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LAWS

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

AT THE

SESSION OF 1848-'49.



Published agreeably to the ninety-fifth Chapter of the  
Revised Statutes.

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1849.

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# L A W S

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE GENERAL ASSEMBLY,

AT THEIR SESSION, WHICH COMMENCED ON MONDAY, THE TWENTIETH OF  
NOVEMBER, ONE THOUSAND, EIGHT HUNDRED AND FORTY EIGHT,  
AND ENDED ON THE TWENTY-NINTH OF JANUARY, ONE  
THOUSAND, EIGHT HUNDRED AND FORTY-NINE.

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## ASYLUMS.

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### CHAPTER I.

An Act to provide for the establishment of a State Hospital  
for the Insane in North Carolina.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That John M. Morehead, of Guilford; Calvin Graves, of Caswell; T. N. Cameron, of Cumberland; G. W. Mordecai, of Wake; C. L. Hinton, of Wake; J. O. Watson, of Johnston, be, and are hereby appointed Commissioners, to select and purchase a tract of land, at a fair price, embracing not less than one hundred acres, capable of cultivation, and situated at such place as may hereafter be designated by an act supplementary to this act, Commissioners to select and purchase land for site.

for the purpose of prescribing its location. There shall be upon the premises a never-failing supply of wholesome water; and said tract shall be conveniently situated for receiving supplies of fuel, either wood or coal: *Provided*, That said Commissioners shall receive no compensation for their services, over and above the necessary expenses incurred in the discharge of their duties: *Provided*, That if any person or persons shall make free gift of an available tract for the farm and site of said hospital, said Commissioners are hereby authorized to receive a deed of the same, in trust, for the use and benefit of the North Carolina State Hospital for the Insane.

*Sec. 2. Be it further enacted*, That any time, not exceeding three months after said site shall be obtained by the Commissioners, they shall contract for the erection of said Hospital, by first rate workmen, on such terms as are just and prudent: *Provided*, That said Hospital building shall be constructed in the most approved manner, after the most recent and accepted plans, embracing all improvements and necessary accommodations for institutions of this description: *Provided*, The Hospital shall be constructed of brick; the foundations shall be substantial and of rough mason work; the basement shall not be less than eight feet above, nor more than two feet below the out ground surface; the water table, window and door sills, window-caps and door-caps, shall be of rough stone or of cast iron; the partition walls shall be of brick, and shall contain open flues for ventilators, furnace flues for heating the building, and maintaining dryness, and conducting flues; all of which shall be free from obstructing surfaces; and the roofs of said Hospital building shall, so far as practicable, be fire-proof.

*Sec. 3.* The site for the building shall be so established as to afford good and sufficient underground drainage; shall command cheerful views, and open upon such aspects, as will admit the sun's rays a portion of the day into every suite of the lodging apartments.

*Sec. 4.* Said Commissioners shall, on or before the first

Proviso.

Proviso.

Commis'rs  
to contract  
for building

Manner of  
construct-  
ing build-  
ing.

Site of  
building,  
how estab-  
lished.

day of December, and annually thereafter, until the build-  
 ings are completed, render to the proper accounting officers  
 of the State of North Carolina, an exact account of all the  
 contracts, expenses and liabilities which they shall have in-  
 curred or authorized in the execution of their commissions,  
 with vouchers for the same; and in case of their failure so  
 to do, their authority to draw on the State Treasurer for such  
 sum or sums of money as shall hereafter be specified, shall  
 cease. And said Commissioners shall so build said Hospital,  
 that there shall be suitable and sufficient apparatus for heat-  
 ing the same, and for cooking and washing, and for  
 furnishing ample supplies of water for all the uses  
 of the institution, constructing the same for the com-  
 fortable accommodation of two hundred and fifty pa-  
 tients, and all the necessary officers and attendants: *Pro-  
 vided*, the Commissioners appointed by this act, before en-  
 tering upon their duties, shall give bonds, with such surety  
 as may be required by the Executive, for the proper appli-  
 cation of funds placed in their hands, and for the faithful  
 performance of all their duties.

Commis'rs  
 to render  
 account of  
 contracts.

Bonds.

Sec. 5. *Be it further enacted*, That a tax of one and  
 three-fourths of a cent shall be levied on every hundred  
 dollars worth of land; and five and one quarter of a cent  
 shall be levied on every taxable poll, for the space of four  
 years; and that the proceeds arising from said taxation  
 shall be annually, during that period, appropriated for the  
 erection of a Hospital for the Insane; and that the County  
 Courts shall, during such period, have authority to make a  
 proportionate reduction of the poor tax in their respective  
 counties.

Tax levied

Sec. 6. The General Assembly shall nominate and ap-  
 point nine persons to be trustees of said institution, who  
 shall constitute a body politic and corporate, by the  
 style of the Trustees of the State Hospital for the In-  
 sane in North Carolina; and they and their successors in  
 office shall manage and direct the concerns of the institu-  
 tion, and by and with the assistance of the superintending  
 Physician, make all necessary by-laws and regulations, not

Trustees  
 how ap-  
 pointed, &c

Their Pow.  
 &c.

inconsistent with the Constitution of the State and the laws thereof; and shall have power to receive, hold, dispose of and convey all real and personal property conveyed to them, by gift, devise or otherwise, for the use of said institution; and they shall serve without compensation, save travelling expenses incurred in the direct discharge of official obligations. ~~X~~ Of the Board of Trustees first appointed, three shall serve for two years, three for four years, and three for six years; and at the expiration of their respective periods, the vacancies shall be filled by appointments for six years; and should any vacancy occur by death, resignation, or otherwise, such vacancy shall be filled by Executive appointment for the unexpired term of said Trustee: *Provided*, the said Trustees shall be chosen, five from the central portion of the State of North Carolina, two from the Eastern, and two from the Western sections; and all vacancies shall be filled from those sections of the State wherein they occur: *Provided*, that of the five Trustees chosen from the middle section, three shall be residents in or near the city of Raleigh, the other two out of Wake County: *Provided*, said Board of Trustees shall have charge of the general interest of the institution; they shall appoint the Superintendent, who shall be a skilful physician, subject to removal or re-election no oftener than in periods of eight years; except for infidelity to his trust, or for incompetency, fully proven and declared. Said physician shall have an unblemished moral character; he shall have received an enlightened and practical professional education, be possessed of prompt business habits, and of humane and kindly disposition; he shall be a married man, and shall, with his family, reside constantly in the institution.

Term of  
service.

Proviso

Proviso.

Superin-  
tendent,  
how ap-  
pointed,  
&c.

By-laws,  
how made.

Sec. 7. The Trustees and Physician shall make such by-laws and regulations for the government of the Hospital, as shall be necessary, and cause the same to be published with the biennial report of the Physician and that of the Trustees and the Treasurer, all which shall be distributed throughout the State for the information of the citizens

thereof: *Provided*, the Trustees assisted by the Superintendent, shall determine the salaries and compensation of the officers and assistants, whose services may be necessary for the comfortable, just and economical management of said Hospital.

SEC. 8. The three Trustees resident in Wake county shall be competent to transact all ordinary business arising at the monthly meetings of this branch of the Board: each in rotation for one month, shall visit the Hospital once a week, at such time as is most convenient, and together they shall vigilantly examine into the condition of the same once in each month, and oftener if necessary: *Provided*, the Trustees composing the full board shall be notified to convene at the Hospital, and to investigate strictly the administration of the same the first Monday of December, upon each biennial session of the Legislature.

Number of  
Trustees to  
do business

Biennial  
meetings

Sec. 9. The acting Trustees shall report annually to the Governor, and the full Board shall assemble and report biennially to the General Assembly the condition and history of the State Hospital; and they shall know that there are at all times sufficient supplies of provisions, water, fuel, clothing and whatever else may be deemed necessary for the health, comfort, cleanliness and security of the patients.

Report of  
Trustees.

Sec. 10. The Superintendent shall exercise entire control over all subordinate officers and assistants in the Hospital, and shall have entire direction of the duties of the same, himself being accountable to the Board of Trustees for their good character and fidelity in the discharge of their duties.

Control over  
subordinates.

Sec. 11. The admission of insane patients from the several counties of the State shall be in the ratio of their insane population: *Provided*, each county shall render to the Secretary of State, biennially, the numerical estimate of its insane, that proportionable benefits may duly embrace each case: *Provided*, no patient in necessitous circumstances, who has not recovered a sane mind, shall be discharged from the Hospital by the Trustees, except

Admission  
of patients

bond and security be given for the comfortable shelter and maintenance of the same.

Terms for patients.

Sec. 12. Patients in indigent circumstances, while resident in the Hospital, shall, in their own right, or by the State bearing their expenses, be chargeable no more than the actual cost for clothing, nursing, board and medical attendance: paying patients, whose friends pay their expenses, and who are not chargeable upon the counties or the State, shall pay in measure with the care received, the terms being subject to decision by the Trustees.

Power of courts.

Sec. 13. The Courts of the State shall have power to commit to said Hospital any individual who has been charged with an offence punishable by imprisonment or death, and who shall have been found to have been insane at the time the offence was committed, and who still continues insane; and the expenses of said individual, if in indigent circumstances, shall be paid by the State.

Admission, proceedings on.

Sec. 14. For the admission of State patients, the following proceedings shall be had: Some respectable citizen, resident in the county to which said patient belongs, shall file with a Justice of the Peace of said county a statement, in writing, which shall be substantially as follows:

STATE OF NORTH CAROLINA, \_\_\_\_\_ COUNTY, ss.

The undersigned, a citizen of the State of North Carolina, residing in said county, hereby states as follows: (Naming the person) is insane; his insanity is of less than two years duration (or his being at large is dangerous to the safety of the community), he is in needy circumstances, has a legal settlement in \_\_\_\_\_ County, and is a citizen of the State of North Carolina. These facts can be proved by \_\_\_\_\_ and \_\_\_\_\_ (naming at least two persons, one of whom shall be a respectable physician. Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_.

E. F.

2. The Justice shall issue subpoenas for the persons named as witnesses, and such other persons as he may think proper, requiring them to appear before him at a specified time,

to testify concerning the facts set forth in said statement. Subpœna  
 Subpœnas may also be issued for witnesses in behalf of the for witness-  
 es. person alleged to be insane. If, after such inquest, the Justice shall be satisfied of the truth of the facts set forth in the statement, they shall require the medical witness forthwith to make out a certificate, such as is required for paying patients, by the eighteenth section of this act. The justice shall forthwith make out a certificate, which shall read substantially as follows :

STATE OF NORTH CAROLINA, — COUNTY, ss :

I, the undersigned, Justice of the Peace in and for the County aforesaid, hereby certify that I have visited — of said County, a person alleged to be insane, and have this day held an inquest in regard to him according to law. I am satisfied that he is insane, that he has a legal settlement in — County ; that he is a citizen of the State of North Carolina, and is a fit subject for the bounty of the State. I am well satisfied, that his being at large is injurious to himself and disadvantageous, if not dangerous, to the county. Witness my hand and seal, this ——— day of —, A. D., —. C. D.

Sec. 15. Immediately after the inquest, the Justice shall transmit to the Clerk of the County Court a certificate of Justice to  
 certify to  
 Clerk, and  
 duty of  
 Clerk and  
 Supt. said facts, attested by a physician, and he shall file the same. Also, the said Clerk shall proceed, upon receipt of said attested certificate, to transmit a copy of the same to the Superintendent of the State Hospital, accompanied with application for admission of the patient therein named to the same. Upon receipt of this application, the Superintendent shall immediately advise the Clerk when the patient can be received. The Clerk shall thereupon, in due season for the conveyance of said patient to the Hospital by the time appointed, issue his warrant to any suitable person, whose reasonable travelling expenses shall be paid from the State Treasury, requiring him forthwith to receive said insane patient and convey him to the North Carolina State Hospital. Said warrant shall read substantially as follows :

STATE OF NORTH CAROLINA, — COUNTY, ss.

To ———:

Whereas, all the proceedings necessary to entitle ——— to be admitted into the North Carolina State Hospital, as a State patient, have been had according to law, you are hereby required forthwith to take said person and convey him to said Hospital. After executing this warrant, you shall make due return to this office. Witness, my hand and seal of office, this ——— day of ——— A. D., ———.

————, Clerk.

Upon receiving said patient, the Superintendent shall endorse upon said warrant a receipt, as follows:

NORTH CAROLINA STATE HOSPITAL, }  
————, A. D., ———. }

Received this — day of ———, the patient named in the within warrant.

————, Superintendent.

Females. Sec. 16. Every term in this act, importing the masculine gender, shall extend to, and be applied to females, as well as males.

Order of admission. Sec. 17. In order of admission, the indigent insane of the State shall have precedence of the rich, and recent cases of both classes shall have precedence over those of long standing: *Provided*, paying patients from other States may be received into the Hospital, should vacancies occur unclaimed by natives of and residents in the State of North Carolina.

Sec. 18. Before any patient shall be received into the Hospital as a paying patient, there shall be produced to the Superintendent,

Reception of paying patients.

1. The Treasurer's receipt for three months' charges, in advance.

2. A sufficient bond, conditioned as hereinafter required.

3. A certificate from some respectable physician, setting forth,

1. That the patient is free from any infectious or contagious disease.

2. The age of the patient and concise history of the case.

3. The duration of the disease, dating from first symptoms.

4. The supposed exciting cause of the disease.

5. Whether the disease is hereditary.

6. Whether the patient has ever been subject to epilepsy.

7. Whether the patient has ever made any attempt to commit any violence upon himself or others.

8. The medical treatment pursued in the case, and any circumstances known to the physician tending to illustrate the same.

No other proceedings shall be necessary for the admission of paying patients.

The bonds before mentioned, shall be defined substantially as follows :

“Knew all men by these presents, that we, — —, of the county of — —, in the State of North Carolina, are held and firmly bound unto the Treasurer of the North Carolina State Hospital in the penal sum of ——— dollars, <sup>Bonds,</sup> <sub>form of.</sub> for the payment whereof we hereby bind ourselves jointly and severally.

“The condition of this obligation is as follows: Whereas ———, of the county aforesaid, is about to be admitted as a paying patient into said Hospital: now, if while he shall remain therein, the undersigned shall constantly supply him with suitable clothing, and pay all the charges of said Hospital against him quarterly in advance; and whenever his removal shall be required, immediately remove him; and if he shall escape from the Hospital, pay all reasonable charges incurred in restoring him; and if he shall die therein, pay all reasonable expenses incurred for his funeral; then this obligation shall be void; otherwise it shall remain in full force. Witness, our hands and seals, this ——— day of ———, A. D., ———,

A. B.,

C. D.”

Balance to  
credit of  
patient.

Sec. 19. If there shall be a balance in the treasury of the Hospital to the credit of a patient removed therefrom, the Treasurer shall pay it to the person authorized to receive the same.

Treasurer  
of Hospital

Sec. 20. The Treasurer of the State shall be the Treasurer of the Hospital, and shall perform all the duties thereof, and shall be liable as he now is or shall be by law made liable in all other of his official acts; he shall present a report of the receipts of all money paid into the Treasury for the benefit of the Hospital, or in behalf of the patients, and of all sums of money paid out for the necessary uses and expenses of the same.

Treasurer  
to pay on  
ly on order

Sec. 21. The Treasurer shall pay out of the Hospital funds no sum or sums of money, for any Hospital uses whatever, except by order of the Chairman of the acting Board of Trustees for the same.

Ex-Officio  
visitors.

Sec. 22. The Governor, Judges of the Courts and members of the General Assembly shall be ex-officio visitors of the State Hospital.

Of transfer  
from jails.

Sec. 23. *Be it enacted*, That when and after the State Hospital shall be opened for receiving patients, no insane person who shall be committed to any jail in North Carolina for safe keeping or for the public security, shall be held and detained therein for a period exceeding two weeks; but said patient shall be by his friends, if they are able, or at public cost, if they are in necessitous circumstances, conveyed to the State Hospital by and under such forms and provisions of this act as apply to the case.

Sec. 24. This act shall take effect and be in force from and after ——— day of ———.

[Read three times and ratified in General Assembly, this 29th day of January, 1849.]

## CHAPTER II.

An Act supplemental to an act, passed at the present session of the General Assembly of the State of North Carolina, entitled "An Act to provide for the establishment of a State Hospital for the Insane in North Carolina."

## SECTION

1. Hospital for the Insane to be built near Raleigh.
2. Commissioners to cause building to be within not less than three mile from, but not in, the City ; to take bond of the contractor ; and not to exceed the amount directed to be raised.
3. Duty of Clerks.
4. Limits the building and furnishing Hospital to amount appropriated.

*Sec. 1. Be 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 State Hospital for the Insane in North Carolina, directed to be established by the act passed at the present session of the General Assembly, entitled "An Act to provide for the establishment of a State Hospital for the Insane in North Carolina," shall be established and built near the city of Raleigh.*

Hospital location.

*Sec. 2. And be it further enacted, That the Commissioners heretofore appointed are hereby authorized to establish said Asylum within not less than three miles of the City of Raleigh, but not within the City ; and said Commissioners are hereby expressly directed to contract for the building said Asylum, and to take bond with sufficient surety, from the contractors, to be approved by the Attorney General, for the faithful performance of their work ; and the said Commissioners are expressly directed to contract for the cost of the building, so that it shall not in any event exceed the amount directed to be raised in the act to which this is supplementary.*

Building forbid to be in the city.

Contract how made.

*Sec. 3. Be it further enacted, That it shall be the duty of the County Court Clerks of the several counties in this State to include the tax imposed by this act in the tax lists*

Duty of Clerks.

which they are now required by law to furnish the Sheriffs of their respective counties; and that the sheriffs shall collect, account for, and pay over the said taxes in the same manner they are now required by law to collect, account for, and pay over other State taxes; and that the Public Treasurer shall not pay over the same, except upon the order of the whole number of public building Commissioners.

Limits amount. Sec. 4. *Be it further enacted*, That the building and furnishing said hospital shall not exceed the amount appropriated in this act.

[Ratified 29th day of January, 1849.]

### CHAPTER III.

An Act amendatory and supplemental to an act passed at the last session of the General Assembly, entitled "An Act to provide suitable buildings for the comfortable accomodation of Deaf Mutes, and Blind persons of this State."

#### SECTION

1. Directors to pay the \$5000 for which the principal is bound, out of any unexhausted balance of annual appropriation. *Provido*.
2. Directors to cause the buildings to be furnished, out buildings to be erected, grounds to be enclosed, &c.; cost of which not to exceed \$2500.
3. The money to be drawn from the Literary Fund.

Preamble. WHEREAS the General Assembly, by an act, passed at its last session, entitled "An Act to provide suitable buildings for the comfortable accommodation of deaf mutes and blind persons in this State, did adopt a plan for said buildings, for the carrying out of which, it was estimated and ascertained that the sum of fifteen thousand dollars would be required; and

WHEREAS, though by said act a sufficient amount of money was placed at the disposal of the President and Directors of the Literary Board for the erection of said buildings upon the plan proposed and adopted ; yet by an amendment to the first section of said act, the whole cost of said buildings was limited to ten thousand dollars ; by reason whereof it became necessary to the prosecution of said work according to the plan adopted, that the Principal of the institution should give his individual bond for the sum of five thousand dollars to the contractor, to enable him to undertake the work : Therefore,

Sec. 1. *Be 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 carrying out the object and intention of the act of Assembly, passed at the last session, and of relieving the principal of the Institution from the personal liability assumed by him as aforesaid, on account of said buildings, the Board of Directors of the institution be, and they are hereby authorized, empowered and directed to apply for the satisfaction and discharge of the bond of said Principal, given as aforesaid, the sum of five thousand dollars, out of any unexpended balance of the annual appropriation, made at the session of the General Assembly of 1844-45, for the maintenance and education of deaf mutes and blind persons of the State, as may remain on hand at the expiration of the present and next fiscal years: *Provided,* that in making the estimate of said balance, it shall be considered, that all the counties from which pupils have been sent have paid in the amount due from each.

Sec. 2. *Be it further enacted,* That the Board of Directors of the institution be, and they are hereby authorized, empowered and directed to cause the buildings for the institution of the deaf and dumb to be properly furnished ; and suitable out buildings to be erected, and the grounds around the said buildings to be enclosed ; and also to cause such other improvements to be made thereon as they may deem ne-

Directors  
to pay the  
amount for  
which the  
principal is  
bound.

Proviso.

Appropriation for out  
buildings,  
&c.

cessary and proper for the accommodation of the pupils of the institution: *Provided, however,* that the whole cost of said furniture and improvements shall not exceed the sum of two thousand, five hundred dollars.

To be  
drawn  
from Lite-  
rary Fund.

Sec. 3. *Be it further enacted;* That the Board of Directors of the institution be, and they hereby are, authorized, empowered and directed to apply, for the purposes of furnishing said buildings, erecting suitable out-buildings, and enclosing the grounds as aforesaid, the sum of two thousand, five hundred dollars, from the Literary Fund.

When to  
take effect.

Sec. 4. *Be it further enacted,* That this act shall take effect and be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

#### CHAPTER IV.

An Act to establish a Board of Directors for the Deaf and Dumb Institute in this State.

##### SECTION

1. The Institution placed under a board of seven directors.
2. Persons appointed to constitute said board of directors.
3. Board shall appoint a president, and the principal shall be *ex officio* their secretary,
4. The board is charged with the erection, furnishing, preservation and repair of buildings, and with the interests and supervision of the entire institution. They have power to appoint, remove, and fix the compensation of professors, officers and servants—fix amount of tuition—prescribe rules, make by-laws &c.
5. Board shall have stated meetings, and fill vacancies.
6. Board incorporated under the title of the North Carolina Institute for the Education of the Deaf and Dumb.
7. Board shall report to the Legislature at each of its sessions.
8. Faculty may confer degrees.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of*

*the same*, That so much of the act passed at the session of the Institution General Assembly for 1844-5, entitled "An Act to provide placed under board for the education and maintenance of the poor and defective Directors. Deaf mutes and blind persons in this State, as places the institution under the care of the Literary Board, be, and it is hereby repealed; and the said institution shall hereafter be under the government of a Board of seven Directors.

Sec. 2. *Be it further enacted*, That Perrin Busbee, Members of the Linn Banks Sanders, Jno. H. Bryan, Thos. J. Lemay, Wm. Board, W. Holden, James F. Jordan, and Dr. Charles E. Johnson, be, and they are hereby constituted said Board of Directors.

Sec. 3. *Be it further enacted*, That the said Board of Directors, or a majority, shall appoint from their own body a President to preside at their meetings; and the Principal Of President and Secretary of the institution for the time being shall be *ex-officio* Secretary of the Board, to record, attest and preserve their proceedings.

Sec. 4. The said Board of Directors shall be charged with the erection, furnishing, preservation and repair of the Powers and duties of directors building, the care of the grounds and appurtenances, and of the interest of the institution generally. They shall have power to employ all necessary agents; to appoint and remove Professors, two-thirds of the number concurring in every case of removal; to fix their compensation; to prescribe their duties; to establish rules for the government and discipline of the pupils; to regulate tuition fees; to prescribe and control the duties and proceedings of all officers, servants and others, with respect to the buildings, lands, appurtenances and other property and interests of the institution; to draw from the Literary Fund or the Treasury such moneys as are, or shall be charged by law for the benefit and support of the institution; and in general to direct and do all matters and things which, not being inconsistent with the Constitution and laws of the United States or of this State, shall seem to them most expedient for promoting the purposes and fulfilling the objects of said institution; which

several functions they shall be free to exercise in the form of by-laws, rules, resolutions, orders, instructions or otherwise, as they shall deem proper.

Stated  
meetings.  
Vacancies.

Sec. 5. The said Board of Directors shall have stated and occasional meetings as they shall themselves prescribe. A majority shall constitute a quorum for the transaction of business, and all vacancies occurring by death, resignation, or removal from the State or failure to act for six months, shall be supplied by the Board, subject to the approval of the General Assembly at its ensuing session.

Board in-  
corporated.

Sec. 6. The President and Directors shall be, and they are hereby declared to be a body corporate, under the style and title of the President and Directors of the North Carolina Institute for the Education of the Deaf and Dumb; with the right as such to use a common seal, to plead and be impleaded in all courts of justice, and in all cases in which the interests of the institution are involved; and they shall be capable in law, and in trust for the institution, of receiving subscriptions and donations, real and personal, as well from bodies corporate and persons associated, as from private individuals.

Board to  
report to  
Legislature

Sec. 7. The institution shall in all things and at all times be subject to the control of the Legislature; and it shall be the duty of the Board of Directors to make a report to the General Assembly at each of its sessions, which shall embrace a full account of the receipts and disbursements, the funds on hand, and a general statement of the condition of said institution.

Degrees  
may be  
conferred.

Sec. 8. That the Faculty of the said institution, by and with the consent of the Board of Directors, shall have the power of conferring all such degrees and marks of literary distinction as are usually conferred by similar institutions.

Sec. 9. This act shall be in force from and after the passage thereof.

[Ratified 27th day of January, 1849.]

## CHAPTER V.

An Act to provide more effectually for the education of the deaf mutes within this State.

## SECTION

1. Every county court of every county, where there are indigent deaf mutes over 8 and under 20 years old, required to raise by tax \$75 for the education of every such mute, for four years, provided it shall not be obligatory on the court to provide for more than five at any one time. Justices and sheriffs failing to discharge the duties required, to be subject to indictment.
2. President and Directors of Literary Fund to direct that pupils shall be received in the institution in Raleigh, and on failure of any county to pay, to pay for the same out of the Literary Fund and deduct the amount from the next distributive share of that fund, &c.

Sec. 1. *Be 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 every county in this State, where any deaf mute shall reside, who is a white person over the age of eight and under the age of twenty years and not physically or mentally imbecile, it shall be the duty of the Justices of the Court of Pleas and Quarter Sessions of such County, to levy and cause to be collected within the same a tax of seventy-five dollars annually, for the term of four years, for the maintenance and education of every such deaf mute within said county, at the State institution in Raleigh; and in case of the neglect or failure of such Justices to lay such tax, after being informed of the case of such deaf mute in their county, or the failure of the Sheriff to collect and pay over the same to the Treasurer within twelve months from the time of receiving such information, they or he shall be liable to indictment and punishment, as for the neglect of any other public duty appertaining to their official station: *Provided*, that this regulation shall not apply to any deaf mute who has, or whose parents have sufficient estate to pay the amount aforesaid from their own means, or whose parents shall refuse to permit them to be sent to said institution; nor shall any county be required to

County Courts required to provide for education of deaf mutes.

Proviso.

make provision for more than five deaf mute pupils at one time.

Duties of  
Literary  
Board.

Sec. 2. *Be it further enacted*, That the President and Directors of the Literary Fund, in compliance with the foregoing regulation, shall direct the Superintendent of the aforesaid institution in the City of Raleigh to receive all pupils of the description aforesaid, who may apply for admission; and if the authorities of any county as aforesaid shall fail to pay its contingent as required by this act for the term of twelve months after the admission of its pupil or pupils as aforesaid, it shall be the duty of the said President and Directors to pay the same out of the Literary Fund and deduct the amount so paid from the next distributive share of said county for the support of Common Schools; which said amount shall be refunded to said County when collected and paid by the same as herein before required.

[Ratified 29th day of January, 1849.]

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## ARMS, PUBLIC.

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### CHAPTER VI.

An act to amend an act, passed at the Session of the Legislature of this State, of 1846-'7, entitled "An Act authorizing the Governor to establish a depot of arms at Newbern."

#### SECTION

1. Fixes compensation of keeper of arms, for rent and services, at \$150.
2. Repealing clause.

Sec. 1. *Be 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 one hundred and fifty dollars, and no more, shall be allowed and charged by the keeper of public arms at the depot in Newbern in full compensation for rent of suitable buildings for the deposite and safe keeping of all the public arms there placed or ordered, as well as for the personal services of the said keeper in taking care of the same. Fixes amount for rent and services.

Sec. 2. *And be it further enacted,* That all laws and clauses of laws contrary or repugnant to this act, be, and the same are hereby, repealed. Repealing clause.

Sec. 3. *Be it further enacted,* That this act shall take effect and be in force from and after its ratification.

[Ratified 29th Jay of January, 1849.]

## BAIL.

### CHAPTER VII.

An Act to amend the 10th Chapter of the Revised Statutes, relating to bail.

#### SECTION

1. Allows bail, in State prosecutions, as in civil, to surrender the principal at any time, in discharge of themselves. *Proviso.*

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the provisions and requirements of the fourth section of the tenth Chapter of the Revised Statutes, relating to bail in civil cases, shall be extended to bail in State prosecutions, allowing them, at any Bail may surrender principal, in State cases, at any time.

time to surrender the principal in discharge of themselves :  
 Proviso. *Provided*, that no surrender of any principal, after the forfeiture of the recognizance, shall have the effect to discharge the bail, except on sufficient cause to be shewn to, and adjudged of, by the court, and on such terms as the court may impose as heretofore practised.

[Ratified 29th day of January, 1849.]

## BANK.

### CHAPTER VIII.

#### An Act to establish the Bank of Fayetteville.

##### SECTION

- 1 Limits capital to \$800,000, in shares of 50 dolls. each, and provides for opening books for subscriptions.
- 2 Stipulates the time and manner of paying shares.
- 3 When two thousand shares are subscribed; and 25,000 dollars paid, the bank may go into operation, with corporate powers.
- 4 Provides for meeting of subscribers and election of nine directors.
- 5 Prescribes rules and regulations as articles of their constitution.
- 6 Provides that notes of said bank not paid when demanded, shall draw 12 per cent interest from the time of said demand.
- 7 Makes individual stockholders liable to double the amount of their stock.
- 8 Books may be kept open. 9 Embezzlement and fraud made felony.
- 10 Prescribes penalty for forgery.
- 11 State tax twelve and a half cents on each share of stock.
- 12 and 13 provide for dividends and annual report to Legislature.
- 14 False statement subjects the offender to indictment.
- 15 Provides for proceedings on violation of charter.
- 16 Excess of subscription to be reduced.
- 17 Provides for branches.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of*

*the same*, That a bank shall be established in the town of Fayetteville, the capital stock of which shall not exceed eight hundred thousand dollars, divided into shares of fifty dollars each; and that for the purpose of receiving subscription for said stock, books shall be opened on the first day of February, one thousand, eight hundred and forty-nine, and remain open for the space of sixty days, at Fayetteville, under the superintendence of the following persons, or a majority of them, viz. James Kyle, Henry Silly, J. D. Staw, James Martin, and J. T. Gilmore; and at such other places, and under the superintendence of such persons, as said commissioners may direct.

Capital  
StockBooks to  
be opened.

Sec. 2. *Be it further enacted*, That one-tenth of such shares shall be paid in gold or silver, or their equivalent, to the commissioners above named, at the time of subscribing; that another tenth shall be paid within thirty days thereafter; that another tenth shall be paid within sixty days; that another tenth shall be paid within ninety days; that another tenth shall be paid within one hundred and twenty days; and that the remainder shall be paid as the President and Directors hereinafter provided to be elected may direct; and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at the rate of six per cent. per annum, and his stock shall be forfeited, and may be sold by the bank, and the proceeds applied to the payment of the aforesaid deficient instalment; and he shall be held responsible for the same at the option of the bank; and the balance, if any, of such sale, to be paid over to the said subscriber: *Provided*, that no dividend shall be declared until the whole amount of stock subscribed shall be paid in gold or silver, or their equivalent.

Shares,  
how paid.

Sec. 3. *Be it further enacted*, That when two thousand shares are subscribed, and the sum of twenty-five thousand dollars is actually paid to the commissioners, the subscribers to the said bank, their successors and assigns shall be, and they are hereby created a body politic in law and in fact, by the name and style of "The Bank of Fayetteville;" and shall so continue until the first day of January, one

When the  
Bank is to  
go into op-  
eration.

thousand, eight hundred and seventy-five; and by the name and style aforesaid they shall be, and they are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to themselves and successors, land, tenements, rents, hereditaments, goods, chattels and effects; and the same to grant, devise, alien and dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of record, or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter or renew at their pleasure; and also to ordain, establish and put in execution such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation; and for the making whereof general meetings of the stockholders may be called in the manner hereafter specified; and, generally, to do and execute all acts, matters and things which a corporation and body politic in law may or can lawfully execute; and be subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared.

Sec. 4. *Be it further enacted,* That as soon as two thousand shares shall be taken in the stock of said bank, and twenty five thousand dollars paid to the commissioners who keep the books, notice shall be given in the Gazette published at Fayetteville; and a meeting of the subscribers, to be held in ten days at least after the date of the notice, shall be called. If, at this meeting, those, or their agents, who have a majority of votes according to the rates hereafter described, be present, (if not, another meeting shall be called,) they shall proceed to the election of nine directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual means to put the bank in operation. The said directors shall remain in office until the first Monday in May, one thousand, eight hundred and fifty, or until their successors shall be appointed; and on the first Monday in May in each year, or at any time thereafter, meetings of the stockholders shall be held, in the town of Fayetteville, for the purpose of electing

General  
meeting,  
and election of Directors.

directors, inquiring into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

Sec. 5. *Be it further enacted*, That the following rules, regulations and provisions, shall form and be the fundamental articles of the Constitution of the corporation. A meeting of the stockholders cannot be held unless those who have a majority of the whole number of votes be present, and every act shall require the sanction of a majority of the votes which may be present; every stockholder holding one share and not more than two, shall be entitled to one vote; for every two shares above two and not exceeding ten, one vote; for every three shares above ten, not exceeding one hundred, one vote; and for every five shares above one hundred, one vote. After the first meeting, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of voting; stockholders may vote at general meetings and elections by proxy, the proxy being himself a stockholder. No President, Cashier, agent or clerk of the principal bank, its offices and agencies, shall be permitted to vote as proxy for another. None but a stockholder who is a citizen of the State shall be eligible as a director; and the directors when appointed shall choose one of their number (which shall always be nine) to be President of the bank, and shall manage the institution as shall seem best to them, unless otherwise directed by the stockholders; but compensation to the President and directors shall be granted at the pleasure of the stockholders. Not less than three directors, of whom the President shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the President, when he may by writing nominate any other director to supply his place; a number of stockholders, not less than ten, who together shall be the owners of two thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twenty days

Rules and  
regulations

notice, in a public gazette, and specifying the object or objects of such meeting. The directors shall annually elect such officers as may be deemed necessary, to perform the business of the bank, and may remove them or either of them at pleasure. Those officers shall be required to give bonds, with two or more sureties, in sums not less than ten thousand dollars, with a condition for good behavior and faithful performance of duty. The Cashier shall keep a book to contain the proceedings of the board of directors, the name of those present, the date and day of each meeting, and shall record the yeas and nays on any question, when asked for by a director. This book shall be evidence in courts of justice, against said bank; and on entering on the discharge of his duties, the Cashier shall take the following oath or affirmation before some Justice of the Peace, by whom it shall be deposited in the office of the Clerk of the County Court of Cumberland, viz:

“I, A. B., do solemnly swear (or affirm as the case may be) to keep a just and true record, without alteration in, or erasure of, the transactions of the board of directors of the Bank of Fayetteville, in a book to be kept by me for that purpose.”

The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be required for the convenient transaction of its business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale upon judgments, which shall have been obtained for such debts. The said corporation shall neither directly nor indirectly trade in any thing except bills of exchange, promissory notes, and bonds expressing on the face of them to be negotiable and payable at said bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time; or in goods which shall be the produce of its lands, mint certificates, and the public debts of the United States, *provided*, the investment in such stock

shall not exceed one half of the capital stock of this bank. Neither shall the said corporation take more than at a rate of six per cent. per annum, for or upon its loans and discounts, which interest may be taken in advance at the time of discount. The total amount of the debts which said corporation shall at one time owe, shall not exceed twice the amount of the stock actually paid in over and above the sum then actually deposited in the bank for safe keeping. If a vacancy, in the directory shall occur, by death, resignation or otherwise, the remaining directors shall fill such vacancy until the succeeding annual meeting of the stockholders. The stock of the said corporation shall be assignable and transferrable, according to the rules which shall be instituted in that behalf by the laws and ordinances of the same. The officer at the head of the Treasury department of the State shall be furnished once in six months, with a statement of the amount of capital stock of said corporation, and the debts due the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, that this shall not be construed to be a right of inspecting the accounts of any private individual with the bank, except of the directors. The bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property therein in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their name or names; and bills or notes which may be issued by order of said corporation, signed by the President and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in the

like manner and with the like force and effect as upon any private person or persons, that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are; and those which are payable to bearer shall be negotiable and assignable by delivery only.

Unpaid  
notes sub-  
jected to  
interest.

Sec. 6. *Be it further enacted*, That if any person or persons, holding any note or notes of said bank, shall present the same for payment, and payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum, from the time of said demand, and the said bank shall pay the same, any law to the contrary notwithstanding; and the holder of the notes of said Bank, if not paid on demand, may bring an action of assumpsit against one or all of the directors who may have consented to issue more than twice the stock paid in, *provided*, the bank be unable to pay the amount.

Stockhold-  
ers liable.

Sec. 7. *Be it further enacted*, That in case of an insolvency of the Bank hereby created or ultimate inability on the part of this corporation to pay, the individual stockholders shall be liable to creditors, in sums double the amounts of stock by them respectively held in said corporation.

Books may  
be kept o-  
pen.

Sec. 8. *Be it further enacted*, That the directors shall be allowed to keep open the subscription books until the whole of the stock shall be taken.

Embezzle-  
ment and  
Fraud.

Sec. 9. *Be it further enacted*, That if a director or any other officer, agent or servant of said corporation shall embezzle any of the funds belonging to said bank, with the intent to defraud said corporation, or make false entries upon the books of said Bank, with intent to defraud said corporation, or any other person whomsoever, said officer, agent or servant shall be held and deemed guilty of felony, and upon conviction thereof by due course of law, shall be punished by fine at the discretion of court, and imprisonment not exceeding five years.

Sec. 10. *Be it further enacted,* That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of, or purporting to be a bill or note issued by order of the President and directors of the Bank of Fayetteville, or any order or check upon said bank, or corporation or any Cashier thereof; or shall falsely alter, or cause or procure to be falsely altered or willingly aid or assist in falsely altering any bill or note issued by order of the said corporation, or any order or check on said bank or any Cashier thereof; or shall pass or receive with intent to pass, alter or publish as true, any false, forged or counterfeited bill or note purporting to be a bill or note issued by order of said corporation, or any false, forged, or counterfeited check or order upon the said bank or any Cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass, or receive with intent to pass, or publish as true any falsely altered bill or note, issued by order of said Bank, or any falsely altered order or check on said bank, or any Cashier thereof, knowing the same to be falsely altered, with intent to defraud the said corporation or any other body politic or person or persons; every such person shall be deemed guilty of felony, and being thereof convicted by due course of law, shall be imprisoned, not exceeding ten years, and fined not exceeding five thousand dollars.

Forgery.

Sec. 11. *Be it further enacted,* That that the President or Cashier of said Bank shall annually pay into the Treasury of the State, twelve and a half cents on each share of said capital stock, which may have been subscribed for, and paid in; and the first payment of said tax shall be made twelve months after said bank shall have commenced operations.

Tax to State.

Sec. 12. *Be it further enacted,* That the directors of said bank may declare semi-annually dividends of the profits thereof; and if at any time more than the real profits are

Dividends.

divided, the directors assenting thereto shall be responsible, in their private capacities to creditors who have claims against the said institution.

Report to  
Legislat're.

Sec. 13. *Be it further enacted*, That the President of this bank shall in the first week in December, in each and every year, transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital, notes in circulation, debts due to other banks and to what banks deposited, and all other particulars necessary to explain the debit side of the account; also specie on hand, notes of other banks and what banks, bills of exchange, debt on bonds and notes discounted, specifying in one item the amount due from stockholders, and in another the amount due from directors, not, however, using any person's name in either case; and the real estate.

Penalty  
for false  
statement.

Sec. 14. *Be it further enacted*, That if any President, Cashier, clerk or other officer of the aforesaid bank, shall knowingly, willingly and with intent to deceive, make or cause to be made, or connive at making any false return, statement or exhibit of the condition of the Bank, either to the Treasurer of the State, to the Legislature or to the board of directors or to the stockholders, or to any other person or persons that may be authorized by the Legislature or by the stockholders to receive the same, such President, directors, Cashier, clerk or other officer; and all persons aiding or abetting in such deception or false return, shall be liable to be indicted for a misdemeanor, in the Superior Courts; and upon conviction, shall be fined at the discretion, of the court, and imprisoned not exceeding one year.

Violation  
of charter.

Sec. 15. *Be it further enacted*, That whenever the Legislature may be of opinion that the Charter of the corporation, hereby granted, shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General, with such assistant counsel as the Governor or the Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Supreme Court, calling upon said corporation to shew cause why the Charter hereby gran-

ted shall not be forfeited, subject to the same proceedings as are now prescribed by law as in cases of other corporations.

Sec. 16. *Be it further enacted*, That if it shall happen, when the books shall be opened as aforesaid, that a greater sum than eight hundred thousand dollars shall be subscribed, by individuals or by bodies corporate, it shall be lawful for the commissioners to reduce such subscriptions, according to a scale, by them to be established for that purpose, to the aforesaid amount of eight hundred thousand dollars: *Provided*, that no subscription of two shares or under shall be scaled, until all larger subscriptions shall first be reduced to an equality with them. Excess of  
subscript'n

Sec. 17. *Be it further enacted*, That whenever ten thousand shares shall have been subscribed, and the sum of five hundred thousand dollars shall have been paid in specie or its equivalent, the President and directors of the said bank shall cause to be located, branches or agencies of the said bank, at Wadesboro', in the county of Anson; and at Greensboro', in the county of Guilford; and at Salisbury, in the county of Rowan; and at the town of Washington, in the county of Beaufort. Branches.

[Ratified 27th day of January, 1849.]

## BILLS, BONDS AND NOTES.

## CHAPTER IX.

An Act to amend the 13th Chapter of the Revised Statutes, entitled "An Act concerning bills, bonds, and promissory notes."

## SECTION

1. Bills of exchange, payable at sight, &c., allowed the same days of grace as is usual on foreign bills of exchange.
2. The same shall not apply to bills and notes payable on demand.

WHEREAS, doubts are entertained whether days of grace are to be allowed on sight bills, and there is no established mercantile usage on the subject in this State: 'Therefore,'

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the passage of this act, all bills of exchange, payable within this State, at sight, or at a future day certain, in which there is no express stipulation to the contrary, shall be, and the same are hereby declared to be entitled to days of grace, as the same are allowed by the custom of merchants on foreign bills of exchange, payable at the expiration of a certain period after date or sight.

Sec. 2. *Provided,* that the same shall not apply to any bill of exchange, promissory note or drafts payable on demand, but the same shall be due and payable on demand, and no days of grace shall be allowed thereon.

[Ratified 29th January, 1849.]

Days of  
grace.

No grace  
for bills  
payable on  
demand.

## CANALS.

## CHAPTER X.

AN ACT to provide for the improvement of Clubfoot and Harlow's Creek Canal, and for other purposes.

## SECTION

1. Appoints commissioners to open books for subscriptions, and provides that the subscribers shall be incorporated whenever \$3,000 shall be subscribed.
2. Provides for general meetings, election of directors and manner of voting.
3. Capital stock \$6,000, in shares of \$100 each.
4. Majority required at general meetings, and 20 days notice to be given to the Governor.
5. Provision on failure to pay subscription.
6. Governor to convey canal, on certain conditions, and State to have 10 shares.
7. Amounts to be paid by the State, and stock secured to her, when the company shall have faithfully expended certain sums.
8. Reports to be made, and dividends paid to Treasurer.
9. Tolls may be imposed as now allowed by law.

Sec. 1. *Be 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 F. Jones, Thomas Duncan, Benjamin S. Perry, Michael F. Arendell, Malachi B. Robeson and Josiah F. Bell, in the town of Beaufort, Carteret County, and James W. Bryan, Charles Slover, A. F. Jerkins, Moses W. Jarvis and John Blackwell, in the town of Newbern, Craven County, be, and they are hereby appointed commissioners to open books in said town, for the purpose of receiving subscriptions for the clearing out and improvement of Clubfoot and Harlow's Creek Canal; and*

Amount of  
stock, or  
opening  
books, &c.

that whenever three thousand dollars shall be subscribed by solvent individuals, the subscribers thereto shall be incorporated into a company by the name and style of the "President and Directors of the Clubfoot and Harlow's Creek Canal Company;" and by that name shall be capable in law of suing and being sued; shall have succession and a common seal; shall be capable of holding Clubfoot and Harlow's creek and the lands adjoining necessary for the purposes of said company; and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the conducting the affairs of said company.

General  
meeting  
& election  
of  
Directors

Sec. 2. *And be it further enacted,* That whenever three thousand dollars have been subscribed by solvent individuals, it shall be the duty of the commissioners aforesaid to give the subscribers twenty days notice to assemble at some convenient place; and at said meeting the subscribers shall elect a President and five directors, for the management of the affairs of said company, who shall hold their offices for one year and until the next annual meeting of the stockholders, which meeting shall take place once at least in each year; and at all meetings of the stockholders each stockholder shall be entitled to vote according to the number of shares he may own in the proportion following, viz: for one share and not more than two, one vote; for every two above two, and not exceeding ten, one vote; and for every eight shares thereafter, one vote; provided always, that in all meetings of the stockholders the person representing the State shall be entitled to an equal number of votes with the stockholders present.

Capital  
stock.

Sec. 3. *Be it further enacted,* That the capital stock of the Clubfoot and Harlow's Creek Canal Company shall consist of six thousand dollars, divided into shares of one hundred dollars each; and the President and directors of said company shall issue certificates of stock to the subscribers therefor, as they are severally entitled.

Sec. 4. *Be it further enacted,* That to constitute any Quorum meeting of the stockholders of the company herein created, a majority of all the votes which could be given upon all the shares shall be present, either in person or by proxy, and notice of such meeting shall be given to the Governor at least twenty days previous to the time of meeting.

Sec. 5. *Be it further enacted,* That if any stockholder shall fail to pay his subscription as required by the President and directors aforesaid, within one month of the time specified, it shall and may be lawful for the President and Directors to sell at public auction and to convey to the purchaser the share or shares of such stockholder so failing; Of failure to pay subscriptions. and if the said sale shall not produce the sum required to be advanced with all the charges, then the President and directors may recover the balance from the original proprietor of the stock, or his assignee, executor or administrator, by suit in any court of record having jurisdiction of the same, or warrant before a justice of the peace.

Sec. 6. *Be it further enacted,* That whenever the President and directors of the Clubfoot and Harlow's Creek Canal Company shall certify to the Governor that said Company has been organized according to the provisions of this act, then it shall be the duty of the Governor to convey to said President and directors, for the use of said company, the Clubfoot and Harlow's Creek Canal, with the appurtenances, upon the said President and directors executing to the Governor a mortgage to the State, with a condition to put said Clubfoot and Harlow's Creek Canal in good repair and keep it so; and at the same time said President and directors shall deliver to the Governor, for the use of the State of North Carolina, ten shares of the capital stock of said company. Governor to convey canal to company and State to have 10 shares.

Sec. 7. *Be it further enacted,* That whenever the President and directors of said company shall make it appear to the satisfaction of the Public Treasurer that fifteen hundred dollars have been paid by the subscribers and faithfully ex-

Appropri-  
ates \$1000  
out of Pub-  
lic Treasu-  
ry.

pend upon the improvement of said Clubfoot and Harlow's Creek Canal, then the Public Treasurer is hereby authorized to pay over to said President and directors one thousand dollars to be expended upon said canal, the said President at the same time delivering to the Treasurer, for the use of the State, ten shares of the capital stock of said Company; and when the said President and directors shall again make it appear that fifteen hundred dollars more has been paid by the stockholders, which, together with the thousand dollars received from the Public Treasurer, have been faithfully expended for the improvement of said canal, then and in that case the Public Treasurer is hereby authorized to pay over to said President and Directors one thousand dollars, for the improvement of said canal, the said President and directors at the same time delivering ten other shares of the capital stock of said company to the Public Treasurer, for the use of the State.

\$1000  
more.

Report and  
dividends.

Sec. 8. *And be it further enacted,* That said President and directors shall annually report to the Treasurer of the State the condition of said company, and pay over to said Treasurer all such dividends as may be declared upon the thirty shares of the capital stock of said company, belonging to the State.

Tolls.

Sec. 9. *Be it further enacted,* That the President and directors of Clubfoot and Harlow's Creek Canal Company may impose and receive the same tolls for passing the said canal as those now allowed by law.

[Ratified 29th day of January, 1849.]

**CONSTABLES.**

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**CHAPTER XI.**

AN ACT to amend the 24th Chapter of the Revised Statutes.

**SECTION**

1. When a town is parted, in division of counties, into captain's districts, each district of such town entitled to two constables.

Sec. 1. *Be 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 a town shall be parted in the division of counties into captain's districts, each district of such town shall be entitled to two constables, to be elected in manner and form as now provided by law.

Sec. 2. *Be it further enacted,* That this act shall be in force, from and after its passage.

[Ratified 29th day of January, 1849.]

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**COSTS.**

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**CHAPTER XII.**

AN ACT concerning costs in certain cases in equity.

**SECTION**

1. Upon plaintiff dismissing his bill, or defendant dismissing the same for want of prosecution, plaintiff to pay defendant full costs.

*Be 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, upon the plaintiff dismissing his own bill, or the defendant dismissing the same for want of prosecution, the plaintiff, in such suits, shall pay to the defendant or defendants his or their full cost, to be taxed by the master.

[Ratified 29th day of January, 1849.]

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### CHAPTER XIII.

AN ACT To authorize the further taxation of costs in the trial of actions at law.

#### SECTION

1. Court, hereafter, in rendering judgment, shall tax as cost fees for taking depositions beyond the State, by virtue of commission from said court.
2. Shall also tax, as part of cost, fees for exemplifications or transcripts of records or copies of deeds.

Expense of  
executing  
commis-  
sion out of  
the State to  
be taxed as  
cost.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever judgment shall be hereafter recovered by any person or persons upon the trial of any cause, in any of the courts of law of this State, for the costs by him or them in such suit expended, shall be taxed as part of said costs, the fees for executing any commission issuing from any of the said courts to take depositions, in said suit, beyond the limits of this State, and for the attendance of witnesses before the commissioners or commissioner allowed by the law of the place, where such commission shall be executed; and the certificate of the commissioner or commissioners, annexed to such deposition, of the amount of such fees paid by the party in whose favor such judgment shall be rendered, shall be received as evidence thereof.

Sec. 2. *Be it further enacted,* That there shall also be taxed,

under the direction of the court, as a part of the costs in such suits, the fees paid for exemplifications or transcripts of records, or certified copies of deeds to be used as evidence in such suits; and the certificate of the clerk making such exemplifications or transcripts of records, or of the register furnishing such certified copies of deeds, as the case may be, of the amount of such fees, shall be taken and received as evidence thereof.

Fees for transcripts, &c. also taxed as cost.

[Ratified 29th day of January, 1849.]

## COUNTIES.

### CHAPTER XIV.

AN ACT to lay off and establish a new county by the name of Alamance.

#### SECTION

1. Divides the county of Orange, if a majority of the people vote for it.

Sec. 1. *Be 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, out of that portion of the county of Orange lying West of a North and South line, running from the Caswell line, South to Haw River; thence down the meanders of said River to the Chatham line, said North and South line running nine miles West of the of the town of Hillsborough, as heretofore surveyed by Edward Benson; said county to be called Alamance; and it shall be, and is, hereby, invested with all the rights, privileges and immunities of the other counties of this State; provided a majority of the qualified voters for members of the House of Com-

mons, in the county of Orange, shall vote for the division aforesaid, at an election to be held according to the provisions of an act to be passed supplemental to this act.

Sec. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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## CHAPTER XV.

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 Alamance."

### SECTION

- 1 Rights with which county is invested.
- 2 Appoints commissioners to locate the seat of justice.
- 3 Provides for laying off town and erecting court house and jail.
- 4 Justices and militia officers residing in Alamance to exercise the functions in said county, which they did in Orange.
- 5 Constables to do the same.
- 6 Provides for the holding of a Superior court.
- 7 Provides for a county court and the election of county officers.
- 8 Transfer of suits in county court.
- 9 Transfer of suits in Superior court.
- 10 Superior court of Orange to have jurisdiction of criminal offences, &c.
- 11 Imprisonments to be in Orange jail until erection of one in Alamance.
- 12 Sheriff of Orange not prohibited from collecting certain claims in Alamance.
- 13 Sheriff of Orange to perform all the duties of his office in Alamance.
- 14 Sheriff of Orange to collect taxes. Proviso.
- 15 Representation and elections.
- 16 Share of common school fund, how paid.
- 17 Elections, how held.
- 18 County to compose a part of 4th judicial circuit.
- 19 Judge to appoint clerk and master.
- 20 County court to appoint commissioners to superintend erection of court house and jail.
- 21 Provision for paupers:

22, 23, 24, 25, and 26, provide for sense of people on division.

27 Surveyors appointed to run dividing line.

28 Provision if a majority decide against division.

Sec. 1. *Be 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 Alamance shall be, and is hereby, invested with all the rights, privileges and immunities of the other counties of this State, except as hereinafter provided. Rights of county.

Sec. 2. *Be it further enacted,* That John Stockard, John Fogleman, Jesse Gant, Peyton P Moore, Wm. A. Carrigan, John Scott, Absalom Harvey, James A Craig, George Hurdle, are hereby appointed commissioners to select and determine upon a site for a permanent seat of justice in said county, who shall locate the same as near the centre of said county as a suitable location can be obtained, taking into consideration both the extent of territory and population; and a majority of said commissioners shall have power and authority to act. Commissioners to locate c. h.

Sec. 3. *Be it further enacted,* That a majority of said commissioners shall have power to purchase or receive by donation, for the county of Alamance, a tract of land containing not less than twenty-five acres, nor more than one hundred, 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 Grahams, where the court house and jail shall be erected, and where, after the completion of said court house, the courts of said county shall be held, and the clerks and registers shall keep their offices; and the said commissioners shall lay off the lots of said town, and after designating such as shall be retained for public uses, shall expose, after due notice, the balance, or such portion thereof as may by them be deemed necessary, 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 in office; and upon the Town to be laid off.

payment of the purchase money, the chairman or his successor shall execute title therefor, which money shall be appropriated to the building of a court house and jail.

Sec. 4. *Be it further enacted*, That the justices of the peace and officers of the militia who reside within the limits of Alamance county, shall continue to hold and exercise all the official powers and authorities, in and for said county, that they had hitherto held and exercised in the county of Orange.

Sec. 5. *Be it further enacted*, That constables now residing within the limits of the county of Alamance, shall continue to hold their offices and perform all duties appertaining thereto, until the expiration of the term of office for which they have been chosen, under the same rules, regulations and penalties as constables are subject to in this State.

Sec. 6. *Be it further enacted*, That there shall be a superior court of law and equity opened and held at Providence meeting house, in said county of Alamance, on the 8th Monday after the 4th Monday of March and September of each and every year, and at the same place from time to time, unless a court house should be built in the mean time as provided for in this act; at the town and court house on the 8th Monday after the 4th Monday of March and September in each and every year thereafter; which court 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.

Sec. 7. *Be it further enacted*, That a Court of Pleas and Quarter Sessions shall and the same is hereby established in and for the county of Alamance, to be held by the Justices of said county on the first Monday after the 4th Monday in February, May, August and November, in each and every year; and that the first session of said court shall be held at Providence Meeting House aforesaid on the first Monday after the 4th Monday in May next, and at the same place from time to time, until a seat of Justice shall be established for said county as is hereby provided; and at the first

Justices  
and militia  
officers.

Constables

Superior  
court.

County  
court.

session of said court, a majority of the Justices of the Peace being present, they shall elect a clerk of the Superior Court, a clerk of the county Court, a county attorney, Sheriff, Coroner, Register, Entry taker, Surveyor and all other officers for said county, who shall enter into the bonds required by law, and shall hold and continue in said office until successors to them are duly chosen and qualified according to the acts of the General Assembly in such cases made and provided: *Provided*, that said court may at its said first session appoint the place of its subsequent sessions, and also of the Superior court, until a court house shall be erected for said county of Alamance. Proviso.

Sec. 8. *Be it further enacted*, That the court of pleas and quarter sessions hereby established shall possess and exercise the same powers, authorities and jurisdictions as are possessed and exercised by the other county courts in this State; and all suits at law of which other county courts of other counties in this State have jurisdiction, now pending in the county court of Orange, wherein the citizens of Alamance are both plaintiff and defendant, or where the citizens of Alamance are defendants; and all indictments and criminal proceedings against the citizens of Alamance county in the county courts of Orange, of which other county courts in this State have jurisdiction, shall be transferred to the county courts of Alamance, in the manner now provided for transferring suits from one county to another. Transfer of suits in county court.

Sec. 9. *Be it further enacted*, That all suits in law or in equity now pending in the superior courts of Orange, of which the superior courts in this State have jurisdiction, and wherein both plaintiffs and defendants are citizens of Alamance, or wherein the citizens of Alamance are defendants, and the plaintiffs are not citizens of Orange, and all indictments and criminal proceedings against the citizens of Alamance which shall be pending in the superior courts of Orange, and which are cognizable in the superior courts of this State, shall be transferred from the September term of Orange superior court to be held in Transfer of suits in superior court

the year 1849, to the superior court of Alamance county, in the same manner as is now prescribed by law for transferring suits from one county to another.

Criminal  
offences.

Sec. 10. *Be it further enacted*, That within the said September term of Orange superior court, to be held in the year 1849, the superior court of Orange shall have jurisdiction of all criminal offences cognizable only in the superior courts of this State, which shall be committed in said county of Alamance; and in all such cases it shall be the duty of the justices of the peace of Alamance county, when they give judgments against the defendants in any State warrant for offences as aforesaid, to bind over the defendants and witnesses and make their returns to the superior court of Orange county, as they were heretofore bound to do.

Prison.

Sec. 11. *Be it further enacted*, That all persons who may be liable to imprisonment under any process either civil or criminal in Alamance county, before the completion of the jail therein, shall be committed to the jail of Orange.

Sheriff of  
Orange  
may collect

Sec. 12. *Be it further enacted*, That nothing in this act contained shall be so construed as to prohibit the sheriff of Orange from collecting such sum or sums of money as are due or may become due, on any judgment where the execution shall come to his hands before the first term of the court of pleas and quarter sessions for the county of Alamance; nor shall it be construed so as to prohibit him from collecting any executions issuing from the superior court of Orange, and returnable to the same.

Sheriff to  
act in Ala-  
mance.

Sec. 13. *Be it further enacted*, That the sheriff of Orange county shall continue to perform all duties pertaining to his office of sheriff in said county of Alamance, under the same liabilities and penalties, and shall receive the same fees as heretofore provided by law, under the appointment of sheriff of the county of Alamance.

Sheriff to  
collect tax-  
es.

Sec. 14. *Be it further enacted*, That nothing in this act is to be construed so as to prevent the sheriff of Orange from collecting all arrears of taxes in the same manner he could have done previous to the creation of the county of

Alamance: *Provided, nevertheless,* that the sheriff of Orange shall not collect any tax in the county of Alamance or of the citizens of said county, imposed by the county court of Orange, and which are to be collected in the year 1849, but that the same be collected by the sheriff of Alamance, upon the tax duplicates of the clerk of the county of Orange, to the use of said county of Alamance, subject to the assessments of tax made by the county court of Alamance. <sup>Proviso.</sup>

Sec. 15. *Be it further enacted,* That the county of Alamance shall continue to be represented in the General Assembly of this State in the name of the county of Orange, as heretofore; and the elections for members of the General Assembly, Members of Congress, Electors of President and Vice President, and Governor, shall be held by the sheriff of Orange county, under the same rules, regulations and restrictions as hitherto; and the court of pleas and quarter sessions for the county of Orange is hereby authorized and required to appoint inspectors for holding elections for members of the General Assembly, Members of Congress, President and Vice President of the United States and Governor, as heretofore: *Provided,* that all other elections shall be held in the county of Alamance in the same manner, and under the same rules and regulations as are now provided for holding elections in this State. <sup>Represent. tation.</sup>

Sec. 16. *Be it further enacted,* That in the distribution of the net annual income of the Literary fund, the Literary Board shall pay over as heretofore to the chairman of the board of superintendents of Orange, and be distributed by them as heretofore, until the next General Assembly. <sup>School fund.</sup>

Sec. 17. *Be it further enacted,* That all elections in said county of Alamance shall be held in the same manner and under the same rules and regulations as are now provided by law, for holding elections in other counties of this State. <sup>Elections.</sup>

Sec. 18. *Be it further enacted,* That the county of Alamance shall compose a part of the fourth judicial circuit,

Circuit. and the judges and solicitor of said circuit shall attend said courts, under the same provisions and liabilities, and regulations, as apply to the other counties of said circuit.

Clerk and master. Sec. 19. *Be it further enacted*, That the Judge who shall ride the Fall circuit, in the year 1849, of the fourth judicial circuit of this State, shall appoint the clerk and master of the said county of Alamance.

Com'ers to build c. h. and jail. Sec. 20. *Be it further enacted*, That the county court of Alamance, at its first session, a majority of the justices of the peace being present, shall appoint such number of commissioners as may be deemed necessary to contract for and superintend the building of a court house and jail for said county of Alamance.

Paupers. Sec. 21. *Be it further enacted*, That all paupers, now in the poor house of Orange county, as well as all that are out on half pay, that come from said county of Alamance, be returned to the said county of Alamance, on or before the first day of August, 1850; and that all moneys belonging to the poor fund of Orange county be divided at the time that said paupers are returned among the several paupers thus to be divided between the counties of Orange and Alamance *pro rata*.

Election on division Sec. 22. *Be it further enacted*, That it shall be the duty of the justices of the said county court of Orange, at the February term thereof, 1849, to order an election to be held throughout the present county of Orange, at the several election precincts heretofore established, on the third Thursday in April next, to take the sense of the qualified voters of said county of Orange, on the question of "division" or "no division."

Sec. 23. *Be it further enacted*, That it shall also be the duty of the said county court, at the said February term 1849, to appoint judges and inspectors to hold and superintend said election at the several precincts aforesaid, who, after taking an oath, honestly, fairly, and impartially to discharge their duty, shall hold said election, and report the same to the sheriff of the county of Orange, under the same

rules, regulations, liabilities and restrictions as are now re-<sup>Judges of</sup>quired by law in holding elections for members of the Gen-<sup>election.</sup>eral Assembly.

Sec. 24. *Be it further enacted,* That said election shall be held by ballot, those voting for division, putting in a ticket, on which shall be written "Division," and those voting against the same, a ticket on which shall be written "No division;" and that every free white citizen of said county, qualified to vote for members of the House of Commons in said county, shall be allowed to vote at said election.

How to  
vote, and  
duty of  
sheriff.

Sec. 25. *Be it further enacted,* That it shall be the duty of the sheriff of the present county of Orange, on the result of said election being returned to him, to proclaim the same on the next day, at the court house door on or before 3 o'clock P. M.; and in case a majority of the qualified voters of said county be found to be in favor of division, it shall be the duty of the said sheriff to certify the same to the Governor of the State; and on its appearing to the Governor from said certificate that there is a majority of the qualified voters in said county of Orange in favor of the division proposed by the act to which this act is supplemental, then and in that case the Governor shall make that fact known by proclamation; upon which this act and the act passed at this General Assembly, to which this Act is supplemental, shall be operative and take effect; otherwise, both of said acts shall be null and void.

Proclama-  
tion.

Sec. 26. *Be it further enacted,* That the sheriff of Orange county shall be entitled to the same compensation, for making the return of the result of said election to the Governor, that he is now by law allowed for making the return of the election of members of the General Assembly, and shall return the same to the Governor within five days from and after the day of election.

Sheriff's  
pay.

Sec. 27. *Be it further enacted,* That Edward Benson be appointed on the part of Alamance county, and Freeman Walker be appointed on the part of Orange county, surveyors, to run and mark the dividing line between the counties of Or-

Surveyors. ange and Alamance; and that they enter upon the discharge of this duty immediately upon its being ascertained and proclaimed, by the proclamation of the Governor aforesaid, that a majority of the qualified voters of the present county of Orange are in favor of the division proposed by the act to which this is supplemental, or as soon thereafter as may be practicable.

If no division.

Sec. 28. *Be it further enacted*, That should a majority of the qualified voters of the present county of Orange vote against the division passed by the act to which this act is supplemental, nothing in this act contained is intended, or shall be construed as an expression of the opinion of this General Assembly that the present county of Orange ought not hereafter to be divided upon the application of a majority of the qualified voters of the county of Orange, residing west of the proposed dividing line.

Sec. 29. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER XVI.

AN ACT to attach a portion of Yancy County to the County of Buncombe.

Part attached.

Sec. 1. *Be 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 of that portion of the county of Yancy in the vicinity of Burnett's Station, beginning at a point one mile east of said Station, and running with the top of the mountain to the top of the main Walnut mountains; then with the top of the said mountain to the Hopewell Gap, at the old Allin road; then with the line of the counties

of Yancey and Buncombe, to a point due south from the be- Part at-  
 ginning; thence north to the beginning; shall be, and the tached.  
 same is hereby attached to and made part of the county of  
 Buncombe; and the inhabitants thereof shall be subject to  
 all the duties and liabilities, and entitled to all the rights  
 and privileges of other citizens of the county of Buncombe.

Sec. 2. *Be it further enacted,* That justices of the peace and Justices  
 militia officers residing in said territory, shall continue in and militia  
 their respective offices, with the same powers and duties as officers.  
 like officers, appointed for the county of Buncombe.

Sec. 3. *Be it further enacted,* That the portion of the School  
 common school fund for the county of Yancey, to which fund, &c.  
 the portion of the county hereby cut off, is entitled, shall be  
 transferred to the county of Buncombe; and the country  
 hereby attached to Buncombe shall form a school district in  
 said county, until otherwise provided, and shall be attached  
 to the 3rd regiment of North Carolina militia.

Sec. 4. *Be it further enacted,* That the clerk of the county Taxable  
 court of Yancey county shall transmit to the clerk of the property.  
 county court of Buncombe county a correct statement of  
 the returns and assessment of taxable property within the  
 country hereby attached to Buncombe, which shall be filed  
 with the returns and assessments made for Buncombe coun-  
 ty, and shall be proceeded on in collecting and applying the  
 taxes as by law required in cases where the returns and as-  
 sessments were originally made for said county of Bun-  
 combe.

Sec. 5. *Be it further enacted,* That it shall be the duty of Commis-  
 the court of pleas and quarter sessions for each of the coun- sioner to  
 ties of Buncombe and Yancey to appoint one commissioner, run line.  
 whose duty it shall be to meet, and run, and mark the line  
 herein established, and that they unite in their report and  
 return a copy thereof to each of said courts, to be filed with  
 the records thereof.

[Ratified 29th January, 1849.]

## CHAPTER XVII.

AN ACT to amend the act establishing the county of Alexander.

## SECTION

1 Part of Caldwell attached to Alexander.

Sec. 1. *Be 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 Caldwell county comprised within the following boundary, viz: Beginning at the mouth of upper Little river and running up the meanders of said river, to the dividing line between George Benfield and Bable Payne; thence a direct line to where the present Caldwell line crosses the Love Lady road, and thence with said line to the Catawba river, and up the said river to the beginning, be, and the same is hereby annexed to and shall form a part of the county of Alexander.

Sec. 2. *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 29th day of January, 1849.]

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## CHAPTER XVIII.

AN ACT to repeal the act of 1846-'7, entitled "An Act to lay off and establish the county of Polk."

Sec. 1. *Be 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 the General As-

sembly of 1846-'7, entitled "An Act to lay off and establish a county by the name of Polk," be, and the same is, hereby, repealed.

Sec. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 16th day of January, 1849.]

## CHAPTER XIX.

AN ACT supplemental to an act, passed at the present session of the General Assembly, repealing the law establishing a county by the name of Polk.

Sec. 1. *Be 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 county of Polk which was taken from the county of Rutherford be, and the same is hereby ceded back to said county of Rutherford. Cedes to Rutherford.

Sec. 2. *Be it further enacted,* That all that portion of the county of Polk, which was taken from the county of Henderson, be, and the same is hereby, ceded back to said county of Henderson. Cedes to Henderson.

Sec. 3. *Be it further enacted,* That the clerk of the superior court of the County of Polk be, and he is hereby, required to make out a transcript of all the suits or cases on his docket, both civil and criminal, and deliver all such transcripts where either or both the parties live in that portion of the county of Polk which was taken from the county of Rutherford, and deliver the same, with all the original papers relating to said transcripts, and all the records and dockets belonging to his office, to the clerk of the superior court Duty of clerk of superior court to make transcripts, &c

of Rutherford county. And the said superior court clerk of Polk county is further required to deliver to the clerk of the superior court of Henderson county a transcript of all suits or cases where the parties live in that portion of the county of Polk which was taken from the county of Henderson, with all the original papers relating to said transcript.

Clerk of  
county  
court to  
make  
transcripts,  
&c.

Sec. 4. *Be it further enacted,* That the clerk of the court of pleas and quarter sessions of the county of Polk be, and he is hereby required to make out a transcript of all the suits or cases on his docket, both civil and criminal, where the intervention of a jury may be necessary, and deliver all such transcripts, where either or both of the parties live in that portion of the county of Polk which was taken from the county of Rutherford, with all the original papers relating to said transcripts, to the clerk of the superior court of Rutherford county. And the said clerk of the court of pleas and quarter sessions of Polk county is further required to deliver to the clerk of the superior court of Henderson county, a transcript of all suits or cases where the intervention of a jury may be necessary, where the parties live in that portion of the county of Polk which was taken from the county of Henderson, with all the original papers relating to said transcript, to the clerk of the superior court of Henderson county.

County  
court dock-  
et.

Sec. 5. *Be it further enacted,* That the aforesaid clerk of the court of pleas and quarter sessions of the county of Polk be, and he is hereby required to deliver to the clerk of the court of pleas and quarter sessions of Rutherford county, all the court dockets belonging to his said office, with all other documents and papers belonging to the same, except such as are provided for in the fourth section of this act.

clerk and  
master's  
duty.

Sec. 6. *Be it further enacted,* That the clerk and master in equity of said county of Polk be, and he is hereby required to deliver over to the clerk and master in equity of the county of Rutherford all books, records, documents and papers relating or belonging to his said office.

Sec. 7. *Be it further enacted,* That the sheriff of the coun-

ty of Polk be, and he is hereby, required to deliver to the sheriff of Rutherford county, all the office or court papers in his hands, where the defendants live in that portion of Polk county which was taken from the county of Rutherford. And he is hereby further required to deliver to the sheriff of the county of Henderson all the office or court papers in his hands, where the defendants live in that portion of Polk county which was taken from the county of Henderson.

Sheriff's duty.

Sec. 8. *Be it further enacted,* That the county trustee of Polk county be, and he is hereby, required to deliver over to the county trustee of the county of Rutherford, all moneys, books and papers relating to his office as trustee ; and that the county court of Rutherford be authorized to pay all claims allowed by the justices of the county of Polk, and settle all county claims against said county.

Duty of county trustee.

Sec. 9. *Be it further enacted,* That the county register of Polk county be, and he is hereby required to deliver to the register of Rutherford county, all books, records, deeds or other papers in his possession, as register.

Register's duty.

Sec 10. *Be it further enacted,* That the entry taker of the county of Polk be, and he is hereby, directed to deliver to the entry taker of Rutherford county all books and records in his possession as entry taker.

Entry taker.

Sec. 11. *Be it further enacted,* That the acting justices of the peace, who reside in that portion of the county of Polk which was taken from the county of Rutherford be, and they are hereby constituted acting justices of the peace in and for the county of Rutherford. And all the acting justices of the peace who reside in that portion of the county of Polk which was taken from the county of Henderson be, and they are hereby, constituted acting justices of the peace in and for the county of Henderson.

Justices.

Sec. 12. *Be it further enacted,* That all persons liable to do military duty in that portion of Polk county which was taken from the county of Rutherford, are hereby required to muster, and perform all other public duty in the county of Rutherford. And all persons liable to do military duty in

Militia.

that portion of Polk county, which was taken from the county of Henderson, are hereby required to muster and perform all other public duties in the county of Henderson.

Voters.

Sec. 13. *Be it further enacted,* That all voters who live in that portion of Polk county, which was taken from the county of Rutherford, in all elections hereafter held, shall be required to exercise their elective franchise in the county of Rutherford. And all voters who live in that portion of Polk county which was taken from the county of Henderson, in all elections hereafter held, shall be required to exercise their elective franchise in the county of Henderson.

School fund.

Sec. 14. *Be it further enacted,* That the chairman of the board of superintendents for common schools of Polk county, be directed to pay to the superintendent of common schools of Rutherford county, three fourths of the money in his hands, and one fourth to the superintendent of common schools of Henderson county.

Clerk's powers.

Sec. 15. *Be it further enacted,* That the clerks of the superior and county courts of the counties of Rutherford and Henderson shall have the same power and authority over all the records, documents and papers, which are hereby required to be transferred to their offices, by the clerks of the superior and county courts of Polk county, as if such records, documents and papers had heretofore belonged to the offices of the county and superior court clerks of the counties of Rutherford and Henderson; and the said clerks, of the county and superior courts of Rutherford and Henderson are hereby required to enter all causes of trial and other matters of record, upon their respective dockets, strictly observing the order and number of the same.

Officers' duties and penalties

Sec. 16. *Be it further enacted,* That the officers required to perform their respective duties in the 3, 4, 5, 6, 7, 8, 9, 10 and 14th sections of this act, shall be allowed until the first day of March next to perform the same, and in case of failure on the part of either of the aforesaid officers to comply with the provisions of this act, such officer so failing to perform the duty hereby required of him, shall, for such neg-

lect of his duty, forfeit and pay the sum of five hundred dollars, to be sued for and recovered, by action of debt, by the prosecuting attorney for the State, in either the county or superior courts of the counties of Rutherford or Henderson; the money to be applied to the use of the county suing for the same.

Sec. 17. *Be it further enacted*, That all laws and clauses of laws coming in conflict with the provisions of this act, be, and the same are hereby, repealed.

Sec. 18. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 26th day of January, 1849.]

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## CHAPTER XX.

AN ACT to amend an act, passed at the last session of the General Assembly, entitled "An Act to lay off and establish a new county by the name of Alexander.

### SECTION

1. Provides for commissioners to mark and establish the dividing line between Iredell and Alexander.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the county court of Iredell shall appoint one commissioner, and the county court of Alexander another commissioner, whose duty it shall be to run, if necessary, mark and establish the boundary line between the counties of Iredell and Alexander; and the said commissioners shall be entitled to a compensation of one dollar and fifty cents per day, for every day they may be necessarily engaged in the same, to be allowed by their respective courts and paid as other county claims are now paid.

Coms. to  
report.

Sec. 2. *Be it further enacted*, That said commissioners shall be and they are hereby required to make a full report, under their hands and seals, of their proceedings; a copy of which report shall be by them returned to the county court of their respective counties, to be filed among their records.

Sec. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified the 29th day of January, 1849.]

## CHAPTER XXI.

AN ACT to amend an act supplemental to an act, passed at the session of one thousand, eight hundred and forty two and three, entitled "An Act to lay off and establish a county by the name of McDowell."

### SECTION

1. That portion taken from Rutherford to be represented with the portion taken from Burke.

How repre-  
sented.

Sec. 1. *Be 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, that portion of the county of McDowell which heretofore constituted a part of the county of Rutherford, shall be represented in the General Assembly of this State with that portion of the said county of McDowell which heretofore constituted a part of the county of Burke; and that in all elections hereafter to be held in this State, the same shall, in every particular, in that portion of the said county of McDowell heretofore taken from the said county of Rutherford, be held in the same manner, and under the same rules, regulations and restrictions, as the said elections are directed to be held in that portion of the said county of McDowell heretofore taken from

the said county of Burke, by the sixteenth section of the act, passed at the session of 1842 and 1843, entitled "an act supplemental to an act entitled 'an act to lay off and establish a county by the name of McDowell.'" "

Sec. 2. *And be it further enacted,* That all laws and clauses of laws coming in conflict with the meaning and purview of this act, be, and the same are hereby repealed.

[Read three times and ratified in General Assembly this 16th day of January, 1849.]

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## CHARTER XXII.

AN ACT to revive and amend the seventh section of an act, supplemental to an act passed by the General Assembly in the year 1842, entitled "An Act to lay off and establish a new county of the name of Catawba."

Sec. 1. *Be 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 seventh section of such act be so revived and amended, as to provide for the appointment of the following commissioners, viz: George D. Wilkey, William P. Reindhart, Dr. Wm. J. Gunter, Henry Harmon and George Little, who shall be empowered, after appropriating the lot upon which the male Academy now stands in the town of Newton, in the said county of Catawba, to the purposes of education and the other lot in the said town for an establishment of a female academy, to sell the remaining lots in the said town of Newton, (after giving thirty days notice,) which are unsold, and to appropriate the proceeds of such sales to the use of the said county of Catawba.

Sec. 2. *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.

[Read three times and ratified in General Assembly this 16th day of January, 1849.]

### CHAPTER XXIII.

#### AN ACT for dividing the County of Stokes.

WHEREAS the extent and peculiar situation of the county of Stokes render it desirable, with a large majority of its inhabitants, to have the same divided:

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, the county of Stokes shall be divided into two distinct counties, by a line beginning at the South West corner of Rockingham county, and running thence West to the Surry county line.

Division  
line.

Names of  
counties.

Sec. 2. *And be it further enacted,* That all that part of the said county, lying North of said line, shall be erected into a distinct county by the name of Stokes county; and all that part lying South of said line, shall be erected into another distinct county by the name of Forsyth county, in honor of the memory of Col. Benjamin Forsyth, a native of Stokes county, who fell on the Northern frontier, in the late war with England.

[Ratified 16th January, 1849.]

## CHAPTER XXIV.

AN ACT supplemental to an act, passed at the present General Assembly, entitled "An Act to divide the county of Stokes into two distinct counties."

## SECTION

- 1 Rights with which county is invested.
- 2 Appoints commissioners to run dividing line.
- 3 Appoints commissioners to locate seat of justice.
- 4 Title to land, to whom made.
- 5 and 6 Debt, how apportioned, and erection of buildings.
- 7 Provision as to what number of commissioners may act.
- 8 and 9 Provisions respecting paupers and representation.
- 10, 11 and 12 Provisions relative to justices, militia and other officers.
- 13 Relative to public records.
- 14 and 15 County courts.
- 16 Imprisonments.
- 17 Provides for transfer of suits in court.
- 18, 19, 20 Superior courts and circuit.
- 21 Superior court of Guilford, when held.
- 22 and 23, relative to enforcing law, and designating records of Stokes.

Sec. 1. *Be 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 counties of Forsyth and Stokes shall be, and they are hereby respectively invested with all the rights, privileges and immunities of the other counties of this State. Rights.

Sec. 2. *Be it further enacted,* That Caleb Jones, Frederick C. Minung and John Banner, be, and they are hereby, appointed commissioners, and are empowered and required to run the line, dividing the new county of Stokes from the county of Forsyth, agreeably to the directions of said act; and when said commissioners, or a majority of them, shall have run and marked said line, they shall make a report, in writing, of the principal landmarks designating the same, to the county court of each of said counties, where such report shall be duly entered of record; and the said line shall be deemed and taken as the dividing line between said counties. The expense of running said Comm'rs  
to run line.

line shall be defrayed, one half by the county of Stokes and one half by the county of Forsyth: *Provided, however,* in running said dividing line, it shall be the duty of said commissioners to run the line near Germanton, so as to leave the court house and public buildings in the county of Stokes, and that they shall be the property of said county and subject to such disposition as the county court of said county may make of them.

Sec. 3. *Be it further enacted,* That Alexander King, William C. Moore, James Byerson, John Bafiner and Stephen Smith, be, and they are hereby appointed commissioners for the county of Stokes, and Zaddock Stafford, John Stafford, Henry A. Lemley, Leonard Conrad and Francis Fries, be, and they are hereby appointed commissioners for the county of Forsyth, whose duty it shall be to select and determine suitable sites for permanent seats of justice in their respective counties; to purchase, or receive by donation, tracts of land on which to erect the necessary public buildings; to lay off the residue, not used for public purposes, in streets and town lots; to sell such lots at public auction to the highest bidder, on a credit of one and two years; to cause bonds with good security to be executed and delivered to the chairman of the county court of each of said counties respectively, and his successors, for the amount realized at such sale; *Provided, however,* it shall be the duty of said commissioners to purchase for and at each court house not less than thirty acres of land.

Comm'ers  
to to sit  
c. h. and  
lay off  
town.

Sec. 4. *And be it further enacted,* That the title of the said tracts of land obtained by said commissioners, shall be made to the chairman of the county court of county in which such land is situated and his successors in office, and by him to the person or persons purchasing from said commissioners.

Title

Sec. 5. *Be it further enacted,* That said ten commissioners, or a majority of them, shall apportion any debt which may be due from the original county between the two new counties, in such manner as to them or a majority of them shall seem just and equitable.

Debt how  
apportion-  
ed.

Sec. 6. *Be it further enacted,* That said commissioners, in their respective counties, shall cause to be erected the necessary public buildings, according to such plans, in such manner, and on such terms, as they, or a majority of them, may consider most conducive to the public good; provided the cost of erecting such buildings does not exceed the amount to be determined on by the respective county courts.

Erection  
of build-  
ings.

Sec. 7. In case of any of the commissioners above appointed should refuse, or in any way be prevented from aiding in the discharge of the duties by this act imposed, then the acts of the remainder of said commissioners (there not being less than three acting in either of the respective counties) shall be as valid as though all had participated.

Number of  
commiss-  
ioners  
to act.

Sec. 8. *Be it further enacted,* That all paupers originally from that part now composing the county of Stokes shall be transferred to the wardens of said county of Stokes; and all paupers originally from that part now composing the county of Forsyth, shall be transferred to the wardens of said county of Forsyth.

Paupers.

Sec. 9. *Be it further enacted,* That the counties of Forsyth and Stokes shall continue to be represented in the General Assembly of this State as one county, in the name of the county of Stokes, until a future Legislature shall otherwise provide and direct; and until such provision is made, all elections shall be held for Governor of the State, members of both houses of the General Assembly, and of Congress, and Electors for President and Vice President of the United States by the sheriff or other returning officers of Stokes county, in all the territory comprehended in the limits of the counties of Stokes and Forsyth, 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 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 to divide the county of Stokes had never been passed.

How repre-  
sented.

Sec. 10. *Be it further enacted,* That all the justices of the

Justices  
and militia  
officers.

peace and officers of the militia who reside within the respective counties of Stokes and Forsyth, shall continue to hold and exercise all the official powers and authorities in and for said counties in which they reside, as fully as they have hitherto held and exercised in the original county of Stokes.

Other offi-  
cers.

Sec. 11. *Be it further enacted*, That the clerk of the county court, clerk of the superior court, the clerk and master of the court of equity, the sheriff and coroner, register and surveyor, and all the constables of the original county of Stokes shall hold their respective offices and perform all duties appertaining thereto, in and for the county in which their residence is situated, at the time this act is ratified, and so continue to do until the time for which they have been elected or appointed shall have expired, under the same rules, regulations and penalties, as they would have been subject to in case the act to divide the county of Stokes had not been passed.

Sheriff.

Sec. 12, *Be it further enacted*, That the sheriff of the original county of Stokes shall have power to collect such sums of money as are due or may become due on any judgment before the first county court in either of said new counties of Stokes or Forsyth, and he shall pay such sums of money so collected to the proper officer in the county in which such money shall have been collected; and further, said sheriff shall have power to collect all arrears of taxes due him in both said counties.

Public re-  
cords.

Sec. 13. *Be it further enacted*, That all public records and documents of the old county of Stokes, shall remain in care of the respective officers who now have charge of them, until otherwise ordered by the courts of the respective counties in which such officers reside. This section shall not be so construed as to prevent the said officers from transferring the papers in cases now pending in different courts in Stokes county as hereinafter directed.

Sec. 14. *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 Stokes, to be held by the justices appointed in the tenth section of this act, and such others as may hereafter be appointed for said county, on the second Mondays of March, June, September, and December in each and every year; the first session of which shall be held at Germarton, on the second Monday of March next, when and where such court shall appoint all the necessary court officers not kept in office under the eleventh section of this act: *Provided, however,* that the county court of Stokes, a majority of the justices being present, shall have power to determine at what time the new court house and jail for said county shall be built, and at what time the holding of the county and superior courts shall be removed to the place designated by the commissioners herein appointed for that purpose.

Sec. 15. *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 Forsyth, to be held by the justices appointed in the tenth section of this act and such others as may be hereafter appointed, in and for said county, on the third Mondays in March, June, September and December, in each and every year; the first session of which shall be held on the third Monday in March next, in the town Hall at Salem, when and where the court aforesaid shall appoint the necessary court officers not kept in office under the eleventh section of this act; and said court at its first session may appoint the place of its future sessions, until a court house shall have been erected for said county. After the erection of a court House, the courts of said county shall be held in the same.

Sec. 16. *Be it further enacted,* That all persons who may be liable to imprisonment, under any process either civil or criminal, in either of said counties, before the completion of their respective jails, may be committed to the old jail of the original county of Stokes, or to the jail of any adjoining county, in like manner as when a jail has been destroyed by accident.

County  
court cases,  
transfer of

Sec. 17. *Be it further enacted,* That all cases pending in the county court of the original county of Stokes, in which either of the parties defendant or the ex parte petitioners live in the county of Forsyth, and all indictments against any of its citizens, shall be transferred to the county court of Forsyth county. And all cases not included in the above shall be transferred to the county court of Stokes county: *Provided,* that in cases when neither of the defendants live in either of said counties, the case shall be removed to the court of either county as the plaintiff may desire. And the clerk who has charge of the records of the original county of Stokes by the thirteenth section of this act, shall make out a regular transcript of all cases, to be removed from his docket by this section, and deliver all the papers, in such cases, to the court to which they are to be removed, in like manner as now provided for transferring suits from one county to another. The said clerk shall deliver all said transcripts and papers to the court to which they are to be removed, on the first day of its first term. And further, the said clerk shall, at the same time, deliver to the county courts of the respective counties of Stokes and Forsyth the tax lists of the year one thousand eight hundred and forty eight, which he has received from the precincts of the respective counties.

Superior  
court for  
Forsyth  
and Stokes

Sec. 18. *Be it further enacted,* That there shall be a superior court of law, and a court of equity opened and held for the county of Forsyth, on second Monday after the fourth Monday in March and September in each and every year; and that there shall be a superior court of law and a court of equity opened and held for the county of Stokes, on the third Monday after the fourth Monday in March and September in each and every year; which courts shall have the same jurisdiction that corresponding courts in the several counties of this State now have and exercise. The first term of said courts for the county of Forsyth shall be opened and held on the second Monday after the fourth Monday of

March next; and the first term for the county of Stokes, shall be opened and held on the third Monday after the fourth Monday of March next, at that place in each county which will have been selected by the county court of such county as the place of its future sessions. At the first term of said courts in both counties the judge shall appoint the necessary court officers not appointed by the eleventh section of this act.

Sec. 19. *Be it further enacted*, That the counties of Forsyth and Stokes shall constitute a part of the fourth Circuit, and the solicitor who shall attend the superior courts of said counties shall be entitled to the same pay for his services that he is entitled to receive for attending the other courts on his circuit.

Sec. 20. *Be it further enacted*, That all cases pending in the superior court of law and the court of equity of the original county of Stokes in which either of the plaintiffs or either of the petitioners reside in the county of Forsyth, and when neither of the plaintiffs live in either of said counties, but one of the defendants lives in the county of Forsyth; and all indictments against any of its citizens, shall be removed to the respective courts in the county of Forsyth. The cases not above stated shall be removed to the new county of Stokes: *Provided*, the cases where neither of the parties live in either of said counties, shall be removed at the option of the plaintiffs. And the clerk and clerk or masters having charge of the dockets and papers shall transfer the cases to be removed from his docket in the same manner that is now provided for removing cases from one county to another.

Sec. 21. *Be it further enacted*, That the superior court of law and equity in and for the county of Guilford shall hereafter commence and be held on the fourth Monday after the fourth Monday in March and September, in each and every year.

Sec. 22. *Be it further enacted*, That up and until the time of holding the first court of pleas and quarter sessions for

Law enforced. the county of Forsyth, both the civil and criminal law shall be enforced; and the several officers therein shall issue all civil State process throughout that portion of county of Stokes as heretofore.

Records of Stokes. Sec. 23. *Be it further enacted,* That the records of the present county of Stokes shall belong to the county of Stokes, except that part thereof in this act required to be removed to the county of Forsyth.

[Ratified 27th day of January, 1849.]

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## CHAPTER XXV.

AN ACT to lay off and establish a new county by the name of Watauga.

Line how run. Sec. 1. *Be 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 Watauga, to be composed of parts of the counties of Ashe, Wilkes, Caldwell and Yancy, beginning at the State line in Lemuel Wilson's plantation, and running with the State line in Northern direction two miles; thence running as near as may be, in a direct line, (so as to leave Thomas Sutherland in the county of Ashe) to the top of the Big Bald mountain; thence to the mouth of Elk creek, on the South fork of New river; thence down the river to the mouth of a creek that runs through Samuel Cooper's plantation; thence to the Deep Gap of the Blue Ridge; thence along the dividing ridge between the waters of Stoney fork and Lewis's fork waters of the Yadkin river, to where the road leading from Wilkesboro' to the Deep Gap, crosses the top of the Laurel Spur; thence to Elk creek at the Widow Hampton's; thence to

the top of the White Rock mountain; thence to the top of the Blue Ridge at the nearest point to the Yadkin Spring; thence along the extreme height of the Blue Ridge to the top of the Grand mother mountain; thence with the line of Burke county to the corner of McDowell county; thence to the State line where it crosses the Yellow mountain; thence with the State line to the beginning.

Sec. 2. *Be it further enacted,* That Charles H. Dough-ten and Reuben Mast, be, and they are hereby appointed, commissioners, whose duty it shall be to survey and mark out the aforesaid line as above described; and that the ex-<sup>Com'ers to</sup> <sub>run line.</sub> penses of the above survey shall be paid, respectively, one half by the county of Ashe, and the other half by the county of Watauga.

Sec. 3. *Be it further enacted,* That the said county of Watauga shall be invested with all the rights, privileges and im-<sup>Rights.</sup> munities of the other counties in this State.

[Ratified 27th day of January, 1849.]

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## CHAPTER XXVI.

AN ACT supplemental to an act, passed at the present session of the General Assembly, laying off and establishing the county of Watauga.

### SECTION

- 1 Rights and privileges with which counties are invested.
- 2 and 3 Justices, militia officers and constables continued in office.
- 4 Representation, and manner of conducting elections.
- 5 Provides for county courts and appointment of county officers.
- 6 Provides for transfer of suits.
- 7 Tribunal for criminal offences.
- 8 and 9 Provide for imprisonment and issuing process against citizens of Watauga.

10 and 11 Commissioners to locate seat of justice, when to meet, and compensation.

12 Commissioners to lay off town, &c.

13 and 14 Provisions concerning taxes.

Sec. 1. *Be 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 Watauga 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.

Rights.

Sec. 2. *Let it further enacted,* That all the justices of the peace and officers of the militia who reside within the limits of the county of Watauga, shall continue to hold and exercise all the official powers and authority, in and for said county, that they have hitherto held and exercised in and for the counties of Ashe, Wilkes, Caldwell and Yancy respectively.

Justices  
and militia  
officers.

Sec. 3. *Be it further enacted,* That the constables now residing in the county of Watauga 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.

Const'bles.

Sec. 4. *Be it further enacted,* That the counties of Ashe, Wilkes, Caldwell and Yancy shall continue to be represented in the General Assembly as they have heretofore been; and that all qualified voters taken from said counties of Ashe, Wilkes, Caldwell and Yancy shall continue to vote with the counties to which they heretofore belonged, until a future Legislature shall otherwise provide and direct. And elections shall be held, until the first session of the General Assembly which shall be had hereafter for members of both houses of the General Assembly, and of Congress by the Sheriff or other returning officers of Ashe, Wilkes, Caldwell and Yancy counties, in all the territory heretofore comprehended in said counties, at the times and places, and under the same rules, regulations and restrictions,

Represent-  
tation.

as have been made or hereafter may be made by law; and the certificates of said sheriffs or other returning officers 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 Watauga had never been passed.

Sec. 5. *Be it further enacted*, That a court of pleas and quarter sessions shall be held, and the same is hereby established in and for the county of Watauga, to be held by the justices for said county, on the third Monday of February, May, August and November; the first session of which shall be held at the house of Jordan Council, on the third Monday of May next, when the court aforesaid, a majority of the justices of said county being present, shall elect a clerk, a sheriff, a coroner, a register, an entry taker, a surveyor, 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 successors to them are duly chosen and qualified according to the acts of the General Assembly in such cases provided. And the said court, at its first session aforesaid, may appoint the place of its future sessions, until a court house shall be erected for said county.

Sec. 6. *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 Watauga 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 Ashe, Wilkes, Caldwell and Yancy, wherein the citizens of Watauga county are both plaintiff and defendants, and all indictments in the county courts of Ashe, Wilkes, Caldwell and Yancy against citizens of Watauga, shall be transferred to the county court of Watauga, in the manner now provided for transferring suits from one county to another; and all appeals from the coun-

County  
court and  
county of-  
ficers.

Transfer of  
suits.

ty court of Watauga shall be sent to the superior courts of Ashe or Wilkes, at the discretion of the county court.

Criminal  
offences.

Sec. 7. *Be it further enacted,* That all criminal offences which may be committed in the county of Watauga which are cognizable only in the Superior courts of Law shall be and continue under the jurisdiction of the superior courts of Ashe, Wilkes, Caldwell and Yancy, as if the act establishing the county of Watauga had never been passed, until a superior court shall be appointed for the county of Watauga.

Imprison-  
ment.

Sec. 8. *Be it further enacted,* That all persons who may be liable to imprisonment, under any process either civil or criminal in Watauga county, before the completion of the jail therein, may be committed to the jails of Ashe, Wilkes, Caldwell or Yancy counties.

Process.

Sec. 9. *Be it further enacted,* That all process issued from the superior courts of Ashe, Wilkes, Caldwell or Yancy, against any of the citizens of Watauga, shall be valid without the seal of office being affixed, until a superior court is erected for the county of Watauga; and all process so issued, after the third Monday of May next, shall be directed to the sheriff of Watauga county and executed by him.

Sec. 10. *Be it further enacted,* That Charles H. Doughten, of the county of Ashe, James Gwyn, Jr., of the County of Wilkes, and John W. McElroy, of the county of Yancy, be, and they are hereby appointed, commissioners to select and determine upon a site for a permanent seat of justice in said county, who shall locate the same at such place as they may think best and most convenient to a majority of the citizens of said county; which site shall be between Reuben Hartley's and a point one half mile west of Willis McGee's, East and West direction, and between John Pennell's and Howard's Knob, North and South direction; and said commissioners are hereby authorized and empowered to purchase, or receive by donation, a tract or parcel of land, not less than fifty acres, upon which the said site shall be

located; the title to which land shall be made to the chairman of the county court of the county of Watauga and his successors in office, for the use and benefit of said county.

Sec. 11. *Be it further enacted,* That it shall be the duty of the commissioners before mentioned, at some day between the tenth of May and the tenth of June next, to meet together and select a location or site for said town; and a majority of said commissioners shall have full power and authority to make said selection, for which service they shall be entitled to receive such compensation as the county court of Watauga may allow. Comm'rs  
when to  
meet.

Sec. 12. *Be it further enacted,* That Jonathan Horton, Jordan Council and Noah Mast, be, and they are hereby appointed commissioners to lay off the lots of said town; and after designating such as shall be retained for public uses, after an advertisement for thirty days, in such manner and at such places as said commissioners may think proper, shall expose to public sale, and to the highest bidder, said lots, upon a credit of one and two years; and shall take from the purchaser or purchasers bonds with approved sureties, for the purchase money, payable to the chairman of the county court and his successors in office; and upon payment of the purchase money, the chairman, or his successor in office, shall execute titles therefor, which money or so much thereof as may be necessary shall be appropriated to the building of the court house and jail. Comm'rs  
to lay off  
town.

Sec. 13. *Be it further enacted,* That nothing in this act shall be so construed as to prevent the sheriffs of Ashe, Wilkes, Caldwell and Yancy from collecting all arrearages of taxes, in the same manner as they could have done previous to establishment of Watauga county. Taxes.

Sec. 14. *Be it further enacted,* That the tax laid and collected in year 1849 in the portions of Watauga heretofore being part of Yancy and of Wilkes, shall be collected by the sheriff of the respective counties, and paid over to the

county trustee of the respective counties of Yancy and Wilkes, for the use of said counties respectively.

[Ratified 29th day of January, 1849.]

## COURTS.

### CHAPTER XXVII.

AN ACT to alter the time of holding the Superior Courts of Law and Equity and the Courts of Pleas and Quarter Sessions of the County of Lenoir.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter the superior courts of law and equity shall be opened and held for the county of Lenoir, on 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 prescribed by law for holding said courts.

Sec. 2. *Be it further enacted,* That hereafter the courts of pleas and quarter Sessions of said county be opened and held on the first Mondays in January and July, and on the third Mondays of March and September, in each and every year.

Sec. 3. *Be it further enacted,* That all proceedings and process of every kind after the next ensuing terms thereof, depending in or returnable to any of the said superior courts of law and equity and said courts of pleas and quarter sessions, shall stand continued and be returnable to the seve-

Superior  
courts.

County  
courts.

Proceed-  
ings.

ral terms as hereinbefore expressed respectively; any law to the contrary notwithstanding.

Sec. 4. *Be it further enacted*, That this act shall be in force from and after the first day of June, eighteen hundred and forty nine. When to take effect.

[Ratified 27th day of January, 1849.]

## CHAPTER XXVIII.

AN ACT to regulate the dismissal of appeals in the Supreme Court, and to regulate the fees of Sheriffs for serving process issued from said Court.

### SECTION

1. Sheriffs and others to have the same fees for executing process from Supreme as Superior courts.
2. Court shall not dismiss appeal at the term when motion is made, on account of failure of party to appear and prosecute.

Sec. 1. *Be 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 sheriffs and other officers of this State shall hereafter be allowed the same fees for executing process and notices and rules for service made in the Supreme Court, they are entitled to for like services where the like process may have issued from the superior courts of this State, to be taxed in the bill of costs by the clerk of the supreme court, as may be adjudged in any suit pending in said supreme court. Fees

Sec. 2. *And be it further enacted, &c.*, That the supreme court shall not dismiss any suit pending in said court, or any appeal to the said court, at the same term when a motion is or shall be made for such dismissal by reason of the party failing to appear and prosecute his said suit or ap- Appeals.

peal; but before any such suit or appeal shall be dismissed as aforesaid, a rule shall be entered in said court and served upon the party, or his agent or attorney, returnable to the next term of said court; and if the said party shall fail to appear and prosecute his said suit or appeal at the next term aforesaid, and it can be shown to the court that said rule has been served upon the party thirty days before, the said court may dismiss said suit or appeal upon such terms as may seem to the court right and just, and not otherwise: *Provided*, That whenever an appeal shall be dismissed, the judgment of the court below shall be thereby affirmed, and the same shall be certified as in other cases of affirmance of judgment.

[Ratified 29th day of January, 1849.]

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## CHAPTER XXIX.

AN ACT to authorize the Judges who may hold special terms of the superior courts, under the provisions of the act passed in the year 1844, Chapter 10, to take jurisdiction of equity cases in like manner as they are by that act authorized to take cognizance of civil suits.

**SEC. 1.** *Be 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 superior courts, holding special terms as prescribed by the act described in the preamble to this act, shall have power and authority to take cognizance of all suits in equity, remaining undecided at the regular term preceding such special term, and to make such orders, rules and decrees, as they may think proper, according to the course of the court in equity proceedings.

**SEC. 2.** *Be it further enacted*, That the clerk and mas-

ter of each county shall attend, at each respective term of such special court, with their books and papers appertaining to the suits so left undetermined at the regular term next preceding such special term. Duty of  
C. & M. E.

[Ratified 29th day of January, 1849.]

### CHAPTER XXX.

**AN ACT** to amend the 16th section of the 31st chapter of the Revised Statutes, entitled "Courts of Equity."

#### SECTION

1. Provides for removal of equity cases to Supreme court, before a hearing, in certain cases.

Sec. 1. *Be 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 any case which now is, or hereafter may be, pending in any court of equity in this State, and shall have been set down for hearing upon any "plea" or "demurrer," it shall and may be lawful for such court, on sufficient cause shewn, by affidavit, rendering such removal necessary for the purposes of justice, to order the said cause, before a hearing, to be removed into the Supreme court.

[Ratified 29th day of January, 1849.]

CHAPTER XXXI.

AN ACT to repeal a part of an act of the General Assembly of 1844-'5, chapter 14.

SECTION

1 Repeals act granting to superior courts of Yancy, Buncombe, Macon and Haywood exclusive jurisdiction in jury cases, with respect to Macon and Haywood.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That an act of the General Assembly of the session of 1844-'5, entitled, "An Act, granting to the Superior courts of the counties of Yancy, Buncombe, Henderson, Haywood, Macon and Cherokee original and exclusive jurisdiction in all cases where the intervention of a jury may be necessary," chapter 14, be, and the same is, hereby repealed, so far as it applies to the counties of Macon and Haywood.

Sec. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

CHAPTER XXXII.

AN ACT to alter the times of holding the Superior courts of law and equity in the county of Cleveland.

Sec. 1. *Be 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 of the county of Cleveland shall hereafter be opened and held on the eighth Monday after the fourth Monday of March and September, in each and every year.

Sec. 2. *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 29th day of January, 1849.]

### CHAPTER XXXIII.

AN ACT granting to the Superior courts of the counties of Lincoln and Gaston original and exclusive jurisdiction in all cases where the intervention of a jury may be necessary.

Sec. 1. *Be 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 March, 1849, it shall not be lawful for the justices of the courts of pleas and quarter sessions for the counties of Lincoln and Gaston to try any cause in which the intervention of a jury may be necessary; nor shall any jurors be summoned to attend said courts. No jurors for county court

Sec. 2. *Be it further enacted*, That it shall be the duty of the several clerks of the courts of pleas and quarter sessions of the counties aforesaid, to make out a transcript of all suits for the trial of which a jury may be necessary, and which shall be pending in said courts on the said first day of March, 1849, and deliver the same, together with all such papers as relate to said suits, to the clerks of the Superior courts of their respective counties, which said transcripts and papers shall be delivered as aforesaid on or before the last day of March, 1849. C C clerks duty.

Sec. 3. *Be it further enacted*, That it shall be the duty of the clerk of the said Superior courts to receive said transcripts and other papers, and immediately to enter the same on the trial

Superior  
court  
clerk's du-  
ty.

dockets of their respective courts, so that the said suits shall stand in the same order for trial on the dockets of the said Superior courts, as they had on the dockets of the courts of pleas and quarter sessions. And the clerks of said Superior courts, after having received the said transcripts, shall issue subpoenas and other legal process, at the request of the parties to the said causes, under the same rules and regulations as if the said causes had originated in the said Superior courts.

Suits and  
appeals.

Sec. 4. *Be it further enacted*, That from and after the first day of March, 1849, all suits in said counties, except such as are cognizable by a single justice of the peace, whether civil or criminal, shall originate in the Superior courts of said counties respectively; and all appeals from the justices of the peace in said counties, in civil cases and all recognizance by them, taking in criminal cases, shall be returnable to the nearest Superior courts of the counties in which they are taken.

Issues re-  
quiring ju-  
ry.

Sec. 5. *Be it further enacted*, That when any will, or paper writing purporting to be the last will and testament of any person, shall be brought into the said courts of pleas and quarter sessions for probate, and the probate thereof shall be contested and an issue be made up, in the trial of which issue a jury shall be necessary, and in every other case, the subject matter of which is cognizable in the said courts of pleas and quarter sessions, in which an issue shall be made in like manner, requiring the intervention of a jury, it shall be the duty of said courts respectively to direct said issue to be immediately entered in a docket to be kept for that purpose. And the clerks of said courts shall within ten days after the adjournment of said courts at which said issues shall be made, make out transcripts of said issues, and deliver the same to the clerk of the Superior court of the county in which said issue was made up; and the clerk of said Superior court is directed to receive and enter the same on his trial docket, and to issue subpoenas and other legal process, for the parties who have joined in said issue, under the

same rules and regulations as if said issues had been joined in said Superior courts. And the said Superior courts shall have full power and authority to hear, settle and determine all said issues; and the said clerks of said Superior courts, whenever an issue transmitted as aforesaid shall have been determined, shall make out a certificate thereof, and shall deliver the same, together with all the papers in the cause, to the clerk of the court in which said issue was made up. And the certificate received from the clerk of the said Superior court shall be recorded by the clerk of the court of pleas and quarter sessions in the docket in which the issue was made up; and shall be of the same force and effect as if the issue had been tried by a jury of the said court of pleas and quarter sessions.

Sec. 6. *Be it further enacted*, That the courts of pleas and quarter sessions for the counties aforesaid, at their respective terms next preceding the ensuing Spring term of the Superior courts of said counties, shall take up their respective State dockets and bind over the parties and witnesses thereon to the said Spring term of said Superior court. Witnesses.

Sec. 7. *Be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are, hereby repealed, and that this act take effect from and after its ratification. What repealed.  
When in force.

Sec. 8. *Be it further enacted*, That all appeals from the judgments of justices of the peace of said counties of Lincoln and Gaston, shall be to the Superior court of the county in which said judgments were rendered. Appeals.

[Ratified 27th day of January, 1849.]

CRIMES AND PUNISHMENTS,

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CHAPTER XXXIV.

AN ACT to amend the 60th section of the 34th chapter of the Revised Statutes, entitled "Crimes and Punishments."

SECTION

1. Changes punishment for keeping *faro bank* into whipping.

Sec. 1. *Be 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 60th section of the 34th chapter of the Revised Statutes, be, and the same is hereby so amended that instead of the fine and imprisonment in the said section directed to be imposed on defendants convicted of keeping *faro banks* or tables, hereafter any one who shall be convicted of said offence, shall receive thirty nine lashes on his bare back, at the public whipping post, and on paying the costs shall be discharged: *Provided*, that this act shall not extend to any offence committed before the first day of March next.

[Ratified 29th day of January, 1849.]

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CHAPTER XXXV.

AN ACT explanatory of the act passed in 1779, Revised Statutes, chapter 34, section 10th, entitled "An Act concerning crimes and punishments."

SECTION

1 Stealing, seducing, or conveying away slave to sell, &c, made felony.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and is hereby enacted by the authority of the*

*same*, That any person or persons who shall steal, or shall by violence, seduction or any other means, either take or convey away any slave or slaves, the property of another or others, with an intention to sell or dispose of to another or others, or to appropriate to his or their own use such slave or slaves, and be thereof legally convicted, shall be adjudged guilty of felony, and shall suffer death without benefit of clergy.

[Ratified 29th day of January, 1849.]

## CHAPTER XXXVI.

AN ACT more effectually to suppress the traffic with slaves, and amendatory of the 75th section of the 34th chapter of the Revised Statutes, entitled "Crimes and Punishments."

### SECTION

- 1 Prohibits buying from slaves iron or steel, whether manufactured or not.
- 2 Repeals provision as to time of bringing suit.
- 3 Time of bringing suit limited to two years.

Sec. 1. *Be 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 addition to the articles enumerated and specified in the 75th section of the 34th chapter of the Revised Statutes, entitled "Crimes and Punishments," it shall not be lawful for any person or persons to buy of, traffic <sup>iron or steel pro-</sup> with, or receive from, any slave or slaves, any iron or steel, <sup>hibited.</sup> whether manufactured or not, unless the same be with the written consent of the owner or manager of such slave or slaves, or for the use of such owner or manager; and any person or persons offending against the provisions of this act, shall be liable to indictment, and on conviction, shall be

fined or imprisoned at the discretion of the court, and shall moreover be liable to the same forfeiture or penalty prescribed and to be recovered in like manner as is allowed in the said 75th section of the 34th chapter of the Revised Statutes, for trading with slaves, for any of the prohibited articles enumerated in said section.

Repealing  
clause.

Sec. 2. *And be it further enacted,* That so much of the 80th section of the 34th chapter of the Revised Statutes, as provides that no indictment shall be prosecuted for any violation of the seventy fifth and seventy ninth sections of said chapter, unless such indictment be commenced within twelve months after such violation, be and the same is hereby repealed.

Time of  
suit limited

Sec. 3. *And be it further enacted,* That no bill of indictment shall be found, or presentment made, by the grand jury of any county in this State, for any violation of said seventy fifth and seventy ninth sections, unless such indictment be commenced within two years after such violation.

{Ratified 27th day of January, 1849.}

## DEBT OF THE STATE.

### CHAPTER XXXVII.

AN ACT to provide for the payment of the debt of the State to the Bank of Cape Fear, to the Bank of the State, and other debts due on account of endorsements by the State, for the Raleigh and Gaston Rail Road.

WHEREAS the State of North Carolina is indebted to the Bank of Cape Fear in the sum of ninety thousand dollars,

to the Bank of the State in the sum of twenty five thousand dollars, advanced upon a mortgage of the Raleigh and Gaston Rai. Road, and is also indebted in the sum of one hundred and sixty-six thousand, five hundred dollars, on account of endorsements for the said Rail Road, made in the year one thousand, eight hundred and forty, in pursuance of an act, entitled "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:" Therefore,

Sec. 1. *Be 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 Treasurer of the State be, and he is hereby authorised and directed to issue certificates of debt, in proper form, in the name and in behalf of the State, and under his signature and seal of office, for a sum not exceeding two hundred thousand dollars, binding the State for the money purporting to be due thereon.

Sec. 2. *And be it further enacted,* That nothing in this act shall be considered as recognizing any authority in the Governor and council hereafter, under the act of the General Assembly, ratified the 6th day of January, 1845, entitled "An Act to authorize the foreclosure of the mortgage on the Raleigh and Gaston Rail Road," to borrow money for the repairs of said road, and to mortgage the road, or pledge the faith of the State for the repayment of the money borrowed.

Sec. 3. *Be it further enacted,* That said certificate of debt shall be issued at such time or times as the wants of the Treasury may require, to discharge the aforesaid debts, or any of them; and shall be issued in sums of not less than five hundred, nor more than one thousand dollars each, and shall bear interest at the rate of six per cent. per annum, payable semi-annually, at such places as the Treasurer may designate; which certificates of debt shall be severally redeemable at the end of ten years, from and

after the day on which each of them is issued, and at such place or places as the Treasurer may appoint.

Certificates to be countersigned and registered. Sec. 4. *Be it further enacted,* That all certificates of debt by the State, issued under and by authority of this act, and signed as aforesaid by the Public Treasurer, shall be countersigned by the Comptroller of this State, and duly registered by him in a book prepared and kept for that purpose.

Transferable. Sec. 5. *Be it further enacted,* That said certificates of debt shall be transferable by the holders thereof, 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 certificate shall be surrendered to or cancelled by the Public Treasurer, and a new certificate shall be issued for the same amount, to the person or persons entitled to the same.

Sale to be negotiated, when required by the Gov'n'r. Sec. 6. *Be it further enacted,* That the Public Treasurer, whenever required by the Governor of the State, shall negotiate the sale of the certificates of debt hereby authorized to be issued, and shall have power and authority to sell the same at not less than their par value, and shall apply the proceeds, together with any premium or profits that may be made by such sale, to the payment of any or all of the aforesaid debts of the State.

Sec. 7. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 17th day of January, 1849.]

## DEBTORS.

## CHAPTER XXXVIII.

AN ACT to amend and consolidate the several Acts heretofore passed in favor of Poor Debtors.

Sec. 1. *Be 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 executions, the wearing apparel, working tools, arms for muster, one wheel and cards, one loom, one bible and testament, one hymn book, one prayer book, and all necessary school books, the property of the defendant, shall be deemed and held exempt from seizure. Property exempt from execution.

Sec. 2. That in addition to the foregoing articles there shall hereafter, in favor of every house keeper, on his or her complying with the provisions of this act, be exempt from seizure under execution, on debts contracted since the first day of July, 1845, the following property, and none other, to wit: one cow and calf, ten bushels of corn or wheat, fifty pounds of bacon, beef or pork, or one barrel of fish, all necessary farming tools for one laborer, one bed, bedstead and covering for every two members of the family, and such other property as the freeholders hereinafter directed to be appointed, for that purpose, may deem necessary for the comfort and support of such debtor's family: such other property not to exceed in value the sum of fifty dollars at cash valuation. Other property exempt.

Sec. 3. Whenever any poor debtor, or, if a married man, in his absence, his wife, may desire to apply for benefit of the second section of this act, such application shall be made to some justice of the peace for the county in which

Freehold-  
ers to lay  
off proper-  
ty of debt-  
or apply-  
ing.

the applicant resides, who shall appoint three respectable freeholders, disinterested and unconnected with the parties, to lay off and assign to such poor debtor the property to which he or she may be entitled under the second section of this act, and they shall immediately make out a full and fair list thereof, and return the same to the clerk of the court of pleas and quarter sessions for that county, who shall receive such list and file the same among the records of his office.

Provision  
for widow.

Sec. 4. Whenever any poor debtor shall die, leaving a widow him surviving, who may not be entitled by law to her year's allowance out of the personal estate of her deceased husband by reason of any levy of any execution or otherwise, such widow shall be allowed the benefit of the second section of this act, in the same manner as her deceased husband would have been.

Deeds of  
trust.

Sec. 5. All and every conveyance by sale, deed of trust, or otherwise, for the payment of any debt or demand whatsoever, of any of the property exempt from seizure under execution, shall be deemed and held and is hereby declared to be null and void and of no effect.

Sec. 6. All laws or clauses of laws coming in conflict with the meaning and purview of this act, be, and the same, are hereby repealed.

[Ratified 29th day of January, 1849.]

**DEEDS.**

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**CHAPTER XXXIX.**

AN ACT making it the duty of Sheriffs and other officers, making sale of land or slaves to prepare and execute deeds for the same.

WHEREAS doubts have arisen whether it be the duty of Sheriffs after having sold property by execution to prepare a deed of sale for the same instead of the purchaser:

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter it shall be the duty of the sheriffs, constable or other officer, after having made sale of lands or slaves, by authority of any execution or decree of any court, to prepare and execute and deliver to every purchaser at such sale a deed or deeds for the property by them so purchased. Provided, that the purchaser of the land shall furnish the officer the description of the land sold.*

*Sec. 2. Be it further enacted, That this act shall be in force from and after its ratification.*

[Ratified 29th day of January, 1849.]

## ESTATES—EXECUTORS &amp; ADMINISTRATORS.

## CHAPTER XL.

AN ACT to provide for the settlement of estates in the hands of executors and administrators, and for the relief of the same.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever any executor or administrator, in this State, shall have in his, her or their hands, any money or other effects, belonging to the estate of the testator or intestate, or such estate shall be ascertained to be insolvent, it shall and may be lawful for such executor or administrator, at any time after two years from his, her or their qualification, to file his, her, or their petition against the legatees, distributees or others interested therein, in the superior court of law, court of equity, or court of pleas and quarter sessions; of the county wherein the will has been proved, or letters of administration granted, setting forth the facts and praying for an account and settlement of the estate in his, her or their hands; and upon its being made to appear to the court wherein such petition is filed that a copy of such petition has been duly served on each of the defendants at least ten days before the sitting of the court, or in case any of them are non-residents, that due publication has been made according to the practice of the court, such court shall and may proceed to hear and determine the same, and may make any order, judgment or decree in the case, for or against the petitioner, and for or against the defendant, and each of them, that may now be made upon the filing of such petition by legatees or distributees, against an executor or administrator.

Executor or administrator may, after two years from qualification, file a bill for and obtain account and settlement.

Sec. 2. *Be it further enacted*, That upon any balance as-<sup>Balance.</sup>certained, on the final settlement of the administration account, or other property being found in the administrator's or executor's hands, belonging to any absentee or infant without guardian, such court may direct such balance or other estate to be delivered into the hands of the clerk of said court, to be by him kept and managed, under the direction of the court, for the benefit of the parties interes'ed, and to be delivered over on application of the parties entitled thereto.

Sec. 3. *Be it further enacted*, That the court, in cases arising under the second section, may require bonds with sufficient surety of such clerk, for the faithful keeping, managing and delivering of said property to the party entitled, under the<sup>Clerk's</sup> direction of said court, and shall make a reasonable allow-<sup>bond and</sup>ance to said clerk for and on account of his services therea-<sup>allowance.</sup>bonts.

[Ratified 27th day of January, 1849.]

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F E M E S C O V E R T .

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CHAPTER XLI.

AN ACT making better and more suitable provisions for  
*femes covert.*

SECTION

- 1 Secures to the wife, hereafter married, all lands or real estate, which she may have at marriage, or may thereafter acquire.
- 2 Exempts such lands or real estate from execution against the husband.
- 3 Extends the foregoing provisions to femes covert already married, after the first day of March.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of*

Land not  
to be sold  
without  
wife's con-  
sent.

*the same*, That from and after the passage of this act, whenever a marriage shall take place, all the lands or real estate owned by the feme covert, at the time of marriage, and all lands or real estate which she may subsequently acquire, by will, devise, inheritance, or otherwise, shall not be subject to be sold or leased by the husband for the term of his own life, or any less term of years, except by and with the consent of his wife, first had and obtained, to be ascertained and effectuated by privy examination, according to the rules now required by law for the sale of lands by deed belonging to femes covert.

Exempt  
from exe-  
cution.

Sec. 2. *Be it further enacted*, That no interest of the husband whatever, in such lands or real estate shall be subject to sale to satisfy any execution obtained against him; and all such sales are hereby declared to be null and void, both in law and equity.

Femes co-  
vert al-  
ready mar-  
ried.

Sec. 3. *Be it further enacted*, That all the lands or real estate which may be acquired on and after the first day of March next by femes covert already married, either by gift, devise or inheritance, shall be subject to the same conditions, limitations and exemptions, as the lands or real estate mentioned in the first and second sections of this act.

[Ratified 29th day of January, 1849.]

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## FENCES.

### CHAPTER XLII.

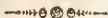
AN ACT to amend the 48th Chapter of the Revised Statutes, entitled "An Act concerning fences," so far as relates to land on the Meherrin River, in the county of Hertford.

Sec. 1. *Be 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 Meherrin River, within the county of Hertford, is hereby declared not to be a lawful fence, within the meaning of the act aforesaid, and that hereafter every planter shall have a sufficient fence about his cleared ground under cultivation, lying on the said river and within the said county, at least five feet high, notwithstanding the same; and all persons neglecting to keep and repair their fences, during crop time as aforesaid, shall be subject to like penalties and proceedings as are provided in other cases of unlawful fences.

[Ratified 29th day of January, 1849.]

## INSPECTION OF PROVISIONS.



### CHAPTER XLIII.

AN ACT to authorize the inspection of provisions.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the several courts of pleas and quarter sessions, of the different counties of this State, may, at such term of the said court, when a majority of the justices are required to be present, if the majority of the justices, holding such court, deem it necessary and expedient, proceed to appoint an inspector of provisions and forage, who shall hold his office for the term of five years after his appointment.

Inspector,  
appoint-  
ment of

Sec. 2. *Be it further enacted,* That the inspector hereby

Inspector's  
duty.

authorized to be appointed, shall be compelled, when any article of provision or forage, imported from any other State or territory or foreign country, such as beef by the barrel, half barrel or keg; pork by the barrel, half barrel or keg; flour, whether made of wheat, buckwheat or rye, by the barrel, half barrel or keg; fish by the barrel, half barrel or keg; butter by the firkin; cheese by the box; hay or fodder pressed in bales or bundles, be offered for sale, to proceed to inspect and examine the same, according to such rules and regulations as may be established by said court of pleas and quarter sessions: *Provided however*, any article of provision which shall have been previously inspected by any lawful inspector of this State, shall not be subject to reinspection.

Bond.

Sec. 3. *Be it further enacted*, That the inspector hereby authorized to be appointed, shall enter into bond, in the sum of five hundred dollars, payable to the Governor of the State of North Carolina, and conditioned for the faithful performance of the duties of his office; which bond the courts aforesaid are hereby authorized and required to take; and the inspector hereby authorized and required to be appointed shall be entitled to receive such fees as may be fixed on by the said courts of pleas and quarter sessions.

Fees.

Baker's  
bread.

Sec. 4. *Be it further enacted*, That the commissioners of any incorporated town and city in this State, shall have full power and authority to make all such laws and regulations in their respective towns and cities, as they may deem necessary to protect the citizens thereof from imposition and fraud in the manufacture and sale of baker's bread therein; so as to ensure that the bread so manufactured and sold shall be good and wholesome; and also prevent fraudulent mixtures of other substances with the flour of which such bread is made.

[Ratified 27th day of January, 1849.]

## INSPECTION OF TURPENTINE.



### CHAPTER XLIV.

AN ACT to amend an act, entitled "An Act to amend the laws regulating the inspection of Turpentine, chapter 57, ratified 14th day of January, 1847.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That each barrel of hard turpentine shall be of the weight of two hundred and forty pounds; and each barrel of tar shall be of the weight of two hundred and eighty pounds, and the tar to be put in barrels of the same kind as are required for soft turpentine, by the act above cited.

[Ratified 27th day of January, 1849.]

## J U D G E S .



### CHAPTER XLV.

AN ACT to locate the Judges of the Superior Courts of law and equity in North Carolina.

Sec. 1. *Be 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 elections hereafter to be made for

Judges of the Superior courts of law and equity, the election shall be made for some one judicial circuit, in which there is no Judge resident; and it shall be the duty of the Judge so elected to reside in some one of the counties of the circuit for which he shall have been chosen, so long as he may hold the office: *Provided, however,* that this clause shall not be so construed, as to alter the law which now requires the Judges of said courts to allot the several circuits among themselves, and allows them to exchange courts: *Provided further,* that nothing in this act contained shall be so construed as to confine the election to any person residing in any particular circuit in this State.

[Ratified 27th day of January, 1849.]

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## JUSTICES OF THE PEACE.



### CHAPTER XLVI.

#### AN ACT in relation to Justices of the Peace.

##### SECTION

##### 1 Exempts justices from working on public roads.

**Sec. 1.** *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the passage of this act, all justices of the peace, in and for the several counties of this State, be, and they are hereby, exempted from working on the public roads of their respective counties.

[Ratified 29th day of January, 1849.]

## CHAPTER XLVII.

AN ACT to empower single justices of the peace to tax prosecutors on State's warrants with the payment of costs 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 whenever any defendant, or defendants shall be brought before a justice or justices of the peace, in any county in this State, by State's warrant, upon a charge of any offence of an inferior nature, or upon a craving of the peace, and it shall appear to the justice or justices aforesaid, that said prosecution is frivolous or malicious, the said justice or justices may, in his or their discretion, order the prosecutor to pay the costs, and may issue execution therefor.

[Ratified 27th day of January, 1849.]

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**LANDS---CHEROKEE.**

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## CHAPTER XLVIII.

AN ACT to facilitate the collection of certain debts given for Cherokee lands, and for other purposes.

WHEREAS at the different sales of the Cherokee lands, several tracts or parcels of land were sold separately to the same purchaser, and a bond for the whole amount of the purchase money, instead of separate bonds for each tract, was given; and whereas the original purchasers of such lands have, in many cases, sold and assigned the said lands

Preamble. to different persons; and whereas said assignees cannot pay for the tract or tracts so assigned to them and procure grants for the same, without first paying off the whole bond of the original purchaser, and therefore will not, and, in many cases, cannot, pay off said bonds; and whereas the original purchasers have, in many cases, become insolvent, and the amount of their bonds cannot be collected; and whereas in some instances the sureties to the bonds of the original purchasers have satisfied said bonds, and have the agent's receipt in full for the same : Therefore,

Duty of agent, where original purchaser has not paid.

Sec. 1. *Be 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 the original purchasers or their surety or sureties, of Cherokee lands, have failed to pay for the same, it should be the duty of the agent of the State for the collection of debts due for said Cherokee lands, to receive payment from any assignee of said original purchaser or purchasers, his heir, devisee or assignee, for any tract so assigned, and to give said assignee, his heir, devisee or assignee a receipt for the same, particularly specifying and describing the tract or parcel so assigned and paid for. And it shall be the duty of the Secretary of State, upon presentation of said agent's receipt, to issue a grant for the tract or tracts of land, specified in said receipt, to the person or persons so paying for the same.

Secretary's duty.

Sec. 2. *Be it further enacted,* That whenever in any case, the purchase money for Cherokee lands has been paid by or collected from the sureties to the original purchaser to the full amount of the bond or bonds given by them, it shall be the duty of the Secretary of State, whenever the fact of such payment has been satisfactorily certified to him by the said agent of the State, to issue a grant or grants for the lands so paid for to the person or persons paying for the same.

Grant to issue.

Sec. 3. *Be it further enacted,* That nothing in this act contained shall authorize the agent to receipt for, or the Secretary of State to issue grants for any tract of land to the

original purchasers or their sureties, unless the whole amount of the bond in which the price of said tract is included shall have been fully satisfied and paid off. Original purchasers;

Sec. 4. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER XLIX.

AN ACT to amend an act, passed at the last session, entitled "An Act to provide for the sale of certain lands in Cherokee and Macon Counties, which have been surrendered to the State."

WHEREAS no provision was made by the above recited act to require the agent of the State to return to the Comptroller's office an account of the lands resold under the provisions of said act: For remedy whereof,

Sec. 1. *Be 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 Cherokee land agent shall, on or before the first day of May next, return to the Comptroller's office a full and complete statement of all the surrendered lands, valued and resold under the above recited act, setting forth the names of the purchasers, the amount of each purchase, the amount paid, and the amount due, and when due. Agent to return statement. And in all cases where the bonds of the original purchasers have been cancelled, he shall return a statement thereof to the Comptroller, who shall credit the respective accounts of said purchasers, with the amount of said bonds.

Sec. 2. *Be it further enacted,* That upon the return of the statement of the agent to the Comptroller's office, shewing

Comptrol-  
ler's duty.

the account of sales as aforesaid, the Comptroller shall charge the obligors respectively in his books with the amount of each bond; and when payments are made thereon, either to the Public Treasurer or the agent aforesaid, the Comptroller, on being furnished with the evidence of such payment, shall enter the proper credit for the same.

(Ratified 29th day of January, 1842.)

## CHAPTER I.

AN ACT for the relief of James Stewart of Cherokee county.

WHEREAS Andrew J. Russell became the purchaser of two lots of Cherokee lands, at the land sale in 1838, number (112) one hundred and twelve, and (113) one hundred and thirteen, in district number six, lying in Cherokee county; and whereas the said Andrew J. Russell sold and assigned his interest in said lots to E. R. Scott, and the said E. R. Scott sold and assigned his interest in said lots to James Stewart, of Cherokee county; and whereas the said James Stewart has paid the purchase money for said lots into the Treasury of North Carolina, and the Secretary of State has issued grants for said lots in the name of the said E. R. Scott, and said Scott has removed from the county, and resides in parts unknown: Therefore,

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Secretary of State be, and he is hereby directed to cancel the grants issued in the name of E. R. Scott for lots numbered 112 and 113, in district number (6) six, of Cherokee lands, lying in Cherokee county, and issue

grants to, and in the name of James Stewart for said lots of lands, any law to the contrary notwithstanding; and that this act shall take effect from and after the ratification thereof.

[Ratified 27th day of January, 1849.]

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LANDS---REASSESSMENT OF.



CHAPTER LI

AN ACT to amend an act passed in the year 1846-7, entitled "An Act to provide for a re-assessment of the lands of this State, and a more accurate enlistment of taxable polls."

WHEREAS, by the said act, the board of valuation, in valuing lands and improvements, worked as gold or silver mines, or lands supposed to contain gold, or silver, or other mineral, are required to take into consideration the increased value of all such lands, arising from the circumstance of their containing such gold or silver ore or other mineral as aforesaid; and whereas the real value of all such lands and improvements is very uncertain and fluctuating:

Preamble.

Sec. 1. *Be 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 in the power of the several county courts, at any term thereof, to reduce the valuation set or said land by the board of valuation or otherwise.

Court to reduce.

Sec. 2. *Be it further enacted,* That in all cases where trac

Reassess-  
ment.

of land with improvements, after being valued by the said board or otherwise, shall increase in value, by reason of gold or silver mines or other minerals discovered or worked, it shall be the duty of the justice of the peace taking in the list of taxable property, before listing the same, to appoint and swear two disinterested respectable freeholders to reassess said lands and improvements fairly and impartially, including in their valuation such increased and additional value.

[Ratified 29th day of January, 1849.]

## CHAPTER LII.

An Act to provide for a re-assessment of the lands in the counties of New Hanover, Brunswick, Bladen, Johnston, Sampson, Nash and other counties.

Reassess-  
ment.

Sec. 1. *Be 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 county courts of New-Hanover, Brunswick, Bladen, Johnston, Sampson, Nash, Wayne, Onslow, Carteret, Columbus, Edgecomb, Robeson, Cumberland, Duplin, Jones, Greene, Lenoir, Bertie, Beaufort, and Craven, to cause a re-assessment to be made of the lands in their respective counties, in the year one thousand, eight hundred and forty-nine, according to the provisions of an act entitled "an act to provide for a re-assessment of the lands of this State, and a more accurate enlistment of the taxable polls," passed by the General Assembly at the session of 1846-7: *Provided,* nothing in this act contained shall authorise the re-assessment of any real estate within the limits of any incorporated town, or any other land which has

Proviso.

not depreciated in value, by reason of the decay of the pine trees thereon.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## LANDS---TITLE TO.

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### CHAPTER LIII.

AN ACT to secure the title of purchasers of lands sold under execution.

#### SECTION

1 No variance between writs of execution and judgments, shall invalidate title.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That whenever any lands, tenements or hereditaments may have been heretofore sold, or may be hereafter sold in this State, by any marshal, sheriff, coroner or other officer, under and by virtue of any writ of *fieri facias*, *venditioni exponas*, or other writ of execution, commanding the sale thereof, no variance between the said writs of execution and the judgments whereon the same were issued, either in the sum due, in the manner in which it is due, or in the time when it is due, shall invalidate or affect the title of any purchaser of such lands, tenements or hereditaments.

[Ratified 29th day of January, 1849.]

## CHAPTER LIV.

AN ACT extending the time of perfecting titles to Lands heretofore entered.

Since 1840

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all persons who have made entries of vacant lands and paid the purchase money to the State for the same, since the first day of January, one thousand, eight hundred and forty, shall have until the first day of January, one thousand, eight hundred and fifty-one, to perfect their title to the same by grants.

Since 1843

Sec. 2. *Be it further enacted,* That all persons who have made entries of lands according to law, since the first day of January, one thousand, eight hundred and forty-three, and have not paid the purchase money to the State, shall have until the first of January, one thousand, eight hundred and fifty-one, to make said payments and perfect their titles to said lands: *Provided,* that nothing in this act contained shall be so construed as to affect the titles of persons who have heretofore obtained grants to said lands, or the rights of junior entries, or to extend to swamp lands in the eastern portion of the State.

Proviso.

Sec. 3. *And be it further enacted,* That this act shall be in force, from and after its ratification.

[Ratified 4th day of January, 1849.]

## LANDS--CEDED.



## CHAPTER LV.

AN ACT assenting to the purchase by the United States of certain parcels of land on the Cape Fear river, and ceding the jurisdiction of North Carolina over the same, under certain limitations and conditions.

WHEREAS, by an act, passed at the first session of the

thirtieth Congress of the United States, entitled "An Act making appropriations for light-houses, light-boats, buoys, &c., and providing for erection and establishment of the same," the following provisions are made, viz:

"IN NORTH CAROLINA.

"For a beacon light on the upper jettee, Cape Fear river, three thousand, five hundred dollars,

"For a beacon light on Campbell's Island, same river, three thousand, five hundred dollars.

"For a beacon light at Orton Point, same river, three thousand, five hundred dollars.

"For a light boat at the Horse Shoe, same river, between the new Inlet and Prince's creek, ten thousand dollars.

"For two beacon lights placed in the best manner at Princess creek, same river, six thousand dollars.

"For two light-houses placed in the best manner upon the West channel of same river, and a keeper's house on Oak Island, nine thousand dollars. Preamble.

"For a buoy on the Western bar, and another at the Rip off, the points of Oak Island, same river, five hundred dollars."

And whereas the United States has contracted to purchase as suitable sites for some of the beacon lights aforesaid, the pieces or parcels of land hereinafter described, viz: a certain piece or parcel of land, situate near the lower end of Campbell's Island, known generally as Big Island, in the Cape Fear river, and beginning at a stake on or near the South Eastern extremity of said island, from which said point, the Salt House door bears South 30° 50' East (true), from which the centre of the Marsh on the end of Woodward's shoal, bears South 12° 30' East (true), Orton Point bears South 3° 20' West, and the South end of the Island bears South 33° West; thence from said stake North 9° West, 415 feet to a stake; thence South 81° West,  $362\frac{8}{10}$  feet to a stake; thence South 33° East, 455 feet to a stake at the mouth of a small creek or branch; thence North 81° East, 117 feet to the beginning, contain-

ing two acres. Also, a small piece or parcel of land, lying at a point on the West bank of the Cape Fear River, known as Orton Point; beginning at a stake at a high water mark, from which the centre of the Sugar Loaf bears South 43° 10' East—and Federal Point light South 12° 40' East—(true) thence North 9° 40' West, 127 feet to a stake; thence South 82° West, 62 5-10 feet to a stake at the edge of a ditch; thence South 3° 40' East, 200 feet along the said ditch to a stake; thence South 42° East, 68 feet to a stake; thence North 11° East, 136 feet to the beginning: Also, a certain piece or parcel of land at the mouth of Price's creek, on the West bank of the Cape Fear river; beginning at a stake at high water mark from which Federal Point light bears North 60° 50' East (true,) and Bald Head light South 70° 35' West (true); thence North 28° East, 356 feet to a stake; thence South 84° West, 295 feet to a stake; thence South 28° West, 356 feet to a stake; thence North 84° East, 295 feet to the beginning. And whereas by a joint Resolution of the Senate and House of Representatives of the Congress of the United States, approved September 11th, 1841, the expenditure of any public money upon any site or land thereafter to be purchased by the United States, for the purpose of erecting any public building, is forbidden until the consent of the Legislature of the State, in which the land or site may be, shall have been first given to the United States to make such purchases:

*Sec. 1. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the United States be and is hereby authorized and empowered to purchase, have, hold, occupy and possess the pieces or parcels of land described in the preamble hereto; and that exclusive jurisdiction of said pieces or parcels of land is hereby ceded to the United States upon the condition that the United States shall continue and keep upon said several pieces of land, the necessary buildings for the beacon lights respectively referred to in the preamble as connected with said several pieces of land.*

Land ceded.

Sec. 2. *Be it further enacted*, That nothing herein contained shall be so construed as to debar or hinder any of the officers of this State from serving any process or levying execution within the limits of any one of the before described pieces or parcels of land, in the same manner and to the same effect as if this act had never been passed.

Process  
may be  
served.

Sec. 3. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

[Ratified 29th January, 1849.]

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## LITERARY FUND.

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### CHAPTER LVI.

#### AN ACT concerning the President and Directors of the Literary Fund.

##### SECTION

- 1 President and Directors may remove suits to Superior court of Wake.
- 2 Msy bring suit in Superior court of Wake.
- 3 Provision in favor of Wacamaw Canal Company.

Sec. 1. *Be 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 actions now pending, or which may hereafter be instituted in any of the courts of this State, in which the President and Directors of the Literary Fund, or any persons claiming under them, or justifying by their authority, are plaintiffs or defendants, it shall be lawful for the said President and directors, if they deem it expedient, to remove such suits to the Superior court of Wake county,

Removal of  
suits.

there to be tried and determined, subject to the right of appeal to the Supreme court as in other cases.

Bringing  
suit.

Sec. 2. *Be it further enacted*, That if it shall hereafter be necessary, in the opinion of the President and Directors of the Literary Fund, to institute any suit for the protection of any interest committed to their charge by law, it shall be lawful, and they are hereby authorized to bring the same in the Superior court of Wake county, there to be heard and determined, any law to the contrary notwithstanding, reserving to the party dissatisfied with the decision of the court, the right of appeal, as in other cases.

Waccamaw  
Canal com.  
pany.

Sec. 3. And whereas it has been represented to the General Assembly that an association of individuals is about to open a canal from Waccamaw river to Little river, near where the latter empties into the ocean, and that the said canal, when opened, will drain a considerable portion of the swamp lands owned by the State in Green swamp and White Marsh swamp: Therefore, *Be it enacted*, That whenever the said canal shall have been constructed, and it shall have been clearly ascertained that any valuable portion of the swamp lands of this State have been drained by the said canal, and have been made more valuable thereby, then it shall be lawful for the President and Directors of the Literary Fund, and they are hereby authorized to make to the said individuals opening the said canal, such allowance in the public lands thus drained, and to convey the same by deed, as the said Board may consider just and reasonable.

[Ratified 29th day of January, 1849.]

## LUNATICS.



## CHAPTER LVII.

AN ACT to confer on courts certain powers over imprisoned Lunatics.

## SECTION

- 1 Persons imprisoned for crime, and alleged to be insane, to be examined by jury, and removed to hospital if found to be so.
- 2 Court may appropriate money and lay taxes to pay expenses.
- 3 These proceedings not to invalidate or impair indictment.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever any person shall be confined in any of the jails of this State, charged with a criminal offence, and it shall be suggested to the court, wherein such indictment is pending, that such prisoner is insane or *non compos*, and incapable of being brought to trial, it shall be the duty of the court to empanel a jury to inquire into the truth of the suggestion; and if the jury empanelled as aforesaid shall by their verdict find the prisoner to be *non compos* or insane, it shall be the duty of the judge, if the same be in the Superior court, to order the said finding to be certified to the county court of said county. And it shall be lawful for such county court, on receiving said certificate, or upon the finding of the jury in said county court, if the charge shall be pending there, to cause such prisoner to be removed to some hospital for the insane, in or out of the State, or to be otherwise provided for, at their discretion, to the end that proper means be used for his or her cure.

Insane  
confined  
for crime.

Sec. 2. *Be it further enacted,* That the county court aforesaid being satisfied of the inability of such lunatic so as a-

Appropriation and taxes. foresaid authorized to be removed, to pay the expenses of such removal or subsequent maintenance, may, at their discretion, appropriate from the county funds, such sum as shall be deemed sufficient therefor; and to that end shall have power, at their discretion, to lay taxes in like manner as county taxes are now levied.

Indictment not impaired. Sec. 3. *Be it further enacted*, That any proceedings had under this act shall in no manner invalidate or impair the indictment pending against such person removed, but he shall continue liable to answer such charge as if he had never been arrested.

[Ratified 29th day of January, 1849.]

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## MILITIA.

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### CHAPTER LVIII.

AN ACT to amend the 73d chapter of the Revised Statutes, entitled "An Act concerning the Militia of this State, and for other purposes."

#### SECTION

1. Exempts from mustering, in time of peace, after thirty five years of age.
2. Proceedings on persons 35 desiring to be exempt.
3. Incorporates all duly organized volunteer companies.
4. Serving in volunteer corps 10 years, exempts from military duty.
5. Officers exempt after serving 8 years.
6. All the rank and file may vote for field officers.
- 7 Captain's district may be enlarged.
- 8 Wardens of the poor & Superintendents Common Schools exempt.
- 10, 11, 12. Collection of fines, incorporations this session, and number of privates in company.

Sec. 1. *Be 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 free white persons, between the ages of eighteen and forty-five years, shall be enrolled in the manner prescribed in the first section of the above recited act, and the returns of such enrollment shall continue to be made as heretofore; and all persons so enrolled shall be kept on the muster rolls, and shall be liable to perform military duty, in times of war, insurrection, or invasion, until the age of forty-five as heretofore; but no person so enrolled, shall be required to perform military service in times of peace, by way of drill, mustering, training, or disciplinary exercise, after he shall have attained the age of thirty-five years.

Exempts  
from mus-  
tering at  
35.

*Sec. 2. Be it further enacted,* That it shall be the duty of all persons who shall have attained the age of thirty-five years, and who shall desire the benefit of the provisions of this act, to appear before the court martial of the regiment, in which they may reside, and make oath or affirmation that they have attained the age above described; and in that case, it shall be the duty of the Col. commandant, or the presiding officer of said court martial, to give such person or persons, so swearing or affirming, a certificate in writing to the effect that he or they are exempt from the performance of military duty, except in the cases above recited.

Persons 35  
desiring to  
be exempt.

*Sec. 3. Be it further enacted,* That whenever hereafter, any volunteer company may be formed, consisting of the number now required by law for the formation of volunteer companies, it shall be lawful for the captain of such company to make known, in writing, such fact, to the Colonel commandant of the regiment in which such company may be formed; and if the Colonel commandant shall be satisfied that the statement made by said captain is true, and that said company is uniformed and equipped in all respects as required by law, except as to arms, it shall be his duty to give such captain a certificate in writing, setting forth the fact; and every such company so constituted shall be entitled to make all such bye-laws, rules and regulations for the government of said company, as may be deemed ne-

Incorpo-  
rates vol-  
unteers.

cessary, not inconsistent with the constitution of this State, or of the United States; and shall be invested with all the rights, powers and privileges usually incident and belonging to volunteer companies which are incorporated: *Provided*, such company shall, as such, perform military duty at least four times in each and every year.

Term of  
service in  
volunteer  
corps.

Sec. 4. *Be it further enacted*, That hereafter any person or persons between the ages of eighteen and thirty-five, who shall join any regularly constituted company of volunteers, whether of infantry, cavalry, grenadiers, artillery or riflemen, and shall serve as a volunteer in such company for the period of ten years, such person or persons shall thereafter be exempt from military duty, except in cases of insurrection or invasion.

Officers.

Sec. 5. *Be it further enacted*, That all commissioned officers now in office, or those who may hereafter be elected (Major and Brigadier General excepted) who shall equip themselves as the law directs, and shall perform military duty as such commissioned officers, for the period of eight years in either one or all these offices, shall thereafter be exempt from military duty, except in cases of insurrection or invasion.

Vote.

Sec. 6. *Be it further enacted*, That all the rank and file throughout the State shall be allowed to vote for the field officers thereof.

Captain's  
district.

Sec. 7. *Be it further enacted*, That should it be necessary, in consequence of the passage of this act, to enlarge the captain's district, in any county in this State, it shall be the duty of the regimental court martial to make such change as may be necessary,

Musters.

Sec. 8. *Be it further enacted*, That there shall hereafter be two company musters in each and every year.

Other ex-  
empts.

Sec. 9. *Be it further enacted*, That nothing in this act contained, shall be so construed as to require those persons now exempt, to perform military duty, and that there shall be added to those exempt, county musters, [?] wardens of the poor and superintendents of common schools.

Sec. 10. *Be it further enacted,* That it shall be the duty of the sheriffs, or their lawful deputies, or constables, or any other lawful officers, of each and every county in this State, to receive and collect all executions for fines and penalties, which may hereafter be issued, under the authority of any company, battalion, regimental, or general court martial.

Sheriffs  
and con-  
stables.

Sec. 11. *Be it further enacted,* That the provisions of this act shall extend to those volunteer companies, which have been or may be incorporated during the present session.

Compa-  
nies incor-  
porated  
this ses-  
sion.

Sec. 12. *Be it further enacted.* That hereafter forty five privates shall be the number required to form each captain's company exclusive of the officers.

No. of  
companies

Sec. 13. *Be it further enacted.* That all laws and clauses of laws coming in conflict with the provisions of this act, be, and the same are hereby repealed; and this act shall be in force from and after its ratification.

Repeal.

[Ratified the 29th day of January, 1849.]

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## MISCELLANEOUS.

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### CHAPTER LIX.

AN ACT to amend the 4th section of the 65th chapter of the Revised Statutes.

#### SECTION

1 Provision concerning the bringing suits against non-residents.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* 'That the fourth section of the sixty

fifth chapter of the Revised Statutes be, and the same is, hereby amended, so that the time therein limited for bringing suits, shall not protect any one who was, at the time of such causes of action arising or accruing, a non-resident of this State. But that the proviso in said section, excepting therefrom persons beyond seas, shall extend to persons living and continuing beyond the limits of this State.

[Ratified 29th day of January, 1849.]

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#### CHARTER LX.

AN ACT to regulate the holding of elections for Commissioners of Navigation.

Sec. 1. *Be 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 commissioners of navigation of the Cape Fear shall be elected on the first Monday of May, in each and every year, by the citizens of the two captain's districts adjoining the town of Wilmington, who are entitled to vote for members of the House of Commons of the General Assembly; and said election shall be held by the high sheriff of New Hanover county, under the same rules and regulations as the election for members of the Legislature.

[Ratified 29th day of January, 1849.]

## CHAPTER LXI.

## AN ACT for the better protection of Seines and Nets.

Sec. 1. *Be 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 any master or other person, having the management or control of any vessel or boat, of any description, navigating the waters of Albemarle sound, or of its tributary streams, who shall wilfully, wantonly and unnecessarily tear, cut, break or run afoul of any seine or net which may be set or fixed in said waters for the purpose of taking fish, shall be liable to indictment either in the County or Superior court of the county wherein such seine or net may so set, and upon conviction, shall be fined a sum not exceeding one hundred dollars.

Penalty on  
masters of  
vessels for  
injuring  
seine or  
net.

Sec. 2. *And be it further enacted,* That the owner of such seine or net, or other person injured by such act of any master or other person as aforesaid, shall and may be entitled to recover, by warrant, before any magistrate of the county wherever such act may be committed, from the said master, or other person having the management or control of such vessel or boat as aforesaid, the sum of one hundred dollars, one half thereof to the use of the prosecutor and the other half to the use of the county wherein such trespass is committed, and shall moreover be liable to any action which the party injured may have at common law.

Warrant  
and action  
at common  
law.

[Ratified 29th day of January, 1849.]

## CHAPTER LXII.

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

Sec. 1. *Be it enacted by the General Assembly of the State*

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

Two years.

Proviso.

[Read three times and ratified in General Assembly, this 16th day of January, 1849.]

### CHAPTER LXIII.

AN ACT to provide for the support of the system of International Literary and Scientific Exchanges.

Sec. 1. *Be 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 three hundred dollars be, and the same is hereby appropriated annually to defray the expenses of an agency in the city of Paris, in France, for the purpose of receiving and transmitting such works as may be subjects of international exchange between the State of North Carolina and France.

Sec. 2. *Be it further enacted,* That the Governor of this

State be, and he is, hereby authorized to appoint some suitable person as agent for the State of North Carolina, at the city of Paris, in France. Agent, appointed of.

Sec 3. *Be it further enacted,* That the sum of three hundred dollars be transmitted by the Governor of this State to such agent, whenever such agency has been officially established; and that said agent be requested to report annually to the Governor of this State his proceedings and transactions relative thereto, to be by the Governor laid before the General Assembly biennially. Money to be transmitted. Report.

Sec. 4. *Be it further enacted,* That one thousand copies of the proceedings of this General Assembly, in relation to this subject, together with the address of M. Vattermare, and the "Instructions on the best mode of collecting, preserving and transporting objects of Natural History," be printed, three copies for the use of each member, twelve copies for the University of the State, six copies for Wake Forest College, six copies for Davidson College, twelve copies for the State Library, one copy to be sent to the Governor of each State in the Union, and the balance to be distributed under the direction of the Governor of this State. Papers to be printed.

Sec. 5. *Be it further enacted,* That this act shall be in force and take effect from and after its passage.

[Ratified 24th day of January, 1849.]

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#### CHAPTER LXIV.

AN ACT in relation to sheriffs, clerks of the county and superior courts, and clerks and masters.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That sheriffs, clerks of the County and Superior Courts, and clerks and Masters in equity of the several coun- Of continuance in office.

ties of this State, who are now in or may hereafter be elected to said offices, shall be deemed and taken to be and continue in their several offices respectively until their successors shall have been elected or appointed, and shall have duly qualified according to law.

Sec. 2. *Be it further enacted*, That all laws or clauses of laws coming in conflict with this act, be, and the same are hereby repealed.

[Ratified 29th day of January, 1849.]

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#### CHAPTER LXV.

AN ACT to alter the eighth section of the eighty-ninth chapter of the Revised Statutes, so as to provide that the action therein given shall be in the name of the State of North Carolina.

Sec. 1 *Be 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 action of debt for the recovery of the penalty of two hundred dollars for a violation of the duties prescribed in said section, shall be in the name of the State of North Carolina, and not in the name of the chairman of the court of the county where such neglect shall happen; and the attorney or solicitor acting in behalf of the State in such county, and every other person suing in behalf of such county, shall institute and prosecute such suit accordingly; and all suits heretofore brought shall and may be prosecuted to a recovery and satisfaction thereof by an amendment of the pleadings, so as to make the same conformable to the provisions of this act.

[Ratified 29th day of January, 1849.]

## CHAPTER LXVI.

AN ACT to facilitate the taking of depositions of witnesses in this State to be read in suits pending in the Courts of other States.

## SECTION

1. Gives commissioner appointed by court of another State power to summon witnesses, and provides for their pay.
2. Imposes a penalty on defaulting witnesses.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever any commission to take depositions in this State shall issue from any of the courts of the other States or Territories of the United States, directed to any person or persons in any of the counties of this State, such commissioner or commissioners shall have power to issue a summons within the limits of his or their county, commanding any witness or witnesses, to appear before him or them, at such time and place in said county as he or they may appoint, for the taking such depositions; and every such witness, so attending, shall be entitled to demand and receive from the party or parties, his, her or their agent or attorney, desiring the evidence of such witness, the same pay for mileage and attendance, that witnesses are now entitled to in the courts of this State; to be ascertained by his and their oath, before such commissioner or commissioners as is now done before the clerks of the Courts of this State.

Comm'r  
may sum-  
mon wit-  
nesses.

Pay of  
witnesses.

Sec. 2. *Be it further enacted,* That any witness summoned as aforesaid not less than five days previous thereto, and failing to appear and give evidence, shall forfeit and pay to the party, at whose instance such witness may have been summoned, for every such neglect or refusal, the sum of twenty dollars, to be recovered by action of debt before any justice of the peace of said county: *Provided however,* that upon the trial of any warrant for said penalty, the summons issued by the commissioner, with the endorsement of due

Penalty.

service by the officer to whom the same may be directed, with other evidence of the default, shall be sufficient to charge the defendent, unless upon legal excuse shown in discharge, as in other cases of defaulting witnesses.

[Ratified 27th day of January, 1849.]

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## CHAPTER LXVII.

AN ACT to amend an act entitled "An Act concerning weights and measures, adopted by Resolution of Congress as standards throughout the United States"—ratified 7th January, 1839.

### SECTION

1 Provides for furnishing new counties with standards.

Sec. 1. *Be 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 the State be, and he is hereby authorized to procure for each county in this State, not already supplied, (including those erected or formed at the present session,) one complete set of all the weights and measures adopted as standards by Resolution of Congress, approved 14th June, 1836, which shall correspond with the standards furnished for this State by the Secretary of the Treasury of the United States in pursuance of said Resolution, according to the provisions of the 2d, 3d and 4th sections of the above recited act.

[Ratified 2<sup>nd</sup> day of January, 1849.]

## CHAPTER LXVIII.

AN ACT to require the Officers of Register, Entry Taker and of Clerks, and Masters in Equity, to be kept at Court House in the respective counties.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter it shall be the duty of the register, of every entry taker, and of the clerk and master in equity, for each county in this State, to keep his office at the court house of his county, or within one mile thereof, under penalty of one hundred dollars and the forfeiture of his office.

[Ratified 27th day of January, 1849.]

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## CHAPTER LXIX.

AN ACT to authorize the Roanoke Navigation Company to become common carriers of agricultural products, and goods, wares and merchandize, on Roanoke, Dan and Staunton Rivers.

Sec. 1. *Be 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 Roanoke Navigation Company be, and they are hereby authorized and empowered to become common carriers of agricultural products, goods, wares and merchandize on Roanoke, Dan and Staunton Rivers, and to receive for the transportation of the same such compensation as may be usual on such rivers.

[Ratified 27th day of January, 1849.]

## CHAPTER LXX.

AN ACT allowing compensation to the Reporter of the Supreme Court, for reporting the cases decided at the terms held in Morganton.

Sec. 1. *Be 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 Reporter of the Supreme Court shall be allowed the same compensation, for reporting the cases decided at the several terms held by the court at Morganton, as is now allowed by law for reporting the cases determined at the terms held in Raleigh; and that this compensation shall be allowed for the two terms heretofore held at Morganton, as well as those heretofore to be held at that place; the said compensation to be paid on the same evidence as is now required in relation to the terms held in Raleigh.

Sec. 2. *Be it further enacted,* That if the reporter should fail to attend the sessions of the supreme court at Morganton, the Judges of said court shall have power to appoint a reporter for the sessions of said court at Morganton.

[Ratified 29th day of January, 1849]

## CHAPTER LXXI.

AN ACT to amend the 49th chapter of the Revised States entitled "Forcible Entry and Detainer."

Sec. 1. *Be 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 to which any justice or justices of the peace shall recognize any person or persons convicted of a forcible entry or detainer, may at any time amend any or all defects in form or substance in the

proceedings had under said act, so that the justices, jurors, witnesses, officers or parties acting in that behalf, shall not be liable to indictment for a forcible trespass in causing restitution of any lands or tenements to be made by reason of any defect or informality in the proceedings of such justice or justices, or of the jury who enquire of the forcible entry or detainer complained of.

Court a.  
mend  
proceed-  
ings.

Sec. 2. *Be it further enacted*, That no justices of the peace, jurors, witnesses, officers or parties acting in any proceedings had under the above recited act shall be liable to indictment for any error, defect, or informality in form or substance in any such proceedings, unless it appears in evidence that such justices, jurors, witnesses, officers or parties, acted wilfully and maliciously wrong.

Penalty.

[Ratified 16th day of January, 1849]

## CHAPTER LXXII.

AN ACT to supply an omission in the forty-sixth chapter of the Revised Statutes, entitled "An Act concerning executors and administrators."

### SECTION

1 Moneys or estate paid over to the University, under the Statute, by executors or administrators, may be held until claimed, without liability for interest: and if not claimed within ten years, then such moneys or other estate shall be held absolutely for the use and benefit of the University.

WHEREAS, by an act passed in the year eighteen [hundred] and nine, entitled "An Act in aid of the University of North Carolina, it was, besides other things, enacted; that the trustees of the University of North Carolina might recover from any executor or administrator of a deceased

Preamble,

person all sums of money or other estate in the hands of such executor or administrator that had remained, or should remain for seven years after such executor's or administrator's qualification unrecovered by the creditors, legatees or next of kin of the testator or intestate; and furthermore, that said trustees should hold the said money and other estate without liability for profits or interest until a just claim therefor should be preferred; and also, that if no such claim therefor should be preferred within ten years thereafter, the said trustees should hold the same absolutely for the benefit of the University:

And whereas the said enactments were wholesome, not only in providing a convenient method for executors and administrators to settle their accounts and close their trusts in reasonable time, but also in promoting useful learning by affording some assistance to the University, and at the same time in better securing the fund for the satisfaction of creditors of the deceased person and for the benefit of his or her legatees or family, if claims in due time and before a fair presumption of satisfaction or abandonment might arise:

And whereas in the forty-sixth (46) chapter of the Revised Statutes, entitled "An Act concerning executors and administrators," it is, in the twentieth section, enacted merely that all sums of money or other estate of whatever kind which then remained or should thereafter remain in the hands or possession of any executor or administrator for seven years after his qualification as such executor or administrator, unrecovered or unclaimed by suits by the creditors, legatees, next of kin or widow of his testator or intestate, shall by the said executor or administrator be paid over to the trustess of the University of North Carolina, omitting to provide expressly therein upon what terms, or for what purposes, or for whose benefit the said money or other estate should be paid or delivered to the said trustees and held by them; and whereas, by reason thereof, divers doubts and questions may arise as to the intent of passing the said act last mentioned, namely, whether, on the one hand, the cred-

itors, legatees or family of the deceased can or cannot claim satisfaction out of the fund in hands of said trustee, and if so, whether there be any limitation of time, and what it is, within which such claim should be preferred; or, on the other hand, whether the said trustees be or be not liable to such claimants, as well for profits or interest on the said estate while held by them, as for the capital thereof:

And whereas it was not the purpose of the General Assembly to annul or change the said wholesome provisions contained in the said act, passed in the year 1809, but the omission expressly to re-enact the same in the said Revised Statutes arose from accident and oversight: Wherefore, and to the end of settling the said questions and clearing the said doubts and all others in the premises,

*Be it declared and enacted by the General Assembly of the State of North Carolina, and it is hereby declared and enacted by the authority of the same, That the trustees of the University of North Carolina shall and may hold any money or other estate hertofore received, or that may hereafter be received from any executor or administrator as aforesaid by virtue of the said Revised Statutes, without liability for profit or interest until a just claim therefor hath been, or shall be preferred by the creditors, legatees, next of kin or widow of the testator or intestate; and then if no such claim hath been or shall be preferred within ten years after such money or other estate hath been or may be received by the said trustees, then the same may and shall be held absolutely for the benefit of the University.*

Not liable  
for interest

To hold  
absolutely.

[Ratified 29th day of January, 1849.]

## CHAPTER LXXIII.

AN ACT to amend the 3rd section of the 86th chapter Revised Statutes, concerning patrol.

## SECTION

1 Same powers vested in two or more, as heretofore in three or more patrol.

Sec. 1. *Be 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 any two or more of the patrol appointed according to law, in the several captain's districts in said State, to have such powers in them vested as may be necessary to a proper discharge of their respective duties, in as full and ample a manner, as if three or more of said patrol were present: *Provided,* that nothing herein contained shall be so construed as to repeal any part of the above recited act.

Sec. 2. This amended act to be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER LXXIV.

AN ACT to amend an Act entitled "An Act to incorporate a Mutual Insurance Company in the State of North Carolina.

Sec. 1. *Be 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 affairs of the said Company shall be hereafter managed by a board of directors consisting of twenty members, and that five directors being present at any meeting of said board, the said number shall constitute a quorum for the transaction of business.

Sec. 2. *Be it further enacted,* That the thirteen directors chosen by the said Company, at their meeting on the first Tuesday of January instant, shall appoint from the members of said Company, seven other directors, who shall be the board of directors for said corporation, and continue in office until the next annual election; that all vacancies happening in said board may be filled by the remaining directors for the remainder of the year or time for which they were elected; and that the board of directors to the number herein required shall thereafter be chosen as is provided in the said act.

Sec. 3. *And be it further enacted,* That hereafter a part, not exceeding ten per cent. of the promissory note required to be deposited by every person, on his becoming a member and before he receives his policy, shall be immediately paid instead of the five per cent. as heretofore required.

Sec. 4. *And be it further enacted,* That in all cases, where a permanent lien cannot or is not intended to be created, the directors or executive committee may require an indemnity instead thereof, by an approved surety or sureties on the premium note. The directors or executive committee may at any time, when a majority of their whole number shall concur therein, require further security on the premium note; and in case the assured shall neglect or refuse to comply with the request of the directors in this respect, for two calendar months after he, she or they shall be apprised thereof by a notice in writing from the secretary, for that purpose served upon said assured, his, her or their policy shall become null and void, and the amount theretofore paid upon said premium note shall be forfeited to said Company, and the said premium note shall continue in force, so as to enable the said corporation to collect upon it any losses or expenses that accrued previous to the termination of said policy.

Sec. 5. *And be it further enacted,* That the lien in the nature of a mortgage, to the amount of his deposit note, on the buildings insured, and the right, title and interest of the assured to the lands on which they stood, shall continue and be a subsisting lien or mortgage, so as to enable the said company to recover thereby such losses and such expenses as accrued in and to said Company, in proportion to the amount of his deposit note, pro-

vided the same accrued previous to the termination of said policy.

Sec. 6. *And be it further enacted,* That the memorandum to be filed with the Register, in order to effect such lien, shall contain the name of the person insured, or desirous of being insured, signed by him or her, or by his or her agent; and if signed by an agent, such signing to be attested by a witness; a description of the buildings, the situation and location of the land whereon they stand, with reference to other persons' land; and in what village, town, city and county situated; and if situated in a town or city, the number of the land lot or lots to be insured, according to the plan of such town or city, or by what other lots of other persons (naming them) the same is bounded; the amount of the deposite note; and the term for which the policy is to continue.

Memoran-  
dum

Sec. 7. *And be it further enacted,* That the Clerks of the several Courts of Pleas and Quarter Sessions, by themselves or their deputies, and also any one of the acting Justices of the peace, in their respective counties, wherein the land insured or to be insured is situated, shall have authority, in their respective counties, to take and certify the acknowledgment or probate of any and all memoranda, the object of which is to procure such insurance and to create such lien, that shall be presented to them for acknowledgment or probate, upon the acknowledgment of the person whose name is mentioned in the said memorandum as the applicant for insurance, or upon proof, on oath, by an attesting witness, that he saw it signed or heard it acknowledged by the person named therein as applicant.

Acknow-  
ledgment.

Sec. 8. *And be it further enacted,* That whenever the said corporation, by any of its agents, or any person that is desirous to insure property with said corporation, shall present to a register of the County wherein such property is situated, such a memorandum, certified either by such clerk or such Justice of the Peace as aforesaid, it shall be the duty of such Register to receive the same, endorse on said memorandum the day on which it is presented and delivered to him for registration, and immediately to register the same, with such certificate, and return the same, after registering it, to the party that presented it upon his request, taking as his fee for registering the sum of forty cents; and in case

Register.

said Register do fail to comply with this provision, he shall be liable in like manner as for his failure to comply with the provisions of the 26th section of the 37th chapter of the Revised Statutes.

Sec. 9. *And be it further enacted*, That in all proceedings at law or in equity, the registry of such memorandum or the copy thereof, certified by such Register, shall be received in evidence in behalf of or against said corporation, in like manner as the original memorandum, except where, upon affidavit, a variance Copy evidence. between such original and the registry is asserted to exist, and notice has been previously given to produce the original, in which case the original shall be produced, or its absence accounted for by the said corporation.

Sec. 10. *And be it further enacted*, That all laws and clauses of laws, contrary to the provisions of this act, be, and the same are hereby repealed and made void; and that this act shall take effect from and after its ratification.

Read three times and ratified in General Assembly }  
this 29th day of January, 1849.

PUBLIC PRINTING.



CHAPTER LXXV.

AN ACT to amend the 95th chapter of the Revised Statutes.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the Secretary of State shall hereafter cause each Binding Journals. copy of the Journals, directed by the above recited act to be furnished to each member of the General Assembly, to be bound in leather.

Registers  
to have  
acts.

Sec. 2. *Be it further enacted,* That the Secretary of State shall hereafter cause to be distributed one copy of the Acts of the General Assembly to each register in the State.

Public doc-  
uments

Sec. 3. *Be it further enacted,* That hereafter there shall be a sufficient number of public documents printed, during each session of the General Assembly, to supply each member thereof with one bound copy, to be distributed as the acts of Assembly, and Journals are now directed to be distributed.

Type.

Sec. 4. *Be it further enacted,* That the printing of said laws, and public documents shall be executed in small pica type, with the synopsis of the sections and marginal notes in brevier.

[Ratified 29th January, 1849]

## RELIGIOUS SOCIETIES.



### CHAPTER LXXVI.

AN ACT to amend the third section of the ninety-ninth chapter of the Revised Statutes, entitled "Religious Societies."

Provides that Trustees heretofore or hereafter appointed by religious societies, according to their own rules and usages, shall, in law, hold property for the same.

Sec. 1. *Be 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 third section of the ninety-ninth chapter of the Revised Statutes, entitled "Religious Societies," be,

and the same is hereby so amended as to include the trustees of all religious societies and congregations heretofore and hereafter appointed according to the rules, customs or discipline of said societies and congregations; and all such trustees are hereby vested with all the rights, funds, property and estates held by and for said societies and congregations.

[Ratified 29th day of January, 1849.]

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REVENUE.

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CHAPTER LXXVII.

AN ACT to increase the Revenue of the State.

SECTION

- 1 Taxes every dollar of interest secured or received, in or out of the State, 3 cents.
- 2 Imposes the same tax on every dollar of profit on money invested in negro trading, in vessels, or any other species of trade. Proviso as to amounts.
- 3 Merchants and jewellers already taxed, exempt from this provision.
- 4 Provision exempting debtors to the amount of interest they owe.
- 5 Provides for returning and collecting tax.
- 6 Taxes salaries and fees.
7. Silver plate, carriages, watches, pianos, billiard tables, cards, &c., taxed.
- 8 Taxes drovers of horses, mules or hogs, \$5 in each county.
- 9 Requires guardians, attorneys, agents, trustees, &c. to return list of property to justice.
- 10 Justice to call over list before administering oath.
- 11 Imposes penalty for neglecting to render list.

- 12 Prescribes manner of taking list.
- 13 What property exempt from county tax.
- 14 Repealing clause
- 15 Provides for printing this law on large sheet, &c.

**Preamble.** WHEREAS, There are many wealthy citizens of this State, who derive very considerable revenues from moneys which produce interest, dividends and profits, and who do not contribute a due proportion to the public exigencies of the same:

**Tax on interest.** Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter there shall be levied the sum of three cents upon every dollar of interest, safely secured and actually due or received, upon all sums of money at interest, whether in this State or out of it—at any time during the year next preceding the time when the owner thereof shall give in his, her, or their tax list.

**On money vested in negro trading, or any other stocks.** Sec. 2. *Be it further enacted,* That hereafter there shall be levied the sum of three cents upon every dollar of profit or dividend safely secured, and actually due or received; upon all sums of money vested in trading in slaves, or vested in sailing or steam vessels. (excepting the profits of such vessels as are under the burden of twenty tons.) or in any other species of trade, or vested in stocks of any kind, or in shares of any incorporated or trading company, whether in this State or out of it—at any time during the year immediately preceding the time when the owner or owners thereof shall give in his, her, or their tax list. *Provided,* that this act shall not authorize the taxing of any stock or shares in any of the incorporated Banks of this State, already taxed by law; and *provided further,* that no person whose interest, dividend, or profit shall not exceed the sum of sixty dollars, shall be subject to the tax imposed by this statute.

**Proviso.** Sec. 3. *Be it further enacted,* That so much of the capital stock in trade of any merchant or jeweller, wholesale or commission merchant, as is now taxed by the 14th section of the 102d chapter of the Revised Statutes, shall be exempt from the provisions of this act.

**Merchants and jewelers.**

Sec. 4. *Be it further enacted*, That each and every per-<sup>Persons</sup>son whose interest, dividend, or profit is subject to taxation, <sup>exempt</sup>as hereinbefore provided, shall have an amount equal to the sum of interest which he, she, or they owe or pay, or secure to be paid upon his, her, or their own debt or debts, exempt from the provisions of this act.

Sec. 5. *Be it further enacted*. That the taxes by this act imposed, shall be returned on oath to the justices of the several counties in this State, appointed to take the list of taxables and taxable property in their respective Counties; and shall be collected by the Sheriffs of the several Counties in this State, at the same time and in the same manner in which they now collect other State taxes, and shall by them be paid into the Treasury of the State at the same time and under the same penalties which are now prescribed by law for the collection and payment of other State taxes. *Provided further*, that this act shall not extend to the interest or dividends accruing to any literary institution.

Sec. 6. *Be it further enacted*, That hereafter there shall be imposed and levied annually the following taxes, to wit:— On all surgeon dentists, all practising physicians, all practising lawyers, and on all other persons (except Ministers of the Gospel of every denomination, Governor of the State, and Judges of the Supreme and Superior Courts,) whose practice, salaries or fees, or all together, shall yield an annual income of not less than five hundred dollars, the sum of three dollars. *Provided however*, that every physician, and lawyer, and surgeon dentist shall be exempt from the provisions of this law for the first five years of his practice.

Sec. 7. *Be it further enacted*, That hereafter there shall be imposed and levied annually a tax upon the following articles, to wit: On all gold and silver plate in use by the owner or owners thereof, in value fifty dollars, and not exceeding five hundred dollars, the sum of two dollars; and on all gold and silver plate exceeding in value five hundred dollars, four dollars: On all pleasure carriages in use by the owner or owners thereof, with four wheels, exceeding in value

Articles  
taxed.

two hundred dollars, the sum of one dollar; on all gold watches, in use by the owner or owners thereof, twenty-five cents; on all silver watches, in use by the owner or owners thereof, ten cents; on all harps, in use by the owner or owners thereof the sum of two dollars; on all piano fortes, in use, the sum of one dollar, except in Seminaries of learning; on all retailers of spirituous liquors, ten dollars, instead of four dollars, as now taxed by law; on all public billiard tables, two hundred dollars, instead of five hundred dollars, as now taxed by law; on all bowling alleys, whether called nine pin or ten pin alleys, or by any other name, twenty-five dollars; upon every pack of playing cards, ten cents—and every merchant, shop keeper, and public dealer in goods, wares and merchandize shall state on oath how many packs he has sold within the last year: *provided*, that this enactment shall not be in force before the first of April in the year 1850.

Sec. 3. *Be it further enacted*, That every person who shall bring any horses, mules, or hogs into this State from any other State, by the drove, and shall dispose of the same or any part thereof in any County in this State, shall pay to the Sheriff of every such County the sum of five dollars; which tax shall be accounted for by the Sheriff in like manner as other public taxes: And upon paying such tax and obtaining a receipt therefor, and a license to sell such droves or part thereof, such person shall be authorised to sell and retail such horses, mules, or hogs that may belong to their present drove, and no others, for the term of one year; and that each and every person who shall sell such drove of horses, mules or hogs, or any part thereof, without having previously paid the tax thereon, and without having obtained a license so to do, or who shall refuse or neglect, upon the request of the Sheriff or his lawful deputy, or any Justice of the Peace, to show such license, shall pay a tax of one hundred dollars, to be collected by the Sheriff of the County where such failure takes place, by distress and sale of the property of such delinquent, to be applied one half to the use of the State,

Tax on  
drovers.

and one half to the use of the sheriff collecting the same.

Sec. 9. *Be it further enacted*, That each and every person shall annually render to the Justice, appointed to take the list of taxables and taxable property, as a part of, and Guardians, trustees, &c. to render lists. in addition to his taxables and taxable property, the amount of tax or taxes which he, either in his own right, or the right of any other person or persons whomsoever, either as guardian, attorney, agent or trustee, or in any other manner whatsoever, is liable to pay under this act; and it shall be the duty of said Justice to administer the following oath to all such person or persons as may be liable to pay the same, and to list their property for taxation, to wit: You A. B, do solemnly swear (or affirm, as the case may be,) that you, either in your own right or the right of any other person or persons whomsoever, either as guardian, attorney, agent, or trustee, or in any other manner whatsoever, are not liable for more taxes under an act of the General Assembly, entitled "an act to increase the Revenue of the State," passed in 1843-49, than the amount which you have now listed; and that in all other respects the list by you now delivered, contains a just and true account of all the property which by law you are bound to list for taxation, to the best of your knowledge and belief, so HELP YOU GOD.

Sec. 10. *Be it further enacted*, That it shall be the duty of every Justice of the Peace, who shall take a list of the taxable property in the State, before administering the oath a- Justice to read list. foresaid, to call over to each person giving in his list of taxable property, all the subjects and articles subject to taxation.

Sec 11. *Be it further enacted*, That each and every person liable to pay taxes, by and under the provisions of this act, Penalty for not listing. who shall fail to list the same, or refuse to take the oath herein prescribed and required, shall, in addition to the payment of a double tax, forfeit and pay into the public Treasury the sum of one hundred dollars for each year's failure or refusal aforesaid; and it shall be the duty of the several Sheriffs aforesaid, to levy, collect, and account for the same as in

cases of double tax, unless the County Court shall within nine months thereafter, on satisfactory cause shown to them by such delinquent, order said forfeiture to be released and remitted.

Justices,  
how to list.

Sec. 12. *Be it further enacted,* That it shall be the duty of the Justices appointed to take the list of taxable property, to list the taxes herein required to be listed in separate columns, headed as follows, to wit: Tax, interest, dividend, and profit; physicians, lawyers, salaries and fees; gold and silver plate; pleasure carriages; gold and silver watches: And the Clerks of the several County Courts shall record, advertise, and return the same to the Comptroller's Office in the same manner, and in case of failure, under the same penalties, forfeitures and liabilities, as are now prescribed by law in relation to all other taxables.

Exempt  
from coun-  
ty tax.

Sec. 13. *Be it further enacted,* That all the persons and property herein mentioned and taxed, shall not be subject and liable to be taxed by the several County Courts.

Repealed.

Sec. 14. *Be it further enacted,* That all laws and clauses of laws coming in conflict with the true intent and meaning of this act, be and the same are hereby repealed.

Treasurer  
to have  
printed.

Sec. 15. *Be it further enacted,* That it shall be the duty of the Public Treasurer to have prepared and printed on large sheets of paper, suitable for the purpose, with all the articles subject to taxation, whether under this act or any other law now in force, mentioned *seriatim* over the heads of parallel columns in which the amount or quantity of each article to be listed is to be set down; and that the Treasurer shall furnish to each County Court Clerk in the State, two copies of the same for each tax collection district in said County; and that the expense of preparing and printing the same be defrayed from the Public Treasury.

[Read three times, and ratified in General Assembly, the 29th day of January 1849.]

## CHAPTER LXXVIII.

AN ACT to amend the 15th section of 102d chapter of the Revised Code, entitled "An Act for the collection and management of the revenue for this State."

## SECTION

- 1 Describes profession of a broker.
- 2 Imposes tax on brokers, and prescribes penalty for default.
- 3 Makes it the duty of sheriff to sue.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all persons shall be considered as using the profession of a broker, who shall either buy or sell bills of exchange or bills of any bank incorporated by the State of North Carolina, for the purpose of gain; or who shall, as agents of persons residing out of the State, receive the bills of any bank incorporated by this State, and demand payment of the same. Broker.

Sec. 2. *And be it further enacted,* That all persons desirous of using said profession, shall pay an annual tax to the State of one hundred dollars, to be received by the sheriff of the county in which said person may reside; and all persons using said profession without paying said tax, shall forfeit the sum of two hundred dollars, to be recovered by action of debt before any court of record in the county where the offence shall be committed, by any person suing for the same, one half to the use of the person suing, the other half to the State. Tax and  
penalty.

Sec. 3. *And be it further enacted,* That it shall be the duty of the Sheriff, unless some other person may have previously sued for the penalty, whenever information is given him that any person residing in his county is violating the provisions of this act, to proceed to the collection of the above penalty. Sheriff's  
duty.

[Ratified 27th day of January, 1849.]

## CHAPTER LXXIX.

## AN ACT concerning pedlars.

## SECTION

- 1 Prohibits any but native or naturalized citizens from peddling.
- 2 Taxes persons obtaining license \$30 in each county.

Sec. 1. *Be 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 no person shall be licensed to hawk and peddle goods, wares or merchandise in any county in this State, unless such person shall first prove to the satisfaction of the court having power to grant said license, that he is a naturalized citizen or native of some one of the United States of America.

Sec. 2. *Be it further enacted,* That every person obtaining license under the provisions of this act, in any county in this State, shall pay to the sheriff thereof the sum of thirty dollars.

[Ratified 29th day of January, 1849.]

## CHAPTER LXXX.

AN ACT to amend the 5th section of the 102d chapter of the Revised Statutes, entitled "An Act to provide for the collection and management of the revenue of this State."

## SECTION

- 1 Tax on certain gates, on public roads, three dollars.
- 2 Repeals any law conflicting with this provision.

Sec. 1. *Be 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 tax on all gates across any

public road crossing large water courses, through plantations, not being a turnpike or State road already erected or which may be hereafter erected by the order of any county court, shall be three dollars.

Sec. 2. *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 29th day of January, 1849.]

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## CHAPTER LXXXI.

AN ACT to amend an act, passed at the last session of the General Assembly, entitled "An Act to increase the public revenue."

### SECTION

- 1 Prescribes duty of administrator or executor holding personal estate, liable to a tax of 1 per cent., before delivering the same to parties entitled thereto.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That whenever any executor or administrator shall have in his or her hands, any slave or slaves or other specific personal estate, liable to the tax of one per centum on the value thereof, imposed by the second section of the aforesaid act, it shall be his and her duty, before delivering over said property to the parties entitled thereto, to apply to the county courts of the county wherein letters testamentary or of administration were granted, for the appointment of three disinterested persons to assess the value thereof; and such valuation made by them, the said

commissioners shall return, under their hands and seals, to the succeeding term of said court, and shall also furnish a copy thereof to the said executor or administrator.

[Ratified 27th day of January, 1849.]

## ROADS.



### CHAPTER LXXXII.

#### AN ACT to incorporate the North Carolina Rail Road Company.

##### SECTION

- 1 Incorporates company with capital of \$3,000,000.
- 2 Route of road, from Wilmington Road to Charlotte.
- 3 Appoints commissioners for creating stock and opening books of subscription.
- 4 Books, when and how long to be kept open ; amount of shares, five dollars of which to be paid down, to be paid over to general commissioners.
- 5 Duty of general commissioners in keeping open books, and when \$1,000,000 shall be subscribed.
- 6 7 Corporate rights and powers.—Notice of process.
- 8 Provision for first and subsequent general meetings, election of directors, &c.
- 9 10 11 12 13 Number of, and manner of voting for directors, election of president, and quorum at general meetings ; votes and proxies.
14. Return to be made by general commissioners, and penalty.
- 15 Vacancies in board, to be filled by directors.
- 16 Authentication of contracts.
- 17 Construction and use of road, when any section is completed.
- 18 Right and charges for transportation of goods or passengers.
- 19 Company may farm out right, and made common carrier.
- 20 Manner of calling for and enforcing payments of stock.

- 21 Debt of deceased stockholders, equal dignity with judgments.
- 22 Certificates of stock shall be issued; and how transferred.
- 23 Capital may be increased; and how.
- 24 Directors to make annual report, and may call meetings.
- 25 Company may purchase and hold land.
- 26 May cross roads or streams. Proviso.
- 27 Proceedings in valuing land.
- 28 Number of feet of land condemned.
- 29 Absence of contract for lands, provision for.
- 30 Land not heretofore granted, provision for.
- 31 and 32 Penalties for intrusion and malicious injuries.
- 33 34 and 35 Of obstructions of road, storage and carriage of goods, and dividends.
- 36 Provides for subscription on behalf of the State.
- 37 and 38 Provide for borrowing, and manner of borrowing money.
- 39 Duties of Comptroller and Treasurer relative to registering certificates.
- 40 Treasurer to advertise for proposals, &c.
- 41 and 42 Pledge faith of State, and make certificates transferable.
- 43 and 44 Appointment of State directors, and officers exempt from mustering.
- 45 For putting Raleigh and Gaston Road in repair; company incorporated.
- 46 Conditions on which they shall have one half the road, and be exempt from liabilities, &c.
- 47 Mortgage to purchase part of the iron.
- 48 If terms not accepted, others incorporated.
- 49 Authorizes State subscription for connecting with other road.
- 50 Reserved power of the General Assembly.
- 51 Appropriations for improving the Neuse and Tar rivers.
- 52 Junction of roads.
- 53 Limit for commencement of work, three years.

*Sec. 1. Be 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 effecting a Rail Road communication between the Wilmington and Raleigh Rail Road, where the same passes over the Neuse River, in the county of Wayne, and the town of Charlotte, in this State, the formation of a corporate company, with a capital stock of three millions of dollars, is hereby authorised, to be called "The North Carolina Rail Road Company," and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.*

Route

Sec. 2. That the said Company be, and the same is hereby authorised to construct a Rail Road from the Wilmington and Raleigh Rail Road, where the same passes over Neuse River, in the County of Wayne, *via* Raleigh, and thence by the most practicable route, *via* Salisbury, in the County of Rowan, to the town of Charlotte, in the County of Mecklenburg.

Commis-  
sioners.

Sec. 3. That for the purpose of creating the capital stock of said Company, the following persons be, and the same are hereby appointed Commissioners, viz: Joseph H. Wilson, of Charlotte; William C. Means, of Concord; John B. Lord, of Salisbury; Richard Washington, Waynesboro; John McLeod, of Smithfield; George W. Mordecai, Raleigh; Henry B. Elliot, Randolph; James M. Leach, Lexington; John M. Morehead, Greensboro; William A. Graham, Hillsboro; Nathan A. Steadman, Pitsboro; Edward B. Dudley, Wilmington; Alonzo P. Jerkins, Newbern; Samuel P. Hargrove, Lexington; Archibald G. Carter, Davie. That it shall be lawful to open books in the town of Wilmington, under the direction of William C. Bettincourt, W. A. Wright, Daniel B. Baker, Henry T. Nutt, P. K. Dickinson, Gilbert Potter and William Peden, or any three of them; at Charlotte, under the direction of David Parks, John A. Young, Jas. W. Osborne, Joseph H. Wilson, Wm. Elms and William F. Davidson, or any three of them; at Raleigh, under the direction of Josiah O. Watson, Duncan K. McRae, William W. Holden, Thomas J. Lemay and Chas. L. Hinton, or any three of them; at Gaston, under the direction of Edmund Wilkins, Willis Sledge, Benjamin W. Edwards, and James Gresham, or any three of them; at Warrenton, under the direction of William Eaton, Daniel Turner, Peter R. Davis, William Plummer and Thomas T. Twitty, or any three of them; at Ridgeway, under the direction of George D. Baskerville, Weldon N. Edwards, Michael Collins and Alexander B. Hawkins, or any three of them; at Henderson, under the direction of John S. Eaton, John D. Hawkins, William Uandriers, Demetrius E. Young, or any three of

Opening  
books.

them; at Franklinton, under the direction of Edward T. Fowlkes, William H. Simms, or any three of them; at Hillsborough, under the direction of D. F. Long, John Berry, Edward Strudwick and Col. Cadwallader Jones, or any three of them; at Chapel Hill, under the direction of Elisha Mitchell, William H. Merritt, Jesse Hargrave and P. H. McDade, or any three of them; at Ashboro', under the direction of Henry B. Elliot, Alexander Hogan, Jesse Harper, Johnathan Worth, or any three of them; at Greensborough, under the direction of John M. Morehead, John A. Gilmer, Wilson S. Hill, John A. Mebane, and Jesse Lindsay, or any three of them; at Jamestown, under the direction of Richard Mendenhall, George C. Mendenhall, S. G. Coffin, J. W. Field, or any three of them; at Haywood, under the direction of Robert Fancett, P. Evans, and John Williams; at Pittsboro', under the direction of J. A. Stedman, Green Womack, S. McClenahan, and Joseph Ramsay, or any three of them; at Carthage, under the direction of A. Currie, John M. Morrison, Cornelius Dowd and J. D. McNeill, or any three of them; at Lexington, under the direction of William R. Holt, James M. Leach, Chas. L. Paine, or any three of them; at Smithfield, under the direction of John McLeod, Bythan Bryau, L. B. Sanders, Baldy Sanders, Thaddeus W. Whitley, or any three of them; Salisbury, under the direction of Archibald H. Caldwell, Chas. F. Fisher, Horace L. Robards, Maxwell Chambers and Thomas I. Cowan, or any three of them; at Statesville, under the direction of Theophilus Falls, William F. Cowan, Thomas A. Allison, or any three of them; at Concord, under the direction of Rufus Barringer, Kiah P. Harris, Daniel Coleman, R. W. Foard and Caleb Phifer, or any three them; at Mocksville, under the direction of John A. Lillington, Gustavus A. Miller, Archibald G. Carter and Lemuel Bingham, or any three of them; at Salem, under the direction of Francis Frees, John Vogler, Thomas J. Wilson, John Blackburn, or any three of them; whose duty it shall be to direct the opening of books for subscription of stock, at such times

and places, and under the direction of such persons as they, or a majority of them, may deem proper; and the said commissioners shall have power to appoint a Chairman of their body, Treasurer, and all other officers, and to sue for and recover all sums of money that ought, under this act, to be received by them.

Books,  
when o-  
pened, &c.

Sec. 4. That all persons who may hereafter be authorized to open books for subscription of stock by the commissioners herein appointed for that purpose, shall open said books at any time after the ratification of this act, twenty days previous notice being given in some one or more of the public newspapers in this State; and that said books, when opened, shall be kept open for the space of thirty days at least, and as long thereafter as the commissioners first above named shall direct; that all subscriptions of stock shall be in shares of one hundred dollars, the subscriber paying at the time of making such subscription five dollars on each share thus subscribed, to the person or persons authorized to receive such subscription; and in case of failure to pay said sum, all such subscriptions shall be void and of no effect; and upon closing the books, all such sums as shall have been thus received of subscribers on the first cash instalment, shall be paid over to the general commissioners named in the 3rd section of this act, by the persons receiving them; and for failure thereof such person or persons shall be personally liable to said general commissioners before the organization of said company and to the company itself after its organization, to be recovered in the Superior court of law within this State, in the county where such delinquent resides, or if he reside in any other State, then in any court in such State having competent jurisdiction: The said general commissioners shall have power to call on and require all persons empowered to receive subscriptions of stock at any time and from time to time, as a majority of them may think proper, to make a return of the stock by them respectively received, and to make payment of all sums of money made by the subscribers, that all per-

sons receiving subscriptions of stock shall pass a receipt to the subscriber or subscribers for the payment of the first instalment, as heretofore required to be paid; and upon their settlement with the general commissioners, as aforesaid, it shall be the duty of the said general commissioners in like manner to pass their receipt for all sums thus received, to the persons from whom received; and such receipts shall be taken and held to be good and sufficient vouchers to the persons holding them: That subscriptions of stock thus received to an amount not exceeding

Sec. 5. It shall be the duty of said general commissioners to direct and authorize the keeping open of books for the subscription of stock in the manner above described, until the sum of one million of dollars shall have been subscribed to the capital stock of said company; and as soon as the said sum of one million of dollars shall have been subscribed, and the first instalment of five dollars per share on said sum shall have been received by the general commissioners, said company shall be regarded as formed, and the said commissioners, or a majority of them, shall sign and seal a duplicate declaration to that effect, with the names of the subscribers appended, and cause one of the said duplicates to be deposited in the office of the Secretary of State, and thenceforth, from the closing of the books of subscription as aforesaid, the said subscribers to the stock shall form one body politic and corporate, in deed and in law, for the purposes aforesaid, by the name and style of "the North Carolina Rail Road Company."

Sec. 6. That whenever the sum of one million of dollars shall be subscribed in manner and form aforesaid, the subscribers, their executors, administrators and assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of "The North Carolina Rail Road Company;" and by that name shall be capable, in law and in equity, of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, and

General  
Commiss-  
ioners to  
direct  
books, &c

Corporate  
rights, &c.

acquiring the same by gift or devise, so far as shall be necessary for the purposes embraced within the scope, object and interest of their charter and no further; and shall have perpetual succession, and by their corporate name may sue and be sued, plead and be impleaded in any court of law and equity in the State of North Carolina; and may have and use a common seal, which they may alter and renew at pleasure; and shall have and enjoy all other rights and immunities which other corporate bodies may, and of right do exercise; and may make all such bye-laws, rules and regulations, as are necessary for the government of the corporation, or effecting the object for which it is created, not inconsistent with the Constitution and laws of the United States and of the State of North Carolina.

Notice of  
process.

Sec. 7. That notice of process upon the principal agents of said Company, or the President or any of the Directors thereof, shall be deemed and taken to be due and lawful notice of service of process upon the Company, so as to bring it before any Court within the State of North Carolina.

General  
meeting.

Sec. 8. That as soon as the sum of one million of dollars shall have been subscribed in manner aforesaid, it shall be the duty of the General Commissioners, appointed under the 3d section of this Act, to appoint a time for the stockholders to meet at Salisbury, in Rowan County, which they shall cause to be previously published, for the space of thirty days, in one or more newspapers, as they may deem proper, at which time and place the said stockholders, in person or proxy, shall proceed to elect the Directors of the Company, and to enact all such regulations and bye-laws

Directors,  
election of.

as may be necessary for the government of the Corporation and the transaction of its business: The persons elected directors at this meeting, shall serve such period, not exceeding one year, as the stockholders may direct; and at this meeting, the stockholders shall fix on the day and place or places where the subsequent election of directors shall be held; and such elections shall henceforth be annually made;

but if the day of the annual election should pass without any election of directors, the corporation shall not be thereby dissolved, but it shall be lawful on any other day to hold and make such election in such manner as may be prescribed by a by-law of the corporation.

Sec. 9. That the affairs of the company shall be managed and directed by a general board, to consist of twelve directors, to be elected by the stockholders from among their number at their first and subsequent general annual meetings, as prescribed in section 8th of this Act.

Number of directors.

Sec. 10. That the election of directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of said company; and the person having a majority of all the votes polled shall be considered as duly elected.

Voting for directors.

Sec. 11. That the President of the Company shall be elected by the directors from among their number, in such a manner as the regulations of the company shall prescribe.

President.

Sec. 12. That at the first general meeting of the stockholders, directed to be called under section 8th of this Act, a majority of all the shares subscribed shall be represented before proceeding to business, and if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time until a regular meeting shall be thus formed; and at such meeting the stockholders may provide, by a by-law, as to the number of stockholders and the amount of stock to be held by them, which shall constitute a quorum for transacting business at all subsequent regular or occasional meetings of Stockholders and Directors.

Quorum.

Sec. 13. That at all elections, and upon all votes taken in any general meeting of the stockholders upon any by-law or any of the affairs of said company, each share of stock shall be entitled to one vote, and that any stockholder in said company may vote by proxy; and proxies may be verified in such manner as the stockholders by by-laws may prescribe

Votes and proxies

Sec. 14. That the general commissioners shall make their return of the shares of stock subscribed for, at the first general meeting of stockholders, and pay over to the directors elected at said meeting, or their authorized agent, all sums of money received from subscribers, and for failure thereof shall be personally liable to said company, to be recovered at the suit of said company, in any of the Superior courts of law in this State, within the county where such delinquent or delinquents may reside, and in like manner from said delinquent or said delinquents' executors or administrators, in case of his or their death.

Vacancies. Sec. 15. That the board of directors may fill all vacancies which may occur in it during the period for which they have been elected, and in the absence of the President may fill his place by electing a President *pro tempore* from among their number.

Contracts. Sec. 16. That all contracts or agreements, authenticated by the President and Secretary of the board of directors, shall be binding on the company without a seal, or such a mode of authentication may be used, as the company, by their by-laws, may adopt.

Construction and use of road. Sec. 17. That the company shall have power and may proceed to construct, as speedily as possible, a rail road, with one or more tracks, to be used with steam power, which shall extend from the Wilmington and Raleigh Rail Road, where the same passes over Neuse River, in the county Wayne, *via* Raleigh and Salisbury, to the town of Charlotte, in Mecklenburg county: said company may use any section of the rail road constructed by them before the whole of said road shall be completed.

Transportation. Sec. 18. That the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandise and produce over the said rail road, to be by them constructed, at such charges as may be fixed on by a majority of the Directors.

Sec. 19. That the said company may, when they see fit, farm out their right of transportation over said rail road, sub-

to the rules above mentioned and said company and every person who may have received from them the right of transportation of goods, wares and produce on the rail road, shall be deemed and taken to be a common carrier, as respects all goods, wares, produce and merchandise entrusted to them for transportation.

Sec. 20. That the board of directors may call for the payment of the sums subscribed as stock in said company in such instalments as the interest of said company may, in their opinion, require: the call for each payment shall be published in one or more newspapers in this State for the space of one month before the day of payment; and on failure of any stockholder to pay each instalment as thus required, the directors may sell at public auction, on a previous notice of ten days, for cash, all the stock subscribed for in said company, by such stockholder, and convey the same to the purchaser at said sale; and if said sale of stock do not produce a sum sufficient to pay off the incidental expenses of the sale, and the entire amount owing by such stockholder to the company for such subscription of stock, then and in that case the whole of such balance shall be held and taken as due at once to the company, and may be recovered of such stockholder or his executors, administrators or assigns, at the suit of said company, either by summary motion in any court of superior jurisdiction in the county where the delinquent resides, on a previous notice of ten days to said subscriber, or by the action of assumpsit in any court of competent jurisdiction, or by a warrant before a justice of the peace, where the sum does not exceed one hundred dollars; and in all cases of assignment of stock, before the whole amount has been paid to the company, then for all sums due on such stock, both the original subscribers, and the first and all subsequent assignees shall be liable to the company, and the same may be recovered as above described.

Sec. 21. That the debt of stockholders, due to the company for stock therein, either as original proprietor or as first or subsequent assignee, shall be considered as of equal dig-

Farming  
out.Stock,  
payments  
of.

debt of dec. stockholders  
 nity with judgments in the distribution of assets of a deceased stockholder, by his legal representatives.

Certificates  
 Sec. 22. That said company shall issue certificates of stock to its members; and said stock may be transferred in such manner and form as may be directed by the by-laws of the company,

Increase of capital.  
 Sec. 23. That the said company may, at any time, increase its capital to a sum sufficient to complete said Road, not exceeding \_\_\_\_\_ dollars, either by opening books for new stock or by selling such new stock, or by borrowing money on the credit of the company, and on the mortgage of its charter and works; and the manner in which the same shall be done in either case, shall be prescribed by the stockholders at a general meeting.

Directors' report.  
 Sec. 24. That the board of directors shall once in every year, at least, make a full report on the state of the company, and its affairs to a general meeting of the stockholders, and oftener if required by a by-law, and shall have power to call a general meeting of the stockholders, when the board may deem it expedient; and the company may provide, in their by-laws, for occasional meetings being called, and prescribe the mode thereof.

Land.  
 Sec. 25. That the said company may purchase, have and hold, in fee, or for a term of years, any land, tenements, or hereditaments, which may be necessary for the said Road, or the appurtenances thereof, or for the erection of depositories, store houses, houses for the officers, servants or agents of the company, or for work shops or foundries, to be used for the said company; or for procuring stone or other materials necessary to the construction of the Road, or for effecting transportation thereon, and for no other purposes whatever.

Crossing highways.  
 Sec. 26. That the company shall have the right, when necessary, to conduct the said road across or along any public road or water course: *Provided*, That the said company shall not obstruct any public road, without constructing another equally as good and as convenient, nor without making a draw in any bridge of said road, which may cross a

navigable stream, sufficient for the passage of vessels navigating such stream, which draw shall be opened by the company for the free passage of vessels, navigating such stream.

Sec. 27. That when any lands or right of way may be required by said company, for the purpose of constructing their road, and for the want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by any court of record, having common law jurisdiction in the county where some part of the land or right of way is situated. In making the said valuation, the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the land or the right of way being surrendered, and the benefit and advantage he, she or they may receive from the erection or establishment of the rail road or work, and shall state particularly the value and amount of each; and the excess of loss and damage, over and above the advantage and benefit, shall form the measure of valuation of the said land or right of way: *Provided, nevertheless*, that if any person or persons over whose land the road may pass, should be dissatisfied with the valuation of said Commissioners, then and in that case, the person or persons so dissatisfied may have an appeal to the Superior court, in the county where the said valuation has been made, or in either county in which the land lies, when it may lie in more than one county, under the same rules, regulations and restrictions as in appeals from judgments of justices of the peace. The proceedings of the said commissioners, accompanied with a full description of the said land or right of way, shall be returned, under the hands and seals of a majority of the commissioners, to the court from which the commission issued, there to remain a matter of record. And the lands or right of way so valued by the said commissioners, shall vest in the said company so long as the same shall

Mode of  
valuing  
land.

be used for the purposes of this act, so soon as the valuation may be paid, or, value tendered, may have been tendered: *Provided*; that on application for the appointment of commissioners, under this act, a return shall be made to appear to the satisfaction of the court, that at least ten days previous notice has been given by the applicant to the owner or owners of land so proposed to be condemned, or, if the owner or owners be infants or *non compos mentis*, then to the guardian of such owner or owners, if such guardian can be found within the county, or if he cannot be so found, then such appointment shall not be made unless notice of the application shall have been published, at least one month next preceding, in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house, on the first day at least of the term of said court, to which the application is made: *Provided further*, that the valuation provided for in this section, shall be made on oath by the commissioners aforesaid, which oath, any justice of the peace, or clerk of the court of county in which the land or a part of it lies, is hereby authorized to administer: *Provided further*, That the right of condemnation herein granted shall not authorize the said company to invade the dwelling house, yard, garden or burial ground of any individual, without his consent.

Sec. 28. That the right of said company to condemn lands in the manner described in the 27th section of this act, shall extend to the condemning one hundred feet on each side of the main track of the road, measuring from the centre of the same, unless in case of deep cuts and fillings, when said company shall have power to condemn as much in addition thereto, as may be necessary for the purpose of constructing said road; and the company shall also have power to condemn any appropriate lands in like manner, for the constructing and building of depots, shops, ware-houses, buildings for servants, agents and persons employed on the road, not exceeding two acres in any one lot or station.

Land con-  
demned,  
number of  
feet.

Sec. 29. That in the absence of any contract or contracts with said company, in relation to lands through which the said road or its branches may pass, signed by the owner thereof or by his agent, or any claimant or person in possession thereof, which may be confirmed by the owner thereof, it shall be presumed that the land upon which the said road or any of its branches may be constructed, together with a space of one hundred feet on each side of the centre of the said road, has been granted to the said company, by the owner or owners thereof; and the said company shall have good right and title thereto, and shall have, hold and enjoy the same as long as the same be used for the purposes of said road and no longer, unless the person or persons owning the said land at the time that part of the said road which may be on the said land, was finished, or those claiming under him, her or them, shall apply for an assessment of the value of said lands, as hereinbefore directed, within two years next after that part of said road, which may be on the said land, was finished, and in case the said owner or owners, or those claiming under him, her or them, shall not apply within two years next after the said part was finished, he, she or they shall be forever barred from recovering said land or having any assessment or compensation thereof: *Provided*, nothing herein contained shall affect the rights of *feme covert*s or infants, until two years after the removal of their respective disabilities.

Absence of  
contract  
for land.

Sec. 30. That all lands not heretofore granted to any person, nor appropriated by law to the use of the State, within one hundred feet of the centre of said road, which may be constructed by the said company, shall vest in the company as soon as the line of the road is definitely laid out through it, and any grant of said land thereafter shall be void.

State lands

Sec. 31. That if any person or persons shall intrude upon the said rail road by any manner of use thereof, or of the rights and privileges connected therewith, without the permission or contrary to the will of the said company, he, she

Intrusion.

or they may be indicted for misdemeanor, and upon conviction, fined and imprisoned by any court of competent jurisdiction.

Injury,  
penalty for

Sec. 32. That if any person shall wilfully and maliciously destroy, or in any manner hurt, or damage, or obstruct, or shall wilfully and maliciously cause, or aid, or assist or counsel and advise any other person or persons to destroy, or in any manner to hurt, damage or destroy, injure or obstruct the said rail road, or any bridge or vehicle used for or in the transportation thereon, any water tank, ware-house, or any other property of said company, such person or persons so offending, shall be liable to be indicted therefor, and, on conviction, shall be imprisoned not more than six, nor less than one month, and pay a fine not exceeding five hundred dollars, nor less than twenty dollars, at the discretion of the court before which said conviction shall take place; and shall be further liable to pay all expenses of repairing the same; and it shall not be competent for any person so offending against the provisions of this clause to defend himself by pleading or giving in evidence that he was the owner, agent or servant of the owner of the land where such destruction, hurt, damage, injury, or obstruction was done, at the time the same was done or caused to be done.

Nuisance.

Sec. 33. That every obstruction to the safe and free passage of vehicles on the said Road or its branches shall be deemed a public nuisance, and may be abated as such by any officer, agent or servant of said Company; and the person causing such obstruction may be indicted and punished for erecting a public nuisance.

Sec. 34. That the said company shall have the right to take at the store-houses they may establish on, or annex to their rail road or the branches thereof, all goods, wares, merchandise and produce intended for transportation, prescribe the rules of priority and charge and receive such just and reasonable compensation for storage, as they by rules may establish (which they shall cause to be published) or as may be fixed by agreement with the owner which

may be distinct from the rates of transportation: *Provided*, that the said company shall not charge or receive storage on goods, wares, merchandise or produce which may be delivered to them at their regular depositories for immediate transportation, and which the company may have power to transport immediately.

Sec. 35. That the profits of the company, or so much thereof as the general board may deem advisable, shall, when the affairs of the company will permit, be semi-annually divided among the stock-holders, in proportion to the stock each may own. Dividends.

Sec. 36. That whenever it shall appear to the Board of Internal Improvements of this State, by a certificate under the seal of said company, signed by their Treasurer and countersigned by their President, that one third have been subscribed for and taken; and that at least five hundred thousand dollars of said stock has been actually paid into the hands of said Treasurer of said company, the said Board of Internal Improvements shall be, and they are hereby authorized and required to subscribe on behalf of the State, for stock in said company, to the amount of two millions of dollars to the capital stock of said company; and the subscription shall be paid in the following manner, to wit: The one fourth part as soon as the said company shall commence work, and one fourth thereof every six months thereafter, until the whole subscription in behalf of the State shall be paid: *Provided*, the Treasurer and President of said company shall, before they receive the aforesaid instalments, satisfactorily assure the Board of Internal Improvements, by the certificates, under the seal of said company, that an amount of the private subscription has been paid in equal proportion to the stock subscribed by the State. State subscription.

Sec. 37. That if in case the present Legislature shall not provide the necessary and ample means to pay the aforesaid instalments on the stock subscribed for on behalf of the State, as provided for in the 36th section of this act, and in that event, the Board of Internal Improvement aforesaid, Money to be borrowed.

shall, and they are hereby authorized and empowered to borrow, on the credit of the State, not exceeding two millions of dollars, as the same may be needed by the requirements of this act.

How to  
borrow.

Sec. 38. That if in case it shall become necessary to borrow the money, by this act authorized, the Public Treasurer shall issue the necessary certificates, signed by himself and countersigned by the Comptroller, in sums not less than one thousand dollars each, pledging the State for the payment of the sum therein mentioned, with interest thereon at the rate of interest not exceeding six per cent. per annum, payable semi-annually, at such times and places as the Treasurer may appoint—the principal of which certificates shall be redeemable at the end of thirty years from the time the same are issued; but no greater amount of such certificates shall be issued at any one time than may be sufficient to meet the instalment required to be paid by the State at that time.

Certificates  
to be reg-  
istered, &c

Sec. 39. *Be it further enacted,* That the Comptroller shall register the said certificates at large in a book to be by him kept for that purpose, at the time he countersigns the same; and when he delivers the same to the Public Treasurer, he shall charge him in his books with the amount thereof, and also with all such sums, if any, as the Public Treasurer may obtain by way of premium on the sale of the said certificates, an account of which the Public Treasurer shall render to the Comptroller, so soon as negotiations from time to time, for the sale of said certificates, are closed.

Treasurer  
to adver-  
tise.

Sec. 40. *Be it further enacted,* That if it shall become necessary to issue the certificates aforesaid, the Public Treasurer shall advertise in one or more newspapers, as he may think best, and invite sealed proposals for such amount of the aforesaid sum of two millions of dollars as may be wanted at any one time, and it shall be his duty to accept those terms which may be most advantageous to the State: *Provided,* that in no event shall any of the said certificates be sold for less than their par value; and any pre-

mium which may be obtained on the sale of said certificates shall be placed in the public treasury, and used as other public funds in the payment of interest on the debt hereby created.

Sec. 41. *Be it further enacted*, That as security for the redemption of said certificates of debt, the public faith of the State of North Carolina is hereby pledged to the holders thereof, and in addition thereto all the stock held by the State in "The North Carolina Rail Road Company" hereby created, shall be, and the same is hereby, pledged for that purpose; and any dividends of profit which may, from time to time, be declared on the stock held by the State as aforesaid, shall be applied to the payment of the interest accruing on said certificates; but until such dividends of profit may be declared, it shall be the duty of the Treasurer, and he is hereby authorized and directed to pay all such interest as the same may accrue out of any moneys in the Treasury not otherwise appropriated.

Faith of  
State.

Sec. 42. *Be it further enacted*, That the certificates of debt hereby authorized to be issued, shall be transferable by the holders thereof, their agents or attorneys, properly constituted, in a book to be kept by the Public Treasurer for that purpose; and in every instance, where a transfer is made, the outstanding certificate shall be surrendered and given up to the Public Treasurer, and by him cancelled, and a new one, for the same amount, issued in its place to the person to whom the same is transferred.

Transferable.

Sec. 43. That the State shall appoint the number of directors in said company, in proportion to the stock subscribed, who shall be appointed by the Governor, by and with the advice and consent of his council, and removed in like manner.

State directors.

Sec. 44. That the following officers and servants and persons in the actual employment of the said company be, and they are hereby exempted from the performance of jury and ordinary militia duty: The President and Treasurer of the board of directors, and chief and assistant engineers,

Exempt.

the secretaries and accountants of the company, keepers of the depositories, guard stationed on the road to protect it from injury, and such persons as may be working the locomotive engines and travelling with cars for the purpose of attending to the transporting of produce, goods and passengers on the road.

Sec. 45. *Be it enacted*, That for the purpose of putting the Raleigh and Gaston Rail Road in good and complete order for the profitable transportation of persons and produce, and for the further purpose of reviving the late Raleigh and Gaston Rail Road Company, Rhodes N. Herndon, Thomas Miller, John S. Eaton, of Granville county; William J. Hawkins, Weldon N. Edwards, George D. Baskerville, of Warren county; George W. Mordecai, Richard Smith, W. W. Holden, of Wake county; John D. Hawkins, Sr., Allen C. Perry, John D. Hawkins, Jr., of Franklin county; and the late stockholders of and obligors for the Raleigh and Gaston Rail Road Company, or any part of them, and such other persons and corporations as may associate with them, are hereby created a body politic and corporate, by the name and style of the Raleigh and Gaston Rail Road Company, and by that name shall be able to sue and be sued, and shall have, possess and enjoy all the rights, franchises, powers and privileges, vested in and granted to the Raleigh and Gaston Rail Road Company, by an act, entitled "An Act to incorporate the Raleigh and Gaston Rail Road Company," passed by the General Assembly of this State on the — day of ———, and shall be subject to all the restraints, limitations, restrictions and liabilities imposed by the said act; and all the other provisions of the said act, so far as the same remain to be executed, are hereby declared to be in full force and effect, upon the following terms and conditions nevertheless. —

Sec. 46. *Be it enacted*, That whenever the said persons and their associates named in the foregoing section, shall have subscribed the sum of five hundred thousand dollars, for the purposes aforesaid, and shall have expended the same,

in putting the Raleigh and Gaston Rail Road in full and Condition. complete order, with heavy T Rail iron, or other iron equally good, not weighing less than fifty pounds to the yard, then one half of the said Rail Road, with all the machine shops, Depots, water stations, Engines, Coaches, Cars and every other property appertaining to the said Rail Road, shall be sold, conveyed and transferred to the said subscribers, their heirs and assigns, by the Governor, under the great seal of the State; and the said late stock-holders and obligors of the said Raleigh and Gaston Rail Road Company, shall be and are hereby declared to be forever released and discharged from all liability to the State, for and on account of the said Raleigh and Gaston Rail Road Comyany, upon the payment of costs incurred. And the Governor is hereby authorized, and it is declared to be his duty to suspend the further prosecution of suits brought by the State, against the said stock-holders and obligors, until it can be ascertained whether the said subscribers are willing to accept the conditions of this act, and that they shall be allowed two years from the passage of this act to make known their determination to the Governor. And if the terms and conditions of this act shall be accepted, and the work commenced within two years, and finished within three years from the ratification of this act, then this act shall continue and be in full force for ninety years and no longer.

Sec. 47. *Be it further enacted*, That if the conditions of this act are accepted, and the sum of five hundred thousand dollars shall have been subscribed by solvent subscribers, to be judged of by the Governor and Attorney General, <sup>May mort-</sup> then and in that case, the said subscribers shall have lawful <sup>gage.</sup> authority to mortgage one half of the said Railroad, to enable them to obtain the necessary credit to purchase a part of the iron which will be needed for said Road.

Sec. 48. *Be it further enacted*, That if the said sub- <sup>If terms</sup> scribers shall refuse or neglect to accept the terms and con- <sup>not ac-</sup> ditions of this act, then all the benefits of the same shall be <sup>cepted.</sup> granted to Thomas F. Wyatt, John Campbell, Thomas P.

Devereux, Andrew Joyner, Weldon N. Edwards, George D. Baskerville and Alexander Hawkins, and such other persons as may associate with them, who shall accept and comply with all the terms and conditions of the same; and they and their successors are hereby incorporated into a Company, by the name and style of the Raleigh and Gaston Rail Road Company, and by that name shall have lawful authority to sue and be sued, to hold, possess and enjoy all the rights, franchises, powers and privileges granted by this act and shall be subject to all the restraints, limitations, restrictions, and liabilities imposed by the same.

Sec. 49. *Be it enacted*, That whenever the Roanoke Rail Road Company or the Seaboard and Roanoke Rail Road Company, with or without the aid of individuals, shall subscribe to the Raleigh and Gaston Rail Road Company, one half of the sum necessary to construct a Rail Road from some convenient point on the Raleigh and Gaston Rail Road, near the Littleton Depot, or any point between that Depot and Roanoke River, and the Town of Weldon, or any point in the neighborhood thereof, so as to connect with the Wilmington and Raleigh Rail Road, and the Seaboard and Roanoke Rail Road, and shall expend the said sum in forming the said connection, then the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon or neighborhood thereof; and the Public Treasurer is hereby authorized and directed to subscribe for an equal sum for and in behalf of the State, and pay for such subscription, out of any money in the Treasury not otherwise appropriated; and for the want of such money in the Treasury, the Public Treasurer is hereby authorized to borrow the sum at a rate of interest not exceeding six per cent. per annum, and to issue bonds payable at any time within ten years, for not less than five hundred dollars each.

Sec. 50. *And be it further enacted*, That one of the conditions of this charter is that this General Assembly shall have power and authority at any future session to establish, regulate and control the intercourse between the North Car-

State sub-  
scription  
for con-  
necting  
with other  
road.

Power of  
Assembly.

olina Rail Road and the Raleigh and Gaston Rail Road, so as best to secure to the public an easy and convenient passage of persons and property.

Sec. 51. *Be it further enacted*, That the sum of forty thousand dollars, to be raised by the State in the same manner as other moneys are raised by the provisions of this act, be, and the same is hereby appropriated for the purpose of cleaning out and improving the navigation of the river Neuse, between the town of Newbern and the town of Smithfield. And also, that the further sum of twenty-five thousand dollars, to be raised in like manner, be and the same is hereby appropriated, for the purpose of clearing out and improving the navigation of the Tar river between the town of Washington and the falls of the said river; and that his Excellency the Governor is hereby empowered and required to appoint suitable commissioners to carry into effect the requirements of this section: *Provided*, the sum hereby appropriated to the Neuse and Tar Rivers shall not be paid by the public Treasurer, until the railroad company shall have subscribed the whole amount of stock required from them, by the provisions of this act, and have commenced operations on said road.

Sec. 52. *Be it further enacted*, That as soon as the said North Carolina Rail Road is commenced and the superstructure of the same laid down at Raleigh, the owners, proprietors and authorities of the Raleigh and Gaston Rail Road shall be, and they are hereby authorized and empowered to effect a junction and form an actual connexion with the said North Carolina Rail Road, at such point at or in the vicinity of Raleigh as they in their discretion may select.

Sec. 53. *Be it further enacted*, That all the works hereby required of the North Carolina Rail Road Company shall be executed with due diligence, and if they be not commenced within three years after the ratification of this act, and finished within ten years after the period of commencement, then this charter shall be forfeited.

[Ratified 27th day of January, 1849.]

## CHAPTER LXXXIII.

AN ACT to unite the Roanoke Rail Road and the Seaboard and Roanoke Rail Road Companies, and for other purposes.

Sec. 1. *Be 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 time when this act shall take effect, the stockholders of the Seaboard and Rail Road Company, a corporation incorporated by the Legislature of Virginia, by an act dated February, 1847, and other acts, be, and they are hereby constituted stockholders in the Roanoke Rail Road Company, a corporation incorporated by the Legislature of North Carolina, by an act dated January, 15th 1847, with the same rights, powers, privileges and franchises, as if they had subscribed an equal amount of [stock] in said Roanoke Rail Road Company; and all tolls, franchises, rights, powers, privileges and property then or at any time thereafter, owned, acquired or enjoyed by the stockholders of said Roanoke Rail Road Company, shall belong to the stockholders of said Seaboard and Roanoke Rail Road Company, in proportion to the number of shares by each of them owned; and from and after the time when this act shall take effect, all property owned, acquired or enjoyed by either of said corporations, shall be taken to be the joint property of the stockholders for the time being of the two corporations.

Comp-  
nies uni-  
ted.

Sec 2. *Be it further enacted,* That from and after the time when this act shall take effect, at all meetings of the stockholders of said Roanoke Rail Road Company, the stockholders of said Seaboard and Roanoke Rail Road Company, shall be entitled to the same notice, and shall enjoy the same right of voting, as if they had been original stockholders of said Roanoke Rail Road Company. All meetings which shall be properly notified and held by the original and associated stockholders, shall be legal and valid, and all officers chosen at any such meeting, shall be offi-

Meetings,  
&c.

cers of said Roanoke Rail Road Company: *Provided always*, that there shall be at least one Director in each State, who is an inhabitant thereof, on whom process against said corporation may be served; and the books and registry of one corporation shall be taken to be the books and registry of the other corporation.

Sec. 3. *Be it further enacted*, That the foregoing sections shall not take effect, until the same shall have been accepted by the stockholders of each of the said companies, in meetings called for that purpose. When to  
take effect

Sec. 4. *Be it further enacted*, That until the legal union of said two corporations, as provided for in the foregoing sections, shall have been completed, it shall be lawful for the Roanoke Rail Road Company, and they are hereby authorized and empowered to contract with the Seaboard and Roanoke Rail Road Company for building such Rail Road in North Carolina, and at any time to contract for doing business on said road or on any other road or branch road with which it may connect, on such terms as may be agreed upon by said parties. Contracts

Sec. 5. *Be it further enacted*, That after said corporation shall have been united according to the provisions of this act, they shall be one corporation by the name of the Seaboard and Roanoke Rail Road Company. Name.

Sec. 6. *Be it further enacted*, That in addition to the land which the corporation may take for road way, depots, &c. under authority of existing laws, they are hereby authorized to purchase such further parcels as may be deemed necessary and convenient for depot arrangements, and for procuring earth, timber and wood for the construction of the road and the business of the company. Land

Sec. 7. *Be it further enacted*, That in lieu of the present tolls as established by law, the company shall have the right to charge and receive for their own use and benefit, not exceeding five cents per mile for passengers, except for distances under ten miles, for which, however short, they may charge fifty cents; that on merchandise and commodities generally, the charge shall not exceed eight cents per Toll

ton, per mile, and shall not exceed twice this rate for horses, cattle and other live stock, carriages, gigs, wagons, carts and other vehicles, for specie or bullion, for any goods in boxes or bales, for wool, for crates, china, wooden, earthen, glass and and stone ware, cabinet ware or furniture; and on all bulky articles averaging less than forty pounds per cubic foot, they shall be authorized to demand and receive a toll on each cubic foot as for forty pounds weight; on gypsum, lime and salt in parcels of three tons and upwards, the tolls shall not exceed four cents per ton per mile, except for distances under ten miles; and provided that any article however small a parcel, or short a distance carried, may be charged twenty-five cents; these rates to take effect on being accepted by the Railroad Company.

Interest.

Sec. 8. *Be it further enacted*, That it shall be lawful to allow and pay interest on the assessments paid in until the road is in operation, which interest shall be charged to account of construction.

Capital.

Sec. 9. *Be it further enacted*, That the capital stock of said company may be increased to a sum not exceeding one million, five hundred thousand dollars, at the discretion of the stockholders.

Time.

Sec. 10. *Be it further enacted*, That the time prescribed for commencing and completing said road in the present charter be extended for a further term of three years.

President  
and Direc-  
tors.

Sec. 11. *Be it further enacted*, That so much of the act, passed at the last session, entitled "An Act to incorporate the Roanoke Railroad Company" as requires that the President and Directors of the said company shall reside in the State of North Carolina, be, and the same is hereby repealed; and that the said Roanoke Railroad Company or Seaboard and Roanoke Railroad Company, if the former should be united with the latter, as contemplated by this act, shall be allowed two years from and after the first day of January next, within which to commence their works, and if not commenced within that time, this act shall be null and void.

Sec. 12. *Be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby repealed.

[Ratified 16th day of January, 1849.]

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#### CHAPTER LXXXIV.

AN ACT supplemental to an act, passed at the present General Assembly, entitled "An Act to unite the Roanoke Railroad and the Seaboard and Roanoke Railroad Companies."

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever the Roanoke Rail Road and the Seaboard and Roanoke Rail Road Companies shall be united together, as contemplated by the act passed by the present General Assembly for that purpose, it shall be lawful for the Seaboard and Roanoke Railroad Companies to unite their railroad with the Wilmington and Raleigh Railroad, at or near the town of Halifax, or with the Raleigh and Gaston Railroad, at or near Littleton, if, upon full consideration and actual survey, the said company shall deem it expedient; and for this purpose the said company shall have, possess and enjoy all the rights, privileges and benefits and advantages, and shall be subject to all the rules, regulations and restrictions of the act of the General Assembly, entitled "An Act to incorporate the Roanoke Railroad Company."

[Ratified 29th day of January, 1849.]

## CHAPTER LXXXV.

AN ACT to revive and continue in force an act, passed in the year 1847, entitled "An Act to incorporate the North and South Carolina Railroad Company."

Sec. 1. *Be 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 entitled "An Act to incorporate the North and South Carolina Railroad Company," passed in the year 1847, be and the same is hereby revived and continued in force, in as full and ample a manner as if every clause, sentence, paragraph and section therein contained, not inconsistent with the provisions of this act, were herein set forth at full length; and that all the rights, privileges, immunities and advantages therein granted shall be held, possessed and enjoyed by the company thereby incorporated, in the same manner as if the provisions in the thirty-seventh section of said act, requiring said charter to be carried into effect within three years from its passage, had not been contained therein; any law to the contrary notwithstanding: provided said charter is carried into effect within three years from the passage of this act.

Sec. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER LXXXVI.

AN ACT concerning the Wilmington and Raleigh Railroad Company.

## SECTION

- 1, 2, Bonds, how made, and when payable; and how endorsed.
- 3, 4, Bonds surrender of; and pledge of the faith of the State.
- 5, 6, Bonds transferable; and mortgage to be made to the State.

7, 8. Sequestration of receipts and foreclosure of mortgages.

9, 10. Governor to compel compliance. Compensation of Treasurer.

11. Provides for a loan of 520,000 dollars, by mortgage on the road, for which the State will not be bound.

Sec. 1. *Be 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 Wilmington and Raleigh Railroad Company to make their bonds, payable to the Public Treasurer of the State of North Carolina, for the sum of two hundred and fifty thousand dollars, which bonds shall be signed by the President of said Company, under the seal of the same, and made payable for any sum or sums not less than one thousand dollars each, bearing interest at the rate of six per cent. per annum, which interest is to be paid semiannually, to wit: on the first Monday in January and the first Monday in July in each and every year, until the said bond shall be paid; fifty thousand dollars of which bonds shall be made payable on the first day of January, eighteen hundred and fifty-nine, fifty thousand dollars shall be made payable on the first day of January, eighteen hundred and sixty; fifty thousand dollars shall be made payable on the first day of January, eighteen hundred and sixty one; fifty thousand dollars shall be made payable on the first day of January, eighteen hundred and sixty two; and the remaining fifty thousand dollars shall be made payable on the first day of January, eighteen hundred and sixty-three.

Bonds,  
how made  
and when  
payable.

Sec. 2. *Be it further enacted,* That the Public Treasurer of the State, be, and he is hereby authorized and directed to endorse on said bonds as follows: "Pay to \_\_\_\_\_, or order;" and this endorsement shall pledge the State of North Carolina for the payment of the sum in each bond, which endorsement shall 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 for that purpose, and which book shall be safely kept in his office.

Endorse-  
ment.

**Surrender.** Sec. 3. That the said bonds so to be made and endorsed, shall be held by the Public Treasurer, and upon the surrender to him of any one or more of the bonds of said Company heretofore endorsed by the Public Treasurer of this State, in pursuance of the provisions of any act of the General Assembly of this State authorizing and directing the Public Treasurer of this State to endorse the bonds of said company, he shall fill up the blank in endorsement made by him aforesaid, in a like amount of the bonds so endorsed with those surrendered, enter the name or names of the person or persons or company or corporation by whom or in whose behalf such surrender shall have been made, and shall forthwith deliver such bonds to the person or persons, or company or corporation, with whose name or names such endorsements have been filled up.

**Faith of  
the State.**

Sec. 4. *Be it further enacted,* That for the redemption of the bonds hereby authorized to be made, and the payment semiannually of the interest on the same, at the rate of six per cent. per annum, the faith and credit of the State is pledged to the holders of said bonds; and on failure of the President and Directors of said company to pay the said principal and interest, or any parts thereof, as it becomes due, the Public Treasurer is authorized to pay the same out of any money in the Treasury at the time.

**Transferable.**

Sec. 5. *Be it further enacted,* That the said bonds shall be transferable by the holders thereof, or by his, her or their attorney, in a book to be kept by the Public Treasurer for that purpose; and every such transfer the outstanding bonds shall be surrendered to and called in by the Public Treasurer, and a new bond issued, for the same amounts, to the person entitled to the same.

**Mortgage.**

Sec. 6. *Be it further enacted,* That whenever the President and Directors of the Wilmington and Raleigh Railroad Company shall make, execute and deliver to the Governor of this State, for and in behalf of the State, a deed of mortgage, under 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 Railroad Company, or in any manner pertaining to the same, excepting however the lot of land and wharf situated in the City of Charleston, in the State of South Carolina, and the steamboats belonging to said company, with their tackle, apparel and furniture, 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 Railroad Company, and endorsed by the Public Treasurer; also shall make, execute and deliver to the Governor and his successors in office, for the use and benefit of the State, a pledge of so much of the profits of said company as shall be sufficient to pay semiannually the interest which may accrue on said bonds until the final payment and redemption of the principal of said bonds; which said deed or deeds 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 the bonds which by this act he is authorised and directed to endorse in the manner and to such amounts as is set forth in the foregoing sections of this act.

Sec. 7. *Be it further enacted*, That in case of failure by the President and Directors of the said Wilmington and Raleigh Railroad Company to pay and discharge semiannually the interest which may accrue on the bonds hereby authorized to be made and executed, and which may be delivered to the company, it shall be lawful for the Governor, 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, on the proof of the failure by the President and Directors of said company to pay said interest, shall have power to order such sequestration, and appoint

Sequestration.

a receiver or receivers accordingly. And in case of such sequestration, and the appointment of 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 company.

Foreclosure of mortgages.

Sec. 8. *Be it further enacted*, That in case of the failure of the President and Directors of the Wilmington and Raleigh Railroad Company to pay the interest on the said bonds, and redeem the principal thereof, as the said interest and principal or any part thereof may become due, then it shall be the duty of the Governor for the time being, to cause all the mortgages made and executed by the President and Directors of the said Wilmington and Raleigh Railroad Company to be foreclosed in the Superior court of equity for the county of Wake; which court is hereby authorized and empowered to take jurisdiction of the same: And on the decree of foreclosure being made by said court, the whole estate, real and personal, shall be sold at such time and in such ways as the court may direct; and out of the proceeds of such sale or sales shall be paid the whole amount of the principal and interest which may be due on said bonds and all other liabilities whatsoever of the State for and on account of said company.

Non compliance.

Sec. 9. *Be it further enacted*, That in case the President and Directors of said company shall fail to apply the proceeds and incomes of said road according to the provisions 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 foregoing sections of this act.

Treas. pay

Sec. 10. *Be it further enacted*, That the said Wilmington and Raleigh Railroad Company shall pay to the Public Treasurer the sum of two hundred dollars, as compensation for the service required of him by the provisions of this act.

WHEREAS the said Wilmington and Raleigh Railroad Company is desirous of improving the said road by relaying it with new and heavy iron, which will greatly enhance the value of the stock held by the State as well as the individual stockholders; and whereas to effect that object it may be necessary for said company to contract a loan:

Sec. 11. *Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the said Wilmington and Raleigh Railroad Company shall be, and are hereby authorized to borrow a sum not exceeding (\$520,000) five hundred and twenty thousand dollars, and upon a credit not exceeding twenty years, for the purposes mentioned, and shall be authorized, if found necessary, to mortgage the road and all the property and effects belonging to the said company for the security of said loans, which mortgage it is hereby declared and enacted, shall be preferred to the mortgage and pledge to be executed under the previous provisions of this act, and all such other mortgages and pledges as may have been heretofore executed by said company to secure the State against its loss by reason of her endorsement for said company; and in case of default by said company, the said mortgage so to be executed shall be first satisfied: *Provided,* that nothing contained in this act shall be so construed, as to pledge the faith and credit of the State in any manner whatever beyond her interest in said corporation for the payment of any part of the \$520,000 which the Wilmington and Raleigh Railroad Company are authorized to borrow by the provisions of this act: *Provided,* that the foreclosure, or sale under either of said mortgages, shall not take place within two years from the filing of the bill for that purpose, nor until after notice to the Legislature of the State: *And provided further,* that the State shall not be liable for the payment of the stock hereby authorized to be subscribed in the Wilmington and Manchester Railroad Company, and that said subscription shall be

made, upon the exclusive credit of the Wilmington and Raleigh Railroad Company.

Sec. 12. *Be it further enacted*, That this act shall be in force, from and after its ratification.

[Ratified 27th day of January, 1849.]

## CHAPTER LXXXVII.

AN ACT to produce conformity in the charters granted to the Charlotte and South Carolina Railroad Company, by the States of North and South Carolina.

Sec. 1. *Be 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 Charlotte and South Carolina Railroad Company, which has been formed in compliance with the charters granted by the States of North and South Carolina, be, and the same is hereby incorporated by the name of the Charlotte and South Carolina Railroad Company, and by that title shall have corporate existence in each of the said States, and shall have perpetual succession of members; may have a common seal; may sue and be sued, plead and be impleaded, in any court of law and equity; and make all such rules, regulations and by-laws as are not inconsistent with the laws or constitution of the said States of North Carolina or South Carolina or of the United States: *Provided*, that notice of service of process upon the principal agent of said company, or any director thereof, shall be deemed and taken to be due and lawful notice of service of process upon the company, so as to bring it before the court.

Sec. 2. *Be it further enacted*, That the officers of said company shall be managed and directed by a general board, to

Corporate powers.

Proviso.

consist of twelve directors, to be elected by the stockholders Board. from among their number.

Sec. 3. *Be it further enacted,* That the election of directors shall be by ballot, and each stockholder, at any general meeting of the company, shall be entitled to one vote, upon <sup>Votes.</sup> all shares held by him not more than fifty; to one vote for every five shares, upon all shares held by him more than fifty and not more than one hundred; and upon all shares more than one hundred, to one vote for every ten shares, to be given by the stockholders in person or by his proxy in all elections and upon all matters to be submitted to the decision of the company; and to constitute a meeting of the stockholders authorized to make elections, or decide upon any matter upon which it shall be necessary for the stockholders to act as a company, a majority of all the shares shall be represented by the stockholders themselves, or by his, her or their proxy or proxies; and if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time, until a regular meeting shall be formed.

Sec. 4. *Be it further enacted,* That the President of the Company shall be elected by the directors from among their number, as the regulation of the company shall prescribe; and the proprietors of stock at every annual meeting shall elect twelve directors, four of whom at least shall be chosen from stockholders resident in South Carolina, and four at least from stockholders resident in North Carolina, who shall continue in office, unless sooner removed, until the next annual meeting after their election and until their successors shall be elected and shall enter upon their duties; but the President and any of the Directors may at any time be removed, and the vacancy thereof occasioned be filled by a majority of the votes given at any general or called meeting. The President with any five or more directors, or in the event of the sickness, inability or absence of the President, any six or more of the directors, who in such case, shall appoint one of their body President *pro tempore*, shall constitute

President  
and Direc-  
tors.

a board for the transaction of business. In case of a vacancy in the office of President or any director, from death, removal, resignation or inability, the vacancy may be filled by the appointment of the board until the next annual meeting.

Annual  
meetings.

Sec. 5. *Be it further enacted*, That there shall be annual meetings of the proprietors of stock, at such times and places as the preceding annual meeting shall have appointed. At such or any special meeting, proprietors of stock may attend and vote by proxies under such regulations as the by-laws shall prescribe: *Provided*, that in no case shall the President vote under the authority of another stockholder, nor shall any officer or agent of the company be the proxy of a stockholder; and all and every proxy made to the President or any officer of the company jointly with another or with others, shall be void.

Proviso.

Failure of  
elections.

Sec. 6. *Be it further enacted*, That if the day of the annual election should pass without any election of directors the corporation shall not thereby be dissolved, but it shall be lawful on any other day to hold and make such election, in such manner as may be prescribed by a by-law of the corporation.

Special  
meetings

Sec. 7. *Be it further enacted*, That special meetings of the company shall be called whenever twenty members of the company, or more, owning together three hundred shares shall require it: *Provided*, that public notice shall first be given of the time and place of such meeting, and of the object for which it is called, unless the interest of the company requires that the cause of convening the meeting should not be published: *And provided also*, that either in person or by proxy there shall be present at the meeting a number of persons owning together a majority of the stock.

Authenti-  
cation.

Sec. 8. *Be it further enacted*, That all contracts or agreements authenticated by the President and Secretary of the general or local board, shall be binding on the company without a seal, or such a mode of authentication may be used as the company by their by-laws may adopt.

Sec. 9. *Be it further enacted*, That the company shall have power and may proceed to construct as speedily as possible a railroad with one or more tracks, to be used with steam, animal or other power, which shall extend from some point on the South Carolina Railroad, to the town of Charlotte in the county of Mecklenburg, and State of North Carolina: said company may use any section of the railroad constructed by them, before the whole of said road shall be completed.

Road, construction of

Sec. 10. *Be it further enacted*, That the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandise and produce over the said railroad to be by them constructed, and shall have power to charge for such transportation of persons, goods, produce, merchandise and other articles, any sum not exceeding the following rates, viz: on persons not exceeding six cents per mile for each person, unless the distance which any person may be transported be less than ten miles, in which case the President and directors may be entitled to make an extra charge of fifty cents for taking up and putting down each person so transported; for the transportation of goods, produce merchandise and other articles, not exceeding fifty cents per hundred pounds for each hundred miles, on heavy articles and fifteen cents per cubic foot on articles of measurement for every hundred miles; and for the transportation of mails such sums as they may agree for with the Agents of the United States.

Rights and charges

Sec. 11. *Be it further enacted*, That the said company may, when they see fit, farm out their rights of transportation on said railroad, subject to the rules above mentioned; and said company and every person who may have received from them the right of transportation of goods, wares and produce in the said road, shall be deemed and taken to be a common carrier, as respects all goods, wares, merchandise and produce entrusted to them for transportation.

Farming out

Sec. 12. *Be it further enacted*, That if any stockholder shall fail to pay the instalment required of him on his share or shares, by the President and directors, or a majority of

Delin-  
quents

them, within one month after the call for the same shall have been advertised in one or more papers, published in North Carolina or in South Carolina, as the case may be, it shall and may be lawful for the President and directors, or a majority of them, to sell at public auction and convey to the purchasers, the share or shares of such stockholders so failing or refusing, giving twenty days' notice of the time and place of sale; and after retaining the sum due, and all expenses incident to the sale out of the proceeds, shall pay the surplus to the former owner or his legal representatives or assignees. And any purchaser of the stock of the company under the sale by the President and directors as aforesaid, shall be subject to the same rules and regulations as the original proprietor; and no sale by the original proprietor of stock or his assignees, shall release the original proprietor from his obligation to the company to pay the whole amount of his subscription. And in addition to the foregoing remedy, the President and Directors may proceed, by action of assumpsit or debt, in any of the courts of law of the States of North or South Carolina, for the recovery of the instalments due and not paid by any delinquent stockholder or his assignee, who shall not pay the same on requisition made in manner and form as aforesaid.

Transfer

Sec. 13. *Be it further enacted,* That the stock of said company may be transferred in such manner and form as may be directed by the by-laws of the said company.

Increase of  
capital

Sec. 14. *Be it further enacted,* That if the capital stock of the company shall be found insufficient for the purposes for which the said company is formed or incorporated, it shall and may be lawful for said company, at some general meeting, by a vote of the stockholders, from time to time, to increase the capital stock to an amount not exceeding two millions of dollars, by the addition of as many shares as may be necessary for that purpose. And the President and directors shall first give the individual stockholders for the time, or their legal representatives, the option of taking such additional shares, and an apportionment, if necessary shall be

made amongst them. And if such additional shares shall not be taken by the stockholders, the President and directors shall cause books to be opened, under the direction of commissioners to be appointed by them, at such time and place as they shall designate, which time and place shall be duly advertised, for subscription for said additional shares, or for so much thereof as may not be taken by the individual stockholders as aforesaid; and the subscribers for such additional shares are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages; and subject to all the liabilities of the original stockholders.

Sec. 15. *Be it further enacted*, That the President and directors, or a majority of them, shall have power to borrow money for the objects of this act, to issue certificates or other evidences of such loans, and to make the same convertible into the stock of the company, at the pleasure of the holder; provided that the capital shall not thereby be increased to an amount exceeding two millions of dollars, and to pledge the property of the company for the payment of the same with interest: *Provided*, that no certificate of loan convertible into stock or creating any lien or mortgage on the property of the company, shall be issued by the President and Directors, unless the expediency of making a loan on such terms, and of issuing such certificates, shall have been first determined on by two-thirds of votes at a general meeting of the stockholders.

Loan.

Sec. 16. *Be it further enacted*, That the board of directors shall once in every year at least make a full report on the state of the company and its affairs to a general meeting of the stockholders, and oftener, if directed by a by-law; and shall have power to call a general meeting of the stockholders, when the board may deem it expedient; and the company may provide in their by-laws, for occasional meetings being called and prescribe the mode thereof.

Report.

Sec. 17. *Be it further enacted*, That the said company may purchase, have and hold in fee, or for a term of years, any lands, tenements or hereditaments which may be necessary

Land &amp;c.

for the said road or the appurtenances thereof, or for the erection of depositories, store houses, houses for the officers, servants or agents of the company, or for work-shops or foundries to be used for said company, or for procuring stone or other materials necessary to the construction of the road, or for effecting transportation thereon, and for no other purposes whatever: *Provided*, that no depositories or other buildings authorized by this section, shall be erected within one fourth of a mile of the dwelling house of any individual, without his consent, unless it be in some town or village, either at the terminus or on the line of said road.

Crossing  
ways.

Sec. 18. *Be it further enacted*, That the said company shall have the right, when necessary, to conduct the said road across or along any public road or water course: *Provided*, that the said company shall not obstruct any public road, without constructing another equally as good and as convenient as may be, nor without making a draw in any bridge of said road which may cross a navigable stream, sufficient for the passage of vessels navigating said stream, which draw shall be opened by the company for the free passage of vessels navigating such stream.

Mode of  
valuing  
lands.

Sec. 19. *Be it further enacted*, That when any lands or rights of way may be required by said company, for the purposes of constructing their road, and for the want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by any court of record having common law jurisdiction in the county or district where some part of the land or right of way is situated: In making the said valuation, the said commissioners shall take into consideration the loss or damage which may occur to the owner or owners, in consequence of the land being taken, or the right of way surrendered, and also the benefit and advantage he, she or they may receive from the erection or establishment of the railroad or work, and shall state particularly the nature and amount of each;

and the excess of loss or damage over and above the advantage and benefit, shall form the measure of valuation of the said land or right of way: *Provided*, nevertheless, in case either party shall appeal from the valuation to the next session of the court granting the commission, and give fifteen days notice to the opposite party of such appeal, the court shall order a new valuation to be made by a jury, who shall be charged therewith in the same term or so soon as possible, and their verdict shall be final and conclusive between the parties, unless a new trial shall be granted. The proceedings of said commissioners, accompanied with a full description of the said land or right of way, shall be returned, under the hands and seals of a majority of the commissioners, to the court from which the commission issued there to remain a matter of record. And the lands or right of way so valued by the commissioners, shall vest in the said company, discharged from all previous liens, so long as the same shall be used for the purposes of said railroad, so soon as the valuation may be paid, or, when refused, may be tendered: *Provided*, that on the application for the appointment of commissioners under this section, it shall be made to appear, to the satisfaction of the court, that at least ten days' previous notice has been given by the applicants to the owner or owners of the land so proposed to be condemned, or if the owner or owners be infants or *non compos mentis*, then to the guardian or committee of such owners, if such guardian or committee can be found within the county or district, or if he cannot be found, then such appointment shall not be made unless notice of the application shall have been published at least one month next preceding in some newspaper printed as convenient as may be to the court house of the county or district: *Provided*, that when there shall be an appeal as aforesaid from the valuation of the commissioners by either of the parties, the same shall not prevent the works intended to be constructed from proceeding. But when the appeal is made by the company requiring the surrender, they shall be at liberty to proceed in

their work only on condition of giving to the opposite party a bond, with good security, to be approved by the clerk of the court where the valuation is returned, in a penalty equal to double the said valuation, conditioned for the payment of the said valuation and interest, in case the same be sustained, and in case it be reversed, for the payment of the valuation thereafter to be made by the jury and confirmed by the court.

Absence of  
contract.

Sec. 20. *Be it further enacted*, That in the absence of any contract or contracts with the said company, in relation to lands through which the said road or its branches may pass, signed by the owner thereof or by his agent or any claimant or any person in possession thereof, which may be confirmed by the owner thereof, it shall be presumed that the land upon which the said road or any of its branches may be constructed, together with a space of sixty-five feet on each side of the centre of the said road, has been granted to the company by the owner or owners thereof; and the said company shall have good right and title thereto, and shall have, hold and enjoy the same as long as the same be used only for the purposes of said railroad, discharged from all previous liens, and no longer, unless the person or persons owning the said land at the time that part of the said road which may be on the said land was finished, or those claiming under him, her or them, shall apply for an assessment of the value of the said lands, as herein before directed, within two years next after that part of said road was finished; and in case said owners or owner, or those claiming under him, her or them, shall not apply within two years next after the said part was finished, he, she or they shall be forever barred from recovering said land or having any assessment or compensation therefor: *Provided*, nothing herein contained shall affect the rights of feme covert or infants, until two years after the removal of their respective disabilities: *And provided also*, that if the said road or any part thereof should be sold at execution sale for the debts of said com-

pany or otherwise, then and in that case all the rights and title to the land which may have been condemned by virtue of this act, shall immediately revert to the original owners, unless the purchaser or purchasers at such sale shall keep up the road for the use of the public, in the same manner and under the same restrictions as by this act it is contemplated that the Charlotte and South Carolina Railroad Company should do.

Sec. 21. *Be it further enacted*, That all the lands not heretofore granted to any person nor appropriated by law to the use of the State, within sixty-five feet of the centre of the road, which may be constructed by the said company, shall vest in the company as soon as the line of the road is definitely laid out through it, and any grant thereafter shall be void. Unganted  
lands,

Sec. 22. *Be it further enacted*, That if any person or persons shall intrude upon the said railroad by any manner of use thereof, or of the rights and privileges connected therewith without the permission or contrary to the will of said company, he, she or they shall forthwith forfeit to the said company all the vehicles that may be intruded on the said road, and the same shall be recovered by suit at law, and the person or persons so intruding may also be indicted for misdemeanor, and upon conviction, fined and imprisoned by any court of competent jurisdiction. Intrusion.

Sec. 23. *Be it further enacted*, That if any person shall wilfully and maliciously destroy, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, or aid or assist or counsel and advise any other person or persons to destroy, or in any manner to hurt, damage or destroy, injure or obstruct the said railroad, or any bridge or vehicle used for or in the transportation thereon, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be imprisoned not more than six nor less than one month, and pay a fine not exceeding five hundred dollars, nor less than twenty, at the discretion of the court before which such conviction shall Malicious  
injury.

take place, and shall be further liable to pay all the expenses of repairing the same; and it shall not be competent for any person so offending against the provisions of this clause, to defend himself by pleading or giving in evidence that he was the owner or agent, or servant of the owner of the land where such destruction, hurt, damage, injury, or obstruction was done or caused, at the time the same was caused or done.

Nuisance.

Sec. 24. *Be it further enacted,* That every obstruction to the safe and free passage of vehicles on the said road or its branches shall be deemed a public nuisance, and may be abated as such by any officer, agent or servant of the company; and the person causing such obstruction may be indicted and punished for erecting a public nuisance.

Storage,  
charges,  
&c.

Sec. 25. *Be it further enacted,* That the said company shall have the right to take, at the store houses they may establish on or annex to their railroad or the branches thereof, all goods, wares, merchandise and produce intended for transportation, prescribe the rules of priority and charge, and receive such just and reasonable compensation for storage, as they by rules may establish, (which they shall cause to be published) or as may be fixed by agreement with the owner, which may be distinct from the rates of transportation: *Provided,* that the said company shall not charge or receive storage on goods, wares, merchandise or produce, which may be delivered to them at their regular depositories, which they may have the power of transporting immediately.

Crossing

Sec. 26. *Be it further enacted,* That any railroad which may hereafter be constructed by the State or by any company incorporated by the Legislature, shall be at liberty to cross the road hereby allowed to be constructed upon a level or otherwise as may be advantageous: *Provided,* that the free passage of the South Carolina and Charlotte Railroad is not thereby obstructed.

Dividends.

Sec. 27. *Be it further enacted,* That the profits of the company or so much thereof as the general board may deem advisable, shall, when the affairs of the company will permit, be

semi-annually divided among the stockholders, in proportion to the stock each may own.

Sec. 28. *Be it further enacted,* That the capital stock in the said company, the dividends thereon, and all the property, real and personal, belonging to the said company, shall be <sup>Taxes.</sup> exempt from taxation by either of the States of North Carolina and South Carolina, or any corporate or municipal police or other authority thereof, or of any town, city, county or district thereof, for the term of fifteen years: *provided,* that it shall be competent for the Legislature of North and South Carolina, at any time after the expiration of the period aforesaid, to impose such tax upon the estate, both real and personal, of the aforesaid company, as they may deem reasonable and just, not exceeding, however, in any event, the tax imposed on the respective citizens of said States on property owned by them of similar character.

Sec. 29. *Be it further enacted,* That the following officers and persons in the actual service of the said company, be and are hereby <sup>Exempts.</sup> exempted from the performance of jury and ordinary military duty. The President of the general and local boards, and chief and assistant engineers, the secretaries, auditors and accountants of the boards, keepers of the depositories, guards stationed on the road to protect it from injury (not exceeding one man for every 5 miles) and such persons as may be working the locomotive engines and travelling with the cars for the purpose of attending to the transportation of produce, goods and passengers on the road not exceeding one engineer and his assistant to each locomotive engine, and one person to each passenger car, and every five cars for transporting goods.

Sec. 30. *Be it further enacted,* That the said company shall be entitled only to such powers and privileges as shall be granted to it by the Legislature incorporating it, and the <sup>Powers and privi-  
leges.</sup> powers necessary and proper to give them effect, and shall be subject to all the restrictions and liabilities which may be imposed on it by either of the Legislatures, by the act of incorporation, so that its powers and disabilities may be similar in each of the States.

State may  
subscribe.

Sec. 31. *Be it further enacted*, That nothing contained in this act shall be construed to prevent either State from subscribing for shares in the stock of said company, and paying for the same in any manner which the Legislature of either State may prescribe.

Time, limit  
of

Sec. 32. *Be it further enacted*, That the company shall begin the construction of the said road within three years from the first day of January, eighteen hundred and forty seven, and complete it within ten years thereafter; otherwise the privileges herein granted shall be forfeited and cease.

Former act

Sec. 33. *Be it further enacted*, That the charter heretofore granted to the Charlotte and South Carolina Railroad Company, shall continue of force, except in so far as it may be repugnant to the provisions of this act.

Evidence.

Sec. 34. *Be it further enacted*, That this act shall be regarded as a public act and be given in evidence as such in all cases, without special pleading.

[Ratified 29th day of January, 1849.]

## CHAPTER LXXXVIII.

AN ACT to lay off and establish a public road from Trap Hill in Wilkes county, across the Blue Ridge, to Gap Civil, in the county of Ashe.

Commissioners.

Sec. 1. *Be 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 S. Johnson, Thomas T. Casey and John G. Atkins of the county of Wilkes, and John Woodruff, Abraham Bryan and Andrew Carson of the county of Ashe, be, and they are hereby appointed commissioners to lay off and establish a public road, beginning at Trap Hill, in Wilkes county, and running across the Blue

Ridge, the most practicable and convenient route, to Gap Civil in the county of Ashe.

Sec. 2. *Be it further enacted*, That a majority of said commissioners shall have power to act and fill vacancies in their board. Quorum.

Sec. 3. *Be it further enacted*, That the sum of five hundred dollars be, and the same is hereby appropriated for the purpose of making and completing said road, and the Public Treasurer is hereby authorized to pay the same out of any monies in the Treasury not otherwise appropriated: Appropriation.  
*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 the counties of Wilkes and Ashe, either in labor, to be estimated by the 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 sum of five hundred dollars.

[Ratified 29th January, 1849.]

## CHAPTER LXXXIX.

AN ACT to incorporate the Fayetteville and Western Plank Road Company.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it shall be lawful to open books in the town of Fayetteville, under the direction of George McNeill, James Kyle, A. A. McKethan, John H. Cook, E. J. Hale, Wm. H.

Commissioners.

Bayne, Charles Montague, Duncan G. McRay, Daniel McDiarmid, Henry Elliott, Charles T. Haigh, John T. Gilmore, Benjamin W. Robinson, Thomas N. Cameron, Duncan Murchison and John Waddell; and in the town of Salisbury, under the direction of D. A. Davis, John J. Shaver, Joseph F. Chambers, and Calvin S. Brown; and at such other places, and under the direction of such other persons, as the commissioners hereinbefore named to superintend the receiving of subscriptions in the town of Fayetteville shall direct, for the purpose of receiving subscription to an amount not exceeding two hundred thousand dollars, in shares of fifty dollars each, for the purpose of effecting a communication by means of a plank road from the town of Fayetteville to the town of Salisbury, by the most practicable route, to be determined by the said company, after the same shall have been formed.

Capital.

Advertisement.

Sec. 2. *Be it further enacted,* That the times and places for receiving subscriptions shall be advertised in one or more newspapers printed in the town of Fayetteville and Salisbury; and the books for receiving the same shall not be closed in less than thirty days. And the said commissioners shall have power to open the books from time to time, as they may think proper, until the whole number of shares be subscribed.

Corporate powers.

Sec. 3. *Be it further enacted,* That when the sum of twenty-five thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of "The Fayetteville and Western Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real and personal, and mixed, so far as shall be necessary for the purposes of said company; and shall have perpetual succession; and by said corporate name, may sue and be sued; and may have a common seal, which they shall have power to alter and renew at pleasure; and shall have and enjoy, and may exer-

cise all the powers, rights and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Sec. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed; and the residue thereof shall be paid in such instalments, and at such times as may be required by the President and directors of said company. Payments  
of stock.

Sec. 5. *Be it further enacted*, That the said commissioners, or their agents, shall further, after the first election of President and directors of the company, pay over to the said President and directors all moneys received by them; and on failure thereof, the said President and directors may recover the amount due from them, or from any one or more of them, by legal process in the court of pleas and quarter sessions, or in the Superior court of law in any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a justice of the peace for said county. Commissioners  
to pay over

Sec. 6. *Be it further enacted*, That when twenty-five thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Fayetteville, who shall have power at the same time to call a general meeting of the stockholders at such convenient place and time as they shall name in said notice. General  
meeting.

Sec 7. *Be it further enacted*, That to constitute any such meeting, a number of persons, entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time until a meeting shall be formed. Quorum;

President  
and Direc-  
tors.

Sec. 8. *Be it further enacted,* That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a President and nine directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said President and directors, or any of them, may, at any time, be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting.

Vacancy.

The President, with any three or more of the directors, or, in the event of the sickness and absence or disability of the President, any five or more of the directors may appoint one of their own body President *pro tem.*, shall constitute a board for the transaction of business. In cases of vacancy in the office of President or any director, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Powers of  
Board

Sec. 9. *Be it further enacted,* That the President and directors of said company, shall be and they are hereby invested with all the rights and powers necessary for the construction, repairs, and maintaining of a plank road, to be located as aforesaid, with as many branches *diverging from the main stem* as they, or a majority of them, may deem necessary; and may cause to be made, and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said road and all its branches.

Further  
powers of  
Board.

Sec. 10. *Be it further enacted,* That the said President and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the said plank road, together with any branches of the same, and performing all other things respecting the same, which they shall judge necessary and proper; and to require from the subscribers from time to time such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be ad-

vanced; to call, on any emergency, a general meeting of the stockholders, giving one month notice thereof, in one of the newspapers printed in each of the towns of Fayetteville and Salisbury; to appoint a Treasurer from among the stockholders, (but not of their own body,) who shall give bond and security for the faithful discharge of his duty, and duly accounting for all the money which may come into his hands as Treasurer; to appoint a clerk and such managers and toll gatherers as they may deem necessary; and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Sec. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the President and directors, or by a majority of them, within one month after the same shall have been advertised in one of the newspapers printed in each of the towns of Fayetteville and Salisbury, it shall and may be lawful for the President and directors, or a majority of them, to sell at public auction and to convey to the purchaser the share or shares of such stockholders so failing or refusing, giving one month previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or to his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the President and directors may recover the balance of the original proprietor or his assignee, or the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under the sale by the President and directors, shall be subject to the same rules and regulations as the original proprietors.

Delinquent  
stockhold-  
ers.

Sec. 12. *Be it further enacted,* That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for

Increase of capital of the President and directors of the said company, or a majority of them, from time to time to increase the said capital stock to an amount not exceeding three hundred thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders, for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the towns of Fayetteville and Salisbury, and such other places as the President and directors may think proper, for any balance of the capital stock created, which may not be taken by the stockholders for the time being, or in their behalf; and the subscribers for such additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Valuing  
lands.

Sec. 15. *Be it further enacted*, That the President and directors, their officers or agents may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof; and in case of disagreement, or if the owners shall be *feme covert*, under age, or *non compos*, or out of the State, an application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten, nor more than twenty days thereafter; and the sheriff, on receipt of the warrant, shall summon the freeholders accordingly, and when met, shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owners thereof may sustain; and the inquisition so taken, shall be signed by the sheriff and the jury, and returned to the clerk of the county court, to be recorded. And in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive; and the President and direc-

tors shall pay the sum to the owner of the land valued, or his legal representatives; and if neither can be found in this State, or if they should refuse to receive the money, then to the clerk of the county court; and on payment thereof, the said corporation shall be seized in fee of the land, as fully and absolutely as if it had been conveyed to them by the owners.

Sec. 14. *Be it further enacted*, That the President and directors may agree with the proprietor or proprietors for any quantity of land, not exceeding five acres, at or near each place or station intended for collecting tolls, for the purpose of erecting the necessary buildings, gates, &c.; and in case of disagreement or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyances shall follow as are described in the preceding section.

Land for  
buildings,  
&c.

Sec. 15. *Be it further enacted*, That it shall and may be lawful for the said President and directors to demand and receive, at some convenient toll gates to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll so to be collected, shall be so regulated, that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

Tolls:

Sec. 16. *Be it further enacted*, That the said road hereby authorized to be made by the President and directors, shall not be less than ten feet nor more than thirty feet wide. And that so soon as ten miles in extent shall have been constructed, it shall and may be lawful for the President and directors of said company to erect a toll gate, and collect such toll from persons using said road, as may be determined by the President and directors, in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for their collection, and previous to passing the same, the toll gatherers respectively may refuse a passage to the person or persons so refusing to pay; and if any person or persons shall pass, or drive through any wheeled carriage or animal liable to toll, without paying the

Width.

When 10  
miles com-  
pleted.

same, he or they shall be liable to a fine of five dollars, which fine may be recovered by warrant before any Justice of the Peace of the county wherein such toll gate may be situated.

**Penalty for injury.** Sec. 17. *Be it further enacted,* That if any person or persons shall wilfully or maliciously injure, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause or aid, or assist or counsel and advise any other person or persons to injure, hurt, damage, or obstruct the said plank road, toll gates, or toll houses, such person or persons so offending shall be liable to be indicted therefor, and on conviction, shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

**Accounts to be rendered.** Sec. 18. *Be it further enacted,* That the President and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meetings of the stockholders, and to the Governor of the State.

**Crossing roads.** Sec. 19. Whenever in the construction of said plank road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the President and directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same. And if in the construction of said plank road it may become necessary or expedient to occupy or use any portion of any established public road or way, it may be lawful for the President and directors to change the said roads at points where they may deem it necessary so to do; and that for entering upon or taking any land that may be necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act as in the case of land necessary for the plank road: *Provided further,* that previous to the making of any such change, the said company shall make and prepare a road equally good with the portion of the road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

Sec. 20. Whenever one fifth of the capital stock of said company shall be subscribed by individuals or corporations as herein before provided, the Treasurer of the State for the time being shall be, and he is hereby authorized and directed to subscribe one fifth of said capital stock of said company for and on behalf of the State; and whenever another fifth of said capital stock shall be subscribed by individuals or corporations, as hereinbefore provided, the Treasurer of the State for the time being shall subscribe two fifths more of the said capital stock for and on behalf of the State, so that the State shall hold an interest of three fifths of the proposed capital stock of said company: *Provided, however,* that the State shall not be called on to pay any instalments of such subscriptions but as follows: Whenever three fourths of the first subscription of one fifth by individuals or corporations shall have been paid or secured, then the State shall pay its first subscription of one fifth; and whenever three fourths of the other one fifth subscribed by individuals or corporations shall have been paid or secured, then the State shall pay its last subscription of two fifths: the payments or the fact that the said proportion of the subscription by individuals or corporations is secured, to be first certified by the President and Treasurer of said company: *And provided further,* that nothing herein contained shall render the State liable for any additional subscription whatever, should the capital stock of said company be increased.

State subscription.

5/5

Sec. 21. In all general meetings of the stockholders, the Board of Internal Improvements, or such person or persons as they shall appoint, shall be entitled to represent the stock held by the State, and shall be entitled to give three fifths of the whole number of votes, which may be presented at such meetings, either in person or by proxy.

State, how represented.

Sec. 22. To enable the State to pay her subscription to said stock, whenever the same shall be required as hereinbefore provided, the Treasurer of the State for the time being, shall from time to time issue bonds or certificates of debt, under the great seal of the State, signed by the Governor, countersigned by the Treasurer, and guaranteed by a pledge of the faith of the State, in sums not less than five hundred dollars, payable in currency of the United States or Great Britain, with interest at a rate not exceeding six per cent, payable semi-annually; the principal of

State subscription, how raised.

which bonds shall be redeemable at the end of twenty years from the time the same shall be issued; but no greater amount of such bonds shall be issued at any one time, than may be sufficient to meet the instalment required to be made by the State at that time.

Treasurer  
to advertise.

Sec. 23. Whenever it shall be necessary to issue said bonds or certificates of debt, the Treasurer shall advertise, in one or more public newspapers, and invite sealed proposals for said loan; and it shall be his duty to accept those terms which may be most advantageous to the State; and any premium which may be obtained on said loan, shall be paid into the Public Treasury of the State, and invested by the Treasurer, by and with the advice and consent of the Governor, in stocks or other evidences of debt, as a savings fund, to meet the payment of the interest on said loan as the same may accrue.

Pledge for  
redempt'n  
of bonds.

Sec. 24. As a security for the redemption of said bonds, the stock held by the State in the Fayetteville and Western Plank Road Company shall be, and the same is hereby pledged for that purpose: and any dividends of profits, which may from time to time, be declared on the stock so held by the State in said company, shall be applied to the payment of the interest on said loan; but until such dividends of profit may be declared, it shall be the duty of the Treasurer, and he is hereby authorized and directed to pay all such interest as the same may accrue, out of any monies in the Treasury not otherwise appropriated.

when to  
take effect.

Sec. 25. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act and continue in force for twenty-five years.

[Ratified 27th day of January, 1849.]

## CHAPTER XC.

AN ACT to provide for a Turnpike Road from Salisbury, West, to the line of the State of Georgia.

Sec. 1. *Be 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 laid out and established a turnpike road from Salisbury, West, to the county of Cherokee and to the line of the State of Georgia. The road.

Sec. 2. *Be it further enacted,* That the said road shall be made thirty feet wide, except where there shall be side cuttings, and in such places it shall be twenty feet wide; and in no part of the road shall it rise, in ascending any hill or mountain, more than one foot in sixteen feet, except that part of the road west of the Buncombe Turnpike Road; and in that part it shall be made twenty feet wide, except where there is side cuttings, and there it shall be fifteen feet wide; and in no part to be steeper than to rise one foot in ten feet; and to be well made, under the direction and superintendence of an agent of the State, to be appointed as hereinafter provided. Road, how made.

Sec. 3. *Be it further enacted,* That it shall be the duty of the Governor to appoint a competent and experienced engineer and three commissioners, to survey and locate said road, who shall first take an oath before one of the Judges of the Superior or Supreme courts, faithfully to discharge said duty to the greatest advantage for the State. Engineer and commissioners

Sec. 4. *Be it further enacted,* That if the owner or owners of any land through which said road shall pass, shall conceive him, her, or themselves injured thereby, it shall be competent for such owner or owners, either by petition or motion to the county court of the county in which the damage is done, praying for a jury to view the premises and assess the damages sustained; and it shall be the duty of the court to order such jury to be summoned as in other cases of public roads; and it shall be the duty of the jury to take into consideration the advantage to the land, as well as the injury occasioned by the making of said road; and on the report of the jury made to and confirmed by such court, the damage shall be paid by the county in which the damage is sustained. Damage to land.

Agent to  
superin-  
tend road.

Sec. 5. *Be it further enacted*, That on the report of the engineer and commissioners herein directed to be appointed, being made to the Governor, shewing that they have performed the duty required of them by the third section of this act, it shall be the duty of the Governor to appoint one of such commissioners or other suitable person to act as agent of the State, to contract for and superintend the making of said road; and it shall be his duty to let out and contract for the building of said road in lots of one mile each, to be let to the lowest bidder.

Contracts,  
how paid.

Sec. 6. *Be it further enacted*, That it shall be the duty of the commissioners or agent aforesaid, so to provide, in each contract, that no part of the price for making any lot shall be paid until the lot is completed and received; and the payment shall only then be made as the collections are made on the debts due the State for the sale of the Cherokee lands, and from the sales to be hereafter made of the unsold Cherokee lands, or in the bonds themselves, if the contractor shall prefer them, and to be collected only at such times as the other bonds are or shall by law be made collectable; and the contracts shall be made as far as the collections and receipts from said debts and lands will justify, and no farther.

Funds  
pledged.

Sec. 7. *Be it further enacted*, That all the bonds due the State for the sales of Cherokee lands, and all judgments rendered on such bonds, together with all the lands, sold and unsold, when the purchase money has not been paid, in the counties of Cherokee, Macon and Haywood, are hereby pledged for the making of said road, until the same is completed.

Debtor be-  
ing con-  
tractor.

Sec. 8. *Be it further enacted*, That if any debtor or debtors of the State for the purchase of Cherokee lands, should become a contractor for building any part of said road, it shall be the duty of the agent of the State to give such contractor a certificate of the time of completing his contract and the amount due therefor, and such certificate shall be received in payment of so much on the debt or debts of such contractor, whether in bond or judgment; and it shall be competent for said agent to contract, to pay any contractor on said road in the bonds aforesaid, to be paid or collected according to the existing laws on the subject.

Sec. 9. *Be it further enacted*, That when said road is com-

pleted or any twenty miles thereof, it shall be the duty of the Governor to cause toll gates to be erected thereon, at convenient distances, and to collect from persons and property passing the same, a toll, to be paid by the agent of the State into the Public Treasury, and to be by him (the Governor) and the agent of the State so adjusted and distributed, as not to collect in any year, more than six per cent. on the entire cost of the road: *Provided*, that no one shall be subject to pay toll at any gate in the county in which he resides, or within twenty miles of his residence. Tolls.

Sec. 10. *Be it further enacted*, That all laborers subject to work on public roads, living within two miles of said road, shall be required to perform six days labor in each year on said road, under the same penalty as other hands are under for failing to work on public roads, and they shall be free from working on all other roads. Hands to  
work on  
road.

Sec. 11. *Be it further enacted*, That the commissioners and agent herein directed to be appointed, shall each receive for their services, two dollars per day to be paid out of said funds. Pay of  
com. and  
agent.

Sec. 12. *Be it further enacted*, That the portion of said road from the Georgia line to the East side of the Blue Ridge shall be first made, beginning at the West end. Part first  
made.

[Ratified 27th day of January, 1849.]

## CHAPTER XCI.

AN ACT to improve the Cape Fear and Deep Rivers, above Fayetteville.

WHEREAS, the navigation of the Cape Fear and Deep Rivers, above Fayetteville, and as far up the same as is practicable, would be of important public utility; and many persons are willing to subscribe money to effect the work, and it is just that such subscribers, their heirs and assigns shall receive reasonable tolls in satisfaction for the money Preamble.

advanced by them to execute the said work and for the risk they run; and whereas the Cape Fear Navigation Company did, at their annual meeting in the year 1834, relinquish all claims to the river above Fayetteville, to any company that would improve the same:

Sec. 1. *Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Wilmington, under the direction of A. J. Derosett, Jr. John McRea, Miles Costen, Benjamin J. Howze, William C. Bettincourt, or any three of them; at Fayetteville, under the direction of James C. Dobbin, Archer McNeill, Benjamin Atkins, John D. Cameron, David A. Ray, or any three of them; at Pittsborough, under the direction of Nathan A. Stedman, W. T. Horn, John J. Jackson, Henry A. London, Maurice Q. Waddell, John A. Hanks, S. McClenahan, or any three of them; at Haywood, under the direction of Robert K. Smith, Elias Brian, Robert Faucett, William Crump, James D. Pullin, or any three of them; at Carthage, under the direction of John Morrison, Charles Chalmers, Angus R. Kelly, Samuel J. Person, Dr. Bruse, or any three of them; at Ashboro', under the direction of Alfred Marsh, Franklin Hoover, Jonathan Worth, Henry B. Elliott, William B. Lane, or any three of them; at Greensborough, under the direction of David F. Caldwell, John M. Morehead, John A. Gilmer, James W. Doak, James Morehead, or any three of them; at Salisbury, under the direction of John W. Ellis, Willie Beau, John A. Lillington, Hamilton C. Jones, or any three of them; at Hillsborough, under the direction of Hugh Waddell, Giles Mebane, Cadwallader Jones, Jr., John Berry, Sidney Smith, or any three of them; and at such other places, and under the direction of such other persons, as any three of the commissioners hereinbefore named to superintend the receiving of subscriptions at Pittsborough shall direct, for the purpose of receiving subscription to an amount not exceeding two hundred thousand dollars, in shares of one

Commiss-  
ioners.

Capital.

hundred dollars each, for the purpose of effecting a communication by steamboats, from some point at or near Waddell's Ferry, in Randolph county, to Fayetteville, and for providing everything necessary and convenient for the purpose of transportation.

Sec. 2. The time and places for receiving subscriptions shall be advertised in one or more newspapers published in the town of Wilmington, Fayetteville and Pittsborough, and the books for receiving the same shall not be closed in less than ten days; and if it shall appear that more than two thousand shares of the capital stock aforesaid shall have been subscribed for within the said ten days, it shall be the duty of the said commissioners at Pittsborough, or any three of them, to reduce the number of shares subscribed for among the subscribers in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to two thousand; but if the whole amount shall not be subscribed for within ten days from the time the books shall be opened to receive subscription, then the books may be closed or continued open, or closed and reopened without further notice, as a majority of the above named commissioners at Pittsborough may judge to be most expedient, until the whole number of shares shall be subscribed for.

Sec. 3. When five hundred shares shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of "The Cape Fear and Deep River Navigation Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as shall be necessary for the purpose hereinafter mentioned, and no further; and shall have perpetual succession; and by said corporate name may sue and be sued; and may have and use a common seal, which they shall have power to alter or renew at their pleasure; and shall have and enjoy, and may exercise all the powers,

ers, rights and privileges which other corporate bodies may lawfully do for the purpose mentioned in this act; and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of the company.

Payment  
of stock.

Sec. 4. Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of two dollars on every share subscribed; and the residue thereof shall be paid in such instalments and at such times, as may be required by the President and directors of said company. The said commissioners, or their agents, shall forthwith, after the first election of President and directors of the company, pay over to the said President and directors all monies received by them; and on failure thereof the said President and directors may recover the amount due from them, or from any one or more of them, by motion on ten days previous notice in the court of pleas and quarter sessions, or the Superior court of law in any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a justice of said county.

General  
meeting.

Sec. 5. When five hundred shares or more of the stock shall have been subscribed, public notice of that event shall be given by three or more of the said commissioners at Pittsborough, who shall have power at the same time to call a general meeting of the subscribers at such convenient place and time as they shall name in said notice. (To constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all shares subscribed, shall be present either in person or by proxy: and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time, until a meeting shall be formed.)

Sec. 6. The subscribers, at their general meeting before

directed, and the proprietors of stock at every annual meeting thereafter, shall elect a President and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election and until their successors shall be elected; but the President or any of the directors may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The President, with any two or more of the directors, or, in the event of the sickness, absence or disability of the President, any three or more of the directors, who shall appoint one of their own body President *pro tempore*, shall constitute a board for the transaction of business.

President and directors, election of.

Quorum

In case of vacancy in the office of President or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the board until the next annual meeting.

Vacancies

Sec. 7. The President and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction and repair, with as many locks and dams as they or a majority of them may deem necessary, and also to make and continue all works whatever, which may be necessary and expedient, in order to the proper completion of the work.

Construction.

Sec. 8. The said President and directors shall have power to make contract with any person or persons, on behalf of the company, for constructing said work and performing all other work respecting the same, which they shall judge necessary and proper; and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the subscribers, giving one month's notice thereof in one of the newspapers printed in Fayetteville. To appoint a Treasurer, clerk and such other officers as they may require, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Further duties of board.

Delinquent  
stockhold-  
ers.

Sec. 9. If any stockholder shall fail to pay the sum required of him by the President and directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the town of Fayetteville, it shall and may be lawful for the President and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due, and all charges of the sale out of the proceeds thereof, to pay the surplus, over to the former owner or his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the President and directors may recover the balance of the original proprietor, or his assignee, or the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before a justice of the county of which he is a resident; and any purchaser of the stock of the company under the sale by the President and directors, shall be subject to the same rules and regulations as the original proprietors.

May enter  
upon lands

Sec. 10. *Be it further enacted*, That the said President and directors, their officers and servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their work, and to lay out the same according to their pleasure, so that the mill house, yard or other buildings of no person be invaded without his consent; and they shall have power to enter on and lay out such contiguous land, as they may desire to occupy, as sites for depots, toll houses, ware houses, work shops and other buildings for the necessary accommodation of their officers, agents and servants, their horses, mules and other cattle, and for the protection of the property entrusted to their care: *Provided*, that the land so laid out shall not exceed one and a half acres in any one parcel.

If the President and directors cannot agree with the owner or owners of the land so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to apply to the court of pleas and quarter sessions of the county in which such land or the greater part thereof may lie; and upon such application the court shall appoint five disinterested and impartial freeholders to assess the damages to the owners from the condemnation of the land for the purpose aforesaid. Mode of valuing lands.

No such appointment, however, shall be made unless ten days previous notice of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant, or the committee, the owner being *non compos mentis*; if such owner, guardian or committee can be found within the county, or if he cannot be so found, then such appointment shall not be made unless notice of the application shall have been published at least one month next preceding, in some newspaper printed as convenient as may be to the court house of the county and shall have been posted at the door of the court house, on the first day at least of the next preceding term of the said court.

A day for the meeting of said freeholders, to perform the duty assigned them, shall be designated in the order appointing them; and any one or more of them attending on the day, may adjourn from time to time, until their business shall be finished: Of the five freeholders so appointed any three or more of them may act, after having been duly sworn or solemnly affirmed before some justice of the peace, that they will impartially and justly to the best of their ability ascertain the damages which will be sustained by the proprietor of the land from the condemnation thereof for the use of the company, and that they will truly certify their proceedings thereupon to the court of the said county.

Sec. 11. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned; and after running the same and hearing such proper evidence as the party may offer, Freeholders to assess.

they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof for the use of the company. In performing this duty, they shall consider the proprietor of the land as being the owner of the whole fee simple interest therein; they shall take into consideration the quality and quantity of the land to be condemned, the additional fencing that will be required thereby, and all other inconveniences which will result to the proprietor from the condemnation thereof.

Report.

Sec. 12. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as follows: We ———, freeholders appointed by an order of the court of pleas and quarter sessions for the purpose of ascertaining the damages that will be sustained by ———, the proprietor of certain lands in the said county, which the President and directors of the Cape Fear and Deep River Navigation Company propose to condemn for their use, do hereby certify that we met together, on the land aforesaid, on the —— day of ——, the day therefor by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order;) and that having been first duly sworn, and having visited the premises, we proceeded to estimate the quantity and quality of land aforesaid, the quantity of additional fencing which would probably be occasioned by the condemnation, and all other inconveniences which seemed to us likely to result therefrom to the proprietor of the land. That under the influence of these considerations, we have estimated and do hereby assess the damages aforesaid at the sum of ——. Given under our hands and seals, this —— day of ——.

At the foot of the report so made, the magistrate, before whom the said freeholders were sworn, shall make a certificate in substance as follows:

— County,

I, —, a justice of the peace of said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me; that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named —, by the condemnation of the above mentioned land for the use of the "Cape Fear and Deep River Navigation Company," and they would certify truly their proceedings thereupon to the Court of said county.

Given under my hand this — day of —.

Sec. 13. The report of the freeholders so made, together with the certificate of the justice of the peace as aforesaid, shall be forthwith returned by the said freeholders to the court of the county; and unless good cause can be shown against the report, it shall be confirmed by the court and entered on record. But if the said report should be disaffirmed, or if the said freeholders, being unable to agree, should report their disagreement, or, from any other cause, they should fail to make a report within a reasonable time after their appointment, the court may, in its discretion, as often as may be necessary, supersede them, or any of them, appoint others in their stead, and direct another view and report to be made in the same manner as above prescribed.

Sec. 14. On the confirmation of any such report, and on payment or tender to the proprietors of the land, of the damages so assessed, or the payment of said damages into court, when, for good cause shewn, the court shall have so ordered it, the land reviewed and assessed as aforesaid, shall be vested in "The Cape Fear and Deep River Navigation Company," and they shall be adjudged to hold the same in fee simple, in the same manner as if the proprietor had sold and conveyed it to them.

Sec. 15. While these proceedings are depending for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have

Discretion  
of board  
in taking  
lands.

been instituted, the President and Directors, if the interest of the company requires it, it may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid and which they desire to condemn, and apply the same to the use of the company.

If, when they so take possession, proceedings to ascertain the damages as aforesaid, be pending, it shall be their duty diligently to prosecute them to a conclusion; and when the report of freeholders ascertaining the damages shall be returned and confirmed, the court shall render judgment in favor of the proprietor of the land for the amount thereof, and either compel its payment into court or award a process of execution therefor, as to them shall seem right.

Stay pro-  
ceedings.

Sec. 16. In the mean time no order shall be made, and no injunction shall be awarded by any court or judge, to stay the proceedings of the company, in the prosecution of their work, unless it be manifest that their officers, agents and servants, are transcending the authority given them by this act; and that the interposition of their court is necessary to prevent injury that cannot be adequately compensated for in damages.

Course of  
proprietors  
of land, on  
delinquen-  
cy of  
board.

Sec. 17. If the President and directors shall take possession of any land before the same shall have been purchased by them, or condemned and paid for, according to the provisions of this act, and shall fail for forty days to institute proceedings for its condemnation as aforesaid, or shall not prosecute with due diligence the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said President and directors, or any one of them, ten days previous notice, to apply to the court of the county in which the land or the greater part thereof shall lie; and, upon such application, the court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of his lands for the use of the company, shall appoint a day for their meeting to report the duties assigned them, and

shall dismiss at the cost of the company, any proceeding then depending in their behalf for the condemnation of said land.

The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties in all respects in the same manner as if they had been appointed on the application of the President and directors of the company. And the court shall in like manner confirm or disaffirm their report, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary. And when any such report, ascertaining the damages, shall be confirmed, the court shall render judgment in favor of the proprietor for the damages so assessed, and double costs; and shall thereupon either compel the company to pay into court the damages and costs so adjudged, or award a process of execution therefor, as to them shall seem right.

Sec. 18. When the judgment rendered for the damages assessed and costs, shall be satisfied by the payment of the money into court or otherwise, the title of the land for which such damages are assessed, shall be vested in the company in the same manner as if the proprietor had sold and conveyed it to them.

Sec. 19. The said President and directors, for the purpose of constructing their work aforesaid and the works necessarily connected therewith, or of repairing the same, after they shall have been made, or of enlarging or otherwise altering the same, shall be at liberty, by themselves, their officers, agents or servants, at any time, to enter upon any adjacent land, and to cut, quarry, dig, take and carry away therefrom, any wood, stone, gravel or earth which they may deem necessary: *Provided, however,* that they shall not, without the consent of the owner, cut down any fruit trees, or any tree preserved in any lot or field for shade or for ornament, nor take any timber, gravel, stone or earth constituting any part of any fence or building. For all wood, stone, gravel or earth, taken under authority of this act, and

for all incidental injuries done to the enclosures, crops, woods or ground, in taking or carrying the same away, the said President and directors shall make to the owner a fair and reasonable compensation, to be ascertained, if the parties cannot agree, by three impartial and disinterested freeholders, who, being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn by him, and shall then ascertain the compensation upon their own view of the wood, stone, gravel or earth taken, and of the injury done as aforesaid in taking them: *Provided, however,* that it shall be the duty of the owner or owners to shew to the justices of the peace to whom the application is made, that ten days previous notice of the time of making the same has been given to the President or one of the principal agents of the company; and no award which may be given under any appointment, without such notice, shall be obligatory or binding on said company: *Provided, however,* that either party not satisfied with the award which may be given as above, may appeal to the court of pleas and quarter sessions of the county in which the land may be situated, who may, as in the case of assessment of land, confirm or disaffirm the report of the freeholders, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary.

Wilful in-  
jury of  
land, &c.

Sec. 20. If the said President and directors, in entering upon the land of any person under the authority of this act, for the purpose of laying out or constructing, enlarging, altering or repairing any of their said works, shall, by themselves or their officers, do any wanton or wilful injury to such land or its appurtenances, or to the crops growing or gathered, or to any other property thereon, the "Cape Fear and Deep River Navigation Company" shall pay to the persons so injured double the amount of the damages which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons who may have contracted with the company for the construction of

any portion of their work, or any of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

Sec. 21. *Be it further enacted,* That all acts and clauses of acts, which come within the purview and meaning of this act, or which give rights, privileges and franchises at variance with those given by this act, but which rights, privileges and franchises have not as yet been used and enjoyed, be, and they are hereby declared to be repealed and made void. Repealing clause.

Sec. 22. The said President and directors, or a majority of them, shall have power to purchase with the funds of the company, and place on the river which shall have been improved, boats of any description whatever, which they may deem necessary or proper for the purpose of transportation, or, if they should deem it most expedient to do so, they may contract with any individual or individuals for effecting the transportation of the same. Boats.

Sec. 23. All boats and other property purchased as aforesaid with the funds of the company, or engaged in the business of transportation on said river or rivers, and all the works of the said company constructed, or property acquired under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the company forever, in proportion to their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years; and thereafter the Legislature may impose a tax not exceeding twenty five cents per annum, per share, on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent. Tax, &c.

Sec. 24. When this work shall have been completed, the company shall at all times furnish and keep in good repair the necessary boats and other requisites for the safe and convenient transportation of persons and property; and it shall be their duty at all times, upon the payment or tender of the tolls hereby allowed, to transport to any depot on Transportation.

the river which the owner of the goods may indicate, and there to deliver all articles which shall be delivered to them for transportation, or offered to them in proper condition to be transported at some depot on the river most convenient for the reception thereof.

Penalty for refusing to transport. Sec. 25. They shall give no undue preference in transportation to the property of one person over that of another, but as far as practicable shall carry each in the order of time in which it shall be delivered or offered for transportation with tolls paid or tendered. If the company or any of its officers or agents shall fail to receive, transport or deliver in due time, any property so offered or delivered to them for transportation, or shall fail to take up or set down any passengers at such convenient point, as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured, double the amount of the lawful toll paid or tendered: and shall moreover, be liable to an action on the case; in which full damages and costs shall be recovered.

Tolls.

Sec. 26. So soon as any portion of the river hereby authorized may be in readiness for transportation, it shall be lawful for the said President and directors to transport, by their officers or agents, by contractors under them, persons and property on the same; and they shall have power to charge for the transportation of persons, goods, produce, merchandise and other articles, and for the transportation of the mails, any sum not exceeding the following rates, viz: on persons, not exceeding six cents per mile for each person; for the transportation of goods, produce, merchandise and other articles, not exceeding an average of ten cents per ton per mile; and for the transportation of the mail, such sums as they may agree for; and the said President and directors shall be furthermore entitled to demand and receive for the weighing, storage and delivering of produce and other commodities at their depots and ware-houses, rates not exceeding the ordinary ware house rates charged for such services.

Dividends.

Sec. 27. As soon as the river shall be made navigable for

steam-boats of shallow draft as far up the river as Haywood, the President and directors shall annually or semi-annually declare and make such dividends as they may deem proper, of the nett profits arising from the resources of the said company, after deducting the necessary current and probable contingent expenses of the said company; and shall divide the same among the proprietors of the stock of the said company in proportion to their respective shares.

Sec. 28. An annual meeting of the subscribers to the stock of the said company shall be held at such time and place in each year, as the stockholders at their first general or at any subsequent meeting may appoint; to constitute which, or any general meeting called by the President and directors, according to the provisions of this act, the presence of proprietors entitled to a majority of all the votes which could be given by all the stockholders shall be necessary, either in person or by proxy, properly authorized; and if a sufficient number do not attend on that day, or any day appointed for a general meeting called by the directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

Annual meetings.

Sec. 29. In counting all votes of the said company, each member shall be allowed one vote for every two shares not exceeding four shares; one vote for every four shares above four shares, and not exceeding ten shares; and one vote for every five shares above ten, by him held at the time, in the stock of the company: *Provided, however,* that no stockholder, whether an individual, body politic or corporate, shall be entitled to more than sixty votes on any amount of the capital stock of said company held by him or them.

Votes.

Sec. 30. The President and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders.

Report of board.

Sec. 31. The works hereby required of the company shall be executed with diligence; and if they be not commenced within two years after the passage of this act, and

Time, limit of.

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

Sec. 32. The President and directors shall cause to be written or printed certificates for the shares of the stock in said company, and shall deliver one such certificate, signed by the President and countersigned by the Treasurer, to each person, for the number of shares subscribed by him; which certificate shall be transferable by him, subject, however, to all payments due or to become due thereon; and such assignee, having first caused the transfer or assignment to be entered in a book of the company to be kept for that purpose, shall thenceforth become a member of the said company, and shall be liable to pay all such sums due, or which shall become due upon the stock assigned to him; *Provided, however,* that such assignment shall in no wise exempt the assignor or his representative from the liability to the said company for the payment of all such sums, if the assignee, or his representative, shall be unable, or fail to pay the same.

Penalty for  
injury.

Sec. 33. If any person or persons shall wilfully, by any means whatever, injure, impair or destroy any part of the work constructed under this act, or any of the necessary works belonging to the said company, or shall place any obstruction in said river, such person or persons shall be deemed guilty of a misdemeanor, and, on conviction thereof in the court of pleas and quarter sessions or Superior court of law of the county where the offence may be committed, shall be fined and imprisoned at the discretion of the court.

Profits,  
limit of.

Sec. 34. *Be it further enacted,* That if at any time hereafter, the above rates of toll and transportation shall enable the said President and directors, after the payment of all necessary expenses, and after setting apart a fair and reasonable sum for the renewal and repair of said work, ware-houses, depots, boats and other works, to divide more than twenty per cent. on their capital stock invested, that the said rates of toll and transportation shall be so reduced by the said President and directors as to enable them to divide twenty per cent. and no more.

Certifi-  
cates.

Sec. 35. *Be it further enacted*, That no person shall be eligible as President or director of said company, unless he be a resident citizen of this State. Eligibility  
of Pres.  
and Direct.

Sec. 36. *Be it further enacted*, That the corporate powers herein granted shall be and enure for ninety nine years and no longer, unless renewed by competent authority.

[Ratified 29th day of January, 1849.]

## CHAPTER XCII.

AN ACT supplemental to an act, passed at the present session of the Legislature, to improve the Cape Fear and Deep River, above Fayetteville.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That whenever it shall be made to appear to the Governor of the State of North Carolina, by a certificate under the corporate seal of the Cape Fear and Deep River Navigation Company, signed by their Treasurer, and countersigned by their President, that sixty thousand dollars of the capital stock of said company have been subscribed for and taken by individuals or corporations, and thirty thousand dollars have actually been paid into the hands of the said Treasurer, and that the remainder of said subscription is either so paid or is made by solvent persons, fully able to pay, and the Governor of the State shall be satisfied of the truth thereof, he shall be, and he is hereby authorized and required to subscribe on behalf of the State, the sum of forty thousand dollars; twenty thousand dollars of such subscription to be paid at the time of subscription, out of any moneys that may at the time be in the Treasury; and the Treasurer of North Carolina is hereby authorized and required to pay over the same. Conditions  
and a-  
mount of  
State sub-  
scription.

How paid.

Sec. 2. And the said Governor is authorized and required to subscribe, and said Treasurer to pay on the part of the State, as follows: that is to say, whenever the company shall subscribe and pay into the hands of the Treasurer of the Company thirty thousand dollars, the Governor shall subscribe, and the Treasurer of the State shall pay into the hands of the Treasurer of the Company twenty thousand dollars, and they shall continue to subscribe and pay in, in that proportion, until the whole capital stock shall have been subscribed for and paid in; that is to say, one hundred and twenty thousand dollars on the part of individuals, and eighty thousand dollars on the part of the State.

Survey to connect Yadkin and Deep rivers.

Sec. 3. *Be it further enacted*: That the President and Directors of the company, shall employ an engineer to survey the country between the Deep River and the Yadkin, for the purpose of connecting said Rivers by canal or railroad, and survey the Yadkin river as far up as Wilkesboro', commencing at the anticipated connexion of the two Rivers, who shall make out an accurate report of the distance between the two rivers, the practicability of the connexion, the best mode of connexion, the location of the work, and the estimate of the cost at each obstruction between the two rivers, and an estimate of the cost of each obstruction to be removed from the connexion at the Yadkin to Wilksboro; which report shall be submitted to the next Legislature; and the President and Directors shall have power to use a sufficient amount of the above mentioned stock to pay for the cost of the survey.

Directors for the State.

Sec. 4. *Be it further enacted*, That the Governor, by virtue of such subscription and payments on behalf of the State, shall appoint two fifths of the whole number of directors of the afore-said corporation; and that in all general meetings of the stockholders in said corporation, the said directors of the State, or any other representation of the State whom the said Governor may appoint, shall be entitled to two-fifths of the whole number of votes which may be given at such meeting. And all the profits accruing to the State from her subscription under this act shall be paid into the Treasury of the State by the President and Directors of the company, at each annual meeting.

Sec. 5. *Be it further enacted*, That no part of the money authorized to be subscribed by the State in said company by this

act, shall be paid, until the contractors shall give bond and security, to be approved of by the Governor and Attorney General of the State, to the Treasurer of said company, conditioned for the faithful performance of said improvement, and to indemnify and save harmless the State of North Carolina from any loss that the State may incur by reason of the failure of the contractors to complete said improvement for the sum of two hundred thousand dollars.

Bond of  
contract'rs

Sec. 6. This act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

RUNAWAYS.



CHAPTER XCIII.

An Act to amend an Act, passed at the last session of the General Assembly, entitled "An Act to provide for the apprehension of runaway Slaves in the Great Dismal Swamp, and for other purposes," and to extend the provisions thereof.

Sec. 1. *Be 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 regulations, requirements, proceedings and other enactments prescribed and enjoined in the first eight sections of an act, passed at the last session of the General Assembly, entitled "an act to provide for the apprehension of runaway slaves in the Great Dismal Swamp, and for other purposes," in regard to slaves and free persons of color employed or at work in the said swamp, and also such persons as employ them, be, and they are hereby extended to,

Other  
swamps  
embraced  
in provis-  
ions of  
former act

and prescribed for, the like persons employed or at work, or who may employ others in the swamp which lies between Lee's mill, in the county of Washington, and Pamlico river, in the county of Beaufort; and also to such as may be employed or at work, or who may employ others in the swamp which lies between Juniper creek and the lands of Charles Pettigrew, in the county of Tyrrell; and also to such as may be employed or at work, or who may employ others in the swamp lying at the head of Sonta creek, between Durham's creek and Goose creek, in Beaufort county; and that the same penalties and proceedings authorised and prescribed in the aforesaid sections be, and the same are hereby prescribed and authorised against similar persons in like cases offending against any of the provisions of said act as extended and applied to the aforesaid swamps by this act.

Duty of  
clerks.

Sec. 2. *Be it further enacted*, That it shall be the duty of the Clerks of the counties of Tyrrell, Washington, Beaufort and Hyde, to obtain from the Secretary of the State copies of this act, which, with copies of that to which it is an amendment, shall be posted up at the court house door of their respective counties, by or before the first day of March next; and for failing to comply with the requirements of this section, the said clerks shall be liable to indictment, and, on conviction, shall be fined at the discretion of the court.

Swamps  
reclaimed.

Sec. 3. *Be it further enacted*, That none of the provisions of this act shall be so construed as to extend to any swamp lands which have been reclaimed, and are now, or may hereafter be used for agricultural purposes, or to any slave or slaves employed in cultivating the same, their owners, employers or managers, that may be temporarily engaged in said swamps in cutting timber for ordinary plantation purposes.

Clerk's fee

Sec. 4. *Be it further enacted*, That the said Clerks of the County Courts of Gates, Chowan, Perquimons, Pasquotank, Camden, Currituck, Beaufort, Hyde, Washington, and Tyrrell, for preparing and furnishing a copy of the descrip-

tion of said slaves and free persons of color, shall be entitled to receive and demand the sum of fifty cents and no more.

Sec. 5. *Be it further enacted*, That this act shall be in force and take effect from and after the first day of March next.

Read three times and ratified in General Assembly }  
this 29th day of January, 1849. }

## COMMON SCHOOLS.



### CHAPTER XCIV.

AN ACT to authorize the Superintendents of Common Schools of Rowan and Edgecomb counties to invest a part of their funds.

Sec. 1. *Be 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 Superintendents of Common Schools of the counties of Rowan and Edgecomb are hereby authorized to invest, in stocks of one of the solvent banks of this State, the amount of money that had accumulated previously to the adoption of the Common School system by those counties.

[Ratified 27th day of January, 1849.]

## CHAPTER XCV.

AN ACT to amend the Acts now in force on the subject of  
Common Schools.

## SECTION

- 1, Number and term of office of superintendents to be appointed by court.
- 2, Superintendents to meet, appoint chairman and committee.
- 3, Literary Board required to have abstract of laws, &c. printed.
- 4, County courts may lay tax to pay agent to visit schools.
- 5, Repeals conflicting acts and clauses.

Superintendents,  
court to appoint.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the courts of pleas and quarter sessions of the several counties in this State, at the term held next preceding the first day of January in each year, shall appoint (a majority of the justices being present) not more than ten, nor less than five superintendents of common schools for their county, whose term of office shall begin on the said first day of January, succeeding their appointment, and continue for one year, and until others have been appointed and entered upon their office.

Superintendents' duty.

Sec. 2 *Be it further enacted,* That said superintendents shall meet on the first Thursday in January as aforesaid, and elect one of their number chairman, and shall also appoint three committee men in and for each school district in their county, whose office shall likewise begin and end at the time and in the manner prescribed in the case of superintendents

Duty of Literary Board.

Sec. 3. *Be it further enacted,* That the Literary Board be, and they are hereby directed to cause to be prepared and printed, an abstract of the laws in force at the close of this General Assembly on the subject of "Common Schools," with such instructions and forms as are calculated to ensure punctuality and system, in the performance of the duties enjoined in the said Acts, and that the same be distributed among the counties of the State, at the time when the Acts of Assembly are, in the ratio of fifty copies for each member in the House of Commons.

Sec. 4. *Be it further enacted,* That upon its being recommended by the board of superintendents, the courts of pleas and quarter sessions of the several counties in this State, a majority of the justices being present, shall be authorized and empowered, in

their discretion, at the time at which they levy the school tax, also to levy annually an additional school tax, not exceeding two hundred and fifty dollars, to be applied by the said board in employing a suitable and competent person to visit at least once a year, each and every school district in the county, under such rules and regulations as shall be provided by the board to examine the condition of the schools, and to report the same, with all such information as may be required by said board.

Sec. 5. *Be it further enacted*, That all acts and clauses of acts inconsistent with the provisions of this act, be, and the same are hereby repealed.

[Ratified 29th day of January, 1849.]

## SHERIFFS.

— 50 —

### CHAPTER XCVI.

AN ACT to amend the first section of the one hundredth and ninth chapter of the Revised Statutes, entitled "An Act concerning Sheriffs."

#### SECTION

1 No person convicted of felony or *crimen falsi*, shall vote for sheriff.

Sec. 1. *Be 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 sheriffs of each county in this State shall be elected by the freemen of the county who are entitled to vote for members of the House of Commons, except that no person who shall have been convicted

of felony or the *crimen falsi*, shall be capable of voting for sheriff.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

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## CHAPTER XCVII.

### AN ACT to regulate the duties of Sheriffs.

#### SECTION

1 Sheriffs to pass receipts for all original and mesne process, when required.

Sec. 1. *Be 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 pass their receipts for all original and mesne process placed in their hands to the party or parties suing out the same, his, her or their agents or attorneys, when requested so to do by the same; and every such receipt, when duly proved, shall be evidence against the sheriff giving the same, and his sureties, in any suit between such party or parties and the sheriff and his sureties.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## WARDENS OF THE POOR.



## CHAPTER XCVIII.

AN ACT to amend an act of the General Assembly of North Carolina, passed at its session of 1846 and '7, entitled "An Act to alter the mode of electing Wardens of the Poor," chapter 62. Ratified 18th January, 1847.

## SECTION

1 Penalty on person elected warden, for refusing to serve, \$20; and wardens may fill vacancies.

*Sec. 1. Be 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 elected a warden of the poor, according to the provisions of the above recited act, who shall refuse or neglect to qualify, after notice having been served on him by the sheriff, shall forfeit and pay the sum of twenty dollars, to be sued for and recovered in any court of record, by the chairman of the county court, in action of debt; and the money so recovered to be applied to the use of the county; and when a person elected, shall so refuse or neglect, or when a warden of the poor shall die or remove out of the county for which he was elected, the remaining wardens, or a majority of them, shall elect one or more suitable persons to fill the vacancy or vacancies; and persons so chosen shall be subject to the same penalty for refusing or neglecting to qualify, and when qualified, shall in all respects have the same power and discharge the same duties, as if they had been chosen at the regular election.*

[Ratified 27th day of January, 1849.]

## CHAPTER XCIX.

AN ACT to exempt the wardens of the poor of the several counties in this State from militia duty.

Sec. 1. *Be 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 wardens of the poor of the several counties in this State, shall be exempt from militia duty, except in cases of war, nsurrection or invasion.

[Ratified 27th day of January, 1849.]

## CHAPTER C.

AN ACT concerning the wardens of the poor.

## SECTION

1 Wardens of Wake to appoint a Treasurer and take bond.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter, it shall and may be lawful for the wardens of the poor of Wake county to appaint a Treasurer of the warden's court, and take bond and security from him for the faithful performance of his duty; and that this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## WIDOWS.

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## CHAPTER CL.

## AN ACT concerning Widows.

## SECTION

- 1 Widow unable to attend court may enter dissent to will by attorney.
- 2 Widow being lunatic or *non compos*, guardian may dissent.

Sec. 1. *Be 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 widow of any decedent, desirous of dissenting to the last will and testament of such decedent, if she be sick or too infirm to travel to court, satisfactory proof of such sickness or infirmity having been made to the proper court, within six months after the probate of such will and testament, to cause her dissent to be entered by attorney; and such dissent so entered by attorney, shall be as valid and as effectual in law as if the same had been entered in proper person; any law, usage or custom to the contrary notwithstanding.

By attorney.

Sec. 2. *Be it further enacted,* That when any person shall die, having made a last will and testament and leaving a widow lunatic or *non compos mentis*, and the guardian of such widow shall think it proper for the interest of such widow, that her dissent be entered to such last will and testament, it shall and may be lawful for such guardian to enter his dissent in person, within six months after the probate thereof; and such dissent so entered, shall be as valid and as effectual in law as if entered by such widow in her own proper person, she being of sound mind: any law usage or custom to the contrary notwithstanding.

By guardian.

[Ratified 29th day of January, 1849.]

**WORSHIP---PUBLIC PLACES.**



**CHAPTER CII.**

AN ACT more effectually to prevent the selling or giving away of spirituous liquors at or near places of public worship.

**SECTION**

- 1 Prohibits selling or giving away spirits within two miles of place and during time of public worship.
- 2 Excepts towns and villages.

Sec. 1. *Be 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 unlawful for any person to sell or give away, or in any manner dispose of spirituous liquors at or within two miles of any place of public worship within this State, during the time that religious exercises may be in progress at any place of public worship; and any person who shall be guilty of a violation of the provisions of this act, shall be subject to presentment and indictment in any of the Superior courts of law in this State, in the county where the offence is committed, and, upon conviction, shall be fined in a sum of not more than fifty, nor less than ten dollars.

Penalty

Sec. 2. *Be it further enacted,* That the provisions of the first section of this act shall not be so construed as to prevent licensed retailers from selling, or other persons from giving away any spirituous liquors within any town or village in this State, when said town or village may be within two miles of any such place of public worship.

Excepts towns, &c

When to take effect

Sec. 3. *Be it further enacted,* That this act shall be in force, from and after the first day of June next.

[Ratified 29th day of January, 1849.]

# RESOLUTIONS

OF

A PUBLIC NATURE,

PASSED BY THE

LEGISLATURE OF NORTH CAROLINA,

AT ITS SESSION OF 1848-'49.



RESOLUTION relating to the Public Arms.

*Resolved*, That the Adjutant General is hereby directed to have the arms belonging to the State, and now deposited at the town of Plymouth, Washington county, and Louisburg, Franklin county, transferred to the State Arsenal in the city of Raleigh.

[Ratified 29th day of January, 1849.]

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A RESOLUTION in favor of J. Hogarth Van Bokkelin, keeper of public arms at Newbern.

*Resolved*, That the Public Treasurer pay to J. Hogarth Van Bokkelin, keeper of public arms, in the town of Newbern, the sum of eleven dollars and sixty nine cents, the amount of the expense paid by him for receiving and pack-

ing away two six pound pieces of brass cannon, with caissons, harness, &c., &c.; and the further sum of sixteen dollars and sixty five cents, for rent paid for a suitable building for storing and taking care of the aforesaid brass cannon, harness, &c., &c.; and that the Public Treasurer be allowed the same in the settlement of his public accounts.

[Ratified 29th day of January, 1849.]

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RESOLUTION in relation to the State's claim against the General Government.

Governor  
to take  
measures.

*Resolved*, That the Governor be requested to take such measures as he may deem necessary to procure the early adjustment and liquidation of the claim of this State on the Government of the United States, for moneys advanced and transportation furnished to the North Carolina volunteers in the recent war with Mexico, together with interest on the same, according to the provisions of the act of Congress, approved June 2d, 1848, entitled "An Act to refund money for expenses incurred, subsistence or transportation furnished for the use of the volunteers during the present war, before being mustered into service of the United States;" and that for this purpose he is allowed to draw from the Comptroller's office the vouchers and other papers pertaining to the subject.

[Ratified 29th day of January, 1849.]

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RESOLUTION in favor of W. F. Collins, Comptroller of the State.

*Resolved*, That the Public Treasurer pay the Comptrol-

ler of Public Accounts, the sum of four hundred and fifty dollars, to be paid out of the Cherokee lands, in full satisfaction for the *extraordinary duties* performed by him under a resolution of the General Assembly of 1846, 1847, entitled "Resolutions in relation to the purchasers of the Cherokee lands."

[Ratified 29th day of January, 1849.]

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RESOLUTION providing for the appointment of Engrossing Clerks.

*Resolved*, That the Principal Clerks of the two Houses be, and they are hereby authorized to employ one or more additional assistant clerks, as may be needed for the present General Assembly, and that they be paid as the other Engrossing Clerks are now paid by law.

[Ratified 27th day of January, 1849.]

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RESOLUTION to pay assistant Engrossing Clerks.

*Resolved*, That the Public Treasurer be authorized and directed to pay to L. E. Thompson thirty-nine dollars, for thirteen days' attendance as Engrossing Clerk; to L. B. Lemay, eighteen dollars, for similar services; to H. M. Waugh, twelve dollars; to Quentin Busbee, twelve dollars; to Oliver Perry, nine dollars; and to J. Price, nine dollars; and that he be allowed the same in the settlement of his public accounts.

[Ratified 29th day of January, 1849.]

RESOLUTION authorizing door-keepers to purchase chairs for the committee rooms.

*Resolved*, That the door-keepers be authorized and instructed to purchase one dozen suitable chairs for each of the committee rooms in the capitol.

[Ratified the 16th day of January, 1849.]

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RESOLUTION as to Asylum for Deaf and Dumb.

*Resolved*, That when the contractors for the building of the Deaf and Dumb Asylum, now in process of erection, shall have executed to William D. Cooke, Superintendent, their written consent for him to occupy said building, conditioned that said occupancy shall in no way affect the due and faithful execution of their contract, the said Cooke be allowed to take immediate possession of said Asylum.

[Ratified 16th day of January, 1849.]

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A RESOLUTION to pay for contingent expenses of this General Assembly.

*Resolved*, That the Public Treasurer be directed to pay to James McKimmon, seven dollars and three cents (\$7,03); to Pescud and Johnson, eighteen dollars and ninety cents (\$18,90); to P. F. Pescud, six dollars (6,00); to William Thompson, nineteen dollars (\$19,00); to Richard Smith, one dollar and thirty-five cents (\$1,35); to T. H. Selby, three dollars and seventy-five cents (\$3,75); to R. Tucker & Son, two dollars and fifty cents (\$2,50); to William G.

Lougee, seventeen dollars and eighty-five cents (\$17,85); to Rufus Page, thirteen dollars and thirty-three cents (\$13,33); for articles furnished by them for the use of this Legislature; and to Joshua E. Lumsden, three dollars (\$3,00) for work done for the Legislature; and to Madison Royster, one dollar and fifty cents (\$1,50), for repairs in Secretary's office.

[Ratified 29th day of January, 1849.]

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RESOLUTION directing the enclosure of the grounds appertaining to the Governor's residence, and an appropriation for furniture.

1 *Resolved*, That the Board of Public Buildings, consisting of the Governor, Secretary of State, Treasurer and Comptroller, be authorized and directed to cause to be enclosed the whole of the State's lot appertaining to the Governor's residence; and that the cost thereof, together with all needful repairs on the dwelling and premises, be executed and paid for under the direction of the said Board, as already provided for by law.

Board to have square enclosed.

2. *Resolved*, That the sum of one thousand dollars be, and the same is hereby appropriated for the purchase of furniture for the Governor's residence, the purchase of said furniture to be made under the direction of the Governor.

Appropriation for furniture.

[Ratified 27th day of January, 1849.]

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RESOLUTION concerning the improvement of the Indian tribes.

WHEREAS the condition of the various Indian tribes up-

**Preamble** on the Western frontiers of the United States, appeals to the humanity and justice of the General Government, to devise some plan by which a permanent home may be secured to them, by which their existence as a people may be secured and perpetuated; by which their moral, intellectual and social condition may be improved, and the blessings of civilization and civil liberty at length secured to them:

For their  
improvement,  
independence,  
&c.

1. *Be it therefore resolved, &c.,* That we recommend this to the serious consideration of the Congress of the United States, that, in the exercise of their wisdom, they may mature a plan by which the Indian tribes inhabiting our Western Territory may be placed more directly under the paternal care of the General Government; by which a specific region of country may be set apart for their permanent abode, secured to them forever against further encroachment, and undisturbed by the great current of Western emigration; by which their moral, intellectual and social condition may be improved and elevated; by which the blessings of education, civilization and christianity may be imparted to them; by which they may all be brought together and united in one grand confederation, and thus prepared for the enjoyment of civil and religious liberty; and if found practicable, they may be ultimately admitted into our Federal Union.

To be laid  
before  
Congress.

2. *Resolved,* That his Excellency the Governor of the State be requested to transmit a copy of these resolutions to each one of our Senators and Representatives in the Congress of the United States, that the same may be laid before their respective Houses.

[Ratified 29th day of January, 1849.]

A RESOLUTION to suspend the collection of Cherokee bonds, until the laying off the Turnpike road from the Georgia line to Salisbury.

*Resolved by the General Assembly of the State of North Carolina,* That Jacob Siler, the agent of the State for the collection of Cherokee bonds, be instructed, and he is hereby instructed, to suspend the further collection of debts due on Cherokee bonds, until the Turnpike road authorized by the present General Assembly, to be laid out and constructed from Salisbury, West, to the Georgia line, is laid off and the contracts let out; provided the same be properly secured.

[Ratified 29th day of January, 1849.]

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A RESOLUTION relating to lighting the lamps on public square.

*Resolved by the two Houses of the General Assembly,* That the door keepers be required to keep the large lamps on the Capitol Square, and the lamps in the Capitol lighted up during the present session.

[Ratified 16th day of January, 1849.]

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#### RESOLUTION concerning Library.

*Resolved,* That the Governor of this State be authorized and requested to procure a copy of the Reports of the Decis-

Governor to send Supreme Ct. Reports to Lib. Sup. Ct. U. S. ions of the Supreme court of this State and forward the same to the library of the Supreme court of the United States, at Washington; and that hereafter copies of said Reports, as published, be sent to the said Library.

Treasurer to pay. *Resolved further,* That the Treasurer pay on the warrant of the Governor such sum as may be required to carry the foregoing resolution into effect.

Additional Shelves. *Resolved further,* That a sum not exceeding fifty dollars be appropriated, for the erection of additional shelves in the State Library, to be expended by the Librarian, under the direction of the Governor, and to be paid by the Public Treasurer, on the warrant of the Governor.

[Ratified the 29th day of January, 1849.]

### RESOLUTIONS relative to M. Vattemare's system of Literary and Scientific Exchanges.

Approving the system 1. *Resolved by the General Assembly of the State of North Carolina, and it is hereby resolved by the authority of the same,* That we highly appreciate and cordially approve the system of International Literary and Scientific Exchanges among the nations of the earth, proposed by M. Alexander Vattemare, to the establishment of which he has so long devoted his energies and fortune; and that we regard it as a wise and feasible means of disseminating knowledge, and preserving the relations of peace among the nations of the earth.

Thanks to Mr. Vattemare. 2. *Be it further resolved, &c.,* That the meed of our approbation is due, and is hereby tendered to M. Vattemare, for his untiring perseverance and philanthropic labors, in carrying into execution his great design: That he has our earnest hopes for its success; that he has our warmest thanks for his visit amongst us and for the valuable donations in

books and prints with which he has enriched our Library.

3. *Be it further resolved, &c.*, That there be presented to M. Vattermare, as an humble token of our high appreciation of his system, under the direction of the Governor of this State, the following works, to wit: six copies of the Debates in the North Carolina Convention of 1835; six copies of the Revised Statutes; six copies of Martin's History of North Carolina; six copies of Williamson's Do; six copies Iredell's Digest; two copies of the Reports of the Supreme Court; five copies of Index to Colonial Documents; two copies of the old Revisal of the Laws by Potter, Taylor and Yancy; two copies of the Acts of the Assembly since 1840; six copies of Iredell's Manual; six copies of Jones' Defence of North Carolina; six copies of Foote's History of North Carolina; six copies of Olmstead's Geological Survey; six copies of all the papers and proceedings relating to the Mecklenburg Declaration of Independence; six copies of Hubbard's life of Gen'l. Davie; and two large Maps of the State, latest edition.

Works  
presented.

4. *Be it further resolved, &c.*, That such of the works as cannot be conveniently furnished from the Library, be purchased and paid for under the warrant of the Governor, out of any money in the Treasury not otherwise appropriated.

Purchase  
and pay  
for works.

5. *Be it further resolved, &c.*, That there shall be annually transmitted hereafter to M. Vattermare, under the superintendence and direction of the Governor, six copies of all books containing the Journals, Laws, Judicial Reports, &c. &c., and all other works published under the authority of this State, to be distributed by said Vattermare to such of the institutions and authorities of France as he, in his discretion, may select.

works to  
be annual-  
ly transmit-  
ted.

[Ratified 24th day of January, 1849.]

RESOLUTION requesting the Governor to cause a conveyance to be made by clerk of the county court of Wake to the President and Directors of the Board of Internal Improvements.

*Resolved*, That the Governor be requested to cause a conveyance to be made by the Clerk and Master in Equity for Wake county to the President and Directors of the Board of Internal Improvements, for the use of the State, of all the property in and appendant to the Clubfoot and Harlow's Creek Canal, which was purchased in by the Public Treasurer, under the instructions of the Governor, at a sale made by virtue of a decree of the court of equity, at the instance of the State.

[Ratified 29th day of January, 1849.]

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A RESOLUTION directing the President and Directors of the Literary Fund to lend seven thousand dollars to the President and Trustees of the Greensboro' Female College.

*Resolved*, That the President and Directors of the Literary Fund be, and they are hereby instructed to lend seven thousand dollars to the President and Trustees of the Greensboro' Female College, on their giving good and satisfactory personal security for the same, and upon the payment of the interest semi-annually, when the President and directors of the Literary Fund shall have on hand that amount of money uninvested, or not required for the purpose of Common Schools.

[Ratified 29th day of January, 1849.]

RESOLUTION instructing the Literary Board to sell the swamp lands of the State belonging to said fund, if they deem it necessary.

WHEREAS the swamp lands of the State, which now constitute a part of the fund belonging to the Literary Board, are wholly unproductive for the purposes for which they have been granted by the Legislature:

Preamble.

And whereas there is a sufficient reason to believe that they are becoming less and less valuable, in consequence of the filling up of the canals, ditches, and by trespasses which have been and still continue to be committed thereon: Therefore,

*Resolved by the Legislature of North Carolina,* That the President and Directors of the Literary Board be, and they are hereby authorized, if they deem it necessary, to sell out at public sale, after giving sufficient notice of said sale, all that portion of said swamp lands, which have been drained, or partially drained by canalling and ditching, particularly that part of the said land known as the Pungo land, situate in the counties of Hyde and Washington, at the earliest practicable period.

What lands.

*Resolved further,* That as the month of June is a time in which the said lands may be reached with ease and facility, the President and Directors of the Literary Board are instructed to cause the said sales to be made during that month.

When sold

*Resolved further,* That the President and directors of the Literary Board be, and they are hereby instructed to construct and complete a Turnpike road from the town of Plymouth to Pungo river, in Beaufort county, in accordance with an Act of the General Assembly ratified 16th day of January, 1847.

Turnpike.

[Ratified 29th day of January, 1849.]

RESOLUTION in relation to distribution of Military  
Tactics.

*Resolved*, That the Secretary of State be authorized and instructed, in making contracts for the distribution of the Acts of the present session of the General Assembly, to include in such contracts the distribution of the Military Tactics now in the Adjutant General's office, as provided in the act of the last session on that subject.

[Ratified 29th day of January, 1849.]

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RESOLUTION providing for the publication of an act,  
passed at the present session of the General Assembly,  
entitled "An Act to increase the Revenue of this State."

*Resolved*, That the Public Treasurer be directed to have printed, on large sheets of paper, one thousand copies of the act passed at the present session of the General Assembly, entitled "An Act to increase the revenue of this State;" and that he distribute the same among the sheriffs of the respective counties of the State, in proportion to their size and population, to be put up at the most public places, for the inspection and information of the people; and that the expense of the same be defrayed from the Treasury.

[Ratified 29th day of January, 1849]

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RESOLUTION authorizing the Governor to procure copies  
of papers in England.

*Resolved*, That his Excellency the Governor be, and he is hereby authorized and empowered to procure from the

public offices in London, such documents relating to the Colonial and Revolutionary history of North Carolina, as may be found worthy of preservation and being placed among the archives of the State; and that the Governor be, and he is hereby authorised to draw upon the Treasurer of the State, from time to time, for such sums of money as may be necessary to discharge the duty hereby assigned him; provided the whole amount does not exceed one thousand dollars.

[Ratified 27th day of January, 1849.]

RESOLUTION to protect the interest of the State in the Raleigh and Gaston Rail Road.

*Resolved*, That the sum of fifteen thousand [\$] be appropriated for furnishing iron for repairing the Raleigh and Gaston Railroad, to be expended under the direction of the commissioners of said road; and that the Treasurer advance the same out of any money in the Treasury not otherwise appropriated, and that he be allowed the same in the settlement of his accounts. Appropriation for iron.

*Resolved further*, That the aforesaid sum of fifteen thousand dollars shall be paid by the stockholders of the said company, should they accept the terms as proposed in the Act for the revival of the Raleigh and Gaston Railroad, passed at the present session of the General Assembly, entitled "An Act to incorporate the North Carolina Railroad Company." Stockholders to pay.

*Be it further resolved*, That this resolution shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

RESOLUTIONS on the subject of the Raleigh and Gaston Rail Road.

\$21,148  
appropriated.

1. *Resolved*, That the Public Treasurer be, and he is hereby directed to pay the Commissioners appointed by law to manage the Raleigh and Gaston Railroad, the sum of twenty one thousand, one hundred and forty eight dollars, to be applied under their authority to the payment of certain debts contracted on account of said Railroad, and reported to be due by the President of the road, in his report to the said Board of Commissioners, dated 1st November, 1848, and for the repair of an engine now in Petersburg, whenever the said Board of Commissioners shall satisfy themselves that the said debts are justly due; and the said Board of Commissioners are hereby directed to report to the next General Assembly the names of the persons to whom the said sum has been paid and the amount due to each.

Treasurer  
may borrow.

2. *Resolved*, That if the present condition of the Treasury does not enable the Public Treasurer to pay the sum before mentioned, he is hereby authorized to borrow the same of either of the banks of this State, at a rate of interest not exceeding six per cent. per annum, which sum so borrowed he is directed to repay, whenever the Public Treasury shall enable him to accomplish the same.

Not to run  
at State's  
expense.

3. *Resolved further*, That the Raleigh and Gaston Railroad shall not be further run at the expense of the State.

[Ratified 27th day of January, 1849.]

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A RESOLUTION directing the continuation of the road from Lake Pungo to the town of Plymouth, in Washington county.

*Resolved*, That the President and Directors of the Lite-

rary Fund be, and they are hereby directed to apply from the proceeds of the sales of the swamp lands in Hyde and Washington counties, a sum not exceeding five thousand dollars to the continuation of the Turnpike road from the West end of Lake Pungo to the Plymouth and Pungo Turnpike, at or near the Forked Cypress; thence with the said Turnpike to the Plymouth and Long Acre Road, in Washington county, so as more effectually to carry into effect the act of the General Assembly, passed at its session of 1846-'7, entitled "An Act to make a road from Plymouth, in Washington county, to Pungo River, in Beaufort county, and to bring into market the swamp lands of the State."

[Ratified 29th day of January, 1849.]

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A RESOLUTION directing the Public Treasurer to procure a Seal of Office.

*Resolved*, That the Public Treasurer be, and he is hereby authorized and required to procure a seal of office, with such devices thereon, as the Treasurer and Governor of the State deem most suitable.

[Ratified 29th day of January, 1849.]

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RESOLUTIONS respecting Slavery in the Territories.

1st. *Resolved*, That the States came into the Union as equals, and that the citizens of each State are entitled to equal rights, privileges and immunities under the constitution of the United States.

Guarantees  
of slavery.

2nd. *Resolved*, That the proceedings of the Convention by which the Federal Constitution was framed, clearly demonstrate that the institution of slavery was maturely considered, and that the Union of the States was finally secured by incorporating into that instrument distinct and ample guarantees of the rights of the slaveholder.

Conduct of  
politicians  
and Con-  
gress con-  
demned.

3rd. *Resolved*, That we view with deep concern and alarm the constant aggressions on the rights of the slaveholder by certain reckless politicians of the North, and that the recent proceedings of Congress, on the subject of slavery, are fraught with mischief well calculated to disturb the peace of our country, and should call forth the earnest and prompt disapprobation of every friend of the Union.

Slavery in  
the District  
or Territo-  
ries.

4th. *Resolved*, That the enactment of any law by Congress which shall abolish slavery or the trade[?] in the District of Columbia, or shall directly or indirectly deprive the citizens of any of the States of the right of emigrating with their slave property into any of the Territories of the United States, and of exercising ownership over the same while in said Territories, will be an act not only of gross injustice and wrong, but the exercise of power contrary to the true meaning and spirit of the constitution, and never contemplated by the framers thereof.

Missouri  
comprom-  
ise.

5th. *Resolved*, That while we do not intend hereby to be understood as conceding that Congress has the power, under the Constitution, to enact a law prohibiting slavery in any portion of the Territories of the United States; yet, for the sake of preserving the peace and promoting the perpetuity of the Union, we are willing that the basis of the Missouri compromise should be adopted in reference to the recently acquired Territories of New Mexico and California, by extending the line then agreed upon to the Pacific Ocean.

6th. *Resolved*, That we believe the people of North Carolina of all parties, are devotedly attached to the Union of the States; that they regard it as a main pillar in the edifice of real independence, the support of tranquility at home, of

peace abroad, of safety, of prosperity, and of that very liberty they so highly prize; that they cherish a cordial, habitual, immoveable attachment to it; and that they watch for its preservation with jealous anxiety; that they believe it is the duty of their public servants to discountenance whatever may suggest even a suspicion that it can in any event be abandoned, and to repel indignantly every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

Attachment to  
the Union.

7th. *Resolved*, That a copy of the foregoing resolutions be signed by the speakers of the Senate and House of Commons, and forwarded to our Senators and Representatives in Congress with a request that they be laid before their respective Houses.

[Ratified 27th day of January, 1849.]

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#### RESOLUTION relative to 'Thanksgiving Day.

*Resolved by the General Assembly of the State of North Carolina*, That the Governor of the State for the time being be directed to set apart a day in every year, and to give notice thereof by proclamation, as a day of solemn and public thanksgiving to Almighty God for past blessings, and of supplication for his continued kindness and care over us, as a State and as a nation.

[Ratified 16th day of January, 1849.]

## RESOLUTION in favor of the Public Treasurer.

*Resolved*, That the Public Treasurer be, and he is hereby authorized to borrow from the Literary Fund, or from the Bank of Cape Fear, such sum or sums of money, from time to time, as may be necessary to meet the proper charges authorized by law against the State, until the next meeting of the General Assembly: *Provided*, that the amount so borrowed shall not exceed one hundred thousand dollars; and *provided further*, that the sum or sums so borrowed shall be repaid by the Public Treasurer as soon as the condition of the Treasury will enable him to do the same.

[Ratified 27th day of January, 1849.]

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## RESOLUTION in favor of Charles L. Hinton, Public Treasurer.

*Resolved*, That Charles L. Hinton be allowed a credit of two dollars and ninety-five cents, in the settlement of his accounts, for Treasury notes burnt by the Committee of Finance.

[Ratified 29th day of January, 1849.]

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## RESOLUTION respecting furnishing weights and measures to Chatham county.

WHEREAS, the standard keeper's office for the county of

Chatham has been destroyed by fire, wherein the standard weights and measures for said county have been destroyed :

*Resolved, therefore,* That the Governor be authorized and instructed to furnish the standard keeper of the county of Chatham with a full set of weights and measures.

[Ratified 29th day of January, 1849.]



STATE OF NORTH CAROLINA :

OFFICE OF THE SECRETARY OF STATE, }  
*April, 1849.* }

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.

WM. HILL, Secretary of State.



# PRIVATE ACTS

OF THE

STATE OF NORTH-CAROLINA,

PASSED BY THE GENERAL ASSEMBLY

AT THEIR SESSION, WHICH COMMENCED ON MONDAY, THE TWENTIETH OF  
NOVEMBER, ONE THOUSAND, EIGHT HUNDRED AND FORTY EIGHT,  
AND ENDED ON THE TWENTY-NINTH OF JANUARY, ONE  
THOUSAND, EIGHT HUNDRED AND FORTY-NINE.

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## ACADEMIES.

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### CHAPTER CIII.

AN ACT to authorize the erection of a Male and Female Academy in or near the town of Shelby, in Cleveland county.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Dr. Thomas Williams, Richard Champion, C. C. Durham, John R. Logan, and Henry Shenck, be, and they are hereby appointed commissioners to contract for, and superintend the building of a male and female academy, in or near the town of Shelby, in the county of Cleveland.*

Sec. 2. *Be it further enacted*, That the said commissioners, or a majority of them, shall have power to purchase or receive by donation, a sufficient quantity of land, not exceeding ten acres for each academy, for suitable building sites for the same, the title to which shall be conveyed to the trustees of said academies for the use and benefit of the same, before the said buildings are erected thereon.

Sec. 3. *Be it further enacted*, That the commissioners aforesaid shall have power to open books and receive subscriptions for building the said academies; and when the sum of two hundred dollars, to be raised by subscription, shall be subscribed and paid by individuals, or secured to be paid, to the satisfaction of said commissioners, or a majority of them, then the county of Cleveland shall appropriate, by an order of said court, the sum of eight hundred dollars of the county moneys, now in the hands of Treasurer of public buildings, or which may hereafter come into his hands; and the said Treasurer of public buildings is hereby directed to pay over the same to the commissioners aforesaid, as fast as the same may be needed for the purposes aforesaid.

Sec. 4. *Be it further enacted*, That the commissioners aforesaid, so soon as proper title is obtained for the lands on which to erect the said academies, shall proceed to advertise the letting of the contracts for building the same, for the space of sixty days, in such mode as to them may seem best, at the expiration of which time, they, or a majority of them, shall let the same by public auction to the lowest bidder, or by private contract as to them may seem best; taking bond and security from the contractor for the faithful execution of the work; to be constructed of such materials and upon such plan as the said commissioners, or a majority of them, may agree upon: *Provided*, that the contract or sum to be paid for the erection and completion of the said academies shall not exceed one thousand dollars each.

[Ratified 27th day of January, 1849.]

## CHAPTER CIV.

AN ACT to incorporate Macon Academy, in Wayne county.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Mc Williams, James F. Kornegay, Jesse J. Baker, William J. Kornegay and Samuel Lafter, be, and they are hereby constituted a body politic and corporate, by the name and style of the Trustees of Macon Academy, and by that name may sue and be sued, plead and be impleaded; shall have succession and a common seal; and in general, shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

Sec. 2. *Be it further enacted,* That any three of the trustees may constitute a quorum for the transaction of business; and that on the death, removal or refusal to act, of any of the trustees of the academy aforesaid, the remaining trustees shall have power to fill such vacancy.

[Ratified 27th day of January, 1849.]

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## CHAPTER CV.

AN ACT to incorporate the Trustees of the Forestville Female Academy, in Wake county.

Sec. 1. *Be 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 S. Purify, John B. White, Samuel H. Dunn, George W. Thompson, Willie D. Jones, Abner Holton, William B. Dunn, John D. Powell and James D. Newson, be, and they are hereby constituted a body politic and

corporate, by the name and style of "The Trustees of Forestville Female Academy," and by that name, may sue and be sued, plead and be impleaded; shall have succession and a common seal; and in general, shall have, exercise and enjoy all such rights, powers and privileges as are usually exercised and enjoyed by the trustees of any incorporated academy in this State.

Sec. 2. *Be it further enacted*, That any three of the trustees may constitute a quorum for the transaction of business, and that, on the death, refusal to act, or removal out of the State, of any of the trustees of the academy aforesaid, the remaining trustees shall have power to fill such vacancy.

[Ratified the 16th day of January, 1849.]

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## CHAPTER CVI.

### AN ACT to incorporate the Perquimans Academy.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Thomas F. Jones, Francis Nixon and Joseph M. Cox and their successors, 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 the Perquimans Academy," and by that name shall have perpetual succession and a common seal; and shall be able and capable in law of holding lands, tenements and chattels sufficient for the uses and purposes of said school; and of suing and being sued, and of pleading and being impleaded.

Sec. 2. *Be it further enacted*, That the said Thomas F. Jones, Francis Nixon and Joseph M. Cox, Trustees as a-

foresaid, be authorized, as soon as convenient upon ten days notice, to open books in the town of Hertford, and to receive subscriptions to the amount of (\$2,000) two thousand dollars, in shares of twenty-five dollars each, the subscribers to which sum shall be considered stockholders in the Perquimans Academy, in proportion to the shares they may each respectively hold, each share being entitled to one vote in all meetings of the stockholders.

Sec. 3. *Be it further enacted*, That for the space of one month from and after the opening of subscription books as above authorized, no persons shall be allowed to become subscribers to stock in said academy, except those who have already subscribed by way of donation toward the erection of a building for said academy; but from and after the expiration of one month, after the opening of subscription books, the said books shall be open to persons generally who may wish to subscribe to the remaining stock.

Sec. 4. *Be it further enacted*, That said stockholders shall hold annual meetings on the first Monday of December in each and every year, in the Court House in the town of Hertford; and at such other times and places as they may declare, and at such annual meetings shall have power to elect their trustees for the ensuing year, and to make such rules, regulations and by-laws, not inconsistent with the Constitution of the United States, and of this State, as may be necessary for the good government of said school, and the management of the property and funds of the same; and also to fill all vacancies which may occur in the board of trustees, by death, resignation or otherwise.

[Ratified 27th day of January, 1849.]

## CHAPTER CVII.

AN ACT to incorporate the "Trustees of Snow Creek Male Academy," in the county of Iredell.

Sec. 1. *Be 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 R. Lawrence, Asa S. Johnson, John S. Patterson, James S. Blackwell and Baker E. Holland, be, and they are hereby declared, a body politic and corporate, to be known and distinguished by the name of the "Trustees of the Snow Creek Male 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 moneys, as may be required for the use of said academy, according to the will of the donor or donors thereof.

Sec. 2. *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 resignation; 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 this State; and to do and perform all such acts as are incident to, and as usually exercised by, bodies politic for the accomplishment of the object contemplated.

Sec. 3. *Be it further enacted,* That three of said trustees shall always constitute a quorum to do any business connected with said academy.

[Ratified 16th day of January, 1849.]

## CHAPTER CVIII.

AN ACT to incorporate the "Trustees of the Dallas Male Academy," in the county of Gaston.

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Jacob Fronabarger, Moses H. Cloninger, W. F. Holland, John H. Roberts, Winchester Pegram, Daniel Hoffman, and Ibra Cannon, be, and they are hereby declared a body politic and corporate, to be known and designated by the name of the "Trustees of the Dallas Male Academy," and by that name shall have succession and a common seal, and shall be invested with powers and authority to sue and be sued, plead and be impleaded, in any courts 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.

*Sec. 2. 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 resignation; 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 and of this State; and to do and perform all such acts, as are incident to, and are usually exercised by, bodies politic, for the accomplishment of the object contemplated.

*Sec. 3. Be it further enacted,* That a majority of said trustees shall always constitute a quorum, to do any business connected with said academy; and that this act shall take effect and be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

## CHAPTER CIX.

AN ACT to incorporate "The Statesville Male Academy,"  
in the county of Fredell.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That* Theophilus Falls, Thomas A. Allison, Dr. John Allison, Dr. James M. Moore, Joseph W. Stockton, Thomas A. McRorie, Joseph P. Caldwell, Abner House, and Samuel R. Bell, and their successors, be, and they are hereby declared a body politic and corporate, to be known and designated by the name and style of "The Trustees of the Statesville Male Academy," and by that name shall have succession and a common seal; and shall be able and capable in law to receive, have, hold and possess, all lands and tenements according to the will of the donor or donors thereof; they shall be able and have power to sue and be sued, plead and be impleaded, in any court of law or equity in this State; shall pass all needful rules and regulations for the government and preservation of order and good morals in said institution; and shall in general have and exercise all the powers and privileges usually granted to institutions of a similar nature.

Sec. 2. *Be it farther enacted, That* any four of the trustees may constitute a quorum for the transaction of business; and that on the removal, death, or refusal to act of any of the trustees aforesaid, the remaining trustees shall have power to fill such vacancy as is occasioned thereby.

[Ratified 16th day of January, 1849.]

## CHAPTER CX.

AN ACT to incorporate "Antioch Academy," in the county of Robeson.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That H. McLean, Heter Bethune, John Gilchrist, Malcolm McBryde, Daniel B. Smith, Arch'd Campbell, A. H. Curry, Malcolm McPhaul, be, and they are hereby declared, made, and constituted a corporation and body politic and corporate, in law and in fact, to have continuance for ninety years, and have and use a common seal; by the name, style and title of the "Trustees of Antioch Academy," to be located in the county of Robeson, and for the time aforesaid have continued succession, and be persons able and capable in law to sue and be sued, plead and be impleaded, in all courts either of law or equity; and shall have power to receive donations and subscriptions for the use of said institution, not exceeding in value five thousand dollars.

Sec. 2. *Be it further enacted,* That the said trustees and their successors in office, shall have power to elect a President from among their number, who shall hold office for the space of one year or until his successor has been elected; and they shall furthermore have power to buy a site for said academy, not exceeding one hundred acres of land in said county, and erect thereon all suitable buildings; appoint teachers; make rules, regulations and by-laws not inconsistent with the constitution and laws; and to do all else requisite to the successful operation of said Academy.

Sec. 3. That for the purpose of endowing said academy, the said trustees shall open books in said county for the subscription of stock, on ten days previous notice, at any time during the year 1849, and shall keep the same open not less than thirty days; that they shall receive stock in shares of five dollars, one half to be paid at the time of subscription, and the other half on the first of June, 1850, to an amount

not exceeding five thousand, nor less than two thousand dollars; and they shall pass certificates of stock to said subscribers, and have power to recover, by warrant or otherwise, any balance of money due from said subscribers; and when two thousand [\$] shall have been subscribed, said trustees shall call together the subscribers for the purpose of organization.

Sec. 4. *Be it further enacted*, That said subscribers shall be called the "Patrons of Antioch Academy," shall meet once each year, on 1st Saturday in July, shall then elect trustees to supply the places of those acting for the previous year, and fill all vacancies; shall vote in person or by proxy, each share under ten giving one vote, and every five shares when above ten giving one vote; shall visit, examine and inspect the condition of the academy, and the moral and intellectual culture of the youth; shall keep a minute of their proceedings, and receive the report of the trustees.

Sec. 5. *Be it further enacted*, That said trustees shall never exceed twelve in number; shall manage the affairs of the academy, and make annual reports and settlements with the Patrons aforesaid; shall pay over all surplus monies to said Patrons in proportion to their several subscriptions, and may receive such compensation as the Patrons, at a general meeting, may allow them, and at all times be subject to account with the said Patrons; and shall take, in their corporate name, the lands which may be purchased for the use of the Academy; and may appoint all needful officers in addition to their President.

Sec. 6. This act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

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#### CHAPTER CXL.

AN ACT to incorporate the Shelby Male and Female Academies, in the county of Cleveland.

Sec. 1. *Be it enacted by the General Assembly of the State of*

North Carolina, and it is hereby enacted by the authority of the same, That Dr. Thomas Williams, G. C. Durham, Dr. E. Jennings, Richard B. Smith, James Love, Lewis Corbett and J. R. Logan, be, and they are hereby constituted a body politic and corporate, by the name and style of the "Trustees of Shelby Male and Female Academies," and by that name may sue and be sued, plead and be impleaded; shall have succession and a common seal, and the power of making all such by-laws and regulations as they may deem necessary for the good government of said academies, and for the promotion of learning and science in said institution, which may not be inconsistent with the Constitution and laws of this State or of the United States.

Sec. 2. *Be it further enacted*, That the said trustees, or a majority of them, shall have power to appoint other trustees of the said academies, so as not to exceed ten in number, and may supply all vacancies which may occur in the board of trustees, by death, resignation, removal or otherwise; and that any five may constitute a quorum for the transaction of business.

Sec. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

### CHAPTER CXXII.

AN ACT to incorporate Plymouth academy, in the town of Plymouth, Washington county.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Thomas F. Pender, Joseph Ramsey, Hezekiah G. Gamill, Franklin F. Fagan, Charles Latham, Edgar Hanks, Joseph B. Griffin, John H. Hamp-

ton, and Thomas B. Nicholls, be, and are hereby constituted a body politic and corporate, and by the name and style of the "Trustees of Plymouth Academy;" and by that name may sue and be sued, plead and be impleaded; shall have perpetual succession and a common seal; may acquire, by purchase, gift or otherwise, to them and their successors, estates, real and personal, for the use of said academy, and enjoy all other powers, privileges and immunities incident to bodies corporate of a like nature.

Sec. 2. *Be it further enacted*, That the Commissioners of the town of Plymouth convey to the above named trustees a title in fee for the lands and academy, to them and their successors in office.

Sec. 3. *Be it further enacted*, That in case of any vacancy, by death, removal, resignation or otherwise, any five of said trustees shall have power to fill vacancies thereby occasioned.

Sec. 4. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

### CHAPTER CXIII.

AN ACT to establish Lumberton Academy, in Robeson county, and to incorporate the trustees thereof.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Dr. Richard C. Rhodes, Dr. Edmund McQueen, Robert S. French, Robert E. Troy, Thomas A. Norment, and Edward Lewis, be, and they are hereby constituted a body politic and corporate, by the name and style of the Trustees of Lumberton Academy, and by that name may sue and be sued, plead and be impleaded; shall have

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

Sec. 2. *And be it further enacted*, That any three of the said trustees may constitute a quorum for the transaction of business; and that on the death, refusal to act or removal out of the State of any of the trustees, the remaining trustees, or a quorum of them, shall have power to fill the vacancy thereby occasioned.

Sec. 3. *Be it further enacted*, That the provisions of this act shall cease to have effect from and after thirty years, from and after the passage of this act.

[Ratified 29th day of January, 1819.]

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#### CHAPTER CXIV.

AN ACT to incorporate the Trustees of the Chowan Female Institute, at Murfreesboro', in the county of Hertford.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That G. C. Moore, H. J. Perry, J. W. Barnes, J. L. Fennell, W. Stallings, W. Reddick, J. Carber, W. P. Forbes, J. B. Morgan, J. Halsey, E. P. Milson and W. J. Beasley, and their successors in office, be, and the same are hereby constituted a body politic and corporate, to be known and distinguished by the name and style of the trustees of the Chowan Female Institute; and by that name shall have succession and a common seal; and shall be able and capable in law of holding lands and tenements and chattels, sufficient for the purposes of the institute; and of suing and being sued, pleading and being impleaded.

Sec. 2. *Be it further enacted*, That the said corporation shall have power to make all rules, regulations and by-laws

that shall be necessary and proper for the good government of said Institution, and the management of the property and finances of the same; and also to fill all vacancies amongst the trustees, from time to time, occasioned by death, resignation or other causes; and also to appoint such officers as they may think proper.

Sec. 3. *Be it further enacted*, That a majority of the trustees shall have power at any time hereafter to increase the number of trustees of the Institute, should its success require it.

Sec. 4. *Be it further enacted*, That five of the trustees shall constitute a quorum for the transaction of any business connected with the Institute.

[Ratified 29th day of January, 1849.]

#### CHAPTER CXV.

AN ACT to revive and amend an act entitled "An Act to amend an act, passed at Raleigh in the year 1805, entitled "An Act to establish an Academy in the county of Buncombe." "

Sec. 1. *Be 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 acts be, and they are hereby revived and declared in force; and for the purpose of more fully carrying into effect the objects of said acts, and at the request of Thomas Foster, the surviving trustee of Newton Academy, Charles Moore, James M. Smith, Henry Stephens, Joshua Roberts, William Coleman, J. F. E. Hardy, James W. Patton and Montrille Patton, be, and they are hereby appointed trustees of said academy, together with the said Thomas Foster; and the said trustees are hereby declared a body politic and corporate in the name of the Trus-

tees of the Newton Academy; and in that name shall have all necessary corporate powers to carry out the original object of the acts hereby amended; may sue and be sued, and may acquire and transfer property, real or personal, not exceeding in value three thousand dollars.

Sec. 2. *Be it further enacted*, That the said trustees or the survivors of them, shall, at all times, have power to fill vacancies in their board, and shall have and hold, any and all property, real and personal, heretofore conveyed to their predecessors: and hereafter there shall be nine trustees, and no more.

[Ratified 29th day of January, 1849.]

## CHAPTER CXVI.

AN ACT to amend an act, passed 24th December, 1844, entitled "An Act to incorporate the Trustees of the Milton Female Institute, in the county of Caswell."

Sec. 1. *Be 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 on the 24th December, 1844, entitled "An Act to incorporate the trustees of the Milton Female Institute in the county of Caswell," be so amended as to authorize and empower the said board of trustees, or a quorum of them, to establish a male classical institute, to be known and designated by such name as they may adopt, the said institute to be located in the county of Caswell.

[Ratified 29th day of January, 1849.]

## CHAPTER CXVII.

AN ACT to incorporate Midway Male and Female Academy, in the county of Pitt.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Churchill Perkins, Henry J. Toole, William Grimes, Godfrey Langley, Benjamin Daniel, Valentine S. Jordan and David Langley, be, and they are hereby constituted a body politic, by the name and style of the trustees of Midway Male and Female Academy; and by that name, may sue and be sued, plead and be impleaded; shall have succession and a common seal; may acquire by purchase, gift or otherwise, to them and to their successors, estate real and personal, for the use of the said academy; and establish such laws and regulations, for the government of said Institution, as may be necessary for the preservation of order and good morals, not inconsistent with the constitution and laws of this State or of the United States; and enjoy all other privileges and immunities incident to bodies corporate of like nature.

Sec. 2. *Be it further enacted,* That the said trustees and their successors, or a majority of them, shall have power to supply all vacancies which may occur in their body from death, resignation, removal out of the County or otherwise, and transact any other business relating to said Institution.

[Ratified 29th day of January, 1849.]

## CHAPTER CXVIII.

AN ACT to incorporate "Johnston Academy," in the county of Johnston.

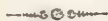
Sec. 1. *Be it enacted by the General Assembly of the State*

of North Carolina, and it is hereby enacted by the authority of the same, That J. T. Leach, John McClare, James Tomlinson, A. J. Leach, and William Turner, be, and they are hereby constituted a body politic, by the name and style of the "Trustees of Johnston Academy;" and by that name may sue and be sued, plead and be impleaded; shall have a perpetual succession and a common seal; may acquire, by purchase, gift or otherwise, to them and their successors, estate real and personal, for the use of said academy: and enjoy all other powers, privileges and immunities incident to bodies corporate of a like nature.

Sec. 2. *Be it further enacted*, That in case of any vacancy, by death, resignation or removal from the county, the remaining trustees shall have power to fill such vacancy thereby occasioned.

[Ratified 29th day of January, 1849.]

## COLLEGES.



### CHAPTER CXIX.

AN ACT to incorporate a Female College, in the county of Anson.

Sec. 1. *Be 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. Smith, Joel Tyson, Sr., David C. Lilly, Stephen W. Cole, William Watkins, William Little, Christopher Watkins, James Clark, David Carpenter, John Winfield, John S. Kindall, Samuel W. Burns, Thomas Kin-

dall, Joseph White, John B. Cottrell, James Dumas, Henry Deberry, Hezekiah Hough, Benjamin Dunlap, Joseph Dunlap, Benjamin F. Ingram, Jeremiah Ingram, Eber Ingram, William P. Jennings and Alexander B. Smith, and all others who are or may hereafter become stockholders, be, and they are hereby constituted a body politic and corporate, to be known and distinguished by the name of the "Carolina Female College," and by that name shall have perpetual succession and a common seal; and shall be invested with power and authority, and be 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 estate; and shall have all other privileges and powers, to which corporations of the kind are entitled.

*Sec. 2. Be it further enacted,* That said college shall be under the management of a President and board of trustees; and that said board of trustees shall be constituted of all the stockholders or their assigns.

*Sec. 3. Be it further enacted,* That a majority of the stock shall constitute a quorum for the transaction of business, each share being entitled to one vote; and that the stockholders, their successors and assigns shall have power and authority to appoint all such officers as to them shall seem necessary, and to make all such by-laws, rules and regulations for the government of said college, for the preservation of good order, and for the sale and transfer of the stock, as to them may seem expedient and necessary, not inconsistent with the constitution and laws of this State and of the United States.

*Sec. 4. Be it further enacted,* That the stockholders a majority of the stock being represented, shall elect a President, who shall hold his office for such time as shall be previously provided by the by-laws of the corporation.

*Sec. 5. Be it further enacted,* That the capital stock of said college shall not exceed twenty thousand dollars, in shares of one hundred dollars each; and that the land on which said

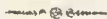
college shall be erected, not exceeding fifty acres in quantity, and the improvements thereon, shall be exempt from taxation.

Sec. 6. *Be it further enacted*, That the President and the faculty, with a majority in stock of the trustees, shall have power to confer degrees or testimonials of merit on such as by their literary acquirements may deserve the honors of their institution.

Sec. 7. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

## AGRICULTURE.



### CHAPTER CXX.

**AN ACT** to incorporate the Mecklenburg Agricultural Society.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Andrew Springs, Lewis Dinkins, Robert J. Alexander, Benjamin Morrow, Joseph W. Ross, William Reid, Thomas J. Gier, John Walker, David A. Caldwell and A. B. Davidson, and all other persons who have or may associate themselves with them, and their successors, be, and they are hereby declared to be a body corporate and politic in deed and in law, under the name and style of "The Mecklenburg Agricultural Society;" and by that name shall have perpetual succession and a common seal; may sue and be sued, plead and be impleaded, answer and be answered, in any court of law or equity in this State; and shall have and possess full power to make all ordinances, by-laws, and regulations, not being contrary to the Consti-

tution and laws of this State or of the United States, which they, or a majority of them, may from time to time deem proper and necessary for perpetuating, well ordering and governing the affairs of the said society, and for carrying into full and complete effect the designs of the said Institution.

Sec. 2. *And be it further enacted,* That the said society to promote and encourage agriculture and economy in husbandry, the objects of the institution of said society, shall have right and power to ordain and grant premiums and medals or other gratuities, as rewards of merit, exertion, discovery or improvement in the objects aforesaid, as they shall from time to time judge proper.

Sec. 3. *And be it further enacted,* That the Mecklenburg Agricultural Society shall, by that name, be able and capable in law to have, take, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of what kind, nature or quality soever; and the same to sell, grant demise, alien or dispose of, as to the said Society may seem most beneficial to the well being of the same; and generally shall have power to act and transact all matters and things which bodies corporate and politic may lawfully do.

Sec. 4. *And be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th January, 1849.]

## ARREARS OF TAXES.

### CHAPTER CXXI.

AN ACT to authorize Francis J. Prentiss, late Sheriff of Craven county, and George D. Bogle, late sheriff of Anson, to collect arrears of taxes due them.

Sec. 1. *Be it enacted by the General Assembly of the State*

of North Carolina, and it is hereby enacted by the authority of the same, That Francis J. Prentiss, late sheriff of the county of Craven, and George D. Dagle, late sheriff of Anson county, be, and they are hereby authorized and empowered to collect arrears of taxes due them for the years 1844-'5 and '6, which collections shall be made under the same rules, regulations and restrictions, as the collection of taxes under laws of the State: *Provided*, that the authority by this act granted shall not extend to persons who have removed from the county, nor to executors or administrators, nor to any person who will voluntarily swear before any Justice of the peace of said county, that he or she verily believes that the arrears of taxes claimed from him or her have been paid.

Sec. 2. *Be it further enacted*, That the power and authority hereby granted shall cease and determine [with?] the year 1849.

Sec. 3. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## CHAPTER CXXII.

AN ACT to authorize Elijah S. Moore, late sheriff of Caldwell county, to collect arrears of taxes due him.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Elijah S. Moore, late sheriff of Caldwell county, be, and he is hereby authorized and empowered to collect the arrears of taxes due him for the years 1841 up to 1846 inclusive, which collection shall be made under the same rules, regulations and restrictions as the collection of taxes by the laws of this State: *Provided*, that the author-

ity by this act granted shall not extend to persons who have removed from the county, nor to executors or administrators, nor to any person who will voluntarily swear before any justice of the peace of said county that he or she verily believes the arrears claimed from him or her have been paid.

Sec 2 *Be it further enacted*, That the powers hereby granted shall cease and determine with the year 1849.

[Ratified 27th day of January, 1849.]

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### CHAPTER CXXIII.

AN ACT to authorize Abner Carmichael, late sheriff of Wilkes county, and others, to collect arrears of taxes due them.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Abner Carmichael, late sheriff of Wilkes county, he, and he is hereby authorized to collect the arrears of taxes due him for the years 1839, 1840, '41, '42, '43, '44, '45, '46 and '47, which collection shall be made under the same rules, regulations and restrictions, as the collection of taxes are by the public laws of the State: *Provided*, that the authority hereby given shall not extend to persons who have removed from the county, nor to executors or administrators, nor to any who will voluntarily swear before any justice of the peace of said county that he or she verily believes the arrears claimed from him or her have been paid: *Provided further*, that the provisions of this act shall extend to Henry G. Hampton, sheriff of Surry county; Isaac White, late sheriff of Randolph; and A. H. Shuford, late sheriff of Catawba county; George J. Ward, former sher-

iff of Onslow county; Willie Pope, late sheriff of Wake; and the executors James Edwards, late sheriff of Wake.

Sec. 2. *Be it further enacted*, That the powers hereby granted shall cease and determine with the year 1851.

[Ratified 29th day of January, 1849.]

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## BRIDGES.



### CHAPTER CXXIV.

AN ACT to authorize Alexander H. Erwin to establish a Toll Bridge over the Catawba River, in the County of Burke.

Sec. 1. *Be 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 Hamilton Erwin, of the county of Burke, in the State of North Carolina, his heirs and assigns, be, and they are hereby authorized and empowered to erect and keep up a Toll Bridge across the Catawba river, at or near the Rocky Ford, on said river, in the county of Burke; and to ask, demand and receive the following tolls, to wit: for every pleasure carriage, fifty cents; for every two horse buggy, forty cents; for every one horse buggy, thirty cents; for every five or six horse wagon, seventy five cents; for every four horse wagon, fifty cents; for every two horse wagon, forty cents; for every one horse wagon, twenty five cents; for every cart, twenty cents; for man and horse, ten cents; for every person on foot, five cents; for every loose horse and mule, five cents; for eve-

ry cow, hog or sheep, three cents; and for every animal on foot intended for exhibition, twenty five cents.

*Sec. 2. Be it further enacted,* That every person who shall cross said bridge, and refuse to pay the toll prescribed in this act, shall forfeit and pay the sum of five dollars, to be recovered before any justice of the peace, by the owner of said bridge.

*Sec. 3. Be it further enacted,* That from and after said bridge shall be opened as a toll bridge, it shall be deemed and held to be a public highway; and the owner or owners thereof, shall on failure to keep the same in good and sufficient repair, so that the public can cross on it with convenience and safety, be subject to indictment in the same manner that overseers of public highways now are.

*Sec. 4. Be it further enacted,* That the county court of Burke county, upon the petition of the said A. H. Erwin, shall appoint three disinterested freeholders, to view the banks on both sides of the said river, where the said bridge is to be located, and lay off to the use of said petitioner one half acre of land on either bank, and to assess the value of said land so laid off, and make a report of the same to the county court next succeeding; and upon said petitioner paying to the owners the value of said land so assessed, together with all cost incurred by reason of his said petition, then the said court shall confirm the report of said commissioners, and condemn the aforesaid one half acre of land on either bank of said river to the use of said petitioner: *Provided however,* that nothing herein contained shall prevent the owner or owners of said land from taking an appeal from said judgment as in other cases of appeal.

*Sec. 5. And be it further enacted,* That this act shall be in force from and after the passage thereof.

[Ratified 27th day of January, 1849]

## CHAPTER CXXV.

## AN ACT to establish a Toll Bridge on French Broad River.

Sec. 1 *Be 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 and his heirs, devisees or assigns, be authorized to keep the bridge heretofore built by himself, on the French Broad River, in Buncombe county, on the State road leading to Waynesville, and that he or they shall be authorized and empowered to collect the toll now allowed him by the county court on persons and property passing said bridge, viz: for a five or six horse wagon loaded, sixty two and a half cents; on the same without load, fifty cents; four horse wagon with load, fifty cents; the same without load, thirty-seven and a half cents; for two horse wagons loaded, thirty seven and a half cents; on the same without load, twenty-five cents; for four wheel carriages of pleasure, fifty cents; for sleds and truckles, twelve and a half cents; for man and horse, six and a quarter cents; for loose horses and mules, three cents each; for footmen, three cents each; for cattle, two cents; and hogs and sheep, two cents each.

Sec. 2. *Be it further enacted,* That this charter shall be and continue in force for thirty years.

Sec. 3. *Be it further enacted,* That the said James M. Smith, his heirs, devisees or assigns, shall be subject to indictment in the Superior court of said county for any failure to keep said bridge in repair, and to punishment as overseers of public roads, and shall be further liable to the person or persons injured by any insufficiency in said bridge.

[Ratified 27th day of January, 1849.]

## CHAPTER CXXVI.

AN ACT to appoint commissioners for the new bridge on French Broad River, in Buncombe County.

WHEREAS, suits were pending in law and in equity between James M. Smith, the owner of a toll bridge on French Broad River, and Thomas Hawkins and other citizens of Buncombe county, touching their right to build and keep a new and free bridge on said river, near his toll bridge, and the suits have been compromised by the parties, and the terms approved and confirmed by the courts; and by the said compromise it is agreed that the new bridge may be completed and kept as a toll bridge, with the same rates of toll as on the other, with certain restrictions and exceptions hereinafter specified. Now, for the purpose of carrying out said agreement,

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Dr. James F. E. Hardy, Col. James Lowry, James W. Patton, Charles Moore and John Burgin, are hereby appointed commissioners of the new bridge on French Broad River, near the mouth of Hemmony creek, and are hereby constituted a body politic and corporate, in the name of the Commissioners of the New Bridge; and in such name shall have succession for thirty years; and may sue and be sued, and exercise all other powers necessary for carrying out the objects of this act.

Sec. 2. *Be it further enacted,* That said commissioners shall have the sole and exclusive control and management of the said new bridge for thirty years, and may have the same finished and kept up so long as they keep a gate on it and collect the tolls hereinafter provided for, and no longer: *Provided,* that this charter shall not extend longer than thirty years.

Sec. 3. *Be it further enacted,* That the said commissioners shall be authorized to collect from persons and property crossing said bridge the following tolls, viz: on wagons drawn

by five or six horses, sixty-two and a half cents if loaded ; and on the same without load, fifty cents ; on four horse wagons with load fifty cents, and without load, thirty seven and a half cents ; on two horse wagons with load, thirty-one and a quarter cents, and without load, twenty-five cents ; on one horse wagons, carts, gigs and sulkies, twenty-five cents each ; on four wheeled carriages of pleasure, fifty cents ; on sleds and truckles, twelve and a half cents each ; for man and horse, six and a quarter cents ; on loose horses and mules, three cents each ; on cattle, two cents ; and on sheep and hogs, one cent each : *Provided*, that no citizen of Buncombe county shall be liable to pay said tolls, nor any one who subscribed towards the building of said new bridge, and has paid or shall hereafter pay the amount subscribed.

Sec. 4. *Be it further enacted*, That said commissioners shall use so much of the money collected at said gate as is necessary to repair and keep up the bridge and pay for the collecting, and retain for their own services a reasonable compensation for their attention, to be judged of by the county court of said county, and the surplus of the profits of said bridge to be applied to the building and repair of other public bridges in said county ; and they shall make report to the county court of said county once in each year.

Sec. 5. *Be it further enacted*, That said commissioners may appoint a President and such other officers as they find necessary or convenient in managing the business of the corporation, and a majority of them shall have power to fill any vacancy or vacancies that may happen in their body ; and the successors so appointed shall have the same powers as the commissioner had whose place he fills.

[Ratified 29th day of January, 1849.]

## CHAPTER CXXVII.

AN ACT to amend an act entitled "An Act to authorize A. R. S. Hunter, of Macon county, to erect a bridge across the Hiwassee river," passed at the session of 1834, also to amend the acts of 1833 and 1840, amendatory of said act of 1834.

Sec. 1. *Be 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 M. Hitchcock, the purchaser at sheriff's sale of the interest of A. R. S. Hunter, deceased, shall be entitled to all the immunities and privileges granted under the acts of 1834 and 1833 and '40; and that the bridge now built by the said Hitchcock, at or near said point, on the Hiwassee river, shall be, and the same is hereby declared to be in accordance with the said statute.

Sec. 2. *Be it further enacted,* That the franchise in said bridge, built by the said Charles M. Hitchcock, shall enure to him and his heirs for the term of thirty years from the passage of this act.

Sec. 3. *Be it further enacted,* That all laws and clauses of laws, coming in conflict with this act, be, and the same are hereby repealed; and that this act shall be in force from and after its ratification.

[Ratified the 27th day of January, 1849.]

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## CHAPTER CXXVIII.

AN ACT to extend the time for the duration of the charter for erecting a bridge across Pasquotank river.

Sec. 1. *Be 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 time allowed in an act, entitled "An Act to alter and enlarge an act, entitled 'An Act to encourage Enoch Sawyer to make a road through Pasquotank River Swamp, opposite his plantation,'" be, and is hereby extended fifty years, from the expiration of the time mentioned in the act herein referred to; and that all the privileges and immunities therein granted to Enoch Sawyer, are hereby granted to Samuel D. Lamb, his heirs and assigns claiming under said Enoch Sawyer.

Sec. 2. *And be it further enacted*, That the said Samuel D. Lamb shall keep said bridge and road in good and sufficient repair, shall keep strong and durable railing on said bridge, and draw of said bridges, and shall raise said road through Pasquotank River Swamp of sufficient height to be permanently above the overflow of the river, except during storm tides, under the penalty of fifty dollars for each and every neglect, to be recovered by action of debt in either Pasquotank or Camden county, one half to the use of the informer, the other half to the support of the poor in the county in which the information and recovery may be made.

Sec. 3. *And be it further enacted*, That the said Samuel D. Lamb, his heirs and assigns, may receive tolls for passing said bridge and road not beyond the following rates, viz: for a wagon and two horses, 37½ cents; for a close carriage and two horses, 50 cents; buggy with two persons, 25 cents; gig and one horse, 25 cents; man and horse, 12½ cents; buggy with three or more persons, 31½ cents; horse and cart, 12½ cents; persons walking going and returning, 6½ cents; cattle driven, 3 cents.

Sec 4. *Be it further enacted*, That whenever said bridge is removed by wind, tides or the contact of vessels, said Lamb, his heirs and assigns shall have permission to employ boats for the transportation of passengers until said bridge can be restored, provided it is restored within four days from the time the bridge was removed.

[Ratified 29th day of January, 1849.]

## CHAPTER CXXIX.

AN ACT to authorize Cornelius Shields to build a bridge across Bear Creek, in the county of Moore.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Cornelius Shields, or he and such other persons as he may see fit to associate with him, are hereby authorized to build and construct a bridge over and across Bear Creek, at Mechanics Hill in the County of Moore, near the ford where the public road now crosses said creek: *Provided however,* That such bridge shall not stop the said ford or in any way prevent persons from crossing the same as they now do.

Sec. 2. *Be it enacted,* That it shall be lawful for the said Cornelius Shields or for him and his associates and assigns to charge and receive tolls for crossing said bridge at the following rates: for a wagon with four wheels drawn by five or more horses, mules or oxen, fifty cents; wagon with four wheels drawn by three mules or oxen, forty cents; wagon with four wheels drawn by three horses, mules or oxen, thirty five cents; wagon with four wheels drawn by two horses, mules or oxen, thirty cents; wagon with four wheels, or cart drawn by one horse, mule or ox, twenty cents; all four wheeled pleasure carriages drawn by two horses or mules, fifty cents; all buggies and other pleasure carriages, with four wheels and drawn by one horse, thirty seven and a half cents; all sulkies, gigs and other carriages for pleasure with two wheels, drawn by one horse, twenty five cents; horse and man, ten cents; and all cattle and horses per head, three cents: *Provided,* the provisions of this act shall not extend to the horses and cattle of the neighborhood running at large for pasture; *and provided further,* that it shall not be lawful to take toll from persons crossing said bridge on foot.

Sec. 3. *Be it further enacted,* That when the said bridge shall be built, the proprietor or proprietors thereof, or their

assigns. for the time being, shall keep the said bridge in good and sufficient repair, under the same rules, regulations, restrictions and penalties prescribed by the laws of the State for keeping other public bridges.

Sec. 4. *Be it further enacted*, That the bridge hereby authorized to be built shall be completed, for the passage of carriages within two years from the passage of this act, or the privileges hereby granted shall cease and determine.

Sec. 5. *Be it further enacted*, That this act shall be in force from and after its passage.

[Ratified 27th day of January, 1849.]

#### CHAPTER CXXX.

AN ACT to authorize the erection of a Toll Bridge over Catawba River, between the counties of Caldwell and Catawba, and to incorporate a company for that purpose.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Robert C. Miller, James C. Anderson and Larkin G. Jones, of the county of Caldwell; Jonas Bost, Eli R. Simford, and Henry Cline, of the county of Catawba; James T. Alexander, C. C. Henderson and Peter Lumley, of the County of Lincoln; and Jacob Plunk, James Quin and Caleb Rhodes, of the County of Gaston, be, and they are hereby appointed commissioners for receiving subscriptions to an amount not less than five thousand dollars, for the purpose of building a bridge over the Catawba River at some eligible spot between Newton and Lenoir; and the said commissioners, or a majority of them, in their said respective counties, shall prepare books and open the same for

subscriptions at the towns of Lenoir, Newton, Lincolnton and Dallas, respectively, on the second day of April next; and the said commissioners shall keep open said books until the second day of July next, unless the capital stock shall be earlier subscribed; at which time the said commissioners shall compare their said books at Newton; and if, upon such comparison, it shall appear that said capital stock shall have been fully subscribed, then the said subscribers shall be, and are hereby incorporated into a company by and under the name and style of "The Catawba Toll Bridge Company;" and as such may sue and be sued, plead and be impleaded; and have perpetual succession and a common seal; and take, have and hold all necessary real and personal estate, to the accomplishment of the purposes designed in this act: and that the said commissioners, if the full amount of capital shall be subscribed, shall, on the said first day of July next, appoint a time and place, and give public notice for the subscribers to assemble together and organize, by electing a President and four directors, and such other officers as may be necessary to said corporation, and to ordain and pass all necessary by-laws and ordinances for the better regulation and management of said corporation; and if the said commissioners shall ascertain at their said meeting, that the capital stock shall not be all subscribed, then the said commissioners shall again open the said books, and keep them open, for further subscriptions, until the first day of December next, when they shall again meet as aforesaid, and pursue the course hereinbefore prescribed: Every subscriber as aforesaid and every proprietor of stock, by writing under his or her hand, executed before and attested by some Justice of the Peace in his or her county, may depute any other stockholder to represent him or her at the primary and every other general meeting of the stockholders; and the votes and acts of any such proxy shall be as effectual to all intents and purposes, as if such stockholder were present; and if, by the comparison of the said books by the commissioners, it shall appear that the capital stock shall have been subscribed.

then the said subscribers shall be and are hereby incorporated as aforesaid.

Sec. 2. *Be it further enacted,* That the capital sum aforesaid shall be divided into shares of twenty five dollars each, and any person may subscribe for one or more shares, but not for a part of a share; and the shares so subscribed for, shall be paid for at such times and places and by such instalments as the said President and directors from time to time shall prescribe, they first giving public notice thereof for the space of twenty days; and if any person or persons holding one or more shares in said company shall fail to pay for the same in the manner, and at the time prescribed by the President and directors aforesaid, the said President and directors, in the name of the company, before any justice of the peace or other competent jurisdiction, may enforce the collection thereof by legal process; or they may expose to public sale the share or shares which such defaulting stockholder may hold in said company by giving ten days public notice thereof; and if the said share or shares shall not sell for a sum sufficient to pay the instalment or instalments due thereon, the sum deficient may be recovered of the person or persons who own the said stock; and the books of the said company shall be good evidence of such sale and of the purchase of said shares.

Sec. 3. *Be it further enacted,* That the general meetings of the said company shall be held in the town of Newton, on the 1st Monday of May in each and every year, or at such other time and place as the stockholders shall prescribe; and the President and directors shall have full power and authority to acquire by purchase, donation or otherwise, a proper site for said bridge, and to commence work on the same, or to enter into contracts for the whole or any part thereof, whenever the said capital stock shall have been fully subscribed as aforesaid; and to make all needful rules and regulations for the management of the affairs and concerns of said company.

Sec. 4. *Be it further enacted,* That whenever the capital

stock shall be fully paid for, then certificates for the same shall be issued to the several stockholders therefor; and such stock shall be transferred by the holders thereof, in such manner as the President and directors shall prescribe; and such stock shall be held and deemed as personal estate.

Sec. 5. *Be it further enacted*, That the said company shall have power and authority to build and keep up a gate or gates on the said bridge, to be erected as aforesaid, and to ask, demand, take and receive not more than the following tolls, to wit: for every four wheeled pleasure carriage, 75 cents; every two wheeled pleasure carriage, 25 cents; for every wagon, 60 cents; every cart, 25 cents; for man and horse or mule, 10 cents, single horse or mule, 5 cents; foot passenger, 5 cents; head of horned cattle, 3 cents; hogs and sheep, 2 cents each.

Sec. 6. *Be it further enacted*, That unless said company shall commence the building of said bridge, and complete the same within seven years from the passage of this act, the corporate powers hereby granted shall cease and determine. And that the corporation hereby created shall not continue, in any event, longer than ninety years, unless the same shall be extended and continued by an act of the General Assembly.

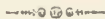
Sec. 7. *Be it further enacted*, That when the said bridge shall be completed, or sooner if deemed expedient, the President and directors of said company, shall, at the expense of said company, cause to be surveyed and laid off, a trading road or public highway, to be twenty-five feet wide, to be clear of obstructions 20 feet in the middle, over the best ground, avoiding as much as possible great and sudden elevations and depressions, and so as to admit of a grade of not more than one foot in a distance of twenty-feet—said road to be surveyed and laid off from Lenoir to said bridge, thence to Newton, thence to Lincolnton, thence to Dallas, thence to some point eligible and convenient to the Charlotte and Columbia Railroad; and that said President and directors shall report to the several county courts of Caldwell, Cataw-

ba, Lincoln and Gaston, how and in what manner said road has been laid off and surveyed, and recommend the adoption of the same; and the said county court may direct the sheriffs of the several counties to summon a disinterested jury of twelve men to view said road in their respective counties, and assess the damages done to the several individuals over whose lands said road may pass, and report the same to their several courts; and upon the adoption of said reports; the said damages shall be paid by the respective counties; and the said county courts shall appoint overseers on said roads, and order the same to be cut out and opened and regularly kept up, as other public roads for the free passage and common use of all the good citizens and others having occasion to use the same.

[Ratified 29th day of January, 1849.]

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## CANALS & ROADS.



### CHAPTER CXXXI.

AN ACT to incorporate the Fair Field Canal Company, in Hyde county.

Sec. 1. *Be 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 Carter, Caleb Spencer, Allen Burross, Thomas Man and S. S. Simmons, and those who may hereafter associate themselves with them, be, and the same are hereby constituted a body politic and corporate, under the name and style of the Fair Field Canal Company;*

and by that name may sue and be sued, plead and be impleaded; shall have succession, and shall have power to acquire and transfer property, and to pass all such by-laws and regulations, for the good government of said company, as are not inconsistent with the Constitution of the State nor of the United States.

Sec. 2. *Be it further enacted*, That the capital stock of said company shall not exceed fifty thousand dollars, in shares of one hundred dollars each, to be issued by the company in certificates, signed by the President of said company.

Sec. 3. *Be it further enacted*, That said company shall have power to construct and complete a canal from Lake Mattamuskeet to Alligator River, for the draining of their lands, and the transportation of produce.

Sec. 4. *Be it further enacted*, That the corporate existence of said company shall be fifty years and no longer.

Sec. 5. *Be it further enacted*, That said company shall have power to charge, demand and receive the following tolls for the transportation of produce and other articles through their canal, that is to say, upon every bushel of corn, half cent; upon every bushel wheat, three fourths of a cent; upon every bushel of rough rice, half a cent; upon every bushel of cleaned, one cent; sweet potatoes, one quarter of a cent; for every bale of cotton weighing two hundred pounds or more, five cents; for every hundred weight of flax, five cents; for every thousand feet of sawed plank or scantling, ten cents; on all barrells of fish or pork or sugar or molasses, five cents; on every box of dry goods, five cents; half cent per bushel on salt; and three cents per cwt. on iron; two cents per bag on coffee; ten cents on every hogshead of sugar or molasses; half cent per bushel on cleaned peas; and one cent per bushel on dry beans; ten cents per thousand for brick; five cents per thousand for shingles; on four wheel buggies, five cents; on close carriages, fifty cents; and on all other articles in the same proportion.

Sec. 6. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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## CHAPTER CXXXII.

AN ACT to authorize William B. Abbott to cut a canal and make a road thereon.

WHEREAS, it has been represented to this General Assembly that a road from the head of Little River, in Perquimans county, through the desert in the county of Pasquotank, to or near Pasquotank river bridge, would render a great convenience to travellers and inhabitants of Chowan, Perquimans, Gates, Pasquotank and Camden counties, and William R. Abbott, of Camden county, having made application to make said road :

Sec. 1. *Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That it shall be lawful for the county court of Perquimans and Pasquotank, and the said courts are hereby required, (upon application) each to appoint a jury of twelve men, who shall be possessed of a freehold in the county appointing the same; and it shall be lawful for the said jurors (when appointed) to go on the premises and lay off said road in such direction as to them shall appear most expedient, which jurors are also required to adjudge the damages, if any to them shall appear, that will be sustained by the owner or owners of any tract or tracts of land, in consequence of said road and canal passing through the same, and make return thereof, each jury to the court by which said jury was appointed; and it shall be the duty of the person or persons making said road to pay such damages before the said road shall pass through such tract or

tracts of land, but shall not be liable until the said canal shall enter the premises.

Sec. 2. *Be it further enacted*, That the said Wm, R. Abbott shall have full power and authority to enter upon the premises, after the said road shall be laid off as aforesaid, with full privilege to cut a canal, not exceeding twelve feet in width, to empty into the waters of Little River and Pasquotank, for the purpose of draining said road; and that he shall also have authority to open the way for said road on the canal not to exceed forty feet in width, with privilegē to cut timber most convenient for the making and repairing said road.

Sec. 3. *Be it further enacted*, That it shall be lawful for the said William R. Abbott to erect a turnpike gate or gates across said road; to ask, demand and receive from all persons passing the same, the following toll, to wit: for all carriages of pleasure, seventeen and a half cents for each wheel; for each horse in draught, fifteen cents; for each horse and rider, twenty-five cents; for each horse, mule or jack, drove, twelve and a half cents; for each head of cattle, drove, ten cents; for each head of sheep and swine, three cents; and for each wagon and cart of burden, for each wheel, fifteen cents; and for each horse or yoke of cattle in draught of the same, ten cents; and for each foot passenger, six and a quarter cents.

Sec. 4. *And be it further enacted, by the authority aforesaid*, That the sole right, use and benefit of the said road and canal shall be, and the same is hereby declared to be vested in the said William R. Abbott and his successors, for and during the time of ninety-nine years from and after the passage of this act. *Provided*, nothing herein contained shall be so construed as to prohibit persons through whose land said road and canal may pass from draining their lands into said canal, if no injury is thereby done to said road.

Sec. 5. *Be it further enacted*, That an act passed in the year one thousand, eight hundred and thirteen, and chapter thirty-one, authorizing Aaron Albertson, deceased, to cut a

canal and make said road, be repealed, and the same is hereby declared to be null and void: *Provided*, that if the said road shall not be completed agreeably to this act within ten years from the passage thereof, the lands condemned to the use aforesaid, shall revert to the original proprietors, their heirs and assigns, upon their repaying to the said William R. Abbott, his heirs and assigns, the sum paid at the time the lands were condemned.

[Ratified 27th day of January, 1849]

### CHAPTER CXXXIII.

**AN ACT** to revive and amend an act, entitled "An Act to incorporate the Orapeak Canal and Turnpike Company," passed by the General Assembly, at its session of 1846-47:

*Sec. 1. Be 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 by the General Assembly, at its session of 1846-'47, to incorporate the Orapeak Canal and Turnpike Company, be, and the same is hereby revived to the persons therein named and such other persons as may hereafter become stock-holders in said company, with all the rights and privileges heretofore granted in said act of incorporation.

*Sec. 2. Be it further enacted,* That the first section of said act of incorporation be, and the same is hereby so amended, as to extend the time in which the commissioners and managers therein named are permitted to receive subscriptions of stock from the first day of June, 1848, as therein specified, to the first day of June, A. D. 1851; and at any time before the first day of June, 1851, the commissioners and man-

agers therein named shall have full power to receive subscriptions of stock to said company, in the manner therein specified, and to call the stockholders together for the purpose of forming said company, in the mode prescribed in said act of incorporation; and when formed, the company aforesaid shall have and enjoy all the privileges heretofore granted in their said act of incorporation.

Sec. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## CONSTABLES.



### CHAPTER CXXXIV.

AN ACT to repeal an act entitled "An Act to alter the mode of electing constables in the county of Wilkes."

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That chapter 134 of the statute of 1846 and 1847, entitled "An Act to alter the mode of electing constables in the county of Wilkes," be, and the same is hereby repealed.

Sec. 2. *Be it further enacted*, That elections for constables in the county of Wilkes shall be held at the same times and places, and in the same manner that they were held previous to the passage of the law of 1846-7, altering the mode of electing constables in said county.

[Ratified 29th day of January, 1849.]

## COURTS.



## CHAPTER CXXXV.

AN ACT to further justice in the county court of New Hanover.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That if the justices, whose duty it may be to hold the court of pleas and quarter sessions for the county of New Hanover, find that it is impossible to determine the business before them during the six days of the week in which the said court is regularly held, then they may adjourn over to the following Monday after the ensuing week, and adjourn from day to day during that week, until the business of the court may be determined; and if, at the expiration of the second week, the causes and matters depending before the court are not finally determined, all such causes and matters shall be continued over until the next succeeding term.

Sec. 2. *Be it further enacted,* That the sitting court may in their discretion, after the expiration of the first week, dismiss the regular jury, and have talesmen summoned for the transaction of business during the second week of the term: *Provided,* that the talesmen so summoned shall be entitled to the same pay and emolument that the regular jury are by law now entitled to.

[Ratified 29th day of January, 1849.]

## CHAPTER CXXXVI.

AN ACT to alter the time of holding the non-jury terms of the courts of pleas and quarter sessions for the counties of Lincoln and Catawba.

Sec. 1. *Be 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 non-jury terms of the courts of pleas and quarter sessions for the counties of Lincoln and Catawba shall be commenced and held, in each and every year, on the same Mondays that the Superior courts of law and equity are held for said counties, respectively, under the same rules and regulations as are now prescribed by law for holding said courts.

Sec. 2. *Be it further enacted,* That all writs and other process which have been, or may be issued by the clerks of said courts, before the passage of this act, from the last terms of said courts, shall be returned by the sheriffs or coroners of said counties on the Mondays of the next Superior courts of law and equity for said counties, respectively; and all writs and other process issued by the clerks of said county courts, after the ratification of this act, shall be made returnable on the Monday of the next Superior courts of law and equity for said counties, respectively, under the same rules, regulations and penalties as are now prescribed by law. And all process issuing from said county courts, after the next Superior courts of law and equity for said counties, shall be made returnable in conformity with this act.

Sec. 3. *Be it further enacted,* That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed; and that this act shall be in force from and after the passage thereof.

[Ratified 16th day of January, 1849.]

## CHAPTER CXXXVII.

AN ACT granting original and exclusive jurisdiction of all cases where the intervention of a jury may be necessary, to the Superior courts of law for Burke county.

Sec. 1. *Be 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 March next, it shall not be lawful for the justices of the court of pleas and quarter sessions for Burke county to try any causes where a jury may be necessary, nor shall they summon any jury to attend said courts.

Sec. 2. *Be it further enacted,* That it shall be the duty of the clerk of the court of pleas and quarter sessions of Burke county to make out a transcript of all suits, which may be pending in said court by the last day of March next, and deliver the same to the Superior court clerk of said county, together with all such papers as may relate to the said suits, on or before the 1st day of July, 1849.

Sec. 3. *Be it further enacted,* That it shall be the duty of the Superior court clerk of said county to receive such transcript and original papers and immediately enter them on his docket, in regular succession, observing the order of precedence of each suit as indicated by its number, and shall stand in the same order for trial in the Superior court of said county, as they originally stood in the court of pleas and quarter sessions from which they were received: And it is further declared to be the duty of the clerk of said Superior court, upon application of plaintiff or defendant, in any suit which may be transmitted to him, in accordance with the directions of this act, to issue subpoenas for witnesses or other legal process, returnable to the next Superior court of said county, under the same rules, regulations and penalties as now prescribed.

Sec. 4. *Be it further enacted,* That if the clerk of the court of pleas and quarter sessions of said county, or the clerk of the Superior court of said county, shall fail or neglect to per-

form the duties enjoined upon him or them by this act, the clerk so failing shall forfeit and pay the sum of one hundred dollars for each and every offence, to be recovered by action of debt in the name of the State, and to be applied to the use of said county of Burke.

Sec. 5. *Be it further enacted*, That from and after the first day of March next, all suits, except such as are cognizable by a single magistrate, in said county, whether civil or criminal, shall originate in the superior court of said county; and all appeals from the justices of the peace in said county in civil cases, and all recognizances by them taken in criminal cases, shall be returnable to the next Superior court of Burke county.

Sec. 6. *Be it further enacted*, That when any will or paper purporting to be the last will and testament of any person, is brought into the court of pleas and quarter sessions for probate, and the probate of which is contested, the clerk shall immediately enter the same on the docket to be kept by him for that purpose, and shall, within ten days after the expiration of the said term of the court at which the said will or paper purporting to be a will was presented, make out a transcript from his docket, which transcript, with the original will or paper purporting to be a will, shall be delivered by him to the clerk of the Superior court of said county of Burke; and the clerk of the Superior court aforesaid is hereby authorized to receive and enter the same on his docket, and, on application of either plaintiff or defendant, to issue subpoenas for the attendance of witnesses; and the said Superior court shall have full power and authority to hear, settle and determine such case or cases: and it is also declared to be the duty of the clerk of the Superior court of said county, whenever a case may be determined in accordance with the foregoing provisions, to issue a certificate thereof to the clerk of the court of pleas and quarter sessions in which the same originated, with the original will or paper, which shall be recorded by the county court as evidence of the probate or rejection of said will or paper; and also

in all cases of caveat for land, when the intervention of a jury may be necessary, the same proceedings shall be had and observed by the clerk of the county and Superior courts of said county as are prescribed in the 6th section of this act with regard to wills.

Sec. 7. *Be it further enacted*, That the clerk of the court of pleas and quarter sessions for said county is hereby required, at the July term of said county court, 1849, to take up the State docket in regular order, and bind over the parties and witnesses concerned to the next succeeding superior court to be held for said county.

Sec. 8. *Be it further enacted*, That all laws and clauses of laws repugnant to this act, be, and the same are hereby repealed.

Sec. 9. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

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## CHAPTER CXXXVIII.

AN ACT to alter the time of holding two of the terms of the court of pleas and quarter sessions in the counties of Lincoln and Catawba.

Sec. 1. *Be 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 terms of the court of pleas and quarter sessions in the county of Lincoln, which have been heretofore held on the first Monday in June and December, shall hereafter be held on the second Monday in January and July, in each and every year. And that the terms of said court in the county of Catawba, which have been heretofore held on the second

Monday in June and December, shall hereafter be held on the third Monday in January and July, in each and every year.

Sec. 2. *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.

Sec. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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#### CHAPTER CXXXIX.

AN ACT for the better organization of the court of pleas and quarter sessions for the county of Nash.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That hereafter, in the court of pleas and quarter sessions for the county of Nash, the jurisdiction of seven justices of the peace (three of whom shall be members of the special court) shall extend to all cases which now require the action of a majority, or of any other number greater than seven, except in laying taxes.

Sec. 2. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification; and that all laws and clauses of laws which come in conflict with the provisions of this act, be, and the same are hereby repealed.

[Ratified 29th day of January, 1849.]

## FIRE COMPANIES.



## CHAPTER CXL.

AN ACT to incorporate the Charlotte Fire Engine Company.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the present and future officers and members of the Charlotte Fire Engine Company, and their successors, be and they are hereby constituted a body politic and corporate, by the name of the Charlotte Fire Engine Company; and by such name shall have perpetual succession and a common seal, sue and be sued, plead and be impleaded, in any court in this State; they shall have power to appoint their own officers, and do and perform all such acts and things necessary and useful to carry into effect the true intent and design of said company, such as are usually exercised by similar bodies corporate in this State; to make their own by-laws and regulations, and enforce the same under such penalties as they shall deem it expedient to impose, not repugnant to the Constitution and laws of this State; and all such persons who have enrolled, or may hereafter enrol themselves in said company, shall be exempt from military duty, except in cases of insurrection or invasion.

Sec. 2. *Be it further enacted,* That it shall be the duty of the commanding officers of this company to make due return of the number of officers and privates to the commanding officers of the regiment to which they belong, under the same regulations and penalties as are now required and imposed on officers of militia companies.

Sec. 3. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER CXLI.

AN ACT to amend an act, entitled "An Act to incorporate the Atlantic Fire Company, No. 1, in the town of Newbern, passed at the session of 1846-'7.

*Sec. 1. Be 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 the aforesaid fire company, while they continue to act as such, shall be exempt from serving as jurors, either in the county or superior courts.*

*Sec. 2. Be it further enacted, That all laws and clauses of laws, contrary or repugnant to the meaning of this act, be, and the same are hereby repealed.*

*Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its ratification.*

[Ratified 27th January, 1849.]

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## CHAPTER CXLII.

AN ACT to incorporate "The Greensborough Fire Company" in the town of Greensboro'.

*Sec. 1. Be 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 Sloan, James M. Garrett, Francis Garrett, John Denny, Michael Sherwood, David F. Caldwell, William A. Caldwell, and such other persons as they may associate with them, are hereby authorised to form and enrol themselves into a fire engine company, to be styled "The Greensboro' Fire Company;" and by that name may sue and be sued, may plead and be impleaded, have a common seal, and exercise all other powers incident to corporate*

bodies: *Provided*, the number of members shall at no time exceed forty.

Sec. 2. *Be it further enacted*, That the members of said fire company, while they continue to act as firemen in such company, shall be exempt from the performance of military duty, except in the case of insurrection or invasion, and from serving on juries in the county or Superior courts.

Sec. 3. *Be it further enacted*, That it shall be the duty of said fire company to turn out and exercise their engine at least four times per year, unless prevented by unavoidable circumstances, under a penalty of fifty dollars, to be recovered against said company, by any person who may sue for the same, in an action of debt, before any tribunal having jurisdiction of such suit.

Sec. 4. *Be it further enacted*, That a majority of the members of said fire company shall have power and authority to adopt such constitution, and pass such by-laws, rules and regulations for their government, as to them may seem best, not inconsistent with the Constitution and laws of the United States and of this State; and that all fines and penalties which may be collected by said company for any infringement of its laws, shall enure to the use of said company.

Sec. 5. *Be it further enacted*, That the books of said fire company shall be evidence in law, of their constitution, laws, ordinances, regulations and proceedings.

Sec. 6. *Be it further enacted*, That all laws and clauses of laws, which may come within the meaning and purview of this act, be, and the same are hereby repealed; and this act shall be in force from and after its ratification.

[Ratified the 29th day of January, 1849.]

## FISH.



## CHAPTER CXLIII.

AN ACT to amend an act of the General Assembly of North Carolina, passed at its session of 1846 and '7, entitled "An Act to amend an act, passed in 1827, entitled 'An Act to prevent the obstruction of fish passing up the Roanoke and Cashie Rivers and their waters.'"

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of the act, passed at the session of the General Assembly in 1846 and '7, as relates to Roanoke river, be and the same is hereby repealed.

Sec. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## CHAPTER CXLIV.

AN ACT to prevent fishing near the mouth of Raymond's Creek, in the county of Camden.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same* That it shall not be lawful for any person or persons to fish with seine, set net or dip net within 400 yards of the mouth of Raymond's creek, in the county of Camden, either inside of said creek or in the sound opposite the mouth of

said creek, between the fifteenth day of March and the fifteenth day of May then next succeeding, in each year; and if any person or persons shall so fish within four hundred (400) yards of the mouth of said creek, within the time before described, and contrary to the meaning and intent of this act, every such person or persons shall forfeit and pay for each and every such offence, so unlawfully committed, the sum of ten dollars, to be recovered before any justice of the peace, and applied one half to the informer and one half to the poor of the county.

Sec. 2. *Be it further enacted,* That if any slave shall fish with seine, set net, or dip net within four hundred yards of the mouth of said creek, between the fifteenth day of March and the fifteenth day of May, in any year, the owner or owners of such slave shall be liable to pay the sum of ten dollars, for each and every offence, so unlawfully committed, to be recovered and applied as in the preceding section of this act.

Sec. 3. *Be it further enacted,* That all laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed; and that this act be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## CHAPTER CXLV.

AN ACT to prevent obstructions to the passage of fish up the waters of Swift creek, in the county of Edgecomb.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the passage of this act, it shall not be lawful for any person to obstruct or cause to

be obstructed by any means whatever, the creek called Swift creek, in the county of Edgcomb, from the mouth thereof to Williams's mill,° so as to prevent the passage of fish up the said creek, under the penalty of fifty dollars, to be recovered by warrant before any justice of the peace of said county; one half to the use of the informer, and the other half to the use of the wardens of the poor of said county: *Provided*, that nothing herein contained shall be construed to prevent any person or persons from working and hauling their seines in said creek, as heretofore, or fishing in the same with skim nets as heretofore.

[Ratified 29th day of January, 1849 ]

#### CHAPTER CXLVI.

**AN ACT** to amend and consolidate the several acts now in force, relating to fishing with seines and nets in Tar and Pamlico Rivers.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall not be lawful for any person or persons to work any seine in Tar river from the fifteenth day of February and until the twenty fifth day of April, between *sun rise* on Saturday morning, and *sun rise* on Monday morning.

Sec. 2. That it shall not be lawful for any person or persons to work any seine or drag net or to set any hedge in Pamlico river, from the fifteenth of February until the twenty fifth of April, between *sun set* on Friday evening, and *sun rise* on Monday morning.

Sec. 3. That any person or persons who shall offend against any of the provisions of this act by working a seine, shall forfeit and pay for each and every offence, the sum of fifty

dollars, and for working any drag net or hedge, contrary to the provisions of this act, he or they so offending, shall forfeit and pay the sum of five dollars for each and every offence; the above forfeitures to be recovered before any competent jurisdiction, and applied to the sole use of the person who will prosecute for the same.

Sec. 4. If any slave shall offend against the provisions of this act, he or they so offending shall, upon conviction before any justice of the peace, be whipped, on his or their backs, not exceeding thirty nine lashes.

Sec. 5. *Be it further enacted*, That any person or persons who shall offend against any of the provisions of this act, shall be subject to indictment in the county or superior court, and, upon conviction, shall be fined by said court not exceeding fifty dollars, or imprisoned not exceeding twenty days, at the discretion of the court.

Sec. 6. *Be it further enacted*, That all laws and clauses of laws coming in conflict with the provisions of this act, be, and the same are hereby repealed.

[Ratified 27th day of January, 1849.]

## LAND COMPANY.



## CHAPTER CXLVII.

AN ACT to incorporate the South Creek Swamp Land Company.

Sec. 1. *Be 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 B. Rodman, Joshua Tayloe, Josiah

Respass and Henry A. Ellison, and those who may hereafter associate themselves with them, be, and they are hereby incorporated into a company by the name of "The South Creek Swamp Land Company"; and by that name may sue and be sued, plead and be impleaded, contract and be contracted with; and shall have full power to make all by-laws and regulations, not inconsistent with the Constitution of the State or of the United States; and to purchase and hold lands for the use of the company.

Sec. 2. That the capital stock of said company shall not exceed fifty thousand dollars, and shall be divided into shares of one hundred dollars each, for which the company shall issue certificates.

Sec. 3. That the company shall have power to clear out obstructions from South creek and other streams flowing through their lands, and to make roads and canals, and to receive tolls from persons using the same: *Provided* said roads and canals shall be wholly on the lands of the company.

[Ratified 27th day of January, 1819.]

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## LIBRARY COMPANY.



### CHAPTER CXLVIII.

AN ACT to incorporate the Williamston Library Association, in the county of Martin.

Sec. 1. *Be 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 officers and members of the Williamston Library Association, in the county of Martin, are hereby de-

clared a body politic and coporate, for the establishment and support of a Library in the town of Williamston, and under that name shall have perpetual succession and a common seal, with power to adopt such by-laws as they may deem proper, not inconsistent with the Constitution and laws of this State; and shall be capable, by gift or otherwise, of taking, possessing, and transmitting property, real or personal; and in all things relating to the objects of said association, to have, enjoy and exercise the powers and privileges usually belonging and appertaining to corporations aggregate.

Sec. 2. This act shall take effect and be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

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LODGES.

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CHAPTER CXLIX.

AN ACT to incorporate "Phalanx Lodge, No. 31, of Ancient York Masons in the town of Charlotte."

Sec. 1. *Be 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 officers and members who now are, and hereafter may be, of Phalanx Lodge, No. 31, of Ancient York Masons, in the town of Charlotte, county of Mecklenburg, be, and they are hereby constituted a body politic and coporate, under the name and style of Phalanx Lodge, No. 31, of Ancient York Masons, in the town of Charlotte; and

by that name may sue and be sued, plead and be impleaded, acquire and transfer property; shall have succession and a common seal; and shall have power to pass all such rules and by-laws, as they may deem necessary and proper for the government of said Lodge, which are not inconsistent with the constitution of the State or of the United States.

Sec. 2. *And be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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#### CHAPTER CL.

AN ACT to incorporate Belmont Lodge, No. 108, in the county of Duplin.

Sec. 1. *Be 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 officers and members, who at present or in future may be of Belmont Lodge, No. 108, in the county of Duplin, are hereby constituted and declared to be a body corporate, under the name and title of Belmont Lodge, No. 108; and by such name shall have succession and a common seal, and may sue and be sued, implead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations as shall not be inconsistent with the constitution of the State or of the United States.

[Ratified 29th day of January, 1849.]

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#### CHAPTER CLI.

AN ACT to incorporate Germanton Lodge, No. 116, of Ancient York Masons, in the county of Stokes.

Sec. 1. *Be it enacted by the General Assembly of the State*

*of North Carolina, and it is hereby enacted by the authority of the same, That the Master, Wardens and members which at present are, or in future may be, of Germanton Lodge, No. 116, of Ancient York Masons, in Stokes county, are hereby constituted and declared to be a body corporate, under the name of "Germanton Lodge, No. 116, of Ancient York Masons;" and by such name shall have succession and a common seal; may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations as shall not be inconsistent with the Constitution and laws of this State, or of the United States.*

*Sec. 2. And be it further enacted, That this act shall be in force from and after its ratification.*

[Ratified 27th day of January, 1849.]

## CHAPTER CLII.

AN ACT to incorporate Mount Lebanon Lodge, No. 117, in Edgecombe county.

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Master, Wardens and members, which at present are, or in future may be, of Mount Lebanon Lodge, No. 117, in Edgecomb county, are hereby constituted and declared to be a body corporate, under the name and title of Mount Lebanon Lodge; and by such name shall have perpetual succession and a common seal; may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations as shall not be inconsistent with the Constitution and laws of this State or of the United States.*

Sec. 2. *And be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified the 29th day of January, 1849.]

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### CHAPTER CLIII.

AN ACT to incorporate Union Chapter, No. 17, in the county of Duplin.

Sec. 1. *Be 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 officers and members who at present, or who in future, may be members of Union Chapter, No. 17, in the county of Duplin, are hereby constituted and declared a body corporate, under the name and title of "Union Chapter, No. 17;" and by such name shall have succession and a common seal, and may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and resolutions as shall not be inconsistent with the Constitution of the State or of the United States.

[Ratified 29th day of January, 1849.]

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### CHAPTER CLIV.

AN ACT for the incorporation of the Grand Lodge of North Carolina of the Independent Order of Odd Fellows.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the*

same, That B. F. Hanks, W. S. G. Andrews, A. Paul Repiton, D. McMillan, R. B. Haywood, Evander McNair, W. H. McKee, J. H. Manly, J. Buer, Jr., A. C. Blount, O. W. Telfair, B. W. Vick, Perrin Busbee, Alexander McRae, John McRae, Jr., John McRae, Sr., J. Disoway, Edward Yarbrough, J. G. Cook, J. B. Littlejohn, D. Cashevell, O. D. Fillyan, A. B. Chesnutt, L. C. Hubbard, B. I. Howze, and J. T. Miller, the present officers and representatives in the Grand Lodge of North Carolina, of the Independent Order of Odd Fellows, and their successors, be, and they are hereby declared to be, a community, corporation and body politic, by the name and style and title aforesaid; and by that name, they and their successors, shall and may at all times hereafter, be capable in law, to have, receive and retain to them and their successors, property, both real and personal, also devises or bequests, of any person or persons, bodies corporate or political, capable of making the same; and the same at their pleasure to transfer or dispose of, in such manner as they may think proper.

Sec. 2. *And be it enacted*, That the said corporation and their successors, by the name and style and title aforesaid, shall be forever thereafter capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any courts of justice, and before all and any Judge, officers, or persons whatsoever, in all and singular actions, matters or demands whatsoever.

Sec. 3. *And be it enacted*, That it shall and may be lawful for the said corporation, to have a common seal for their use, and the same at their will and pleasure to change, alter and make anew, from time to time, as they may think best; and shall, in general, have and exercise all such rights, privileges and immunities, as by law are incident or necessary to corporations, and what may be necessary to the corporation herein constituted.

[Ratified 16th day of January, 1849.]

## CHAPTER CLV.

AN ACT to incorporate Achoree Lodge, No. 14, of the Independent Order of Odd Fellows.

Sec. 1. *Be 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 officers, wardens and members who at present are, or in future may be, of the Achoree Lodge, No. 14, of the Independent Order of Odd Fellows, of the town of Elizabeth City, Pasquotank county, are hereby constituted and declared to be a body corporate, under the name and title of the "Achoree Lodge, No. 14, of the Independent Order of Odd Fellows," to be located in the town of Elizabeth City, Pasquotank county; and by such name shall have succession and a common seal; and may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations as shall not be inconsistent with the constitution of this State and of the United States.

[Ratified 29th day of January, 1849.]

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## CHAPTER CLVI.

AN ACT to incorporate Phalanx Lodge, No. 10, of the Independent Order of Odd Fellows, in the town of Washington.

Sec. 1. *Be 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 officers, wardens and members who are at present or in future may be of Phalanx Lodge, No. 10, Independent Order of Odd Fellows, of the town of Washington, in Beaufort county, are hereby constituted and declared to be a body politic and corporate, under the name and style

of Phalanx Lodge, No. 10, Independent Order of Odd Fellows, to be located in the town of Washington aforesaid; and by that name shall have succession and a common seal, and may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations for their own government, as they may deem expedient and proper, not inconsistent with the Constitution and laws of this State, and of the United States.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

CHAPTER CLVII.

AN ACT to incorporate Covenant Lodge, No. 17, of the Independent Order of Odd Fellows, in the town of Greenville.

Sec. 1. *Be 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 officers and members who now are, and hereafter may be, of Covenant Lodge, No. 17, of the Independent Order of Odd Fellows, in the town of Greenville, Pitt county, be, and the same are hereby constituted a body politic and corporate, under the name and style of Covenant Lodge, No. 17, of the Independent Order of Odd Fellows, in the town of Greenville; and by that name, may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations for the government of said Lodge, as are not inconsistent with the Constitution of the State or of the United States.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

## CHAPTER CLVIII.

AN ACT to incorporate Neuse Lodge, No. 6, of the Independent Order of Odd Fellows, in the town of Goldsboro', Wayne County.

SEC. 1. *Be 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 officers, wardens and members, who at present or in future may be of Neuse Lodge, No. 6, of the Independent Order of Odd Fellows, of the town of Goldsboro', Wayne county, aforesaid, are hereby constituted and declared to be a body corporate, under the name and style of Neuse Lodge, No. 6, of the Independent Order of Odd Fellows, to be located in the town of Goldsboro', Wayne county; and by such name, shall have succession and a common seal; and may sue and be sued, implead and be impleaded, acquire and transfer property, and pass such by-laws and regulations as shall not be inconsistent with the constitution of the State or of the United States.

[Ratified 16th day of January, 1849.]

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## CHAPTER CLIX.

AN ACT to incorporate "Pamlico Encampment, No. 6," of the Independent Order of Odd Fellows, in the town of Washington.

Sec. 1, *Be 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 officers, wardens and members who now are, and hereafter may be, of "Pamlico Encampment, No. 6," of the Independent Order of Odd Fellows, of the town of Washington, be, and the same are hereby constitu-

ted and declared a body politic and corporate under the name and style of "Panlico Encampment, No. 6," of the Independent Order of Odd Fellows, of the town of Washington; and by that name may sue and be sued, plead and be impleaded; and shall have succession and a common seal; and shall have power to acquire and transfer property, and pass all such by-laws and regulations for their own government, as they may deem expedient and proper, not inconsistent with the constitution of the State or of the United States.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

Ratified 16th day of January, 1849 ]

## CHAPTER CLX.

AN ACT to incorporate Concordia Lodge, No. 11, of the Independent Order of Odd Fellows, in the town of Beaufort.

Sec. 1. *Be 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 officers, wardens and members, who are at present, or in future may be, of Concordia Lodge, No. 11, of the Independent Order of Odd Fellows, in the town of Beaufort aforesaid, be, and they are hereby constituted and declared to be, a body politic and corporate, under the name and style of "Concordia Lodge, No. 11, of the Independent Order of Odd Fellows," to be located in the town of Beaufort, and by that name shall have succession and a common seal; and may sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations as they may deem expedient and

proper, not inconsistent with the constitution of the United States or of the laws and constitution of this State.

Sec 2. *Be it further enacted*, That this act shall be in force from and after its passage.

[Ratified 27th day of January, 1849.]

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### CHAPTER CLXI.

AN ACT to incorporate Rock Spring 'Tent' No. 180; Independent Order of Rechabites, in the town of Wilmington.

Sec. 1. *Be 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 officers, wardens and members who are at present or in future may be of the Rock Spring Tent, No. 180, Independent Order of Rechabites, of the town of Wilmington aforesaid, are hereby constituted and declared to be a body politic and corporate, under the name and style of "Rock Spring Tent, No. 180, Independent Order of Rechabites," to be located in the town of Wilmington; and by that name shall have succession and a common seal, and sue and be sued, plead and be impleaded, acquire and transfer property, and pass all such by-laws and regulations, as they may deem expedient and proper, not inconsistent with the constitution of the United States or the laws and constitution of this State.

Sec. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## CHAPTER CLXLII.

AN ACT to incorporate Concord Division, No. 1, of the Sons of Temperance.

Sec. 1. *Be 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 Worthy Patriarch, Worthy Associate, Treasurer, Recording Scribe and other officers of the Division of the Sons of Temperance, in the City of Raleigh, known as Concord Division, Number 1, and their successors in office, be, and they are hereby incorporated into a body politic and corporate, under and by the name and style of "Concord Division, No. 1, of the Sons of Temperance;" and by that name, may sue and be sued, plead and be impleaded in any court of record or before any justice of the peace in this State; contract and be contracted with, acquire, hold and dispose of both real and personal property, for the use and benefit of the said Division.

Sec. 2. *And be it further enacted,* That the said corporation shall have power to pass all necessary by-laws and regulations for its own government, not inconsistent with the laws of the State, the United States or the constitution of either of them.

Sec. 3. *And be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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**MANUFACTURING COMPANIES.**

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## CHAPTER CLXIII.

AN ACT to incorporate the Island Ford Manufacturing Company in the county of Randolph.

Sec. 1. *Be 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 S. Harney, Elisha Coffin, John M. Coffin, Thomas Rice, Joshua Cox, B. F. Coffin, Michael Cox, Joshua Fester and others, now manufacturing and trading at Franklinsville, in the county of Randolph, under the name and style of the Island Ford Manufacturing Company, their associates, successors and assigns, be, and they are hereby created a corporation and body politic in law and in fact, by the name and style of the Island Ford Manufacturing Company, for the purpose of manufacturing cotton, wool, iron and all other articles whatsoever, on Deep River, in the county of Randolph and village of Franklinsville; 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 and enjoy, and retain real and personal estate, and also goods and merchandize to enable them to carry on their business with profit and advantage, and shall so continue until the first day of January, one thousand, nine hundred and twenty-five.

Sec. 2. *Be it further enacted,* That said corporation shall have power to make all necessary by-laws and regulations, not inconsistent with the laws and Constitution of this State, for its good government; and to appoint officers and agents to transact their business and conduct their operations.

Sec. 3. *Be it further enacted,* That the capital stock of said company shall be twenty thousand dollars, in shares of one hundred dollars each; and the stockholders, or a majority of them in interest, may from time to time, and at any time, enlarge the capital stock of said company, by selling shares therein, at such times and in such manner, to such an amount, and at such prices, as they, in general meeting, may direct, until the capital stock shall amount to fifty thousand dollars; and upon such additional stock being taken, the owners thereof shall to all intents and purposes, be members of said company hereby incorporated, and have equal powers and privileges with the original stockholders; and the

capital stock of such corporation shall be personal estate; but the stockholders shall have power to sell, alien and convey, any part of their real estate, which, when sold, aliened and conveyed, shall be considered real estate.

Sec. 4. *Be it further enacted,* That said company shall hold their annual meetings of the stockholders on the Tuesday after the first Monday in January, in each and every year, at their mill in Franklinsville, at which time and place the proper officers and agents shall be appointed.—The business shall be conducted by a President and four directors: and the President may call a meeting of the stockholders whenever in his judgment he may think the business of the concern may require it; and there shall also be semi-annual meetings of the stockholders held at their mill, on the Tuesday after the first Monday in July, in each and every year; and in all general meetings of the corporation, the stockholders, in person or by proxy, shall [each] be entitled to one vote for every share of stock owned by him, as high as twenty; and above that, one for every five.

Sec. 5. *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 the same in any court of record, when required by said court.

Sec. 6. *Be it further enacted,* That said corporation shall have power, from time to time, in general meeting, to declare dividends of the net profits.

Sec. 7. *Be it further enacted,* That the stockholders, in general meeting, shall have power to adopt such rules and regulations, with regard to certificates of stock, and the transfer and payment thereof, as they think necessary.

Sec. 8. *Be it further enacted,* That whenever any of the stockholders in said corporation shall sell or assign over their shares of stock, respectively held by them, and thereby cease to be stockholders, they shall cease to be members of the company as to all its future operations and transactions; and

the purchasers or assigns of said stock shall be entitled to all the rights, and subject to to all the liabilities of the former owners.

Sec. 9. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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#### CHAPTER CLXIV.

AN ACT to incorporate the Union Manufacturing Company.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Samuel Hill, C. W. Woollen, James Dick, Jesse Walker, Joseph Newlin, William Clark, S. D. Bumpass, Daniel Coltrain, James Hodggin, J. P. Winslow and William Hinshaw, Sen'r., their associates, successors and assigns, be, and they are hereby created a corporation and body politic in law and in fact, by the name and title of the Union Manufacturing Company, for the purpose of manufacturing cotton, wool, iron, linseed oil, and the milling business in 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 nine hundred and nine.

Sec. 2. *Be it further enacted,* That said corporation shall have power to make all necessary by-laws and regulations for its good government, not inconsistent with the

laws and regulations of the State, and shall have power to appoint their officers and agents.

Sec. 3. *Be it further enacted,* That the capital stock of said company shall consist of not less than twenty thousand dollars or more than one hundred thousand dollars, of shares of one hundred dollars each.

Sec. 4. *Be it further enacted,* That an annual meeting of the stockholders shall be holden at the factory on the first Mouday in January, in each and every year; at which meeting proper officers shall be appointed to conduct the business of said corporation, who shall hold their office from year to 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 respective'y to twenty shares; and one vote for every five shares above that number. Nothing in this clause to be construed as to prevent general meetings when the interest of the company may require it.

Sec. 5. *Be it further enacted,* That the stockholders of said company in general meeting, shall have power to adopt rules and regulations, with regard to certificates and evidence of stock and transfer and assignments of the same, and may have power to increase their capital stock whenever the interest of the company may require it.

Sec. 6. *Be it further enacted,* That it shall be the duty of said corporation to keep a full and fair record of their proceedings, in a bound book or books provided for that purpose; and shall produce said record in any court of justice, when required to do so by such court.

Sec. 7. *Be it further enacted,* That dividends of the profits of the concern shall be declared by the officers of the company at convenient times, when the State of the funds render it prudent.

Sec. 8. *Be it further enacted,* That this act shall be in force from and after the ratification thereof.

[Ratified 29th day of January, 1849.]

## CHAPTER CLXV.

AN ACT to incorporate Union Manufacturing Company, in the town of Fayetteville.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That E. J. Hale, John S. Pearson, C. P. Mallett, W. P. Mallett, and A. F. Mallett, and their associates, successors and assigns, be, and they are hereby created a corporation and body politic, by the name and style of the "Union Manufacturing Company;" and by that name and style, may acquire, hold, possess and transfer real and personal estate; may contract and be contracted with, may sue and be sued, plead and be impleaded, in all courts of record; 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 nine.

Sec. 2. *Be it further enacted,* That said corporation shall have power to establish factories and mills for the manufacture of cotton, iron, wool and wood in their various branches, in the town of Fayetteville, county of Cumberland, and for no other purpose whatever

Sec. 3. *Be it further enacted,* That the capital stock of said company shall consist of thirty five thousand dollars, in shares of one hundred dollars each, with power to increase the same from time to time to seventy thousand dollars.

Sec. 4. *Be it further enacted,* That said corporation shall have power to make all necessary by-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.

Sec. 5. *Be it further enacted,* That an annual meeting of the stockholders in person or by proxy shall be holden in the town of Fayetteville, in the month of April, in each and every year, on such day or days as the company may

appoint; at which meeting officers shall be appointed to conduct the business of said corporation, who shall hold their office for one year, or until their successors be chosen; but nothing in this clause shall be so construed as to prevent general meetings when the interest of the company may require them.

Sec. 6. *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 evidences of stock, and transfer and assignments of the same.

Sec. 7. *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.

Sec. 8. *Be it further enacted,* That the proper officers of said corporation, when expedient, may declare dividends of the nett profits thereof.

Sec. 9. *Be it further enacted,* That in case of failure on the part of said corporation to meet its obligations, the private property of the stockholders therein shall be subject by law to the payments of the debts of the corporation, after the property of the corporation is first exhausted, in proportion to the stock severally owned and held by them at the time of said failure, not exceeding an amount equal to the stock held by them respectively.

Sec. 10. *Be it further enacted,* That this act shall be in full force and effect from and after its ratification.

[Ratified 16th day of January, 1849.]

## CHAPTER CLXVI.

AN ACT to incorporate Blount's Creek Manufacturing Company, in the town of Fayetteville.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That George McNeill, J. M. Bradley, Samuel T. Hawley, H. and E. J. Lilly, J. C. Coit, Wm. McIntyre, H. L. Myrover, John Waddill, James Martin, Alex. McLaughlin and their associates, successors and assigns, be, and they are hereby created a corporation and body politic, by the name and style of "Blount's 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 any court of record; have a common seal, with power to break and renew or change the same; have perpetual succession and so continue until the 1st day of January, one thousand eight hundred and ninety-nine.

Sec. 2. *Be it further enacted,* That said corporation shall have power to establish factories and mills for the manufacture of cotton, iron and flour, in their various branches in the town of Fayetteville, in the county of Cumberland, and for no other purpose whatsoever.

Sec. 3. *Be it further enacted,* That the capital stock of said company shall consist of thirty thousand dollars, in shares of five hundred dollars each, with power to increase the same from time to time to sixty thousand dollars.

Sec. 4. *Be it further enacted,* That said corporation shall have power to make all necessary by-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.

*Be it further enacted,* That an annual meeting of

the stockholders in person or by proxy, shall be holden in the town of Fayetteville, in the month of April, in each and every year, on such day or days as the company may appoint, at which meeting proper officers shall be appointed to conduct the business of said corporation, who shall hold their office for one year, or until their successors be chosen; but nothing in this clause shall be so construed as to prevent general meetings whenever the interest of the company may require them.

Sec. 6. *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 evidences of stock, and transfers and assignments of the same.

Sec. 7. *Be it further enacted,* That it shall be the duty of said corporation to keep a full 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.

Sec. 8. *Be it further enacted,* That the proper officers of said company, when expedient, may declare dividends of the nett profits thereof.

Sec. 9. *Be it further enacted,* That in case of failure on the part of said corporation to meet its obligations, the private property of the stockholders therein shall be subject by law to the payment of the debts of the corporation, after the property of the corporation is first exhausted, in proportion to the stock severally owned and held by them at the time of said failure, not exceeding an amount equal to the stock held by them respectively.

Sec. 10. *Be it further enacted,* That this act shall be in full force and take effect from and after its ratification.

[Ratified 16th January, 1849.]

## CHAPTER CLXVII.

## AN ACT to incorporate the Newbern Manufacturing Company.

Sec. 1. *Be 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 Slover, Alexander Mitchell, Alonzo J. Jerkins and Richard N. Taylor, their associates, successors and assigns, be, and they are hereby created a body politic and a corporation in law and in fact, by the name and style of the "Newbern 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; acquire, own and possess real and personal estate; and shall so continue until the first day of January, one thousand, eight hundred and eighty.

Sec. 2. *Be it further enacted,* That said corporation shall have power to establish factories and mills for the manufacture of cotton, wool and other the like materials, in the town of Newbern, and county of Craven, and for no other purpose whatsoever.

Sec. 3. *Be it further enacted,* That said corporation shall have power to make all necessary by-laws and regulations, for its good government, not inconsistent with the Constitution of this State; and shall have power to appoint their officers and agents to transact their business and conduct their operations.

Sec. 4. *Be it further enacted,* That the capital stock of said corporation shall consist of five hundred shares of one hundred dollars each.

Sec. 5. *Be it further enacted,* That an annual meeting of the stockholders, either in person or by proxy, shall be holden in the town of Newbern, on the first Monday of November, 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 one year, or until their

successors shall be appointed; but nothing in this clause shall be so construed as to prevent general meetings whenever the interest of the company may require them.

Sec. 6. *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 have power to increase their capital stock, whenever the business of said company may require it, to an amount not exceeding one hundred thousand dollars.

Sec. 7. *Be it further enacted,* That each stockholder shall vote according to the following scale, that is to say, for each share not exceeding five shares, one vote; for every four shares above five and not exceeding thirteen shares, one vote; and for every ten shares above thirteen, one vote.

Sec. 8. *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 to do so by said court.

Sec. 9. *Be it further enacted,* That the proper officers of the said company, when expedient, shall semi-annually declare dividends of the nett profits thereof.

Sec. 10. *Be it further enacted,* That this act shall be in force from and after the ratification thereof.

[Ratified 27th day of January, 1849.]

## CHAPTER CLXVIII.

AN ACT to incorporate the Deep River Manufacturing Company.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the*

*authority of the same,* That Isaac H. Foust, Henry Kivet, Abraham Brower, David Kince, Alfred M. Brower, John C. Burgess, James W. Brower, David Kivet, Joseph A. Allred, John Allen, Robert Gray and Mathias D. Bray, their associates, successors and assigns, be, and they are hereby created a corporation and body politic in law and in fact, by the name and style of the Deep River Manufacturing Company, for the purpose of manufacturing cotton, wool, iron, grain and all other articles whatsoever, on Deep River, in Randolph county; 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 also goods and merchandise, to enable them to carry on their business with advantage and profit; and shall so continue until the first day of January, one thousand, nine hundred.

Sec. 2. *Be it further enacted,* That said corporation shall have power to make all necessary by-laws and regulations, not inconsistent with the laws and constitution of this State, for its good government.

Sec. 3. *Be it further enacted,* That the capital stock of said corporation shall not exceed one hundred thousand dollars, nor less than twelve thousand dollars, in shares of one hundred dollars each, and shall be deemed and considered as personal estate.

Sec. 4. *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, one of whom shall be President of the company, all of whom shall be stockholders, who shall hold their offices for one year and until their successors are appointed. The stockholders shall hold an annual meeting, on the second Monday in February; in each and every year, when the President and directors shall be appointed; in which elections and in all other elections and 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 from time to time be prescribed in general meeting. The said directors or a majority of them may choose a president, or, 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 authorize. Dividends of nett profits of said company shall be made at such times as shall be determined by the stockholders in general meetings.

Sec. 5. *Be it further enacted*, That a majority of stock must be represented to form a quorum to transact business.

Sec. 6. *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 the State, or to sell the stock of said delinquent subscribers, 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.

Sec. 7. *Be it further enacted*, That the stockholders of said company, a quorum being present, may order a sale of any part of the land with appurtenances which they are hereby authorized to acquire and hold; and said land, when sold, shall be considered real estate.

Sec. 8. *Be it further enacted*, That if there should be no election of 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.

Sec. 9. *Be it further enacted*, That said company shall at all times have a lien upon all the stock or property of the members of the corporation invested therein, for all debts due from them to the company.

Sec. 10. *Be it further enacted,* That upon the payment of the whole amount of stock subscribed for by any individual, the President, under his signature and seal of corporation, shall issue a certificate or scrip to the stockholders for the number of shares so subscribed and paid for.

Sec. 11. *Be it further enacted,* That this act shall take effect and be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

#### CHAPTER CLXIX.

AN ACT to incorporate the Johnston Little River Manufacturing Company, in the county of Johnston.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Thomas L. Hollowell, Micajah Cox and Needham T. Perkins, and their associates, successors and assigns; be, and they are hereby created a corporation and body politic in law and in fact, by the name and style of the Johnston Little River Manufacturing Company; and by that name and style, may acquire, hold, possess and transfer estate, real and personal, including all kinds of goods and chattels; may contract and be contracted with, sue and be sued, plead and be impleaded, in any court of record in this State; have a common seal, with power to alter, renew or change the same; have perpetual succession, and shall so continue until the first day of January, one thousand, eight hundred and ninety.

Sec. 2. *Let it further enacted,* That said corporation shall have power to establish factories and mills on Little river, in the county of Johnston, for the manufacturing of cotton, wool, wheat, corn and all other materials whatsoever, that the said company may think practicable.

Sec. 3. *Be it further enacted,* That the capital stock of said company may consist of ten thousand dollars, in shares of one hundred dollars each, and may, from time to time, with the consent of two thirds of the stockholders, be enlarged to one hundred thousand dollars.

Sec. 4. *Be it further enacted,* That said corporation shall have power to make and establish by-laws and regulations necessary and proper for its own government, the same not being inconsistent with the constitution and laws of the State.

Sec. 5. *Be it further enacted,* That the shares of stock in said corporation shall be deemed and taken as personal property, and shall be transferable, under such rules and regulations as may be prescribed by the corporation: whenever any of the corporators shall transfer or assign over the shares by them respectively held and thereby cease to be stockholders, they shall respectively cease to be members of said company as to all its subsequent transactions.

Sec. 6. *Be it further enacted,* That if any of the subscribers for stock in the said company shall fail to pay the amount of his, her or their subscription, at such time and in such instalments, as he, she or they may be required by the President and directors of the company, it shall be lawful for the President, in behalf of the corporation, to recover the same, by action of debt, in any court of record in this State, or to sell the stock of such delinquent subscriber, at such time and upon such terms, as the President and directors may prescribe; and the stockholders in said corporation shall not receive any dividend upon their stock, until the whole amount of his, her or their subscription shall have been paid in.

Sec. 7. *Be it further enacted,* That the stock, property and affairs of the company shall be managed by a President and not less than two nor more than four directors, who shall be elected by the stockholders in general meeting, shall hold their office for one year or until their successors are chosen; and the stockholders shall have the power to regu-

late the time and place of holding their meetings; and at such meetings the stockholders shall be entitled to vote in person or by proxy; and two thirds of all the stock being represented shall be considered sufficient to transact any kind of business belonging to the said corporation, and no difference shall be made in relation to the amount of stock owned by the members of the corporation, but each stockholder shall possess and exercise equal rights and privileges, in choosing managers to conduct and carry on the affairs of the corporation; and general meetings of the stockholders may be called whenever the interests of the company may require it.

Sec. 8. *Be it further enacted,* That upon the payment of the whole amount of stock subscribed by the stockholders respectively, the President and directors of the company shall immediately issue to each stockholder a certificate or scrip, showing the number of shares subscribed and paid.

Sec. 9. *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, or on trial before any justice of the peace for any sum, over which said justice may by law have jurisdiction.

Sec. 10. *Be it further enacted,* That if any person or persons, holding an appointment or place of trust in said corporation, should embezzle either money or property belonging to the company, he or they shall be held responsible for the same in any court of competent jurisdiction, as though it had been the money or property of an individual.

Sec. 11. *Be it further enacted,* That no person shall be allowed to sell or retail spirituous liquors within one mile of the site of the factory establishment; and should license be granted to any person to retail ardent spirits within less than one mile of the Factory, they shall be deemed and taken to be null and void; and no person shall be allowed to visit, frequent or attend at the factory mills, or on the premises of said corporation, for the purpose of selling spirituous

liquors to the operatives or any of the hands employed about the premises ; and any person or persons who shall violate the provisions of this act, shall, on conviction, for each offence, forfeit and pay the sum of twenty dollars, to be recovered by warrant before any justice of the peace, in the name of the President and directors of the Johnston Little River Manufacturing Company; one half of said money to be applied to the benefit of the common school district in which the factory is situated, and the other half to the use of the informer.

Sec. 12. *Be it further enacted*, That at the time of the dissolution of the corporation, the private property of the persons then composing the company shall be liable for all the debts, contracts and liabilities of the corporation, in proportion to the amount of stock owned by each individual stockholder.

Sec. 13. *Be it further enacted*, That the stockholders shall meet annually, at such place as a majority of the stockholders may deem most suitable for the transaction of the business of said company; and the stockholders, in general meeting, shall have power to adopt rules and regulations with regard to certificates and evidence of stock, and transfers and assignments of the same, and to make any other regulations which two thirds of the stockholders in general meeting may deem necessary and proper for the better management of the corporation.

Sec. 14. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## MECHANICS' ASSOCIATION.



## CHAPTER CLXX.

## AN ACT to incorporate the Granville County Mechanics' Association.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Jonathan Osborn, Augustin Landers, Charles P. Allen, Bourbon Smith, Rush J. Mitchell, A. F. Spences, William Hunter, William B. Parish, and all and every other person or persons that may hereafter become associated with them, be, and they are hereby created and made a body politic and corporate, by the name and style of "The Granville County Mechanics' Association;" and by that name, shall have succession, and may sue and be sued, plead and be impleaded, in law or in equity; may have and use a common seal; may receive and make all deeds, transfers, contracts, covenants and conveyances whatsoever; and generally to do every other act or thing necessary to carry into effect the provisions of this act, and promote the object and design of said corporation; and may hold, possess and enjoy real and personal estate: *Provided,* that the whole capital stock of the said company, with the real and personal estate held by them and the deposits that may be received by them, shall at no time exceed the sum of ten thousand dollars.

Sec. 2. *Be it further enacted,* That the persons named in the first section, or a majority of them, shall call a meeting of the said Mechanics' Association, to be held in Oxford, in the county of Granville, on such day in the month of March, or in the month of April next, as they

shall designate, giving at least ten days' notice, by advertisement, of the day and place of meeting, for the purpose of organizing the said association; and to elect seven directors to manage the affairs of said association for the space of twelve months and until a new election shall take place; and elections of directors shall be made annually thereafter, at such place and time as the by-laws of said Association shall provide.

Sec. 3. *Be it further enacted*, That the directors for the time being, or a majority of them, shall have power to elect a President from their own body, to appoint all such officers, agents and servants as they shall deem necessary to conduct or execute the business and affairs of the association, to fix their compensation, and in their discretion to dismiss them; to provide for the taking of bonds to the corporation from all or any of the officers, agents or servants by them so appointed, with security, conditioned for the faithful performance of their several duties, and to secure the corporation from loss; to regulate the manner of making and receiving deposits, the form of certificates to be issued to depositors, and the manner of transferring the same; to provide for the investment of the funds of the corporation in such manner as they shall deem most safe and beneficial; to provide for the admission of members and furnishing proof of such admission; to provide for paying all necessary expenses, conducting the affairs of the corporation; and generally to pass all such by-laws as shall be necessary to the exercise of the said powers, and of the other powers vested in said corporation by their charter; and the said by-laws from time to time to alter and repeal: *Provided*, that all such by-laws, as shall be made by the directors may be altered or repealed by a majority of the members assembled at any general meeting, called in pursuance of any by-law for that purpose; *and provided further*, that the directors shall not be at liberty to repeal any by-law which may have been established at any general meeting; and a majority of the members may at any annual or general meeting pass such

by-laws, which shall be binding upon the directors: *Provided*, that such by-laws shall not be contrary to the laws of this State or of the United States.

Sec. 4. *Be it further enacted*, That said corporation shall be capable of receiving from any person or persons any deposit or deposits of money, and that all moneys shall be vested in stock or other securities at the discretion of the directors, and in the manner deemed most safe and beneficial: *Provided*, that such investment shall be in the manner provided for in the by-laws, and that no director or member shall be liable in his personal or individual property, for any contracts, debts or engagements of the said corporation; but that the money, property, rights and credits of said corporation, and nothing more, shall be liable for the same: *and provided further*, that no part of the funds of the said corporation shall be lent to any of the directors or other officers thereof; but nothing herein shall be construed to exempt any officer or member of said association from personal liability for the debts of said corporation, where such officer or member may have embezzled or otherwise fraudulently wasted or disposed of the funds or other property of said association.

Sec. 5. *Be it further enacted*, That it shall not be lawful for said association to purchase any bond, bill, mortgage, deed of trust or other security for the payment of money or other valuable things, which may be there due and payable, for a less sum than the full amount thereof, with interest which may be due thereon; or to purchase or discount any debt or claim to become due at a rate of discount or interest exceeding the rate of one half of one per centum for thirty days; and all contracts which may be made contrary to the foregoing provisions, shall be utterly null and void.

Sec. 6. *Be it further enacted*, That it shall be the duty of the directors, at least once in six months, to appoint from the members of said association three competent persons, as a committee of examination, whose duty it shall be to investigate the affairs of said association, and to make and

publish a report thereof, by advertisement put up at the court house in Oxford; and it shall be the duty of the directors on the first day of January and on the first day of July, in each and every year, to make and declare a dividend of the interest and profits of the said association, after paying its expenses, and the same to pay over to the members and depositors or their legal representatives, as they may be entitled thereto, within ten days thereafter, if demanded.

Sec. 7. *Be it further enacted*, That the persons hereinbefore named, and such others as may be associated with them at the meeting hereinbefore provided for, to be held in the month of March or in the month of April, shall fix the minimum amount to be paid in by each person to entitle him to become a member of the association; and shall agree upon a scale to regulate the voting of the members in all annual or general meetings: *Provided*, that the minimum amount to entitle a person to membership shall not be a larger sum than ten dollars.

Sec. 8. *Be it further enacted*, That the General Assembly may at any time alter, modify or repeal this charter; and this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

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## MINING COMPANIES.

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### CHAPTER CLXXI.

AN ACT to incorporate the Davidson Mining and Smelting Company.

Sec. 1. *Be it enacted by the General Assembly of the*

*State of North Carolina, and it is hereby enacted by the authority of the same,* That Thompson Holmes, Don Carlos Enos, and Judah Dobson and such other persons as may hereafter be associated with them for the purpose of mining, extracting and smelting gold and other metals and minerals, shall be, and are hereby incorporated, and made a body politic, by the name and style of "The Davidson Mining and Smelting Company," for the purposes of mining, extracting and smelting gold and other metals in the State of North Carolina; and by that name they and their successors shall be persons in law capable of suing and being sued, pleading and being impleaded, in all courts and pleas whatsoever; and that they and their successors shall have a common seal, and make, change or alter the same at their pleasure; and also, that they and their successors, by the same name and style, shall be in law capable of purchasing, leasing; holding and conveying any property, real or personal: *Provided,* that said company shall at no time hold more than five thousand acres of land.

*Sec. 2. Be it further enacted,* That the capital stock of said company shall not be less than twenty thousand dollars, nor more than one hundred thousand dollars, and shall be divided into shares of ten dollars each.

*Sec. 3. Be it further enacted,* That for managing the affairs of said company, there shall be chosen annually a board of directors, consisting of not less than five, and the said board shall elect from their number a president and secretary; and a majority of said board of directors, present at any meeting, shall have power to transact business, not less than three to constitute a board for the transaction of business; and the said board of directors may have an office and hold their meetings in any part of this State or elsewhere, as the necessities of their business may require; and if there shall be no election of directors at any annual meeting as hereinbefore prescribed, this charter shall not on that account be forfeited, but the directors then in office shall continue until an election shall take place. The said elec-

tion shall take place at such time, place, and in such a manner, as shall be prescribed by the by-laws.

*Sec. 4. Be it further enacted,* That each share shall be entitled to one vote, and the holder or holders of said share or shares may vote by proxy or in person.

*Sec. 5. Be it further enacted,* That the president or any three of the directors shall have power to call special meetings of the stockholders, to supply vacancies in their own body, to appoint such officers as the stockholders in general meeting shall authorize, to take bond with sufficient security for the good conduct, fidelity and attention of such officers, and to do all other acts and things touching the affairs of the company not otherwise specially provided for.

Dividends of the nett profits of said company shall be made at such times as shall be determined by the stockholders in general meeting.

*Sec. 6. Be it further enacted,* That if any subscriber or subscribers shall fail to pay the amount subscribed by him, her or them at the time prescribed by the president for the payment thereof, the share or shares held by him, her or them, together with all previous payments made thereon, may be forfeited at the pleasure of the board of directors: *Provided,* that no forfeiture shall take place without such public notice as may be prescribed in the by-laws.

*Sec. 7. Be it further enacted,* That the stock of the said company shall be deemed personal estate, and pass as such to the representatives of each stockholder; and may be transferred and certificates thereof issued, in such manner and form as the president and directors, or the stockholders in general meeting, shall from time to time direct: *Provided,* that nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they may hold or hereafter acquire, or which may be hereafter incorporated into stock and declared personal estate, and when it is sold and conveyed, from being considered real estate.

*Sec. 8. And be it further enacted,* That the president and

directors shall have power to make such by-laws and regulations, not contrary to the laws of the United States or of this State, as they may deem expedient and proper for the government of said corporation.

[Ratified 29th day of January, 1849.]

## CHAPTER CLXXII.

### AN ACT to incorporate Clay Mining Company.

Sec. 1. *Be 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 McCulloch, William Burney, William Smith, Jonathan Worth, John Sanders, John M. Coffin and John M. Worth and such other persons as may hereafter be associated with them for the purpose of mining and extracting gold and other precious metals and minerals, shall be, and are hereby incorporated and made a body politic, by the name of "The Clay Mining Company;" and by that name they and their successors shall be persons in law capable of suing and being sued, pleading and being impleaded, in all courts and pleas whatsoever; and they and their successors shall have a common seal, and make, change or alter the same at their pleasure; and also that they and their successors, by the same name and style, shall be in law capable of purchasing, leasing, holding and conveying any estate, real or personal: *Provided,* that said company shall at no time hold more than three thousand acres of land.

Sec. 2. *Be it further enacted,* That the capital stock of said company shall not be less than fifty thousand dollars, nor more than two hundred thousand dollars, and shall be divided into shares of one hundred dollars each.

Sec. 3. *Be it further enacted,* That for managing the affairs of

the said company, there shall be chosen annually a board of directors consisting of not less than five; and the said board shall elect from their number a president and secretary; and a majority of said board of directors present at any meeting shall have power to transact business, and not less than three to constitute a board for the transaction of business. The election of the said board of directors shall take place at such time and place, and in such manner as shall be prescribed by the by-laws.

Sec. 4. *Be it further enacted,* That each share shall be entitled to one vote, and the holder or holders of said shares shall vote either by proxy or in person.

Sec. 5. *Be it further enacted,* That the president or any three of the directors shall have power to call special meetings of the stockholders to supply vacancies in their body, to appoint such officers as the stockholders in general meeting shall authorize, to take bonds with sufficient security for the good conduct, fidelity and attention of such officers, and to do all other acts and things touching the affairs of the company not otherwise especially provided for. Dividends of the net profits of said company shall be determined by the stockholders in general meeting.

Sec. 6. *Be it further enacted,* That if any subscriber or subscribers shall fail to pay the amount subscribed by him, her or them at the time or times prescribed by the president and directors for the payment thereof, the share or shares held by him, her or them, together with all previous payments made thereon, may be forfeited at the pleasure of the directors: *Provided,* that no forfeiture shall take place without such public notice as may be prescribed in the by-laws.

Sec. 7. *Be it further enacted,* That the stock of the company shall be deemed personal estate, and pass as such to the representatives of each stockholder, and may be transferred and certificates thereof issued, in such manner and form as the president and directors, or the stockholders in general meeting shall from time to time direct: *Provided,*

that nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they may hold or hereafter acquire or which may be hereafter incorporated into stock and declared personal estate, and when it is sold and conveyed, from being real estate.

Sec. 8. *Be it further enacted*, That the president and directors shall have power to make such by laws and regulations, as are not contrary to the laws of the United States or of this State, as they may deem expedient and proper for the government of said corporation.

[Ratified 29th day of January, 1849.]

#### CHAPTER CLXXIII.

**AN ACT** to incorporate the Deep River Copper Mining and Smelting Company.

Sec. 1. *Be 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 Taylor, William Elis, Edward Hunt, Charles Roberts, Joseph Lyle, Thomas Garland, S. G. Coffin, John M. Logan, and such other persons as may hereafter be associated with them for the purpose of mining, extracting and smelting copper, gold, and other metals and minerals, shall be, and are hereby incorporated and made a body politic, by the name and style of "The Deep River Copper Mining and Smelting Company," for the purpose of mining, extracting and smelting copper, gold and other metals and minerals in the State of North Carolina; and by that name, they and their successors shall be persons in law capable of suing and being sued, pleading and being impleaded, in all courts and places whatsoever; and that they and their successors shall have a common seal, and make, change

or alter the same at their pleasure; and also that they and their successors, by the same name and style, shall be in law capable of purchasing, leasing, holding and conveying any estate, real or personal: *Provided*, that said company shall at no time hold more ten thousand acres of land.

Sec. 2. *Be it further enacted*, That the capital stock of said company shall not be less than one hundred thousand dollars, nor more than two hundred thousand dollars, without creating a greater number of shares; and shall be divided into such shares as shall be agreed on at a special general meeting of the share holders.

Sec. 3. *Be it further enacted*, That for the managing the affairs of the company, there shall be chosen annually a Board of directors, consisting of not less than five; and the said board shall elect from their number a President and Secretary; and a majority of said board of directors present at any meeting shall have power to transact business, not less than three to constitute a board for the transaction of business: and the said board of directors may have an office and hold their meetings in any part of the State, or elsewhere, as the necessity of their business may require. And if there should be no election of directors at any annual meeting as by and before prescribed, this charter shall not on that account be forfeited, but the directors then in office shall continue until an election shall take place, at such time and place, and in such manner, as shall be prescribed by the by laws.

Sec. 4. *Be it further enacted*, That each share shall be entitled to one vote, and the holder or holders of the said share or shares may vote either by proxy or in person.

Sec. 5. *Be it further enacted*, That the President or any three of the directors shall have power to call special meetings of the shareholders; to supply vacancies in their own body, to appoint such officers or agents as the shareholders in general meeting shall authorize, to take bonds with sufficient security for the good conduct, fidelity and attention of such officers or agents, and to do all other acts and things

touching the affairs of the company, not otherwise especially provided for. Dividends of the nett profits of said company shall be made at such times as shall be determined by the shareholders in general meeting.

Sec. 6. *Be it further enacted,* That if any subscriber or subscribers shall fail to pay the amount subscribed by him, her or them, at the time or times prescribed by the President and directors for the payment thereof, the share or shares held by him, her or them, together with all previous payments, may be forfeited at the pleasure of the board of directors: *Provided,* that no forfeiture shall take place without such public notice as may be prescribed in the by-laws.

Sec. 7. *Be it further enacted,* That the stock of the said company shall be deemed personal estate, and pass as such to the representatives of each share or stockholder, and may be transferred, and certificates thereof issued in such manner and form as the President and directors, or the shareholders in general meeting shall from time to time direct: *Provided,* that nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they may hold or hereafter acquire or which may hereafter be incorporated into a stock and declared personal estate, and when it is sold and conveyed, from being considered real estate.

Sec. 8. *Be it further enacted,* That the President and directors shall have power to make such by-laws and regulations, not contrary to the laws of the United States or of this State, as they may deem expedient and proper for the government of said corporation.

[Ratified 29th day of January, 1849.]

## MILITIA.



## CHAPTER CLXXIV.

AN ACT to effect a better organization of the Militia in Iredell County, and for other purposes.

WHEREAS by the act of Assembly establishing the county of Alexander, the regiment of militia in Iredell county was left without officers; for remedy of which,

Sec. 1. *Be 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 Brigadier General of the Brigade of which the militia of Iredell is a part, be, and he is hereby required to order an election to be held to supply the vacancies, occasioned by the act of Assembly creating the county of Alexander, in the field officers of the 89th regiment.

Sec. 2. *Be it further enacted,* That all that part of the militia in Iredell county lying on the North side of the South Yadkin, shall constitute and belong to the 89th regiment.

Sec. 3. *Be it further enacted,* That the militia in the county of Alexander shall be known and numbered as the 102nd regiment of the North Carolina militia.

Sec. 4. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER CLXXV.

AN ACT to incorporate "The Caswell Rangers," a company of Cavalry in the County of Caswell.

Sec. 1. *Be it enacted by the General Assembly of the State*

*of North Carolina, and it is hereby enacted by the authority of the same,* That the company of cavalry recently organized in the county of Caswell, commanded by Capt. James T. Mitchell, be, and the same is hereby incorporated and made a body politic and corporate, by the name and style of "The Caswell Rangers;" and by that name and style, may have succession, sue and be sued, plead and be impleaded, in any court in this State; and shall have power and authority to make all needful by-laws and regulations, for the good government of said corps, not inconsistent with the Constitution and laws of the United States or of this State.

Sec. 2 *Be it further enacted,* That all fines imposed, and all forfeitures and penalties incurred, shall be prosecuted and enforced according to the militia laws of this State, and when collected, shall enure to the use of said corps of Caswell Rangers, for military purposes.

[Ratified 27th day of January, 1849.]

## CHAPTER CLXXVI.

AN ACT to incorporate the "Foresters," a volunteer company in the County of Richmond.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the volunteer company in the county of Richmond, commanded by Capt. Malcom L. Douglass, be, and the same is hereby incorporated and made a body politic and corporate, by the name and style of the "Foresters;" and by that name and style, shall have succession, and be able and capable in law to sue and be sued, plead and be impleaded, in any court in this State; and shall have power and authority to make all such by-laws, rules and regulations, for the government of said company, as are not incon-

sistent with the Constitution of this State, or of the United States; and all fines, penalties and forfeitures, incurred in pursuance of and under such by-laws, rules and regulations, shall enure to the benefit of said company, for military purposes, and shall be recovered in the same manner as militia fines are recovered in this State : *Provided*, said corps shall perform military duty at least six times, in each and every year

Sec. 2. *Be it further enacted*, That upon said corps' furnishing the Governor with a certificate of the Brigadier General of their brigade, stating, that the said corps has enrolled the number of men required by law, for the formation of a volunteer company of infantry, and that they are otherwise equipped excepting as to *arms*, then the Governor shall furnish, from the public arsenal, the said corps with the *arms* necessary to their full equipment; the commanding officer of said corps first giving security, as the law directs, for the safe keeping of said arms.

Sec. 3. *Be it further enacted*, That upon the certificate of the Colonel commanding the regiment, to which said corps belongs, that said corps has performed military duty, as required by this act, for the period of twelve years, it shall be the duty of the Brigadier General of their brigade to furnish said corps with a release, in writing, from all military duty, except in cases of insurrection or invasion.

Sec. 4. *Be it further enacted*, That this act shall go into effect, from and after its ratification.

[Ratified 16th day of January, 1849 ]

## CHAPTER CLXXVII.

### AN ACT to incorporate the Summerfield Guards.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the*

*authority of the same*, That the company of infantry of the line of Summerfield, in the county of Guilford, commanded by Albert Walker, be, and they are hereby incorporated, by the name and style of the Summerfield Guards; and shall have full power and authority to make such by-laws and adopt such constitution, not inconsistent with the constitution and laws of this State and the United States, as they shall deem necessary for the proper regulation of the said company.

Sec. 2. *Be it further enacted*, That all fines and amercements which shall be collected by said company, shall enure to the benefit of the same.

Sec. 3. *Be it further enacted*, That the commanding officer of said company shall call out the same at least six times in each and every year; and any officer, musician or private of said company, who shall have regularly mustered and kept himself well equipped according to the by-laws of said company, for the full term of twelve years, shall thereafter be exempt from military duty, except in case of insurrection or invasion: *Provided*, said company shall always consist of at least forty-four privates.

Sec. 4. *And be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

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## CHAPTER CLXXVIII.

### AN ACT to incorporate the "Bertie Guards."

Sec. 1 *Be 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 volunteer infantry in the county of Bertie, commanded by Captain John Williams,

be. and the same is hereby incorporated, by the name and style of the "Bertie Guards;" and shall have full power and authority to make such by-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 the company.

Sec. 2. *Be it further enacted*, That all fines and amercements, which shall be collected by said company, shall enure to the use of the same.

Sec. 3. *Be it further enacted*, That after a faithful discharge of the duty of such company, for the term of twelve years, by a regular drill at least six times in each year, the members thereof shall be exempt from militia duty, except in case of insurrection or invasion.

[Ratified 16th day of January, 1849.]

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## CHAPTER CLXXIX.

AN ACT to incorporate the "Duplin Guards," an independent corps of Cavalry in the County of Duplin.

Sec. 1. *Be 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 corps of cavalry in the county of Duplin, commanded by Capt. Daniel B. Newton, be, and the same is hereby incorporated and declared a body politic and corporate, by the name and style of the "Duplin Guards"; and by that name and style, shall have succession and be able in law to sue and be sued, plead and be impleaded, in any court within this State; and shall have full power and authority to make all such by-laws, rules and regulations, for the good government of said corps, as are not inconsistent with the Constitution of this State or of the United States; and all fines, forfeitures and amercements, imposed

and collected thereby, shall enure to the benefit of said corps, exclusively for military purposes.

Sec. 2. *Be it further enacted*, That the Governor of the State be, and he is hereby authorized and empowered, upon the Brigadier General of their brigade certifying that the said corps is equipped in all respects as required by law, except as to arms, to cause the said corps to be furnished with the necessary arms from the public arsenal of this State, the commander of said corps first giving security, as the law directs, for the safe keeping and return of said arms when required.

Sec. 3. *Be it further enacted*, That the said corps shall be free from all military duty, except in cases of invasion or insurrection, after they shall have performed military duty at least six times in each year for the period of twelve years.

Sec. 4. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified the 16th day of January, 1849.]

#### CHAPTER CLXXX.

AN ACT to incorporate the "Mountain Guards," in the County of Haywood.

Sec. 1. *Be 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 corps of cavalry in the county of Haywood, commanded by Thomas J. Lenoir, be, and the same is hereby incorporated and made a body politic and corporate, by the name and style of the "Mountain Guards;" and by and in that name, shall have succession and full power to sue and be sued, plead and be impleaded, in any court in this State; and shall have full power to adopt, for their

own government, any constitution, rules and by-laws, consistent with the constitution and laws of the United States and this State; and that all fines and emercements that shall be incurred under the operation of such rules and by-laws, shall be collected in the same manner as militia fines are collected and recovered in this State, and shall enure to the exclusive use and benefit of said corps.

Sec. 2. *Be it further enacted*, That whenever said corps shall furnish to the Governor, a certificate from the Col. of cavalry in their brigade, stating that said corps is equipped in other respects, excepting as to arms and accoutrements, and that they have enrolled the number of men required by law, then the Governor shall furnish, from the public arsenals, the arms and accoutrements necessary to the full equipment of said corps.

Sec. 3. *Be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed; and that this act shall go into effect from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER CLXXXI.

AN ACT to incorporate the "North Carolina Blues," in the County of Wake.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the volunteer company in the county of Wake, commanded by Captain William P. Hays, be, and the same is hereby incorporated and made a body corporate and politic, by the name and style of the "North Carolina Blues;" and by that name and style, shall have succession, and be able and capable in law to sue and be sued, plead and be

impleaded, in any court in this State; and shall have full power and authority to make by-laws, rules and regulations, for the proper and efficient government of said company, not inconsistent with the constitution and laws of this State and the United States; and all fines, forfeitures and penalties, incurred under the operation of such rules as may hereby be prescribed by the company hereby incorporated, shall be recovered in the same manner as militia fines are now recovered in this State; to be appropriated to the exclusive use and benefit of the company aforesaid, for militia purposes.

Sec. 2. *Be it further enacted*, That whenever the said corps shall furnish the Governor with a certificate from the Brigadier General of their brigade, stating the said corps has enrolled the number of men required by law for the formation of a volunteer corps of Infantry, and that they are otherwise equipped, except as to arms, then the Governor shall furnish, from the public arsenals, the said corps with the arms necessary for their full equipments, the commanding officer first giving security as the law directs for the safe keeping of said arms.

Sec. 3. *Be it further enacted*, That it shall be the duty of the captain of the company aforesaid to call out his men for the purpose of drill at least six times in each year.

Sec. 4. *Be it further enacted*, That all persons who may become members of said company and so remain for the term of twelve years; shall forever thereafter be exempt from military duty, except in cases of insurrection and invasion.

Sec. 5. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

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## CHAPTER CLXXXII.

AN ACT to incorporate the "Camden Guards," in the County of Camden.

Sec. 1. *Be 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 corps of cavalry, in the county of Camden, commanded by Dennis D. Ferebee, be, and the same is hereby incorporated and made a body corporate and politic, by the name and style of the "Camden Guards;" and by that name and style, shall have full power and authority to sue and be sued, plead and be impleaded, in any court in this State; and may adopt any constitution and by-laws, not inconsistent with the Constitution and laws of the United States or of this State, as they may deem proper; and that all fines, penalties, and forfeitures, imposed, incurred and collected by said corps, shall enure to the use and benefit of said corps.

*Sec. 2. Be it further enacted,* That the members of said corps shall be, and they are hereby required to parade at least twelve times during each year; and it shall be in active exercise on each parade, for the space of two hours at least.

*Sec. 3 Be it further enacted,* That when the members of said corps shall have conformed to this act for five years from and after the time of its organization, they shall then be exempt from the performance of all military duty, except in cases of invasion or insurrection.

*Sec. 4. Be it further enacted, and it is hereby enacted by the authority aforesaid,* That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed; and that this act shall go into effect from and after its ratification.

[Ratified 29th day of January, 1849.]

#### CHAPTER CLXXXIII.

AN ACT to incorporate the "Macon County Cavalry Company."

*Sec. 1, Be 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 cavalry company in Macon county, commanded by Captain David W. Siler, Le, and the same is hereby incorporated by the name of the "Macon County Cavalry Company;" and shall have authority to make such by-laws for the regulation of the company, not inconsistent with the Constitution and laws of this State and of the United States, as they shall deem fit.

Sec. 2. *Be it further enacted*, That all fines and amercements which shall be collected by the said company, shall enure to their own use.

Sec. 3. *Be it further enacted*, That the said captain or other commanding officer, shall at least six times in each year order out the said company to muster in Franklin, in the county of Macon; and shall also, at least four times in each year, drill the officers, commissioned and non commissioned, of the said company, to improve them in military discipline.

Sec. 4. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 23th day of January, 1849.]

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## CHAPTER CLXXXIV.

AN ACT to incorporate the Wake County Rifle Company, Dunusville, in said county.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the volunteer Rifle Company at Dunusville, in Wake county, commanded by Capt. James S. Ray, be, and the same is hereby incorporated and made a body corporate and politic, by the name and style of the Wake county Rifle Company; and by that name and style, shall have succession and be able and capable in law to sue and be sued, plead and be impleaded, in any court in this State; and

shall have power to make by-laws, rules and regulations for the government of said company, not inconsistent with the constitution and laws of this State and the United States; and all fees, penalties and forfeitures incurred in pursuance of such by-laws, shall be recovered in the same manner that militia fines are recovered in this State, and appropriated to the use and benefit of said company, for military purposes.

Sec. 2. *Be it further enacted*, That the said corps, upon furnishing the Governor with a certificate from the Brigadier General of their brigade, stating that the said corps has enrolled the number of men required by law, for the formation of a volunteer company of Riflemen, and that they are otherwise equipped, excepting as to arms, then the Governor shall furnish, from the public arsenal, the said corps with the arms necessary to their full equipment, the commanding officer of said corps first giving security as the law directs, for the safe keeping of said arms.

Sec. 3. *Be it further enacted*, That it shall be the duty of the captain of the company aforesaid, to call out his men, for the purpose of drill, at least six times in each year.

Sec. 4. *Be it further enacted*, That all persons who may become members of said company and so remain for the term of twelve years, shall forever thereafter be exempt from military duty, except in cases of insurrection and invasion.

Sec. 5. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

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## CHAPTER CLXXXV.

AN ACT for the better organization of the Militia in the County of Cleveland.

WHEREAS the county of Cleveland has in it at this time

a regiment which is not numbered; and whereas the extent of territory of said Regiment is so great, that it is inconvenient for the men in some portions of the same to perform military duty, and it is desired that said regiment be divided into two Regiments: Therefore,

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That said regiment be, and the same is hereby divided into two distinct regiments; and that the line now dividing the two battalions of said regiment shall be the dividing line between the two regiments hereby created.

Sec. 2. *Be it further enacted,* That when said Regiment is thus divided into two regiments, the lower regiment shall be known and numbered the one hundred and first (101) and the upper one shall be known and numbered as the one hundredth (100) regiment.

Sec. 3. *Be it further enacted,* That the officers now holding commissions in said regiment, shall hold their commissions in the new regiments in which they may reside.

Sec. 4. *Be it further enacted,* That the Brigadier General of the brigade in which said regiments are, shall, and he is hereby authorized and required, to cause an election to be held in said regiment to fill the vacancies which may be made by the division of said regiment into two regiments.

Sec. 5. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

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## MUSICIANS.

### CHAPTER CLXXXVI.

AN ACT to incorporate the Providence Band, of Mecklenburg County.

Sec. 1. *Be 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 officers and privates of the Providence Band, in Mecklenburg county, be, and the same are hereby incorporated and made a body corporate and politic, by the name and style of the Providence Band; and by that name and style, shall have succession and be able and capable in law to sue and be sued, plead and be impleaded, in any court in this State; and shall have power to make by-laws, rules and regulations, for the government of said company, not inconsistent with the constitution and laws of the State; and all fines, penalties and forfeitures incurred in pursuance of such by-laws, shall be recovered in the same manner that militia fines are recovered in this State, and appropriated to the use and benefit of said company.

*Sec. 2. Be it further enacted,* That the aforesaid band be, and they are hereby attached to the sixty eighth regiment and eleventh brigade of North Carolina militia, and shall have all the rights, privileges and immunities that are extended to musicians of the militia: *Provided,* that the officers and privates in said band shall not exceed twenty five in number.

*Sec. 3. Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified the 29th day of January, 1849.]

## MISCELLANEOUS.

### CHAPTER CLXXXVII.

AN ACT to prevent the sale of Spirituous Liquors within a certain distance of Floral College.

*Sec. 1. Be it enacted by the General Assembly of the State of*

*North Carolina, and it is hereby enacted by the authority of the same,* That all persons are hereby prohibited from selling spirituous liquors, within three miles of Floral College, to any person or persons whatsoever, on pain of forfeiting ten dollars for each and every violation of this act; which penalty shall be recoverable, by warrant, before any justice of the peace having jurisdiction, by any person suing for the same, to the use of Floral College, and applied as the trustees thereof may direct.

[Ratified 27th day of January, 1849.]

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#### CHAPTER CLXXXVIII.

AN ACT for the further protection of Wake Forest College.

*Sec. 1. Be 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 license to retail spirituous liquors at the site or within three miles of said college shall be granted, and if granted, the same shall be void.

*Sec. 2. Be it further enacted,* That no person shall set up or keep any billiard table, or other public table constructed or erected for playing games of chance, by whatever name called, and no person shall exhibit any theatrical, slight of hand, or equestrian performance, dramatic recitations, rope or wire dancing, or natural or artificial curiosities at the college aforesaid, or within three miles thereof, without the permission, in writing, of the Faculty thereof; and any person or persons offending herein, or who shall sell, give or convey, to the students of said college, any intoxicating liquor at or within three miles of said college, without the special permission, in writing, of the Faculty of said college, shall forfeit and pay the sum of one hundred dollars:

to be recovered in any court of record having cognizance of the same, one half to the use of the informer and the other to the college; and any person or persons offending herein, shall also be guilty of a misdemeanor, and, upon conviction in the county or Superior court of Wake county, shall be fined at the discretion of the court.

Sec 3. *Be it further enacted.* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1819]

#### CHAPTER CLXXIX.

AN ACT to incorporate a Mutual Life Insurance Company in the State of North Carolina.

Sec. 1. *Be 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. Manly, Henry W. Miller, Perrin Busbee, H. W. Husted, William H. McKee, Wm. W. Holden, William D. Cooke, William H. Jones, James F. Jordan, Charles B. Root, Charles E. Johnson, William D. Haywood, William R. Scott, and others, their associates, successors and assigns, shall be, and are hereby constituted and declared to be a body politic and corporate, in fact and in name, by the name of "The North Carolina Mutual Life Insurance Company," to be located at such place in the city of Raleigh as shall be designated by a majority of the company present at any regular meeting; and by that name, they and their successors shall and may have succession during the continuance of this act; and shall be capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may have a

common seal, and may alter and change the same at pleasure: And also, that they and their successors, by the name of "The North Carolina Mutual Life Insurance Company," shall be in law capable of purchasing, holding and conveying any estate, real or personal, for the use of said corporation.

Sec. 2. *Be it further enacted,* That all persons, who shall at any time hereafter insure in, or with the said corporation, shall, while they continue so insured, be deemed and taken as members of the said corporation; and that the property and concerns of the said corporation shall be managed by thirteen directors, all of whom shall be citizens of this State, to be chosen annually by and from among the members, and shall hold their office for one year, and until others are chosen; and that a meeting of the members of the corporation shall be held annually for the purpose of electing a Board of Directors, at such time and place in the city of Raleigh as the corporation in its by-laws shall appoint; of which election public notice shall be given in at least one of the public newspapers printed in said city, at least thirty days preceding such election; and such election shall be made by ballot and a plurality of the votes of the members present, allowing to each member one vote for every one hundred dollars insured in said company; and if any of the said directors shall die, refuse to serve, or neglect to act in their said office for the space of two months, then and in every such case, the remaining directors shall have power to fill such vacancies, until the next annual meeting.

Sec. 3. *Be it further enacted,* That it shall and may be lawful for the said corporation to insure their respective lives, and to make all and every insurance appertaining to or connected with life risks of whatsoever kind or nature, as well of the sound in health, as the infirm or invalid.

Sec. 4. *Be it further enacted,* That it shall be lawful for any married woman by herself and in her own name, or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, the life of her hus-

band, for any definite period, or for the time of his natural life; and in case of her surviving her husband, the same or nett amount of the insurance becoming due and payable to her, to and for her own use, free from the claims of the representatives of her husband or any of his creditors.

Sec. 5. *Be it further enacted*, That the husband may insure his own life, for the sole use and benefit of his wife or children, and in case of the death of the husband, the amount thus insured shall be paid over to the wife, or children, or their guardian if under age, for her or their own use, free from all the claims of the representatives of the husband, or any of his creditors.

Sec. 6. *Be it further enacted*, That the directors for the time being, or a majority of them, shall have power to make and prescribe such by-laws, rules and regulations as to them shall appear needful and proper for the management and disposition of the stock, property, estate and effects of the said corporation, and for all such matters as appertain to the business thereof; and shall have power to appoint such officers, clerks and agents, for carrying on the business of the corporation, as they may select, with such allowances as to them shall appear just and satisfactory: *Provided*, that such by laws, rules and regulations shall not be repugnant to the constitution or laws of the United States or of this State.

Sec. 7. *Be it further enacted*, That no policy shall be insured by this corporation until application shall be made for insurance for fifty thousand dollars at least.

Sec. 8. *Be it further enacted*, That that this act shall continue in force for fifty years.

Sec. 9. *Be it further enacted*, That this act shall take effect immediately after its ratification.

[Ratified 27th day of January, 1819.]

## CHAPTER CXC.

AN ACT to empower the Justices of the Peace of New Hanover County to sell the Poor House in said County.

*Sec. 1. Be 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 New Hanover county be, and they are hereby authorized and empowered to sell the poor house in said county and the land attached thereto; and to appoint a commissioner to make sale of the same, and under his direction and supervision, to receive the purchase money and make title to said property to the purchaser thereof.*

Ratified 27th day of January, 1849.]

## CHAPTER CXCI.

AN ACT to authorize the County Court of Mecklenburg to pay over certain funds to the County Court of Union.

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the justices of the court of pleas and quarter sessions for the county of Mecklenburg be, and they are hereby authorized and empowered to order and direct that all the funds levied and collected from the citizens of Union county, formerly belonging to the county of Mecklenburg, for the purpose of erecting a court house in the town of Charlotte, be paid over to the county trustee of Union county, or such other person as may be authorized to receive the public money due to the county of Union, after deducting all county claims outstanding against the said Mecklenburg county at the time the said county of Union was erected.*

*Sec. 2. Be it further enacted, That the justices of the*

court of pleas and quarter sessions for Mecklenburg county, or a majority of them, be, and they are hereby authorized and empowered to levy and collect a county tax in the manner already prescribed by law for laying and collecting county taxes, for the purpose of paying over the fund aforesaid, if the same should become necessary.

Sec. 3. *Be it further enacted*, That the citizens of Union county, within the Mecklenburg part of said county, shall be credited with said fund in the collection of all taxes for Union county until the same shall be exhausted.

[Ratified 16th day of January, 1849.]

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#### CHAPTER CXCH.

AN ACT to authorize the County Court of Halifax to sell the lot in the town of Halifax on which the old Court House is situated.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the justices of the court of pleas and quarter sessions of the county of Halifax, a majority being present, shall have full power and authority to sell and convey to the purchaser, the lot in the town of Halifax, on which the old court house is now situated, in such manner and upon such terms, as they may deem most expedient, and to apply the proceeds thereof as they may think proper.

[Ratified 27th day of January, 1849.]

## MUSEUM.



## CHAPTER CXCIII.

AN ACT to incorporate the "Young Men's Museum Society," in the town of Salem, in the county of Forsyth.

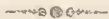
Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That A. A. Reinke, A. L. Van Vleek, Charles Eng Kluge, James S. Lineback, Lewis Hine, J. E. Shultz, J. E. Peterson, Samuel Z. Rights and their associates, be, and they hereby are incorporated, by the name and style of "The Young men's Museum Society of Salem, in the county of Forsyth;" 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, estates real and personal for the use of the said Society; and shall make all such by-laws, rules and regulations as are necessary for the good government of said Society, not inconsistent with the constitution and laws of this State or of the United States.

Sec. 2. *Be it further enacted,* That their capital stock shall not exceed ten thousand dollars.

Sec. 3. *Be it further enacted,* That this act shall take effect and be in force from and after its passage.

[Ratified 29th day of January, 1849.]

## RIVERS.



## CHAPTER CXCIV.

AN ACT concerning the improvement of Smiths' River, in the County of Rockinghau..

Sec. 1. *Be 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 incorporated by the General Assembly of the State of Virginia, by an Act entitled "An Act to incorporate the Smith River Navigation Company," passed on the 24th day of March, 1848, be, and they are hereby fully authorized and empowered to open and improve the navigation of Smiths' river, from the line of the State of Virginia to where the said river empties into Dan river, being a distance of about five miles, and for that purpose to erect such locks and other works as may be necessary to effect the contemplated object.

Sec. 2. *Be it further enacted,* That the said company shall have full power to purchase, hold, possess and enjoy not exceeding two acres of land along the line of the said improvement, for the erection thereon of a toll house and other necessary buildings for the use of the said company; and when the improvement of the navigation of the said river shall have been effected as contemplated by this act, it shall be lawful for the said company to ask, collect, demand and receive such tolls on the produce passing through the said navigation as may be deemed just and reasonable: *Provided,* that the said tolls may at any time hereafter be altered and regulated by the General Assembly of this State, but not so as to reduce the profits of the company below six per cent.

Sec. 3. *Be it further enacted,* That if any person shall wilfully do any injury or damage to the works or other property held by the said company in this State, the person so offending shall be subject to indictment in the Superior court of Rockingham county, and, upon conviction, shall be fined or imprisoned at the discretion of said court, not exceeding five hundred dollars, nor for a longer time than twelve months, and shall also be liable in an action of trespass for the amount of injury sustained.

Sec. 4. *And be it further enacted,* That if the said improvement shall not be commenced within five years, and finished within ten years from the passage of this act, the same shall be null and void.

Sec. 5. This act shall continue in force for 99 years and no longer, unless forfeited as provided for in this section.

[Ratified 29th day of January, 1849.]

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## CHAPTER CXCIV.

AN ACT to improve the navigation of the Catawba River, from the point where the Rail Road from Columbia to Charlotte crosses said river, up to the Rocky Ford near Morganton.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books of subscription at Morganton, under the management of Isaac T. Avery and R. C. Pearson; at Lenoir, Caldwell county, under Joseph Newland and John A. Ballew; at Lincoln, under John F. Hoke and William Slade; at Beattie's Ford, under Isaac Lowe and John H. Wheeler; at Mount Mourne, under Rufus Reid and Robert J. McDowell, and at such other places as a majority of the above named persons may deem proper, on the first day of March next, and continue open as long as they may deem necessary, for receiving subscriptions to the amount of one hundred thousand dollars, for said undertaking, in shares of fifty dollars each.

Sec. 2. *Be it further enacted,* That the said commissioners may, at such time as they think proper, call a meeting of the stockholders, at such place as they shall designate; before whom the subscription books shall be laid; and if one half of the said sum of one hundred thousand dollars or more shall have been subscribed, they shall then and there proceed to elect a president, secretary, treasurer and three directors; and the said stockholders, their heirs and assigns

from the time of said meeting, are hereby incorporated into a company, by the name of the "Catawba Navigation Company," and may sue and be sued as such.

Sec. 3. *And be it further enacted,* That the president and directors and their successors, or a majority of them assembled, shall have power and authority to agree with any person or persons, on behalf of the company, to open and improve the navigation of the Catawba river from the point designated as far up the river as deemed practicable, upon such terms as they shall think fit; and out of the said capital or other moneys of the company, pay for making and repairing all works necessary for said navigation; and also to appoint all such other officers, managers and servants as they shall think requisite; and also to fix their wages, settle and pay their accounts, and at their pleasure to remove all or any of them, and appoint others in their place; and also to establish rules of proceedings; and, generally, to transact all the business of the company in the interval between the general meetings of the same; and any general meeting of the proprietors may allow the said president and other officers such salaries as they may think a reasonable compensation for their trouble.

Sec. 4. *And be it further enacted,* That the stock shall be paid in such proportions and at such times as may be determined by any general meeting of the stockholders; and to such officers of the company as may be appointed to receive the same, one month's previous notice of the amount and time of making the payments being given in some one newspaper in Lincolnton or in such other mode as any general meeting may direct; and if any of the subscribers, their heirs or assigns shall fail to pay the proportions required of them in one month after the same is advertised, the president and directors, or a majority of them, may sell at auction and convey to the purchaser the share or shares of the subscribers so sold, giving at least one month's notice of the sale in some newspaper of the town aforesaid or otherwise as they may direct; and after retaining the sum due, together

with the interest thereon, and charges of sale out of the money produced thereby, they shall refund and pay the surplus, if any, to the former owners; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with interest and incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the ballance by an action in any court of competent jurisdiction, on ten days previous notice; and the said purchaser or purchasers shall be subject to the same rules and regulations, and entitled to the same profits and privileges, as if the sale or conveyance had been made by the original proprietor.

Sec. 6. *And be it further enacted,* That the canals, locks, and every work and thing appertaining to the said navigation, with all the profits arising from the same or any part thereof, shall be, and are hereby vested in said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares, to construct boats, build ware houses and carry on the business of transportation both up and down said river; for which transportation the said company shall receive a fair and reasonable toll to be hereafter fixed by the General Assembly.

Sec. 7. *And be it further enacted,* That said company shall have no power to condemn or appropriate contrary to the will of the proprietors thereof, any land lying without the channel of said river; but shall be permitted to purchase and to hold such quantities as may be necessary to use in cutting canals and building warehouses upon and keeping up the same.

Sec. 8. *Be it further enacted,* That it shall and may be lawful for every proprietor to transfer his or her share or shares of stock by deed, executed before one or more witnesses, and registered, after proof of the execution, in the company's books, and not otherwise, except by devise: *Provided,* no transfer shall be made, except for one or more whole shares.

Sec. 9. *And be it further enacted,* That in case the said

company shall not complete the navigation of said river so as to admit the safe passage of boats drawing eighteen inches water through to the Pleasant Gardens, within seven years from the passage of this act, then the privileges herein granted shall be forfeited and cease: *Provided, however,* that if the said company shall complete the navigation as aforesaid of said river from the point herein before mentioned, up to the Rocky Ford, on said river, within the time aforesaid, then they shall be entitled to all the privileges and immunities herein granted between the two points last mentioned; and as to all that portion of the river above the Rocky Ford, the said privileges and immunities shall cease and determine; and the Legislature may incorporate any other company to effect said navigation, or adopt such other measures in regard to it as in its wisdom it may deem proper.

Sec. 10. *And be it further enacted,* That in case the capital herein mentioned shall be found insufficient to improve the navigation as herein provided, then the said company shall have power and authority to increase their capital to such amount as may be necessary, under such rules and regulations as they may prescribe; provided the said increase shall not exceed one hundred thousand dollars.

[Ratified 29th day of January, 1849.]

## CHAPTER CXCVI.

AN ACT to prevent the felling of timber in the Alamance River, in the county of Orange.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That if any person or persons, after the first day of March next, shall fell timber in the chan-

nel of the Alamance river, in the county of Orange, he or they so offending shall be guilty of a misdemeanor, and may be indicted for the same in the county or superior courts of said county; and, on conviction, shall be fined, at the discretion of the court, a sum not exceeding ten dollars for each and every offence against this act.

[Ratified 29th day of January, 1849.]

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## CHAPTER CXCVII.

AN ACT to provide for the opening and cleaning cut of Big Rockfish creek, in the counties of Cumberland and Robeson, and to prevent obstructions to the free navigation of the same.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the courts of pleas and quarter sessions for the counties of Robeson and Cumberland, at the second term of said courts, which shall happen after the 1st day of January, 1849, (seven justices being present in said courts respectively,) may appoint overseers and allot to them respectively the proper hands to clear out and render navigable Big Rockfish creek, in the said counties, from its mouth to where it passes the Coleman Road, in Cumberland county; and the justices of said courts shall designate the portions of said stream which each overseer is to take charge of and work upon; and the said overseers, so appointed, shall clear out all logs and other obstructions out of the channel of said stream, or the portion allotted to him, so as to render the same navigable for the free passage of rafts, logs and timber.

Sec. 2. *Be it further enacted,* That the overseers appointed under the provisions of this act shall have the same pow-

ers to compel the attendance of the hands assigned them, which overseers of roads now have by law; and the hands assigned them shall be liable to all penalties to which persons appointed by the county courts to work upon the roads are liable.

Sec. 3. *Be it further enacted*, That it shall not be lawful for any person, by felling trees, or any other means whatever, to obstruct the free navigation of said creek for boats, rafts, timber, logs, lumber or any other product; and any person so obstructing said navigation, shall be liable to indictment, and if the offence be committed in any part of said stream, which may be the dividing line between the counties of Cumberland and Robeson, the courts of either county shall have jurisdiction of said offence.

Sec. 4. *Be it further enacted*, That every person who may have heretofore erected, or who shall hereafter erect any mill or dam across said stream, shall cause to be constructed and kept open and in good repair, good and sufficient slopes for the free passage of all rafts of lumber, timber, turpentine and other products.

[Ratified 29th day of January, 1849.]

## ROADS.

### CHAPTER CXXVII.

AN ACT to alter and amend the 1st, 3d, and 4th sections of chapter ninety-four of the statutes of 1846-7, entitled "An Act to appoint commissioners to view and lay off a Road from Asheville, in Buncombe county, to Burnsville, in Yancey county."

Sec. 1. *Be it enacted by the General Assembly of the*

*State of North Carolina, and it is hereby enacted by the authority of the same, That Wm. J. Brown, Enoch Cunningham and Milton Penland, be, and they are hereby appointed commissioners to view and lay off a road from Asheville, in Buncombe county, to Bernsville in Yancy county, according to the provisions of chapter 94th, section 1st, of the statutes of 1846-'7.*

*Sec. 2. And be it further enacted, That the aforesaid commissioners shall receive as compensation, the sum of two dollars per diem, each, to be paid as provided for in chapter 94th and section 3rd of the aforesaid statutes.*

*Sec. 3. And be it further enacted. That the overseers and hands of all the captain's companies through which the road may pass shall be compelled to open, cut and make said road, according to the provisions of chapter 94th and section 4th of the statutes of 1846-'7.*

*Sec. 4. And be it further enacted, That all laws and clauses of laws coming in contact with this act, be, and the same are hereby repealed.*

[Ratified 27th day of January, 1849.]

## CHAPTER CXCIX.

AN ACT to repeal the third and fourth sections of chapter 100th of the Statutes of the Legislature of 1846 and 1847.

*Sec. 1. Be 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 third section of chapter 100 of the statutes of 1846 and 1847, entitled "An Act to appoint commissioners to view and lay off a part of the State road from Wilkesboro' to Peyton Colvard's, and for the purpose of improving the same," be, and the same is*

hereby repealed. *Provided*, that nothing herein contained shall be so construed as to abolish that part of the road lying between Adam Staley's and Peyton Colvard's old place.

[Ratified 25th day of January, 1849.]

## CHAPTER CC.

AN ACT for the better regulation of the public highways in Rutherford county.

Sec. 1. *Be 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 all public roads lying and being within the county of Rutherford, and which are sixteen feet wide and kept in good repair, shall be deemed and held to be good and lawful roads.

Sec. 2. *Be it further enacted*, That it shall be the duty of the several overseers of public roads in said county so to trim and cut off all stumps above the ground on said roads, which shall present impediments to the free and easy passage of wagons, carriages and other vehicles passing over the same; to have the portions of said roads which may be allotted to them severally, six feet wide, on either side of the centre, free from all stumps, roots or runners which present an obstacle to a free and easy passage over said roads; to have their said roads twelve feet wide when side digging is necessary; to have and keep all bridges and causeways twelve feet wide, with hand railing to the bridges.

Sec. 3. *Be it further enacted*, That the court of pleas and quarter sessions be, and they are hereby invested with the power and authority to appoint three or five disinterested freeholders, as they may deem best, to view and lay off all public roads that may hereafter be established in said county; and said freeholders, after being appointed by the court

and duly sworn by some justice of the peace, shall proceed and act under the same rules, regulations and restrictions as are now required by law in other cases where public roads are viewed and laid off.

[Ratified 16th day of January, 1849.]

### CHAPTER CCI.

AN ACT concerning the public roads in Brunswick and Beaufort counties.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the county courts of Brunswick and Beaufort counties may have power and authority to require the overseers of the public road in said counties to fell all the dead trees within sixty feet of said road; and to levy a tax, if necessary, not exceeding ten cents on each taxable poll, to compensate the overseers and hands for felling said trees.

[Ratified 27th day of January, 1849.]

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### CHAPTER CCII.

AN ACT to appoint commissioners to view and lay off a road from the Flat Rock, in Yancey county, *via* Aaron Burleson's Mills, on Cane Creek, to a point at or near where the road leading from Burnsville to the Indian Grave Gap crosses Tow river in said county.

Sec. 1. *Be it enacted by the General Assembly of the*

*State of North Carolina, and it is hereby enacted by the authority of the same,* That Col. James Piman, John Keener, and Alfred Keith, be, and are hereby appointed commissioners to view and lay off a road leading from a point in the Iron Mountain road, at or near the Flat Rock, by Aaron Burleson's Mills, on Cane Creek, to a point at or near where the road leading from the Indian Grave Gap to Burnsville, crosses Tow river, the nearest and most practicable route, with the least injury to persons over whose land it may pass.

Sec. 2. *Be it further enacted,* That the commissioners appointed to lay off said road, shall have power (or a majority of them) to fill any vacancy that may occur in their board, either from death or otherwise; and that an agreement of any two of them shall be binding on the third as to location.

Sec. 3. *Be it further enacted,* That the commissioners appointed under this act are to lay off said road and so locate it, that its elevation shall not exceed one foot in twelve, having due regard to the interest of improvements, and report the same to the first county court that shall happen in the said county after the survey and location; said survey to be made as soon after the first day of March next (A. D., 1849) as it may be possible to make it.

Sec. 4. *Be it further enacted,* That upon the report of the commissioners aforesaid, the said court shall have power, and are hereby authorized to appoint overseers with suitable allotments of said road; and that all hands living on and [?] are required to work on the old road running through said district from said point to said point as aforesaid, are hereby declared liable to work on the opening of said road.

Sec. 5. *Be it further enacted,* That should any damage be sustained in laying off and opening said road, the same shall be assessed in the same manner that is now prescribed by law in such cases.

Sec. 6. *Be it further enacted,* That the said commissioners appointed under this act, shall be entitled to receive

for their services in laying off said road, two dollars for each and every day they may be necessarily employed in laying off said road, to be adjudged of by the county court, and allowed as other county claims.

Sec. 7. *Be it further enacted,* That it shall be the duty of said overseers, soon after their appointment by the county court, to warn out all the hands directed by said court to work on said road; and they shall proceed to open out the same at the earliest practicable period after the location.

[Ratified 27th day of January, 1849.]

## CHAPTER CCM.

AN ACT to authorize Major John Clark, of Beaufort county, to make a road on his own land, from Pantego to the head of Pungo, and to receive toll for passing the same.

Sec. 1. *Be 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 Major John Clark, of Beaufort county, to make a road from the Pantego and Leechville road to the public road at the head of Pungo river, just below the Indian run, on his own land.

Sec. 2. *Be it further enacted,* That the said road shall be sixteen feet wide, and clear of all obstructions; and the right and property of said road, when completed, and the emoluments and profits arising therefrom, for the term of thirty years, shall be vested in and enure to the said Major John Clark, or him and his associates, his or their heirs or assigns; provided the same shall be completed by the first day of January, 1851.

Sec. 3. *Be it further enacted,* That when the road shall be completed as aforesaid, the said Major John Clark, or his associates, or his or their heirs or assigns, shall be, and

they are hereby authorized and empowered to erect a gate thereon, and to be entitled to receive the following toll, viz: for each foot passenger, five cents; for each horse, mule, ox or other horned cattle, ten cents; for each two wheeled carriage, fifteen cents; for each four wheeled carriage, twenty cents; for each sulky, twenty cents; buggy, twenty-five cents; and for each hog, sheep and calf, three cents.

Sec. 4. *Be it further enacted*, That it shall be the duty of the said proprietor or proprietors of said road to keep the same in good and lawful condition, under the same regulations or penalties which are now prescribed against overseers of other public roads.

[Ratified 27th day of January, 1849.]

#### CHAPTER CCIV.

AN ACT to appoint commissioners to lay off a road in the county of Wilkes.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Allen A. Whittington, George Wyatt and Elza Reynolds, be, and they are hereby appointed commissioners to lay off a road in Wilkes county, beginning on the stage road leading from Jefferson to Wilkesborough, at Allen A. Whittington's, running by George Wyatt's to the Yadkin, at Reynold's island, and intersecting with the stage road again about one mile above Col. William Packs's.

Sec. 2. *Be it further enacted*, That before said commissioners shall enter upon the duties of their appointment, they shall take an oath before some justice of the peace for said county of Wilkes, to lay off said road the best and most

convenient way, having due regard to private property as well as to public good.

*Sec. 3. Be it further enacted,* That when said road shall be laid off, the said commissioners shall make report thereof to the county court of Wilkes, whose duty it shall be, if they deem the same expedient, not less than twelve magistrates concurring, to appoint overseers and allot hands to open said road and keep it in good repair.

[Ratified 27th day of January, 1849.]

## CHAPTER CCV.

AN ACT to open and improve a road from the town of Newton, in the county of Catawba, to Morganton, in the county of Burke, and to discontinue a part of the old State road.

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That George J. Wilkey and George P. Shuford, of the county of Catawba, and David Copening and R. C. Pearson, of the county of Burke, be, and they are hereby appointed commissioners to view and lay off a road from the town of Newton, in the county of Catawba, the nearest and best way, to the town of Morganton, in the county of Burke.

*Sec. 2. Be it further enacted,* That before the commissioners shall enter upon the duties of their office, they shall take an oath before some justice of the peace of Catawba or Burke county, that they will lay off the said road the best and most convenient way, having a due regard to private property as well as to public good; and that the said commissioners shall have power to assess the damages which any individual may sustain by the construction of said road,

such damage to be paid by the county wherein the damage is incurred.

Sec. 3. *Be it further enacted*, That it shall be the duty of said commissioners to report to the county courts of Catawba and Burke counties ; and if a majority of the acting justices present concur in said report, they shall have power to appoint as many overseers in their respective counties, as they may think proper, and order a sufficient number of hands to open said road : And when said road has been opened, as required by this act, it shall be kept in repair as other public roads are in this State, and under the same penalties and restrictions.

Sec. 4. *Be it further enacted*, That all that portion of the old State road, leading from Fayetteville to Morganton, from the forks of the road, near the Dutch meeting house, in the county of Catawba, to the forks of the road near Alfred Ramsour's store, in said county, be, and the same is hereby discontinued.

Sec. 5. *Be it further enacted*, That the above commissioners shall have power, if they think it necessary, to employ a surveyor ; and if any of said commissioners shall die, or refuse to act, two or a majority may appoint some discreet person to act in his place. And for their service, the counties of Catawba and Burke shall pay said commissioners and surveyors two dollars per day.

Sec. 6. *Be it further enacted*, That this act shall take effect from and after its ratification.

[Ratified 16th day of January, 1849.]

## CHAPTER CCVI.

AN ACT to open and improve the road leading from Council's Store, in Ashe county, to Bedford Wiseman's, in Yancy county.

Sec. 1 *Be it enacted by the General Assembly of the State of*

*North Carolina, and it is hereby enacted by the authority of the same, That Reuben Mast and Philip Shull and Larkin Hodges, be, and they are hereby appointed commissioners to view and lay off a road from Council's store, in Ashe county, the nearest and best way to the mouth of Three Mile creek, in Yancy county, at or near the house of Bedford Wiseman.*

*Sec. 2. Be it further enacted, That before the commissioners shall enter upon the duty of their office, they shall take an oath before some justice of the peace of Ashe county, that they will lay off the said road the best and most convenient way, having due regard to private property as well as public good; and shall have power to assess any damage that any individual may sustain, by the construction of said road; and such damage shall be paid by said counties where the damage is incurred.*

*Sec. 3. Be it further enacted, That it shall be the duty of said commissioners to report to the county courts of Ashe and Yancy counties; and if twelve of the acting justices concur with said report, they shall have power to appoint overseers in their respective counties, and order a sufficient number of hands to open said road; and when said road has been opened as required by this act, it shall be kept in repair as other public roads are in this State.*

[Ratified 27th day of January, 1849.]

## CHAPTER CCVII.

AN ACT to alter an act concerning a road in Iredell county.

*Sec. 1. Be 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 said act concerning a road in*

Iredell county, passed at the session '46-'47, as makes it the duty of the county court of Lincoln county to appoint overseers and hands to keep up and repair the said road or any part thereof, be, and the same is hereby repealed.

[Ratified 27th day of January, 1849.]

### CHAPTER CCVIII.

AN ACT to amend an act entitled "An Act authorizing the County Court of Lincoln to exercise exclusive jurisdiction over the Public Road which is the dividing line between the Counties of Lincoln and Cleveland."

Sec. 1. *Be 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 session of 1844-'45 of the General Assembly, chapter 45, giving exclusive jurisdiction to the county court of Lincoln over the public road which is the dividing line between the counties of Lincoln and Cleveland, be, and is hereby amended as follows: by striking out "Lincoln," in the first, eleventh and thirteenth lines thereof, and whenever it occurs, and inserting in lieu thereof "Gaston," so as to give to the courts of Gaston county exclusive jurisdiction over the road aforesaid, in as full and ample a manner as the county of Lincoln hath hitherto possessed.

Sec. 2. *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 27th day of January, 1849.]

## CHAPTER CCIX.

AN ACT for the improvement of the Public road from Raleigh to Hillsboro.

*Sec. 1. Be 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. Kirkland and Wesley Jones, be, and they are hereby appointed commissioners to examine the public road between Raleigh and Hillsboro, and to lay off, mark and direct such alterations and improvements in the same as they may deem necessary and proper; and the said commissioners shall make a report, in writing, specifying the alterations and improvements in said road, which they shall have determined on as aforesaid, to the court of pleas and quarter sessions for the counties of Wake and Orange respectively; and the said courts, upon receiving such report, or at the next term thereafter, shall appoint overseers and allot hands to make the several sections of said road within their limits respectively, as the same shall be marked out and directed as aforesaid; and the said altered road shall thereafter be repaired and kept up as other public roads.

*Sec. 2. Be it further enacted,* That if any person shall conceive him or herself injured by the alteration made in said road, as it passes through his or her land, such person may petition the county court of his county and have a jury to enquire of the damages he or she may have sustained in the premises; and if any damages be so found and allowed by the court, it shall be paid by the county, but if no damage be allowed, the costs in such cases shall be paid by the petitioner.

*Sec. 3. Be it further enacted,* That either of said county courts, if they shall deem it expedient, is hereby authorized to appropriate from the county funds a sum not exceeding one thousand dollars, to be expended in planking or causewaying said road in such places or parts as they may direct and designate.

*Sec. 4. Be it further enacted,* That the said commis-

sioners shall each be allowed, for the service herein required of them, the sum of thirty dollars, to be paid from the treasuries of the respective counties.

[Ratified 29th day of January, 1849]

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## CHAPTER CCX.

AN ACT to open and improve the road from Salathial Stone's old place, in Forsyth County, to the Virginia line, near the mouth of Wilson, in Ashe County.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Allen Gentry, Elijah Thompson, Emanuel Cranon, Tyre Glenn and William Eliot, Jr., be, and they are hereby appointed commissioners to view and lay off a road from Salathial Stone's old place, in the county of Forsyth; thence by Old Town and across the Yadkin river, at Glenn's ford; thence by way of Rockford, the county seat of Surry; thence by Elijah Thompson's and by Gap Civil, in Ashe county, to the Virginia line, near the mouth of Wilson.

Sec. 2. *Be it further enacted,* That before the commissioners shall enter upon the duty of their office, they shall take an oath before some justice of the peace of one of the counties aforesaid, that they, or a majority of them, will lay off said road the best and most convenient way, having due regard to promote property as well as public good, and shall have power to assess any damage that any individual may sustain by the construction of said road, and such damage shall be paid by the counties where the damage is incurred.

Sec. 3. *Be it further enacted,* That it shall be the duty of said commissioners to report to the county courts of Ashe, Surry, and Forsyth; and if twelve of the acting justices concur with said report, they shall have power to appoint one or

more overseers in their respective counties and order a sufficient number of hands to open said road. And when said road has been opened as required by this act, it shall be kept in repair as other public roads are in this State.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXI.

AN ACT to lay off and open a public road from Alexander Church's, in the county of Wilkes, to William Phillips', in the county of Ashe.

Sec. 1. *Be 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 Mastin, William Church, Jesse Vannoy, Sr., Henry Linderman and Simeon Eller, be, and they are hereby appointed commissioners to view and lay off a public road from Alexander Church's in the county of Wilkes, by New Hope meeting house, to Lewis' Fork, thence up said creek to the lower end of John Powel's field, and then to the Ashe county line on the Blue Ridge, at William Phillips'.

Sec. 2. *Be it further enacted,* That the commissioners aforesaid shall have power and authority to appoint one or more overseers and to designate hands to work out said road: *Provided, nevertheless,* that no individual shall be compelled to work upon said road except those belonging to captains' companies through which the road shall pass.

Sec. 3. *Be it further enacted,* That it shall be the duty of the overseer or overseers appointed by authority of this act to give to the hands allotted to them such notice of the time and place of working as overseers of public roads are now required by law to give; and any person or persons being liable to do work upon said road under this act and failing

so to do, shall be subject to the penalties now imposed by law upon individuals failing to work upon public roads.

[Ratified 29th day of January, 1849.]

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## CHAPTER CCXII.

### AN ACT to lay off a road in Buncombe and Yancy Counties.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Nehemiah Blackstock, Thomas S. Deaver and Woodson Anderson, be, and they are hereby appointed commissioners to view, amend and lay off a road from the Tennessee State line, in Yancy county, crossing the Walnut mountain, to a point on the public road at or near N. Blackstock's, in Buncombe county.

Sec. 2. *Be it further enacted,* That it shall be the duty of the said commissioners to lay off and make said road, making such alterations as they may find necessary; and that they make report thereof to the county court of Yancy, as well as to the county court of Buncombe county.

Sec. 3. *Be it further enacted,* That on such report being made to said counties, it shall be the duty of the respective counties to appoint overseers on the road and assign to them such working hands as they may find necessary to cut out and make said road in the respective counties, as in other cases of public roads in this State. And the road shall be a public highway, and be made and kept up as other public roads.

Sec. 4. *Be it further enacted,* That the said commissioners shall be paid for their services two dollars per day, one half by each county aforesaid.

Sec. 5. *Be it further enacted,* That in case any one or

more of said commissioners shall die, remove or refuse to act, it shall be the duty of the court of pleas and quarter sessions for Yancy county to fill the vacancy or vacancies.

Sec. 6. *Be it further enacted*, That before entering on the duties hereby assigned them, the said commissioners shall take an oath before some justice of the peace for either of the counties of Buncombe or Yancy faithfully to perform the duty to the best interest of the county, without favor to individuals.

[Ratified 29th day of January, 1849.]

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### CHAPTER CCXIII.

AN ACT to incorporate the Wilmington and Walker's Ferry Plank Road Company.

Sec. 1. *Be 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, and the following persons are hereby empowered to open books for receiving subscriptions for the purpose of constructing a plank road from the town of Wilmington to the public ferry in the Cape Fear River, now owned by John Walker, to wit: John Walker, William S. Ashe, and such other persons as they may choose to associate with them; and the said persons above named, and their associates, are hereby declared and deemed to be a body corporate and politic in law, under the style and name of "The Wilmington and Walker's Ferry Plank Road Company;" and by that name may sue and be sued, plead and be impleaded, have a common seal, hold and possess real property, and have all such powers as may be necessary to carry into effect the object of this incorporation.

Sec. 2. *Be it further enacted*, That the capital stock

of said company shall be ten thousand dollars, divided into shares of one hundred dollars each, each share to be represented, in said company, by one vote. And when five thousand dollars shall have been subscribed, the persons heretofore named are authorized and empowered to call a general meeting of the stockholders, for the purpose of electing officers and enacting by-laws for the government of said company.

Sec. 3. *Be it further enacted*, That the said officers, so elected, and their successors, or a majority of them, shall have power and authority to agree with any person or persons, on behalf of said company, to construct the said plank road, and perform such other works as they shall judge necessary from time to time, and upon such terms, and in such manner, as they shall think fit and proper.

Sec. 4. *Be it further enacted*, That it shall and may be lawful for the said officers, or a majority of them, to agree with the owner or owners of land through which said road may pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be *feme covert*, infant, *non compos*, or reside beyond the State, on application to two justices of the peace of the county in which said land may lie, the said justices shall issue their warrant, under their hands and seals, to the sheriff of said county, to summon a jury of good and lawful men to assess on the land, on a day to be appointed in said warrant, and, after being duly sworn, to assess the damages (if any) the owner of said land will sustain from the passing of said road through his land; and such assessment shall be paid by the said company to the owner of the land or to his legal representative; and on the payment thereof, said company shall be seized in fee of said land as if conveyed by the owners thereof to them by legal conveyance.

Sec. 5. *Be it further enacted*, That the said officers so elected, and their successors, shall have power to erect toll gates and collect a reasonable toll from all persons using

said plank road, and shall have power to declare dividends from time to time as they may think proper.

Sec. 6. *Be it further enacted*, That if any person or persons shall wantonly or wilfully injure the said plank road, toll gate or other property belonging to this corporation, or procure any other person or persons to injure the same, he or they shall be liable to pay a fine of ten dollars, to be recovered by said officers, by warrant, before any justice of the peace of the county; and shall be further liable to indictment in either the county or superior court.

Sec. 7. *Be it further enacted*, That if any person or persons shall use the said plank road, or any part thereof, and refuse or omit to pay the toll established by said company to the officer demanding the same, he or they may be proceeded against by warrant, and shall be subject to all costs and charges incurred by said company in the collection thereof.

Sec. 8. *Be it further enacted*, That this act shall continue in force from and after the ratification thereof for twenty-five years, and no longer: *Provided*, that said corporation shall have five years in which to commence said road; any law to the contrary notwithstanding.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXIV.

### AN ACT to incorporate the Wilmington and Masonboro' Plank Road Company.

Sec. 1. *Be 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, and the following persons are hereby empowered to open books for receiving subscriptions for the purpose of constructing a plank

road from the town of Wilmington to Daniel B. Baker's plantation, on Masonboro' sound, in the county of New Hanover, to wit: James Cassidy, Isham Peterson, Parker Quince, Edwin E. Anderson, John Hewlet, Jo'n D. Love, Alexander Hewlet, George W. Davis, Richard Beasley, Daniel S. Sanders, Lucian Holmes, Hiram R. Nixon, Miles Costen, Daniel B. Baker, John Dawson, C. Myers, A. D. Young, Henry R. Howard, Owen D. Holmes, and John R. Reston, and such other persons as they may choose to associate with them; and the said persons above named, and their associates, are hereby declared, and deemed to be a body corporate and politic in law, under the name and style of "The Wilmington and Masonboro' Plank Road Company;" and by that name, may sue and be sued, plead and be impleaded, have a common seal, hold and possess real property, and have all such other powers as may be necessary to carry into effect the object of this incorporation.

Sec. 2. *Be it further enacted*, That the capital stock of said company shall be fifteen thousand dollars, divided into shares of one hundred dollars each, each share to be represented in said company by one vote; and when five thousand dollars shall have been subscribed, the persons heretofore named are authorized and empowered to call a general meeting of the stock holders for the purpose of electing officers and enacting by-laws for the government of said company.

Sec. 3. *Be it further enacted*, That it shall and may be lawful, for the said officers, or a majority of them, to agree with the owner or owners of land through which said road may pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be *feme covert*, infant, *non compos* or out of the State, on application to two justices of the peace of the county of New Hanover, the said justices shall issue their warrant, under their hands, to the sheriff of said county, to summon a jury of twelve freeholders to meet on the land, on a day to be named in said warrant, and after being duly sworn, to assess the

damage (if any) the owner of said land will sustain from the passing of said road through their land; and such assessment shall be paid by the said company to the owners of said land or their legal representatives: and on the payment thereof, said company shall be seized in fee of said land as if conveyed by the owners thereof to them by legal assurances.

Sec. 4. *Be it further enacted*, That the said officers elected, as by this act required, and their successors, or a majority of them, shall have power and authority to agree with any person or persons, on behalf of said company, to construct the said plank road, and perform such other works as they shall judge necessary from time to time, and upon such terms, and in such manner, as they shall think fit and proper.

Sec. 5. *Be it further enacted*, That the said officers so elected, and their successors, shall have power to erect toll gates and collect a reasonable toll from all persons using said plank road, and shall have power to declare dividends from time to time as they may think proper.

Sec. 6. *Be it further enacted*, That if any person or persons, shall wantonly injure the said plank road, toll gate or other property, belonging to this corporation, or procure any person or persons to injure the same, he or they shall be liable to pay a fine of ten dollars, to be recovered, by said officers, by warrant before any justice of the peace of the county, and shall be furthermore liable to an indictment in either the county or superior court.

Sec. 7. *Be it further enacted*, That if any person or persons shall use the said plank road, or any part thereof, and refuse or omit to pay the toll established by said company to the officer demanding the same, he or they may be proceeded against, by warrant, and shall be subject to all costs and charges incurred by said company in the collection thereof.

Sec. 8. *Be it further enacted*, That this act shall be in force, from and after the ratification thereof, for twenty five years and no longer. *Provided* that said corporation shall

have five years in which to commence said road; any law to the contrary notwithstanding.

[Ratified 29th day of January, 1819.]

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## CHAPTER CCXV.

### AN ACT to incorporate the Greensboro' and Mount Airy Turnpike Company.

Sec. 1. *Be 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 Sloan, Jesse H. Lindsay, William Watson, William P. Henly, Job Worth, John Denny, Solomon Graves, Jacob W. Brower, Elisha Barber, Henry Samuel, Solomon Sprouhoun, Samuel D. Moore, Hugh Gwyn and Anthony Betting, or any two of them, are hereby appointed commissioners to open books and receive subscriptions of stock to the amount of twenty thousand dollars, which sum shall constitute the capital stock of the company hereby incorporated; and it shall be the duty of the commissioners, or some one of them, to open books at Mount Airy, at Kernersville, and at Greensboro,' and at such other places as any two of them may think proper, on the second day of May next, after giving due notice of the time and places, by public advertisement, at least fifteen days previous; and said commissioners shall open the books from time to time, as they may think proper, until said stock is subscribed.

Sec. 2. *Be it further enacted,* That as soon as the sum of five thousand dollars, shall be subscribed, it shall be the duty of said commissioners, or some two of them, to call a general meeting of the stockholders at Mount Airy, in Surry county; and if a majority of the stockholders shall attend, it shall and may be lawful for them to appoint a President, Treasurer and three directors for the term of one year, and until their next general meeting of the stockholders; and

the said president, treasurer and directors, when so appointed, and their successors in office, shall constitute a body corporate and politic in law, by the name and style of "The Greensboro' and Mount Airy Turnpike Company;" and by that name, may sue and be sued, plead and be impleaded, in any court of record within this State; and as such have perpetual succession, and a common seal; and shall have and possess all the rights and privileges necessary to carry into full effect the objects of this corporation.

Sec. 3. *Be it further enacted*, That the aforesaid capital stock shall be divided into shares of twenty dollars each, which shall be applied in laying out and making a Turnpike from Greensboro', in Guilford county, to the Virginia line, in Surry county, on the Good Spur road, by William Watson's, Kernersville, Solomon Spainhour's, and Mount Airy, along or near the public road that now connects said places; the road to be made sixteen feet wide, clear of obstructions, except where side cutting may be necessary, in which case the road maybe twelve feet wide; and in no part of the road shall it rise, in ascending any hill or mountain, more than one foot in twenty feet.

Sec. 4. *Be it further enacted*, That all laborers subject to work on public roads living within two miles of said road, except such as may be ordered and directed by the county courts to work on other roads, shall be required to perform six days labor on said road in each and every year, under the same penalties as other hands are under for failing to work on public roads: *Provided however*, that the laborers shall have the same notice or warning from some agent of the company that overseers are now by law required to give their hands, before they shall be held and made liable.

Sec. 5. *Be it further enacted*, That the number of votes to which any stockholder may be entitled shall be according to the number of shares he may hold, in the proportion following, that is to say, for one share and not more than two, one vote; for every two shares above two and not above ten,

one vote; for every five shares above ten and not exceeding fifty, one vote; and every ten shares above fifty, one vote.

*Sec. 6. Be it further enacted,* That the owners of a majority of all the shares subscribed, shall, at any time, have power to remove from office the president, treasurer and directors of said company, or any of them, and appoint others in their stead, and to fill all vacancies, which may happen in any way; and it shall be the duty of the President to make a full and fair statement of all the affairs of the company to each general meeting of the stockholders; and it shall be the duty of the treasurer to receive and account for all monies belonging to the company, and keep a fair account of the same, and to do and perform all such duties as may be required of him in relation to his office.

*Sec. 7. Be it further enacted,* That the stockholders at their first annual meeting, shall fix on the time, proportions and manner, whether in cash or work on the road, in which the stock subscribed shall be paid; and shall further have power to declare the stock of the delinquent subscribers forfeited.

*Sec. 8. Be it further enacted,* That when said road shall be completed as directed in this act, from the Little Yadkin to Mount Airy, it shall and may be lawful for the company to erect a toll gate or toll gates at some convenient place or places on said road, and demand and receive tolls at the following rates, that is to say, for a man and horse, ten cents; for loose horses and mules, eight cents each; for cattle, two cents each; hogs and sheep, one cent each; for each six horse wagon, seventy-five cents; for each four or five horse wagon, fifty cents; two or three horse wagon, thirty seven and a half cents; each pleasure carriage with two horses, fifty cents; gig, sulky, cart or carryall, twenty five cents each; every other vehicle, twenty five cents: And when the said road is completed as aforesaid, from the Little Yadkin to Greensboro', the said company shall have the same power to erect gates and exact tolls: *Provided,* that all the resident citizens of the counties through which said road

passes, shall be allowed to travel and use said public highway as heretofore, free of charge.

Sec. 9. *Be it further enacted*, That the said company shall be responsible for the order and repair of that portion of said road, on which they exact tolls; and if at any time, the said company shall suffer the road to get out of order, and remain so for the space of twenty days, the president and directors shall be subject to indictment in any court of record; and, on conviction, shall be fined at the discretion of the court.

Sec. 10. *Be it further enacted*, That if any person or persons shall, for the purpose of avoiding the payment of the above tolls, either break through, or go round the toll gates, he or they shall be subject to pay five dollars, and be further liable to damages; to be recovered before any court or justice of the peace in the county where the wrong shall be committed.

Ratified 29th day of January, 1849.]

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## CHAPTER CCXVI.

AN ACT to establish a Turnpike Road in Yancy county.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That John Roberts, Joseph Sheppard, John W. McElroy, Milton D. Pendland, Neely Tweed, be, and they are hereby appointed commissioners to open books at Burnsville, and at any other place or places in Yancy county, that they, or a majority of them, shall determine, for the purpose of receiving subscriptions for stock in a company hereby created, to make a turnpike road in said county of Yancy, from a point on the State line of Tennessee, passing Laurel, the best route to the Joy Gap, at or near Buchner's and the

said commissioners shall keep open the said books until the amount hereinafter required is subscribed.

Sec. 2. *Be it further enacted,* That as soon as the sum of three thousand dollars shall be subscribed, divided into shares of fifty dollars each, the said subscribers and their successors and assigns shall be a body politic and corporate, have perpetual succession and a common seal, and all the corporate privileges necessary for the purposes of this charter, in the name of the Laurel Turnpike Company; and in that name, shall have power and authority to sue and be sued, to contract and be contracted with; and shall have power to pass any by-laws necessary for their government, not inconsistent with the laws of this State.

Sec. 3. *Be it further enacted,* That the capital stock of said company shall be three thousand dollars; and when that sum is subscribed, it shall be the duty of said commissioners, or a majority of them, to give notice to the subscribers, and appoint a time and place for the meeting of the subscribers to organize under this charter.

Sec. 4. *Be it further enacted,* That the said company shall have power to lay off and make a turnpike road from such point as they may fix on, at the line of the State of Tennessee, passing Laurel, to a point on the road leading from Asheville to Burnsville, at or near the Joy Gap; and shall make said road fifteen feet wide, except where there may be cliffs of rocks rendering it inconvenient to do so; and in such it shall be [not] less than twelve feet wide, and in no place to be less than fifteen feet wide for more than ten rods at any one place, and shall be so graded as not to rise more than one in ten feet.

Sec. 6. *Be it further enacted,* That when the said road shall be completed, the president and directors shall have power to erect a gate at a convenient point on said road, and demand and receive from persons and property passing said road the following tolls, viz: for wagons with five or six horses, 75 cents; on pleasure carriages drawn by two horses, 75 cents; on wagons with four horses, 50 cents each;

wagons with two or three horses, 30 cents; on carts or wagons with one horse, 15 cents each; pedlar's carts, 50 cents; on gigs and sulkies, 25 cents; on man and horse, 10 cents; on loose horses and mules, 5 cents each; on cattle, 3 cents, on sheep and hogs, one cent each.

Sec. 7. *Be it further enacted*, That no citizen of Yancy county shall be subject to the above tolls: *Provided*, the county court of said county, a majority of the justices being present, shall make an order requiring each hand liable to work on public roads living within three miles of said road to perform three days labor thereon each year. And on such order being made, it shall be the duty of each laborer aforesaid to perform three days' labor on said road in each year, under the direction of said company, under the penalty of fifty cents for each day he shall fail or neglect to work, to be recovered before any justice of the peace for said county, in the name and for the use of said company.

Sec. 8. *Be it further enacted*, That this charter shall continue in force thirty years, and the road shall be a public road.

Sec. 9. *Be it further enacted*, That the president and directors of said road shall be subject to indictment in the superior court for Yancy county, for any and every failure or neglect to keep said road in good and sufficient repair, under the same rules and regulations that apply to overseers of public roads in this State.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXVII.

AN ACT to amend the eighteenth section of an act, entitled "An Act to incorporate the Caldwell and Ashe Turnpike Company."

Sec. 1. *Be it enacted by the General Assembly of the State of*

*North Carolina, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the said company to erect toll gates upon so much of the turnpike road from Caldwell to Ashe county as has already been completed, under the provisions, rules, regulations and restrictions provided for in the eighth section of an act, entitled "An Act to incorporate the Caldwell and Ashe Turnpike Company."

Sec. 2. *Re it further enacted,* That it shall be lawful to collect the following tolls in addition to those already authorized by law, to wit: for every pleasure carriage, fifty cents; for every two horse buggy, thirty cents; for every one horse buggy, twenty cents.

[Ratified the 29th day of January, 1849.]

#### CHAPTER CCXVIII.

AN ACT to amend an act, passed at the session of the General Assembly 1846-'47, entitled "An Act to authorize laying off and establishing a Turnpike Road from the head of Carter's and Spencer's Canal, near Mattamuskeet Lake, in Hyde county, to Columbia, in Tyrrell county."

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the capital stock of the Mattamuskeet and Alligator Turnpike Company, incorporated by an act of the General Assembly of this State, at its session 1846-1847, for the construction of a turnpike road from the county of Hyde into the county of Tyrrell, be enlarged from the sum of five thousand dollars (as provided in said act, to the sum of eight thousand dollars; and, to secure said amount, that the commissioners named in said act shall cause open books of subscription, and keep the same open until the first day of January, A. D. 1850, or until the said sum of eight thousand dollars has been subscribed.

Sec. 2. *Be it further enacted*, That the term of five years, from and after the closing of the books of subscription be allowed within which the said road may be constructed.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXIX.

AN ACT to incorporate the McDowell and Yancy Turnpike Company

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That J. L. Carson, W. L. Gill, James H. Greenlee, Samuel Flemming, Milton D. Penland, William Dickson, and Thomas Baker, Junr., be, and they are hereby appointed commissioners to open books, and receive subscriptions of stock to the amount of seven thousand dollars; which sum, together with the amount to be raised as hereinafter provided, shall constitute the capital stock of the company hereby incorporated; and it shall be the duty of the commissioners to open the books at Marion, at Burnsville, and at such other places as a majority of them may think proper, on or before the first day of June next, after giving due notice of the time and place by public advertisement at least twenty days previous; and said commissioners shall open books from time to time, as they may think proper, until said stock is subscribed.

Sec. 2. *Be it further enacted*, That whenever the said amount shall be subscribed, it shall and may be lawful for the Public Treasurer, and he is hereby directed to appropriate the sum of three thousand dollars, as it may be received out of the sales or entries of the wild or untenanted lands in the counties of McDowell and Yancy, now belonging to the State, for the purpose of aiding to construct said road; and

that the sum of money hereafter to be received from the tolls on said road shall be divided equally between the State and the individual stockholders, after deducting the expense of keeping the said road in repair.

Sec. 3. *Be it further enacted*, That the capital stock aforesaid shall be divided into shares of twenty dollars each, which shall be applied in laying out and making a turnpike road from Marion, in McDowell county, to the Tennessee line, in Yancy county; that road to be made sixteen feet wide clear of obstructions, except where side cutting may be necessary, in which case, the road may be twelve feet wide.

Sec. 4. *Be it further enacted*, That as soon as the sum of five thousands dollars shall be subscribed, it shall be duty of the commissioners to call a general meeting of the stockholders at Marion; and if a majority of the stockholders shall attend, it shall and may be lawful for them to appoint a President, Treasurer, and three directors, who shall hold their offices for one year and until their successors are appointed; and the said President, Treasurer and directors, when so appointed, and their successors in office, shall constitute a body corporate and politic in law, by the name and style of the McDowell and Yancy Turnpike Company, and by that name may sue and be sued, plead and be impleaded, in any court of record within this State; and as such shall have perpetual succession and a common seal, and shall have and possess all the rights and privileges necessary to carry into full effect the objects of this corporation.

Sec. 5. *Be it further enacted*, That the number of votes to which any stockholder may be entitled shall be according to the number of shares he may hold in the proportion following, that is to say, for one share and not more than two, one vote; for every two shares above two and not above ten, one vote; for every five shares above ten and not exceeding fifty, one vote; and for every ten shares above fifty, one vote.

Sec. 6. *Be it further enacted*, That the owners of a majority of all the shares subscribed shall at any time have power to

remove from office, the President, Treasurer and directors, or any of them, and appoint others in their stead, and to fill all vacancies which may happen in any way ; and it shall be the duty of the President to make a full and fair statement of all the affairs of the company to each general meeting of the stockholders ; and it shall be the duty of the Treasurer to receive and account for all moneys belonging to the company and to keep a fair account of the same, and to do and perform all such duties as may be required of him in relation to his office.

Sec. 7. *Be it further enacted*, That the stockholders at their first general meeting, shall fix on the time and proportion in which the stock shall be paid ; and shall further have power to declare the stock of delinquent subscribers forfeited.

Sec. 8. *Be it further enacted*, That when the road shall be completed, as directed in this act, it shall and may be lawful for the company to erect toll gates at some convenient places on said road, and demand and receive tolls at the following rates, that is to say : for a man and horse, ten cents ; for loose horses and mules, eight cents ; for cattle, three cents each ; hogs and sheep, two cents each ; for six horse wagons, seventy five cents ; five horse wagons, fifty cents ; four horse wagons, fifty cents ; two or three horse wagons, forty cents ; for four wheeled pleasure carriages, fifty cents ; for buggies, thirty cents ; for gigs, sulkeys or carts, twenty-five cents each.

Sec. 9. *Be it further enacted*, That if at any time the said company shall suffer the road to get out of order, and remain so for the space of twenty days, the President and directors shall be subject to indictment in any court of record, and on conviction shall be fined at the discretion of the court.

Sec. 10. *Be it further enacted*, That if any person or persons shall for the purpose of avoiding the payment of the above tolls, either break through or go around the toll gates, they shall be subject to pay five dollars, and be further liable to damages, to be recovered before any court or justice of the peace in the county where the wrong shall be committed.

Sec. 11. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

[Ratified 29th day of January, 1849.]

[*Note*. —It was not observed that this act is of a public nature, until it was too late to insert it among those designated *public* in this pamphlet.]

## CHAPTER CCXX.

AN ACT to amend an act to incorporate the Hickory Nut Turnpike Company, passed at the session of the General Assembly of 1840-41.

Sec. 1. *Be 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 all persons liable to work on public roads, living within one mile of the Hickory Nut Turnpike road, shall be compelled to perform at least six days labor on said Hickory Nut Turnpike road, at such time as the president of said road shall appoint for the benefit of said road.

Sec. 2. *Be it further enacted*, That all such persons as are required by the preceding section to work on said road, shall be exempt from performing labor on any other road.

Sec. 3. *Be it further enacted*, That if any person, liable to work on said turnpike road by the first section of this act, shall refuse or neglect so to do (after notice duly given for three days) he or they so neglecting or refusing, shall forfeit and pay to said company fifty cents for each and every day he or they shall so neglect or refuse, to be recovered in an action of assumpsit, before any justice of the peace of the county in which such delinquent resides.

Sec. 4. *Be it further enacted*, That if any slave or any person bound to servitude shall refuse or neglect to work on said road, the penalty shall be recovered from the master or owner of said slave.

[Ratified 27th day of January, 1849.]

## CHAPTER CCXXI.

AN ACT to amend an act entitled "An Act to incorporate Jonathan Creek and Tennessee Mountain Turnpike Company, in the county of Haywood," passed at the session of 1846-'7.

Sec. 1. *Be 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 recited act, be, and is hereby amended so as to authorize the court of pleas and quarter sessions held for said county, a majority of justices of the peace being present, to appoint three commissioners instead of those named in said section, to perform the duties required by said act; and it shall be the duty of the commissioners to examine and report on the route down on Pigeon river, as well as the two routes referred to in said act; it shall be further the duty of the court to appoint commissioners who do not reside on either of the routes.

Sec. 2. *Be it further enacted,* That the sixth section of the recited act be so amended as to require the grades of the road to be one foot perpendicular for every ten feet horizontal.

Sec. 3. *Be it further enacted,* That instead of tolls specified in the sixth section of the recited act, the company shall be entitled to charge the following tolls, to wit: on every [4?] wheeled carriage of pleasure one dollar; on every gig or sulky, fifty cents; on every six horse wagon, sixty two and a half cents; on every four horse wagon, fifty cents; on every three horse wagon, thirty seven and a half cents; on every two horse wagon or cart, twenty five cents; on each horse and mule with a rider, ten cents; without a rider, five cents; on every head of cattle, two cents; on hogs and sheep, one cent on each; on every animal designed for exhibition, fifty cents.

Sec. 4. *Be it further enacted,* That all the hands liable to work on the public roads in this State, residing within two miles on either side of said road, shall be liable to work on

said road six days in each and every year, under the direction of said company; and the hands within the limits aforesaid, who shall not, when warned, as in other cases, to attend and work on the said road, shall be liable to the same penalties, and recovered in the same manner, that fines are now collected from persons failing to work on the public roads in this State; the performance of this duty shall exempt those hands from working to keep up any other public roads.

Sec. 5. *Be it further enacted*, That all the citizens of Haywood county shall, in consideration of the services to be performed under the fourth section, be entitled to travel said road, after a residence in the county twelve months, free from the payment of any tolls required by this act: *Provided nevertheless*, that this provision shall not extend to any citizen residing in any new county that may be formed out of a portion of said county of Haywood.

Sec. 6. *Be it further enacted*, That all the rights and privileges acquired under this and the recited act, shall cease and determine at the expiration of thirty years from the date of this act.

[Ratified 23th day of January, 1849.]

## CHAPTER CCKXII.

An Act to incorporate the Martin and Bertie Turnpike Company.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it shall be lawful to open roads at any time after the first day of February next, in the town of Williamston, under the direction and management of D. W. Bagley, C. B. Hassell and A. S. Mooming; and in the town of Windsor, under the direction and management of Kader

Biggs, John W. Bond and Frederick C. Miller, for the purpose of receiving subscriptions to the amount of five thousand dollars, in shares of fifty dollars each, to constitute a joint capital stock to make a turnpike road from Williamston Landing, in Martin county, to intersect the public road leading from Spuler's Ferry to Windsor, in Bertie County, and to establish a ferry across Roanoke River.

When two thousand, five hundred dollars shall have been subscribed, the said managers, or any two of them, shall call a general meeting of the subscribers at Williamston, by giving twenty days notice by advertisement, at three or more public places in said town; and if, at such meeting, more than five thousand dollars shall be subscribed, then the same shall be reduced to that sum by them and divided among the subscribers in fair and equal proportions to the amount of stock subscribed for respectively by each.

Sec. 2. *Be it further enacted*, That when two thousand, five hundred dollars shall be subscribed in manner aforesaid, then the subscribers, their executors, administrators and assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the "Martin and Bertie Turnpike Company;" and in that name, may sue and be sued; plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law; and may make all such by-laws, rules and regulations, not inconsistent with the Constitution and laws of this State, as shall be necessary for the well ordering and conducting of the affairs of the company.

Sec 3. *Be it further enacted*, That at the first general meeting called as aforesaid, and at each and every annual meeting thereafter, a majority of shares subscribed for shall be represented: the proprietors of the stock shall proceed to elect a president and seven directors, who shall continue in office (unless sooner removed) until the next annual meeting or until their successors shall be elected; but the said president, or any of the directors, may at any time be removed, and the vacancies thereby occasioned be filled by a majority of the votes given at a general meeting.

The president with four or more of the directors, or, in the absence of the president, any four of the directors, who shall appoint one of their body president *pro tempore*, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the board, or by the proprietors in general meeting.

Sec. 4. *Be it further enacted*, That the president and directors of said company, after being duly sworn before some justice of the peace to do their duty according to the provisions of this act, shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining a turpentine road, not exceeding sixty feet wide, beginning at or near Williamston Landing, in Martin County, and running either on Martin or Bertie side of Roanoke river, in such manner as said directors shall deem most convenient and practicable, so as to intersect some point of the public road leading from Speller's Ferry to Windsor, in Bertie county; and said president and directors may cause to be established a ferry at such point where said road shall cross said River and all other works which may be necessary or expedient in order to the completion and maintaining said road and keeping up said Ferry.

Sec. 5. *Be it further enacted*, That the president and directors shall have power to make contracts with any person or persons, in behalf of the company, for making the said road and the establishment of said ferry, and performing all other works respecting the same which they shall judge necessary and proper; and they are hereby invested with power, if they shall deem it expedient, to hire laborers and mechanics or pursue any other course they may think best for the construction of said road and the establishment of said ferry. They shall have power to call, on any emergency, a general meeting of the proprietors of the stock, giving twenty days notice thereof by public advertisement in said

towns, to appoint a treasurer, clerk, and such other officers, and transact all the business of the Company during the interval between the general meetings of the same.

Sec. 6. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within twenty days after the same shall have been publicly advertised in Williamston and Windsor, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction in Williamston, and to convey to the purchaser, the share or shares of said stockholder so failing or refusing, giving ten days previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the sale shall not produce the sum required to be advanced, with the incidental charges attending the same, then the president and directors may recover the balance out of the original proprietor or his assignee or executor or administrator, or either of them, by motion, on ten days notice, before the court of pleas and quarter sessions of Martin county; and any purchaser of the stock of the company shall be subject to the same rules and regulations as the original proprietor.

Sec. 7. *Be it further enacted*, That if the president and directors cannot agree with the owners or land over which it may be thought expedient for the said road to pass, or for land whereon to erect necessary houses, or to take earth for the use of the company, or if the owner be a *feme covert*, under age, *non compos*, or out of the State, then on application, two justices of the peace of the County wherein the lands lie, they shall issue their writ to the sheriff of said county, commanding him to summon a jury of eighteen freeholders of the county, of reputation and not interested, within ten days, who, after meeting on the premises, and twelve of whom being drawn and sworn by the sheriff to act impartially, shall proceed to lay off and

value the land required for the construction of said road and the damages the owner will sustain by the same; and such inquisition so taken, shall be returned, under their hands and seals, into the court of pleas and quarter sessions of said county; and upon the payment of the said assessment, to the owner of the land, or his or their guardian, or into the office of the clerk of the court of pleas and quarter sessions of said county, by the president and directors, it shall and may be lawful for them to enter upon the land so laid off, and use and construct the said road thereon, and to hold the said land to their use and benefit during their corporate existence; and in all such things to have the same power and authority over said land so laid off, during the existence of said company as a corporation, as though they owned the fee simple therein.

Sec. 8. *Be it further enacted*, That an annual meeting of the proprietors of the stock of said company shall be held at such time at such place in each year as the stockholders, at their previous general meeting, may appoint; to constitute which or any general meeting called by the president and directors according to the provisions of this act, the presence of proprietors holding a majority of all the shares subscribed for shall be necessary, either in person or by proxy properly authorized; and if a sufficient number do not attend on that day or any day appointed for a general meeting, the proprietors who do attend may adjourn from time to time until a general meeting shall be had: That in counting all votes of said company each member shall be allowed one vote for each share as far as six, and one vote for every three shares above six, by him held at the time in the stock of said company.

Sec. 9. *Be it further enacted*, That in case the sum of five thousand dollars shall be insufficient to complete said road and ferry, the president and directors may open books at any time after the same shall have been ascertained, for new subscriptions; and the subscribers under this clause shall be subject to the same rules and regulations, and entitled to

the same privileges, as the original subscribers; and shares of stock in said company shall be transferable in the same manner as personal property: *Provided however*, that all shares of stock shall be liable to pay such sums as are due to the company upon the same if the assignee or his representative shall be unable to pay the same.

Sec. 10. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the subscribers; and such compensation shall be made from time to time to any of the officers or agents of the company, as the proprietors, in general meeting, shall prescribe or allow.

Sec. 11. *Be it further enacted*, That if any person or persons shall wilfully or negligently, by any means obstruct, impair or destroy any part or portion of said road or ferry, they shall be subject to indictment; and upon conviction in the superior courts of Martin or Bertie Counties, shall be punished by fine or imprisonment at the discretion of the court, and also liable to the company, in action, for the damages sustained; and if the person so obstructing, impairing or destroying, be a slave, he or she shall, upon conviction before some justice of the peace of either of said counties, be publicly whipped, not exceeding thirty nine stripes on his or her bare back.

Sec. 12. *Be it further enacted*, That said president and directors may charge for the use of said road, including ferriage a cross said river, not exceeding the following rates of toll, viz: For each single person on foot, ten cents; for each horse or mule, twenty cents; for a horse and one person, twenty five cents; for a horse and two wheeled vehicle and driver, fifty cents; for a horse and four wheeled buggy and driver, seventy five cents; for a two horse four wheeled carriage and driver, one dollar and twenty five cents; for a two horse wagon and driver, one dollar; for a four or more horse wagon or carriage or wagon, one dollar & fifty cents; for each cattle beast, ten cents; for each hog or sheep, five cents.

Sec. 13. *Be it further enacted*. That the court of pleas

and quarter sessions of the county of Martin is hereby invested with full power and authority to transfer to said corporation the public road, with all the bridges now erected thereon, leading from said Williamston Landing to Speller's Ferry, on such terms as said [court] may deem advantageous to the public interest.

Sec. 14. *Be it further enacted*, That the corporation shall exercise the corporate powers hereby granted for sixty years and no longer, without a renewal of the charter; and this act shall be in force from and after its passage.

[Ratified 27th day of January, 1849.]

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STEAM BOATS.

CHAPTER CCXIII.

AN ACT to incorporate the Cape Fear Steam Boat Company.

Sec. 1. *Be 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 McGary, Calvin B. Dibble, William L. McGary and such persons as are now associated with them, or as hereafter may be associated with them, their successors and assigns shall be and are hereby created, constituted and declared a body corporate and politic, by the name of "The Cape Fear Steam Boat Company;" and by that name, they and their successors may and shall have perpetual succession and a common seal; and shall be capable of suing and being sued, pleading and being impleaded, in all places and courts whatever; and may hold, possess, acquire and enjoy real and personal estate.

Sec. 2 That the capital stock of the said company shall consist of thirteen thousand dollars, with privilege to increase to thirty thousand dollars, divided into shares of one hundred dollars each.

Sec. 3. That the said company shall and may, in addition to the Steam Boat Gov. Graham and her tow-boats, now employed on the Cape Fear river, build one or more steamboats, with their necessary tow-boats, to be employed on the same river.

Sec. 4. That said company shall have power and authority to make rules and by-laws for its good government; to provide for the appointment of its officers, the mode of transfer and representation of its stock, and all other matters necessary for the conduct of its business.

Sec. 5. That this act shall be in force from and after the ratification thereof.

[Ratified 29th day of January, 1849.]

## THALIANS.



### CHAPTER CCXXIV.

AN ACT to incorporate the Wilmington Thalian Association.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the individuals, who are now associated in the town of Wilmington, to wit, Talcott Carr, Jr., Adam Empie, Jr., Guilford L. Dudley, Donald McRae, William Hill, Alfred O. Bradley, John Cowan, James G. Burr, William W. Harriss, Edward A. Cushing, Wm. Alva Burr, Thomas Saudford, John J. Hedrick, Richard F. Lang-

don, Wm. D. Cowan, Joseph J. Liffitt, Nathaniel M. Hill, Hasell W. Burgwin, F. Nash Waddell, John R. Reston, Joseph L. Williams, William H. Liffitt, George Harriss, Henry B. Howard, Wm. M. Harriss, and Alexander D. Waddell, for the cultivation of a fine dramatic taste, and the general promotion of literature, under the name of the Thalian Association, and those who hereafter may become members of the said Association agreeably to the rules which may therein be established, be, and the same are hereby incorporated into a body politic and corporate, by the name of "The Thalian Association;" and as such, shall have perpetual succession, may sue and be sued, plead and be impleaded, be capable of acquiring, holding and transferring real or personal estate; to make, ordain and establish laws, rules and regulations for their own government; and to elect their own officers; and generally to do, receive and perform all such matters and things, as rightfully belong and usually are incident to bodies corporate and politic; any law, usage or custom to the contrary notwithstanding.

[Ratified 27th day of January, 1849.]

TOWNS.

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CHAPTER CCXXV.

AN ACT to revive an act, passed in the year 1842, entitled an "An Act to establish and incorporate a town at Onslow Court House, in the county of Onslow, by the name of Jacksonville."

WHEREAS by length of time, and neglect of the commissioners named in the before recited act to qualify as such, the said act has become absolved and of no effect :

Sec. 1. *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 from and after the passage of this act, the before recited act be, and the same shall hereby stand revived; and that George J. Ward, William Humphrey, W. J. Pelleteer, E. W. Mumford, and J. Cook, be, and they hereby are appointed commissioners for said town, who shall have and possess the same power and authority as contained in the before recited act.

Sec. 2. *Be it further enacted,* That at any time hereafter, upon the death, removal or resignation of any one or more of said commissioners, that it shall be lawful for such vacancy to be filled by the surviving or remaining commissioners; and the commissioner or commissioners so appointed shall have and possess the same powers and authority as are usually exercised by Commissioners for other incorporated towns in this State.

[Ratified 27th day of January, 1819.]

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## CHAPTER CCXXVI.

AN ACT to incorporate the town of Kinston, in the county of Lenoir.

Sec. 1. *Be 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 F. Wooten, Pinkney Hardie, John H. Peebles, James W. Cox, William C. Lofren, and their successors, hereinafter provided for, be, and they are hereby constituted a body politic and corporate, by the name and style of "The Commissioners of the Town of Kinston;" and by such name and style, shall be invested with a common seal; and shall have full power and authority to hold and convey real and personal estate; to sue and be sued;

and to pass and ordain such by-laws and ordinances, not inconsistent with the constitution and laws of this State or of the United States, as from time to time they may deem expedient or advisable for the good government of said town.

Sec. 2. *Be it further enacted,* That the said commissioners shall hold and exercise the powers and duties of their office until their successors hereinafter to be provided for, shall be elected and qualified as commissioners to succeed them.

Sec. 3. *Be it further enacted,* That on the 2nd Monday in January, in each and every year, an election shall be opened and held in the town of Kinston, by the sheriff of the county of Lenoir or his deputy, assisted by two respectable freeholders of said town, appointed for that purpose by the sheriff, to elect five commissioners for the town of Kinston; and it shall be the duty of said sheriff to advertise the holding of said election at the court house door, in the town of Kinston, at least ten days previous to the day of said election; and all persons entitled to vote for members of the House of Commons, residing within the corporate limits of said town, shall be entitled to vote in the election for commissioners for said town; and that it shall be the duty of the sheriff to declare the five persons having the highest number of votes to be duly elected commissioners for one year, and until their successors shall be installed into office.

Sec. 4. *Be it further enacted,* That the said commissioners, 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 the duties of said office.

Sec. 5. *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 twenty 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 repairs of the streets and the improvement of said town.

Sec. 6. *Be it further enacted*, That the authority and jurisdiction of said commissioners shall extend over all lots, or parcels of land that have been heretofore laid off in lots, or that may hereafter be acquired from the proprietors of land adjoining said town.

Sec. 7. And whereas several persons in said town, from ignorance of its limits and the exact course of the streets, have partially encroached on the commons thereof, by the erection of buildings thereon; and whereas it would prove injurious rather than beneficial to said town to compel said persons to remove their buildings from said commons: therefore, *Be it further enacted*, That the above commissioners, or a majority of them, or their successors in office, shall be, and they are hereby authorized and empowered to sell to such persons as have erected buildings of any description on the commons or portions of the streets of said town, the ground on which such buildings have been erected, and apply the money arising from such sales in the improvement of said town in such manner as they think proper; and said commissioners, or a majority of them, or their successors in office, shall convey, by their deed, all ground or lots sold conformably to this act, to the purchasers thereof in fee simple.

Sec. 7. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

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## CHAPTER CCXXVII.

AN ACT to extend the corporate limits of the Town of Warrenton.

Sec. 1. *Be 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 Warrenton, in the county of Warren, be extended as follows, to wit: beginning at a red oak in the South Western corner of Tho. S. Campbell's lot of land on the East edge of the road leading to Kemp Plummers, running due East 126½ poles to a stake in Dr. J. T. Watson's field; thence North 4° East through Mary Hall's yard, immediately East of her kitchen, 302 poles, to a stake in C. F. McRae's line—thence South 89½° West 110 poles along his and William Plummer's lines to a cedar in John W. Rodgers' North line—thence South 6° West running a few paces west of John B. Somerville's kitchen, and a little East of Daniel Turner's spring, 300 poles, to the beginning.

Sec. 2. *Be it further enacted*, That Nelson L. Graves, John V. Cawthorn, Robert N. Verrell, Robt. W. Hyman, John Goodrum, Thomas W. Rowlett, and John White and their successors in office, are hereby appointed commissioners for the said town of Warrenton; and the said commissioners and their successors are hereby incorporated into a body corporate and politic, by the name of "The Board of Commissioners for the Town of Warrenton;" and by said name, shall have succession, sue and be sued; and by such name, shall have power from time to time, and at all times hereafter, to adopt such rules and regulations, and pass such by-laws and ordinances, as to them, or a majority of them, may be deemed necessary for the good government of the said town; and such rules, regulations, by-laws, and ordinances, so passed, shall be as binding as if they were here specially enacted; provided, they are not inconsistent with the constitution of the United States or of this State.

Sec. 3. *Be it further enacted*, That the said commissioners and their successors, before entering on the duties of their office, shall take an oath before some justice of the peace of the county of Warren, that they will faithfully and impartially discharge their duties.

Sec. 4. *Be it further enacted*, That upon the death, resignation, removal from the said town, refusal or inability to

act of any of said commissioners, the remaining commissioners shall have full power and authority to fill such vacancy, by the appointment of some other fit person or persons; and the commissioner or commissioners, so appointed, shall have the same power, and be under the like restrictions, as he or they were in whose stead they were appointed.

Sec. 5. *Be it further enacted*, That an election shall be held at the court house in Warrenton, on the first Thursday in May next, for members of the board of commissioners, which shall be duly advertised by the town constable for one month beforehand, at three public places in said town. All freemen who reside in said town, and are entitled to vote for members of the House of Commons, shall be allowed to vote at said election; and it shall be the duty of the board of commissioners to appoint two freeholders as inspectors of the polls at said election; and in the event of a tie between said inspectors, the town constable is to decide: Said poll keepers are to be sworn as other poll keepers in this State. If the board of commissioners shall fail to appoint inspectors of the polls, it shall then be the duty of the magistrate of police to make the appointment, or, in his absence, it shall be the duty of the town constable.

Sec. 6. *Be it further enacted*, That an election for members of the board of commissioners shall be held in like manner, on the first Thursday in May during each and every year; and that it shall be the duty of the commissioners who may at any time be elected, to qualify within five days afterwards, under a penalty of twenty dollars, to be recovered of each delinquent by warrant, in the name of the town constable.

Sec. 7. *Be it further enacted*, That all of the powers of the commissioners herein named shall terminate as soon as their successors shall be duly elected, and a majority of those elected shall be qualified; and that the powers of all commissioners, who may be hereafter elected, shall terminate in like manner when their successors are elected, and a majority qualify.

Sec. 8. *Be it further enacted*, That the commissioners appointed in virtue of this act, or a majority, and their successors in office, or a majority of them, are hereby authorized and empowered to levy and collect such taxes on the property and inhabitants of the said town, not exceeding fifty cents on each hundred dollars valuation of real estate, and not to exceed fifty cents on each taxable poll, as they shall deem necessary for the repair of the streets of the said town and for the good of the corporation,

Sec. 9. *Be it further enacted*, That said board of commissioners shall have power to lay a tax not exceeding five dollars upon every person or company of stage players, sleight of hand performers, rope dancers, tumblers and wire dancers, or company of circus riders or equestrian performers, who may perform in said town; and upon each and every person or company who shall exhibit artificial curiosities of any kind or sort in said town, except models of useful inventions, for a reward; and also a tax not exceeding two dollars and fifty cents, upon every person or company who may exhibit natural curiosities of any kind in said town for a reward; which said taxes are to be collected by the town constable, in the same manner, as similar taxes are collected by the sheriff; and are to be accounted for in the same manner as other corporation taxes hereinbefore mentioned.

Sec. 10. *Be it further enacted*, That the said board of commissioners shall have power and authority to appoint a magistrate of police, a town treasurer and constable, and such other officers as they may deem necessary. The town constable aforesaid shall be the collector of the town tax, under the direction of the said commissioners; and for that purpose, shall have all the powers and immunities of sheriffs in the collection of the public revenues; and the said constable shall have power to collect all fines and forfeitures incurred by virtue of this act, in the same form and manner as in ordinary cases by warrant, before any justice of the peace of said county; and he shall be entitled to the same fees that constables in like cases are entitled to demand; and for col-

lecting taxes he shall be allowed the same compensation as sheriffs for collecting the public taxes.

Sec. 11. *Be it further enacted*, That the town constable shall be required by the board of commissioners to give bond, to be approved of by them, in the penal sum of fifteen hundred dollars, payable to the State of North Carolina, and conditioned for the faithful collection and paying over all taxes, fines and forfeitures of the corporation of Warrenton, according to law, and for his faithful performance of duty in office in all respects; and the same remedies are allowed upon said bond which are now provided by law upon the official bonds of sheriffs and constables. If said constable shall fail to perform his duty towards said corporation of Warrenton, it shall be the [duty of the] board of commissioners to bring [suit] upon his said bond.

Sec. 12. *Be it further enacted*, That it shall be the duty of the said board of commissioners to take a bond from the town treasurer, with security, in the penal sum of two thousand dollars, payable to the State of North Carolina, and conditioned for the faithful performance of his duty in office, to be sued upon, and recoveries to be effected in the same manner, as suits are brought and recoveries effected upon the official bonds of sheriffs and other officers. And if said treasurer shall fail to perform his duties, it shall be the duty of said board of commissioners to bring suit upon said bond.

Sec. 13. *Be it further enacted*, That the town treasurer shall hold his office for two years, the magistrate of police for two years, and all other officers of said corporation for one year, when there is no provision to the contrary in this act.

Sec. 14. *Be it further enacted*, That the town treasurer shall be entitled to receive such a compensation, not to exceed six per cent. on the moneys received by him, as the board of commissioners may deem just and reasonable.

Sec. 15. *Be it further enacted*, That the said commissioners shall have power to appoint a patrol of one or more persons for the said town, to be under the same rules and regulations as are prescribed by law for the government of that descrip-

tion of public functionaries; and the said commissioners are hereby authorized to make to the patrol so to be appointed such compensation for their services as they may deem just and proper.

Sec. 16. *Be it further enacted*, That the said board of commissioners shall have power to appoint two overseers of the streets, and to assign to them respectively such a number of the persons liable to work on said streets as they may think proper; and it shall be the duty of said overseers to keep said streets in good and sufficient repair; and for a failure to perform their duty, they shall be liable to the same penalty and the same punishment, as overseers of the public roads for a failure to perform the duties required of them by law.

Sec. 17. *Be it further enacted*, That all persons within the limits of said corporation, who are by law liable to work on the public roads, shall be liable to work on said streets, and for a failure to do so, shall be subject to the same penalties which are now provided by law against those who fail when duly summoned to work on the roads; which said penalties are to be recovered of the father or guardian, in the case of minors failing to work on the streets, and of the owners, in case of slaves.

Persons liable to work on the streets are to be summoned and notified in the same manner as persons liable to work on the roads, and the overseers of the streets are to be competent witnesses to prove due notice in the trial of all warrants for penalties; and all penalties for a failure to work on the streets, shall be recovered in the name of the overseer of the streets by whom the summons is made; and the money is to be applied by him to the keeping of said streets in repair.

Sec. 18. *Be it further enacted*, That no overseer of the streets shall be liable for the insufficiency of the streets committed to his care, until ten days after he has been served with a copy of his appointment by the town constable; and that no person complying with the requirements of this act con-

cerning overseers of the streets, shall be compelled to act in that capacity more than one year in three.

Sec. 19. *Be it further enacted*, That nothing contained in this act shall authorize the said commissioners to make new streets or lines on or through the lots or lands situate within the said corporate limits of the said town, or in any manner to interfere with the lines or boundaries of such lots or lands without the written consent of the owners thereof.

Sec. 20. *Be it further enacted*, That in all warrants for penalties or forfeitures under this act, the party dissatisfied with the judgment of the justice shall have the right of appeal.

Sec. 21. *And be it further enacted*, That it shall be the duty of the Magistrate of Police to preside at all meetings of the Board of Commissioners; and in case of a tie on any question, which may be before the said board, he shall be entitled to give the casting vote.

[Ratified the 29th day of January, 1849]

## CHAPTER CCXXVIII.

AN ACT to revive an act, passed in the year 1834, entitled "An Act to establish and incorporate a Town at Trent Bridge, in the county of Jones, by the name of Pollockville.

WHEREAS by length of time, and neglect of the commissioners named in the before recited act, to qualify as such, the said act has become obsolete and of no effect:

Sec. 1. *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 from and after the passage of this act, the before recited act be, and the same shall stand revived, and that Rascoc Barrus, Wiley F. Haggins, Ed-

ward S. Sanderzon, Hiram B. Brinson, John Burgwin, Nathaniel Waples and John E. Foscur, [?] be, and they are hereby appointed commissioners for said town, who shall have and possess the same powers and authorities as contained in the before recited act.

Sec. 2. *Be it further enacted,* That at any time hereafter, upon the death, removal or resignation of any one or more of said commissioners, that it shall be lawful for such vacancy to be filled by the surviving or remaining commissioners, and the commissioner or commissioners so appointed, shall have and possess the same powers and authorities as are usually exercised by commissioners for other incorporated towns in this State.

[Ratified 29th day of January, 1849.]

#### CHAPTER CXXIX.

AN ACT to amend the law relating to the collection of Taxes for the town of Newbern.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter, it shall be the duty of the sheriff of the county of Craven to settle his accounts with the Treasurer of the Board of Commissioners for the town of Newbern, and pay over to him the taxes for said town, on or before the first day of June, in each and every year, under the same rules, regulations, restrictions and remedies as said taxes are now collected and paid; any law, usage or custom to the contrary notwithstanding.

Sec. 2. *Be it further enacted,* That this act shall take effect and be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXXX.

AN ACT to incorporate the town of Shelby, in the County of Cleveland

Sec. 1. *Be 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 Cleveland county, or his lawful deputy, on the first Monday in March, in each and every year, after giving ten days notice previous to the day of election, to open polls at the court house in the town of Shelby, in said county, for the election of five commissioners, who shall continue in office for the term of one year thereafter, or until others are appointed.

Sec. 2. *Be it further enacted,* That any citizen of said town of Shelby, who has resided therein for six months, and who at the time of his election is possessed of a freehold in the said town of the value of fifty dollars, shall be eligible as such commissioner; and every inhabitant of the same, who has resided six 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 shall be conducted and regulated in the same manner as elections of the General Assembly; and for such services the Sheriff or his deputy shall receive from the board of commissioners the sum of one dollar; and in the event of a tie, the Sheriff, or his deputy, shall give the casting vote.

Sec. 3. *Be it further enacted,* That the said commissioners, within five days after their election and before entering upon the duties of their office, shall take an oath before some justice of the peace for said county, 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 the town of Shelby;" and as such may sue and be sued, plead and be impleaded, have and use a common seal, and have perpetual succession.

Sec. 4. *Be it further enacted*, That the said Commissioners, or a majority of them, shall have power and authority to appoint a Magistrate of Police, a town constable and Treasurer, to lay and collect a tax on the inhabitants and property of said town, not exceeding one dollar on the poll, and fifty cents on every hundred dollars worth of town property, per annum; to establish patrols and enact and adopt all such by laws, rules and regulations as they, or a majority of them, may deem necessary for the health, good order and government of said town: *Provided*, that nothing in this act contained shall authorize the said commissioners to prevent the citizens of Cleveland county from exposing to sale, on the public square, any merchandise, or laying a tax on the same; *and provided* said rules and regulations shall not be inconsistent with the constitution and laws of this State and of the United States.

Sec. 5. *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, on oath, a statement or account of the number of taxable polls for which he or she may by law be 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 persons failing to give oath of the same statements, shall incur a forfeiture of five dollars, to be recovered by warrant, in the name of "The Commissioners of Shelby," before the town magistrate.

Sec. 6. *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 Sheriff's in the collection of public revenue; and said taxes, when collected, shall be applied to the improvement and repairs 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.

Sec. 7. *Be it further enacted*. That the town constable

He shall be required to enter into bond, with good and sufficient security, in the sum of one thousand dollars, before entering on the duties of his office, payable to the State of North Carolina, for the faithful performance of the duties of town constable, and paying over all moneys collected by virtue of his office.

Sec. 8. *Be it further enacted*, That upon the death, resignation, removal or refusal to act, of any of the commissioners, the remainder, or a majority, shall have power and authority to appoint his or their successors, who shall possess the same power granted to his or their predecessor.

Sec 9. *Be it further enacted*, That the said corporate limits of said town shall be extended one half mile in each and every direction from the court house: *Provided*, nothing in this act contained shall be so construed as to include James Love's possessions.

Sec. 10. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849]

## CHAPTER CCXXXI.

AN ACT relating to the town magistrate for the town of Wilmington.

Sec. 1. *Be 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 and proper for the town magistrate for the town of Wilmington, on the trial before him of warrants, when the parties live and reside within the limits of the two captains' districts in and adjoining the said town of Wilmington, to impose and tax the same fees and costs as in the case of the parties living and residing within the limits of the town proper.

[Ratified 29th day of January, 1849]

## CHAPTER CCXXXII.

AN ACT to amend an act entitled "an act to incorporate the town of Goldsborough, in the county of Wayne," to extend the limits thereof, and for other purposes.

Sec. 1. *Be 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 A. Greene, Silas Webb, Stephen D. Phillips, William B. Edmundson and James Griswold, be, and they are hereby appointed commissioners for the town of Goldsborough, in the county of Wayne, and that they and their successors in office, chosen in the manner hereinafter provided for, be and they are hereby created a corporation and body politic, under the name and title of "The Commissioners for the Town of Goldsborough;" and as such, they are hereby entitled to all the privileges and immunities of a body corporate, to hold property, to contract and be contracted with, to sue and be sued, plead and be impleaded in their corporate name; to make such by-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 streets and the laying out and opening of new ones, and for the preservation of health in said town; to lay and collect taxes for the necessary support of police and town government; and to transact any business, in their corporate capacity, through the agency of the officers of the town, to be appointed in manner hereinafter provided for, not inconsistent with the Constitution of this State or of the United States.

Sec. 2. *Be it further enacted,* That the corporate limits of Goldsborough, in the county of Wayne, shall be included in the following boundaries, to wit: beginning at a stake (or stone) on the south side of the Northern road 63 poles and 1 foot, on a line south 73° east from a stake (or stone) at the north-west corner of lot No. 16 in the plan of said town (whereon the buildings formerly called the Noffe House now stands) and running thence south 15° west 121 poles and

6 feet, to a stake (or stone) in the Jesse Pipkins' field; then north  $72^{\circ}$  west, crossing the Wilmington and Raleigh Railroad, 128 poles,  $6\frac{1}{2}$  feet, to a stake (or stone); then north  $18^{\circ}$  east 307 poles, 15 feet, to a stake (or stone); then south  $72^{\circ}$  east, recrossing said railroad, 128 poles,  $6\frac{1}{2}$  feet, to a stake (or stone); then south  $18^{\circ}$  west 186 poles, 9 feet to the beginning, as laid down in the said plan of said town, which is hereby directed to be filed in the office of the Secretary of State for future reference.

Sec. 3. *Be it further enacted*, That the said John H. Greene, Silas Webb, Stephen D. Phillips, William B. Edmundson, and James Griswold, commissioners appointed by the first section of this act, shall each of them take an oath of office before some magistrate of said county, on or before the tenth day of February next, and shall continue to hold their offices as commissioners for the town of Goldsborough until an election for commissioners shall take place as hereinafter provided for, and until said commissioners so elected shall have taken an oath of office as hereinafter set forth.

Sec. 4. *Be it further enacted*, That it shall be the duty of the sheriff of Wayne county, on the first Saturday in December, in each and every year hereafter, to open the polls of election in said town, for the purpose of electing five persons as commissioners of the town of Goldsborough, for the term of one year; and no person shall be eligible to serve as commissioner who is not at the time a resident of said town and shall have resided therein at least six months immediately preceding the day of election.

Sec. 5. *Be it further enacted*, That it shall be the duty of the said sheriff to advertise the time of holding said election of commissioners, at two or more public places in town, ten days previous thereto; and the said sheriff shall summon two freeholders, residents of said town, who, together with himself or deputy, shall hold the election at some public place in said town to be designated by the commissioners for the time being, and shall keep the polls open from twelve o'clock in the morning until four o'clock in the e-

vening; and it shall be the duty of the sheriff, or his deputy, to serve the persons so elected as commissioners with a notice of their election within five days thereafter; and on failure of any of the above duties enjoined on the sheriff, he shall, on conviction before any magistrate of the county of Wayne, forfeit and pay the sum of fifty dollars; and each freeholder refusing or neglecting to assist the sheriff or his deputy in holding such election, shall be subject to a penalty of five dollars, to be recovered in like manner; which penalties, when collected, shall be paid into the hands of the Treasurer of the town, to be applied as a majority of the commissioners may direct.

Sec. 6. *Be it further enacted*, That all free white men of the age of twenty one years, who have been inhabitants of said town six months immediately preceding the day of election and shall have paid a town tax, shall be entitled to vote for commissioners of said town.

Sec. 7. *Be it further enacted*, That all the persons so elected as commissioners shall, within ten days after being notified by the sheriff, or his deputy, of their election, meet together and take, before some magistrate of said county, an oath faithfully and impartially to execute the office of commissioners of the town of Goldsborough; and any person of said town who shall, after having been duly elected and notified, refuse to qualify and serve as commissioner, shall be subject to a penalty of twenty dollars, to be recovered before any justice of the peace of said county; and it shall be the special duty of the Treasurer to warrant for and recover the same: *Provided*, no person shall be compelled to serve as commissioner two successive terms.

Sec. 8. *Be it further enacted*, That the commissioners of said town, at their first meeting after their appointment by the first section of this act, and at their first meeting after their annual election, in each and every year hereafter, shall appoint one of their own body to act as Intendant of Police; they shall also appoint one of their own body, or some other fit person, to be their clerk, to act as such during their pleasure;

and they shall also appoint a town constable and a Treasurer, who shall hold their appointments for one year, or until others shall be appointed.

Sec. 9. *Be it further enacted*, That the Intendant of Police, when present, shall preside at all meetings of the commissioners, and shall be entitled to vote as commissioner, and in case of a tie, to give a casting vote.

Sec. 10. *Be it further enacted*, That the Intendant of Police shall, within the last twenty working days in February in each and every year, receive the list of taxables in said town, he first giving ten days notice of the time and place when he will attend for that purpose; and any person failing to give in, on oath, their list, shall pay double tax. It shall be the duty of the Intendant of Police, on or before the first Monday in March in each and every year, to summon three freeholders of said town to appear before him within five days, which said freeholders, first being duly sworn to act impartially, shall assess the cash value of the several town lots and improvements; which assessment, after being duly subscribed by them, shall be deposited with the clerk of said corporation; and any freeholder refusing to appear and assess the town lots, when so summoned, shall forfeit and pay the sum of five dollars, to be recovered and applied as other fines and penalties as hereinbefore set forth.

Sec. 11. *Be it further enacted*, That it shall be the duty of the Intendant of Police to see that the laws of the State and the ordinances of said commissioners are obeyed and executed within said town. The said Intendant shall have power to issue warrants, directed to the town constable or to the sheriff or to any constable of said county, founded on any breach of any laws relating to said town or any of the ordinances of said commissioners, or brought for the recovery of any penalty or penalties given by said laws or ordinances, for the arrest of the person or persons complained against, to hear and determine said complaints on the return of the warrants, under the same rules and regulations as are by law

provided for trials before single justices of the peace; to give judgments on said warrants, and to issue executions thereon, which judgments shall be final, unless appealed from in the manner hereinafter provided for. The said Intendant shall also be a peace officer, and shall have, within the limits of said town, all the powers of a justice of the peace and of a constable for the preservation of the public peace, detection, arrest and punishment of offenders: the said Intendant shall further have summary jurisdiction to hear and determine all breaches of the peace occurring within the limits of said town not above the grade of misdemeanors, and to punish all offenders, if free persons, by a fine not exceeding twenty dollars, or by imprisonment not exceeding twenty days; if slaves, by whipping not exceeding thirty-nine lashes; and the owner or manager of said slaves shall receive reasonable notice of the time of trial, and, in case of conviction, shall be liable for the costs thereof: *Provided*, that it shall and may be lawful, in all cases, for the person or persons, (or in case of slaves, their owners or managers,) against whom the said Intendant of Police shall give judgment, or pass sentence, by virtue of the summary jurisdiction hereby given or for breach of law or laws relating to said town, or any ordinances of said commissioners, or for any penalty or penalties given by said law or ordinances, to appeal from said judgment or sentence to the Superior court of law for the county of Wayne, first entering into recognizance, with good security, for the appearance of said appellant or appellants, before the judge of the said Superior court at the next term thereof, and for his her or thir performing and abiding the judgment of the said Superior court; and the person or persons praying said appeal, shall be allowed ten days to obtain the said surety: *Provided*, that execution may, nevertheless, issue on said judgment or sentence forthwith; and nothing herein contained shall be so construed as to stay the same. The said intendant of Police is hereby further vested with the same jurisdiction and power, over all other offences committed by slaves, as is now by law given to a justice or

justices of the peace out of court, under the same rules, regulations and restrictions as are provided in those cases; and the said Intendant of Police shall keep a faithful minute of all process issued by or returned before him and of his judgment or sentence, and all the proceedings thereon, in a bound book, and shall deliver the same to his successor; in case of an appeal duly taken from any judgment or sentence of said Intendant, he shall return the original and all other process into said court, together with a copy of his minutes of his judgment or sentence, and of all the proceedings therein, to the term of the court to which said appeal shall be taken next ensuing the taking of said appeal on the first day of the term.

Sec. 12. *Be it further enacted*, That that the town constable, before entering upon the discharge of the duties of his office, shall give a bond, made payable to the commissioners of said town and their successors in office, in such sum and with such sureties, as the said commissioners for the time being, or a majority of them, shall approve, conditioned for the faithful performance of his duties during his continuance in office, and also to use due diligence in collecting and paying over all such sums of moneys as he may or ought to collect, and also to execute all precepts to him directed by the authorities of said town or any justice of the peace having jurisdiction under this act; and said constable shall have the same compensation for his services as constables are now entitled to receive for similar services; and it shall be the duty of the treasurer, upon failure of said constable to account for and pay over all moneys which may or ought to be in his hands belonging to said corporation, upon giving ten days notice to said constable, any or all of his sureties, to move the county court of Wayne for judgment against him and his sureties, for such sum or sums of money as appear to be due said corporation; whereupon said court shall grant and award execution for the same.

Sec. 15. *Be it further enacted*, That the town clerk, before entering upon the duties of his office, shall take an oath faithfully to discharge the duties thereof. It shall be the du-

ty of the said town clerk to record the proceedings of the commissioners, take care of the journals, books and papers, and to post up at some public place, to be designated by said commissioners, a copy of all such rules, regulations and ordinances, as may be made by said commissioners; and no rule, regulation or ordinance of said commissioners, imposing fines or penalties, shall be in force until the same shall have been published as aforesaid for ten days: *Provided*, nothing herein shall be so construed as to prevent the said commissioners from adopting ordinances to take immediate effect relating to contagious diseases and nuisances.

Sec. 14. *Be it further enacted*, That the town clerk shall, upon the receipt of the tax list from the Intendant of Police, and the assessment from the freeholders, record the same in the town book, and furnish the town constable a true copy from said list, extending the amount of each person's tax, on or before the first day of April in each and every year; and on failure of the clerk aforesaid to perform any of the duties in this act required of him, he shall forfeit and pay the sum of ten dollars, to be recovered and applied as hereinbefore mentioned for other fines and penalties; and the commissioners, for his services, shall allow such compensation as they may deem just and adequate.

Sec. 15. *Be it further enacted*, That the town constable, immediately after the receipt of the said tax list, shall proceed to collect the same, by distress or otherwise, under the same rules and regulations as are prescribed for collecting county and State taxes, and shall, on or before the fifteenth day of October, in each and every year, pay over the said taxes to the treasurer of said town, deducting therefrom a commission of five per cent. and such insolvent polls as he may, on oath, return a list of; and on failure thereof, the said treasurer shall, upon giving ten days notice in writing to the said constable and any or all of his sureties, move the court of pleas and quarter sessions of Wayne county for judgment against the said constable and his sureties: whereupon the said court shall proceed to render judgment, with twelve

per cent. damage by way of interest, from the said fifteenth of October; and a certified copy, by the clerk, of the tax list from the records of said corporation, shall be admitted as *prima facie* evidence against such constable and his sureties.

Sec. 16. *Be it further enacted*, That the said town constable, before he enters upon the duties of collecting the taxes as aforesaid, shall enter into bond, in such sum and with such sureties, made payable to the commissioners and their successors in office, as they may deem necessary and proper, for the faithful performance of the duties required.

Sec. 17. *Be it further enacted*, That from and after the next February term of Wayne county court, no person shall keep an ordinary or store for retailing spirituous liquors or retail the same by the small measure, in the town of Goldsborough, until he or she shall have first applied to the commissioners of said town and have obtained from them a certificate of their recommendation, or from a majority of them, for that purpose, which recommendation shall be valid for one year and no longer; and any person who shall keep an ordinary, or who shall retail spirituous liquors by the small measure in said town, after the February court aforesaid, without having obtained license and recommendation as aforesaid, shall forfeit and pay the sum of twenty dollars, to be recovered in any action of debt, before the Intendant of Police of said town, or any justice of the peace of the county of Wayne; and it shall be the duty of the treasurer, in the name of the commissioners, within one year after the offence is committed, to sue for the same. Every retailer of spirituous liquors by the small measure in the town of Goldsborough shall pay an annual tax of ten dollars to the treasurer, before he receives his certificate of recommendation from the clerk.

Sec. 18. *Be it further enacted*, That the treasurer of said town, before he enters upon the execution of the duties of his office, shall take an oath before some magistrate to discharge his duties faithfully, to receive all moneys due said corporation which shall be paid to him, and keep them until

otherwise disposed of as a majority of the commissioners may direct: the treasurer shall also, before entering upon the discharge of the duties of his office, give a bond, made payable to the commissioners of said town for the time being, and their successors in office, in such sum and with such sureties as the said commissioners, or a majority of them, shall approve, conditioned for the faithful accounting for any paying over all sums of money coming into his hands as treasurer; and he shall receive as a compensation for his services a commission, to be fixed by the commissioners for the time being, not exceeding five per cent. of the amount received by him as treasurer.

Sec. 19. *Be it further enacted*, That within twenty days after the annual election of commissioners for said town, it shall be the duty of the former treasurer to settle with and pay over to his successor in office all such sums of money belonging to said corporation as he may or ought then to have in possession; and upon failure thereof, he shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt before any justice of the peace for the county of Wayne; and the treasurer for the time being may, upon giving ten days notice, move the county court for judgment against the former treasurer, and said court shall render judgment against the former treasurer and his sureties for the amount of moneys which may or ought to be in his hands, with twelve per cent. damage by way of interest from the expiration of the time for which he was elected, and shall grant and award execution for the same.

Sec. 20. *Be it further enacted*, That the commissioners of the said town of Goldsborough are hereby authorized to lay a tax for the necessary support of Police and town government, not exceeding fifty cents on the one hundred dollars in valuation of the real estate in said town, and not exceeding one dollar and fifty cents on the poll; and on all billiard tables and public alleys for rolling at pins, whether the same has ten or a greater or less number of pins, a tax not exceeding ten dollars on each; on shuffle boards, five dollars

each; and on dogs, not exceeding one dollar each; and on hogs belonging to residents of said town and running at large at their discretion, not exceeding fifty cents each; and to lay a tax on all matters and things which now are or hereafter may be subject to taxation by the State.

Sec. 21. *Be it further enacted*, That the commissioners of said town shall have full and ample power to force a compliance with and observance of all such rules, regulations and ordinances, as they, or a majority of them, may deem necessary from time to time to make, for the government of said town, by imposing fines and penalties on those who shall refuse or neglect to conform to such rules, regulations and ordinances, to be recovered by warrant, under the hand and seal of the Intendant of Police, or some justice of the peace for the county of Wayne, directed to the town constable, sheriff, or constable of the county, to bring such delinquents or offenders before the Intendant or some justice of the peace for said county; and, on conviction, the Intendant or justice of the peace is hereby required to give judgment and award execution, which the said officer is hereby required to execute by distress and sale of the offender's goods and chattels; which fine, when levied and collected, shall be paid into the hands of the treasurer of the the town, and by him to be accounted for.

Sec. 22. *Be it further enacted*, That in case of vacancy among said commissioners, or in any of the officers appointed by them, the said commissioners, or the remaining ones, shall appoint some fit person or persons to fill such vacancy or vacancies, who shall possess the same qualifications, and shall have the same powers, and be subject to the same penalties, as those who were elected at the annual election or appointed by said commissioners as hereinbefore provided for.

Sec. 23. *Be it further enacted*, That all laws and clauses of laws conflicting with or coming within the meaning and purview of this act, be, and the same are hereby repealed.

Sec. 24. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXXXIII.

AN ACT to incorporate the town of Swansboro'.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Capt. Lamberson, Daniel Ambrose, William Fennand, Robert McLane, Isaac Ewes, and Capt. Dennis, be, and the same are hereby appointed commissioners for the town of Swansboro', in the county of Onslow.

Sec. 2. *Be it further enacted,* That the said commissioners before entering upon the duties of their office, shall take an oath before some justice of the peace of said county, faithfully and impartially to perform their duties as said commissioners; and thereupon, they shall be constituted a body politic and corporate, by the name and style of Commissioners of Swansboro'.

Sec. 3. *Be it further enacted,* That said commissioners shall have power to appoint a Magistrate of Police and town Treasurer, and to lay and collect a tax on the inhabitants and property of said town, not exceeding twenty five cents on the poll, and ten cents on the hundred dollars value of town property, per annum; and to enact all such rules and regulations as they, or a majority of them, may deem necessary for the good order and regulation of said town, not inconsistent with the constitution of the United States or the constitution of this State.

Sec. 4. *Be it further enacted,* That whenever any vacancy shall occur in the said board of commissioners, said vacancy shall be filled by said commissioners or a majority of them; and the person so elected shall have full power and authority as if appointed by this act.

Sec. 5. *Be it further enacted,* That the sheriff of the county of Onslow shall be the collector of the town tax, under the direction of said commissioners. And said taxes, when collected, shall be applied to the improvement of said town.

Sec. 6. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

## CHAPTER CCXXXIV.

AN ACT to incorporate the town of Sladesville, in Hyde county.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Edmund Slade, John L. Martin, Charles B. Russell, Joseph E. Blount and John E. Fortescene, and their successors in office (chosen in the manner hereinafter described) be, and they are hereby constituted a body politic and corporate, under the name and title of commissioners of the town of Sladesville, in the county of Hyde.

Sec. 2. *Be it further enacted,* That said commissioners (or a majority of them) shall have full power and authority to make all necessary by-laws for the government of said town, which are not inconsistent with the constitution of this State or of the United States, to contract and be contracted with, to sue and be sued, plead and be impleaded, by that name and title, and they are hereby invested with all powers and rights necessary and usually appertaining to municipal corporations.

Sec. 3. That said commissioners, before entering upon the exercise of their duties as such shall take an oath before the clerk of the superior or county court of said county of Hyde, that they will support the constitution of the State and of the United States, and that they will faithfully and impartially discharge their duties of commissioners of the town of Sladesville, to the best of their ability; that it shall be the duty of said clerks to record said oaths in a book to be kept in his office; and said commissioners shall each sign said oath.

Sec. 4. It shall be the duty of said commissioners, within three months from the time of their qualification as aforesaid, to make a plat of said town of Sladesville; and each of said commissioners shall sign said plat; and the same shall be returned to the ensuing county court of Hyde county, and shall be registered in the Register's office of said county,

and filed in the clerks office of said court : said commissioners shall appoint one of their body Intendant who shall have power to convene a meeting of said commissioners whenever he shall deem it necessary.

Sec. 5. That said commissioners shall remain in office until others are chosen or appointed to succeed them. It shall be lawful for a majority of said commissioners at any time to fill any vacancy which may occur in their body either by death, resignation, removal or otherwise ; and any appointment so made, shall be entered in the clerks office as aforesaid ; and said commissioner shall be qualified, before he shall act as such.

Sec. 6. Said Intendant of Police shall have full power to issue warrants, directed to the sheriff or any constable of said county of Hyde, against any person or persons, for any violation of any ordinance or regulation which said commissioners may have made for the government and comfort of said town : said Intendant shall have full power to hear and determine all such warrants, and to give such judgment thereon as the regulations of said commissioners will justify : *Provided*, That any defendant shall be at liberty to appeal from any judgment of said Intendant to the ensuing county court of said county, by giving security as in cases of appeal before justices of the peace ; said Intendant of Police shall have full power to issue executions on any judgment rendered by him, and from which no appeal has been taken.

Sec. 7. It shall be the duty of said commissioners to keep a record of their proceedings, in a book to be kept for that purpose.

[Ratified 27th day of January, 1849.]

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## CHAPTER CCXXXV.

AN ACT to extend the corporate limits of the town of Lincoln, in the county of Lincoln, and for other purposes.

Sec. 1. *Be 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 corporate limits of the town of Lincolnton, in the county of Lincoln, shall be extended to the distance of one mile in each and every direction from the court house in said town, except in the direction of Clarke's creek and the South Fork of the Catawba river; and it shall not be lawful to extend the limits of said town across either Clarke's creek or the South Fork of the Catawba.

*Sec. 2. Be it further enacted,* That the commissioners of said town shall have power and authority to appoint one or more overseers, as they may deem proper, to keep all the streets and roads within the corporate limits of said town, as extended by this act, in proper repair; and that the overseer or overseers so appointed, shall have power and authority, to call out all persons residing within one mile of the court house within said town liable to work on public roads, to keep the streets and roads within the corporate limits of said town, in good repair, under such rules, regulations and penalties, as are now prescribed by law, or such as may be adopted by the police of said town, not inconsistent with the laws of this State: *Provided however,* that no person liable to work the public streets and roads in said town, shall be liable to work any other public road in said county.

*Sec. 3. Be it further enacted,* That the commissioners of said town shall have power and authority to appoint such number of patrollers for said town as they may deem necessary, whose duty it shall be to patrol said town within the limits herein prescribed, according to the laws now in force governing patrollers, or such rules and regulations as may be adopted by the commissioners of said town, not inconsistent with the laws already prescribed for the government of patrollers.

*Sec. 4. Be it further enacted,* That the commissioners of said town shall not possess, enjoy nor exercise any rights or privileges, without the corporate limits of said town, as they stood before the passage of this act, except the power of

working and keeping up the streets and public roads, and patrolling within the limits as extended by this act.

[Ratified 27th day of January, 1849.]

## CHAPTER CCXXXVI.

AN ACT to incorporate the town of Asheville.

Sec. 1. *Be 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 sheriff of the county of Buncombe shall hold an election for five commissioners, for the town of Asheville, on the first Monday in January, 1849, or as soon thereafter as convenient, first giving ten days previous notice thereof, by advertisement at the court house door.

Sec. 2. *Be it further enacted,* That said election shall be held under the same rules and regulations as elections for the members of the General Assembly are held; and every citizen residing within the corporate limits of said town, as hereinafter defined, who is qualified to vote for members of the House of Commons, shall be entitled to vote for said commissioners, each voter placing on his ticket the names of the five persons voted for.

Sec. 3. *Be it further enacted,* That the five persons receiving the highest number of votes, at such election, shall be commissioners for said town, and shall be, and are hereby declared to be, a body politic and corporate; and in their corporate name of "The Commissioners of the Town of Asheville," shall sue and be sued, and have perpetual succession, and shall have the power, or any three of them, to fill any vacancy that may happen in their body, by death, resignation or refusal to act.

Sec. 4. *Be it further enacted,* That the same commissioners shall have power to lay and collect a tax, not exceeding twenty cents on the poll, and ten cents on each hundred

dollars value of town property in said town, to be ascertained by the assessment thereof made by law for taxation, as shown by the tax lists returned to the county court of said county; and a tax on each store, grocery and tavern, not exceeding five dollars; and on officers, lawyers and physicians, not exceeding five dollars each; on pleasure carriages, not exceeding one dollar each; on every dog, twenty cents; and on hogs allowed to run at large in said town, not exceeding five cents each; on exhibitions of natural or artificial curiosities, not exceeding five dollars; for the purpose of repairing the streets and side walks; and to make such by-laws, rules and regulations for the government of said town, as they shall judge proper, not inconsistent with the constitution and laws of the State.

Sec. 5. *Be it further enacted*, That said commissioners shall have power to appoint a town magistrate and constable, if they deem it advisable. or to call on any justice of the peace or constable of the county of Buncombe, to enforce and carry out any of their ordinances; and it is hereby made the duty of such justice of the peace or constable to perform the duties required of them; and it shall be the duty of such constable, as they may appoint or call on, to execute the process directed to him, or to collect the tax imposed by said commissioners, and to pay the same over to their treasurer, or such person or officer as said commissioners may appoint to receive the same; and such constable is hereby given all the power, to enforce the collection of such tax, that sheriffs have by law for collecting the State and county tax, and shall be allowed the same compensation therefor, and the same fees, for serving process, that constables are allowed for like services.

Sec. 6. *Be it further enacted*, That before entering on their duties each of such commissioners shall take an oath, before the sheriff, or some justice of the peace for said county, honestly and faithfully to discharge their duty; and shall at all times be subject to indictment for failure or neglect of their duty in repairing the streets and side walks, as overseers of

roads are; and any citizen of said town, who is elected or appointed commissioner under this act, and who shall refuse to serve without an excuse satisfactory to the other commissioners, shall forfeit and pay to said commissioners, for the repair of the streets, twenty dollars, to be recovered, by action of debt, before the town magistrate or any justice of the peace for said county.

*Sec. 7. Be it further enacted,* That any one being dissatisfied with any judgment of a justice of the peace or town magistrate, shall have the right of appeal, as in other cases as appear from justices' judgments.

*Sec. 8. Be it further enacted,* That the corporate limits of said town shall be one mile from the court house in every direction.

[Ratified the 27th day of January, 1849.]

## CHAPTER CCXXXVII.

AN ACT to condemn a part of Hayne Street, in the town of Monroe, in Union county, for the purpose of erecting a public jail thereon.

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the commissioners for building a public jail in the county of Union, be, and they are hereby authorized to lay off and condemn that part of Hayne Street, in the town of Monroe, contained in the following boundaries, viz: beginning at the South-east corner of lot No. 3, and running East twenty feet; thence North one hundred and eighty feet to alley B; thence West twenty feet to the North-East corner of lot No. 3; thence with lot No. 3 to the beginning: which portion of Hayne Street,

so laid off shall be added to lot No. 3, and that said lot No. 3 shall be used as the public jail lot.

Sec. 2. *Be it further enacted*, That the said commissioner shall have power and authority to sell lot No. 9, in said town, at public sale, and make title to and convey the same to the purchaser, upon such terms as the county court, a majority of the acting justices being present, shall prescribe; and pay over the proceeds of the sale to the county treasurer.

[Ratified 16th day of January, 1849.]

#### CHAPTER CCXXXVIII.

AN ACT to repeal the 2nd section of an act, entitled "An act to incorporate the town of Windsor, in the county of Bertie," and to amend the same.

Sec. 1 *Be 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 before recited act be, and the same is hereby repealed.

Sec. 2. *Be it further enacted*, That the magistrate of police and commissioners, elected according to the provisions of the first section of the act aforesaid, shall hold their offices for the term of one year next after said election, and until others chosen in their place shall have entered upon the duties of their office; and the said magistrate and commissioners and their successors shall be a body corporate, under the name and style of "The Magistrate of Police and Commissioners of the Town of Windsor;" and as such, shall have a common seal, may sue and be sued, possess, hold and convey real estate and other property; (may alter, extend and establish boundaries within the limits of said town,) giving thereafter seventy days public notice of any change made; may open, alter and discontinue public streets as the

public convenience may require and justify; shall have power, at their discretion, to abate and remove all nuisances within their corporate limits; to provide against fire and disease; and make all other necessary by-laws and ordinances for the regulation and well ordering of said town, not inconsistent with the constitution and laws of the State.

Sec. 3. *Be it further enacted,* That the board aforesaid shall annually appoint persons to conduct the election of the magistrate and commissioners aforesaid, who shall, within three days after said election, make return thereof, under their hands and seals, to the clerk of said board, to be kept among the records of his office; and shall also notify the persons who may be elected, by written communication, delivered to each of them or left at their respective places of residence or business; and any one neglecting to qualify within ten days after such notice, unless on sufficient excuse, to be judged of by the board for the time being, shall incur the penalties provided in the first section of said act.

[Ratified 16th day of January, 1849.]

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## CHAPTER CCXXXIX.

AN ACT to amend an act, passed in 1844-45, entitled "an act to incorporate the town of Monroe, in the county of Union.

Sec. 1. *Be 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 an act, passed in the year 1844, entitled "An act to incorporate the town of Monroe, in the county of Union," as requires the sheriff of said county to hold an election for three commissioners for said town, on the first Saturday in January in each and every year, be, and the same is hereby repealed.

*Sec. 2. Be it further enacted.* That the sheriff of Union county be, and he is hereby authorized and required, within the first ten days in January, in each and every year, either by himself or his lawful deputy, to open polls at the court house in said town of Blouroe, for the election of three commissioners in and for said town, who shall hold their offices for the term of one year thereafter, said sheriff having first advertised said election in three public places in said town, for ten days.

*Sec. 3. Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified 16th day of January, 1849.]

## CHAPTER CXXL

AN ACT to amend the acts heretofore passed for the better regulation of town of Williamston.

*Sec. 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That two deeds of bargain and sale, dated 23rd July, 1847, and now of record in the Register's office of the county of Martin, the one from Henry Williams, D. W. Bayly, Levi S. Yates, John Watts and George Hobbs, commissioners of the Town of Williamston, to Cushing B. Hassell, conveying the old burying grounds therein described, and the other from Gavin Lanier to the commissioners aforesaid and their successors in office, conveying the lot of land therein particularly described, for the purpose of a public burying ground, be, and the same are hereby declared valid and effectual, to convey title in the lands aforesaid, according to the tenor of the deeds aforesaid, notwithstanding any disability or want of power in the grantors or grantees to convey the said lands, or to deliver or accept the deeds

aforesaid; and the present commissioners of the town of Williamston, or their successors in office, shall have power to make and deliver, to accept and receive, deeds, confirming and making valid the title of the land conveyed in the said deeds to the said C. B. Hassell and from the said Gavin Lanier.

Sec. 2. It shall be the duty of the commissioners of the town of Williamston to superintend, manage and improve; the public burying ground as aforesaid, in such manner as they may deem proper, and to adopt and enforce rules for its use and government; and for these purposes, they are hereby clothed with all the powers they possess, to make any improvement or reparation of the streets in the town aforesaid.

[Ratified 27th day of January, 1849.]

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## CHAPTER CCXLI.

AN ACT to appoint Commissioners for the Town of Ashboro, in the county of Randolph, and to incorporate the same.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Hardy H. Brown, J. M. A. Drake, A. H. Marsh, Jonathan Worth, and R. H. Brown, be, and they are hereby appointed commissioners for the town of Ashboro, in the county of Randolph; and they are hereby declared to possess full power and authority to adopt such rules and regulations, and pass such by-laws as may appear to them necessary for the good order, regulation and government of said town, not inconsistent with the laws and constitution of this State; and they are hereby declared to possess the same power and authority as are usually exercised by the commissioners of all other incorporated towns in this State.

Sec. 2. *Be it further enacted,* That in case of vacancy, by death, resignation, or otherwise, the remaining commissioners shall have full power to fill such vacancy; and the person or persons so appointed shall have and possess as full power and authority as if appointed by this act.

Sec. 3. *Be it further enacted,* That three of said commissioners shall constitute a quorum for the transaction of business; and this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1849.]

## CHAPTER CCXLII.

AN ACT to consolidate and amend the several acts heretofore passed for the better regulation of the town of Concord, in the county of Cabarrus.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the free white men of the town of Concord, who shall have resided therein six months next preceding the first Monday in March of each and every year, are hereby authorized and empowered to convene at the court house in said town, on the said first Monday in March of each and every year, and elect, by ballot, five commissioners, who shall hold their offices for one year thereafter, or until others are elected and qualified as hereinafter provided; and said commissioners so elected and qualified, and their successors in office, shall be, and they are hereby created a corporation and body politic, under the name and style of "The Commissioners for the Town of Concord," with full power to make all necessary by-laws and regulations for the government of said town, not inconsistent with the Constitution or laws of this State or of the United States; to contract and be

contracted with, to sue and be sued, plead and be impleaded, by that name and title; and they are hereby invested with all other powers and rights necessary or usually appertaining to municipal corporations.

Sec. 2. *Be it further enacted*, That it shall be the duty of the sheriff, or other person for the time being acting as sheriff, of Cabarrus county, to advertise said election at the court house door and two other public places in said town, at least thirty days before the time of holding the same; and it shall be his further duty to appoint two Inspectors of said election, who, together with himself, shall hold the same at the court house on the first Monday in March of each and every year, as hereinbefore provided, between the hours of eleven A. M. and three P. M.; and the persons holding such election, shall make out a certificate thereof, setting forth the names of the persons elected, commissioners for said town; and it shall be the further duty of the sheriff, or other person for the time being acting as sheriff, of said county, to notify the persons so elected of their appointment, and convene them together at the court house on the next day after their election, and administer to them an oath to support the constitution and laws of this State, and faithfully and impartially to discharge all their duties as commissioners of said town.

Sec. 3. *Be it further enacted*, That any sheriff or other person for the time being acting as sheriff, of said county, or any person or persons appointed to hold said election, refusing or neglecting to obey and perform the several duties enjoined on them respectively by the preceding section, shall forfeit and pay the sum of fifty dollars, to be recovered in the name and for the use of any person suing, in any tribunal having jurisdiction thereof.

Sec. 4. *Be it further enacted*, That no person shall be elected commissioner, unless he shall have resided in said town at least six months next preceding the day of election, and shall possess and continue to possess a freehold assessed, for taxation, at not less than one hundred dollars, lying in said town.

Sec. 5. *Be it further enacted*, That said commissioners shall have full power to supply all vacancies in their body, whether occasioned by death, resignation or otherwise; and any person either elected or appointed a commissioner under the provisions of this act, and refusing or neglecting to serve as such, shall forfeit and pay the sum of ten dollars, to be recovered in the name of the Board, and applied to the use of the town.

Sec. 6. *Be it further enacted*, That said commissioners shall, at their first meeting, appoint one of their number Magistrate of Police, who shall be *ex officio* chairman of the Board, and shall have one vote therein. He shall take an oath before the Board for the faithful performance of his duties as Magistrate of Police for said town, and shall have all the powers usually incident to that office, such as administering oaths, issuing warrants and other process, and hearing and determining trials in all cases affecting the corporation.

Sec. 7. *Be it further enacted*, That the commissioners of said town shall have power to appoint a town clerk, treasurer and constable; each of whom shall give bond, payable to the commissioners, in such sums as they may require; and shall also take an oath for the faithful performance of their respective duties; and the Board shall allow said officers such salaries and fees as may be deemed right and proper; and any person appointed to either of said offices, and refusing or neglecting to serve, shall forfeit and pay the sum of ten dollars, to be recovered in the name of the Board, and applied to the use of the town.

Sec. 8. *Be it further enacted*, That said commissioners shall be allowed to collect the following taxes and none other, to wit: a sum not exceeding fifteen cents nor less than five cents on every hundred dollars worth of real estate therein, a sum not exceeding two dollars nor less than one dollar on every male poll therein taxable by the laws of the State. And they are further authorized to make all necessary rules and regulations for the giving in of taxables and the levying and the collecting the taxes thereon.

Sec. 9. *Be it further enacted*, That three of said commissioners shall at any time constitute a quorum; and their meetings shall be held at such times, and at such places, as may be determined upon among themselves.

Sec. 10. *Be it further enacted*, That hereafter the lots at present occupied by R. W. Allison, Esq. and lying in the West end of said town, shall be, and the same are hereby included within the corporate limits thereof.

Sec. 11. *Be it further enacted*, That all laws, clauses of laws, and all private acts of the General Assembly, inconsistent or conflicting with the provisions of this act, except those, or such parts thereof as define the boundaries of said town, be and the same are hereby repealed.

[Ratified 27th day of January, 1849.]

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#### CHAPTER CCXLIII.

AN ACT to extend the limits of the town of Wilmington, and for other purposes.

Sec. 1. *Be 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 Wilmington shall be, and the same are hereby extended to and bounded and circumscribed by the following metes and boundaries, that is to say, beginning at the Southern boundary of the Hilton plantation, where it corners on the Eastern bank of the North East Branch of the Cape Fear river, and running thence Eastwardly five thousand (5000) feet, parallel with Market Street, as laid down in the plan of the town of Wilmington now on file in the office of the Secretary of State; thence Southwardly, parallel with Front Street, in said town of Wilmington, as laid down in

said plan, eleven thousand one hundred and seventy two (11,172) feet to a stone; thence Westwardly, parallel with said Market Street, to the Western bank of the river; thence Westwardly to the Brunswick and New Hanover county line; thence Northwardly with said line of Brunswick and New Hanover counties to the Northwest Branch of Cape Fear river; thence North Eastwardly across the river to a point where Samuel Potter's rice lands and the lands known as belonging to the owners of the Point Peter Steam Saw Mills; thence with the line dividing said Samuel Potter's lands and the said Steam Saw Mills tract to the North East Branch of the Cape Fear river; thence across the said river to the beginning.

Sec. 2. *Be it further enacted*, That the commissioners of the town of Wilmington shall, and they are hereby required to have a survey made, and a plan drawn, according to the preceding section of this act, and deposited in the office of the Secretary of State.

Sec. 3. *Be it further enacted*, That all laws and clauses of laws now in force, and provided for the government and regulation of the town of Wilmington, shall be so construed as to operate and extend to the limits prescribed by this act.

Sec. 4. *Be it further enacted*, That the commissioners of the said town of Wilmington may and shall have the power and authority to levy a tax not exceeding thirty (30) dollars on all public houses of entertainment, victualling houses, eating houses, boarding houses, hotels, restaurateur billiard tables, nine or ten pin aueys, and all livery stables, within the corporate limits of said town; and the said commissioners are hereby authorized to levy said taxes upon the ratification of this act, for the year 1849.

Sec. 5. *Be it further enacted*, That the commissioners of the town of Wilmington may employ the sheriff of the county of New Hanover as a tax collector, whose duty it shall be to collect and pay over to the commissioners the taxes so levied and collected; and that the sheriff of said county shall possess the same power and authority to col-

lect the said town taxes, that he possesses to collect county taxes; and the commissioners of said town are hereby authorized and required to take a bond from the said sheriff, with good and sufficient security, in the sum of twenty five thousand dollars, for the diligent and faithful discharge of his duties, and for the collection and the payment over of all the said taxes when collected, to the said commissioners; and in the event of a breach of said bond, the commissioners are authorized to bring suit in their own name in any court of record in New Hanover county, the said bond to be made payable. [?]

Sec. 6. *Be it further enacted*, That the said commissioners be, and they are hereby authorized and empowered to collect the taxes of the town of Wilmington, quarterly, semi-annually or annually, as they may deem proper.

Sec. 7. *Be it further enacted*, That all acts and clauses of acts heretofore passed, coming within purview of this act, be, and the same are hereby repealed.

Sec. 8. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified 29th day of January, 1849.]

#### CHAPTER CCXLIV.

AN ACT to amend an act, ratified on the ninth day of January, 1845, entitled "An Act to appoint commissioners for the town of Rockford, in the county of Surry."

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That instead of the constable, it shall be the duty of the sheriff of Surry county, either himself or by his lawful deputy, on the first Thursday of April, 1849, and each year thereafter, to hold an election, for the purpose of choos-

ing five commissioners of said town, and in the manner prescribed in said act for the election of commissioners; and said sheriff, or deputy, holding the election, shall declare said election, and in case of a tie, shall give the casting vote, but shall vote in no other case. The boundaries of said town shall be established as follows: beginning at the ford of the Yadkin river, and running to Watson Holderfield's, taking in one fourth of a mile on each side the main road from the river to Holderfield's.

Sec. 2. *Be it further enacted*, That said commissioners, after their election and before entering upon the discharge of their duties, shall take an oath, before some justice of the peace of the county aforesaid, faithfully and impartially to perform said duties; and upon so doing, shall be constituted a body corporate and politic, by the name and style of the Commissioners of Rockford; a majority shall be a quorum to do business; and they shall have full power to appoint a Magistrate of Police, a town Treasurer and constable, and require and accept the proper bonds from them; to lay and collect a tax on persons and property, in the town, not exceeding 75 cents on the poll, and 25 cents on the 100 dollars worth real estate in town, per annum; to appoint a patrol; to remove nuisances; to provide against disease and fire; and to enact and adopt all such by-laws and regulations they may deem necessary for the good government of the town, not inconsistent with the laws of this State and the United States. The town constable shall have full power to collect the taxes in said town; and the taxes, when collected, shall be applied to the use of said town, under the direction of the commissioners. All laws or clauses of laws coming in conflict with this act, are hereby repealed.

[Ratified 27th day of January, 1849.]

## CHAPTER CCXLI.

AN ACT to amend an act entitled "an act to incorporate the town of Wilkesborough, in the county of Wilkes," and

for the better regulation thereof, ratified the 18th day of January, 1847.

*Be 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 9th section and the 13th section of the above recited act, be, and the same are hereby repealed; any law or usage to the contrary notwithstanding.*

[Ratified 27th day of January, 1849.]

## CHAPTER CCXLVI.

AN ACT for the incorporation of the town of Salisbury.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Moses L. Brown, Matthias Boger, Alexander W. Buis, Jeremiah M. Brown and William Overman, commissioners for the town of Salisbury, and their successors in office chosen in the manner hereinafter provided for, be, and they are hereby created a corporation and body politic, under the name and title of the "Commissioners for the town of Salisbury," with full power to make by-laws not inconsistent with the constitution of the State and of the United States: to contract and be contracted with, to sue and be sued, to plead and be impleaded by that name and title; and they are hereby invested with all other powers and rights necessary or usually appertaining to municipal corporations.*

Sec. 2. *And be it further enacted, by the authority of aforesaid, That the said Moses L. Brown, Matthias Boger, Alexander W. Buis, Jerh. M. Brown and William Overman, shall continue to hold their offices, as commissioners for the town of Salisbury, until a new election for commissioners for said town shall take place as hereinafter provided for.*

Sec. 3. That hereafter the Board of commissioners for the said town of Salisbury shall be composed of Intendant of Police and eight commissioners. The Intendant of Police shall be elected annually, and serve until another is elected and qualified. He shall be *ex-officio* President of the board of commissioners, and have one vote therein. The eight commissioners (two of whom shall reside and continue to reside whilst in office in each of the great squares as now known, of said town) shall be elected annually and serve until their successors are elected and qualified.

Sec. 4. That the election of Intendant of Police and for commissioners for the town shall be held at the court house, or such other place in said town as may be officially appointed and advertised, on the last Monday in January, in each year; that the Sheriff of Rowan county, or a deputy by him appointed, or, in case of a vacancy in the office of sheriff, the coroner of said county, or a deputy by him appointed, shall advertise said election at least twenty days before the said last Monday in January, 1849, and at least twenty days before the last Monday in January in every year thereafter; and shall attend at said court house or other place as appointed and advertised, on the said day of election; and at the hour of ten in the morning shall open the polls of election, in the pretence of two inspectors appointed and qualified as hereinafter provided for; shall receive the tickets, and shall put those for commissioners of said town in one box, and those for Intendant of Police of said town in another box provided for that purpose. Each inspector shall personally, or by an agent chosen by him and duly sworn before some justice of the peace, take down, in one list, the names of persons voting for commissioners of said town, and, in another list, the names of persons voting for Intendant of Police of said town; and the said sheriff shall, in presence of said inspectors, at the hour of four in the afternoon, close the said polls, and at the said court house (or place so appointed and advertised as aforesaid) in the presence of such of the electors as choose to attend, open the boxes containing the tickets, and ex-

amine and number ballots, and read aloud what appears upon each; and shall declare the person receiving the greatest number of votes for the office of Intendant of Police, duly elected Intendant of Police of said town; and shall, on demand, give a certificate to that effect; and shall declare the (eight others) persons receiving the greatest number of votes for the office of commissioners duly elected commissioners of said town, and, on demand, give them certificates to that effect. When two or more persons shall have the same number of votes, the said sheriff or deputy, or coroner or deputy, shall give the casting vote; but the said sheriff or coroner, if holding the election, shall not vote in any other case whatever; and the said sheriff, or in case of a vacancy in the office of sheriff, the said coroner, shall for every neglect or refusal to obey the requirements of this section, by himself or by the deputy, by the said sheriff or coroner respectively appointed to hold said election as aforesaid, forfeit and pay two hundred dollars, to any person who shall sue for and recover the same, in any court having jurisdiction thereof: *Provided*, that said suit be brought within six months after the cause of action occurred. The said inspectors shall be appointed by the court of pleas and quarter sessions for the county of Rowan, at the terms immediately preceding the days above fixed for holding said elections; and in case of a neglect by said court to appoint, or of a neglect or refusal by said inspectors, or either of them, to attend or act on the day of election, then they, or in case one only shall neglect or refuse to attend or act, a substitute for the one so acting or refusing, shall be appointed on the day of election by one justice of the peace for said county, called on by the officer holding said election to make the appointment. Any person neglecting or refusing to act as inspector, when appointed in either of the ways aforesaid, shall forfeit and pay ten dollars to any person who may sue for and recover the same, before the Intendant of Police for said town: *provided*, suit be brought within six months next after the cause of action occurred.

Sec. 5. That no person shall be elected Intendant of Police or commissioner for the town of Salisbury, except a white male citizen of the full age of twenty one years, who shall have resided in said town six months next preceding the day of election, and who shall possess and continue to possess a freehold in said town assessed for taxation at a sum not less than five hundred dollars: and no coroner, sheriffs, or constables or any deputy of either of those officers, shall be eligible as Intendant of Police.

Sec. 6 That every white male inhabitant of the town of Salisbury of the age of twenty one years, who shall have resided in said town six months next preceding the day of election, and shall have paid a town tax, and also all white male citizens of the State of North Carolina, of full age, who shall possess in said town real estate assessed for taxaton at a sum not less than five hundred dollars, shall be entitled to vote for the Intendant of Police and commissioners of said town.

Sec. 7. That if a vacancy shall at any time happen in the office of Intendant of Police or commissioner, by refusal of the elect to qualify, by resignation, death or otherwise, it shall be the duty of the said board of commissioners, within one month after the happening of such vacancy, to elect some suitable person to fill the same; and any such Intendant of Police or commissioner so elected, shall have the same powers, privileges and emoluments as if chosen by the people.

Sec. 8. That on or before the Saturday next after their election, the Intendant of Police and commissioners shall meet at the town hall or some other place agreed upon by them, and shall there qualify, by taking each an oath to support the constitution and laws of the State, and to discharge the duties imposed upon them by law with fidelity and integrity and to the best of their ability, which oath shall be adminisiered to the Intendant of Police by some justice of the peace for said county, or by the former Intendant of Police, and to the commissioners by the Intendant of

Police, or, in case of a neglect or refusal by him, then by the former Intendant of Police, or some justice of the peace for said county; and every person so elected Intendant of Police or commissioner as aforesaid, neglecting or refusing to qualify and serve, shall forfeit and pay the sum of ten dollars to any person who may sue for and recover the same before the Intendant of Police for said town or any justice of the peace for said county; *provided* suit be brought within six months next after the cause of action occurred.

Sec. 9. It shall be the duty of the Intendant of Police to see that the laws of the State and ordinances of said commissioners are obeyed and executed within said town. He shall have power to issue warrants to the town constable (whose appointment is hereafter provided for) or to the sheriff or any constable of said county, founded on complaint of a breach of any laws relating to said town or any of the ordinances of said commissioners, or brought for the recovery of any penalty or penalties, given by said laws or ordinances for the arrest of the person or persons complained against, to hear and determine said complaints, on the return of the warrants, under the same rules and regulations as are by law provided for trials before single justices of the peace; to give judgments on said warrants and issue execution thereon, which judgment shall be final, unless appealed from in the manner hereinafter provided for. The said Intendant shall also be a peace officer, and shall have within the limits of said town all the powers of a justice of the peace, and of a constable for the preservation of the public peace, detection, arrest and punishment of offenders. The said Intendant shall further have summary jurisdiction to hear and determine all breaches of the peace occurring within the limits of said town, not above the grade of misdemeanors, and to punish all offenders, if free white persons, by a fine not exceeding twenty dollars, or by imprisonment not exceeding twenty days; if free persons but not white, then by fine and imprisonment as above, or by whipping not exceeding thirty nine lashes; if slaves, by a whipping not exceeding thirty

nine lashes, and the owner or manager of said slaves shall receive a reasonable notice of time of trial, and a copy of the warrant for the arrest of said slaves, and, in case of their conviction, shall be liable for the cost thereof: *Provided nevertheless*, that it shall and may be lawful, in all cases, for the person (or persons, or, in case of slaves, their owners or managers,) against whom the said Intendant of Police shall give judgment or pass sentence by virtue of the summary jurisdiction hereby given, or for breach of law or laws relating to said town, or of any ordinances of said commissioners, or for any penalty or penalties given by said law or ordinances, to appeal from said judgment or sentence to the Superior court of law for the county of Rowan, first entering into recognizance with good security before the said Intendant for the appearance of said appellant or appellants before the judge of the said Superior court at the next term thereof, and for his, her or their performing and biding[?] the judgment of the said Superior court; and the said person or persons praying said appeal shall be allowed ten days to obtain the said security: *Provided*, that execution may nevertheless issue on said judgment or sentence forthwith; and nothing herein contained shall be so construed as to stay the same. The said Intendant of Police is further vested with the same jurisdiction and powers over all other offences committed by slaves as is now by law given to a justice or justices of the peace out of court, under the same rules, regulations and restrictions as are provided in those cases. And the said Intendant of Police shall keep a faithful minute of all process issued by or returned before him, and of his judgment or sentence and all the proceedings thereon, in a bound book, and deliver the same to his successor. In case of an appeal duly taken from any judgment or sentence of said Intendant, he shall return the original and all other process in said court, together with a copy of his minutes of his judgment or sentence, and of all the proceedings therein to the clerk of the court to which said appeal shall be taken, next ensuing the taking of said appeal,

on the first day of said term. The Intendant of Police, whilst in town, shall further have the same jurisdiction and power for the trial of all civil matters and controversies as is given to single justices of the peace, and he shall proceed under the same rules and regulations as are by law prescribed for them. And the said Intendant of Police shall, in all cases tried before him, be entitled to demand and receive the following fees, that is to say, in breaches of the peace and all breaches of any of the ordinances of said commissioners, for every warrant, twenty five cents; for every subpoena or order to summons a witness, ten cents; for every judgment, fifty cents; for every appeal granted and recognizance taken in pursuance thereof, twenty five cents; for filing copy of his minutes, fifty cents; in civil causes, for every warrant of attachment, ten cents; for every subpoena or order to summon a witness, five cents; for every judgment rendered upon any warrant, twenty five cents; for granting an appeal or stay of execution, ten cents; for every execution, ten cents: which said fees may be recovered and collected as other fees to officers are or may be collected. And the board of commissioners may, if they deem it expedient, allow the said Intendant of Police an annual salary not exceeding the sum of two hundred dollars, to be paid out of the town treasury.

Sec. 10. That the said board of commissioners shall meet at the town hall (or some other place appointed by them) on the last Saturday in every month, and at such other times as may be agreed on from time to time by them; and a majority shall constitute a quorum for the transaction of business.

Sec. 11. That at the first meeting of said board of commissioners after their election, they shall appoint a clerk, who shall be allowed a reasonable salary to be fixed by said commissioners, who shall hold his office until the expiration of the official term of said commissioners, subject, however, to be removed by them at any time for misbehavior; said clerk shall give a bond, with surety, payable to said com-

missioners and their successors in office, in a penal sum to be fixed by them, with a condition for the keeping by him of regular and fair minutes of the proceedings of commissioners at their meeting and the safe keeping of all books, papers and articles committed to his custody during his continuance in office, and their delivery to his successor, and the faithful performance of all his other duties as clerk which may be imposed upon him by law or the ordinances of said commissioners.

Sec. 12. That at the same meeting, the said board of commissioners shall appoint a town treasurer, who shall hold his office for the same term, and subject to the same conditions, as the clerk above provided for holds his. He shall, before assuming his office, give bond, with approved sureties, in a penal sum to be fixed by said commissioners, payable to said commissioners and their successors in office, with a condition that he shall receive and faithfully keep all moneys which shall be paid to him on behalf of said commissioners, and disburse the same according to order given in obedience to the direction of said commissioners appearing on their minutes. That he shall keep a fair and correct account of all moneys so received and disbursed by him, in a book kept for that purpose. That he shall submit said account to said commissioners, whenever required to do so; and that he shall pay to his successor, on demand by him, all moneys in his hands belonging to said commissioners, and that he will faithfully perform all other duties imposed on him as town treasurer by law or the ordinances of said commissioners during his continuance in office. The said commissioners shall allow the said town treasurer a reasonable compensation for his services. That the orders drawn on the town treasurer by the clerk shall state the purpose to which the money is to be applied; and the said town treasurer shall specify said purposes in general terms in the accounts kept by him, and also the sources whence the money received by him are derived; and said commissioners shall cause a copy of said account for the year pre-

ceding every first day of December to be made by their clerk and posted in the court house in said town for twenty days next previous to the first day of January in each and every year; and for breach of their respective duties assigned them in this section, the said commissioners, clerk and town treasurer shall be liable to indictment.

Sec. 13. That at the first monthly meeting of said commissioners, after the appointment of said clerk and town treasurer, those officers shall respectively report to the commissioners the particulars of their settlement with their respective predecessors in office.

Sec. 14. That the said commissioners may also appoint a collector of town taxes, who shall hold his office for the residue of the term of commissioners appointing him, and who shall give bond, with approved security, payable to said commissioners and their successors in office, in a penal sum to be fixed by said commissioners, with a condition that he will diligently endeavor to collect all taxes imposed by said commissioners, making use for that purpose of all the power given him by law, and that he will faithfully account for and pay over to the town treasurer all sums of money collected or received by him for said commissioners, first deducting five per centum on his receipts, as his compensation; and that he will faithfully discharge all other duties imposed on him as tax collector by law or the ordinances for said commissioners: *Provided*, nothing herein contained shall be so construed as to prevent the said commissioners, shall they so determine, from requiring the sheriff of said county of Rowan to collect the town taxes; and the said sheriff, when so required by said commissioners, shall be subject to the same penalties and shall proceed under the same rules and regulations, and shall be invested with the same powers, as he is now subject to and invested by law for the collection of taxes due the State.

Sec. 15. That the said commissioners shall, at their first monthly meeting after their election, appoint a town constable, who shall hold his office for the residue of the official

term of the commissioners who appoint him, subject to be removed by them at any time for misbehavior. He shall give a bond, in a penal sum to be fixed by said commissioners, payable to them and their successors in office, with a condition that he shall obey and diligently execute all lawful precepts to him directed by the Intendant of Police for said town, and that he will faithfully discharge all other duties which may be imposed upon him as town constable by law or the ordinances of said commissioners; and that he will diligently endeavour to carry into effect all such ordinances. It shall be the duty of said town constable, in general, to see that the ordinances of said commissioners are enforced, and report all breaches thereof to the Intendant of Police, to preserve the peace of said town by the suppression of disturbances, and the apprehension of offenders; and for that purpose, he shall have and he is hereby invested with all the powers now vested by law in sheriffs and constables: he shall also have, in the execution of process to him directed by the said Intendant of Police, the same powers which sheriffs and constables now have in the execution of like process directed to them: he shall receive a compensation to be fixed by said commissioners, and the same fees on all process executed or returned by him which are given to constables in like process when executed or returned by them.

Sec. 16. That vacancies in the office of town clerk, town treasurer, tax collector and town constable, may be filled by said board of commissioners at any time.

Sec. 17. That the said town clerk shall, within the first seven days in March in each and every year, advertise for four weeks in one or more newspapers published in said town, or, for want of newspapers, in three or more public places therein, notifying all persons subject to pay a poll tax to the State, who resided within the limits of the town on the first day of February immediately preceding, or who had been principally employed in any profession or vocation in said town, for three months or more immediately preceding the said first day of February, and all persons who

owned or were possessed of taxable property within said town on the said first day of February, to give in to him before the last day in said month of March, a list of their said polls and taxable property; and it shall be the duty of all such persons to give in said list within the time specified. Said list shall state the number and local situation of the lots or part of lots given in, with the value at which they are assessed for taxation by the State; the number of white taxable polls, of taxable slaves, and of taxable free negroes residing on the said first day of February on the lands of persons giving in said list. And the list so given in to the town shall be sworn to before him (and he is hereby authorized to administer the oath) by the persons giving in the same. The said lists shall be filed, and from the same the said town clerk shall, within twenty days from the said last day of March, in each and every year, make, in a book to be kept for that purpose, an alphabetical list of the persons and owners of property liable to taxation, in the same manner as tax lists are now made out by law for collection of State taxes. The said clerk shall also, within twenty days from the said last day of March in each and every year, make out to the best of his knowledge, in the same book, a list of taxable polls and of the owners of taxable property, within said town, who have failed to give in a list in the manner and within the time prescribed above; and he shall state in said list, if he can ascertain the sum at which the said property is assessed for taxation by the State, and if the said clerk cannot ascertain the sum at which said property is assessed for taxation by the State, he shall call on two freeholders of land in said town to value the said property, and they shall be sworn by the Intendant of Police, or some justice of the peace, to make a fair valuation; and the said clerk shall annex their valuation to said property. That all persons who shall fail to give in tax list in the manner and within the time above prescribed, shall pay a double tax for that year, the amount of which double tax shall be stated by said clerk in his said list.

Sec. 18. That on or before the first day of May, in each and every year, the said board of commissioners shall cause the said town clerk to make a fair copy of said list made by him as aforesaid; and they shall deliver the said copy to the tax collector, if one shall have been appointed, and if not, to the sheriff of said county of Rowan, together with a warrant, under their hands and seals, of those, or a majority of them, authorizing and directing the tax collector or said sheriff, to collect said taxes in said list mentioned, and to make return thereof and of said warrant on a certain day therein to be mentioned; and the said tax collector or sheriff is hereby vested with all the powers and rights, for the collection of said taxes, which sheriffs have for the collection of State taxes; and said tax list and warrant shall be of the nature of a judgment and execution for the taxes therein mentioned.

Sec. 19. That the said board of commissioners shall have power annually to levy and cause to be collected, in the manner above prescribed, the following taxes, that is to say, a tax not exceeding fifty cents on every hundred dollars value of all the lots and parcels of lots, with the improvements thereon, situated within the limits of said town; a poll tax not exceeding two dollars on every poll liable to pay a poll tax to the State, who has resided or been principally employed within said town for three months immediately prior to the first day of February in each and every year; and all taxes laid on polls and real estate shall be in that relative proportion; a tax on all dogs being kept in said town not exceeding three dollars on each; a tax on all hogs, whether running at large in said town or confined in lots and pens therein, and whether owned by persons residing in said town, or by any other persons whatsoever, not exceeding three dollars on each hog; and in laying said tax, said commissioners may discriminate between hogs running at large, and hogs confined in lots or pens; a tax on all stoops, steps, porches or piazzas encroaching more than three feet on the public street or side walk; a tax on all itinerant merchants

and pedlars not exceeding five dollars for each itinerant merchant or pedlar; *provided*, no tax shall be imposed on persons who shall sell books only; a tax on each and every person or company of stage players, sleight of hand performers, rope dancers, tumblers and wire dancers, or company of circus riders or equestrian performers; and each and every person who shall exhibit artificial curiosities of any sort or kind, except models of useful inventions, for a reward; and every person or company who shall exhibit natural curiosities of any kind or sort, a tax not exceeding twenty dollars on each and every person or company who may so play, perform or exhibit within the limits of said town, or within one mile of the limits of said town; and said commissioners shall have power to make all necessary or proper rules, regulations or ordinances for the giving in of the taxable articles aforesaid, and the laying and collecting the taxes thereon.

Sec. 20. That in case of a fire occurring in said town, it shall and may be lawful for the Intendant of Police, or in his absence, two commissioners to order the blowing up, pulling down or destroying any house or houses which he or they shall deem expedient to be blown up, pulled down or destroyed, for the purpose of stopping the progress of the fire; and no person or persons whatsoever shall be held liable civilly or criminally for acting, in such cases, in obedience to such orders.

Sec. 21. That the said board of commissioners shall have power to authorize, in such manner as they may ordain, the formation of one or more volunteer fire companies in said town, to be attached to an engine or engines which may belong to the corporation thereof, or to one or more individuals. They may enact by-laws for the government of said companies, which, when adopted by any company, the members thereof shall be governed by the same and be liable for the fines and penalties thereby incurred. Any volunteer fire company so formed shall be entitled to elect its own officers, and the members thereof shall be exempt from mil-

itary duty, except in case of insurrection, invasion or of draft in time of war.

Sec. 22. That the said board of commissioners shall have power to organize a patrol for said town, either by hiring persons to act as such and paying them out of the treasury of the said town, or by enrolling all the free white male inhabitants of said town, of the age of eighteen years and upwards, except such as they think proper to exempt by reason of their poverty, joined with old age or infirmity, and dividing them into classes of an equal number (not exceeding five) to be arranged alphabetically, or drawn by lot from the persons so enrolled, as they may deem expedient. The said board of commissioners shall have power to enact by-law<sup>s</sup> for the government of said patrol so hired or appointed, and to impose fines and penalties for the infringement of any such by-law so enacted, which fine and penalties, when incurred by any minor, shall be recovered from the parent, guardian, or master (if an apprentice) of such minor so offending.— That the patrol so hired or appointed by the said board of commissioners, whilst on duty, shall have all the powers which patrol now have by law, and for the suppression of riots and disturbances, and the preservation of the public peace in said town, all the powers now vested in constables as peace officers.

Sec. 23. That the said board of commissioners shall have power by ordinance to prohibit all persons recently from any place or places where an infectious or contagious disease is believed to exist or recently to have existed, from entering; and all goods and chattels from being brought from said place or places within said town; and by ordinances to fix a penalty for the breach of any of the rules established by them upon this subject, which penalty shall be recovered from any and all persons, who are liable thereto, by action of debt, in the name of the commissioners for the Town of Salisbury, in any court having competent jurisdiction. The said commissioners shall also have power to take such other precautionary measures, to prevent the introduction of

infectious or contagious diseases in the said town, as they may deem expedient: Said commissioners, upon the certificate of a physician that a dangerous and infectious or contagious disease is existing in any house within said town, or in case the occupier of any house suspected to contain such disease shall forbid or prevent the visit of a physician sent by said commissioners for the purpose of examination, shall also have power to forbid and prevent all persons from leaving said house and its enclosures; and take such other steps to prevent communication with the person so infected and to arrest the spread of the disease, as they may deem expedient, and to impose such penalty or penalties for the breach of their ordinance or ordinances made for that purpose, as they shall think proper: At any time, upon the certificate of a physician that any slave or free negro is sick with a dangerous and infectious or contagious disease within said town, and that he can be removed without endangering his life, the said commissioners shall have power to cause said slave or free negro to be removed and confined to some convenient and proper place without said town; and shall cause him to be there attended to as befits his situation: and it shall be lawful for them to sue for and recover from any free negro or the owner of any slave so removed, the expenses of his or her removal, support, nursing and medical attendance during the time of his or her sickness, and also in case of his or her death, the expenses of burial, by writ, in the name of the commissioners for the town of Salisbury, in any court having competent jurisdiction. And any and all persons attempting to prevent, or resisting the removal of said slaves or free persons from said Town, shall be liable to indictment in the superior court of law for the county of Down, and on conviction, punished as for a misdemeanor. The said commissioners shall have further power to impose such punishments on all slaves or free negroes violating the section of any of the ordinances of said commissioners, made by virtue thereof, or on a like subject matter as they may deem expedient, not exceeding one month's imprisonment or thirty-nine lashes.

Sec. 24. That it shall be the duty of said board of commissioners to keep the streets of said town in good order, and they shall have the power to cause said streets to be drained, graded and paved, and to cause all accumulation of dirt or filth to be removed from them. That said board of commissioners shall have control over the public wells of said town, and it shall be their duty to cause them to be repaired and kept clean and in good condition, and provide new ones when necessary.

Sec. 25. That said board of commissioners shall have power to regulate the manner and terms on which bodies may be interred in the public cemetery within said Town, and to keep the same in due order and repair; and also to purchase, when they deem it proper, a piece of land within or beyond the limits of said town, as a public cemetery; they shall also have the power to forbid any and all interments of dead bodies within the limits of said town, when ever they shall think it expedient so to do.

Sec. 26. That said board of commissioners shall have power to acquire by purchase any piece or pieces of land as public squares for said town; and also to acquire any pieces by purchase or lease as sites for markets or other buildings for the use of said town.

Sec. 27. That said board of commissioners shall have power to make, from time to time, rules and regulations concerning the firing of fire arms within said town; the pace and speed at which horses may be ridden and driven through the streets of said town, the arrangements of stove pipes in buildings, and the mode in which fire shall be kept or carried through said town, so as to prevent accidents from carelessness or negligence or indiscretion; to regulate the manner in which powder and other explosive and inflammable substances may be kept and sold within said town; to regulate the manner in which dogs may be kept in said town: to prevent hogs from running at large in said town, whether said hogs shall belong to persons residing within or without said town; to prevent hogs from being con

ned in lots or pens in said town during the summer and all months; to cause all lots, cellars, privies, stables and other places of like character to be visited and examined by the town constable or other persons, at any and at all times, from the first day of June to the first day of November, in each and every year; and upon his written report, that any of the above places is or are a nuisance, to cause, by their order, the town constable to have the said place or places cleansed and the nuisance abated; and the said town constable shall have power to enter the premises described in the said order and to perform the injunctions of the same, and the said commissioners shall have the power to recover the expenses of abating said nuisance from the occupier or owner of said premises by suit in any court having competent jurisdiction; said board of Commissioners shall have further power to prohibit all trades or occupations, which are nuisances, from being carried on in said town, or to regulate the manner in which they shall be carried on, so as to mitigate the nuisance. They shall also have the power to cause all ponds or sunken lots in which water stands and stagnates within said town, to be drained and filled up, and to recover from the owner or occupier of the lands or lots aforesaid the expense of such drainage or filling up, which expense shall be a lien on the lot or land so drained or raised: *Provided always*, that the owners or occupiers of said lands or lots shall have had three months notice, in writing, of the intention of said commissioners, and shall have during that time neglected or refused to drain or fill up said ponds or sunken lots. They shall further have power to cause all nuisances, whether arising from stagnant pools or ponds of water, or from any other cause, without the limits of said town, but sufficiently near to affect the health of the inhabitants of said town, to be removed or abated, and to pay for the removing or abating of any such nuisance above described out of any moneys in the treasury of said town.

Sec. 28. That said board of commissioners shall have power to regulate the manner in which provisions may be

sold in the streets and markets of said town, and to regulate the manner in which the public markets and streets in said town may be used; and to affix penalties for the breach of their ordinances, which shall be recovered in the name of the commissioners of the town of Salisbury, before any court having competent jurisdiction.

Sec. 29. That said board of commissioners shall have power to make rules and regulations for enforcing the orderly conduct of slaves and free negroes within said town, and to impose punishments for the breach thereof.

Sec. 30. That the court of pleas and quarter sessions for the county of Rowan shall grant a license to retail spirituous liquors by the small measure within said town, to no person who shall not have first obtained from the town clerk a certificate of the assent of said board of commissioners to his obtaining said license, which certificate shall be *prima facie* evidence of good moral character in the applicant, so as to supersede the necessity of proof by two witnesses as now required. And it shall be lawful for said board of commissioners to require the said applicant to pay to the town treasurer a sum not exceeding ten dollars, before the said town clerk shall give the certificate of said assent by the said board of commissions.

Sec. 31. That all the forfeitures and penalties which are imposed by this act, or which shall or may be imposed by the ordinances of said board of commissioners, and which are not hereby, or shall not be by said ordinances directed to be recovered in any other manner or to any other use, shall be sued for and recovered in the name of the commissioners for the town of Salisbury; and all forfeitures so recovered, shall be paid to the town treasurer, for the use of said town.

Sec. 32. That the limits of said corporation shall remain as heretofore established.

Sec. 33. That all laws and clauses of laws inconsistent with this act, and all private acts of the General Assembly relating to the town of Salisbury, be, and they are hereby repealed.

Sec. 31. That this act shall be in force from and after its ratification.

[Ratified 27th day of January, 1819.]

## CHAPTER CCXLVII.

AN ACT to incorporate Tosnot Depot and Hickory Grove, in the county of Edgecomb, into a town by the name of WILSON.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That Gen. Joshua Barnes, Jonathan D. Rountree, John W. Farmer, James D. Barnes, and Arthur Farmer, and their successors, be, and they are hereby appointed commissioners for the town of Wilson, in the county of Edgecomb, with full power and authority to adopt such rules and regulations, and to enact such by-laws, as they may deem necessary for the order and government of said town, not inconsistent with the constitution and laws of this State or of the United States.

Sec. 2. *Be it further enacted,* That upon the death, resignation, or inability to act of any of the aforesaid commissioners, the remainder, or a majority of them, shall have full power and authority to appoint a successor, who shall be possessed of all power granted by this act to his predecessor.

Sec. 3. *And be it further enacted,* That the corporate limits of said town are hereby declared one quarter of a mile in each and every direction from B. and N. Wood's confectionary shop, which shall be the centre of the chartered limits of said corporation.

Sec. 4. *And be it further enacted,* That this act shall be in full force from and after its ratification.

[Ratified 29th day of January, 1819.]

## VOLUNTEERS.



## CHAPTER CCXLVIII.

AN ACT to incorporate the Columbus Guards, a volunteer company in the county of Columbus.

Sec. 1. *Be 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 volunteer company of infantry, in the county of Columbus, commanded by Captain Alfred Brown, be, and the same is hereby incorporated and made a body corporate and politic, by the name and style of "The Columbus Guards;" and by that name and style, shall have succession, and be able and capable in law to sue and be sued, plead and be impleaded in any court in this State and shall have full power and authority to make by-laws, rules and regulations for the proper and efficient government of said company, not inconsistent with the constitution and laws of this State; and all fines, penalties and forfeitures incurred under the operation of such rules as may hereafter be prescribed by the company hereby incorporated shall be recovered in the same manner as militia fines are recovered in this State, to be appropriated to the exclusive use and benefit of the company aforesaid for militia purposes.

Sec. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Ratified this 29th day of January, 1849.]

## WARDENS.

## CHAPTER CCXLIX.

AN ACT to repeal an Act, passed in the year one thousand eight hundred and twenty nine, entitled "An act concerning the Wardens of the Poor of the county of Lincoln."

Sec. 1. *Be 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 be, and the same is hereby repealed*

Read three times and ratified in General Assembly this 27th day of January, 1849. }

ROBT. B. GILLIAM, S. H. C.  
CALVIN GRAVES, S. S.

STATE OF NORTH CAROLINA :

OFFICE OF THE SECRETAR OF STATE, }  
April, 1849. }

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.

W. M. HILL, Secretary of State.

# RESOLUTIONS

OF

## A PRIVATE NATURE:

PASSED BY THE

LEGISLATURE OF NORTH CAROLINA.

AT ITS SESSION OF 1848-49.

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RESOLUTION in favor of Thomas Anderson.

*Resolved*, That the Treasurer pay Thomas Anderson five dollars for bringing to this place returns relating to the contested election from Orange county.

[Ratified 27th day of January, 1849.]

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RESOLUTION in favor of William Angel.

*Resolved*, That William Angel, purchaser of section No. 163, in district No. 15, Cherokee land sales of 1836, be released from the payment of the sum of thirty dollars, with interest from the date of his bonds given for the same: and that the Treasurer be allowed the same in the settlement of his accounts.

[Ratified 29th day of January, 1849.]

A RESOLUTION in favor of Charles Baker, sheriff Yancy county.

*Resolved*, That Charles Baker be, and he is hereby released from the penalty incurred by him for failing to make the return of the election of electors for President and vice President, for the county of Yancy in due time, in November, 1848, according to the statute in that case made and provided.

[Ratified the 29th day of January, 1849.]

RESOLUTION relative to O. A. Buck.

*Resolved*, That the Governor be authorized to loan to Capt. O. A. Buck sixty four Cadet muskets and other suitable military equipments, necessary for a company, for the purpose of enabling him to establish a military school in this State: *Provided*, said muskets and equipments can be procured in exchange for a part of the State's next quota of public arms from the United States; and that security, approved of by the Governor, be given, that they will be taken care of and returned when called for.

[Ratified 16th day of January, 1849.]

RESOLUTION in favor of Perrin Busbee.

*Resolved*, That the Public Treasurer pay Perrin Busbee, Clerk of the House of Commons, thirty dollars in payment of his services in arranging and putting in order, the papers in the office of the Clerk of the House of Commons; and that the Treasurer be allowed the same in settlement of his accounts.

[Ratified 29th day of January, 1849.]

RESOLUTION for the relief of the clerk of the county court  
of New Hanover.

*Resolved*, That the judgment 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, 1847, of said court, under the 34th and 84th sections of an act entitled "An Act to provide for the collection and management of the revenue for this State" against Lewis H. Marsteller, clerk of the county court of New Hanover, be, and the same are hereby remitted, upon payment of all costs incurred in rendering up said judgments; and that all penalties and forfeitures therein and thereby incurred are also severally remitted and released.

[Ratified 16th day of January, 1849]

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RESOLUTION in favor of Wm. J. Clarke.

*Resolved*, That the Public Treasurer be authorized to pay William J. Clarke forty dollars, for services as Secretary to the senatorial committee on Privileges and Elections

[Ratified the 29th day of January, 1849.]

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A RESOLUTION for the relief of the clerk of the county  
court of Cumberland.

*Resolved*, That the judgments obtained by Charles L. Hinton, Public Treasurer of this State, to the use of the State of North Carolina, on motion by the Attorney General, in the Superior court of Law in and for the county of Wake at Fall term, 1848, of said Court, under the 34th, 37th and 84th sections of an act entitled "An act to provide for

the collection and management of the revenue for this State," against John McLaurin, clerk of Cumberland county court, be, and the same are hereby remitted, upon payment of all costs incurred in rendering up said judgments; and that all penalties and forfeitures therein, thereby, and under the said sections of the said statute incurred, be also severally remitted and released.

*Be it further Resolved*, That all suits pending in the superior court of law for the county of Wake, against the said John McLaurin, for forfeitures incurred under the said sections of said act, be, and the same are hereby directed to be dismissed; and that he, the said McLaurin, be forever discharged and released therefrom, upon the payment of all costs incurred therein.

[Ratified 16th day of January, 1849.]

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A RESOLUTION in favor of Joseph Kearny and Howell Cooke.

*Resolved*, That the Treasurer of the State, be, and he is herein authorized to deliver to Joseph Kearny and Howell Cooke two bonds made by them and filed in the Treasury office, as State Bonds, bearing date the 15th of April 1843.

[Ratified 29th day of January, 1849.]

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RESOLUTION in favor of Isaiah Cook and others.

*Resolved*, That the Secretary of the State be, and he is hereby requested to issue a grant to Isaiah Cook of Macon county, for section No. 3, in district No. 11, purchased by John Poteet at the Cherokee land sales of 1836; also to

Nancy Fulton for section No. 18, in district No. 12, purchased by Robert and Jesse Fulton, at Cherokee land sales of 1820; also to David Guyer, for section No. 60, in district No. 17, purchased by David Ballew, at Cherokee land sales of 1838; Also to Ezekiel Dowdle, for section No. 49, in district No. 13, purchased by James Rodgers, at Cherokee land sales of 1836.

[Ratified 29th day of January, 1849.]

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A RESOLUTION for the relief of Young Patterson, clerk of the county court of Franklin.

*Resolved*, That the judgments obtained by Charles L. Hinton, Public Treasurer of the 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, 1847, of said court under the 34th and 34th sections of an act entitled "An Act to provide for the collection and management of the Revenue for this State," against Young Patterson, clerk of the county court of Franklin, that the same be and are hereby remitted upon the payment of all costs incurred in rendering up said judgments; and that all penalties and forfeitures therein and thereby incurred by him, the said Young Patterson, Clerk as aforesaid, also be, and are severally remitted and released.

[Ratified 16th day of January, 1849.]

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A RESOLUTION in favor of Young Patterson.

*Resolved*, That Young Patterson, clerk of the county court of Franklin county, be, and he is hereby released from the payment of all or any of the cost incurred in the suit of

the State, at the instance of the Attorney General, for failure to return a list of taxable property in the county aforesaid for the year 1847, as required by act of Assembly, as it appears from the certificate of the Comptroller that the return was made according to Law.

[Ratified 27th day of January, 1849.]

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**RESOLUTION** for the relief of the clerk of the county court of Martin.

1. *Resolved*, That the 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, 1847, of said court, under the 34th section of an act, entitled, "An Act to provide for the collection and management of the Revenue of this State," against Laurence Johnson, clerk of the county court of Martin, be, and the same are hereby remitted, upon payment of all costs incurred in rendering up said judgments; and that all penalties and forfeitures therein, thereby and under the 81th section of the same statute incurred, are also severally remitted and released.

2. *And be it further resolved*, That all suits pending in the Superior court of law for the county of Wake, against the said Laurence Johnson, for forfeitures incurred under the 84th section of said act, be, and the same are hereby directed to be dismissed, and that he, the said Laurence Johnson, be forever discharged and released therefrom, upon the payment of all the costs incurred therein.

[Ratified 16th day of January, 1849.]

RESOLUTION in favor of M. O. Dickerson, former Sheriff of Rutherford county.

*Resolved*, That the public Treasurer be authorized to refund five dollars to M. O. Dickerson, former Sheriff of Rutherford county, that sum being an amount heretofore paid into the Treasury by said sheriff on property which was listed and liable to taxation in Polk county.

[Ratified 16th day of January 1849.]

RESOLUTION in favor of the Door Keepers.

*Resolved*, That the Public Treasurer pay to each of the Door Keepers of both Houses of the General Assembly, twenty five dollars, their usual extra allowance, and that they be compelled to pay out of said allowance the hands necessarily employed to bring wood and water to the State House during the present session; and to William R. Lovell, two dollars and eighty cents for Postage paid by him for the Speaker of the House of Commons, on packages in the contested election from the county of Perquimans.

[Ratified 29th day of January, 1849.]

A RESOLUTION in favor of John R. Dyche, late sheriff of Cherokee county.

*Resolved*, That John R. Dyche, late sheriff of Cherokee county, be, and he is hereby released from all liabilities incurred by him for failing to settle the taxes for said county for the year 1847, within the time prescribed by law, and that the Comptroller be, and he is hereby directed to make the same allowance to the said John R. Dyche, in the settlement of the said taxes, as if the same had been settled in due time. *Provided however*, that the said John R. Dyche

shall pay all costs which have accrued in consequence of such failure to settle. This resolution shall take effect from and after its passing.

[Ratified 16th day of January, 1849.]

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A RESOLUTION in favor of Scroop Enloe,

WHEREAS Asaph Enloe was the original purchaser of a tract of land in the county of Haywood, in district number 2, tract number 50, which contained 105 acres; and whereas he, for a valuable consideration, subsequently sold said tract to his brother Scroop Enloe, and assigned the certificate to him therefor, which has been lost or mislaid: Therefore

*Be it resolved*, that the Secretary of State be authorized to issue a grant to said Scroop Enloe, his heirs or assigns, for said tract of land, upon the presentation of the certificate of the Public Treasurer that payment has been made in full to the State for said land.

[Ratified 29th day of January, 1849.]

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RESOLUTION in favor of the Executors of the late Joseph J. Daniel.

*Resolved*, That the Public Treasurer pay to the Executors of Joseph J. Daniel, late one of the Judges of the Supreme Court of this State, six hundred and twenty five dollars, being the balance due on account of his salary; and that the Public Treasurer be allowed the same in the settlement of his public accounts.

[Ratified 16th day of January, 1849.]

## RESOLUTION for the relief of Fendall Griffin.

WHEREAS, on the first day of August, 1839, a certificate of debt, for one thousand dollars, No. 87, was issued to Hugh R. White, according to the provisions of the act of Assembly of 1833 and 1839, entitled "An Act for the relief of the Raleigh and Gaston Rail Road Company;" which appears upon the books of the Treasury in the name of Hugh R. White; and whereas Fendall Griffin, of the State of Virginia, holds the said certificate, endorsed by the said Hugh R. White, and claims to be the owner thereof by lawful purchase, for a valuable consideration; and whereas it is the duty of the State not to prejudge or forestall either party in any dispute between the said Hugh R. White and the said Fendall Griffin, but to pay the said debt and the interest in the Treasury already accrued and not paid, to the rightful owner only.

*Therefore resolved*, That the Treasurer be, and he is hereby directed not to pay the said one thousand dollars, nor any interest accrued or to accrue thereon, nor issue any new certificate unto Hugh R. White or any other person, until it shall be adjudged, by a competent judicial tribunal, unto whom the said sums do in equity belong, or until the said parties now disputing the claims of each other in the premises shall both consent to said payments and to the issue of a new certificate: *Provided*, that the interest as it accrues or shall hereafter accrue on said certificate, shall be retained in the Treasury, for the rightful owner of said certificate.

[Ratified 16th day of January, 1849.]

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## RESOLUTION in favor of Messrs. Hall and Kincey, merchants of the city of Raleigh.

*Resolved*, That the Treasurer of the State be, and he is

hereby authorized to pay to Hall and Kincey the sum of eight dollars, it being an account of excess of store tax paid by them for the years 1847-'8.

[Ratified 26th day of January, 1849.]

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A RESOLUTION in favor of Isham Hancock.

*Resolved*, That the Public Treasurer be directed to refund to Isham Hancock the sum of five dollars and ninety five cents, paid into the Treasury by mistake.

[Ratified 29th day of January, 1849.]

---

A RESOLUTION in favor of Abram Harshaw.

*Resolved*, That the Secretary of State be, and he is hereby authorized to issue two grants for land to Abram Harshaw, tracts No 82 and 83, in the 8th district of Cherokee county, sale of 1838: *Provided however*, that satisfactory evidence be given of payment being made in full to the State, for the above described lots of land.

[Ratified 16th January, 1849.]

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A RESOLUTION in favor of R. W. Haywood.

*Resolved*, That the Public Treasurer be, and he is hereby authorised to pay to R. W. Haywood, Adjutant General, three hundred dollars, for extra services rendered in raising a Regiment of volunteers upon the order of his Excellency dated 22nd day of May, 1845, to serve for twelve months,

which was afterwards discharged; and also for raising a Regiment to serve during the war with Mexico, upon the second order of his Excellency, dated 7th December, 1846, and for repairing to Wilmington to facilitate the organization of the Regiment upon his own expenses.

[Ratified 29th day of January, 1849.]

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A RESOLUTION in favor of Samuel Kissman, of the county of Washington.

*Resolved,* That the Public Treasurer pay Samuel Kissman, of the county of Washington, one hundred and twenty dollars (\$120 00), for storage of public arms deposited in the town of Plymouth for the last four years; and that he be allowed the same in the settlement of his accounts.

[Ratified 29th day of January, 1849.]

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A RESOLUTION in favor of Joseph W. Livingston, of Henderson.

*Resolved,* That the Public Treasurer pay to Joseph W. Livingston sixty nine dollars, for carrying a writ of election to the county of Yancy, to supply the vacancy in the House of Commons occasioned by the resignation of Samuel Fleming; and that the said Public Treasurer be allowed the same in the settlement of his accounts.

[Ratified 29th day of January, 1849.]

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A RESOLUTION in favor of Thomas Loring.

*Resolved,* That the Public Treasurer pay Thomas Lor-

ing eight dollars for printing at the session of 1846-'7; and that he be allowed the same in the settlement of his accounts.

[Ratified 29th day of January, 1849.]

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RESOLUTION in favor of N. B. Marriner, late sheriff of Martin County.

*Resolved*, That the Treasurer of the State refund to N. B. Marriner, late sheriff of Martin county, the sum of six dollars, the said sum having been paid by him into the Treasury by mistake, as a part of the store tax collected in said county; and that he be allowed the same in the settlement of his public accounts.

[Ratified the 27th day of January, 1849.]

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A RESOLUTION in favor of John Maxwell.

*Resolved*, That a grant be issued by the State to John Maxwell, of Cumberland, for three hundred acres of land, heretofore entered by said Maxwell, which entry is No. 3021, excepting, however, in said grant all entries made by others of portions of said tract, since the entry of Maxwell.

[Ratified 29th day of January, 1849.]

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RESOLUTIONS in favor of Ailsey Medlin, of Franklin County.

1. *Resolved by the General Assembly of the State of North Carolina*, That the Secretary of State be, and he is

hereby authorized and required to issue to Ailsey Medlin, for the services of her father, Benjamin Schoolfield, in the continental line of the State in the war of the revolution, or her heirs and assigns, a grant or grants for a quantity of land not exceeding six hundred and forty acres, (640) to be located in one body, or in quarter sections of not less than one hundred and sixty (160) acres, on any of the lands of this State now subject to entry by law, said grant or grants to be issued on the application of the said Ailsey Medlin, her heirs or assigns, as she or they may prefer, in one or four grants.

2. That the said warrant or warrants shall or may be laid so as to include any lands now belonging to the State, for which the State is not bound for title : *Provided*, this act does not extend to any of the Swamp lands of this State.

[Ratified 26th day of January, 1849.]

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A RESOLUTION in favor of B. F. Moore, Attorney General.

*Resolved*, That Bartholomew F. Moore, be allowed the sum of three hundred [dollars] for his services in investigating and reporting on the claim presented by the devisees of William Cathcart, dec'd., against the State, which was referred to the Attorney General by a resolution of the last session of the General Assembly; and that the Public Treasurer pay the same, and be allowed that amount in the settlement of his accounts.

[Ratified 27th day of January, 1849.]

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RESOLUTION in favor of S. M. Preston and others.

*Resolved*, That the Governor of the State be, and he is hereby authorized to loan to S. M. Preston, principal of Franklin Institute, in the county of Franklin, sixty four mus-

kets, for the use of the cadet students of said Preston's Military Academy, upon his entering into bond, with satisfactory security, to keep said arms in good condition, and return the same whenever required so to do. And also that he loan to Stephen Lee and James H. Norwood, Principals of the Ashville Military and Classical School, in the county of Buncombe, the same number of arms on the same conditions,

[Ratified 29th day of January, 1849.]

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RESOLUTION in favor of Thomas Reddick, Sheriff of Gates county.

*Resolved*, That the Public Treasurer refund to Thomas Reddick, sheriff of Gates county, the sum of nine dollars and forty cents, being the amount overpaid by him in settlement with the Comptroller on the tax collected on stud horses.

[Ratified 27th day of January, 1849.]

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A RESOLUTION in favor of Horace L. Robards.

*Resolved*, That the Public Treasurer pay to Horace L. Robards twenty four dollars for carrying a writ of election to the county of Rowan, to supply the vacancy in the House of Commons, occasioned by the resignation of the Honorable John W. Ellis; and that said Public Treasurer be allowed the same in the settlement of his accounts with the State.

[Ratified 24th day of January, 1849.]

A RESOLUTION in favor of Charles H. Stevens, Administrator on the estate of G. W. Melvin, late sheriff of Bladen county.

*Resolved*, That Charles H. Stephens, Administrator on the estate of G. W. Melvin, late sheriff of Bladen county, be, and he is hereby authorized to collect arrears of taxes due the late sheriff aforesaid for the years 1844 and '45: *Provided*, that the authority hereby granted shall not extend to persons who have removed from the county, nor to Executors nor Administrators, nor to any person who will voluntarily swear before any justice of the peace, that he, she or they verily believe the arrears claimed from him, her or them have been paid; any law to the contrary notwithstanding: *and provided further*, the power hereby granted shall cease and determine with the year 1849.

[Ratified 29th day of January, 1849.]

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A RESOLUTION for the relief of Samuel W. Tillinghast and others.

*Resolved*, That the judgments obtained by the Public Treasurer, for the use of the State, at the November term, 1847, of Wake county court, against Samuel W. Tillinghast and the surety to his bond, Edward W. W. Willkings, and the surety to his bond, Archibald M. Campbell, and the sureties to his bond, for the sum of fifty dollars, respectively, for penalties by reason of violations of the 9th section of the 9th chapter of the Revised Statutes, be, and the same are hereby remitted, upon the payment of all the costs due thereon, and the said parties freely and forever discharged therefrom.

[Ratified 29th day of January 1849.]

## A RESOLUTION in favor of Jas. W. Walton.

*Resolved*, That the Public Treasurer pay James W. Walton twelve dollars, for thirty six chains purchased of him for the use of the Capitol; and that he be allowed the same in the settlement of his accounts.

Read three times and ratified in General Assembly this 27th day of January, 1849.

ROBT. B. GILLIAM, S. H. C.  
CALVIN GRAVES, S. S.

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REPORT

OF THE

PUBLIC TREASURER,

ON THE

STATE OF THE FINANCES

OF

NORTH CAROLINA,

TRANSMITTED TO THE LEGISLATURE,

ACCORDING TO ACT OF ASSEMBLY.

TREASURY OFFICE, }  
Nov. 28, 1848. }

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 very great respect,

Your ob't servant,

C. L. HINTON, Pub. Treas.

Hon. R. B. GILLIAM,  
Speaker of the House of Commons.

# REPORT.

TREASURY DEPARTMENT, }  
 Nov., 1848. }

TO THE HONORABLE,  
*The General Assembly of the State of North Carolina:*

The Public Treasurer, in obedience to an Act of the Legislature, passed in 1827, entitled an act concerning the Public Treasurer, respectfully submits the following Report:

## 1.—PUBLIC REVENUE AND EXPENDITURES.

*Receipts of the Public Treasurer, from the 1st of Nov. 1846, to the 1st. of Nov. 1848.*

1846;			
Nov.	Cash received of the Bank of Cape Fear, dividend No. 74, of 3 per cent, on 10 shares of Stock, in the Bank of Cape Fear,		\$30 00
	“ Bank of the State as tax on Stock held by individuals in the Bank of the State of N. C.,		2,243 25
Dec.	“ J. Roberts, Treasurer, amount of dividends due on stock held by the State in the Buncombe Turnpike Company,		3,129 14
1847			
Jany	Amount borrowed of the Bank of Cape Fear, as per Resolution of General Assembly,		40,000 00
	Semi-annual Interest due the Literary Board on Bonds of the Wilmington and Raleigh Rail Road Company.		1,500 00
Febry	Amount of Principal and Interest on Bonds due the Literary Board, and transferred to the Public Treasurer, as per Act of the Legislature.		2,388 67

Mc'h.	Cash received, being amount transferred from Fund for Internal Improvements, being the balance due said Fund, 1st day of March, 1847, transferred by Act of the General Assembly,	75,839 84
	Cash received Jacob Siler, agent, amount collected on Cherokee Bonds,	5,108 87
	On Thomas L. Cowan's note due the Literary Board,	4,000 00
	Reuben Deaver's note due Lit. Board,	57 00
April	Cash received of C. Manly, (Attorney,) amount collected on sundry notes due Literary Board,	2,638 24
	Green Hill for sundry articles sold by order of the Legislature,	120 30
May	Dividend 75 of 3 per cent. on 10 shares of Stock in Bank of Cape Fear,	30 00
	On 112 shares of Stock in Bank of Cape Fear, and transferred from the Board of Internal Improvement,	336 00
	Cash received of Gov. Graham, President ex-officio of the Board of Internal Improvement as Interest on notes due said Board and transferred,	506 00
	Received of T. L. Cowan, in part of note due Literary Board,	3,500 00
	Do do do	5,000 00
June	Do balance do	3,981 64
	Received of C. Manly, (Attorn'y,) am't collected on bonds due Literary Board, and transferred,	569 25
	Battle & Brothers amount on bonds due the Board of Internal Improvement.	5,079 26
July.	Cash received of Jacob Siler, agent, am't collected on Cherokee bonds,	2,000 00
	E. B. Freeman, Clerk of Supreme Court, being tax collected on Attor. Licence,	160 00
	Rec'd Sh'ff of Catawba for public tax,	814 55
Aug.	Cash received semi-annual interest on \$50,000 of the Wilmington and Raleigh Rail Road bonds held by the State,	1,500 00

Aug.	Merchants Bank of Newbern, as tax on each individual share of Stock held by individuals in said Bank.	562 50
	Received of E. B. Freeman, Clerk of the Supreme Court as tax on Attorney Licence.	10 00
	Public Tax collected by Sherriffs.	7,589 63
	Do do do	73,150 38
Sept	Additional returns of public tax for 1845, W. W. Beattie in part of bond due Literary Board,	157 90
	C. Manly, Attorney, amount collected on bonds due the Internal Improvement Board, transferred to Public Treasury.	807 22
	Tax of 25cts per share on 8973 shares of stock held by individuals in the Bank of the State,	356 02
	Tax of 25cts per share on 9556 shares of stock held by individuals in the Bank of Cape Fear,	2,213 25
	Received of J. R. Dodge, Clerk of the Supreme Court at Morganton, as tax on Attor. Licence,	2,389 00
		150 00
Oct.	Jacob Siler, agent, amount collected on Cherokee bonds.	3,958 00
	Additional returns for public tax for '46, Green Hill for Shingles sold from Governor's House,	18 72
		12 00
Nov.	Received of C. Manly, Attorney, am't of note collected and due Literary Board by W. & A. Smith and others,	348 40
	Do. amount of note due Literary Board by W. F. Clark and others.	465 20
	Bank of Cape Fear for Dividend No. 76 of 3 per cent. on 122 shares of Stock,	366 00
Dec	Jacob Siler, agent, money collected on Cherokee bonds.	1,205 89
1848		
Jan,	Received of J. Roberts, dividend of 11 per cent. on 5000 shares of Stock in the	

Jan.	Buncombe Turnpike Company, held by the State,	550 00
	W. H. Jones six months interest \$50,000 of Bonds of the Wilmington and R. R. Road,	1500 00
	C. Manly, Attorn'y, amount of note of J. H. Hill and others due fund for Internal Improvement,	1,033 91
	Amount of Judgment, the State against J. J. Christophers and E. Smith,	120 24
	W. H. Beattie in part of note due Literary Board,	3,469 40
	C. Manly, Attorney, amount of Note due Litterary Board by D. A. Flemming,	665 00
	Do. amount of Note of A. D. Moore & others, due Litterary Board,	874 10
	Do. amount of note J. Moore and others due Literary Board,	1,007 17
	Do. amount of Note of J. Swann and others due Literary Board.	1,053 14
	E. B. Freeman, Clerk of Supreme Court for Attorney Licence,	270 00
Green Hill for old Tin,	5 00	
Feb.	Received of Jacob Siler, agent, money collected on preemption sales of Cherokee Lands.	9,731 50
	C. Manly, Attorney, amount of Note of R. Deaver and others due Lit. Board,	2,620 06
Mch.	W. H. Beattie, balance of Note due Literary Board,	918 68
Ap'l.	J. Siler, agent, amount collected on Cherokee bonds,	3,513 61
	C. Manly, Attorney, in part of W. Barbee's Note due Lit. Board,	2 500 00
May	Received of Bank of Cape Fear, Dividend No. 77 of 3 per cent on 122 shares of Stock,	366 00
	J. C. Turrentine, Sheriff of Orange. amount collected of Jane Craig on execution in favor of President and Directors of Fund of Internal Improvement,	214 00

May	Do. amount of execution in favor of the same against John M'Kerrell and others	234 50
	Do. balance of W. Barbee's Note due the same,	3,170 30
	J. Siler, agent, advance payment on Cherokee Lands.	58 22
June	J. Siler, agent, money collected on Cherokee Bonds,	3,821 00
July	Bank of Cape Fear, the semi-annual interest on \$50,000 of Bonds of the Wilmington and Raleigh Rail Road Company held by the State,	1,500 00
	E. B. Freeman as tax on Attorney Licence.	180 00
Aug.	Merchants Bank of Newbern, tax of 25cts per share on 2250 shares of stock held by individuals in said Bank.	562 50
	Commercial Bank of Wilmington as tax of 25 cents per share on 1823 shares of stock in said Bank,	455 75
	J. R. Dodge, Clerk of Supreme Court at Morganton, as tax on Atto. Licence,	130 00
	Sheriffs for Public Tax,	16,013 42
Sept.	Do do do	71,517 88
	Bank of Cape Fear as tax of 25cts per share on the Stock held by individuals in said Bank,	2,389 00
	Bank of the State as tax of 25cts per share on 8973 shares of Stock held by individuals in said Bank,	2,243 25
	J. R. Dodge, Clerk of Supreme Court at Morganton, tax on Atto. Licence,	10 00
Oct.	Sheriff of Craven public tax,	2,113 10
	Jacob Siler, agent, amount collected on Cherokee Bonds,	638 85
	Cash received Jacob Siler, as advanced payment on lands sold by Act of Legislature,	602 15
	Cash received of C. Manly, Attorney, amount collected on bond of J. J.	

Oct	Derosset and others, due Fund for Internal Improvement,	128 75
	Cash received C. Manly, amount of Bond of H. Miller, and others due Literary Board,	857 00
	Cash received of Gov. Graham, President ex-officio of Literary Board, being amount paid over to Public Treasurer in conformity with an Act of the General Assembly,	552 00
	Making the sum of receipts	391,686 60

## CR.

The expenditures of the Public Treasurer for the same period, that is, from the 31st Oct, 1846, to the 1st. of Nov. 1848, consist of the following items,

1846.

Nov. Balance due Public Treasury the 1st. of November 1846,		122,151 49
Paid Principal on Raleigh and Gaston Rail Road Bonds endorsed by the State and due 1st. January 1847,		30,000
Do. Do. 1848,		30,000
		60,000 00
Paid Interest on the same and due 1st January 1847,		37 704
Do. Do. 1848,		45 360
		83,064 00
Paid Judiciary,	1847,	27,663 13
Do. Do.	1848,	26,367 56
		54,030 69
Paid Executive Department,	1847,	2,375
Do. Do.	1848,	2,300
		4,675 00
Paid Treasury Department.	1847,	2,000
Do. Do.	1848,	2,000
		4,000 00
Paid State	do 1847,	800
Do. do	1848.	800
		1,600 00

Paid Comptroller Department,	1847,	1,000	
Do. do	1848,	1,000	
		<hr/>	2,000 00
Paid Adjutant General,	1847,	200	
Do. do	1848,	200	
		<hr/>	400 00
Paid Superintendent of Public Buildings	1847,	260	
Do. do	1848,	260	
		<hr/>	520 00
Paid Governor's Election.	1848,		1,220 00
Presidential do.	1847,		29 16
Paid Public Printing.	1847,	3,767 98	
Do. do	1848,	607 12	
		<hr/>	4,375 10
Paid Senatorial Election,	1847,	15 83	
Do. do	1848,	211 26	
		<hr/>	227 09
Paid Council of State,	1847,	134 60	
Do. do	1848,	320 30	
		<hr/>	455 40
Paid Public Library.	1847,	457 48	
Do. do	1848,	67 62	
		<hr/>	525 10
Paid State Librarian,	1847,	75 00	
Do. do	1848,	150 00	
		<hr/>	225 00
Paid Insolvent Polls,	1847,		113 20
" State Capitol,	1847,	10 65	
Do. do	1848,	48 30	
		<hr/>	58 35
Paid Stationery,	1847,	230 45	
Do. do	1848,	113 87	
		<hr/>	344 32
Paid Capitol Square,	1847,	4,000 00	
Do. do	1848,	7,578 00	
		<hr/>	11,578 00
Paid Interest on State Loan.	1847,	4,123 68	
Do. do do	1848,	5,400 00	
		<hr/>	9,526 68
Paid Mexican War,	1847,	11,523 03	
Do. do	1848,	10 00	
		<hr/>	11,533 03

	ry Board in said Bank,	15,966 00
July.	Cash received of Bank of the State dividend No. 24 of 4 $\frac{1}{2}$ per cent on 5027 shares of stock held by Literary Board in said Bank,	21,364 75
	Cash received of Gov. Graham, as principal on Loans due Literary Board,	2,000 00
	Cash received of Gov. Graham, as Interest on Bonds due Literary Board,	25 33
	Cash received of Gov. Graham, amount paid by Hyde, Rowan and Martin, for Deaf and Dumb,	300 00
	Cash received as Tavern Tax, from Sheriffs this month,	18 80
Aug.	Cash received as Tavern Tax for this month	233 12
Sept.	Cash received as Tavern Tax for this month,	3,021 40
	Cash received of Gov. Graham, as interest collected on Bonds of the Wilmington and Raleigh Rail Road held by the Literary Board,	4,050
	Cash received as Interest on Loans by Literary Board,	60 00
	Cash received as amount paid by Orange County for Deaf and Dumb,	108 75
	Cash received as amount paid by Davidson for Deaf and Dumb,	50 00
Oct.	Cash received as amount of Auction Tax collected this month,	98 16
	Cash received of Gov. Graham, as Interest on Raleigh and Gaston Rail Road Bonds held by Literary Board,	4,614 00
Nov.	Cash received of Bank of Cape Fear, dividend No. 76, of 3 per cent. on 5322 shares of stock held by Literary Board in said Bank,	15,936 00
	Cash received as Auction Tax this month,	127 57
Dec. 1848.	Cash received as Auction Tax this month,	196 75
Jan.	Cash received of Bank of the State dividend No. 25 of 4 per cent on 5027 shares of stock in said Bank,	20,108 00

	Cash received of Col. Joyner, dividend, No. 16, of $3\frac{1}{2}$ per cent. on 500 shares of stock in the Roanoke Navigation Company,	1,750 00
	Cash received of Gov. Graham, as Interest on bonds of the Raleigh and Gaston Road Company due the Literary Board,	4,644 00
	Cash received of Gov. Graham as Interest on Bonds of the Wilmington and Raleigh Rail Road Company due Literary Board,	4,050 00
Mar.	Cash received of Geo. W. McNeil, dividend No. 27 of 1 per cent, on 650 shares of stock in Cape Fear Navigation Company,	650 00
April	Cash received of Gov. Graham, as Interest on Bonds due the Literary Board,	660 00
	Cash received of Gov. Graham, as amount paid by the County of Lincoln for the Deaf and Dumb,	75 00
	Cash received as Auction Tax,	24 52
May.	Cash received of Cape Fear Bank, dividend No. 77 of 3 per cent. on 5322 shares of stock held by the Literary Board,	15,966 00
	Cash received of Geo. W. McNeil, dividend No. 28 of 1 per cent. on 650 shares of stock in Cape Fear Navigation Company held by Literary Board,	650 00
	Cash received as Auction Tax,	1 05
July.	Cash received of Bank of the State, dividend No. 26 of $4\frac{1}{4}$ per cent. on 5927 shares of stock held by Literary Board in said Bank,	21,361 75
	Cash received of Gov. Graham, as Interest on Raleigh and Gaston Rail Road bonds held by Literary Board,	4,644 00
	Cash received of Gov. Graham, as Interest on Wilmington and Raleigh Rail Road Bonds,	4,050 00

	ry Board in said Bank,	15,966 00
July.	Cash received of Bank of the State dividend No. 24 of $4\frac{1}{4}$ per cent on 5027 shares of stock held by Literary Board in said Bank,	21,364 75
	Cash received of Gov. Graham, as principal on Loans due Literary Board,	2,000 00
	Cash received of Gov. Graham, as Interest on Bonds due Literary Board,	25 33
	Cash received of Gov. Graham, amount paid by Hyde, Rowan and Martin, for Deaf and Dumb,	300 00
	Cash received as Tavern Tax, from Sheriffs this month,	18 80
Aug.	Cash received as Tavern Tax for this month	233 12
Sept.	Cash received as Tavern Tax for this month,	3,021 40
	Cash received of Gov. Graham, as interest collected on Bonds of the Wilmington and Raleigh Rail Road held by the Literary Board,	4,050
	Cash received as Interest on Loans by Literary Board,	60 00
	Cash received as amount paid by Orange County for Deaf and Dumb,	108 75
	Cash received as amount paid by Davidson for Deaf and Dumb,	50 00
Oct.	Cash received as amount of Auction Tax collected this month,	98 16
	Cash received of Gov. Graham, as Interest on Raleigh and Gaston Rail Road Bonds held by Literary Board,	4,644 00
Nov.	Cash received of Bank of Cape Fear, dividend No. 76, of 3 per cent. on 5322 shares of stock held by Literary Board in said Bank,	15,966 00
	Cash received as Auction Tax this month,	127 57
Dec.	Cash received as Auction Tax this month,	196 75
1848.	Cash received of Bank of the State dividend No. 25 of 4 per cent on 5027 shares of stock in said Bank,	20,108 00
Jan.		

	Cash received of Col. Joyner, dividend, No. 16, of $3\frac{1}{2}$ per cent. on 500 shares of stock in the Roanoke Navigation Company,	1,750 00
	Cash received of Gov. Graham, as Interest on bonds of the Raleigh and Gaston Road Company due the Literary Board,	4,614 00
	Cash received of Gov. Graham as Interest on Bonds of the Wilmington and Raleigh Rail Road Company due Literary Board,	4,050 00
Mar.	Cash received of Geo. W. McNeil, dividend No. 27 of 1 per cent, on 650 shares of stock in Cape Fear Navigation Company,	650 00
April.	Cash received of Gov. Graham, as Interest on Bonds due the Literary Board,	660 00
	Cash received of Gov. Graham, as amount paid by the County of Lincoln for the Deaf and Dumb,	75 00
	Cash received as Auction Tax,	24 52
May.	Cash received of Cape Fear Bank, dividend No. 77 of 3 per cent. on 5322 shares of stock held by the Literary Board,	15,966 00
	Cash received of Geo. W. McNeil, dividend No. 28 of 1 per cent. on 650 shares of stock in Cape Fear Navigation Company held by Literary Board,	650 00
	Cash received as Auction Tax,	1 05
July.	Cash received of Bank of the State, dividend No. 26 of $4\frac{1}{4}$ per cent. on 5027 shares of stock held by Literary Board in said Bank,	21,361 75
	Cash received of Gov. Graham, as Interest on Raleigh and Gaston Rail Road bonds held by Literary Board,	4,614 00
	Cash received of Gov. Graham, as Interest on Wilmington and Raleigh Rail Road Bonds,	4,050 00

	Cash received of Gov. Graham, amount paid for Deaf and Dumb by Davidson County,	75 00
Aug.	Cash received of Sheriffs for Tavern Tax this month,	477 52
	Cash received of Col. Joyner, dividend, No. 17, of two per cent. on 500 shares of Stock in Roanoke Navigation Company,	1,000 00
Sept.	Cash received of Sheriffs as Tavern Tax this month,	2,833 16
Oct.	Cash received of Sheriffs as Tavern Tax this month,	71 44
	Cash received of Gov. Graham, amount paid for Deaf and Dumb by Guilford County,	375 00
	Cash received of Auction Tax this month,	302 74
	Cash received of Gov. Graham, amount of Interest due from the State to Literary Board on bonds of notes transferred under act of General Assembly,	3,681 16

## ENTRIES OF VACANT LAND.

November,	1825 49	
December,	3352 71	
January,	1053 05	
February,	601 24	
March,	145 00	
April,	267 38	
May,	461 90	
June,	142 64	
July,	325 20	
August,	314 94	
September,	490 35	
October,	474 08	9,449 98
November,	595 71	
December,	1,061 22	
January,	1,156 05	
February,	220 95	
March,	254 58	
April,	303 72	
May,	147 79	
June,	152 57	
July,	107 90	
August,	120 19	
September,	254 94	
October,	222 93	4,598 55
Making the sum of Reciepts,		<u>358,218 31</u>

The disbursements of the Literary Fund for the same period, are as follows :

Cash paid for support of Common Schools	1847,	96,511 31	
Cash paid for support of Common Schools,	1848.	101,530 04	
		<u>198,041 35</u>	
Expenses of Literary Board including printing,	1847,	1,028 00	
Expenses of Literary Board including printing.	1848.	916 02	
		<u>1,944 02</u>	
Building Deaf and Dumb Asylum,	1747,	3,000 00	

Do	do	1848,	5,500 00	
				8,500 00
Swamp Lands,		1847,	852 50	
do do		1848,	2,668 75	
				3,521 25
Fund for Education of Deaf and Dumb,		1847,	3,439 00	
Do	do	1848,	4,560 00	
				7,999 00
Floral College,		1847,		2,000 00
Aggregate amount of disbursements of the Literary Fund				\$222,005 63
Which, deducted from the receipts leave a balance in the hands of the Public Treasurer, as Treasurer of the Literary Fund, on the 1st of November 1848, of				\$136,212 69

### III.—FUND FOR INTERNAL IMPROVEMENT.

1846

	Balance due President and Directors of the Fund for Internal Improvement on the 1st November 1846,	73,944 34
Nov.	To Cash received of the Bank of Cape Fear, dividend 74, of 3 per cent. on 112 Shares of stock in said Bank,	336 00
Dec.	To Cash received of Jacob Siler Agent, as money collected on Cherokee Bonds.	2,020 00
	Sum of Receipts,	<u>\$76 300 31</u>

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 DISBURSMENTS OF INTERNAL IMPROVEMENT  
BOARD.

1846.			
Nov.	By Cash paid H. W. Graham, private Secretary, to defray the expenses of the Board of Internal Improvement, from 22d Sept. last, to the 27th Nov. 1846.		92 50
Dec.	To Cash paid T. G. Broughton for publishing sale of Weldon Toll Bridge three months,		15 00
1847			
Jan.	By Cash paid E. Mitchell, in full of his compensation as Engineer on surveying route for a Turnpike Road to the Mountains,		300 00
	By Cash paid Jacob Siler for travelling expenses to and from Raleigh to make returns		53 00
			<hr/>
	Making the sum of		\$460 50
	Which amount deducted from receipts, leaves a balance transferred to Public Treasurer on the 1st Feb. 1847, of		\$75,839 84

The demands on the Public Treasury for the next two years over and above the ordinary expenses arise principally from the State's liabilities on account of the Raleigh and Gaston Rail Road Company, and may be stated as follows:

In 1838, the State endorsed for the Company to the amount of \$500,000. In 1840 for \$300,000.

Of the last issue \$13,500 were not used, and therefore that sum is subtracted from the State's liabilities. Four instalments of \$30,000 each have been paid on the latter class of bonds so as to reduce it to \$166,500, and therefore the total liabilities to \$666,500.

As it is yet uncertain what disposition the Legislature will make of the Rail Roads, and what resources may be realized from the individual liabilities of stockholders and obligors, and at what time any aid to the Treasury may be expected from these sources, it is important to ascertain the liabilities to be met before the meeting of the next Legislature, and the resources at our command for that purpose.

### RAIL ROAD LIABILITIES.

Bonds of 1838,	500,000	
do do 1840	300,000	
Deduct Bonds not used;	13,500	
	<u>526,500</u>	
Paid 4 instalments in 1845		
6, 7, and 8, of \$30,000		
each.	120,000	166,500
		<u>\$666,500</u>
January 1st 1849, Interest		
on this sum for 6 months,	19,995	
Principal then due,	30,000	
July, 1849. Interest on		
\$626,500, for 6 months,	19,095	
January 1850, Interest for		
6 months,	19,095	

January 1850, principal, then due.	30,000	
July 1850, Interest on \$666, 000, for six months.	18,195	
Making an aggregate of		135,350.
II		
The ordinary expenditures of the State on an aver- age have been about		140,000
Interest on \$30,000 due to the Bank of Cape Fear.		10,300
Due Bank of State for debt incurred for Rail Road,		25,000
Interest on amount borrow- ed of Literary Fund as per resolutions of General Assembly,		5,000
		<hr/>
		\$817,180
From present sources and rates of Revenue from taxes for 2 years, \$83, 780 68 per year.		173,561 33.
Amount of Tax collected from Banks on individual stock,		13,088 50
Interest on \$500,000 of Wil- mington and Raleigh Rail Road bonds owned by the State		6,000 00
Probable receipts from Cherokee bonds,		24,000 00
Dividend on stock Bun- combe Turnpike Com- pany,		1,000 00
Tax on Attorney License,		910 00
		<hr/>
		\$224,550 86.
Which deducted from ne- cessary expenditures pro- vided for before the meet- ing of the next Legisla- ture,		500,000 14.

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From the foregoing statement it appears that the demands on the Treasury for the next two years will exceed its resources by \$92,620 14.

The Bank of Cape Fear by its charter is bound to loan the State on notice of three months any amount not exceeding \$150,000.

By virtue of authority from the last Legislature, to borrow money to meet the liabilities of the State, the Public Treasurer borrowed in January 1847 of that Bank \$40,000, which added to the \$50,000, borrowed by my predecessor in January 1845, make \$90,000, which the State is now indebted to her, and on which the interest has been paid semi-annually. It is for the Legislature to say whether steps should not be taken to pay off that debt.

If they determine to pay part or the whole, additional means must be provided.

To show the difference under the former and recent assessment, I have prepared a table marked E exhibiting the number of acres of land proven for taxation in 1846 and 1847, their valuation, amount of tax collected, the number of polls, and the excess and deficiency of each County in those respective years,

Respectfully submitted,

C. L. HINTON, Pub. Treas.

## STATEMENT A.

*Statement of the nett amount of the different Branches of Revenue for the years 1847-8.*

## PUBLIC FUND.

BRANCHES OF REVENUE.	1847	1848.	AGGREGATE.
Tax on Land,	29,633 21	34,375 65	
“ Town property,	2,636 98	3,520 87	
“ Polls,	33,062 05	34, 99 27	
“ Suid Horses,	1,146 62	1,350 31	
“ Gates,	229 90	235 00	
“ Stores,	10,234 72	11,401 26	
“ Pedlars,	3,727 16	2,946 04	
“ Artificial Curiosities,	592 20	676 80	
“ Natural “	14 16	197 40	
“ Billiard Tables,	479 00		
“ Venders of carriages	263 23	310 20	
“ Negro Traders,		131 60	
	81,731 18	89,644 40	
		81,731 18	
			171,375 58
Bank of Cape Fear dividends,		1,128 00	
Buncombe Turnpike Co. do,		3,679 14	
State Loan, Bank of Cape Fear,		40,000 00	
Bonds transferred by Litterary Board		41,557 71	
Bonds transferred by Fund of Internal Improvement Broad,		7,552 44	
Interest on Bonds of Wilmington and Raleigh Rail road Company,		6,000 00	
Cherokee Bonds,		20,848 37	
Pre-emption sale of Cherokee Lands,		9,789 72	
Tax on Bank stock,		13,088 50	
Tax on Attorney's Licences,		910 00	
Sale of sundry articles by G. Hill,		137 30	
Transferred Balance of the Fund for Internal Improvement,		75,839 81	
			220,311 02
			391,688 39

## STATEMENT A. CONTINUED.

BRANCHES OF REVENUE.	AMOUNT.	AGGREGATE.
<b>LITERARY FUND.</b>		
BANK DIVIDENDS.		
Bank of the State of North Carolina,	82,945 50	
Bank of Cape Fear.	63,861 00	
		146,809 50
NAVIGATION DIVIDENDS.		
Roanoke Navigation Company,	4,125 00	
Cape Fear do do	1,950 00	
		6,075 00
Entries of vacant Land, 1847.	9,449 98	
do do 1848,	4,598 55	
		14,048 53
Principal on Loans by the Literary Board,	4,139 50	
Interest do do	1,714 01	
Principal on Bonds of Raleigh and Gaston Railroad.	8,500 00	
Principal on Bonds of Wilmington and Raleigh Rail Road	2,000 00	
Interest on Bonds of the Raleigh and Gaston Rail Road	12,881 00	
Interest on Bonds of the Wilmington and Raleigh Rail Road.	16,260 00	
Tavern Tax,	6,655 44	
Auction Tax,	750 79	
Educating Deaf and Dumb,	1,433 75	
Interest on am't of Bonds transferred,	3,681 16	
		63,965 65
		230,898 63
<b>INTERNAL IMPROVEMENT FUND.</b>		
Bank Dividends, Bank Cape Fear,	336 00	
Cherokee Bonds,	2,020 00	
		2,356 00

## STATEMENT B.

## BANK STOCK.

5027 Shares on the Bank of the State,  
 5322 Shares on the Bank of Cape Fear,  
 belonging to the Literary Fund.  
 122 Shares in the Bank of Cape Fear,  
 dividends appropriated to Public Fund.

## TREASURY NOTES.

Amount issued,	-	262,000 00
Redeemed and burnt,	213,168 11	
In treasury vault,	2 45	
Unredeemed,	48,829 44	262,000 00

## STATEMENT C.

Number of insolvent Polls allowed Sheriffs of the following Counties in their settlements.

Sheriff of Anson,	157	Sheriff of Macon,	46
Alexander,	42	Montgomery,	44
Beaufort,	86	Moore,	24
Buncombe,	94	McDowell,	54
Burke,	48	Nash,	72
Catawba,	21	Northampton,	68
Chatham,	91	Onslow,	122
Cleveland,	4	Orange,	310
Chowan,	33	Pasquotank,	88
Caldwell,	45	Perquimans,	48
Cumberland,	91	Polk,	21
Craven,	67	Pitt,	87
Davidson,	67	Randolph,	84
Duplin,	56	Rockingham,	58
Davie,	21	Richmond,	10
Edgecombe,	63	Rutherford,	106
Franklin,	28	Rowan,	47
Greene,	15	Sampson,	68
Guilford,	185	Stokes,	142
Haywood,	55	Union,	144
Halifax,	113	Wayne,	72
Hertford,	63	Warren,	9
Iredell,	98	Wilkes,	98
Lincoln,	35	Washington,	28
Mecklenburg,	42	Wake,	81





**A STATEMENT OF THE REVENUE OF NORTH CAROLINA.**

A Statement of the net amount of that branch of the Revenue which is receivable by the Sheriff, and paid into the Public Treasury, for the year 1810.

A Statement of the net amount of that branch of the Revenue which is derived from Sales of Auction, and from the Duties of the Office, for Tax on Stock at one fourth, per cent on each Share held by individuals, for the fiscal year 1816-7.

County	Name	Land Tax	Personal Property Tax	Poll Tax	Stall House Tax	Gas Tax	Stores Tax	Favon Tax	Poller Tax	Artificial Cannopy Tax	Natural Cannopy Tax	Boat Tax	Venue of Carriages	Amount paid by Sheriff	Amount paid by Sheriff	Names of Auctioneers	Committee and Years	Am't due Am't paid	
Albemarle	George D. Buggen	545 25	19 14	076 03	11 28	4 27	150 40	51 03	20 30	.....	.....	.....	.....	1471 92	1471 92	.....	.....	.....	
Albemarle	John C. Barfoot	272 11	8 80	292 18	.....	.....	23 24	37 60	.....	.....	.....	.....	.....	235 66	235 66	.....	.....	.....	
Albemarle	James W. Rhoads	331 22	12 20	343 42	4 20	.....	443 03	139 13	01 14	.....	.....	.....	36 40	1724 23	1724 23	.....	.....	.....	
Albemarle	Henry W. Lescence	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	792 58	792 58	W. B. Hughes	Wake, 1816 & 7	21 21	21 16
Albemarle	James H. Allen	317 76	17 14	376 00	1 58	4 70	17 40	37 60	18 30	.....	.....	.....	.....	820 00	820 00	Samuel M. Turley	Durham,	50	50
Albemarle	George D. Buggen	205 27	5 21	265 77	.....	.....	.....	.....	.....	.....	.....	.....	.....	722 06	722 06	Michael Dravly	.....	6 35	6 35
Albemarle	Alexander Duckworth	503 67	.....	525 11	9 40	.....	91 04	23 85	30 40	38 30	.....	.....	.....	1663 39	1663 39	William Dunn	.....	41 25	41 08
Albemarle	John Freeman	632 18	18 50	737 37	19 27	.....	142 88	18 80	37 40	.....	.....	.....	.....	1663 39	1663 39	Spencer Ridgle	Chatham,	2 07	2 07
Albemarle	John Freeman	632 18	18 50	737 37	19 27	.....	142 88	18 80	37 40	.....	.....	.....	.....	1663 39	1663 39	Michael Dravly	New Hanover	25 99	25 99
Albemarle	John Freeman	632 18	18 50	737 37	19 27	.....	142 88	18 80	37 40	.....	.....	.....	.....	1663 39	1663 39	Spencer Ridgle	Chatham,	2 07	2 07
Albemarle	John Freeman	632 18	18 50	737 37	19 27	.....	142 88	18 80	37 40	.....	.....	.....	.....	1663 39	1663 39	Michael Dravly	New Hanover	25 99	25 99
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