff shall make a false return, or shall wilfully withhold the statement of the votes for Governor in his County, as directed by the second section of this Act, he shall forfeit and pay the sum of five hundred dollars, and it is hereby made the duty of the Secretary to sue for the same, in any Court of record having cognizance thereof; and the said Sheriff shall moreover be liable to an indictment in any of the Superior Courts, and upon conviction, shall be fined or imprisoned, or both, at the discretion of the Court.

Penalty for making a false return.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXVI.

An Act to amend the Revised Statute, entitled "An Act providing for the appointment of Electors to vote for President and Vice-President of 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 election of Electors provided for by the first section of the Statute aforesaid, shall be hereafter held in the several years in which it is directed to take place, on the first Monday in November, and the certificate and returns of the Elections held in pursuance of the said section of the Statute

The time of holding election for Electors in future.

aforesaid, and now by the provisions thereof required to be returned to the Governor of this State within eight days after holding the polls, shall hereafter be returned to the Governor within ten days after holding said polls. And in case of failing to make such return within the time herein prescribed, the Sheriff or other officer whose duty it shall be so to do, shall forfeit and pay the sum of five hundred Dollars, to be recovered by the Attorney General, in the mode prescribed by the said first section of the Statute aforesaid, in the name of the State; and the Governor, within three days after the expiration of the time for the receipt of such certificates and returns, shall proceed to ascertain therefrom the fifteen persons elected as Electors, and make out and deliver the lists of the names of said Electors, according to the mode in said section prescribed.

Time of making returns to the Governor.

Penalty for failure.

II. *Be it further enacted*, That at the expiration of the time allowed to the Governor to ascertain the persons elected as Electors, it shall be his duty to issue his Proclamation, and cause the same to be published in the public Gazettes of the City of Raleigh, wherein he shall set forth the names of the persons duly elected as Electors, and warn them, and each one of them, to attend at the City of Raleigh, on the first Wednesday in December then next ensuing, to vote for President and Vice-President of the United States.

Governor to publish Proclamation of the persons elected.

III. *And be it further enacted*, That all such parts of the Statute aforesaid as shall come in conflict, and be inconsistent with the provisions of this Act, are hereby repealed.

Parts of former act repealed.

[Ratified, the 30th day of December, 1840.]

CHAPTER XXVII.

An Act to make Elections uniform throughout the State, and amendatory of the Revised Statutes, concerning the General Assembly of the State, concerning the mode of choosing Representatives in the Congress of the United States, concerning the Governor of the State, concerning Sheriffs, and concerning Clerks of the County and 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 Elections for Members of the General Assembly of this State, Representatives in Congress, Governor of the State, Sheriffs of the several Counties, Clerks of the County, and Clerks of the Superior Courts, shall be uniform throughout the State; and in all the Counties, shall be holden on the first Thursday of August, in the several years in which they are now required to be held; and the said Elections shall be conducted in every respect as they are now conducted, and under the same rules, regulations and restrictions, as are now prescribed.

Elections to be uniform hereafter thro' out the State on the first Thursday in August, in the years in which they are now required to be held.

II. The returns of said several Elections, shall be made in the same manner, and at the same times and places as are now required by law, except,

Returns to be made as at present.

First, In the Counties of Currituck, Carteret and Hyde, the statement of the number of votes given for each candidate, and also the names of the persons voting, made out and signed by the Inspectors, and directed to be handed to the Sheriffs of said Counties respectively, on the day after the election—shall be handed to the said Sheriffs thereof, or other persons authorised by law to receive the same, on the first Tuesday after the elections.

1st Exception.

Second, The Senatorial returns, now required by the ninth section of the "Revised Statute concerning the General Assembly of the State of North Carolina," to be compared on

2d Exception.

the third Thursday of August, shall be compared on the first Thursday after the day of Election; or if not compared on that day by reason of the cause set forth in said section, they may be compared on the day following, as provided for under the proviso of said section; and the Sheriff or other officer failing to attend as by law required, shall be subject to indictment, and be fined at the discretion of the Court.

3d Exception.

Third, When any election of Members of Congress shall be held in pursuance of the fifth section of the "Revised Statute concerning the mode of choosing Senators and Representatives in the Congress of the United States," the returns of the Inspectors for the Counties of Currituck, Carteret and Hyde, shall be made at the time before specified for said Counties by this Act, to-wit: on the first Tuesday after the election.

Penalty of Sheriffs failing to make returns.

III. *Be it further enacted*, Any Sheriff who shall fail or refuse to make the returns, or to transmit the duplicate as required and enjoined by the sixteenth section of the Revised Statute, entitled "An Act concerning the Governor and Council of State," shall forfeit and pay the sum of five hundred dollars, to be recovered in the mode and for the use prescribed in said section. And if any Sheriff, or other officer whose duty it may be to hold any election mentioned in the first section of this Act, shall fail to do so, according to the mode and time prescribed by law, or shall fail to make due return thereof (except in the case of Election for Governor above provided for, and in the case of the election of Members of Congress also fully provided for) as by law he is required to do, he shall forfeit and pay the sum of five hundred dollars, for each and every neglect of duty in holding said elections, and making said returns as aforesaid; which said sum of five hundred dollars, may be recovered by action of debt in the name of the State, in any Court of the State having jurisdiction thereof, by any person who will sue for the same.

Forfeitures incurred how to

IV. Wherever by the provisions of this Act, any forfeiture is declared to be incurred by any Sheriff or other officer

for any default or omission of duty in relation to any of the Elections mentioned in this Act, for which said default or omission of duty a forfeiture is already prescribed by the existing law, the forfeiture created by this Act only, shall be recovered. be recovered.

V. So much of the laws now in force, regulating the election of the officers and persons mentioned in the first section of this Act, as are in conflict or inconsistent with the provisions of this Act, are hereby repealed. Parts of former laws repealed.

[Ratified, the 11th day of January, 1841.]

FRAUDS AND FRAUDULENT CONVEYANCES.

CHAPTER XXVIII.

An Act to amend the Revised Statute entitled an Act for preventing of "Frauds and fraudulent conveyances" and to repeal the third Section 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 no person shall be hereafter held or taken to be a purchaser for good consideration, within the meaning of the second section of the said Statute, except, he who shall have purchased or shall purchase, for the full value thereof, any lands, tenements or rents, or profits out of the same, without notice before, and at the time of his purchase, of the conveyance, charge, lease or incumbrance by him alleged to have been made for intent to defraud, and that possession taken or Who shall be considered as purchasers for a good consideration.

held by, or for the person, or persons claiming under such alleged fraudulent conveyance, charge, lease or incumbrance, shall be always deemed and taken as notice in Law of the same.

Fraudulent conveyances.

II. *Be it further enacted*, That no conveyance, charge, lease, or incumbrance, shall be held or taken to be fraudulent within the said second Section, unless the same be made, or shall have been made with an actual intent in fact to defraud.

3d section of former Statute repealed.

III. *Be it further enacted*, That the third Section of the said Statute, be and the same is hereby repealed; And whereas it hath lately been made a question, where a person making a gift or voluntary settlement of property, is at the time thereof indebted, whether the same is not in law and of itself fraudulent and void, as against creditors prior to such gift or settlement, without regard to the value of the property given or settled, of that retained by the donor or settler, the amount of the debts, or the actual purpose and nature in making the gift or settlement; And whereas, upon the said question, conflicting Judicial opinions have been pronounced, and it is highly expedient that the law should be certainly declared, and future doubts prevented; Therefore,

Preamble.

Provision for the future.

IV. *Be it further enacted*, That no such gift or settlement by one indebted (property at the time fully sufficient and available for the satisfaction of all his then creditors being retained by such donor or settler,) shall hereafter be held or taken (by reason merely of such indebtedness of the donor or settler) to be fraudulent or void in Law as against such creditors, but the indebtedness of the donor, or settler, at the time of such gift or settlement, shall be held and taken (as well with respect to creditors prior as creditors subsequent to such gift or settlement) to be evidence only from which an intent to delay, hinder or defraud creditors may be inferred, and in any trial at law shall, as such, be submitted, and left by the Court to the Jury, with such observations as may be right and proper; due regard being had to all the circumstances of the case.

[Ratified, the 11th day of January, 1841.

FREE PERSONS OF COLOUR.

CHAPTER XXIX.

An Act concerning the collection of fines and costs from Free Negroes and Free Persons of Colour.

Be 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 Act, entitled "An Act to amend the fifty-eighth Chapter of the Revised Statutes," entitled "Insolvent Debtors," passed at the Session of the General Assembly, in the years one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, shall be, and the same is hereby repealed, so far as it extends, or may be construed to extend, to free Negroes and free Persons of Colour. Part of former Act repealed.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXX.

An Act to prevent Free Persons of Colour from carrying Fire-arms.

Be 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 free Negro, Mulatto, or free Person of Colour, shall wear or carry about his or her person, or keep in his or her house, any Shot-gun, Musket, Rifle, Pistol, Sword, Dagger or Bowie-knife, unless he or she shall have obtained a license therefor from the Court of Pleas and Quarter Sessions Coloured persons carrying Arms, guilty of a misdemeanor.

of his or her County, within one year preceding the wearing, keeping or carrying thereof, he or she shall be guilty of a misdemeanor, and may be indicted therefor.

[Ratified, the 11th day of January, 1841.]

GUARDIANS.

CHAPTER XXXI.

An Act to amend the Revised Statute, entitled an Act concerning the appointment of Guardians, and the management of Orphans and their Estates.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Superior Courts of Law and Courts of Pleas and Quarter Sessions, when appointing Guardians for Orphans, accordingto the second Section of the said Statute, to commit the tuition and custody of the Orphan's person to one, and the charge of his Estate to another person, whenever it shall appear best for the Orphan and most conducive to the proper care of his estate, and the suitable nurture and education of himself so to do, instead of granting the general Guardianship to one person; and in such cases, it shall be lawful for the Court granting the same, to order and appoint what yearly sums of money or other provision shall be made, to and for the support, nurture and education of the Orphan. And the said Court, or the Court of Equity of the same County, may, from time to time, upon proper application made, reduce or enlarge the allowance so

Tuition and custody of Orphans may be committed to one and the charge of his estate to another person.

appointed, and prescribe the time and manner of paying the same, and take all such further order, as, due regard being had to the situation of the Orphan, his condition in life and the kind and value of his Estate, may seem just and proper. And all payments made by the Guardian of the Estate to the Tutor of the person, according to any such order or appointment, shall be deemed just disbursements, to be allowed in the settlement of his accounts. And the Court granting such Guardianship, or the Court of Equity of the County, may from time to time, make such orders for the yearly passing and auditing of the accounts of the Tutor having the custody of the Orphan's person, touching the monies so paid to him, or her, as the Court shall deem best, so that the amount of security to be required from the said Tutor, may be reduced (as nearly as may be, without hazard to the Ward) to the yearly sum allowed for the nurture and education of the Ward. And all proceedings under this section, shall be summary, either upon petition or motion, and upon notice to such person or persons as the Court may deem reasonable to require.

Where a general guardianship has been granted, the Court may on application, separate the care and Tuition from the management of the estate.

II. *Be it further enacted*, That where any general Guardianship shall have been already granted, or shall be hereafter granted, the said Courts shall have power, upon application made, to separate the care and tuition of the Orphan's person from the care and management of his or her Estate, and to make the same orders, and to give the same directions, in all respects, as are authorised by the foregoing section, when the charge of the person and of the Estate shall be separated at the first granting of the Guardianship of any Orphan.

No commissions to be charged by Guardians on payments to Tutors having custody of Orphans.

III. *Be it further enacted*, That no payment made by such Guardian to the Tutor having the custody of the Orphan's person, according to the first section of this Act, shall be deemed a disbursement on which commissions may be allowed; and that the receipt of such sum by said Tutor, shall not be deemed a receipt by him, on which commissions may be allowed; but that said Tutor shall be allowed commissions only upon actual disbursements made by him, for and on account of his Ward's nurture and education.

Passing of Tutor's accounts to be conclusive.

IV. *Be it further enacted,* That the settlement and passing of the Tutor's accounts, in manner directed by the first section of this Act, shall be held and deemed to be conclusive.

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

[Ratified, the 11th day of January, 1841.]

INSOLVENT DEBTORS.

CHAPTER XXXII.

An Act in favor of Poor Debtors.

Poor debtors with families entitled to certain allowances.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That every person having a family, shall be entitled to have one cow and calf, free and exempt from execution, and also have two barrels of corn and fifty pounds of bacon, or fifty pounds of pork or beef, or one barrel of fish; *Provided, however,* that nothing herein contained, shall interfere with the collection of debts contracted previous to the first day of March, one thousand eight hundred and forty-one.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXIII.

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

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That any person, who now is, or may hereby be confined in Jail, by virtue of a judgment in any action or suit for damages to the person, property or reputation of another; or for failing to give a bond, with sufficient security, for the maintenance of any bastard child or children, whose father he is charged to be; or for failing to pay such sums of money as he may be ordered to pay for the maintenance of such bastard child or children, and shall remain in Jail for the space of twenty days, may be discharged from imprisonment, under the same rules and regulations as are prescribed for the discharge of debtors in execution, by the first, second and third sections of the fifty-eighth Chapter of the Revised Statutes, entitled "Insolvent Debtors."

Benefit of Insolvent laws extended to prisoners failing to pay fines, or give security, &c.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXIV.

An Act to amend an Act entitled "An Act to amend the fifty-eighth Chapter of the Revised Statutes," entitled "Insolvent Debtors."

Be 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 persons for whose relief the said Act was passed,

Insolvents to give notice in

writing to the Clerk of Court by which the fine was imposed.

must give notice in writing of their intention to avail themselves of the benefit of the Act, to the Clerk of the Court, by which the fine was imposed. Such notice to be served under the same rules and regulations as are prescribed for the service of notice by debtors in execution, by the first and fourth sections of an Act, entitled "Insolvent Debtors."

[Ratified, the 11th day of January, 1841.]

MISCELLANEOUS.

CHAPTER XXXV.

An Act to amend the Revised Statute, entitled "An Act concerning Registers."

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

Co'ty. Courts may prescribe on what days of the week the Register shall attend at his office.

That the County Court of any County, a majority of the Justices of said County being present, may, at their discretion, at the first Court held in each year after the first day of January, prescribe on what days of the week, and at what hours of such days as may be prescribed, the Register of their County shall attend in person, or by deputy, at his office.

The order to be entered on the minute docket.

II. *Be it further enacted*, That whenever the said Court shall prescribe the time of the Register's attendance, as aforesaid, at his office, the order therefor shall be entered on the minute-docket, and a copy of the same made out by the Clerk, shall be delivered by the Sheriff to the Register.

A failure of

III. *Be it further enacted*, That it shall be the duty of the Register of any County in which such an order shall

have been made, to comply with it, and a failure to do so, shall be deemed a breach of any official bond, executed by such Register after the order of his County, and said Register shall, for every such failure, forfeit and pay the sum of ten dollars, to be recovered in an action of debt, by any person who will warrant or sue for the same, in any Court of Law in the State; and for every such recovery against the Register, his securities may be made liable by suit on his official bond.

compliance by the Register, to be considered as breach of his official bond.

IV. *Be it further enacted*, That the County Court of every County, a majority of the Justices being present, shall have power and authority to fix the place where the Register shall keep his office; and if any Register shall keep the books and records of his office at any other place, he shall be guilty of a misdemeanor, and be subject to indictment in the County or Superior Court, and, on conviction, shall be fined at the discretion of the Court, and, moreover, shall be removed from office by the conviction, without further trial, and his office shall be deemed and held vacant.

Co'ty. Court to fix the place of keeping the Register's Office.

V. *And be it further enacted*, That the provisions of this Act shall not be construed to affect the duties of Registers, in those Counties in which no order for attendance shall be made.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXVI.

An Act providing for restoring to the rights of citizenship persons convicted of infamous crimes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That any person either now or hereafter convicted of any infamous crime, whereby the rights of citizenship are forfeited, may be restored to the same under the following rules and regulations: First, he shall file his petition in the Superior Court of Law, setting forth his conviction and the punishment inflicted, and shall state therein his place or places of residence, and his occupation since his conviction, and shall also state the meritorious causes which, in his opinion, entitle him to be restored to his forfeited rights. Second, upon filing the petition, the Clerk of the Court shall advertise the substance thereof at the Court House door of his County for the space of three months next before the Court when the petitioner proposes that the same shall be heard. Third, at the hearing thereof, the Court, on being satisfied of the truth of the facts set forth in the petition, and on its being proved by five respectable witnesses who have been acquainted with the petitioner's character for three years next preceding the filing of the petition, that his character for truth and honesty during that time has been good, shall decree his restoration to the lost rights of citizenship, and the petitioner shall accordingly be restored thereto.

Rules for restoring persons to citizenship.

II. *Be it further enacted,* That at the hearing of such petition, no deposition relating to the character of the petitioner shall be read, and the Court shall examine all proper testimony which may be offered either by the petitioner, or any, who may oppose the grant of his prayer.

No deposition for petitioner to be read. Examination of testimony by Court.

III. *Be it further enacted,* That no petition for the purposes aforesaid, shall be filed within less time than four years of conviction.

Petition not to be filed in less than 4 years.

IV. *Be it further enacted*, That the petition shall be filed in the County where the indictment was found, upon which the conviction took place; and in case the petitioner may have been convicted of an infamous crime more than once, and indictments for the same may have been found in different Counties, then the petition shall be filed in that County where the last indictment was found. Where the petitioner shall file his petition.

V. *Be it further enacted*, That if any person who has once been restored to the forfeited rights of citizenship under this Act, shall afterwards commit an infamous crime, he shall not again have the benefit of this Act, but shall remain infamous. No person to receive the benefit of this act more than once.

VI. *And be it further enacted*, That Females may have the benefit of this Act, in the same manner as Males, and in every case the petitioner shall give bond with security, payable to the State for the costs of the application, which costs shall be paid by the applicant. Females may have the benefit of this act.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXVII.

An Act to protect the interest of Lessors.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That when any lessee of land, for the rent of the land that he shall cultivate, under lease, shall agree to pay a certain share of his or her crop, or a specific quantity of grain, so much of the crop of the lessee raised on his farm held under lease, as will be sufficient to satisfy the rent to his landlord for the year, shall be exempt from execution, and from the lien of all other debts, until the end of each respective year. Part of the crop to be exempt from execution.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXVIII.

An Act directing the conveyance of the Commons adjoining the Town of Murphy, to the Chairman of the County Court of Cherokee.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That for the purpose of enabling the County of Cherokee to provide a suitable Court House and Jail, and for other County uses, it shall be, and it is hereby made the duty of the Governor to cause a grant to be issued under the great seal of the State, to the Chairman of the County Court of Cherokee and his successors in office, in fee simple, for all that portion of the four hundred acre tract, on which the Town of Murphy is situated, that yet remains undisposed of by the State; and that the land so conveyed, shall be held in trust by the said Chairman and his successors for the purposes aforesaid.

Governor to convey site for Court-house.

II. *Be it further enacted,* That no grant shall be issued to the said Chairman of Cherokee County Court, for the said land, until the Justices of Cherokee County, or a majority of the same, shall secure to the satisfaction of the Public Treasurer, the payment of one dollar for each and every acre of the said land, in four annual instalments, by bonds bearing even dates with said grant.

Not to be conveyed, until payment be secured.

III. *Be it further enacted,* That the quantity of the said land shall be ascertained by an actual survey under the direction of such Commissioner as the Governor may appoint for that purpose.

Land to be surveyed.

IV. *And be it further enacted,* That the said Chairman of Cherokee County Court may, and shall have authority to sell the said land, or such portion thereof at such times and places, and on such conditions, as a majority of the Justices of the Peace of Cherokee County shall determine and direct.

Such portion to be sold as may not be wanted.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXIX.

An Act to amend the law concerning the fees of Coroners.

Be 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 several Coroners of this State shall receive as a fee for attending on each inquest, the sum of five dollars, to be paid by the County Trustee out of the County funds, *Provided*, that nothing herein contained, shall prevent the County Court from making the allowance to Coroners for the interment of any person, as enacted by the twenty-eighth section of the one hundred and fifth Chapter of the Revised Code. Coroner's fee.

[Ratified, the 11th day of January, 1841.]

CHAPTER XL.

An Act to regulate the measurement of Ton and Square Timber, and Saw Mill Lumber.

Be 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 Ton and Square Timber, and Saw Mill Lumber, at the several markets and mills in this State, shall be measured by superficial, or board measure; and any person or persons, who shall fail to be governed by this Act, shall be liable to a fine of ten dollars for every such failure, to be recovered before any Justice of the Peace, by any person suing for the same. All Timber & Saw-mill lumber to be charged by board measure.

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

III. *Be it further enacted*, That all laws and clauses of laws, coming within the meaning and purview of this Act, Former laws repealed.

are hereby repealed; *Provided, nevertheless*, that the provisions of this Act shall not extend to the Counties of Tyrrell, Washington, Gates, Bertie, Chowan and Northampton.

[Ratified, the 11th day of January, 1841.]

CHAPTER XLI.

An Act supplementary to an Act passed in one thousand eight hundred and thirty-nine, Chapter thirty, entitled "An Act to amend the Inspection Laws."

Whereas, it was not the intention of the aforesaid Act to repeal the penalty on Inspectors for failing to comply with the provisions of the 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 any Inspector or Inspectors who shall, at any time hereafter, inspect Saw mill lumber, by any rule or rules different from those prescribed by the aforesaid recited Act, shall forfeit and pay the sum of one hundred dollars, for each and every offence, one half to the informer or person suing for the same, and the other half to the use of the County, where such forfeiture shall be incurred.

Inspectors, acting on rules different from those prescribed in the above recited act, shall forfeit $100 for each offence.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XLII.

An Act to compel the Militia officers to hold their commissions three years.

Be 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 all officers who may accept of Military commissions in this State, shall hold and continue to discharge the duties of the same, for three years from the date thereof, unless a resignation should be rendered necessary by promotion, removal or disease.

II. *And be it further enacted,* That all officers failing to comply with the provisions of this Act, shall forfeit and pay, if as high as the grade of a Field Officer, the sum of fifty dollars, of a Captain the sum of seventy-five dollars, and of a Lieutenant or Ensign, the sum of twenty dollars, to be sued for and recovered by the Adjutant, in the name of the State of North Carolina, to be accounted for to the Paymaster, and applied as other Militia fines are.

Forfeitures fo failing to com ply with the provisions of this act.

[Ratified, the 30th day of December, 1840.]

CHAPTER XLIII.

An Act giving longer time to register grants of Land in this State, Deeds of Mesne Conveyance, Powers of Attorney, &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 all grants of Land in this State, all deeds of mesne conveyance, powers of attorney, under which any Lands, tene-

ments 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, 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, and *Provided further*, 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 were conveyed to the President and Directors of the Literary Fund of North Carolina, by an Act of the General Assembly, passed at its Session in one thousand eight hundred and thirty-six, and one thousand eight hundred and thirty-seven.

Two years longer allowed for registration.

[Ratified, the 26th day of December, 1840.]

CHAPTER XLIV.

An Act to secure title to, and grant jurisdiction over a Tract of Land on Body's Island, to the United States.

Whereas, the United States in Congress assembled, having passed an Act, authorising the erection of a Light-house on Body's Island, and their agent having selected a site on said Island for that purpose, the title to a part of which being in minors whose Guardian is not authorised to sell and convey

Preamble.

the same, without an application first being made to a Court of Equity, the great expense of which will consume the value of the Land, and the delay postpone the great public benefit to result from a speedy erection of the Light-house,

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 Samuel Mann, Guardian to John Mann, Thomas Mann, Edward Mann and Spencer Mann, minors under the age of twenty-one years, grand-children and heirs at law of John Midget, senior, deceased, be, and he is hereby authorised and empowered to sell and convey by deed duly executed to the United States, all the estate and title of said John Mann, Thomas Mann, Edward Mann and Spencer Mann, in and to a certain tract or parcel of Land, situated, lying and being in the County of Currituck, on Body's Island, beginning at the head of the south prong of Deep Creek, at a live oak stake, running thence one hundred and forty yards to a stake, thence south one hundred and forty yards to a stake, thence west, one hundred and forty yards to a stake, thence to the beginning, containing by estimation four acres, which land has been selected as a site for the erection of a Light-house, and to receive and receipt for all monies paid for said Land, to the said Samuel Mann, as Guardian as aforesaid; and said deed, when proved and registered agreeably to law, shall be valid in law to convey all the estate and title of the said John Mann, Edward Mann, Thomas Mann and Spencer Mann, in and to the Lands included within the before described boundaries.

Samuel Mann guardian, authorised to convey the land in question.

II. *Be it further enacted*, That the United States shall and may have and exercise exclusive jurisdiction over the tract or parcel of Land aforesaid, *Provided*, that nothing herein contained shall be construed to prevent the proper Officers of this State from executing any process, civil or criminal, within the limits of said tract or parcel of Land.

United States to have exclusive jurisdiction over the land.

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

[Ratified, the 26th day of December, 1840.]

CHAPTER XLV.

An Act to expedite legal Process.

Duty of Clerk in Equity to advertise Suits 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 bill in Equity, or petition, shall be filed in any of the Courts of this State, in which said bill or petition, it is alleged that some of the defendants are non-residents, it shall be the duty of the Clerk upon affidavit filed, if the Plaintiff require it, to advertise in some Gazette of the State, for the space of six weeks, in the same manner, and under the same rules and regulations, as are now required by the law prescribing such advertisements when ordered by the Court to be made upon the return of process. And such advertisement so made by the Clerk, shall be as effectual as if ordered by the Court, at the return of such process, and the cause shall proceed, as causes now proceed, when advertisement has been made as to non-residents: *Provided nevertheless,* that the provisions of this act shall not interfere with the course of proceedings in applications for divorce.

[Ratified, the 26th day of December, 1810.

LIBRARY.

CHAPTER XLVI.

An Act to purchase a Library.

Be it enacted, That the annual appropriation heretofore made by Resolutions of this General Assembly of five hundred dollars, for the increase of the Public Library of this State be, and the same is hereby re-enacted.

Former appropriation re-enacted.

II. *Be it further enacted*, That the Governor and the Judges of the Supreme Court of the State be, and they are hereby requested and authorised, to act as Trustees of the Public Library, and of the funds that have been or may hereafter be appropriated for that purpose, and to make purchases for the Public Library, and appoint Agents for that purpose, from time to time, as to them may seem expedient, according to the State and condition of the Library fund.

The Governor and Judges of the Supreme Court to be Trustees of the Library.

III. *Be it further enacted*, That the said Trustees shall have the general superintendence of the Public Library, and shall have power to appoint a Librarian to take charge of the books, with a salary not exceeding seventy-five dollars a year; to make and adopt such rules and regulations from time to time, touching the of use said Library, as they may think proper.

A Librarian to be appointed.

IV. *Be it further enacted*, That the Librarian so appointed shall keep a catalogue of all books in the Public Library, and shall make a report of the same to the General Assembly at every biennial Session.

The Librarian to keep a Catalogue of the books.

V. *Be it further enacted*, That printed copies of all reports of Committees, upon important public subjects, to be determined by the Governor, and five copies of the Journals, and of the Acts of Assembly of each Session of the General Assembly, shall be procured by the said Librarian from the Printer to the General Assembly, and bound up in proper order, to be preserved as a part of said Library.

Reports and Journal and Acts of the General Assembly to be placed in the Library.

And also certain Documents, Journals and acts of Congress.

VI. *Be it further enacted*, That the Governor shall designate such portions of the documents, Journals and Acts of Congress of the United States, as he may deem proper, to be preserved in the Public Library; and that it shall be the duty of the Librarian to have the same bound in proper order, at the expense of the State, and deposited in the Public Library.

Judges of Supreme Court to act in the absence of the Governor.

VII. *And be it further enacted*, That the Judges of the Supreme Court, in the absence of the Governor, or the Governor and any of the Judges of the Supreme Court, in the absence of the others, shall be a quorum of the said Trustees, with all the authority hereby vested in the said Trustees.

[Ratified, the 12th day of January, 1841.]

PILOTS.

CHAPTER XLVII.

An Act to amend the first section of an Act, entitled "An Act to reduce into one the several Acts concerning Pilots and Commissioners of Navigation."

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

Commissioners of Navigation and Pilotage, of Cape Fear River how to be appointed.

That the Commissioners of Navigation and Pilotage of Cape Fear River shall consist of six persons, five of whom shall be appointed by the Commissioners of the Town of Wilmington, and one elected by the qualified voters of the Town of Smithville.

Time of their

II. *Be it further enacted*, That on the third Monday in the month of January, one thousand eight hundred and for-

ty-one, and every two years thereafter, the Commissioners of the Town of Wilmington, shall proceed to appoint five persons to serve as Commissioners of Navigation and Pilotage, under the provisions of this Act: and on the same day and month, and every two years thereafter, it shall be the duty of the Sheriff of the County of Brunswick, either by himself or his deputy, ten days notice having been previously given, to cause the polls to be opened in the Town of Smithville, for the purpose of electing one other person, and said Sheriff shall furnish the individual who obtains the largest number of votes with a certificate thereof. Any Citizen who shall have resided in the Town of Smithville twelve months immediately preceding the day of holding said election, and who is a qualified voter in the most numerous branch of the State Legislature, shall be entitled to vote for a Commissioner of Navigation and Pilotage in said Town. No person shall be eligible to the office of Commissioner of Navigation and Pilotage, unless he be a Citizen of the Town of Wilmington or Smithville, and shall possess a freehold, or be the owner of a Vessel of at least one hundred Tons burthen. Appointment.

III. *Be it further enacted*, That the persons appointed and elected in manner aforesaid, shall form a Board to be denominated and called "the Board of Commissioners of Navigation and Pilotage for the Cape Fear river" and said Commissioners are authorised and empowered to fill every vacancy which may occur in their body during their term of service, and to appoint a Clerk whose duty it shall be to keep a book, and record therein all the orders, rules and proceedings of the said board of Commissioners. The Board to fill vacancies in its body.

IV. *And be it further enacted*, That the first section of an Act, Chapter eighty-eight of the Revised Statutes, entitled "an Act to reduce into one, the several Acts concerning Pilots and Commissioners of Navigation," be, and the same is hereby repealed. 1st section of former act repealed.

[Ratified, the 11th day of January, 1811.]

CHAPTER XLVIII.

An Act to amend the twenty-second Section of the Revised Statutes, Chapter eighty-eight, entitled "An Act to reduce into one the several Acts concerning Pilots and Commissioners of Navigation."

Be 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 Vessel or Boat entering Cape Fear River, either by the old Bar, or the new Inlet, under forty tons burthen, and no Steam Boat belonging to the Wilmington and Raleigh Rail Road Company, shall be compelled to take a Pilot or pay Pilotage to any person whatever, except when signals are made for a Pilot; and no vessel coming in at either of the Inlets with a view to the more convenient prosecution of her voyage, or to make a harbor, shall be subject to the payment of Pilotage.

Certain vessels exempt from Pilotage.

[Ratified, the 11th day of January, 1841.]

REVENUE.

CHAPTER XLIX.

An Act to amend the one hundred and second Chapter of the Revised Statutes, entitled "An Act to provide for the collection and management of a Revenue for this State."

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That every Sheriff, when he makes his return of taxes collected, as required by the sixty-eighth section of the one hundred and second Chapter of the Revised Statutes, shall include in the same a list of taxes collected on unlisted property, to be read and published as other lists of taxes specified in said section.

Sheriffs to return Taxes collected on unlisted property.

[Ratified, the 12th day of January, 1841.]

ROADS.

CHAPTER L.

An Act for the relief of the Wilmington and Raleigh Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That at any time after the passage of this Act, the President and Directors of the Wilmington and Raleigh Rail Road

The Rail-road

Comp'ny may make bonds to the amount of $300,000 payable to the Public Treasurer.

Company may make their bonds payable to the Public Treasurer of the State of North Carolina, for the sum of three 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 January and the first Monday in July, in each and every year thereafter; and the amount of said bonds, shall be made payable, as follows, to-wit: Fifty thousand dollars on the first day of January, one thousand eight hundred and forty-two, fifty thousand dollars on the first day of January, one thousand eight hundred and forty-three, fifty thousand dollars on the first day of January, one thousand eight hundred and forty-four, fifty thousand dollars on the first day of January, one thousand eight hundred and forty-five, fifty thousand dollars on the first day of January, one thousand eight hundred and forty-six, and fifty thousand dollars on the first day of January, one thousand eight hundred and forty-seven.

Public Treasurer to endorse said bonds.

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 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 one thousand eight hundred and forty, entitled "An Act for the relief of the Wilmington and Raleigh 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.

The bonds when endors-

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

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.

ed, to be delivered to the Rail Road Company for use.

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.

A statement to be given to Public Treasurer of the manner in which the bonds are disposed of.

V. *Be it further enacted*, That for the payment semi-annually, at the rate of six centum per annum, on 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.

Credit of the State pledged for the payment of the interest.

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.

Bonds are transferable.

The Rail-road Company to apply $50,000 annually from the proceeds of the Road as a sinking fund

VII. *Be it further enacted*, That it shall be the duty of the President and Directors of said Company, from the income and proceeds of said Road, to apply the sum of fifty thousand dollars annually as a sinking fund to pay the debt created under this Act, until the same be extinguished.

The Rail-road Company to give to the Public Treasurer a deed of mortgage of the Road as security.

VIII. *Be it further enacted*, That whenever the President and Directors of the Wilmington and Raleigh Rail Road Company, shall make, execute and deliver to the Governor 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 Wilmington and Raleigh 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 Wilmington and Raleigh 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 semi-annually, 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 Governor and 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 Wilmington and Raleigh Rail Road Company, the whole of said bonds which by this Act he is authorised and required to endorse, taking therefor the receipt of the President of said Wilmington and Raleigh Rail Road Company.

Recourse to be taken in case of failure in

IX. *Be it further enacted*, That in case of failure by the President and Directors of the said Wilmington and Raleigh Rail Road Company, to pay and discharge semi-annually the interest which may accrue on the bonds hereby authorised

to 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 Wilmington and Raleigh Rail Road Company.

the Rail-Road Company regularly to pay the interest on the bonds.

X. *Be it further enacted*, That in case of failure of the President and Directors of the said Wilmington and Raleigh 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 Wilmington and Raleigh 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.

Recourse to be had against the Rail-Road Company in case of failure to pay off the principal of the bonds.

General Assembly may appoint a Committee to examine into the situation of Company.

XI. *Be it further enacted*, That the General Assembly may at any time appoint a Committee to examine into the situation of the said Company, may direct the mortgage to be foreclosed according to the provisions heretofore prescribed, whenever they think proper.

Remedy, in case the Company fail properly to apply the proceeds of the Road.

XII. *Be it further enacted*, That if in case the President and Directors of said Company should fail to apply the proceeds and income of said Road according to the above section of this Act, then and in that case, it shall be the duty of the Governor of the State for the time being, to compel their compliance according to the manner prescribed in the ninth section of this Act, to enforce the payment of the interest of debt herein created.

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

[Ratified, the 30th day of December, 1840.]

CHAPTER LI.

An Act to secure the State against any and every liability incurred for the Raleigh and Gaston Rail Road Company, and for the relief of the same.

The Rail-road Comp'ny may make their bonds to the amount of $300,000 payable to the Public Treasurer.

Be 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 three 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, 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 January and the first Monday in July in each and every year thereafter; the principal sums secured by said Bonds to be payable as follows, that is to say, as to one tenth part thereof, on the first Monday in January, A. D. one thousand eight hundred and forty-five, as to one other tenth part thereof on the first Monday in January, one thousand eight hundred and forty-six, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-seven, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-eight, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and forty-nine, as to one other tenth part thereof, on the first Monday in January, one thousand eight hundred and fifty, as to one other tenth part thereof, on the first Monday of January one thousand eight hundred and fifty-one, as to one other tenth part thereof on the first Monday of January, one thousand eight hundred and fifty-two, as to one other tenth part thereof, on the first Monday of January, one thousand eight hundred and fifty-three, and as to the remaining tenth part thereof on the first day of January, A. D. one thousand eight hundred and fifty-four.

Interest to be paid semi-annually.

Principal to be re-paid in annual instalments.

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 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 this Act, 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.

Public Treasurer to endorse the bonds.

The bonds then to be handed to the Rail Road

III. *Be it further enacted*, That it shall be the duty of

Company for their use.

the Public Treasurer, on the endorsement being made, as before 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.

The Rail-road Company to make a statement to the Public Treasurer of the manner in which the bonds are disposed of.

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 is pledged for the semi-annual payment of the interest on the bonds.

V. *Be it further enacted*, That for the payment semi-annually of interest at the rate of six per centum per annum, on the principal debt due on the Bonds hereby authorised to be made, and of the principal sums as the same shall become due and payable, 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.

The bonds are transferable By the holders

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 for the same amount shall be issued to the person entitled to the same, *Provided*, That before any of the said Bonds are delivered to the President and Direc-

tors of said Company, the Stockholders in the same holding at least three fourths of its Stock, or on failure of any of the Stockholders, a sufficient number of other solvent persons, who may subscribe in such sums as they may think proper, so as to amount in all to the sum of five hundred thousand Dollars, shall enter into a Bond, payable to the State of North Carolina, covenanting and binding each one of the obligors therein, severally, to pay and satisfy to the said State a part, proportionate to the number of shares of each one's stock, and to the sums so subscribed, in any loss or damage that may come to the State, in consequence of the endorsement by the State of the bonds for five hundred thousand dollars, under the Act of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, entitled an Act for the relief of the Raleigh and Gaston Rail Road Company, and insufficiency of the real and personal estate and property of said Company to discharge the same; which bond shall be renewable every two years, and the ability of such obligors at the time of such renewal shall be judged of by the Governor, Treasurer and Comptroller of this State; and in case of failure on the part of any obligor, to renew as herein directed, such refusal shall operate as a breach of the bond heretofore given, as to such Stockholder, so refusing, and the same is hereby directed to be put in suit, and said refusal shall further work a forfeiture of the stock of such obligor to the Raleigh and Gaston Rail Road Company; and *Provided further*, that before any of said bonds are delivered as aforesaid, the Governor of the State shall make enquiry into the ability of the obligors thereto, and certify to the Public Treasurer that, in his opinion, they are able to pay, and satisfy the bond aforesaid.

Before the bonds are delivered to the Rail Road Company, the Stockholders, or others to enter into a bond of $500,000 as security to the State against loss.

Bond to be renewable every two years.

VII. *Be it further enacted*, That where any Stockholder agreeing to accept the provisions of this Act, shall not be a resident of the State of North Carolina, or shall not be the owner of sufficient real estate within the limits of this State, to satisfy the amount of the Bond hereby directed to be taken, he or she shall be required to give good and sufficient security within the limits of this State.

Signers of the bond to own sufficient property in this State.

The Company to make its election to accept the benefits of this Act within four months.

VIII. *Be it further enacted*, That the said Raleigh and Gaston Rail Road Company, shall within the space of four months from the fifteenth day of January, one thousand eight hundred and forty-one, make their election, to accept the benefit of this Act, and upon the same being made, to give notice thereof to the Governor; otherwise, that the same be and is hereby declared to be void and of none effect.

Public Treasurer is to deliver bonds, endorsed by him, when securities are given by State for transfer by said Company

IX. *Be it further enacted*, That when the President and Directors of the Raleigh and Gaston Rail Road Company shall make, execute and deliver to the Governor of this State for and on 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 the Road, as shall be sufficient to pay semi-annually the interest which may accrue on said bonds until the final redemption and payment of the principal of said bonds, which said deed of mortgage and pledge shall be approved by the Governor and Attorney General of the State; and when the bond provided for by the sixth section of this Act, shall have been filed with the Public Treasurer, then and not before, 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 authorised and required to endorse, taking therefor the receipt of the President of said Raleigh and Gaston Rail Road Company.

Recourse to be

X. *Be it further enacted*, That in case of failure by the

President and Directors of said Raleigh and Gaston Rail Road Company to pay and discharge semi-annually the interest which may accrue on the bonds hereby authorised to 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 said receipts; which Court upon proof of failure to pay such interest by the President and Directors of said Rail Road Company, shall have power to order such sequestration and to 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.

had by the Governor of the State in case of failure in the Rail Road Company to pay the semi-annual interest.

XI. *Be it further enacted*, That 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 said bonds, as the same shall become due and payable, 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 Raleigh and Gaston Rail Road Company to be foreclosed in the Superior Court of Equity for the County of Wake, 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 pay the excess to the President and Directors of said Company.

And also, in case of a failure to repay the principal as it becomes due.

The General Assembly may at any time appoint a Committee to examine into the situation of the affairs of the Company.

XII. *Be it further enacted*, That the General Assembly may at any time appoint a Committee to examine into the situation of said Company, and that whenever it shall appear that said Company is insolvent and unable to pay the amount for which the State may be liable, under the authority of this Act, the General Assembly may direct the mortgage to be foreclosed according to the provisions heretofore prescribed.

No part of the Rail Road property to be liable to seizure by execution at the instance of any creditor.

XIII. *Be it further enacted*, That the Rail Road extending from Raleigh to Gaston, and the Engines and other apparatus necessary to its use, and all the lands and houses and other fixtures, that are attached to the said Road or are convenient to its use, shall not be liable to seizure or sale by execution at the instance of any creditor who may hereafter see fit to contract with said Corporation; but if future creditors choose to enter into engagements with said Corporation, they shall look to other resources for payment, it being the intention of the Legislature to protect the public interest against any improvidence, and to secure to the public the benefit of the Road, and of continuing its operation without the necessity of any future advances, by the State, but this section shall not prevent any future creditor of the said Corporation, from suing for his debt and after he has got judgment at law, resorting to a Court of Equity to have the Shares of, or interest of individual Stockholders in the Road, subjected to sale, for the payment of his debt; or whatever profits he may be entitled to, sequestered for that purpose; *always provided*, that in no event shall the State's security or interest in the Road be diminished or interfered with. *Provided, further*, that all persons employed hereafter as agents and officers of the Company and in repairs of the Road, and all debts hereafter contracted for repairs or materials for repairs, shall and may be paid out of the profits of the same, and such creditors may file a petition, either at Law or in Equity, to recover their debt and to have the same paid out of the said profits, under the orders and decrees of the Court. Such suits, however, shall always be brought in Wake Superior Court, against said Company, and no where else, in order that the Attorney

General may interpose in cases where any collision may be suspected, and that the General Assembly may also more certainly and promptly investigate the affairs of said Corporation; but this is not to prevent the removal of any suit to another County for trial, where a reasonable ground for it is shown to the Court upon affidavit, as in other cases.

The Company to make no dividend of the profits until all debts for which the State is responsible are paid.

XIV. *Be it further enacted*, That said Corporation shall have no power to divide any dividend of the profits of said Road, until all the debts for which the State is responsible, on account of said Corporation, shall be fully discharged both principal and interest, but it shall be the duty of the President and Directors of said Corporation to set aside annually all the surplus profits of said Road as a sinking Fund, to discharge the several responsibilities of the State as they may severally become due, and said President and Directors shall at every Session of the Legislature, make a report of the receipts and expenses of the Road and how the surplus has been invested, which shall be subject to the approval or disapproval of the Legislature.

If the Company do not assent to this act, or pay the interest that may accrue on the debt endorsed by the State, the Public Treasurer is directed to pay the interest, if he have to borrow the money.

XV. *Be it further enacted*, That in case the Raleigh and Gaston Rail Road Company fails to assent to this Act, or to pay the interest that may accrue upon the debt which has been endorsed for them by the State, according to the Act of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, then, in order to protect the honor and faith of the State and to preserve the credit of North Carolina, the Public Treasurer is hereby directed to pay the interest which may accrue before the next meeting of the General Assembly out of any money in the Treasury, and if it be necessary, he is hereby authorised to borrow money for that purpose upon the best terms he can, and to pay the interest so due and unpaid by the Company, and this provision shall be in force from and after the ratification of this Act.

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

[Ratified, the 12th day of January, 1841.]

CHAPTER LII.

An Act for the benefit of the Raleigh and Gaston Rail Road Company.

Regulating the charge of Company for travelling, per mile.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall hereafter be lawful for said Company to charge for the transportation of Passengers any sum not exceeding ten cents per mile, any law to the contrary notwithstanding.

II. *And be it further enacted,* That this Act shall be in force from and after its passage until the end of the next Session of the Legislature.

[Ratified, the 12th day of January, 1841.]

CHAPTER LIII.

An Act to alter and amend the act entitled "An Act to incorporate the North Carolina Central Rail Road Company" passed at the Session of one thousand eight hundred and thirty-six.

25th section of former Act repealed.

Be 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 twenty-fifth section of an Act, entitled "An Act to incorporate the North Carolina Central Rail Road Company," be and the same is hereby repealed.

Also part of the 1st section repealed.

II. *Be it further enacted,* That so much of the first Section of said Act as authorises the Commissioners therein named to receive subscriptions to an amount not exceeding two millions of Dollars, be and the same is hereby repealed.

Books may be

III. *And be it further enacted,* That the Commissioners

aforesaid, or any five of them, may at such times and places, and under the direction of such persons as they shall direct, cause books to be opened for the purpose of receiving subscriptions to an amount not exceeding one million of dollars, to constitute a joint Capital Stock for the purpose of effecting a communication by Rail Road, from some point at Beaufort Harbour to the Wilmington and Raleigh Rail Road; *Provided*, that the State shall not be bound to take any part in the Capital Stock of the Rail Road contemplated by this Act.

opened for subscriptions for one million of dollars. The State not to be bound to take any part of the stock.

[Ratified, the 12th day of January, 1841.]

CHAPTER LIV.

An Act to authorise the Weldon Toll Bridge Company to subscribe their Stock to the Portsmouth and Roanoke Rail Road Company, 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 it shall be lawful for the Stockholders in the Weldon Toll Bridge Company, created by an Act passed by the General Assembly of this State in the year one thousand eight hundred and thirty-one, to subscribe their Stock in the Portsmouth and Roanoke Rail Road Company, upon such terms as may be stipulated between the Stockholders of the said Companies respectively; and upon the subscription of the Stock, held by the Stockholders in the Weldon Toll Bridge Company to the Stock of the Portsmouth and Roanoke Rail Road Company, the Weldon Toll Bridge shall vest in, and be owned and possessed by the said Portsmouth and Roanoke Rail Road Company, in the same manner, that all other property, real and personal, which has been acquired by said

Weldon Toll-bridge Company may subscribe their stock in the Portsmouth & Roanoke Rail Road Company.

Portsmouth and Roanoke Rail Road Company, is owned, held and possessed; and shall henceforth cease to be a Toll Bridge, and shall be deemed, to all intents and purposes whatever, a part of the Portsmouth and Roanoke Rail Road; *Provided*, that no person shall be prevented from crossing over said Bridge free of charge, who shall not thereby obstruct the passage of the Engines, Coaches and Cars, of the said Company.

On the subscription being made, the rights acquired under the charter by the Bridge Company to cease.

II. *Be it further enacted*, That so soon as the subscription hereby authorised shall have been made, all the rights and privileges acquired under the Charter, or any amendment thereto, granted to the said Weldon Toll Bridge Company, shall cease, and the Corporate existence of the said Company shall be determined; excepting only that the powers conferred upon the said Toll Bridge Company (by the second section of the Act to incorporate the same) of proceeding against delinquent Share-holders for the collection and recovery of sums due for instalments, declared by the authority of the said Act, shall be transferred to and vested in the said Rail Road Company; and the said second section shall continue and be in force, for enabling the said Rail Road Company to institute proceedings for that purpose, which may be either in the name of the said Rail Road Company, or of the Treasurer of the said Bridge Company, to the use of the said Rail Road Company, at the election of the President thereof.

The Portsmouth & Roanoke Rail road Company may, after the proposed arrangement has been made, sell to the Petersburg Rail road Company one half of said Bridge, &c.

III. *Be it further enacted*, That when the arrangement contemplated by the first section of this Act shall have been consummated between the Stockholders of the Weldon Toll Bridge Company, on the one part, and the Portsmouth and Roanoke Rail Road Company on the other part, it shall and may be lawful for the said Portsmouth and Roanoke Rail Road Company, to sell and dispose of to the Petersburg Rail Road Company, one-half of the said Weldon Toll Bridge, and also one-half of the Rail Road situated between Roderick P. Gary's and the Town of Weldon, upon such terms and conditions as may be considered just and equitable, so as to

to accommodate both of the said Rail Road Companies. Upon such sale being made, the said Petersburg Rail Road Company shall be vested with all the rights and privileges in and to the said Bridge and Rail Road between R. B. Gary's and Weldon, as shall be enjoyed by the said Portsmouth and Roanoke Rail Road Company; and the expenses of keeping and maintaining the said Road and Bridge in good and sufficient repair, shall be borne equally by the said Rail Road Companies.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER LV.

An Act to repeal an Act, entitled "An Act to repeal, in part, the thirteenth section of an Act passed in one thousand eight hundred and twenty-four, authorising the making a Turnpike Road in the County of Buncombe."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an Act passed in the year of our Lord, one thousand eight hundred and thirty-five, entitled "An Act to repeal in part the thirteenth section of an Act passed in one thousand eight hundred and twenty-four, authorising the making a Turnpike Road in the County of Buncombe," be, and the same is hereby repealed; *Provided*, that the citizens of Yancy, residing in that part of said County which constituted a part of Buncombe County, prior to the year one thousand eight hundred and thirty, shall not be compelled to pay any tolls for travelling on said Road.

Act repealed.

Citizens of Yancy not to pay toll on said road.

[Ratified, the 12th day of January, 1841.]

CHAPTER LVI.

An Act repealing the Act relating to the Public Road in Buncombe County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Act relating to the Public Road in Buncombe County, passed at the Session of one thousand eight hundred and thirty eight, and one thousand eight hundred and thirty-nine, be, and the same is hereby repealed.

Act repealed.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER LVII.

An Act to give the Court of Pleas and Quarter Sessions of Cherokee County, jurisdiction over the State Road in said County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Court of Pleas and Quarter Sessions of Cherokee County, shall have power and authority to alter and amend the State Road in said County, in as full and ample manner, as the Commissioners appointed by the sixty-first Chapter of the Acts of the Session of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, have had and possessed.

Cherokee County Court to have power to alter and amend the State Road in said County.

II. *And be it further enacted,* That the Act appointing said Commissioners be, and the same is hereby repealed, and that this Act shall be in force from and after its Ratification.

[Ratified, the 11th day of January, 1841.]

[SLAVES.

CHAPTER LVIII.

An Act to prevent the transportation of Slaves upon Rail Roads, Steam Boats or Stage Coaches, without written permission from their owners.

Be 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 Slave or Slaves to be transported on any Rail Road, Steam Boat, or other Vessel navigating the waters of this State, or any Stage Coach, without a permission in writing from the owner or owners of such Slave or Slaves, under the penalty of five hundred dollars for every violation of this Act; to be recovered in the name of the State, from the President, Directors and Company of said Rail Road, or the owners or Captains of said Steam Boat or Vessel, or the owners of said Stage Coach, as the case may be, by action of debt in any of the Courts of Law in this State, one half whereof shall be for the use of the former, and the other half for the use of the State.

$500 penalty for suffering Slaves to travel on Rail Roads, &c. without a proper permission.

II. *Be it further enacted*, That if any Slave or Slaves shall escape from his or their owner or owners, by being transported on said Rail Road, Steam Boat or other Vessel, or by means of Stage Coach, the master or mistress or other owner or owners thereof, shall and may recover the value of such Slave or Slaves from the President, Directors and Company of said Rail Road, or the owners and Captains of said Steam Boat or other Vessel, or the owner of said Stage Coach, as the case may be, by an action on the case, in any of the Courts of Law in this State.

If Slaves escape in this way, the owners may recover their value from the proprietors of such conveyances.

III. *And be it further enacted*, That the provisions of this Act shall not be construed to extend to any Slave travel-

Exceptions.

ling in company with his or her master or mistress, his, her, or their agent, or as the servant or attendant of any white person or persons, *bona fide* employed for that purpose.

[Ratified, the 12th day of January, 1841.]

SWAMP LANDS.

CHAPTER LIX.

An Act supplemental to an Act, entitled "An Act concerning the draining of Low Lands."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in all cases where a Jury shall be appointed for the purposes mentioned in the first Section of the Act, to which this Act is supplementary, it shall and may be lawful for the Court, to which the petition shall be preferred, as directed by the first Section of said Act, to order and direct the Jury to lay off the ditch to the Stream or Water Course, mentioned in the petition, although such Stream or Water Course, or the part thereof into which the Pocosin or Flat Lands are petitioned to be drained, shall lie in another County.

Juries directed to lay off a ditch to a Stream or Water Course mentioned in a petition, though it be in another County.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER LX.

An Act to amend the Revised Statute, entitled "An Act to drain the Swamp Lands of this State, and to create a fund for Common Schools."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the President and Directors of the Literary Fund of North Carolina, in addition to the power and authority vested in them by the Statute aforesaid, shall have power and authority to employ Counsel learned in the Law to aid and assist them in the investigation of the State's title to such of the Swamp Lands as in their opinion have not been duly entered and granted to individuals, and to which any person or Company may set up title adverse to that of the State. And the said President and Directors are hereby fully authorised and empowered, to compromise upon such terms as to them shall seem reasonable and just, with any person or Company setting up an adverse title as aforesaid, for such title, so as to secure to the State an indefeasible right in said lands.

President & Directors of the Literary Fund authorised to employ Counsel in relation to the State's title in certain cases to Swamp Lands.

II. Whenever in the process of draining, it may be necessary in order to prevent a sacrifice of the interests of the State in any of said Swamp Lands owned by the State, to purchase small Tracts owned by individuals, the said President and Directors are, and shall be authorised to buy the same, or to exchange for some other portions of said Swamp Lands, and the lands acquired by them under this Act, shall be held by them as other Swamp Lands.

Authorised also to purchase small tracts of lands owned by individuals

III. This Act shall take effect from its ratification.

[Ratified, the 11th day of January, 1841.]

VAGRANTS.

CHAPTER LXI.

An Act relating to Vagrants.

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

Vagrants may be taken up by warrant examined and committed for trial at the next County Court.

That if any person or persons who have no apparent means of subsistence, or neglect applying themselves to some honest calling for the support of themselves and families, shall be found sauntering about, and endeavoring to maintain themselves by gaming or other undue means, it shall and may be lawful for any Justice of the Peace in the County wherein such person may be found, on due proof made, to issue his warrant for such offending person, and cause him to be brought before said Justice, who is hereby empowered, on conviction, to demand security for his or their good behaviour, and in case of refusal or neglect, to commit him or them to the Jail of the County, until the next Court of the County, which may proceed to try the said offender, and if found guilty by verdict of a Jury of good and lawful men, the said offender shall be imprisoned for the space of twenty days; and the costs arising thereon shall become a County charge, if the defendant be unable to pay them, and such punishment may be inflicted as often as the person may be guilty, allowing fifty days between the punishment and the offence; *Provided*, that when a Justice shall commit any person for trial under this Act, such person may give bail, as in other cases of trespass or nuisance.

Repeal of former laws.

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

[Ratified, the 11th day of January, 1841.]

WILLS AND TESTAMENTS.

CHAPTER LXII.

An Act to amend the Revised Statute, entitled "An Act concerning last Wills and Testaments."

Be 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 Will in writing, made after the fourth day of July, one thousand eight hundred and forty-one, whereby personal estate is bequeathed, shall be sufficient to convey or give the same, unless such Will be executed with the same formalities, as are required in the execution of Wills of real estate, according to the provisions of the first section of said Statute. Nor shall said Will in writing, whereby personal estate is bequeathed, nor any part thereof, be revocable, but in the same manner as Wills of real estate are revocable, by the twelfth section of the said Statute; *Provided nevertheless,* that the provisions of this Act shall not be construed to affect nuncupative Wills, but that the same may be made where now they are allowed.

Wills conveying Personal Estate, to be executed with the same formality as those conveying Real Estate.

[Ratified, the 12th day of January, 1841.]

RESOLUTIONS

OF A PUBLIC NATURE,

PASSED BY THE

LEGISLATURE OF NORTH-CAROLINA,

AT ITS SESSION OF 1840-41.

Resolutions in relation to the Public Domain.

WHEREAS, we believe that each of the United States being a party to the national compact, possesses an interest in the Public Domain, 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; and we see with regret, that by the introduction of bills, called "Pre-emption Bills, Graduation Bills," and other measures, into the Congress of the United States, manifest injustice is intended to the older members of the Confederacy, Preamble.

1. *Be it therefore resolved*, That this General Assembly do condemn, in the most decided manner, any Act by the Congress of the United States, whatever title it may bear, which contemplates a disposition of the proceeds of the sales of the Public Lands, otherwise than as set forth in the deeds of Cession from the several States. No disposition of the Public lands countenanced except as set forth in the Deeds of Cession.

II. *Resolved further*, That our Senators and Representatives in the Congress of the United States, be requested to use their best exertions to procure the passage of a bill directing the division of the proceeds of the sales of the Public Domain among the States in an equitable ratio, to be used by the States for Internal Improvement, Education, or any other purpose, as may be deemed expedient by the several States receiving said distribution. Request to Senators and Representatives.

Governor to forward Resolutions.

III. *Resolved*, That the Governor of this State 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.

ROB. B. GILLIAM, *S. H. C.*
A. JOYNER, *S. S.*

[Ratified, the 11th day of January, 1841.]

Resolutions respecting the re-opening of Roanoke Inlet.

Preamble.

WHEREAS, the re-opening of Roanoke Inlet upon the coast of North Carolina, at or near Nag's Head, so as to afford a safe and convenient retreat for the commerce of the Country as well from the pursuit of foreign enemies in time of War, as from storms and tempests, is by this General Assembly deemed a Work of great importance to the commercial prosperity of the People of these United States, because of the great destruction of Vessels at that place, with the consequent loss of life and of individual property, and because of the high rates of insurance imposed upon Vessels and their Cargoes for the want of a sufficient Inlet through which to seek a harbor there; And whereas to remove all doubts of the practicability and permanency of such a work (the great and general utility of which was little questioned) a Resolution was passed by our last General Assembly, directing a Survey of the adjacent waters of Albemarle, Croaton and Roanoke Sounds, to be made by some practical Engineer of high distinction, with the view of having the Inlet re-opened at that place; and whereas, such Survey has been made as directed, and from the report thereof, we are satisfied that the re-opening of Roanoke Inlet can and ought to be effected; and, whereas we believe that the General Government, from its supervisory powers over the commerce of the Country, has authority under the Constitution of the United States to undertake and accomplish this work; therefore

I. *Be it Resolved by the General Assembly of the State of North Carolina*, That our Senators and Representatives in Congress, be and they are hereby urged and requested, to use their utmost exertions in procuring from the General Government, an appropriation to effect the re-opening of Roanoke Inlet. Request to Senators and Representatives.

II. *Be it further Resolved*, That the report of the Survey of said Work, directed to be made by the last General Assembly of this State, be herewith printed, and that His Excellency, the Governor of this State, be requested to transmit a copy of these Resolutions to each of our Senators and Representatives in Congress. Report of Survey to be printed and Resolutions forwarded.

[Ratified, the 11th day of January, 1841.]

Resolution for repairing the Governor's Residence, and for Furniture.

Resolved by the General Assembly of the State of North Carolina, That the sum of three thousand Dollars be, and the same is hereby appropriated, to be applied under the direction of the Governor, Secretary of State, Treasurer and Comptroller, for the repairs of the Governor's House, Outhouses and enclosure. $3,000 appropriated for repairs. *Resolved further*, that the Public Treasurer pay to the Private Secretary of the Governor, the sum of one thousand Dollars, to be applied under the direction of His Excellency, in the purchase of any Furniture which may be necessary for the Governor's House. $1,000 appropriated for Furniture.

[Ratified, the 11th day of January, 1841.]

Resolution for distributing the Revised Statutes.

Resolved, That His Excellency, the Governor, cause to be distributed one copy of the first volume of the Revised Statutes, to the Justices of the Peace in the several Counties in First Volume of Revised Statutes to be

delivered to Justices of the Peace.

this State that have been appointed, qualified and now acting, since the said Statutes were distributed, including those who may be appointed at the present Session of the General Assembly.

[Ratified, the 11th day of January, 1841.]

Resolution, accepting from the Hon. Edward Stanly, the donation of certain Books therein named.

Title of Books presented.

Resolved, That the following Books, to-wit: the Documentary History of the Revolution; the Diplomatic Correspondence; the Land Laws; American State Papers; Register of Debates; Contested Elections; Commercial Regulations and Elliott's Debates, a donation to the Legislature from the Hon. Edward Stanly, one of the Representatives of the State of North Carolina, in Congress, be received; and

Thanks of Legislature.

that His Excellency, the Governor of this State, transmit to the Hon. Edward Stanly the thanks of this Legislature for the donation.

[Ratified, the 11th day of January, 1841.]

A Resolution concerning the Statue of Washington.

Preamble.

Whereas, in a communication from the Honorable William Gaston, information has been received that Mr. John Frazer, of New York, a native Artist, and a man of the most respectable standing, will undertake to replace whatever part of the Statue of Washington has been destroyed, or is missing, and unless he succeeds to the entire satisfaction of the Committee who may be appointed to superintend the work, will not charge a cent, and that no advances of any sort will be required.

Permission

Be it therefore Resolved, That the Governor is requested

to inform Mr. Frazer, of New York, that he has the permission of the Legislature of North Carolina to examine and experiment upon the Remains of the Statue of Washington, *Provided* he does not remove said remains from the City of Raleigh, and shall conduct said experiments at his own expense.

Statue on certain conditions given to repair

[Ratified, the 12th day of January, 1841.]

Resolution in favor of George E. Badger and David L. Swain.

Resolved, That the sum of two thousand five hundred dollars be paid to the Honorable George E. Badger, as the additional sum contemplated in the original agreement entered into with him by the Governor of this State.

Fee for legal services.

Resolved, That the sum of five hundred dollars returned to the Public Treasurer, by the Honorable David L. Swain, under the agreement with the Governor before mentioned, be refunded to him, with interest from the date of said return.

$500 returned to David L. Swain.

[Ratified, the 11th day of January, 1841.]

Resolution directing a loan of Ten Thousand Dollars to Wake Forest College.

Resolved, That the President and Directors of the Literary Fund of this State, loan to the President and Trustees of the Wake Forest College, for the term of four years, the sum of ten thousand dollars, upon taking bond with good and sufficient security for the same, to be approved of by the President and Directors of the Literary Fund. The interest on said loan to be paid annually, and the said bond to be renewed upon each annual payment of the interest, with liberty on the part of the said President and Trustees, to pay any portion of said principal sum at an earlier period.

Loan made for four years.

[Ratified, the 11th day of January, 1841.]

Resolution directing the Secretary of State to deposite certain documents in the Library of the University.

Three copies of all State documents to be deposited.

Resolved, That the Secretary of State be directed to deposite, for preservation, in bound volumes, in the Library of the University of this State, three copies of the various documents published under the authority of the State, including the Reports of the Supreme Court.

[Ratified, the 11th day of January, 1841.]

Resolution directing Librarian to prepare a Catalogue of the State Library, &c.

Catalogue to be prepared & printed.

Resolved, That the Librarian be directed to prepare a Catalogue of the Books in the State Library and Executive Office, and that the same be printed and distributed as other public Documents.

[Ratified, the 19th day of December, 1840.]

Resolutions directing the Public Treasurer, under certain contingencies, to borrow money.

Treasurer to borrow from the Literary and Internal Improvement funds.

Resolved, That the Public Treasurer be authorised to borrow from the Literary Fund and Internal Improvement Fund, such unappropriated sums of money, as may be required to defray the expenses of the State, from this time until the first day of November, one thousand eight hundred and forty-two, he at no time borrowing more than is required for the time being. And in the event there should not be a sufficient sum of the Literary and Internal Improvement Funds on hand (which deficiency is by no means apprehended) then the Public Treasurer shall, and he is hereby authorised to borrow the same from any of the Banks in this State; *Provided*, that the sums hereby authorised to be borrowed shall not exceed seventy thousand dollars.

Resolved further, That the proper officers having charge of the Literary and Internal Improvement Funds, be required to collect as much of the said Funds as may be necessary to meet the ordinary expenses of the State. Proper officers to collect the funds.

[Ratified, the 12th day of January, 1841.]

Resolution relating to the Comptroller.

Resolved, That the Comptroller of this State be, and he is hereby allowed a fee of ten cents on each and every Certificate he may hereafter make to the Secretary of State, on payments made into the Public Treasury, for entries of vacant Lands, the person claiming the entry to be responsible for the payment of said fee. Allows a fee for certificates

[Ratified, the 11th day of January, 1841.]

A Resolution to authorise the Governor to employ Counsel to defend the titles of the Purchasers of Lands in Cherokee County.

Resolved, That the Governor be authorised to employ Counsel to defend the titles of Purchasers of the Lands in Cherokee County, who have been or may be sued by persons claiming Indian reservations under the Treaty made by the United States with the Cherokee Indians; and that he be authorised to draw from the Public Treasury such sums of money as is necessary for the same; *Provided*, the whole sum drawn for that purpose shall not exceed three hundred dollars. Governor to employ Counsel.

[Ratified, the 12th day of January, 1841.]

PRIVATE ACTS

OF THE

STATE OF NORTH-CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

At their Session, which commenced on Monday, the sixteenth of November, one thousand eight hundred and forty, and ended on Tuesday, the twelfth of January, one thousand eight hundred and forty-one.

ACADEMIES.

CHAPTER I.

An Act to incorporate the "Trustees of the Asheville Female Academy" in the County of Buncombe.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That James W. Patton, N. W. Woodfin, Joshua Roberts, D. R. McConnally, James M. Alexander, Charles Moose, James Lowry, J. F. C. Hardy and M. Patton, be, and they are hereby declared a body politic and corporate, to be known and distinguished by the name of the "Trustees of the Asheville Female Academy," and by that name, 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 Law in this State, and to hold such lands and tenements, goods, chattels and monies, 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 shall have power to appoint all Tutors in said Academy, to fix the rates of Tuition, to fill vacancies in their body occasioned by death, removal or resigna-

tion, to establish such laws and regulations for the government of said Academy, as may be necessary for the preservation of order and good morals, and not inconsistent with the Constitution of the United States or of this State, and to do and perform all such acts as are incident to and usually exercised by bodies politic for the accomplishment of the object contemplated.

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

ROB. B. GILLIAM, *S. H. C.*
A. JOYNER, *S. S.*

[Ratified, the 11th day of January, 1841.]

CHAPTER II.

An Act to incorporate the Union Institute 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 Nathan Hunt, Joseph Mendenhall, Joseph Johnson, Lewis Leach, Jabez Leach, Martin W. Leach and Ahi Robbins, and their successors are hereby constituted a body corporate and politic to be known and distinguished by the name and style of the Trustees of the Union Institute Academy, and by that name shall have succession, and shall be able and capable in law to have, receive and posssess, lands and tenements, goods and chattels, acquired by gift or otherwise, and use and apply the same according to the will of the donor, or dispose of the same, when not forbidden by the terms of the gift. They may sue and be sued, plead and be impleaded in any Court of Justice and shall have power to fill vacancies in their body, which may occur by death, resignation or otherwise, establish such Laws and regulations, for the government of said Institution as they may deem necessary, 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, the 12th day of January, 1841.]

CHAPTER III.

An Act to incorporate the Fairfield 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 Ira Ellis, John Bane, David Tinnen, Catlett C. Tinnen, Allen Browne and Anderson Armstrong, 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 Fairfield Academy," 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 the said Academy, according to the will of the 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, the 11th day of January, 1841.]

CHAPTER IV.

An Act to incorporate the "Trustees of Hopewell Academy" near Stantonsburg in Edgecomb 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 Exum, William Thompson, Zadock Peacock, Council Applewhite, Wyatt Moye, Lemuel Deberry, Elias Barnes, Washington M. Stanton and Lewis Ellis, be, and they are hereby incorporated, by

the name and style of the "Trustees of Hopewell Academy," and by that name, shall have succession and a common seal, 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 to make all such bye-laws, rules and regulations, necessary for the good government of said Institution, not inconsistent with the Constitution and Laws of this State. And 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, the 11th day of January, 1841.]

CORPORATIONS.

CHAPTER V.

An Act to incorporate the Little River 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 Duncan Murchison, David Reid, James Battle, and their associates, successors and assigns be, and they are hereby created a corporation and body politic by the name and style of the "Little River Manufacturing Company," and by that name and style, may acquire, hold, possess and transfer real and personal estate, may contract and be contracted with, sue and be sued, plead and be impleaded in all Courts and places whatever in this State, have a common seal, with power to break, renew, or change the same, have succession, and 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 County of Cumberland, for the Manufacturing of Cotton and Wool in their various branches, and all other materials whatsoever.

III. *Be it further enacted*, That the Capital Stock of said Company may consist of forty thousand dollars, in Shares of five hundred dollars each, and may from time to time, with the consent of the Stockholders, be enlarged to seventy-five thousand dollars.

IV. *Be it further enacted*, That the 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 taken and deemed 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 of its subsequent transactions.

VI. *Be it further enacted*, That an annual meeting of the Stockholders, in person or by proxy, shall be holden at the Factory on the first Monday in May, in each and every year, at which meeting a President and other 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 time and at 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.

VII. *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.

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

IX. *Be it further enacted*, That in case of failure on the part of said Corporation, the private or individual property of the Stockhold-

ers therein shall be subject by law to the payment of the debts of the Corporation, after the property of the Company is first exhausted, in proportion to the amount of Stock severally owned and held by them, at the time of such failure, and not otherwise.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER VI.

An Act to enable the Commissioners of Raleigh to appoint Trustees of the Rex Hospital Fund, and to erect such Trustees into a body Corporate, and for other purposes.

Whereas, John Rex, late of the City of Raleigh and now deceased, did by his last Will and Testament, amongst other things, devise, bequeath and direct as follows: "It being my desire to provide a comfortable retreat for the sick and afflicted poor, belonging to the City of Raleigh, in which they may have the benefit of skilful medical aid and proper attention, it is my will that a lot or parcel of Land containing twenty-one Acres, adjoining to the City of Raleigh on the South end, being the same purchased by me of the Commissioners appointed for selling a part of the Public Lands, and which is comprised in the general devise of all my lands to the aforesaid Duncan Cameron and G. W. Mordecai, in trust as before emention'd, be appropriated to the erection thereon of an Infirmary or Hospital for the sick and afflicted poor of the City of Raleigh, and to, and for, no other use or purpose whatsoever. And for the endowment of said Hospital as far as I have the ability to do so, it is my will, that all the money belonging to me, all the debts due to me, and the rest and residue of my estate heretofore given, devised and bequeathed by me to the said Duncan Cameron and George W. Mordecai in trust, and not otherwise specially appropriated, be, and are hereby appropriated to the endowment of said Hospi-

tal. And whenever the constituted authorities of the City of Raleigh shall legally appoint Trustees capable in law of holding the same, then the said Duncan Cameron and George W. Mordecai, or the survivor of them, or the Executor or Executors of the survivor of them, shall convey the said lot or parcel of Land and the fund accruing from the money belonging to me, the debts due, and the rest and residue of my estate as above described to the said Trustees so to be appointed in behalf of the City of Raleigh, all which shall be held by the said Trustees and their successors duly appointed, in trust forever, for the erection and endowment of such Hospital (and for no other use or purpose whatsoever) as will appear by reference to the said Will, now of Record in the Court of Pleas and Quarter Sessions of Wake County: And whereas, the Commissioners of the said City of Raleigh, have no power to appoint Trustees, so as to enable them to take under the said Will, and the said Commissioners have applied to this General Assembly for an Act to be passed, to enable them in such form and with such limitations, as may seem just and reasonable, to appoint such Trustees, and for conferring on them and their successors corporate powers and succession, in order to carry into effect the design of the said testator; and, the purpose of the testator, appearing to the General Assembly to be wise and humane and entitled to the assistance desired by the said Commissioners for fully carrying the same into effect 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 so soon as the Commissioners of the said City, shall deem the previous trusts of the said Will to be satisfied, and shall desire to call the Trustees and Executors to account, they shall and may file their petition in the Supreme Court of this State, setting forth the said Will and such other matters as may be deemed proper and necessary, and therein propose and nominate five suitable and discreet persons, Freeholders and residents of the said City, to be Trustees for the purposes aforesaid. And the Court shall, thereupon, examine into the qualifications of the said nominees, and if fully satisfied that each and every of one them, is a person of the proper intelligence, discretion and character for the adequate discharge, with ability and integrity, of the trust aforesaid, the said Court shall pass an order declaring the same,

and affirming the joint nomination, and thereupon, and immediately after the entering of such proceedings in the said Supreme Court, the said five persons shall and are hereby declared to be a body corporate and politic by the name of the "Trustees of the Rex Hospital," and shall be able and capable in law to receive and hold the property and effects, devised and bequeathed by the said John Rex in and by his said Will and to use and apply the same to and for the purposes (and none other) specified in the said Will, and also to receive donations of Lands or personal estate either by deed or Will for the purposes aforesaid (and none other) and to have succession, to sue and be sued, and to have the other powers incident to Corporations in regard to the charity created by the said Will and for no other purposes.

II. *Be it further enacted,* That when any vacancy or vacancies may happen by death, resignation or removal from the City of Raleigh, of any Trustee or Trustees, or from any other cause, his or their places shall be supplied by nominations by the Commissioners of the City of Raleigh, for the time being with the approbation of the Supreme Court in manner aforesaid

III. *And be it further enacted,* That the Commissioners of the City of Raleigh, for the time being may, at any and at all times, by petition in Equity in the Supreme Court, call on the said Trustees for an Exhibition of their accounts and doings in discharge of the Trust. And such proceedings shall be summary, and the Court may make any order or orders thereupon from time to time as may be necessary to enforce a strict compliance with the design of the Testator, to correct and prevent abuses, to remove or displace any Trustee or Trustees, who shall appear to have been guilty of any wilful default or gross neglect in the discharge of his duty, or to have become incompetent by bodily or mental infirmity; and generally to do and order what shall seem to the said Court best in the premises.

[Ratified, the 11th day of January, 1841.]

CHAPTER VII.

An Act to incorporate the "Franklin Library Society," in the Town of Fayetteville.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Archibald McLean, jun. Duncan K. McRae, Walter Huske, Joseph W. Evans, William M. L. McKay and John Banks, their associates and successors in office, be, and they are hereby declared a body corporate and politic, by the name and style of the "Franklin Library Society," and by that name shall have perpetual succession and a common seal, and shall be able and capable of holding real and personal estate, of contracting and being contracted with, and of suing and being sued, plead and be impleaded.

II. *And be it further enacted,* That said Corporation shall have full power to make all rules, regulations and bye-laws which shall and may be necessary for the good government of the Society, not inconsistent with the Constitution and Laws of the State, and also to appoint such officers as they may deem necessary.

[Ratified, the 11th day of January, 1841.]

CHAPTER VIII.

An Act to incorporate the Raleigh Mechanic's Association.

Be it enacted, by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the members of an Association lately established in the City of Raleigh, for the purpose of mutual improvement and assistance of each other and of such of their fellow-citizens as may be reduced to want

and distress, be, and they are hereby incorporated into a body politic and corporate, by the name and style of the "Raleigh Mechanics Association," and by that name may sue and be sued, plead and be impleaded, have succession and a common estate in such Books, Pamphlets and papers or other property as they may acquire, either by purchase, donation, or otherwise.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER IX.

An Act to incorporate the "North Carolina Land and 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 this State, a Mining and Manufacturing Company, by the name and style of the "North Carolina Land and Mining Company," the Capital whereof shall not exceed one million of dollars, divided into Shares of one hundred dollars each.

II. *Be it further enacted*, That John McEntire, William H. Miller, Matthew W. Davis, of Rutherfordton, and Arthur Bronson, of the City of New York, and such persons as they may associate with them, are hereby appointed Commissioners, and are authorised (at such time and places as they may deem expedient) after forty days notice given by advertisement, in some newspaper printed in the State, to open Books for the purpose of receiving subscriptions for Shares of Stock in said Company.

III. *Be it further enacted*, That when the sum of two hundred and fifty thousand dollars shall have been subscribed, the subscribers, their successors or assigns, are hereby declared to be incorporated by the name and style of the "North Carolina Land and Mining Company," and shall continue to exist as such for fifty years, and as such, and by said name and style, may sue and be sued, plead and be impleaded, and have power to make all bye-laws and regulations not inconsistent with the laws of this State, which may be necessary for the well ordering and conducting of the affairs of said Company; they may elect a President and Directors, and empower them to adopt such bye-laws and rules as may be necessary to a successful prosecution of the objects of said Company; they may have and use a common seal, and the same break, alter and renew at pleasure, and possess and enjoy all the rights and privileges of a Corporation and body politic; *Provided*, that said Corporation shall be confined to holding of Land, to mining, and to such Manufactures as are connected with the metalic arts, and shall not either directly or indirectly exercise any Banking privileges.

IV. *Be it further enacted*, That said Company are hereby authorised to receive in payment for subscriptions for Stock, real estate directly connected with the objects of said Company, and the said Commissioners, and their associates or a majority of them, are authorised to adopt uniform and equitable rules, determining the conditions upon which, and the value of which such real estate is to be received in subscriptions for Shares of Stock in said Company; and it is hereby further declared, that the Stock of said Corporation shall be held and deemed personal property; *Provided always*, that the real estate which shall be received and held by said Company in payment of subscriptions for Shares of Stock in said Company, or which shall be acquired in any other manner, shall be subject to the same taxation as other lands in this State.

V. *Be it further enacted*, That all legal process against the Corporation, shall be served upon the President of said Company, or in his absence from the State, upon a Director of said Company, or in case no Director can be found, upon a Stockholder of said Company, which shall be deemed a sufficient service upon said Company.

VI. *Be it further enacted*, That it shall be the duty of said Com-

pany, to keep a full and fair record of all its bye-laws, regulations and proceedings in Books provided for that purpose, and shall produce the same in any of the Courts of record in this State, when required so to do, by any of said Courts.

VII. *Be it further enacted*, That in the event of the failure of said Company, the Stockholders therein shall be bound for the debts and liabilities of the Corporation, to the amount of Stock, by them respectively owned.

VIII. *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 forty-one.

[Ratified, the 12th day of January, 1841.]

CHAPTER X.

An Act to incorporate the "Salisbury 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 Maxwell Chambers, Thomas L. Cowan, William Chambers, Michael Brown, Brown & Chambers, John W. Ellis, Cress & Boger, George W. Brown, John C. Palmer, Archibald Henderson, John Murphey, William H. Horah, Dolphin A. Davis, Hardie & Turner, John & William Murphey, Frederick Mowry, Simeon Hilick, William Murphy, James C. McConnaughey and Jacob Holdshouser, and such other persons as may hereafter become associated with them, in the manner and for the purpose hereinafter mentioned, are hereby constituted a body politic and corporate, by and under the name and style of the "Salisbury Manufacturing Company," for the purpose of manufacturing Cotton and Woolen Goods, and for the purpose of carrying on the Milling business in all its various branches, in the County of Rowan, and by that name, they and their assigns and successors shall

be, and are hereby authorised and empowered to purchase, take, hold, occupy, possess and enjoy to them and their successors and assigns any goods, chattels and effects of whatever kind they may be, the better to enable them to carry on such business to advantage; may purchase and hold real estate, may sue, and be sued, contract and be contracted with, may have and use a common seal and alter the same at pleasure, and shall have power to make all 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 three hundred thousand dollars, and said Corporation may go into operation whenever and as soon as forty thousand dollars shall have been taken or subscribed for, and not before. A share of Stock shall be one hundred dollars, and shall be deemed and considered as personal estate, and may be transferred only on the books of said Company, in such form as the Directors thereof shall prescribe, and 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 the Company.

III. *Be it further enacted*, That the Stock, property or affairs of said Corporation, shall be managed by not less than three nor more than five Directors, who shall be Stockholders, one of whom they shall appoint their President, who shall hold their offices for one year, or until their successors be appointed; the Stockholders shall hold an annual meeting on the first Monday in April, in each year, when the President and Directors shall be elected, in which elections and all other meetings of the Company, 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 be from time to time 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 body, to appoint such officers and agents as the Stockholders in general meeting may authorise, to take bonds with sufficient security for the good conduct and fidelity of such officers and agents, and generally to do all other acts and things touching

the affairs of the Company, not otherwise specially provided for. Dividends of nett profits of said Company, shall be made at such times as shall be determined by the Stockholders in general meeting; *Provided*, that no Dividend of any part of the Capital Stock shall be made under the pretence of making a Dividend of profits.

IV. *Be it further enacted*, That a majority of the Stockholders shall form a quorum to transact business, and may sell and convey by direction of the Stockholders in general meeting, any part of the land, with the appurtenances, which they are hereby authorised to acquire and hold; and the said land and appurtenances when sold, shall be considered real estate.

V. *Be it further enacted*, That 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 may be called 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 President and Directors may prescribe; and such delinquent shall receive no Dividend until the full amount of such subscription shall have been paid.

VI. *Be it further enacted*, That the Stockholders, or a majority of them in interest, may from time to time, enlarge the Capital Stock of said Company, by selling or directing 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 maximum amount of three 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 shall have equal privileges and powers with the original Stockholders, and any premiums obtained or losses sustained on such Stock shall be common gain or loss of all the Stockholders in proportion to the amount of Stock severally held by them. If at any time it shall happen that the corporate property of the joint Stock Company shall be exhausted, the private property of the Shareholders to the amount of each one's Stock shall be liable to be taken and sold, to satisfy any execution against said Corporation, *Provided*, that only such Stockholders shall be liable by this

section as are such at the time the corporate property becomes exhausted.

VII. *Be it further enacted*, That if there should be no election of President and Directors at any annual meeting, as heretofore prescribed, those in office, shall continue until the next annual meeting, 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.

VIII. *Be it further enacted*, That upon the payment of the whole amount of their Stock, the President under his signature and seal of the Corporation, shall issue to the Stockholders certificates or scrip for the number of Shares subscribed and paid for by them respectively.

IX. *And be it further enacted, by the authority aforesaid*, That this Act shall take effect and be in force from and after its ratification, and shall continue in force until the year nineteen hundred.

[Ratified, the 11th day of January, 1841.]

CHAPTER XI.

An Act to incorporate Orr Lodge, at Washington, in the County of Beaufort.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Master, Wardens and Members of the Orr Lodge, number one hundred and four, at Washington, in the County of Beaufort, be, and they are hereby constituted a body politic and corporate, by the name and style of "Orr Lodge," number one hundred and four, and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, have a common seal, and in general, exercise and enjoy all such rights and privileges as are usually incident to corporate bodies of the like nature.

[Ratified, the 30th day of December, 1840.]

CHAPTER XII.

An Act to incorporate Cross Creek Manufacturing Company, in the 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 Charles Benbow, Jesse Sanders, and such other persons as they may hereafter associate with them, be, and they are hereby created, constituted and declared to be a body corporate and politic, in Law, and in fact, by the name and style of the Cross Creek Manufacturing 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 so continue, until the first day of January, one thousand eight hundred and seventy.

II. *Be it further enacted,* That the said Corporation shall have power to establish Factories and Mills for the manufacture of Cotton Wool in their various branches, on Cross Creek, in the Town of Fayetteville, in the County or Cumberland, and for no other purpose whatsoever.

III. *Be it further enacted,* That the said Corporation shall have power to make all necessary bye-laws and regulations for its 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 forty 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 shall be chosen; but nothing in this clause shall be so construed as to prevent meetings whenever the interest of the Company may require it.

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

VII. *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 provided for that purpose, and shall produce said record in any Court of Justice when required by said Court.

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

IX. *Be it further enacted*, That in case of failure on the part of said Corporation, the private or individual property of the Stockholders therein shall be subject by law to the payment of the debts of the Corporation, after the property of the Company is first exhausted, in proportion to the amount of Stock severally owned and held by them at the time of such failure, and not otherwise.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XIII.

An Act to incorporate the Beaver Creek Manufacturing Company in the 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 John H. Hall and Constant Johnson, and their associates, successors and assigns, be and they are hereby created a Corporation and body politic, by the name and style of the "Beaver Creek Manufacturing Company," and by that name and style, may acquire, hold, possess and transfer, real and personal estate, may contract and be contracted with, sue and be sued, plead and be impleaded in all Courts or places whatsoever in this State, have a common seal, with power to break and renew or change the same, have perpetual succession and 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 establish Factories, and Mills in the County of Cumberland, for the manufacturing of Cotton, Wool, Lumber, Meal, Flour, in their various branches, and all other materials whatever.

III. *Be it further enacted,* That the Capital Stock of said Company, shall consist of forty thousand dollars, in Shares of five hundred dollars each, with power to increase the same from time to time, to seventy-five thousand dollars.

IV. *Be it further enacted,* That the Corporation shall have full 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 this State.

V. *Be it further enacted,* That the Shares of Stock in said Company shall be taken and deemed 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 of its subsequent transactions.

VI. *Be it further enacted*, That an annual meeting of the Stockholders in person or by proxy, shall be holden at the Factory on the first Monday in May, in each and every year, at which meeting a President and Directors, with other 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 which and all other meetings the Stockholders shall be entitled to vote in person or by proxy, one vote for every five Shares of Stock held by them respectively. Nothing in this clause shall be so construed as to prevent general meetings when the interests of the Company may require them.

VII. *Be it further enacted*, That it shall be the duty of said Company 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.

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

IX. *Be it further enacted*, That in case of failure on the part of said Corporation, the private or individual property of the Stockholders therein shall be subject by law to the payment of the debts of the Corporation, after the property of the Company is first exhausted, in proportion to the amount of Stock severally owned by them at the time of such failure, and not otherwise.

X. *And be it further enacted*, That this act shall take effect from and after its passage.

[Ratified, the 12th day of January, 1841.]

CHAPTER XIV.

An Act to incorporate the Stockholders of the Boarding House of the Asheville Female 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 James M. Smith, James M. Alexander, John Clayton, Esq. L. C. Clayton, Col. John Clayton, N. Blackstock, Charles Moose, Joshua Roberts, M. Patton, James W. Patton, John Dickson, John E. Patton, N. W. Woodfin, Isaac T. Poor, John Stradly, Wiley Jones, Israel Baird, Joseph M. Rice, Thomas T. Patton, W. T. Coleman, Reuben Deaver, N. Harrison, D. R. McAnnally, Peter Stradly, Henry E. Lane, David Vance, W. R. Baird and J. F. E. Hardy, and all those who may hereafter become Stockholders, be, and they are hereby declared to be a body politic and corporate, to be known and distinguished by the name of the "Stockholders of the Boarding House of the Asheville Female Academy," and by that name 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 Law in this State; may acquire, hold, sell and transfer property, both real and personal, and shall have all other privileges and powers, to which Corporations are entitled.

II. *Be it further enacted*, That the said Stockholders, 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 bye-laws, rules and regulations, for the meetings and government of said Company, and the management of said Boarding House, and for the sale and transfer of Stock in said Company, as they shall deem advisable, not inconsistent with the Constitution and Laws of this State, or of the United States.

III. *And be it further enacted*, That the capital Stock of the Company shall not exceed ten thousand dollars, in Shares of twenty-five dollars each.

[Ratified the 11th day of January, 1841.]

CHAPTER XV.

An Act to incorporate the Concord 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 Ibsan Cannon, Paul Barringer, John Rogers, John Phifer, sen. and Kiah P. Harris, their associates, successors and assigns, be, and they are hereby created a Corporation and body politic, in law, and in fact, by the name of the "Concord Manufacturing Company," for the purpose of Manufacturing Cottons, and if they deem it expedient, Hemp, Flax, Wool, Silk or Iron, or either of those products, and the Milling business in all its various branches, 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 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 thirty thousand dollars, and more than one hundred thousand dollars, of Shares of one hundred dollars each.

IV. *Be it further enacted*, That an annual meeting of the Stockholders shall be holden at the Factory on the second Tuesday of February, in each and every year, at which meeting proper officers shall be appointed to conduc 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 Share 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 the Company may require it.

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. 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 may be called for by the President and Directors of the Company, it shall be lawful for the Company, in their corporate name, to recover the same by action of debt in any Court of Record in this State, or it may be lawful for the President and Directors to sell the Stock of said delinquent subscriber, at such time and upon such terms as the President and Directors may prescribe, and such delinquent shall receive no dividend until the full amount of such subscription shall have been paid.

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 in case of failure on the part of said Corporation, the private or individual property of the Stockholders therein shall be subject in action of debt before any jurisdiction having cognizance thereof, at the instance of the several creditors to the payment of all the debts of the Corporation, after the property of the Company is first exhausted, in proportion to the amount of Stock severally owned and held by them at the time of such failure, and not otherwise.

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

[Ratified, the 11th day of January, 1841.]

COURTS.

CHAPTER XVI.

An Act to provide for the more convenient administration of Justice in the Counties of Warren and Franklin.

Be 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 the Justices of the Court of Pleas and Quarter Sessions for the Counties of Warren and Franklin, at the first Court of each and every year, a majority of the acting Justices being on the bench and assenting thereto, to classify themselves according to the plan hereinafter mentioned.

II. *And be it further enacted,* That if a majority shall determine to classify the Justices, that the names of all the Justices shall be placed in a box, and at the time of drawing a Jury for the next Court, five Justices shall be drawn for holding said Court, any three of whom shall be competent to act, and it shall be the duty of the Sheriff to notify in writing said Justices, at least ten days before the first day of the term, that the duty of holding said Court will devolve on them, and each Court, when it draws a Jury for the next Court, shall also draw five Justices to hold said Court, to be notified in manner and form as above mentioned, and the names which have been once drawn shall not be placed in the box again, until it is entirely exhausted or until a less number than five shall remain therein; but after the box is exhausted or a less number than five shall remain therein, it shall be filled again with the names of all the Justices, by the Court that draws the Jury, and they shall be drawn out by the said Court as before mentioned.

III. *And be it further enacted,* That each Justice drawn as aforesaid, and holding Court according to the provisions of this Act, shall receive for his services such sum of money, not exceeding two dollars per diem, as the County Court, a majority of the Justices being present, shall deem just and reasonable.

IV. *And be it further enacted*, That nothing herein contained shall be so construed, as to abridge the powers of any other Justice or Justices in and for said Counties.

V. *And be it further enacted*, That this plan, when once adopted by the County Court of said Counties in the manner above mentioned, shall continue in operation until a majority of the Justices of said Courts shall determine to discontinue it.

[Ratified, the 19th day of December, 1840.

CHAPTER XVII.

An Act for the more convenient administration of Justice 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 the first County Court in the County of Burke, that shall be after the first of January next, and annually afterwards, a majority of the Justices of the Peace being present, may elect three of their number to hold the Jury County Court, which three shall have jurisdiction over all cases that come under the power of the County Court, except where a majority or a specified number are required by law; and said three so elected, shall receive a compensation as regulated by the existing law on the subject, enacted in 1836.

II. *And be it further enacted*, That if any vacancy or vacancies occur by any cause whatsoever, the Justices of the Peace present shall proceed to fill the vacancy or vacancies, by ballot, between the hours of one and two o'clock, on the first day of said Court, and those, so elected, shall continue to fill said vacancies until the next time of annual election, and shall have the same power as a Court, and the same pay, as those originally elected.

[Ratified, the 19th day of December, 1840.]

CHAPTER XVIII.

An Act to alter the time of holding the Courts of Pleas and Quarter Sessions for the County of Lincoln.

Be it enacted, by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the terms of the Courts of Pleas and Quarter Sessions for the County of Lincoln, which are now held on the third Mondays of July and January, shall hereafter be opened and held on the first Monday in June and December, in each and every year.

[Ratified, the 11th day of January, 1841.]

CHAPTER XIX.

An Act for the better regulation of the County Courts 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 Court of Pleas and Quarter Sessions of Cumberland County be, and they are hereby authorised (should they deem it expedient) a majority of the acting Justices being present, at any Court, which may happen after the first day of January next, annually thereafter to elect from among themselves, a special Justice to hold with the other Justices, the Courts of said County, for the space of one year, who shall receive for his services compensation, at the rate of eight dollars per day for each and every day he may so attend and hold said Courts, which allowance shall be paid to the said special Justice by the County Trustee, upon the certificate of attendance signed by the Clerk.

II. *Be it further enacted,* That the said Court, at the time when

the special Justice is elected, and as often thereafter as they may deem expedient, shall arrange themselves into convenient classes not less than two, or more than four persons each, for the purpose of holding said Courts respectively in such manner as is directed by this Act.

III. *Be it further enacted*, That it shall be the duty of the first class of the Justices, together with the special Justice, to hold the first term of the said Courts in said County, and the second class shall hold the next term thereafter, and so on in succession through the several classes, arranged as aforesaid, and it shall be the duty of the Clerk to give notice to each of the Justices of the time when, under this Act, they shall be required to hold their Courts respectively.

IV. *Be it further enacted*, That the Justices appointed under this Act, shall have full power to do and perform all the duties of other County Courts in this State, under the same rules, regulations and restrictions as are now prescribed by the Law for the Government of the same, and shall be competent to do all acts which, by the now existing law, requires the presence of seven Justices; *Provided, however*, that nothing herein contained shall prevent the other Justices from acting as heretofore.

V. *Be it further enacted*, That the Justices so arranged according to the provisions of this Act, (other than the special Justice) shall receive as a compensation for their services, a sum not exceeding three dollars for each and every day they may so attend, and hold said Courts, to be paid in the same way as is provided for the special Justice.

VI. *And be it further enacted*, That if at any time the Justices thus appointed, or any of them, be unable or fail to attend, such vacancies may be supplied by other Justices, under the same pay and regulations for each day they so serve as Justices of said Court.

[Ratified, the 11th day of January, 1841.]

CHAPTER XX.

An Act to extend the time of holding the next Term of the Superior Court for 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 the next Term of the Superior Court of Law and Equity for the County of Cumberland shall continue for two weeks, should the business of said Court require it, under the same rules, regulations and restrictions as are now prescribed by Law. *Provided nevertheless,* that the provisions of this Act shall not extend beyond the next term of said Court.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXI.

An Act to change the time of holding the Court of Pleas and Quarter Sessions of Camden County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the first day of April, one thousand eight hundred and forty-one, the Courts of Pleas and Quarter Session for the County of Camden shall be held by the Justices of said County upon the second Monday in June, September, December, and March, instead of the days now appointed, any law to the contrary notwithstanding.

[Ratified, the 26th day of December, 1840.]

JURORS.

CHAPTER XXII.

An Act concerning Jurors in Yancey 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 Jurors who shall be appointed and summoned, and shall attend the County and Superior Courts of Yancey County, shall be allowed the sum of seventy-five cents for each and every day's attendance and two cents per mile, travelling to and from said Courts.

II. *Be it further enacted,* That the Sheriff of said County shall be bound to receive all Jurors' tickets, issued under the foregoing provision, in payment of County taxes.

[Ratified, the 30th day of December, 1840.]

CHAPTER XXIII.

An Act altering the mode of drawing Jurors for the Superior Courts of Rutherford 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 the County of Ruth-

erford shall be authorised, so long as the term of the Superior Courts of said County shall continue to be two weeks, to draw Jurors for each week of each term of said Court, and the Jurors shall be drawn in the following manner, to-wit: fifteen for the first week, to constitute a Petit Jury, and thirty-six for the second week, to make a Grand and Petit Jury. And the Clerk of the Court of Pleas and Quarter Sessions is hereby required, to make out and deliver to the Sheriff a separate list of Jurors for each week, and the Sheriff shall notify each Juror, when summoned, whether he be required to attend the first or second week.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XXIV.

An Act to empower the County Court of Burke to regulate the Jury for the Superior and County 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 the first County Court that shall be held for the County of Burke after the first day of January one thousand eight hundred and forty-one, a majority of the Justices of the Peace being present, may, a majority of those present agreeing thereto, dispense with a Grand Jury the first week of the Superior Courts, and may in like manner, if expedient, dispense with a Grand Jury, the January Session of the County Court.

II. *And be it further enacted*, That hereafter, the Court that draws Jurors for the Superior Courts, shall draw a separate Petit Jury for each week, and the Sheriff is hereby directed to summon them under the existing rules and regulations.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXV.

An Act concerning Jurors 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 citizens of Cherokee, who have heretofore purchased lands lying in said County from the State, and who hold certificates of the Commissioners though they have not yet obtained grants, shall be deemed lawful and competent Jurors for said County, both in the County and Superior Courts, in all instances, except in the trial at bar of Capital Cases, and shall be compelled to serve either on the Grand or Petit Jury in the same manner, that freeholders now are.

II. *Be it further enacted,* That five freeholders shall be a sufficient number to constitute a Jury, to lay off roads in said County.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XXVI.

An Act concerning Jurors in Burke County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Court of Pleas and Quarter Sessions for the County of Burke shall be authorised to draw Jurors for each week of the Superior Court of said County, in the following manner, to-wit: eighteen for the first, and thirty-six for the second week of each term, and that the Clerk of the County Court is hereby required to make out and hand to the

Sheriff a separate list of Jurors for each week, who shall summon them accordingly.

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

[Ratified, the 11th day of January, 1841.]

MILITIA.

CHAPTER XXVII.

An Act to incorporate a Light Artillery Company in the Town of Newbern.

Be 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 Artillery, commanded by Captain Matthew A. Outon, in the Town of Newbern, shall be, and is hereby incorporated under the title of the "Citizen Guards."

II. *Be it further enacted*, That the Captain of the Company, shall, at least six times in each and every year, order the same to muster at such time and place as he may think proper; and any Officer, non-commissioned Officer, or private, who having been duly summoned, shall neglect to appear at such muster, armed and equipped according to the regulations of said Company, shall forfeit and pay, if an Officer, a fine of four dollars, and if appearing, be not uniformed and equipped agreeably to the regulations adopted by the Company, he shall forfeit and pay a fine of two dollars: if a non-commissioned Officer or private, he shall forfeit and pay a fine of one dollar for non-attendance, and if attending, be not uniformed and equipped agreeably to the regulations of the Company, he or they shall forfeit and pay such fine as may be adjudged against him or them by any Court-martial having cognizance thereof, not exceeding one dollar, nor less than twenty-five cents, which fine shall be levied and recovered in the same manner that all other fines are.

III. *Be it further enacted*, That the Captain of the Company shall, at least four times in every year, order a muster of his Officers and non-commissioned Officers, at such time and place as he may think proper, and every Officer or non-commissioned Officer, who having been duly notified, shall neglect to appear at such muster, shall forfeit and pay a fine, if a commissioned Officer, not exceeding four, nor less than two dollars, and if a non-commissioned Officer, not exceeding two, nor less than one dollar, which fines shall be levied and recovered in the same manner that all other fines are.

IV. *Be it further enacted*, That any Officer, non-commissioned Officer or private, who shall faithfully serve in said Light Artillery Company eight years, from the date of their enrollment, and shall have obtained a certificate of the same from the Captain, such Officer, non-commissioned Officer or private, shall thereafter be exempt from military forfeitures and penalties so long as he continues to reside within the regiment to which said Company is attached; *Provided*, that such Officers, non-commissioned Officers and privates, shall still be held as belonging to the Company, and shall hold themselves completely armed and equipped in the uniform thereof, subject to the inspection of the Captain, or such of his Officers as he may order; and provided, also, that in case of War, insurrection or invasion, such Officers, non-commissioned Officers and privates, shall be subject to all the duties, forfeitures and penalties to which other Officers, non-commissioned Officers and privates are subject, until they have attained the age of forty-five years. And, provided also, that the said exempts shall attend all General Reviews and Regimental Parades of their Regiment, under the same rules, forfeitures and penalties, as other members of said Company are subject to.

V. *Be it further enacted*, That the Captain shall, once in every year, order a muster of such Officers, non-commissioned Officers and privates, as may be exempted by the fourth section of this Act, from military forfeitures and penalties, for the purpose of training them according to the rules of discipline, and inspecting their arms, equipments and uniform, which duty he shall perform, or cause to be performed by one of his Lieutenants, and the inspecting officer shall report in writing to their next Company Court-martial held thereafter, the condition in which he found such arms, equipments and uniform;

and such Officers, non-commissioned Officers and privates, whose arms equipments or uniform, or any part of the same, shall be found unfit for service, shall forfeit and pay a fine not exceeding ten dollars, nor less than five dollars, which fine shall be adjudged by said Court-martial, and levied and recovered in the same manner that all other fines are.

VI. *Be it further enacted*, That if any Officer, non-commissioned Officer or private, exempted from military forfeitures and penalties, shall fail to attend a parade of inspection, after being notified of the same by a Sergeant, he shall forfeit and pay a fine of five dollars, to be levied and recovered in the same manner that all other fines are.

VII. *And be it further enacted*, That all fines, penalties and forfeitures incurred in pursuance of this law, or by the laws and regulations of the "Citizen Guards," are hereby appropriated to the use and benefit of said Company, for military purposes.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXVIII.

An Act to compel the Militia Officers of Mecklenburg County, to drill three days in each and every year.

Be 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 commanding Officer of each Regiment of Militia in the County of Mecklenburg, shall, and they are hereby required to order, by giving ten days notice, all the Officers, non-commissioned as well as commissioned attached to their command, to parade at the usual place of Regimental Muster, three days in each year for the purpose of drilling the same at least three hours on each day, by himself or some other competent Officer, in the manual exercise and military discipline of this State.

II. *And be it further enacted*, That for failing to comply with the requisitions of this Act, there shall be levied and collected the follow-

ing fines and penalties, in the same way that other fines are now collected from Officers of a similar grade, (viz:) the commanding Officer of the Regiment, for failing to order said Musters, twenty-five dollars; all other Officers as high as Captain, ten dollars for each day they fail to attend said Muster; all commissioned Officers below Captain five dollars for each day, and non-commissioned Officers or Musicians two dollars for each day.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXIX.

An Act to incorporate the Light Infantry Company in the Town of Edenton.

Be 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 Town of Edenton, be, and the same is hereby incorporated by the name of the "Edenton Guards," and shall have authority to make such bye-laws for their regulation, 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 said Company, shall enure to the use of said Company.

III. *Be it further enacted,* That the Captain or other commanding Officers of said Company, shall, at least six times in each year, order out said Company to muster in the Town of Edenton and shall also, at least four times in each year, drill the Officers, commissioned and non-commissioned, of said Company, to improve them in military discipline.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XXX.

An Act to provide for the Election of certain Militia Officers.

Whereas, it appears from the Report of the Adjutant General, to the General Assembly, that the office of Major General of the fifth Division of North Carolina Militia is vacant, and whereas, it appears from the same Report, that the office of Brigadier General, in the fifteenth Brigade of North Carolina Militia is also vacant. For remedy whereof;

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Adjutant General of this State, shall, within ninety days after the ratification of this Act, issue his orders to the Colonels commanding the different Regiments in the fifth division of North Carolina Militia, to call together the commissioned Officers of their Regiments, at the usual place of Regimental Musters, and at such time as the Adjutant General shall direct, and they shall proceed by ballot to elect a Major General of that division, and it shall be the duty of each Colonel, to transmit to the Adjutant General a fair statement of the votes so polled, within ten days after said election; and it shall be the duty of the Adjutant General, to compare the statements made to him by the Colonels, and make known to the Governor the person for whom the highest number of votes may have been given, and a Commission shall be issued by the Governor.

II. *And be it further enacted*, That it shall be the duty of the Adjutant General, at the same time he issues his orders for the election of Major General in the fifth division, also to issue his orders to the Colonels commanding the Regiments in the fifteenth Brigade of North Carolina Militia, to call together the commissioned Officers of the respective Regiments in said Brigade, at the usual place of Regimental Musters, and they shall proceed by ballot to elect a Brigadier General; and the Colonels shall make their returns to the Adjutant General, under the same rules and regulations, as are required in the election of a Major General in the first section of this Act, and the Adjutant General shall make known to the Governor the person receiving the highest number of votes, and the person so receiving the highest number of votes shall be commissioned by the Governor.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXI.

An Act to incorporate the "Greensboro' Guards," 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 the Company of Light Infantry, in the Town of Greensboro', Guilford County, commanded by R. G. Lindsay, &c. and they are hereby incorporated by the name and style of the "Greensboro' Guards," and shall have full power and authority to make, and enter into such bye-laws, not inconsistent with the Constitution and Laws of this State, or of the United States, as they may deem necessary for the proper regulation of said Company.

II. *Be it further enacted,* That the Captain shall have power to call out the said Company for drill, at least eight times in each and every year; and any Officer, musician or private in said Company, who shall have regularly mustered and kept himself well equipped, according to the bye-laws of the Company, for the full term of ten years, shall be thereafter exempt from military duty, except in cases of insurrection or invasion: *Provided,* said Company shall never number less than forty-four privates.

III. *Be it further enacted,* That if the said Company shall procure a Cannon properly mounted, they shall be entitled to all the privileges of the Artillery.

IV. *And be it further enacted,* That if at any time there be no Volunteer Regiment in the County of Guilford, attached to the eighth Brigade of North Carolina Militia, the said Company shall, and may

select to which Regiment of Infantry of said County they will attach themselves.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXII.

An Act to divide the Militia of Ashe County into three Regiments.

Be 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 Militia of the County of Ashe heretofore composing the forty-sixth Regiment of North Carolina Militia, be divided into three distinct Regiments, as follows: The Jefferson, North-fork, Horse Creek, Chesnut Hill, Rifle and Light Infantry Companies, with such other Companies of Militia, Riflemen or Volunteers, as may be hereafter formed within the bounds of the Companies above named, to form the forty-sixth Regiment, and that the place of Regimental Musters for said Regiment be at Jefferson, until otherwise determined by a majority of the men subject to Militia duty in said Regiment. The three Fork, old Fields, Watauga and Cove Creek Companies, with such other Companies of Militia, Riflemen, or Volunteers, as may hereafter be formed within the bounds of the Companies last above named, compose the ninety-fifth Regiment, and that their place of Regimental Musters, be at Jourdan Council's Store, until otherwise determined by a majority of the men subject to Militia duty in the said Regiment; that the Cranberry, Elk Creek, Glade Creek, Gap Volunteers, and such other Companies of Militia, Riflemen or Volunteers as may hereafter be formed within the bounds of the last mentioned Companies, compose the ninety-sixth Regiment, and that their place of Regimental Musters be Gap Civil, until otherwise determined by a majority of the men subject to Militia duty in the Regiment.

II. *Be it further enacted,* That the Officers now holding offices, in the present Regiment of Ashe respectively, shall hold and exercise

their respective offices in the Regiment in which they may fall by the operation of this Act.

III. *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.

[Ratified, the 11th day of January, 1841.]

MISCELLANEOUS.

CHAPTER XXXIII.

An Act to establish a Female Literary Institution, in the County of Robeson.

Whereas, several persons have associated themselves together, for the purpose of establishing a Female Literary Institution, near Centre Church, in the County of Robeson, and have subscribed to Stock for the purpose aforesaid. 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 Rev. John R. McIntosh, Dr. Angus. D. McLean, and others, who are all Stockholders for the purpose aforesaid, be, and they are hereby constituted a body politic and corporate, by the name and style of the "Floral College," and by that name shall have perpetual succession and a common seal, and be able and capable to sue and be sued, plead and be impleaded, either in Law or in Equity, and to acquire, receive, hold, possess, enjoy and sell both real and personal property.

II. *Be it further enacted*, That all the articles of association agreed to, and adopted by the Stockholders aforesaid, are hereby incorporated into this Charter as a part thereof; and if at any time the Compa-

ny should be desirous of increasing their capital for the purposes contemplated by this Charter, the same may be done at any general meeting of the Stockholders; *Provided*, the aggregate capital shall not exceed fifteen thousand dollars.

III. *Be it further enacted*, That a President and fifteen Trustees shall be annually chosen by the Stockholders, to hold the appointment for one year, nine of whom shall constitute a quorum for the transaction of the business of the Institution.

IV. *Be it further enacted*, That the President and Trustees or a majority of them, are hereby authorised and empowered to make, ordain and establish, such bye-laws and regulations for the government of said College, and for the preservation of order and good morals, as to them may seem expedient and necessary, subject however to the control of the Stockholders; *Provided*, such bye-laws and regulations shall, in no instance, be repugnant to the Laws and Constitution of the State, and of the United States, and that in meetings of the Stockholders, a majority at least of the Stock shall be represented, and that as many as fifty acres of land, owned by the Company and appropriated to the buildings and other objects of the Institution, shall be exempt from taxation.

V. *And be it further enacted*, That the President and Trustees, with the Faculty, shall have power to confer degrees or testimonials of merit on such as, by their literary acquisition, may deserve the honors of the Institution.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXIV.

An Act to amend an Act, entitled "An Act to authorise A. R. S. Hunter, of Cherokee County, to remove his bridge, passed at the Session of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine.

Be 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 second section of the Act, which this is to amend, be, and the same is hereby amended, so as to allow the said A. R. S. Hunter to have one acre on eachside of the said River, embracing the ends of the said Bridge laid off in an oblong; he having first complied with the requisitions of the aforesaid recited Act, of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine.

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

[Ratified, the 26th day of December, 1840.]

CHAPTER XXXV.

An Act to amend an Act, passed in the year one thousand eight hundred and twenty-nine, entitled "An Act to authorise the Justices of the Peace of Iredell County to purchase a tract of land, and erect thereon such buildings as will be suitable for the comfortable accommodation of the Poor of the County."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the second section of the above recited Act, as re-

quires the selection of a tract of land within ten miles of the Town of Statesville, be, and the same is hereby repealed.

II. *And be it further enacted*, That this Act shall be in force from and after its ratification, any law to the contrary notwithstanding.

[Ratified, the 26th day of December, 1840.]

CHAPTER XXXVI.

An Act to amend an Act, entitled "An Act to amend an Act passed in the year one thousand eight hundred and eighteen," entitled "An Act to elect a Magistrate in the Town of Wilmington, 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 above recited Act shall not be so construed as to extend to, or in any wise affect, any person or persons being citizens of the Counties of New Hanover, Bladen, Sampson, Duplin or Brunswick, and not residents of the Town of Wilmington aforesaid.

II. *And be it further enacted*, That all Acts or clauses of Acts, contained in the first section of the above named Act, passed during the Session of one thousand eight hundred and nineteen, Chapter seventy-seven, be, and the same are hereby repealed.

[Ratified, the 26th day of December, 1840.]

CHAPTER XXXVII.

An Act to repeal an Act, entitled an Act directing the County Courts to pay fees to certain Officers therein named, so far as respects the County of Randolph.

Be 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, passed at the Session of the General Assembly in one thousand eight hundred and twenty-seven, and one thousand eight hundred and twenty-eight, so far as respects the County of Randolph, be, and the same is hereby repealed.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXVIII.

An Act to encourage the destruction of Wolves in the County of Haywood.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the ratification of this Act, any person who may kill any Wolf or Wolves in the said County of Haywood, on producing the scalp or scalps in open Court, and swearing that he caught and killed the Wolf or Wolves from which the scalp or scalps was taken, within the limits of said County, (with reference to the year) he shall be entitled to receive from the Clerk of the County Court, a certificate allowing the sum of two dollars, for each and every scalp, which shall be paid as other County charges.

[Ratified, the 11th day of January, 1841.]

CHAPTER XXXIX.

An Act to repeal an Act, entitled an Act to appoint a Committee of Finance for the County of Richmond, passed at the Session of one thousand eight hundred and twenty-nine, and one thousand eight hundred and thirty.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Act passed at the Session of one thousand eight hundred and twenty-nine, and one thousand eight hundred and thirty, Chapter forty-five, entitled an Act to appoint a Committee of Finance for the County of Richmond, be, and the same is hereby repealed.

[Ratified, the 11th day of January, 1841.]

CHAPTER XL.

An Act to abolish the Fair at or near Laurel Hill, in the County of Richmond.

Be 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 Fair semi-annually held near Laurel Hill, in the County of Richmond, be, and the same is hereby discontinued and abolished.

II. *Be it further enacted,* That any person attempting to hold a Fair at the place aforesaid, or in the neighborhood thereof, by retailing spirituous or intoxicating liquors in any quantity, shall pay a fine of one hundred dollars, for every offence, to be recovered by warrant, before any Justice of the Peace for said County, one half to the person suing for the same, and the other half to the use of the County;

and the fact of any person or persons occupying a tent or stand, with his or their waggon, cart or other vehicle, with spirituous or intoxicating liquors therein, shall be sufficient evidence of a violation of this Act, and the Justice of the Peace, before whom the case is tried, shall enter up judgment and execution accordingly.

III. *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.

[Ratified, the 26th day of December, 1840.]

CHAPTER XLI.

An Act to attach a part of the County of Iredell to the County of Wilkes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the boundary line between Wilkes and Iredell Counties shall be extended due south to the Little River at the mouth of Muddy Fork, and all that tract of land included by the following boundaries, to-wit: beginning in Little River, at the mouth of Muddy Fork, running north four hundred and twenty poles to said Little River, then down said River to the beginning, shall be annexed to and form a part of the County of Wilkes.

[Ratified, the 11th day of January, 1841.]

CHAPTER XLII.

An Act in favor of the Princess Anne and Kempsville Canal 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 Princess Anne and Kempsville Canal Companies, are hereby authorised to clean out and remove all mud flats and obstructions which may exist to the safe and convenient navigation of Currituck Sound with Steam Boats.

II. *Be it further enacted,* That said Companies, in consideration of the aforesaid improvement, shall be entitled to the exclusive navigation of said Currituck Sound with Steam Boats, as may be propelled entirely with Steam power, for, and during the space of twenty-five years, from the ratification of this Act.

III. *And be it further enacted,* That unless said Companies shall commence and finish said improvements within seven years from the passage of this Act, the privileges hereby granted shall be revoked.

[Ratified, the 11th day of January, 1841.]

RIVERS.

CHAPTER XLIII.

An Act to prevent the cutting of Timber into the Rivers of 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 it shall not be lawful for any Person, to cut or fell timber into

Valley River, Hiwassee River, Nantahala River, in the County of Cherokee, and any person, so offending, shall be deemed and held guilty of a misdemeanor, and shall be subject to be indicted therefor, in either the Superior or County Court of Cherokee, and on conviction, shall be fined at the discretion of the Court. *Provided, nevertheless*, if any person wishing to put any Fish-trap or Mill-dam into either of said Rivers, shall first apply to the Court of Pleas and Quarter Sessions of said County, it shall be the duty of the said Court, to appoint five Commissioners to examine the said place, and if the said Commissioners, after their examination, shall give their permission in writing to the aforesaid applicant, then only it shall be lawful for him to put in the said Mill-dam or Fish-trap, and in that event, he shall not be subject to indictment.

[Ratified, the 19th day of December, 1840.]

CHAPTER XLIV.

An Act to amend an Act passed at the last General Assembly, entitled "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 above recited Act is hereby so amended as to authorise the owner or owners of any Fishery between the South Carolina line and the upper end of Montgomery County, who may believe his, her or their Fishery, has been unnecessarily injured, in consequence of the Commissioners leaving the main channel in laying off and designating one hundred feet for the passage of Fish, as required by the law to which this is amendatory, to petition the respective County Courts of Montgomery, Anson and Richmond; which Courts shall, on the filing of such petition, appoint one Commissioner each, who shall be a free-

below, with as little prejudice to the passage of Fish as possible, which proceedings shall be reported in the several Counties as required by the Law to which this is amendatory, and the new Channel so laid off and reported, shall be considered in law, and in fact, the true Channel to be kept open for the passage of Fish.

II. *Be it further enacted*, That the Commissioners shall be entitled to the same pay, provided by the before recited Act for the former Commissioners, which shall be paid in every instance, as well as all other fees and Court charges, by the petitioners.

III. *And be it further enacted*, That all owners of Public Mills on said Rivers, whose water power at said Mills has been or may be materially affected by the opening the Fish channel, shall be allowed the privilege of extending a temporary dam across said Channel, and keeping the same up from the first day of June, until the first day of November in each and every year, but shall, under the penalties of the before recited Act, remove the obstructions and keep open the same, from the first day of November to the first day of June in each and every year.

[Ratified, the 11th day of January, 1841.]

ROADS.

CHAPTER XLV.

An Act to authorise the making a Turnpike Road in the County 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 John Davis, John Hightower and John Hodge, be, and they are hereby appointed Commissioners, with power and authority to open books and receive subscriptions, to the amount of two thousand dollars, which shall constitute the capital stock of the Company hereby incorporated, for the purpose of making and keeping in repair, a Turnpike Road commencing at some suitable place on the Buncombe Turnpike Road, between Green River and the South Carolina line, running thence to the South Carolina line at or near where the Gap creek road strikes or intersects the State line. The said Road is to be when completed of the following dimensions, that is to say, sixteen feet wide clear of obstructions, except when side cutting be necessary, in which case, the Road shall be twelve feet wide; all necessary bridges shall be twelve feet wide, and the declivities of the said Road 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 one thousand dollars of the 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 Stockholders holding a majority of the Shares subscribed, shall attend said general meeting, it shall and may be lawful for the Stockholders to appoint a President, Treasurer and two 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 corporate and politic in law by the name and style of the "Henderson Turnpike Company;" may

sue and be sued, plead and be impleaded, and as such, shall have perpetual succession and a common seal, and have all other powers and rights 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 said Road; and make and ordain all 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 the said Company, or any of them, and 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 the 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 be further 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 affairs 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 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 comple-

ted, 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 man and horse, ten cents, for loose horses and mules, five cents, for hogs and sheep, one cent each, for Cattle, two cents for each head, for six horse waggon, seventy-five cents, for five horse wagon, sixty-two and a half cents, for four horse wagon, fifty cents, for three or two horse wagon, thirty-seven and a half cents, for stage coach, fifty cents, for a break wagon, fifty cents, for four wheel carriage of pleasure, fifty cents, for each gig, sulky or cart, twenty-five cents.

VIII. *Be it further enacted*, That before any toll shall be collected as aforesaid, the County Court shall appoint one or more Commissioners for the purpose of viewing, receiving and seeing that the said road is kept up; and if at any time the Company shall suffer the road to get out of repair, and remain so for the space of one month, the President and Directors shall be subject to indictment, and on conviction, shall be fined at the discretion of the Court, and shall also have the gate opened and kept open until the road shall be put in good repair, 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, either break through or go around the above recited gate, they shall be subject to pay five dollars, recoverable before any Justice of the Peace for said County.

X. *And be it further enacted*, That this Act shall be in force from and after the ratification thereof, and all powers hereby granted shall cease at the expiration of twenty-five years after the completion of said Road.

[Ratified, the 11th day of January, 1841.]

CHAPTER XLVI.

An Act to incorporate the Nantahalah Turnpike Company of the Counties of Macon and Cherokee.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Nimrod S. Jarrett, Joab L. Moore, Jesse R. Siler, James Whitaker, senior, and Thomas Tatham, be, and they are hereby appointed Commissioners, with power and authority to open books and receive subscriptions to the amount of two 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 on the State Road, leading from the Town of Franklin, in Macon County, to Murphey, in Cherokee, commencing nine miles from Franklin, and extending to the twenty-nine mile post, on the said Road in Cherokee County; the said Road must be made and kept, of the same width and grade, and in as good condition in all respects as the present State Road between the two points designated was in, immediately after the improvements made on it by the expenditure of the sum appropriated at the last Session of the General Assembly, under the direction of Moses Addington, Commissioner.

II. *Be it further enacted*, That the aforesaid capital stock shall be divided into Shares of twenty dollars each, and as soon as one thousand dollars of the capital stock 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 Stockholders, holding a majority of the Shares subscribed, shall attend said 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 corporate and politic in law, by the name and style of the "Nantahalah 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 said Road, and make and ordain all 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 appoint others, 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 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 affairs 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 the first general meeting, fix on the terms and the proportion in which the 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 one toll gate at some convenient place on said Road, and demand

and receive the following toll; that is to say for man and horse, ten cents, for loose horses and mules, five cents, for hogs and sheep, one cent each, for cattle, two cents each per head, for six horse wagon, seventy-five cents, for five horse wagon, sixty-two cents and a half, for four horse wagon, fifty cents, for three or two horse wagon, thirty-seven and a half cents, for one horse wagon, twenty-five cents, for four wheel carriage of pleasure, fifty cents, for each gig, sulky, or cart, twenty-five cents.

VIII. *Be it further enacted*, That before any toll shall be collected, as aforesaid, the County Court of Macon shall appoint one or more Commissioners for the purpose of viewing, receiving and seeing that the said Road is kept up; and if at any time the Company shall suffer the Road to get out of repair, and remain so for the space of one month, the President and Directors shall be subject to indictment in the Courts of the County in which such portion of the Road as may be out of repair is situated, and on conviction, shall be fined at the discretion of the Court, and shall also have the gate opened and kept open until the Road shall be put in good repair, and the Commissioners shall receive the sum of one dollar, for every day they are necessarily engaged in receiving and 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, either break through or go around the above recited gate, they shall be subject to pay five dollars, recoverable before any Justice of the Peace for said County.

X. *Be it further enacted*, That the State of North Carolina shall be entitled to one half the profits of said Road, and also the right to appoint a Commissioner to represent the State and protect her rights, which Commissioner shall be appointed by the Governor, and he shall have in all meetings of the Stockholders, a vote equal to the vote of the whole number of private Stockholders in said Corporation.

XI. *And be it further enacted*, That this Act shall be in force from and after the ratification thereof. And that all the powers hereby granted shall cease and determine, at the expiration of five years after the completion of said Road.

[Ratified, the 12th day of January, 1841.]

CHAPTER XLVII.

An Act to incorporate the Hembrie Turnpike Company, in the County of Cherokee.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That David McReynolds, P. A. Summey, A. R. S. Hunter, Francis Tate and Jason L. Hyatt, be, and they are hereby appointed Commissioners, with power and authority to open books and receive subscriptions to the amount of three 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 Murphey, in the County of Cherokee, running the most practicable route to the Georgia line, at or near Amos Curtis's. The said Road to be when completed, of the following dimensions, to-wit: sixteen feet wide clear of obstructions, except when side cutting be necessary in which case, the Road shall be twelve feet wide, and all necessary bridges, shall be of the same width, and declivities of the Road 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 one thousand dollars 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 may be designated; and if Stockholders, holding a majority of the Shares subscribed, shall attend said general meeting, it shall and may be lawful, and is hereby required to be the duty of the said 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 corporate and politic in Law, by the name and style of the "Hembrie Turnpike Company," and in that name 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 said Road, and make and ordain all 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 appoint others, 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 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 affairs 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 the first general meeting, fix on the terms and the proportion in which the 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 one toll gate at some convenient place on said Road, and demand

and receive the following toll, that is to say, for man and horse, ten cents, for loose horses and mules, five cents, for hogs and sheep, one cent each, for cattle, two cents each per head, for six horse wagon, seventy-five cents, for five horse wagon, sixty-two cents and a half, for four horse wagon, fifty cents, for three or two horse wagon, thirty-seven and a half cents, for one horse wagon, twenty-five cents, for four wheel carriage of pleasure, fifty cents, for each gig, sulky or cart, twenty-five cents.

VIII. *Be it further enacted*, That before any toll shall be collected as aforesaid, the County Court of Macon shall appoint one or more Commissioners for the purpose of viewing, receiving and seeing that the said Road is kept up, and if at any time the Company shall suffer the Road to get out of repair, and remain so for the the space of one month, the President and Directors shall be subject to indictment in the Courts of the County in which such portion of the Road as may be out of repair is situated, and on conviction, shall be fined at the discretion of the Court, and shall also have the gate opened and kept open until the Road shall be put in good repair, 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, either break through or go around the above recited gate, they shall be subject to pay five dollars, recoverable before any Justice of the Peace for said County.

X. *Be it further enacted*, That the State of North Carolina shall be entitled to one half the profits of said Road, and also the right to appoint a Commissioner to represent the State and protect her rights, which Commissioner shall be appointed by the Governor, and he shall have in all meetings of the Stockholders, a vote equal to the vote of the whole number of private Stockholders in said Corporation.

XI. *And be it further enacted*, That this Act shall be in force from and after the ratification thereof. And that all the powers hereby granted shall cease and determine at the expiration of five years after the completion of said Road.

[Ratified, the 12th day of January, 1841.]

CHAPTER XLVIII.

An Act to revive an Act passed in one thousand eight hundred and thirty-five, authorising David T. Sawyer to lay off and construct a Road and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an Act passed by the General Assembly in the year one thousand eight hundred and thirty-five, entitled "an Act to authorise David T. Sawyer to lay off and construct a road and for other purposes," is hereby revived, and the said David T. Sawyer is hereby allowed ten years longer than is specified in said Act, for the completion of said road, subject to all penalties and forfeitures contained in the aforesaid Act, of the year one thousand eight hundred and thirty-five.

[Ratified, the 11th day of January, 1841.]

CHAPTER XLIX.

An Act to amend an Act passed at the last Session of the General Assembly, entitled "an Act to authorise 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 the first section of the Act, passed at the last General Assembly, entitled "an Act authorising the making a Turnpike Road in Haywood County," be so amended as to authorise William H. Bryson and John W. Davis, to act as Commissioners, in connexion with the Commissioners appointed by said Act, with like powers and authorities as said Commissioners so appointed.

II. *Be it further enacted*, That the Capital Stock of said Company shall be six thousand dollars, instead of four thousand, as provided in the Act of the last General Assembly.

III. *Be it further enacted*, That the said Company shall be authorised to commence said Road at John B. Allison's, and run the most practicable route through Casher's Valley, to the South Carolina line.

IV. *Be it further enacted*, That the rates of toll on said Road shall be as follows: for man and horse, ten cents, loose horses and mules, five cents each, for hogs and sheep, two cents, for cattle, three cents per head, six horse wagons, seventy-five cents, five horse wagons, sixty-two and and a half cents, four horse wagons, fifty cents, for three and two horse wagons, thirty-seven and a half cents, for one horse wagons, gigs, sulkys or carts, twenty-five cents, for four wheel carriages of pleasure, fifty cents, instead of the tolls prescribed by said Act.

V. *And be it further enacted*, That all clauses of said Act coming in conflict with the provisions of this Act, be, and the same are hereby repealed.

[Ratified, the 11th day of January, 1841.]

CHAPTER L.

An Act to authorise the making of a Turnpike Road from Gatesville, to the Chowan River and to incorporate a Company for that purpose.

Be 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 G. Daughtry, Henry Gilliam, Richard McIntosh, Rufus K. Speed, James K. Reddick and Thomas A. Jordan, and their successors, be, and they are hereby incorporated and made a body politic and corporate, by the name and style of the "Gatesville Turnpike Road Company," and by that name, may sue and be sued, implead and be impleaded, and have perpetual succession and a common Seal, and all other corporate rights, which may be necessary for the objects of said Company. Such of the aforesaid persons or their sucessors, or a majority of them as may be present, on the eighth day of March, A. D. one thousand eight hundred and forty-one, are hereby empowered and directed to elect a President and four Directors for conducting the business of said Company for one year, and until the next meeting of the Stockholders, which shall be annually, for the purpose of electing the aforesaid officers. Every proprietor, by writing under his or her hand, may depute any individual to vote for him or her at any general meeting, and the votes and acts of such proxy shall be as effective to all intents and purposes, as if the proprietor were personally present at the doing thereof.

II. *Be it further enacted*, That the Capital Stock of said Company shall be four thousand dollars, divided into Shares of such sums as may be decided on in a general meeting of the Stockholders; and at all general meetings of the Stockholders, the number of votes to which each Stockholder shall be entitled, shall be according to the number of Shares he shall hold in the following proportion, viz: for one Share, and not more than two Shares, one vote, and for every two Shares above two, one vote, provided no Stockholder shall have more than ten votes.

III. *Be it further enacted*, That the Company hereby incorporated, shall be empowered to lay out and make a Turnpike Road from

Gatesville in Gates County, to some suitable point of the Chowan River, and from the opposite side of said River, to the high land in Hertford County, and as a compensation to said Company for making said Road, it shall and may be lawful for said Company, to demand and receive the following tolls, viz: on every four wheel carriage of pleasure, not more than twenty-five cents, on every gig and sulky, not more than twelve and a half cents, on every wagon with four horses, not more than thirty cents, on every wagon with two horses, not more than fifteen cents, on every cart, not more than fifteen cents, on each horse or mule, not more than four cents, on every head of cattle, hogs or sheep, not more than two cents each, on travellers on horse back, not more than ten cents, and the said Company shall be, and they are hereby authorised to establish a Ferry, from the termination of their Road on the Chowan River to some convenient spot on the opposite side of said River in Hertford County, and as a compensation for the expense incurred, they are hereby authorised to charge as much toll and no more, as is now paid at Wynn's Ferry on Chowan River; and if any person shall refuse to pay the tolls at the places designated for their collection, the toll gatherers may refuse a passage to the persons so refusing.

IV. *Be it further enacted*, That the said Road shall be sixteen feet in width, clear of obstructions; and said Stockholders, as long as they continue to collect tolls for the passage along the said Road, shall be liable to indictment for not keeping said Road in good and sufficient repair, and likewise in civil actions for all damages incurred by such omissions or neglect.

V. *Be it further enacted*, That the President and Directors may agree with the owners of any land over which the said Road is intended to pass, for the purchase thereof, and in case of disagreement, or if the owner shall be feme covert, under age, non compos, or out of the State, on application to any two Justices of the County where the land lies, the said Justices may issue their warrant to the Sheriff of said County, to summon a Jury of eighteen freeholders, to meet on the land to be valued, on a day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the Sheriff, on the receipt of said warrant, shall summon the Jury and when met, shall administer on oath or affirmation (provided twelve or more appear,) to-wit,

that he will impartially value the land in question, and consider the damages the owner thereof may sustain in consequence of being divested of his property therein, and that he will not in his valuation spare any person through favor, nor injure any one through malice or hatred: and the inquisition so holden, shall be signed by the Sheriff and twelve or more Jurors, and returned to the Clerk of the County, there to be recorded, and in all such cases the inquisition are directed to describe the land valued and such valuation shall be conclusive, and the President and Directors shall pay the sum to the owner of the land valued or his legal representative, and if neither can be found in the State, or if found should refuse to receive the money, then to the Clerk of the County Court; and on payment thereof, the Corporation shall be seized in fee of the land valued, but no such condemnation shall extend to dwelling houses.

VI. *And be it further enacted*, That said Road with the improvements thereon, which shall be made in pursuance of said Act, shall forever hereafter be taken and considered as a public highway, free for the passage of all persons and animals and carriages of every description, on the payment of the tolls imposed by this Act.

[Ratified, the 12th day of January, 1841.]

CHAPTER LI.

An Act to lay off and establish a Road down the Blue Ridge, from the line of the County of Yancy, to Turkey Cove Creek, in Burke County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Alexander F. Gaston, William Gillaspie, James H. Greenlee and David Cox, of the County of Burke, and William Dixon, Jacob Hollowfield, Jesse Wilson and Isaac C. Wilson, of the County of Yancy, be, and they are hereby appointed Commissioners to lay off and establish a public Road, commencing on the Blue Ridge on the line of Yancy and Burke, at the point where the public road, leading from Burnsville, in the direction of Morganton terminates, and running thence down the Blue Ridge, the most practicable route to Turkey Cove Creek.

II. *Be it further enacted,* That a majority of said Commissioners shall have power to act, and to fill vacancies in their Board.

III. *Be it further enacted.* That the sum of one thousand dollars is hereby appropriated for the purpose of making and completing said Road, and the Public Treasurer is hereby directed to pay the same out of any monies belonging to the Internal Improvement Fund, not otherwise appropriated: *Provided, nevertheless,* that said monies shall not be paid over to said Commissioners until the sum of five hundred dollars, under the direction of said Commissioners, shall have been laid out on said Road by the citizens of Yancy and Burke Counties, either in labor to be estimated by said Commissioners, or in money paid over or secured to them; and when that amount of labor has been expended on said Road, and said Commissioners, or a majority of them, shall certify that fact to the Public Treasurer, then he is directed to pay over to them, for the purpose aforesaid, the said sum of one thousand dollars.

[Ratified, the 11th day of January, 1841.]

CHAPTER LII.

An Act to amend an Act of one thousand eight hundred and thirty-eight, laying off a road from Burnsville, in 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 the names of John Roberts, Neely Tweed and Richard Radford, be substituted in lieu of John Roberts, George Gahagan and John Ramsey, as specified in the Act of one thousand eight hundred and thirty-eight, establishing a road from Burnsville in Yancy County, to the Tennessee line.

[Ratified, the 11th day of January, 1841.]

TOWNS.

CHAPTER LIII.

An Act to fix the location of the Town of Hendersonville.

Be 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 location of the Court House of Henderson County, shall be made by the qualified voters of the House of Commons residing in the said County.

II. *Be it further enacted,* That for this purpose, on the last Thursday in January, in the year of our Lord one thousand eight hundred and forty-one, an election shall be held at each of the precincts of the

County of Henderson, at which elections for members of the General Assembly are held, and it shall be the duty of the Sheriff of said County, after advertising said election ten days, to appoint two Judges for each election precinct, the one to be taken from the Eastern, and the other from the Western section of the said County, who shall be sworn to conduct the said election fairly and according to the manner in which elections are usually conducted in this State.

III. *Be it further enacted*, That each citizen of Henderson County, who is qualified to vote for members of the House of Commons, shall be allowed to put in one ballot, or piece of paper, describing some place in the County of Henderson, with such precision that the Judges of said election and the Sheriff of the said County can ascertain with certainty the point designated, and no vote other than one thus given, shall be counted by the Judges.

IV. *Be it further enacted*, That by a comparison of the returns from each precinct, the Sheriff of Henderson, together with two Commissioners, selected by him ten days before the election, and their names publicly made known, shall ascertain and pronounce the point having the greatest number of votes, and if the point thus selected, shall be nearer to the Buncombe Turnpike Road, in Henderson, than to the French Broad River, then George Allen, Andrew Maxwell, jun. David Rees, John Davis and James Spann, shall be, and are hereby appointed Commissioners for the purpose hereinafter mentioned, and shall be notified thereof by the Sheriff of Henderson, and by him sworn to discharge faithfully the duties imposed; but if on the other hand, the point so designated, shall be nearer to the French Broad River than to the said Road, then Martin A. Gash, David Miller, John G. Hightower, Isaac Glaznier and Col. John Clayton, shall be appointed Commissioners, and notified and sworn as aforesaid.

V. *Be it further enacted*, That it shall be the duty of the Commissioners thus notified and sworn, or a majority of them, to procure by donation or purchase, not less than fifty acres of land including the point designated, or within one mile thereof, said land to be conveyed to the Chairman of the County Court of Henderson, and his successors in office, for the use of the said County, upon which land a Town to be called Hendersonville, shall be laid off by the said Commissioners, or a majority of them, in which the Court House and Jail shall be

erected, and where, after the completion of said Court House, the offices of the Clerks and Register shall be kept, and where the Courts of said County shall be held from and after the third Monday in February next, unless a majority of the Justices of said County shall deem it advisable to direct them to be held elsewhere, until September, in the year eighteen hundred and forty-one.

VI. *Be it further enacted*, That it shall be the duty of said Commissioners, or a majority of them, after advertising for thirty days, and after having laid off the lots on said land, to sell the whole, or such portion of them as they may deem most conducive to the interest of said County, upon a credit of one and two years, the said Chairman of the Court making title whenever the purchase money shall have been paid, reserving, nevertheless, such lots as may be necessary for the erection of the public buildings, and the money thus raised, shall be disposed of by a majority of the Justices of Henderson County, for public purposes.

VII. *Be it further enacted*, That if the Sheriff of said County, or any Judge of the election, or any one of said Commissioners, shall wilfully neglect or refuse to perform his duties as prescribed by this Act, he shall be deemed guilty of a misdemeanor, and upon indictment and conviction in either Court of Henderson County, shall be fined not less than five hundred dollars.

VIII. *Be it further enacted*, That such of the existing laws as come in conflict with the provisions of this Act are hereby repealed.

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

[Ratified, the 19th day of December, 1840.]

CHAPTER LIV.

An Act to enlarge the limits of the Town of Wadesborough in Anson 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 boundaries of the Town of Wadesborough in Anson County shall be extended, so that the said Town shall be included within lines drawn from points, one half of a mile distant from the Court House on the North, South, East and West directions from the same, and that the County Surveyor of Anson, shall on some day before the first day of February one thousand eight hundred and forty-one, run and mark the said lines.

II. *And be it further enacted,* That this Act shall go into operation, immediately after its ratification.

[Ratified, the 11th day of January, 1841.]

CHAPTER LV.

An Act to provide for the better government and regulation of the Town of Murfreesboro', in 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 polls shall be opened in the Town of Murfreesboro' under the direction of the Sheriff of Hertford County, and two Inspectors appointed by him, on the first Thursday in June next, and annually thereafter on the same day, under the inspection and control of such persons, as may be designated under the subsequent provisions of this Act, for

the purpose of choosing three persons to act as a Board of Commissioners in and for said Town, for the term of one year and after, until others duly chosen and qualified have entered upon the duties of their office; *Provided, however*, that no one shall be eligible as Commissioner, who has not resided during the six months preceding, within the limits of said Town, and is an actual resident at the time of such election, and one of the three, at least, shall be an acting Justice of the Peace for the County of Hertford.

II. *Be it further enacted*, That every resident of the said Town qualified to vote for Members of the House of Commons, shall be entitled to vote for such Commissioners, and the election shall be conducted as elections now are for the choice of Members of the General Assembly.

III. *Be it further enacted*, That the Commissioners thus elected, being notified by the Inspectors, shall before entering on the duties of their office, take an oath before some Justice of the Peace for the County aforesaid, to perform faithfully and impartially the duties of their office to the best of their ability, and any one refusing to take such oath for the space of one month after the election, having been notified thereof ten days, unless he shall remove out of the limits of said Town, or be otherwise incapable to serve, shall be liable to pay the sum of twenty dollars to the use of said Town, for which forfeiture the States' Attorney for the County aforesaid, is hereby authorised and required to bring suit in the name of the Board of Commissioners aforesaid in the County Court of the County of Hertford.

IV. *Be it further enacted*, That said Commissioners be constituted a body corporate under the name and style of "the Board of Commissioners for the Town of Murfreesboro," and as such shall have a common seal, may sue and be sued, may purchase, hold and convey property of any kind, shall have power to alter, extend and establish boundaries to said Town, giving immediately thereafter twenty days public notice of any change made, may remove nuisances, erect bridges, provide against fire and disease, and make all other necessary bye-laws and regulations for the good government and well ordering of said Town, not inconsistent with the Constitution and Laws of the State.

V. *Be it further enacted*, That the Board aforesaid shall appoint

a Town Treasurer, who shall give a bond payable to the Board with sufficient security conditioned for the faithful keeping and paying over of all such sums as may come into his hands. It shall be his duty to receive all monies belonging to the Town, and pay the same out by order of the Board; at the end of the year he shall publish a statement of his accounts in some conspicuous place in the Town, and for such service, he shall be entitled to a commission to be allowed by the Board.

VI. *Be it further enacted*, That the Board shall appoint a Town Constable, who shall also give a bond to be adjudged of by the Board, payable to them as such, and conditioned for the faithful discharge of his duties. It shall be his duty to serve notices, to hold elections, to collect all taxes levied by the Commissioners by virtue of this Act, and pay over the same to the Treasurer, and shall, moreover, have such powers and be subject to such responsibilities as now attach to other Constables in the County aforesaid, and shall be subject to such regulations as the Board may enact as authorised under this Act, and for all such service shall receive fees as allowed by the Board in addition to those now authorised by law.

VII. *Be it further enacted*, That the Board shall appoint an overseer of the streets, whose duty it shall be to keep them in good and sufficient repair, and to this end he shall be empowered to require the services of all persons residing in the said Town now liable by law to work on Roads, from time to time, as shall be necessary, and in all other respects shall possess the powers, and be liable as overseers of Roads are in said County.

VIII. *Be it further enacted*, That the said Board shall appoint a sufficient Patrol, to be composed of white male persons between the age of eighteen and forty-five years, who shall, within ten days after being notified of such appointment, take an oath similar to the one now prescribed for other Patrol in the County. In discharging their duties they shall observe such regulations as the Board may prescribe, and at the end of the year, upon oath being made of their faithful performance of the duties of their appointment, the Patrol shall receive the compensation which may have been previously established by the Board.

IX. *Be it further enacted*, That to attain the purposes of this Act,

the Board of Commissioners shall have power annually, when they deem necessary, to lay a tax on all the persons and property, within the limits of said Town, now liable to taxation for County purposes: *Provided*, that said tax shall in no one year, exceed fifty cents on the poll, and twenty-five cents on each hundred dollars valuation.

X. *Be it further enacted*, That it shall be the duty of each person residing or holding property in said Town, to deliver to the Board annually, as may be required, a statement on oath of all the property owned or possessed by such person, liable to be taxed, and for failure to do so, when required by the Board, within one month, shall pay double taxes on all property not given in as above, unless on sufficient excuse shewn, to be adjudged of by the Board, and all taxes not paid shall be recovered by warrant before any Justice of the Peace of the County, for the use of the Town.

XI. *Be it further enacted*, That all appointments made by the Board, shall be for one year, and that, if any person appointed pursuant to this Act, unless excused by the Board, shall refuse or neglect to serve, such person shall be liable to pay twenty dollars to the use of the Town, and the Board are hereby authorised and directed to bring a warrant for the same before any acting Justice of the Peace of said County.

XII. *Be it further enacted*, That the Board, or the acting members or member, may order special elections to fill vacancies in their body, may call together the citizens of the said Town when necessary, at which all questions affecting the welfare of said Town may be submitted, resignations of the Commissioners may be tendered, and all necessary business be transacted, at which meetings the eldest Commissioner shall preside: the Commissioners shall also appoint Inspectors to conduct the annual and special elections, in connection with the Town Constable.

XIII. *Be it further enacted*, That if from any cause a majority of the qualified voters in said Town should not vote at the first election herein authorised to be held for the choice of Commissioners, or that more than two full years shall at any time hereafter pass without any election being held, or that the Commissioners shall neglect or refuse to act, then in either such event the County Court of the County of Hertford shall be invested with such powers, and be authorised to

make such orders and appointments over and relating to said Town as said Court now may over other parts of said County: *Provided*, the Sheriff shall be judge whether a majority have voted as above, and shall make proclamation thereof immediately, upon such fact being ascertained, at the same place where such election may be held.

XIV. *And be it further enacted*, That the Act passed by the General Assembly, at its Session of one thousand eight hundred and twenty-nine, and one thousand eight hundred and thirty, entitled "An Act for the better regulation of the Town of Murfreesboro'," and also the further Act relating thereto, passed at the Session of one thousand eight hundred and thirty, and one thousand eight hundred and thirty-one, entitled "An Act to amend an Act passed at the last Session of the General Assembly, entitled, "An Act for the better regulation of the Town of Murfreesboro', in the County of Hertford," and all other Acts inconsistent with the provisions of this Act, be, and the same are hereby repealed.

[Ratified, the 11th day of January, 1841.]

CHAPTER LVI.

An Act to appoint Commissioners for the Town of Kenansville, in the County of Duplin.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Daniel C. Moore, J. B. Kelly, A. Kornegay, James B. Monk and Hampton Sullivan and their successors, be, and they are hereby appointed Commissioners for the Town of Kenansville in the County of Duplin, with full power and authority to adopt such rules and regulations, as they may deem necessary for the good government of the same, not inconsistent with the laws of this State or of the United States.

II. *And 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.

[Ratified, the 11th day of January, 1841.]

CHAPTER LVII.

An Act to incorporate the Town of Rutherfordton.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the corporate limits of the Town of Rutherfordton in the County of Rutherford, shall be included within the following boundaries, to-wit: beginning at a large oak on the east side of the Asheville road about one hundred yards north of the Methodist Church, running thence a direct line to the Cooper Gap Road, one hundred yards west of W. L. Mitchell's dwelling House, thence crossing the Twitty's ford Road to the corner of General Bryan's fence nearest the Town, thence south to the McLure's ford Road, thence to the south east corner of Walter Duffy's farm, thence with his fence north to Mr. Eave's line, thence to Gleghan's Creek where it crosses the Morganton Road, thence to a pine fifty yards north of the Grave Yard, thence to the beginning.

II. *Be it further enacted*, That it shall be lawful for the Citizens resident within said limits, on the first Monday in March in each and every year, to elect a Town Magistrate, four Commissioners, and a Town Constable to serve as such for one year from the day of election, and in case there shall be no election on the day prescribed, to continue in office until their successors are appointed; *Provided*, that no one shall be eligible to the appointment of Town Magistrate or Commis-

sioner, unless he has resided in said Town six months immediately preceding his election, nor unless he is at the time of his election and has been for six months previous thereto, seized and possessed of at least one lot or part of a lot within the limits of said Town, nor shall any one be entitled to vote for such Town Magistrate, Commissioner or Town Constable unless he has attained the age of twenty-one years, has paid a public tax, and has been a resident of said Town for six months immediately preceding the day of election.

III. *Be it further enacted*, That the Sheriff of Rutherford County, shall hold said elections for Town Magistrate, Commissioners and Town Constable, under the same regulations that elections are now held for Members of Assembly, and shall determine who is elected. He shall immediately furnish the Town Clerk with a certificate stating who is elected Town Magistrate, who are elected Commissioners and who Town Constable, which said certificate the Town Clerk shall enter in a book to be kept for that purpose, and the said certificate or entry thereof in the Clerk's book, shall be held and deemed conclusive evidence of the election of such persons to the offices therein specified.

IV. *Be it further enacted*, That the said Commissioners after they are thus elected and shall have taken an oath faithfully to perform their duty, shall be deemed and held a body politic and corporate by the name and style of the "Commissioners of Rutherfordton," and as such may sue and be sued, plead and be impleaded, have and use a common seal, and the same change at pleasure, and have perpetual succession. They, together with the Town Magistrate shall also have power to adopt all such rules, bye-laws and regulations, as they or a majority of them may deem necessary for the good order and government of said Town, and for the improvement of the streets, and for the preservation of health in said Town; *Provided*, the same shall not be inconsistent with the Laws and Constitution of this State, nor of the United States; they shall also have power to appoint a Town Clerk, who shall also act as Treasurer and hold his office for one year, to appoint a patrol of all persons over twenty-one years and under fifty years of age, and to prescribe the rules under which they shall act, and any person appointed patroller as aforesaid, who shall refuse to act, shall forfeit the sum of ten dollars, to be recovered by warrant in the name

of "the Commissioners of Rutherfordton," before the Town Magistrate, and to be applied as other taxes levied by said Town Magistrate and Commissioners.

V. *Be it further enacted*, That the said Town Magistrate and Commissioners, or a majority of them should they deem it necessary, are hereby authorized and empowered annually on or before the first Monday in May in each and every year, to lay a tax not exceeding one dollar on all taxable polls residing in said Town, and a tax not exceeding twenty-five cents on every hundred dollars worth of Town property within the limits of the same, which tax when collected shall be applied to the improvement and repair of the streets of said Town, and to such other purposes as the Town Commissioners and Magistrate or a majority of them may deem necessary for its prosperity and advancement.

VI. *Be it further enacted*, That the Town Magistrate, who shall also be a Justice of the Peace of said County, shall preside in all meetings of the Commissioners, and shall have power to call them together whenever he may deem it necessary; he shall have power to issue warrants in the name of "the Commissioners of Rutherfordton," against all persons who may violate the laws of the corporation, and shall try and determine the same. It shall also be his duty to have a general supervision over the corporation, to superintend all improvements and works ordered by the Commissioners, and see that the Laws are observed, and good order preserved.

VII. *Be it further enacted*, That it shall be the duty of each person residing in said Town, to deliver to the Town Magistrate on or before the first Monday in April in each and every year, a statement or account of the number of taxable polls, for which he or she may be by law bound, to pay Town tax; and also a statement of all Town property which he or she may own within the limits of said Town, and the value thereof, and any person failing to give either of the said statements, shall incur a forfeiture of ten dollars to be recovered by warrant in the name of "the Commissioners of Rutherfordton," before the Town Magistrate, and to be applied as the taxes levied by said Town Magistrates and Commissioners.

VIII. *Be it further enacted*, That the Town Constable shall give bond and security for the performance of his duties as other Con-

stables are now required to do by law, and shall have the same privileges and powers, and be subject to the same liabilities as other Constables. He shall also give bond and security in the sum of one thousand dollars payable to the State of North Carolina, faithfully to collect and pay over all Town taxes and penalties collected by him; he shall collect from each person in said Town the amount of tax imposed by the Town Magistrate and Commissioners whenever he shall be furnished with a list of said amount, and shall be required so to do, and pay the same to the Town Clerk; and to enable the said Town Constable especially to collect said tax, he is hereby authorized and empowered to have, use and exercise, all lawful ways and means which are usually had, used, and exercised by the several Sheriffs in this State, in the collection of the public revenue whether it be by distress, warrant or otherwise.

IX. *Be it further enacted*, That it shall be the duty of the Town Clerk, who shall be a citizen of said Town, but not a Commissioner or Magistrate, to record in a book kept for that purpose, all the proceedings of the said Magistrate and Commissioners, all ordinances, rules and regulations adopted by them for the government of said Town; to act as Treasurer and to receive and disburse under the directions of the said Magistrate and Commissioners, all the taxes and monies of the corporation; to advertise all the ordinances, laws, rules and regulations of said corporation at the Court House door, to submit annually to the Magistrate and Commissioners a full statement of the receipts and expenditures of the year, and publish the same at the Court House door, and to perform whatever other acts and duties may be required of him by the Magistrate and Commissioners, and for said services he shall receive such compensation as the said Magistrate and Commissioners may allot to him.

X. *Be it further enacted*, That no ordinance, law, rule or regulation of said corporation shall be in force, until the same shall have been advertised by the Town Clerk for the space of twenty days at the Court House in said Town.

XI. *Be it further enacted*, That if the Sheriff shall fail to hold said election for the Town officers as prescribed in the third section of this Act, he shall forfeit the sum of fifty dollars to be recovered by warrant in the name of the State, to be applied as the Commissioners of said Town may direct.

XII. *Be it further enacted*, That if the said Magistrate and Commissioners, shall permit the streets or roads within the limits of the said corporation to get out of order, and remain so as to become a nuisance, or shall permit any other nuisance to exist in said limits, which they have authority to remove, they shall be liable to indictment, and on conviction, shall be fined at the discretion of the Court.

XIII. *Be it further enacted*, That all Acts and clauses of Acts coming within the meaning and purview of this Act, be, and the same are hereby repealed.

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

[Ratified, the 12th day of January, 1841.]

CHAPTER LVIII.

An Act to incorporate the Town of Asheville, in the County of Buncombe, and to appoint Commissioners 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 James M. Smith, James W. Patton, N. W. Woodfin, Isaac T. Poor and James F. E. Hardy, be, and they are hereby incorporated into a body politic and corporate, by the name of the "Board of Commissioners for the Town of Asheville," and by such name, shall have succession and a common seal, and shall be invested with power to sue, and be sued, and to pass such bye-laws and ordinances not inconsistent with the Constitution of the United States, or of this State, as they or a majority of them shall think advisable for the good government of said Town.

II. *Be it further enacted*, That said Board of Commissioners shall have power to fill vacancies in their body, occasioned by death, removal, or refusal to act, and to appoint a magistrate of Police, a

Town Constable and Treasurer, and the Constable so appointed, shall collect all taxes, fines and forfeitures arising by virtue of this Act, by warrant before any Justice of the Peace for said County, and shall receive for his services, the fees, which by law the Constables of this State have a right to collect.

III. *Be it further enacted*, That the Commissioners aforesaid are hereby authorized and empowered to lay and collect annually a tax on the property and inhabitants of said Town, not exceeding ten cents on each hundred dollars valuation of real estate in said Town, and ten cents on every taxable poll, as they shall deem necessary, for the repair of the streets, and for the good of the Corporation.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER LIX.

An Act to incorporate the Town of Henderson in the County of Granville.

Be 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 the County of Granville, either by himself or his lawful deputy, on the first Monday in March, in each and every year, at the public Ware-house, in the Town of Henderson, in said County, to open polls for the election of five Commissioners, in and for the said Town of Henderson, to continue in office for the term of one year thereafter.

II. *Be it further enacted*, That any citizen of said Town of Henderson, in the County of Granville, who has resided therein for one year, and who, at the time of his election, is possessed of a freehold in the same of the value of fifty dollars, shall be eligible as such Commis-

sioner; and every inhabitant of the same, who has resided nine 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, or his lawful deputy aforesaid, shall give the casting vote.

III. *Be it further enacted*, That the said Commissioners, after their election, and before entering on the duties of their office, shall 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 Henderson."

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. *Be it further enacted*, That 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 Public Revenue, 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. *Be it further enacted*, That the corporate limits of said Town are hereby declared, one half mile in each and every direction from the public Ware-house, the said Ware-house to be the centre of the chartered limits of said Town.

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

[Ratified, the 11th day of January, 1841.]

RESOLUTIONS

OF A PRIVATE NATURE,

PASSED BY THE

LEGISLATURE OF NORTH-CAROLINA,

AT ITS SESSION OF 1840-41.

Resolution for the relief of Thomas Faison and others.

Resolved, That the several Judgments obtained by Charles L. Hinton, Public Treasurer of this State, to the use of the State of North Carolina, on motion of the Attorney General in the Superior Court of Law in and for the County of Wake, at Fall term, one thousand eight hundred and forty of said Court, under the thirty-fourth and eighty-fourth Sections of an Act, entitled "an Act to provide for the collection and management of the Revenue for this State," or under either of said Sections of said Act against the following persons: to-wit, Thomas Faison Clerk of the County Court of Sampson County, Nathaniel Potter Clerk of the County Court of Brunswick County, Nathan A. Stedman Clerk of the County Court of Chatham County, William Wilkins Clerk of the County Court of Rutherford County, Charles Mock Clerk of the County Court of Davidson County, Thomas F. Davis Clerk of the County Court of New Hanover County, John Taylor Clerk of the County Court of Orange County, Alfred Williams Clerk of the County Court of Wake County, Reuben D. Golding Clerk of the County Court of Stokes County, John Hall Clerk of the County Court of Macon County, John Ray Clerk of the County Court of Ashe County, Charles Baldwin Clerk of the County Court of Columbus County, John W. Grady Clerk of the County Court of Cherokee County, Jonathan Taylor Clerk of the County Court of Bertie County, John Giles Clerk of the County Court of Rowan County, James Simmons Clerk of the County Court of Halifax County, Wm.

G. Dougherty Clerk of the County Court of Gates County, J. J. Irwin Clerk of the County Court of Burke County, Francis K. Armstrong Clerk of the County Court of Surry County, be, and the same are hereby severally remitted upon payment of all costs incurred in rendering up said Judgments respectively, and all penalties and forfeitures therein and thereby incurred are also severally remitted and released.

[Ratified, the 26th day of December, 1840.]

Resolution in favor of the Executor of Bev. Daniel deceased.

Resolved, That the Treasurer of the State pay to the Executor of B. Daniel, forty dollars and fifty-four cents, balance due him for his salary, from the first of July to the twelfth of September one thousand eight hundred and forty, as Adjutant General of the State of North Carolina.

[Ratified, the 26th day of December, 1840.]

Resolution in favor of Priscilla Goodwin.

Resolved, That sixty dollars a year for the years one thousand eight hundred and thirty-nine, and one thousand eight hundred and forty, the sum heretofore allowed Priscilla Goodwin in pursuance of the certificate of the County Court of Perquimons, be allowed said Priscilla, out of any money in the Treasury not otherwise appropriated.

[Ratified, the 19th day of December, 1840.]

Resolution in favor of J. N. Crosby.

Resolved, That the Public Treasurer pay to James N. Crosby twenty dollars, for Furniture made for House of Commons.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of William Stronach.

Resolved, That the Public Treasurer pay to William Stronach, twelve dollars and seventy cents, for labor done in the Capitol, and that the same be allowed him in the settlement of his accounts.

[Ratified, the 12th day of January, 1841.]

Resolution authorising the Private Secretary of the Governor to employ a servant for the Governor's Office.

Resolved, That the Private Secretary of the Governor of North Carolina, is hereby authorised and empowered to hire a servant to wait in the Governor's Office. *Provided*, that not more than forty-eight dollars shall be appropriated to that purpose for any one year.

[Ratified, the 12th day of January, 1841.]

Resolution in favor of Lunsford Lane.

Resolved, That the Public Treasurer pay to Lunsford Lane, a free man of colour, twenty-four dollars, for six months attendance on the Executive Office, from the first day of July one thousand eight hundred and forty, to the first day of January one thousand eight hundred and forty-one.

[Ratified, the 12th day of January, 1841.]

Resolution in favor of the Public Treasurer.

Resolved, That Charles L. Hinton, Public Treasurer, be allowed the sum of three hundred and fifty-five dollars and forty-five cents, amount of Treasury Notes counted and burned by the Committee on Finance, in the settlement of his public accounts.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of Samuel Terry, Sheriff of Richmond County.

Resolved, That the Public Treasurer pay to Samuel Terry, Sheriff of Richmond County, the sum of nineteen dollars and sixty cents, being the State Tax on ninety-eight polls, which appears to have been an overcharge in the return of Magistrates appointed to take the list of Taxables for the year 1838, and that the Treasurer be allowed the same in the settlement of his public accounts.

[Ratified, the 19th day of December, 1840.]

Resolution in favor of Robert Woodsides, Sheriff of the County of Brunswick.

Resolved, That the Public Treasurer be authorised to pay to Robert Woodsides, Sheriff of Brunswick County, two hundred dollars, being the amount of a fine incurred by said Sheriff under the sixty-eighth, seventieth and seventy-first Sections of the Revised Statutes, Chapter one hundred and two, and that the same be allowed him in the settlement of his public account.

[Ratified, the 19th day of December, 1840.]

Resolution in favor of R. B. Davis and others.

Resolved, That the Secretary of State be, and he is hereby directed to take no legal steps towards the collection of the penalty incurred by R. B. Davis Sheriff of Washington County, John Harman Sheriff of Chatham County, John E. Hussy Sheriff of Duplin County, Eli McRee Sheriff of Macon County, Joshua Williamson Sheriff of Columbus County, and Samuel W. W. Vick Sheriff of Nash County, for failing to make a duplicate return of the Election for Governor held in their respective Counties, in August last, to the office of the Secretary of State, within thirty days thereafter.

[Ratified, the 30th day of December, 1840.]

Resolution in favor of Philip Hodnett, late Entry-taker for the County of Caswell.

Resolved, That the Public Treasurer refund to Philip Hodnett late Entry-taker for the County of Caswell, the sum of two hundred dollars, being the amount heretofore collected from him by the State, as a forfeiture for failing to make his return for the year one thousand eight hundred and thirty-eight, to the Secretary of State as Entry-taker aforesaid.

[Ratified, the 26th day of December, 1840.]

Resolution in favor of Travis Elmore, of Macon County.

Resolved, That the Secretary of State be directed to issue a grant to Travis Elmore, of the County of Macon, for sixty-three acres of land section number thirteen, in district number eleven, containing sixty-three acres as aforesaid, for which the purchase money was paid in full to the Commissioner of sale, in one thousand eight hundred and thirty-six.

II. *Resolved*, That this Resolution take effect from and after its passage.

[Ratified, the 26th day of December, 1840.]

Resolution in favor of William Young, of Macon County.

Whereas, Walter Sorrell late of Macon County, became the purchaser of section number one hundred and twenty-five, in district number ten, of the lands commonly called Cherokee Lands, at the sale of one thousand eight hundred and thirty-six, and the said Walter Sorrell having sold his interest in said section to William Young of the County of Macon, and the said William Young having paid to the State in full of the purchase money for said section as per Treasurer's receipt,

Therefore Resolved, That the Secretary of State, be directed to issue a grant to and in the name of William Young for the aforesaid sec-

tion, number one hundred and twenty-five, in district number ten, containing fifty Acres, and that this Resolution take effect from and after its passage.

[Ratified, the 26th day of December, 1840.]

Resolution in favor of Isaac Hunter.

Resolved by the General Assembly of the State of North Carolina, That Isaac Hunter, representing himself a free man of color, now of the City of Raleigh, who has emigrated into this State from the State of New York, be, and he is hereby licensed and allowed to remain and reside in this State for twenty days, any provision in the law of this State to the contrary notwithstanding; and that each and every the provisions of any penal Statute prohibiting his residence be, so far as he is concerned, suspended; and any penalty, forfeiture or punishment by him already incurred, be, and the same is hereby remitted: *Provided, nevertheless*, that after the expiration of the said twenty days, the said Isaac Hunter, if he shall not be removed from this State, shall be subject to all the pains and penalties prescribed for free persons of color migrating into this State, by the provisions of an Act, entitled "An Act concerning Slaves and free persons of color." *Provided, nevertheless*, that if the said Isaac Hunter shall, at any time during the twenty days he is allowed by these Resolutions to remain within the State, visit any non-slave-holding State, he shall, on his return, be deemed, held and considered as having thereby forfeited all and every benefit secured to him by these Resolutions.

Resolved, That these Resolutions shall take effect from and after their ratification.

[Ratified, the 30th day of December, 1840.]

Resolution in favor of J. R. Siler and D. R. Lowrey.

Resolved, That the Secretary of State be authorised, and he is hereby required to alter the certificate of Survey on which a grant issued

to Benjamin S. Brittain, in district number sixteen and section number ninety-six, and make the same conformable with the plot thereto annexed; and also, to alter the record of the grant in his office, so that it correspond with the certificate of survey after having been so altered; and that he be forthwith authorised to alter the grant when the same shall be presented to him for that purpose, *Provided*, that this Act shall not be construed so as to affect the rights of third persons vested since the issuing of said grant.

II. *Resolved*, That this Resolution take effect from and after its passage.

[Ratified, the 30th day of December, 1840.]

Resolution in favor of W. G. Lamb.

Resolved, That the Public Treasurer pay to W. G. Lamb, forty-six dollars and fifty cents, being the amount due him, for making Election Returns to ratify the amended Constitution, from the Counties of Currituck and Pasquotank, and that the same be allowed him in settlement of his public accounts.

[Ratified, the 11th day of January, 1841.]

Resolution relating to the Secretary of State.

Resolved, That the Secretary of State be authorised and directed to procure two large cases for the use of the Books and Papers of his Office, and that he cause them, together with the old cases of said Office, to be painted.

Resolved, further, That the Public Treasurer be, and he is hereby directed to pay a reasonable price for the same.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of James Erwin.

Resolved, That the Public Treasurer be directed to suspend the collection on so much of the Bonds of James Erwin, as were given for the purchase of certain lands at the Cherokee land sales, that are now in litigation, until the determination of the same, and that no interest shall accrue upon said Bonds until the determination of such suits.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of John S. Russwurm.

Resolved, That the Secretary of State be directed to issue to John S. Russwurm, of the State of Tennessee, a Military Land Warrant for eighteen hundred and twenty-five acres, for services rendered by his father, William Russwurm, a Lieutenant in the continental line of North Carolina, during the war of the Revolution.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of Thomas L. West.

Resolved, That the Public Treasurer pay to Thomas L. West former Clerk of the Commissioners for rebuilding the Capitol, the sum of fifty-nine dollars and forty-seven cents, being the amount due him as reported by the Committee on Public Buildings. The said money to be paid out of the funds raised by the sale of rock and other articles, sold by the Commissioners for rebuilding the Capitol.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of John Davis, Sheriff of Lenoir County.

Resolved, That John Davis Sheriff of Lenoir County, be, and he is hereby released and discharged from all penalties and forfeitures, in-

curred for failing to make returns of votes given for Electors of President and Vice President of the United States, at the late November election.

[Ratified, the 11th day of January 1841.]

Resolution in favor of John B. Love.

Resolved, That the Secretary of State be directed to issue to John B. Love, of the County of Haywood, a grant for one hundred and forty-two and a half acres of land in said County, on the original certificate, in the name of Joseph Cowan, obtained at the sales of one thousand eight hundred and twenty, for section number eleven, in district number three.

Resolved, further, That this Resolution take effect immediately on the production of the Treasurer's receipt in full of the original purchase-money.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of Mark H. Hill.

Resolved, That the Public Treasurer pay to Mark H. Hill, seven dollars and twenty cents for carrying a writ of election to supply the vacancy occasioned in the Senate, from the County of Orange, by the resignation of Willie P. Mangum.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of John J. Briggs.

Resolved, That the Public Treasurer be directed to pay John J. Briggs, of Raleigh, the sum of eight dollars and ten cents, for articles purchased for and labor performed about the doors of the Capitol.

[Ratified, the 11th day of January, 1841.]

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, the 11th day of January, 1841.]

Resolution to pay certain Contingent Expenses of the General Assembly.

Resolved, That the Public Treasurer be directed to pay Green Hill the sum of one hundred and fifty-eight dollars sixty-nine cents, to be disbursed by him in the payment of sundry small bills for furniture, and for Contingent items of account, ordered by the two Houses of this General Assembly.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of Edward Benson.

Resolved, That the Public Treasurer pay to Edward Benson, the sum of seven dollars and twenty cents, for conveying the Writ of Election to the County of Orange, to supply the vacancy occasioned by the resignation of William A. Graham, Esquire.

[Ratified, the 11th day of January, 1841.]

Resolution authorising the removal of the Map of the Cherokee Lands from the County of Macon, to the County of Cherokee.

Resolved, That the Clerk of the County Court of Macon, be required to deliver the Map of the lands of Cherokee now in his office, to the Clerk of the County Court of Cherokee, and the said Map be regarded a record in the office of the Clerk of Cherokee, any law to the contrary notwithstanding.

[Ratified, the 19th day of December, 1840.]

Resolution in favor of John L. Smith, of Haywood County.

Resolved, That the Public Treasurer pay to John L. Smith, out of the fund set apart for Internal Improvement, (not otherwise appropriated) the sum of ninety-four dollars, for services rendered as Commissioner of the Nantahalah Mountain Road, in the Counties of Macon and Cherokee.

[Ratified, the 11th day of January, 1841.]

Resolution in favor of James C. Turrentine.

Resolved, That James C. Turrentine, Sheriff of Orange, be allowed the sum of seventy-eight dollars, to be paid out of any unappropriated money in the Treasury, on account of three hundred and ninety insolvent polls, whose tax has heretofore been paid by him to the Treasurer of the State.

[Ratified, the 11th day of January, 1841.

Resolution in favor of George Little.

Resolved, That the Public Treasurer be directed to pay George Little, the sum of ninety dollars, the amount paid by him for a title to one-eighth part of a lot of land in the City of Raleigh, which was sold to said Little as the property of the State of North Carolina; and that said sum be allowed the Treasurer in the settlement of his accounts.

[Ratified, the 11th day of January, 1841.

Resolution in favor of Alexander and Benjamin Morrison.

Resolved, That the Public Treasurer pay to Alexander Morrison and Benjamin Morrison, heirs at law of Ann Morrison, dec'd, twenty dollars, the amount due said Ann Morrison as a State pensioner at the time of her death.

[Ratified, the 11th day of January, 1841.]

NORTH-CAROLINA.

SECRETARY OF STATE'S OFFICE,
April 1841.

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.*

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TREASURER'S REPORT.

Treasury Department,
November 16, 1840.

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,

C. L. HINTON.

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, passed at the session of 1827, entitled "an Act concerning the Public Treasury," 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 Nov. 1838. was		$37,466 56
Cash received of Samuel F. Patterson and Charles L. Hinton, commissioners for the sale of Cherokee Lands,	$46,450 76	
Do. Received on Cherokee Bonds, the sale of 1838,	2,805 25	
Do. From the Buncombe Turnpike Co. being a dividend of 15 per ct. on the stock owned by the State in said		

	Company,	750 00
Do.	Received from the Bank of Cape Fear, for dividend No. 59 of 5 per cent. on ten shares of stock unappropriated January, 1839,	50 00
Do.	do. For dividend No. 60, of 4 per cent., in July, 1839,	40 00
Do.	do. For dividend No 61, of 4 per cent. January, 1840,	40 00
Do.	Received for dividend No. 62, 2 1-2 per cent., July, 1840,	25 00
Do.	Received from E. H. Wingate, Cash'r., for tax of 25 cents on each share of stock owned by individuals in the Bank of Cape Fear, (for 1838,)	1,770 29
Do.	do. for 1839,	2,123 00
Do.	do. for 1840,	2,189 50
Do.	Received from C. Dewey, Cash'r. of the Bank of the State of N. C., being a tax of 25 cents on each share of stock held by individuals in said Bank, (for 1839,)	2,250 00
Do.	do. for 1840,	2,250 00
Do.	Received from J. W. Guion, Cash'r. of the Merchant's Bank of Newbern, being a tax of 25 cts. on each share of stock held by individuals in said Bank for 1839,	562 50
Do.	do. for 1840,	562 50
Do.	Received from Philip Hodnett, entry taker of Caswell county, as penalty for not making return to Secretary of State,	200 00
Do.	Received from Sheriffs for public tax for 1838,	78,013 86
Do.	do. for additional returns	

for 1838,	281 59	
Do. Received from Sheriffs for public tax for 1839,	76,374 58	
Do. do. for additional returns for 1839,	192 47	
Making an aggregate of		216,931 30
Which, added to the balance of cash on hand 1st Nov. 1838, makes the sum of		$254,397 86

The expenditures from the public fund for the same period, that is, from the 31st of October, 1838, until the 1st of November, 1840, consists of the following items:

Cash paid expense of survey and sale of Cherokee lands in 1838,	3,450 50
Do. Refunded to commissioners of sale of Cherokee lands,	32 41
Treasury notes burnt by committee of finance,	1,290 67
Do. General Assembly,	33,795 93
Do. Judiciary,	51,876 11
Do. Executive Department,	4,600 00
Do. Treasury Department,	4,000 00
Do. State Department,	1,700 00
Do. Comptroller's Department,	2,000 00
Do. Adjutant General	400 00
Do. Rebuilding Capitol,	105,540 96
Do. Public Printing,	4,661 82
Do. Weights and Measuers,	3,829 50
Do. Council of State,	349 20
Do. Governor's election,	698 00
Do. Senatorial elections,	200 75
Do. Post Office,	1,030 84
Do. Tax remitted,	229 06
Do. Pensioners,	1,342 50
Do. Contingencies,	7,005 21

Do. Repairs, and furnishing Governor's house,	748 33	
Do. Congressional elections,	568 38	
Do. Sheriffs for settling public tax,	2,206 38	
Making an aggregate of		231,556 55
Which, deducted from the amount of receipts, leaves a balance in the hands of the Public Treasurer on the 1st day of Nov. 1840, of		$22,841 31

II. *Of the Literary Fund.*

The balance of cash in the hands of the Public Treasurer, as Treasurer of the Literary Fund, on the 31st of October, 1838, as reported to the Legislature of that year, was,		27,285 11
The receipts at the Treasury of moneys belonging to this fund, for the two last fiscal years, that is, from the 31st of October, 1838, to the 1st of Nov. 1840, are as follows:		
Cash received for entries of vacant land for 1839,	9,737 93	
Do. do. for 1840,	1,855 17	
Do. Auction tax for 1839,	592 11	
Do do. do. for 1840,	519 07	
Do. Received from the President & Directors of the fund for Internal Improvement, as interest on loans, appropriated to the Literary Fund, (for 1839.)	9,335 65	
Do. Received for 1840,	5,168 70	
Do. Received from the President & Directors of the Roanoke Navigation Company, dividend No. 5 and 6 of 1 1-2 per cent. on 500 shares of stock in said company,	1,500 00	

Do. do. do dividend No. 7.	1,125 00
Do. Received as principal on loans by the Board of Literature for 1839,	49,480 00
Do. do. do. for 1840,	26,185 85
Cash received as interest on loans by the Board of Literature for 1839	9,808 77
Do. do. for 1840	14,531 03
Do. Received from the Bank of the State of North Carolina, dividend, No. 7, of 5 per ct. on 5,000 shares of stock in said Bank, held by the President and Directors of Literary Fund	25,000 00
Do. do. dividend, No. 8, of 5 1–4 per cent.	26,250 00
Do. " dividend, No. 9, of 3 per ct.	15,000 00
Do. " dividend, No. 10, of 3 1–4 per cent.	16,250 00
Do. Received of the Bank of Cape Fear dividend, No. 59, of 5 per cent, on 5,207 shares of stock in said Bank	26,035 00
Do. Received dividend, No. 60, of 4 per cent on do	20,828 00
Do. Received dividend, No. 61, of 4 per cent. on do	20,828 00
Do. Received dividend, No. 62, of 2 1–2 per cent. on do	13,017 50
Do. Received dividend, No. 18, of 1 per cent. on 650 shares of stock in the Cape Fear Nav. Company	650 00
Do. Rec'd dividend, No. 11, of 1 pr. ct.	650 00
Do. Tax on retailers of spirituous liquors for 1839	3,068 39
Do. do do for 1840	2,735 86
Do. Additional return on retailers of spirituous liquors	18 80
Do. Received as interest on bonds of the Raleigh and Gaston Rail Road Com-	

	pany, due 1st January, 1840,	3,680 16	
Do.	do due 1st July, 1840	4,200 00	
Do.	Received as principal on loan to the Raleigh and Gaston Rail Road Co.	50,000	
Do.	" Interest on bonds of the Wilmington and Raleigh Rail Road Co.	2,484 23	
	Making an aggregate of		$360,535 52
	Which, added to the balance of Cash on hand the 1st Nov. 1838, makes the sum of		$387,820 63
	The disbursements of the Lit'ry Fund during the foregoing period are as follows, (viz:)		
	Cash paid loans made to different individuals by the President and Directors of the Literary Fund.	13,800 00	
Do.	The expense of the Board	1,948 12	
Do.	For draining Swamp Lands	55,130 95	
Do.	For 115 shares of stock in the Bank of Cape Fear	11,500 00	
Do.	For bonds in the Raleigh and Gaston Rail Road Company	140,000	
Do.	For bonds in the Wilmington and Raleigh Rail Road Company	85,000 00	
Do.	" As interest on deferred payment of stock subscribed for by the Board of Literature in the Bank of Cape Fear	34 50	
Do.	The State's quota for thirteen school districts established in the county of Tyrrell	520 00	
Do.	" For sixteen school districts in the county of Cherokee	640 00	
Do.	" For twenty-two school districts in the county of Richmond	880 00	
Do.	" For nine school districts in the		

county of Macon	360 00	
Making an aggregate amount of		$309,813 57
Which, deducted from the receipts, leaves a balance in the hands of the Public Treasurer as Treas. of Lit. Fund on the 1st Nov. 1840		$78,007 06

III. *Of the Fund for Internal Improvement.*

The balance of cash in the hands of the Public Treasurer, as Treasurer of the Fund for Internal Improvement, on the 31st of Oct. 1838, as reported to the Legislature of that year, was		$3,752 26
The receipts at the Treasury Department on account of the Fund for Internal Improvement for the two last fiscal years, that is, from the 31st of Oct. 1838, until the 1st of Nov. 1840, are as follows:		
Cash received from J. W. Guinn, Atto. collected on Cherokee bonds	14,426 34	
Do. " From T. L. Clingman, Atto. collected on Cherokee bonds	3,692 53	
Do. " From J. L. Dilliard and other Justices of Haywood county, in part of bonds due the State	910 00	
Do. " Bank of Cape Fear, dividend No. 59, of 5 per cent. on 112 shares of stock appropriated to this fund	560 00	
Do. " Dividend, No. 60, of 4 pr. ct.	448 00	
Do. " Dividend, No. 61, of 4 pr. ct.	448 00	
Do. " Div'd, No. 62, of 2 1–2 pr. ct.	280 00	
Do. " As principal on loans made by the Board of Internal Improvement to sundry individuals	13,682 48	
Do. " On Cherokee bonds	11,880 48	
Do. " On transfer of loans to pay the		

	State's subscription for stock in the Wilmington and Raleigh Rail Road Company	150,000 00	
Do.	" Amount loaned the Wilmington and Raleigh Rail Road Company, and converted into payment of stock in said company	112,000 00	
Do.	" Individual bond	4,000 00	
	Making an aggregate of		$312,327 83
	Which, added to the balance before stated, makes the sum of		$316,080 09
	The disbursements from this fund for the same period, are as follows:		
	Cash paid the expenses of the Board of Internal Improvement	855 00	
Do.	" D. G. McRae, special agent to receive subscription for the Fayetteville and Western Rail Road	112 50	
Do.	" S. Colton, agent for the Fayetteville and Western Rail Road	750 00	
Do.	" Expense of the survey of Nags Head	2,336 24	
Do.	Thos. L. Clingman, Atto., commissions of 5 per cent. on $5,652 33, collected by him on Cherokee bonds	282 62	
Do.	Jesse Cockeram, as a remission of interest on Cherokee bonds,	29 52	
Do.	J. R. Love, as a remission of interest on Cherokee bonds,	23 94	
Do.	S. Birdsall, compensation as clerk to the Board of Internal Improvement,	255 00	
Do.	J. W. Green, Treasurer of the Wilmington & Raleigh Rail Road Company, for States' subscription for stock in said Company,	300,000 00	
Do.	paid clerk of the Board of Internal Improvement, per resolution of last		

General Assembly,	250 00	
Do. paid loans to individuals,	12,000 00	
Do. " Moses Addington, commissioner for State road leading from Franklin, in Macon County, to Murphy, in Cherokee County,	1,358 00	
Making an aggregate of		318,252 82
Which shews a balance of expenditure over the receipts, of	2,172 73	

All the disbursements made at the Treasury Department, during the two last fiscal years, it is believed, are sustained by proper and appropriate vouchers, which will be found on file in the Comptroller's Office.

RECAPITULATION.

The foregoing statements show the balances of the different funds on the 31st of October, 1840.

Amount as Public Treasurer,		22,841 31
Do. as Treas. of Lit. Fund,	78,007 06	
Deduct amount loaned to the fund of Int. Impt.,	2,172 73	
		75,834 33
Making an aggregate amount of		$98,675 64

With which the Public Treasurer, as such, and Treasurer of 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, 1840.

The foregoing amount is disposed of as directed by law, in the following manner to-wit:

Deposite in the Bank of the State,	47,894 31	
Do. in the Bank of Cape Fear,	45,973 99	
		93,868 30
Cash in hand in notes,	88 73	
Do. Treasury change,	349 64	

Do. Silver,	4 40	
Cash vouchers,	4,364 57	
		4,807 34
Making a corresponding amount of		$98,675 64

A dividend of 15 per cent. has been declared, during the present year, on the stock held by the State in the Buncombe Turnpike Company, amounting to $750, which was sent to this office; but owing to the fact of its being principally in notes of the Georgia Banks, which were at a considerable discount in this section of the State, the Treasurer did not feel justifiable in receiving them, and had the amount returned to the President of the Company.

Such Bank exhibits as have been received during the two last fiscal years at this Department, are annexed; and such others as may be received during the sitting of the Legislature will be forthwith communicated.

The statements accompanying this Report will be found to contain all the information on the different subjects to which they relate, which is required to be furnished by the Act of Assembly regulating the Treasury Department.

That portion of the public revenue accounted for by the Sheriffs of the different counties, has been, as usual, promptly paid in every instance. The delinquency of two auctioneers will be reported—one of whom has settled since the 31st of October—the time prescribed by law for their settling with the Public Tresurer.

Respectfully submitted,

C. L. HINTON, *Pub. Treas.*

Statement of Cash received in the Treasury, from the 31st day of October, 1838, to the 1st day of Novembr, 1840, on additional return of Taxes.

SHERIFFS.	COUNTIES.	WHEN DUE.	AMOUNT.
William D. Rascoe	Chowan	1837	4 12
Will. H. Archibald	Cabarrus	"	30 13
John H. Hardie	Rowan	"	29 55
John M. Smith	Davidson	"	16 00
Wm. Wilkins, (late)	Rutherford	"	25 20
Robt. B. Davis	Washington	"	33 84
Alex. Johnson	Cumberland	"	43 25
P. B. Burt	Wake	"	90 77
Ed. K. Jiggitts	Hertford	"	8 75
			281 59
Wm. H. Archibald	Cabarrus	Tav. Tax "	3 76
Wm. Wilkins, (late)	Rutherford	" " "	7 52
Thomas J. Kinnear	Duplin	" " "	7 52
		1839	$300 39
Thomas L. Lea	Caswell	1838	14 40
Martin Roberts	Rockingham	"	16 00
James Quinn	Lincoln	"	5 70
E. K. Jiggitts (late)	Hertford	"	14 59
E. J. Peebles	Northampton	"	104 97
John L. Ferrel, (late	Camden	"	1 23
P. B. Burt	Wake	"	35 58
		1840	$192 47

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 isssued under the Act of	1814	82,000 00
do do	1816	80,000 00
do do	1823	100,000 00
		$262,000 00
Amount redeemed and burnt by the Committee of Finance as per Comptroller's Reports		212,587 72
		49,412 28
Deduct amount in the vault of the Treasury		349 64
Shewing balance unredeemed of		$49,062 64

Statement of the amount of the different Branches of Revenue, from the 31st day of October, 1838, to 1st November, 1840.

BRANCHES OF REVENUE.	AMOUNT.	AGGREGATE.
1838		
Tax on Land	29,134 89	
" on Town Property	2,117 23	
" on Polls	28,710 06	
" on Stud Horses	2,563 15	
" on Gates	204 45	
" on Stores	9.562 04	
" on Pedlars	2,239 08	
" on Artificial Curiosities	564 00	
" on Natural do	338 40	
" on Billiard Tables	2,350 00	
" on Fines	200 00	
" on Tax remitted	30 56	
		78,013 86
1839		
Tax on Land	29,301 92	
" on Town Property	2,187 57	
" on Polls	29,242 10	
" Stud Horses	2,321 01	
" on Gates	173 90	
" on Stores	9,273 40	
" on Pedlars	1,910 08	
" on Artificial Curiosities	676 80	
" on Natural do	296 10	
" on Negro Traders	28 20	
" on Billiard Tables	940 00	
" on Brokers	23 50	
		76,374 58
Aggregate amount of public tax for 1838 & 9		$154,388 44
Additional returns of Public Tax for 1837	281 59	
do do 1838	192 47	
		474 06
BANK TAX.		
Bank of the State	4,500 00	
Bank of Cape Fear	6,082 79	
Merchants' Bank of Newbern	1,125 00	
		11,707 79
DIVIDENDS.		
Buncombe Turnpike Company	750 00	
Bank dividends on unappropriated stock	155 00	
Cherokee Land Sales	49,256 01	
Philip Hodnett, Entry Taker, Caswell	200 00	
		50,361 01
Aggregate am't. rec'd. on acc't, Pub. Fund,		$216,931 30

STATEMENT CONTINUED.

BRANCHES OF REVENUE.	AMOUNT.	AGGREGATE.
LITERARY FUND.		
DIVIDENDS.		
Bank of the State of North Carolina	82,500 00	
Bank of Cape Fear	80,708 50	
Roanoke Navigation Company	2,625 00	
Cape Fear do do	1,300 00	
		167,133 50
Entries of vacant land	11,593 40	
Auction Tax	1,111 18	
Tavern Tax	5,804 25	
		18,508 83
Principal on loans by Literary Board	125,665 85	
		125,665 85
Interest " "	24,339 80	
Interest on loans by Board Int. Impt.,	14,504 35	
Interest on bonds of the Ral. & Gas. R. R.	7,880 16	
Interest on bonds of the Wil. & Ral. R. R.,	2,484 23	
		49,208 54
Additional returns Tavern Tax,	18 80	18 80
Aggregate am't. rec'd. on acc't. Lit. Fund,		$360,535 52
INTERNAL IMPROVEMENT FUND.		
Dividends on Bank Stock		1,736 00
Received on Cherokee Bonds		30,909 35
Principal on loans		279,682 48
Aggregate amount received on acc't Fund for Int. Impt.		$312,327 83
Aggregate amount received on account of Public Fund, Literary, and Internal Improvement Funds		$889,794 65

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		5,000
Shares of Stock in the Bank of Cape Fear, owned by the President and Directors of the Literary Fund	5,322	
Shares of stock in the Bank of Cape Fear, owned by the State of North Carolina	10	
Shares of stock in Bank of Cape Fear, owned by the State, and dividends appropriated to Fund for Internal Improvement	112	5,444
Aggregate number of shares		10,444

Statement of Insolvents allowed by the Comptroller to Sheriffs in the settlement of the Taxes of 1838 and 1839.

SHERIFFS.	COUNTIES.	No. OF POLLS.	AMOUNT.
William D. Petway	Edgecombe	32	6 40
James R. Riddick	Gates	24	4 80
Curtis Thompson	Sampson	91	18 20
James Quinn	Lincoln	56	11 20
Nathan Bagley	Perquimons	57	11 40
John B. Dawson	Craven	84	16 80
Ben. M. Selby	Pitt	94	18 80
J. W. Pearson	Burke	39	7 80
Thomas Wilson	Yancy	39	7 80
J. W. Carson	Rutherford	93	18 60
James Simmons	Halifax	72	14 40
Joshua A. Pool	Pasquotank	36	7 20
E. J. Peebles	Northampton	93	18 60
A. Carmichael	Wikes	56	11 20
J. W. Taylor	Greene	9	1 80
Thomas L. Lea	Caswell	44	8 80
John H. Smith	Davidson	15	3 00
Samuel Terry	Richmond	30	6 00
Nelson G. Howell	Haywood	31	6 20
William Thompson	Wayne	62	12 40
Isaac White	Randolph	40	8 00
John H. Hardie	Rowan	84	16 80
W. D. Rascoe	Chowan	24	4 80
Henry G. Hampton	Surry	40	8 00
E. K. Jiggitts	Hertford	50	10 00
J. S. Jones	Warren	95	19 00
P. B. Burt	Wake	70	14 00
Isaac Baxter	Currituck	26	5 20
Joseph M. Bogle	Iredell	159	31 80
John Harman	Chatham	136	27 20
Owen Fennell	New Hanover	24	4 80
Allen Grist	Beaufort	2	40
Thomas Foster	Davie	53	10 60
Young H. Allen	Anson	90	18 00
Eben Hearne	Montgomery	65	13 00
David W. Saunders	Onslow	57	11 40
Alex. Johnson	Cumberland	102	20 40
Robert B. Davis	Washington	24	4 80
James W. Doke	Guilford	111	22 20
Salathiel Stone	Stokes	155	31 00
	1838		$492 80

Young H. Allen	Anson		84	16 80
J. H. Pearson	Burke		4	80
Willie Jones	Buncombe		13	2 60
Alex. Johnson	Cumberland		74	14 80
Allen Grist	Beaufort		21	4 20
Francis McKee	Cherokee		25	5 00
John B. Dawson	Craven		80	16 00
Thomas L. Lea	Caswell		91	18 20
W. D. Rascoe	Chowan		16	3 20
Isaac Baxter	Currituck		20	4 00
George Dill	Carteret		19	3 80
John Harman	Chatham		96	19 20
John M. Smith	Davidson		34	6 80
William D. Petway	Edgecombe		31	6 20
Gustin Perry	Franklin		106	21 20
J. W. Doke	Guilford		105	21 00
N. G. Howell	Haywood		40	8 00
Ed. K. Jiggitts	Hertford		9	1 80
Richard G. Cowper	do		45	9 00
Allen S. Ballinger	Johnson		27	5 40
Joseph M. Bogle	Iredell		78	15 60
James Quinn	Lincoln		15	3 00
Owen Fennell	New Hanover		30	6 00
E. J. Peebles	Northampton		121	24 20
David W. Saunders	Onslow		104	20 80
Joshua A. Pool	Pasquotank		28	5 60
Nathan Bagley	Perquimons		105	21 00
Ben. M. Selby	Pitt		94	18 80
John H. Hardie	Rowan		74	14 80
J. W. Carson	Rutherford		52	10 40
Samuel Terry	Richmond		48	9 60
Isaac White	Randolph		5	1 00
Martin Roberts	Rockingham		55	11 00
Salathiel Stone	Stokes		121	24 20
H. G. Hampton	Surry		57	11 40
P. B. Burt	Wake		68	13 60
Robert B. Davis	Washington		28	5 60
William Thompson	Wayne		61	12 20
J. S. Jones	Warren		49	9 80
George Philips	Wilkes		81	16 20
Thomas Wilson	Yancy		30	6 00
		1839		$448 80

STATE OF THE BANK OF CAPE FEAR ON THE MORNING OF MONDAY, THE 1st OF JULY, 1839.

Capital Stock	$1,382,100 00	Specie	203,052 00
Increased Capital	7,881 00	Deposites in Foreign Banks	460,935 00
Notes in Circulation	1,086,268 00	Notes in other Banks on hand	89,203 00
Deposites	222,563 00	Due by Banks in North Carolina	45,883 00
Dividends Unpaid	1,265 00	Real estate	89,636 00
Due to Banks	51,591 00	Debt	1,945,025 00
Profit and Loss	82,066 00		
	$2,833,734 00		$2,833,734 00

JOHN HILL, CASHIER.

STATE OF THE BANK OF CAPE FEAR ON MONDAY MORNING THE 16th DECEMBER, 1839.

Capital Stock	$1,382,100 00	Specie	153,285 00
Increased Capital	47,661 00	Deposites in Foreign Banks	330,917 00
Notes in Circulation	947,829 00	Notes of Foreign Banks on hand	92,914 00
Deposites	225,316 00	Notes of No. Ca. Banks " "	61,593 00
Dividends Unpaid	1,310 00	Due by Banks in North Carolina	46,576 00
Due to Banks	38,228 00	Real Estate	91,383 00
Profit and Loss	80,567 00	Debt	1,946,343 00
	$2,723,011 00		$2,723,011 00

JOHN HILL, CASHIER.

STATE OF THE MERCHANT'S BANK OF NEWBERN ON FRIDAY, THE 31st OF MAY, 1839.

Gold and silver	$32,607 00
Notes of the Bank of the United States	12,310 00
Notes and checks of the Bank of N. C.	9,225 77
Real Estate	6,334 34
☞ Bills Receivable	284,072 00
Bank of the United States	2,388 64
Merchant's Bank, Baltimore	1,656 65
Fulton Bank, New York	21,480 37
Bank of Cape Fear, Washington	16,723 22
Bills of Exchange	33,176 42
	$419,974 41

Capital Stock	225,000 00
Notes in Circulation	144,145 00
Deposites	41,916 14
Dividend No. 5, Unpaid	45 00
Do. No. 6, just Declared	7,875 00
Profit and Loss (surplus)	993 27
	$419,974 41

☞ Of the above sum of $284,072, there is due from Stockholders, not Directors,	$38,487
And due from Directors,	3,025

Major C. L. HINTON, PUBLIC TREASURER.

SIR,

Above I present you with exhibit of this Bank, agreeably to its Charter.

The Bank has declared a semi-annual dividend of 3½ per cent.

With great respect,
Your ob't. serv't.
JOHN W. GUION, Cash'r.

STATE OF THE MERCHANT'S BANK OF NEWBERN ON THURSDAY, 28th NOVEMBER, 1839.

Gold and Silver	28,859 97			Capital Stock	225,000 00
Notes of Bank of the United States	2,950 00			Deposites	49,636 26
Do do Cape Fear	9,888 00			Notes in Circulation	132,495 00
Do and checks of the Bank of the State	1,420 35			Dividend No. 6 Unpaid	101 50
		43,118 32		do " 7 Just Declared	6,750 00
Real Estate		6,334 34		Profit and Loss, (surplus)	1,996 55
Bills Receivable	314,922 90			Due to Bank of Cape Fear	2,931 15
Do Suspended Debt	5,427 00			Due do Washington Branch	3,263 38
		320,349 90			
☞					$422,173 84
Bank of the United States	1,668 66				
Merchants' Bank Baltimore	2,494 00				
Fulton Bank, New York	6,658 62				
		10,821 28			
Bills of Exchange		41,550 00			
		$422,173 84			

☞ Of the above amount $320,349 90, there is due from Stockholders (not Directors) $34,007
And due from Directors 7,275

☞ Bills and Notes discounted,	$2,102,078 50	
Bills of Exchange,	636,211 54	
		$2,738,290 04
Real Estate,		37,433 91
Pension Office,	243 22	
Pensioners under act 1828,	123 43	
Do. 1832,	7,272 08	
Revolutionary Pensions,	487 77	
		8,126 50
DUE FROM BANKS.		
Merchants' Bank of Boston,	772 28	
Merchants' " Baltimore,	2,958 04	
Bank of Virginia, Norfolk,	587 03	
Do. Petersburg,	39,178 29	
Planters' and Mech's B'k, Charleston,	195 79	
Bank of Cape Fear, Wilmington,	29,292 95	
Do. Washington,	1,495 03	
Do. Salisbury,	657 68	
		75,137 09
NOTES OF OTHER BANKS.		
United States Bank,	350 00	
Virginia Banks,	11,115 00	
South Carolina Banks,	360 00	
North Carolina Banks,	31,613 00	
		43,438 00
SPECIE.		
Silver,	275,083 77	
Gold,	106,492 19	
Cents,	86 91	
		381,662 87
Vouchers unadjusted,		6,953 81
Bills and Checks in transitu,		1,382 72
		$3,292,424 94
☞ Of this item, viz: Bills and Notes discounted, there is due by Directors,	79,744 58	
Do. Stockholders not Directors,	58,207 53	
	$137,952 11	

Capital Stock,		$1,500,000 00
General Profit and Loss,	$227,885 69	
Contingent Fund.	30,000 00	
		257,885 69
Treas'r of the U. States for P. O. D.		21 25
PENSION OFFICE.		
Pensioners under act of 1836,	498 55	
do 1838,	3,806 54	
Invalid Pensioners,	11,413 17	
		15,718 26
Public Treasurer of North Carolina,		16,528 28
DUE TO BANKS.		
Merchants' Bank, New York,	50,289 54	
Fulton, " do	1,548 16	
North River, " do	960 16	
Mechanics, " do	6,790 99	
Bank of the U. States, Philadelphia,	7,244 44	
Farmers' Bank, Norfolk,	5,497 88	
do Petersburg,	14,071 54	
Bank of Metropolis, Wash'n City,	228 91	
Bank State Alabama, Mobile,	2 00	
Union Bank, La. New Orleans,	27 25	
Bank of Cape Fear, Raleigh,	9,372 80	
do Fayetteville,	30,799 39	
Agency Bank U. States, do	597 23	
		125,430 00
NOTES IN CIRCULATION.		
Principal Bank, Raleigh,	271,871 00	
Branch " Newbern,	171,654 00	
do " Tarborough,	173,835 00	
do " Fayetteville,	226,653 00	
do " Wilmington,	246,327 00	
do " Elizabeth City,	104,905 00	
		1,195,245 00
Dividends, unpaid,		2,397 25
Individual Deposites,		179,199 12
		$3,202,424 94

STATE OF THE MERCHANT'S BANK OF NEWBERN ON SATURDAY THE 30th MAY, 1840.

Gold and Silver,	31,592 13		Capital Stock,		225,000 00
Notes of Bank of the United States,	2,552 00		Deposites,		39,478 24
do do Cape Fear,	16,695 00		Notes in circulation,		118,895 00
do and checks of Bank of the State,	9,768 25		Dividend No. 6, unpaid,	31 50	
		54,607 38	do 7 do	198 00	229 50
Real Estate,		6,334 34	Bank of Cape Fear,		27,385 77
Bills receivable,	295,389 52		Dividend No. 8, just declared, 3 1-2,		7,875 00
do do in suit,	5,326 00		Profit and Loss, (surplus) after dividend No. 8,		2,376 47
		300,715 52			
		21,717 60			$421,239 98
Bills of Exchange,					
Bank of Cape Fear, Washington,	22,979 62				
Fulton Bank, New York,	12,311 40				
Merchants' Bank, Baltimore,	1,095 13				
Bank of the United States,	1,478 99				
		37,865 14			
		$421,239 98			

Of the above amount of $300,715 52, there is due from Stockholders (not Directors) $12,946
And due from Directors 7,575

CHARLES L. HINTON, Esq. PUBLIC TREASURER.

MERCHANT'S BANK OF NEWBERN, JUNE 4th, 1840.

SIR:—In obedience to the Charter of the Bank, I herewith enclose you a Sheet of Balances, which exhibits, as you will perceive, the condition of the Institution on the 30th of May just past.

I have the honor to be, your ob't serv't,
MATHIAS E. MANLY, PRESIDENT.

STATE OF THE BANK OF CAPE FEAR ON THE

	Capital Stock.	Increased Capital.	Notes. Issued.	Deposites.	Dividends Unpaid.	Due to Banks.	Profit and Loss.
At Bank	1,382,100	89,094	1,398,257	50,241	36,094	65,097	22,909
" Fayetteville	"	"	"	47,891	"	951	1,237
" Salem	"	"	"	"	"	"	1,050
" Hillsborough	"	"	"	9,690	"	"	1,016
" Washington	"	"	"	22,783	"	13,838	955
" Salisbury	"	"	"	5,919	"	"	869
" Raleigh	"	"	"	59,062	"	27	1,564
	1,382,100	89,094	1,398,257	195,586	36,094	79,913	29,600

RECAPIT

Capital Stock	1,382,100 00
Increased Capital	89,094 00
Notes in Circulation	904,784 00
Deposites	195,586 00
Dividends Unpaid	36,094 00
Due to Banks	79,913 00
Profit and loss	29,600 00
	$2,717,171 00

ORNING OF WEDNESDAY, THE 1st JULY 1840.

pecie.	Deposites in Foreign B'ks.	Notes of F'n B'ks on hand.	Notes of N. C. Bks on hand.	Due by Banks in No. Ca.	Notes of this Bank on hand.	Bills of Exchange in Suit.	Real Estate.	Debt.
50,581	218,966	30,536	15,047	5,372	168,730	7,598	14,461	439,639
39,535	154,749	7,910	17,435	28,729	122,263	"	14,000	428,024
1,267	"	5,417	6,319	"	12,761	"	2,007	198,418
2,700	1,010	198	617	"	14,263	"	"	196,076
13,961	77,486	423	3,484	187	92,253	"	325	113,646
2,183	4,800	11,030	1,862	"	22,785	"	6,290	209,956
6,584	37,358	5,183	5,671	6,069	60,418	1,502	11,339	161,508
56,611	494,369	60,697	50,435	40,357	493,473	9,010	48,425	1,747,276

LATION.

Specie	266,611 00
Deposites in Foreign Banks	494,369 00
Notes of Foreign Banks on hand	60,697 00
Notes of No. Ca. do do	50,435 00
Due by Banks in North Carolina	40,357 00
Bills of Exchange in Suit	9,010 00
Real Estate	48,425 00
Debt	1,747,267 00
	$2,717,171 00

JOHN HILL, *Cashier.*

A STATEMENT OF THE REVENUE OF NORTH-CAROLINA.

A Statement of the nett amount of that Branch of the Revenue which is receivable by Sheriffs, for the year 1839.

Counties.	No.	Sheriffs' Names.	Land Tax	Town Property Tax.	Poll Tax.	Stud Horse Tax.	Gate Tax	Store Tax.	Tavern Tax, belonging to Lit'y Fund.	Pedlar Tax.	Artificial Curiosity Tax.	Natural Curiosity Tax.	Billiard Table Tax.	Tax on Brokers.	Tax on Negro Traders	Amount received of Sheriffs on additional returns.	No.	Amount due from Sheriffs	Amount received from Sheriffs
			Dolls. Cts.	Dolls. Cts.	Dolls. Cts.	Dolls. Cts.	D. C.	Dolls. Cts.	Dolls. Cts.	Dolls. Cts.	D. C.	D. C.	D. C.	D. C.	D. C.	Dolls. Cts.		Dolls. Cts.	Dolls. Cts.
Anson	1	Young H. Allen	640 00	13 71	574 31	55 46	9 10	127 81	18 80	37 60	-	11 10	-	-	-	-	1	1191 25	1491 25
Ashe	2	George Philips	244 92	8 50	157 66	7 05	-	52 61	18 80	-	-	-	-	-	-	-	2	509 57	509 57
Brunswick	3	Robert W. Woodside	224 81	1 30	220 32	1 85	4 70	18 80	37 00	-	-	-	-	-	-	-	3	528 14	528 14
Buncombe	4	Willie Jones,	387 09	18 07	226 10	29 61	-	103 40	33 84	37 60	28 20	-	-	-	-	-	4	804 57	804 57
Burke	5	Jno. H. Pearson	672 47	-	420 18	41 36	-	103 40	45 12	56 40	-	-	-	-	-	-	5	1338 93	1338 93
Beaufort	6	Alleh Grist	368 76	128 14	455 42	32 90	9 40	402 32	120 32	42 30	-	-	-	-	-	-	6	1589 56	1589 56
Bertie	7	Jno. Freeman	693 75	24 50	681 50	20 01	-	139 12	48 88	56 40	-	-	-	-	-	-	7	1673 82	1673 82
Bladen	8	George W. Melvin	291 58	7 72	370 17	12 22	4 70	39 48	15 04	18 80	-	14 10	-	-	-	-	8	763 81	763 81
Craven	9	Jno. B. Dawson	318 91	105 29	578 41	28 67	-	601 60	120 32	18 80	28 20	-	-	-	-	-	9	1888 20	1888 20
Carteret	10	George Dill	130 39	28 03	210 56	-	-	125 96	41 36	18 80	-	-	-	-	-	-	10	565 00	565 00
Currituck	11	Isaac Baxter	276 30	-	254 30	5 17	-	39 48	30 09	-	-	-	-	-	-	-	11	605 39	605 30
Camden	12	Thomas Merry,	212 05	-	207 71	33 50	-	80 12	112 09	-	-	-	-	-	-	-	12	683 57	683 57
Caswell	13	Thomas L. Lea	510 25	53 75	699 50	66 27	-	201 92	82 72	16 80	28 20	14 10	-	-	-	-	13	1687 41	1687 41
Chowan	14	William D. Rascoe	374 74	69 05	395 39	23 50	-	130 45	30 08	19 80	28 20	-	-	-	-	-	14	1120 21	1120 21
Chatham	15	Jno. Harman	627 50	1 13	635 63	54 52	11 10	48 88	20 32	18 80	28 20	14 10	-	-	-	-	15	1460 24	1409 21
Columbus	16	Joshua Williamson	113 97	2 14	167 51	4 70	-	34 84	11 28	-	-	-	-	-	-	-	16	323 47	323 17
Cumberland	17	Alex. Johnson	401 30	251 89	573 78	59 69	9 10	737 60	75 20	-	81 60	28 20	-	-	-	-	17	2221 90	2224 90
Cabarrus	18	Lewis B. Krimminger	401 51	16 50	335 77	48 41	-	156 04	11 28	18 80	56 40	28 20	-	-	-	-	18	1073 00	1073 00
Cherokee	19	Francis McGehee	4 10	-	70 50	25 38	-	52 61	26 32	-	-	-	-	-	-	-	19	179 21	179 24
Duplin	20	Jno. E. Hussey	350 31	2 70	435 78	-	-	50 40	30 08	18 80	-	-	-	-	-	-	20	903 14	903 14
Davidson	21	Jno. M. Smith	534 64	19 00	452 52	37 13	-	112 80	-	-	81 01	42 30	-	-	-	-	21	1283 65	1283 65
Davie	22	Thomas Forster	284 48	-	287 64	25 32	9 40	62 04	7 52	-	-	-	-	-	-	-	22	676 46	676 16
Edgecomb	23	William D. Petway	955 07	37 32	810 98	80 30	-	938 76	63 92	37 60	-	-	-	-	-	-	23	2202 55	2202 55
Franklin	24	Gustin Perry	430 24	16 20	515 68	44 15	-	101 52	46 88	37 60	28 21	14 10	-	-	-	-	24	1236 63	1236 63
Guilford	25	James W. Dusk	701 62	76 90	501 97	47 01	-	280 12	15 04	18 80	28 20	-	-	-	-	-	25	1675 68	1675 58
Gates	26	James R. Riddick	281 12	-	305 85	11 25	-	75 20	11 28	-	28 28	-	-	-	-	-	26	776 23	776 23
Granville	27	Leslie Gilham	706 78	42 22	925 52	132 97	-	280 12	48 88	18 80	28 20	-	-	-	-	-	27	2182 50	2182 50
Greene	28	John W. Taylor	311 65	2 60	315 09	15 00	-	31 96	48 88	56 40	-	-	-	-	-	-	28	785 63	785 63
Halifax	29	William W. Brickell	910 01	1 41	874 70	68 62	1 70	210 90	45 12	56 10	-	-	-	-	-	-	29	2189 98	2189 98
Hertford	30	Richard G. Cowper	309 65	28 25	310 86	-	-	171 08	26 32	-	-	-	-	-	-	-	30	876 15	876 15
Hyde	31	Israel Brooks	325 32	-	235 91	7 52	9 40	48 88	56 40	56 40	-	-	-	-	-	-	31	730 86	739 86
Haywood	32	Nelson G. Howell	114 93	5 75	108 29	15 01	4 70	69 66	22 56	56 40	-	-	-	-	-	-	32	427 23	427 23
Henderson	33	Robt. Thomas	301 48	-	122 95	55 46	4 70	45 12	18 80	18 80	-	-	-	-	-	-	33	567 31	567 31
Iredell	34	Joseph M. Bogle	508 15	19 74	505 10	48 89	-	120 32	11 28	-	-	-	-	-	-	-	34	1213 50	1213 50
Jones	35	Risden M. McDaniel	284 19	5 18	255 10	-	-	21 44	15 04	18 80	-	-	-	-	-	-	35	612 81	612 81
Johnson	36	Allen S. Ballinger	442 45	8 57	412 36	42 30	-	26 32	22 56	18 80	-	-	-	-	-	-	36	1003 36	1003 36
Lincoln	37	James Quinn	1050 19	61 14	777 70	76 61	33 50	172 96	22 56	37 60	-	-	-	-	-	-	37	2231 23	2231 23
Lenoir	38	John Davis	387 88	9 01	382 90	47 17	-	45 12	52 64	75 20	-	-	-	-	-	-	38	1060 28	1060 28
Moore	39	Evander McIntosh	232 30	1 77	249 55	14 16	-	16 92	26 32	-	-	-	-	-	-	-	39	529 90	529 96
Macon	40	Eli McKee	149 87	13 69	101 71	51 23	1 70	26 32	22 56	18 80	-	-	-	-	-	-	40	388 86	388 86
Montgomery	41	Eben Hearne	343 72	3 77	357 01	19 71	-	65 80	22 56	18 80	-	11 10	-	-	-	-	41	815 50	816 50
Mecklenburg	42	Thos. N. Alexander	770 62	60 32	750 14	56 03	-	345 92	26 32	37 60	28 28	14 10	-	-	-	-	42	2098 15	2098 15
Martin	43	Arthur S. Mooring	300 67	14 68	311 52	11 10	-	80 84	56 40	37 60	-	-	-	-	-	-	43	815 76	815 76
New Hanover	44	Owen Fennell	370 20	351 30	812 69	8 93	9 40	849 76	82 72	65 80	28 20	-	940 00	-	-	-	44	3331 00	3331 00
Nash	45	Will. W. Bryant	338 59	13 87	360 50	46 53	-	37 60	11 28	56 40	-	-	-	-	-	-	45	905 77	905 77
Northampton	46	Etheldred J. Peebles	775 29	8 54	725 40	71 44	4 70	41 30	56 40	94 00	-	-	-	-	-	-	46	1757 22	1777 22
Onslow	47	David W. Sanders	302 60	4 53	380 31	2 35	-	69 50	22 56	37 60	-	-	-	-	-	-	47	719 54	719 54
Orange	48	James C. Turrentine	967 00	60 01	940 58	145 70	-	235 00	45 12	18 80	-	-	-	-	-	-	48	2421 87	2421 87
Person	49	Hardy Walters	307 35	-	411 51	15 51	-	33 84	41 36	18 80	28 20	-	-	-	-	-	49	919 87	919 87
Pasquotank	50	Joshua R. Pool	295 31	43 10	330 31	9 40	-	103 64	116 50	-	-	-	-	23 50	-	-	50	1020 70	1020 70
Pitt	51	Benj. M. Selby	546 89	25 22	534 30	22 56	-	120 32	63 92	37 60	-	-	-	-	-	-	51	1319 81	1319 81
Perquimans	52	Nathan Bagly	377 16	18 90	313 40	20 68	0 40	90 24	7 52	18 80	-	-	-	-	-	-	52	856 10	856 10
Rowan	53	Jno. H. Hardie	506 40	65 37	501 96	29 85	-	130 12	7 52	18 80	28 20	14 10	-	-	-	-	53	1307 32	1307 32
Randolph	54	Isaac White	466 17	9 17	383 70	44 65	-	107 16	3 76	18 80	28 20	-	-	-	-	-	54	1011 61	1011 61
Rockingham	55	Martin Roberts	402 71	-	560 05	21 62	9 40	720 62	60 16	18 80	-	14 10	-	-	28 20	-	55	1205 66	1295 66
Robeson	56	Neill McAlpin	290 11	2 12	376 10	20 68	-	33 81	18 80	-	28 20	-	-	-	-	-	56	769 91	769 01
Richmond	57	Sam'l Terry	352 10	5 05	301 42	16 45	18 80	50 70	32 48	18 80	28 20	14 10	-	-	-	-	57	931 16	931 16
Rutherford	58	James Carson	714 31	22 56	539 00	43 90	4 70	112 88	78 96	109 20	-	-	-	-	-	-	58	1715 73	1715 73
Sampson	59	Amma B. Chesnut	380 65	7 34	463 80	37 13	-	37 00	22 56	-	-	-	-	-	-	-	59	958 08	958 08
Surry	60	Henry G. Hampton	445 80	-	388 22	40 89	-	58 26	22 56	-	-	-	-	-	-	-	60	955 81	955 81
Stokes	61	Salathiel Stone	578 21	43 45	477 52	36 19	-	172 90	63 92	67 68	-	-	-	-	-	-	61	1139 93	1439 93
Tyrrell	62	John McCleese	176 42	-	180 67	8 46	-	11 28	15 04	42 30	-	-	-	-	-	-	62	431 17	434 17
Washington	63	Robt. B. Davis	140 71	22 82	202 85	7 90	-	135 36	48 88	18 80	-	-	-	-	-	-	63	577 41	577 41
Wilkes	64	Abner Carmichael	310 39	10 42	241 78	31 92	-	43 24	11 28	37 00	-	-	-	-	-	-	64	691 73	691 73
Wake	65	Paschal B. Burt	768 70	175 18	877 40	47 00	-	321 48	172 90	18 80	-	56 40	-	-	-	-	65	2137 92	2157 92
Wayne	66	William Thompson	603 61	13 38	428 60	35 45	-	91 00	45 12	75 20	-	-	-	-	-	-	66	1305 42	1305 42
Warren	67	Joseph S. Jones	601 50	10 36	785 09	50 76	4 70	131 60	33 84	37 60	-	-	-	-	-	-	67	1604 75	1604 75
Yancy	68	Thomas Wilson	101 62	-	101 52	29 61	-	26 20	18 80	18 80	-	-	-	-	-	-	68	358 65	358 55
Additional Returns for 1838 and former years.																			
Caswell	1	Thos. L. Lea	6 50	-	7 90	-	-	-	-	-	-	-	-	-	-	14 10	1	-	-
Camden	2	John L. Ferrell	85	-	38	-	-	-	-	-	-	-	-	-	-	1 23	2	-	-
Hertford	3	Edward R. Joggetts	7 13	88	6 58	-	-	-	-	-	-	-	-	-	-	11 58	3	-	-
Lincoln	4	James Quinn	1 38	-	1 32	-	-	-	-	-	-	-	-	-	-	5 70	4	-	-
Northampton	5	Etheldred J. Peebles	51 75	90	40 26	-	-	-	-	-	-	-	-	-	-	104 07	5	-	-
Rockingham	6	Martin Roberts	8 60	-	7 14	-	-	-	-	-	-	-	-	-	-	16 00	6	-	-
Wake	7	Paschal B. Burt	26 37	-	9 21	-	-	-	-	-	-	-	-	-	-	35 58	7	192 47	192 47
			29,110 40	2,180 41	29,323 80	2,321 01	173 90	9,273 40	2,735 86	1,910 00	670 80	296 10	940 00	23 50	28 20	192 17		79,302 91	79,302 91
									Deduct Tavern Tax belonging to the Literary Fund,									2,735 36
																			976,567 55

A Statement of the Revenue which is derived from duties imposed on Sales at Auction, and from the Banks of the State, for Tax on Stock, of one per cent. on each share held by individuals, for the years 1839 and

Names of	Auctioneers.	Counties and Years.		Am't due from Auctioneers.	Am't paid by Auctioneers.
				Dolls. Cts.	Dolls. Cts.
Talcott Do	r,	New Hanover,	1838 & '39	73 42	73 13
do		Do	1839 & '40	58 86	58 86
John Whi	er,	Do	1838 & '39	53 46	53 46
do		Do	1839 & '40	47 97	
Gold Hoyt		Pitt	1839 & '40	6 31	6 31
Henry Dec	o,	Craven	1839 & '40	9 96	9 96
Solomon P	reus,	Do	1839 & '40	7 97	7 97
Joseph S. I	owler,	Do	1839 & '40	72 15	72 15
Freeman	Smiths,	Wake	1840 & '40	14 51	14 51
William P	k,	Do	1839 & '40	30	30
Elijah Cor	dus,	Carteret	1839 & '40	24 29	24 29
Mulachi R	well,	Pasquotank	1839 & '40	27 43	27 43
Perry Gar	r,	Hertford	1839 & '40	6 99	6 99
Amos Kin	ell,	Cumberland	1839 & '40	91 95	91 95
Edward W	Wilkings,	Do	1839 & '40	71 44	71 14
Sam'l W.	Bingham,	Do	1839 & '40	32 09	
				659 13	519 07

Rec *ue derived from Tax on individual Bank Stock.*

Bi	nks	Individual Shares.	Am't due	Am't paid
Bank of the S	tate of N. C.	9000	1840	2250 00	2250 00
Do Cape Fe		17550 for	1839-'40	4312 50	4312 50
Do. Merch'ts	B'k Newbern,	2250	do	562 50	562 50
				$7,124 00	$7,124 00

Recapitulation of Receipts.

PUBLIC FUND

Received from the following sources.

Bank Tax, F	ok of Cape Fear,	$1,312 50
Bank Divide	s, do do	65 00
Bank Tax, A	ghants' Bank of Newbern,	562 50
Public Reveni	received of Sheriffs (taxes due for 1839)	70 567 05
Bank Tax o	individual Stock, B'k of the State,	2,250 00
		83,957 05
Deduct balan	due Public Treas. 1st Nov. 1839,	3,380 56
		80,576 49
Deduct disbu	sements from 1 Nov. 1839, to 31 Oct. 1840, inclusive,	57,625 14
Balance due	Public Fund, Nov. 1, 1840,	22,951 35

LITERARY FUND.

Recapitulation of Receipts since Nov. 1, 1839

Balance due	President and Directors Literary Fund, 1st Nov. 1839,	$12,976 54
Entries of va	nt land,	1 855 47
Auctioneers	on sales at auction,	519 07
Bank Divide	ks, Bank of Cape Fear,	33,845 50
Do	do State,	31,250 00
Principal on	loans by Literary Board,	26,135 85
Interest on lo	ans by Literary Board,	15,193 14
Roanoke Nav	gation Company, dividends,	1,125 00
Interest on lo	ans by the Internal Improvement Board,	1,252 12
Interest on B	nds of the Raleigh and Gaston R. R. Co.	7,880 14
Do	do Raleigh and Wilmington R. R Co.	6,138 66
Tavern tax (r	tailers of spirituous liquors)	2,730 80
		170,517 41
Deduct disbu	sements from Nov 1, 1839 to Oct 31, 1840	92 530 35
Balance due	Literary Fund 1st day Nov. 1840	78 007 06

Recapitulation of Disbursements since Nov. 1, 1839, 170,918 47

Swamp Lands,		45,807 85
Loans by Literary Board,		4,400 00
Cape Fear Bank Stock,		9,200 00
Common Schools,		2,100 00
Raleigh and Gaston Rail Road Bonds,		5,000 00
Raleigh and Wilmington Rail Road Bonds,		25,000 00
Interest on d	ferred stock (Bank Cape Fear,)	34 50
Expenses of	Literary Board,	1183 00
		92,640 35

INTERNAL IMPROVEMENT FUND.

Recapitulation of Receipts.

Cherokee Bonds (sale 1838)	2,575 16
Principal on loans by Internal Improvement Board,	2,957 18
Bank Dividends, Bank Cape Fear,	725 00
Cherokee Bonds prior to 1838,	5 542 50
	11,803 14

Recapitulation of Disbursements.

Balance due Treas. of Int. Imp. Fund 1 Nov. 1839,	9,770 64
Repairing New Road, Macon county,	7 50
Expenses of Board of Internal Improvement,	377 00
Clerk of the Board of Internal Improvement,	322 00
Agents to receive subscriptions to the Fay & Western R'l R	562 50
Expense incurred in survey of Nag's Head,	2,636 24
	13,675 88
Deduct receipts from 1 Nov 1839, to 31 Oct 1840, inc.	11,503 14
Balance due Treas. Int. Imp. Fund on 1st Nov. 1840,	2 172 74
Balance in the hands Public Treasurer, on 1st Nov. 1840,	$98,675 81

☞ The foregoing Statement is founded on returns and vouchers on file in the Comptroller's Office November 1st. 1840.

WM. F. COLLINS, *Comptroller Pub. A·*

Comptroller's Department, Nov. 1, 1840.

